

City Council Building
Chattanooga, Tennessee
October 27, 2009
6:00 p.m.

Chairman Benson called the meeting of the Chattanooga Council to order with Councilmen Berz, Gilbert, Ladd, McGary, Murphy, Rico, Robinson and Scott present. City Attorney Michael McMahan, Management Analyst Randy Burns and Council Clerk Carol O'Neal were also present.

PLEDGE OF ALLEGIANCE/INVOCATION

Following the Pledge of Allegiance, Councilman Murphy gave invocation.

MINUTE APPROVAL

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

ANNEXATION AND PLAN OF SERVICES: AREA 3A

City Attorney McMahan stated this is a commercial site on Cummings Highway that used to be a sock factory.

On motion of Councilwoman Robinson, seconded by Councilman McGary,
**AN ORDINANCE ADOPTING A PLAN OF SERVICES AND EXTENDING
THE CORPORATE LIMITS OF THE CITY OF CHATTANOOGA, TENNESSEE,
TO ANNEX CERTAIN TERRITORY CONTIGUOUS TO THE PRESENT
CORPORATE LIMITS OF THE CITY OF CHATTANOOGA KNOWN AS
AREA 3A, BEING CERTAIN PARCELS ADJACENT TO INTERSTATE 24 AND
THE TENNESSEE RIVER WITHIN THE URBAN GROWTH BOUNDARY OF THE
CITY OF CHATTANOOGA, IN HAMILTON COUNTY, TENNESSEE, AS
SHOWN BY THE ATTACHED MAP**

passed second and final reading and was signed in open meeting; **on roll call
vote:**

ANNEXATION AND PLAN OF SERVICES: AREA 3A
(Continued)

SCOTT	"Yes"
ROBINSON	"Yes"
LADD	"Yes"
GILBERT	"No"
BERZ	"Yes"
RICO	"Yes"
MCGARY	"Yes"
MURPHY	"Yes"
BENSON	"Yes"

ANNEXATION AND PLAN OF SERVICES: AREA 4B

City Attorney McMahan stated this is in the area to the east of Hixson Pike, extending from the present city boundary near Big Ridge Road; basically the same as the edge of the subdivision across the street which is Ramsgate. He stated it is basically the same boundary on the north side as Ramsgate. He stated we have excluded from the original description the residential properties located on Gold Crest Drive and Stonington Drive; that they were originally proposed and they are now excluded from the revised version.

Councilman Murphy stated he chaired the committee when this was discussed and it is not appropriate for the Chair to speak to matters under our rules. He stated he wanted to be clear and asked if he heard correctly from Councilwoman Scott that the projected tax revenue from this area is under \$100,000 and the expenses.

Councilwoman Scott stated the total listed for 4B is \$80,520, which does not include the per capital tax; that is the total for that.

Councilman Murphy inquired as to the capital expense excluding the fire hall.

ANNEXATION AND PLAN OF SERVICES: AREA 4B
(Continued)

Chairman Benson stated that is the annual amount.

Councilwoman Scott stated that it is her thought it is around \$2.8 if the fire station is taken out. Councilman Murphy stated \$2.8 is not \$2.8 thousand it is \$2.8 million. Councilwoman Scott expressed belief that is so.

Mayor Littlefield stated the rationale is this is commercial frontage and it is more appropriate to have the city limits the same on both sides of Hixson Pike to know exactly where the city limits are. He stated it can be said that is a big expense for that however a lot of commercial development has been seen in this area and there is no doubt it will continue; that it is more appropriate for the city to annex property before it develops because if we wait until after it develops we have a ten year waiting period before we begin to see the sales tax generating from it. He stated if we fail to annex it now and it is something that could be a good bit of sales tax in the future and it could happen with all the growth taking place in the community and then we would have missed our chance.

Councilman Murphy stated Chairman Benson alluded in Committee there are some of these areas where there are people who are not being annexed and may or may not be in the growth boundary but actually want to come into the city and made petition for that.

Mayor Littlefield stated there are a couple of those cases, not right in this particular area, but they have them in some other areas. He stated the fire station is an important element and it will address the development of this property the Council is looking at annexing tonight as well as property that has been already been annexed, as well as a need we have had for a number of years to handle the fire needs of that end of Big Ridge. He sated it is all built into the plan.

On motion of Councilwoman Robinson, seconded by Councilwoman Ladd,

AN ORDINANCE ADOPTING A PLAN OF SERVICES AND EXTENDING THE CORPORATE LIMITS OF THE CITY OF CHATTANOOGA, TENNESSEE, TO ANNEX CERTAIN TERRITORY CONTIGUOUS TO THE PRESENT CORPORATE LIMITS OF THE CITY OF CHATTANOOGA KNOWN AS AREA 4B, BEING CERTAIN PARCELS ADJACENT TO STREETS INCLUDING, BUT NOT LIMITED TO, GOLD CREST, DAHL SPRINGS, AND FAIRVIEW ROAD, WITHIN THE URBAN GROWTH BOUNDARY OF THE CITY OF CHATTANOOGA, IN HAMILTON COUNTY, TENNESSEE, AS SHOWN BY THE ATTACHED MAP

ANNEXATION AND PLAN OF SERVICES: AREA 4B
(Continued)

passed second and final reading and was signed in open meeting; **on roll call vote:**

ROBINSON	"Yes"
LADD	"Yes"
GILBERT	"No"
BERZ	"Yes"
RICO	"Yes"
MCGARY	"Yes"
MURPHY	"No"
SCOTT	"No"
BENSON	"Yes"

CLOSE AND ABANDON

MR-2009-125: Charles L .Harrison

On motion of Councilman McGary, seconded by Councilwoman Robinson,
**AN ORDINANCE CLOSING AND ABANDONING TWO ALLEYS LOCATED
OFF OF THE EAST LINE OF THE 1900 BLOCK OF MYRTLE STREET, MORE
PARTICULARLY DESCRIBED HEREIN, SUBJECT TO CERTAIN CONDITIONS**
passed second and final reading and was signed in open meeting.

ANNEXATION AND PLAN OF SERVICES: AREA 3C

City Attorney McMahan stated this includes the U. S. Park property and also a couple parcels owned by Ruby Falls; that the parking lots are owned by Ruby Falls.

ANNEXATION AND PLAN OF SERVICES: AREA 3C
(Continued)

On motion of Councilwoman Robinson, seconded by Councilman McGary,
**AN ORDINANCE ADOPTING A PLAN OF SERVICES AND EXTENDING
THE CORPORATE LIMITS OF THE CITY OF CHATTANOOGA, TENNESSEE,
TO ANNEX CERTAIN TERRITORY CONTIGUOUS TO THE PRESENT
CORPORATE LIMITS OF THE CITY OF CHATTANOOGA KNOWN AS
AREA 3C, WHICH INCLUDES PROPERTIES ADJACENT TO RUBY FALLS
AND THE U.S. PARK SERVICE LAND RESOURCE DIVISION, ON THE SIDE
OF LOOKOUT MOUNTAIN, WITHIN THE URBAN GROWTH BOUNDARY OF
THE CITY OF CHATTANOOGA, IN HAMILTON COUNTY, TENNESSEE, AS
SHOWN BY THE ATTACHED MAP**

passed first reading; on roll call vote:

LADD	"Yes"
GILBERT	"No"
BERZ	"Yes"
RICO	"Yes"
MCGARY	"Yes"
MURPHY	"Yes"
SCOTT	"Yes"
ROBINSON	"Yes"
BENSON	"Yes"

ANNEXATION AND PLAN OF SERVICES: AREA 6A

On motion of Councilman McGary, seconded by Councilwoman Robinson,
**AN ORDINANCE ADOPTING A PLAN OF SERVICES AND EXTENDING
THE CORPORATE LIMITS OF THE CITY OF CHATTANOOGA, TENNESSEE,
TO ANNEX CERTAIN TERRITORY CONTIGUOUS TO THE PRESENT
CORPORATE LIMITS OF THE CITY OF CHATTANOOGA KNOWN AS
AREA 6A, WHICH INCLUDES CERTAIN PROPERTIES ADJACENT TO THE
WESTERN RIGHT-OF-WAY OF HIGHWAY 58 AND TURKEYFOOT ROAD
WITHIN THE URBAN GROWTH BOUNDARY OF THE CITY OF**

ANNEXATION AND PLAN OF SERVICES: AREA 6A
(Continued)

CHATTANOOGA, IN HAMILTON COUNTY, TENNESSEE, AS SHOWN BY
THE ATTACHED MAP

passed first reading; on roll call vote:

GILBERT	"No"
BERZ	"Yes"
RICO	"Yes"
MCGARY	"Yes"
MURPHY	"Yes"
SCOTT	"Yes"
ROBINSON	"Yes"
LADD	"Yes"
BENSON	"Yes"

ANNEXATION AND PLAN OF SERVICES: AREA 6B

City Attorney McMahan started this starts at North Hickory Valley Road and goes toward Jewell Road.

Bobby Wood, owner of Carriage Hill Insurance Company located at 5469 Highway 58, stated he wanted to address the decision the Council is making today and taking this area into the city. He stated more than addressing the issue he questioned the way the Council is bringing this into the city at this time. He stated his problem is those who are affected have no voice in this decision being made. He stated the State provides two methods to annex which are by referendum or by ordinance; that the Legislature provided that for many years and it is clearly the Council's decision based on what would be financially favorable for the city since some areas have already been eliminated as the cost for providing services were more than revenues.

ANNEXATION AND PLAN OF SERVICES: AREA 6B
(Continued)

Mr. Wood stated presently he pays \$2200 in property tax for a very modest building on Highway 58; that the Council decided to substantially increase the amount of tax paid for part of the property and never consulted him or contacted him by mail or any others and did not offer any schedule of services that would be provided. He stated since the city did not ask him, he asked what incentive is offered to bring this area into the city – not garbage services because the city does not provide garbage service to business places. He stated sewers are already there as he paid \$1500 to connect onto the sewer that is already there; that fire protection is one block away from him at the fire hall as well as ambulance service that has served him and his family in the past. He stated he does not think police services could be increased any because the revenue producing speed van is parked across the street from his office at least once a week and asked what benefit would this be. He stated with 28 years in the Legislature he adamantly opposed basically four things: (1) gambling, (2) alcohol and drug abuse (3) state income tax and (4) expansion of government and annexation by ordinance. He stated he looks at this as being just as evil; that the Council has an opportunity to move his community forward, all together in an orderly way by referendum and not by ordinance. He asked that a package be put together of services and a plan to bring the people into the city, give them an opportunity to vote and he knows government works best when the people are involved as part of the decision. He asked that they be given an opportunity to come in and work with them and not do this by ordinance. He asked that they be given a choice, also.

Chairman Benson acknowledged that he has known Mr. Wood for many, many years and stated we are a republic and it is too bad we are not a true democracy; that the people did vote on the members of the Legislature. He stated in 1998 those people had been voted on by the citizens, Mr. Wood and others, noting that it was his thought Mr. Wood was in the Legislature at that time.

Mr. Wood stated he was in the Legislature and voted against it.

Chairman Benson stated that Mr. Wood voted against it in the Legislature and the rest of the body voted, so the people voted for the delegation; that the majority voted and directed us to get together with the County officials and work out an urban growth plan of services and we did in 2003. He stated the County Commissioners and the City Councilmen all agreed then and we are all voted upon so it was a republic and an indirect vote. He stated it is not true he (Wood) did not get to vote on annexation; that it just was not a direct vote.

ANNEXATION AND PLAN OF SERVICES: AREA 6B
(CONTINUED)

Chairman Benson stated a public hearing was held four weeks ago for this area and about thirty minutes was spent listening to the plan of services and Mr. Wood was not present to hear them; that he is sorry he was not present and it was advertised.

Councilman Murphy asked Mr. Wood to help him understand area 6B better and inquired if there are any residential parcels in this area where his business is.

Mr. Wood responded "no"; that those are business tracts and most probably would be improved in the future.

Councilman Murphy stated if there were a referendum there are no registered voters who live in 6B at all.

Mr. Wood stated if a referendum was held it would probably be on the entire annexation system and they would have an opportunity to vote on that.

Councilwoman Scott stated according to the figures provided to Council in regard to property tax and revenue estimates, whatever services this area might be given it is her thought it needs to be pointed out the total tax revenue is \$16,106 for that entire area.

On motion of Councilman McGary, seconded by Councilman Murphy,
**AN ORDINANCE ADOPTING A PLAN OF SERVICES AND EXTENDING
THE CORPORATE LIMITS OF THE CITY OF CHATTANOOGA, TENNESSEE,
TO ANNEX CERTAIN TERRITORY CONTIGUOUS TO THE PRESENT
CORPORATE LIMITS OF THE CITY OF CHATTANOOGA KNOWN AS
AREA 6B, WHICH INCLUDES CERTAIN PROPERTIES ADJACENT TO THE
WESTERN RIGHT-OF-WAY FOR HICKORY VALLEY ROAD WITHIN THE
URBAN GROWTH BOUNDARY OF THE CITY OF CHATTANOOGA, IN
HAMILTON COUNTY, TENNESSEE, AS SHOWN BY THE ATTACHED MAP**

passed first reading; on roll call vote:

BERZ	"Yes"
RICO	"Yes"
MCGARY	"Yes"
MURPHY	"Yes"

ANNEXATION AND PLAN OF SERVICES: AREA 6B
(Continued)

SCOTT	"Yes"
ROBINSON	"Yes"
LADD	"Yes"
GILBERT	"No"
BENSON	"Yes"

ANNEXATION AND PLAN OF SERVICES: AREA 6C

City Attorney McMahan stated this request starts on the east side of Jewell Road, goes northwesterly to Harrison-Ooltewah Road and picks up in most areas the frontage on Highway 58.

Terri Lee of 6200 Highway 58 stated Bayside Baptist incorporates about fourteen acres of property along the eastern side of Highway 58. He stated they have put in several hundred thousand dollars repaving a parking lot, meeting all the local and state requirements, went way out of the way to make sure they had enough islands of greenery and retention ponds and went to the "nth" degree with local regulations; that they had engineers come in and make sure they met all the compliances. He stated he wanted to express the concerns of the Deacons and members of Bayside Baptist this would be a considerable cost to the Church and they are very concerned about that.

Councilman Murphy stated Mr. Lee mentioned wastewater and asked if he meant effluent, sewage or if he meant storm water. Mr. Lee responded "storm water".

Councilman Murphy stated as to the detention ponds that were built that may afford some discount depending how they are engineered and asked public works officials if that was correct. He stated the purpose of the clean water charges that exist is if you can slow or delay storm surge from running off the parking lot so it does not hit the streams and the creeks and ditches immediately upon the storm event as most parking lots do; that most parking lots do not take the care Bayside took to watch out for God's gift to us and creation and create detention ponds that will slow and detain that water and allow it to naturally or more naturally flow into the ground water and into that.

ANNEXATION AND PLAN OF SERVICES: AREA 6C
(Continued)

Councilman Murphy stated they may not be looking at as big a storm water charge as they might figure based on calculable area; that that obviously has been a concern of his with the whole program. He stated that he does not feel the government did a very good job of alerting to people a couple years ago who may have had construction projects and paving projects on the books that all of a sudden the economic calculus for doing things like detention ponds and catch basins were about to change radically.

Mr. Lee stated they spent several months working on the plan to make sure they went the extra mile not only with retention ponds, but also green areas and dividers and they spent a lot of money in addition to that to make sure that would not create a problem for the water ways. Councilman Murphy expressed hope the Church would be in good shape on its clean water fee.

Councilman McGary asked if it is possible for the new individuals and businesses being annexed if there could be some sort of orientation concerning the storm water fee. He stated he knows the citizens of Chattanooga have had some orientation and another yet to come; that he was wondering if it is possible the new areas could also have an orientation.

Adm. Leach stated following what Chairman Benson asked a meeting has been tentatively scheduled for November 19 from 9 a.m. – 12 p.m. at the DRC in Room 1-A for such a hearing; that it is being called an informational briefing and discussion and they are prepared for that. He stated anyone can call public works and ask for the water quality folks.

Councilman Benson stated Council members are being asked questions; that for any type of rebate or compensation public works should be called.

Adm. Leach stated citizens can go online as there is a good descriptor of what water quality is and standards they are working through.

On motion of Councilwoman Robinson, seconded by Councilman Ladd,
AN ORDINANCE ADOPTING A PLAN OF SERVICES AND EXTENDING THE CORPORATE LIMITS OF THE CITY OF CHATTANOOGA, TENNESSEE, TO ANNEX CERTAIN TERRITORY CONTIGUOUS TO THE PRESENT CORPORATE LIMITS OF THE CITY OF CHATTANOOGA KNOWN AS AREA 6C, WHICH INCLUDES CERTAIN PROPERTIES ADJACENT TO THE EASTERN AND WESTERN RIGHTS-OF-WAY OF HIGHWAY 58 UP TO ITS INTERSECTION WITH HARRISON-OOLTEWAH ROAD, INCLUDING PORTIONS OF OTHER STREETS NAMED BENT PINE, CONGRESS,

ANNEXATION AND PLAN OF SERVICES: AREA 6C
(Continued)

**DEERWOOD, MAHLON, CLARK, CHURCH, TYNER, AND EASTER, WITHIN
THE URBAN GROWTH BOUNDARY OF THE CITY OF CHATTANOOGA, IN
HAMILTON COUNTY, TENNESSEE, AS SHOWN BY THE ATTACHED MAP**

passed first reading; **on roll call vote:**

RICO	"Yes"
MCGARY	"Yes"
MURPHY	"Yes"
SCOTT	"Yes"
ROBINSON	"Yes"
LADD	"Yes"
GILBERT	"No"
BERZ	"Yes"
BENSON	"Yes"

CLOSE AND ABANDON

MR-2009-112: Chestnut Properties, LLC

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

Charles Harrison stated that he lives on Enclave Bay Drive in the city and owns and operates foreign car parts known as Mainly Foreign Car Parts. He stated he is impacted by this and had no idea this was coming for a hearing tonight. He stated if he had known he would have been at the 3 p.m. meeting today or maybe at the Planning session with public works. He stated three months ago he made a phone call to "Corky" Coker's office because his company accepts deliveries two-to-three times a week and uses the old Central Avenue to exit out. He stated without the old Central Avenue available to him these trucks will stay on Central Avenue, they will not enter his property; that his men will have to go out with a forklift on Central Avenue to unload the trucks.

CLOSE AND ABANDON (Continued)

Mr. Harrison stated he has refused to allow them to do that any time a large eighteen wheeler comes into that area and is on Central Avenue. He stated when he had his portion closed eight years ago it was not an option; that he built his warehouse in such a way nobody asked for closure of the remainder of Central Avenue. He stated he was concerned and called and spoke to "Corky" and asked what was going on. He stated the first thought was they were not going to close Central and were only closing 23rd Street. He stated on August 6 he requested a map and got it and sure enough it is more than just 23rd Street, it is also the old Central Avenue which totally impacts him. He stated he asked "Corky" if he was going to close it and he said no and gave him his word he was not going to close it. He asked for something in writing and was reluctantly told he would provide it. He stated he had no idea that was not going to take place; that he would have been at the public works hearings and at planning. He stated his company depends on Central Avenue; that there is no maintenance by the city on Central Avenue as they have been driving trucks out of there for eight-or-nine years and he is the only one that has maintained it and put concrete on it when it got pretty deep. He stated he just needs the trucks to be able to go straight out and not ask his employees to go on Central Avenue to unload the trucks.

Chairman Benson asked if this was heard four-or-five years ago.

Mr. Harrison stated it was heard seven-or-eight years ago when a portion was closed right outside the warehouse he was building.

Chairman Benson stated from Central Avenue westward does it run by a little house facing Central Avenue. Mr. Harrison stated it is across the street.

Chairman Benson stated this was heard at Planning four weeks ago and no one spoke in opposition.

Councilman Murphy stated he disfavors closing alleys especially in neighborhoods; that a lot of the neighborhoods that have alleys were built in mind for cars to come in the back. He stated he has had a number of complaints about un-maintained alleys; that the issue for Mr. Harrison seems to be is that he does not want forklift drivers out on a very public street if he can help it. He stated his arrangement now is they do not have to be out on a well traveled road with forklifts which are not licensed for roadway use anyway.

CLOSE AND ABANDON (Continued)

Mr. Harrison stated that is correct; that he is totally in favor of closing the alleyways, too; that the Council just closed one earlier in this meeting. He stated that is because there is grass there and he mowed that grass for eight years; that there is no grass there and no maintenance that anybody has to do on this area of Central Avenue – none. He stated this is not an alleyway; this was the old Central Avenue and there is a sewer right down the middle of it.

Wes Kliner, General Counsel for Chestnut Properties at 1317 Chestnut Street, stated that he went to the RPA and filed this petition for closure; that it was their original intent to ensure that the area of the old East 23rd Street encompassed by a fence put up by Container Corporation many years ago was abandoned so it could be freely used. He stated the viaduct for East 23rd Street that goes over the railway system totally obviated the need to be able to use that portion of East 23rd Street and dead ends into the railway system with no ingress or egress from there; that it is a totally worthless portion. He stated when he filed the petition, the folks in the engineering office also indicated there was an adjacent piece of property and the owners of the two properties are actually a billboard company and Chestnut Properties, the principal of whom is “Corky” Coker.

Mr. Kliner stated there is an old depressed chip gravel and decaying asphalt road that is there; that the grass is not maintained by Mr. Harrison’s company; that his people maintain that area, as well, and mow the grass. He stated there is also a short alleyway that comes out at the foot of Mr. Harrison’s property; that it is essentially 23rd Street, an alleyway and then a very short connector to Central Avenue, as well. He stated they have no stake in that particular alley exit that would be immediately at the rear of Mr. Harrison’s business because they would not be an adjacent property owner; that it would be between the billboard company and Mr. Harrison. He stated that he understands Mr. Harrison did talk with “Corky” and of course the problem with putting something in writing is when Mr. Harrison sells his business it goes with the business and it becomes an impediment down the line if there are any changes in circumstances. He stated certainly if the Council was to impose a condition requiring the easement of use for that for an effective property owner this body may have the ability to do that. He stated they are reluctant to put anything in writing because at some point down the line from the commercial standpoint if they would need to sell it, in truth, this particular parcel of property is not the main reason they originally filed the abandonment; it was an additional capability. He stated he would defer to the Council’s favor and say that they believe all three of these little components are segments of property that the city no longer uses.

CLOSE AND ABANDON (Continued)

Mr. Kliner stated that the city maintains liability for it if somebody were to slip and fall; that there are government tort liability acts because it is a city roadway owned by the city that potentially there could be some liability and there is no tax revenue being generated for the city. He stated if the three are abandoned to the city there is additional tax revenue because of the increased square footage to the adjacent property owners and there is also the reduction in the potential of liability for the city for any potential injuries that would occur.

Councilman McGary asked Mr. Kliner if he heard correctly if there is a potential compromise he would be open to the idea of an easement.

Mr. Kliner stated if the Council imposed an easement of use that would allow him to use it, the only problem he has with that is who then maintains that roadway that Mr. Harrison would have no owner interest in it; that it would be split down the middle with half going to the billboard company and half to them. He stated they would then maintain the duty to maintain an alley for his ingress and egress; that there is that little segment that could be used as an alley that backs the tractor trailers into his facility, they would pull upon Central and back it into it and it could be used as an alleyway for ingress and egress to the rear of the business.

Councilman McGary asked Mr. Harrison to respond. Mr. Harrison stated there is absolutely no way that a tractor trailer will or can back up; that it will either do one of two things -- either come forward to stay on the Central Avenue. He stated he will not give him anything else other than that.

Councilwoman Robinson stated that this matter needs to be deferred because Mr. Harrison definitely will be impacted and it needs to be revisited. She **made the motion to defer for a couple weeks; Councilman Murphy seconded the motion.**

At this point the motioner and seconder of the initial motion withdrew their motion.

On motion of Councilwoman Robinson, seconded by Councilman Murphy,
**AN ORDINANCE CLOSING AND ABANDONING THE 900 BLOCK OF
EAST 23RD STREET, A PORTION OF THE UNOPENED ALLEY LOCATED ON
THE WEST LINE OF THE 2000 BLOCK OF CENTRAL AVENUE, MORE
PARTICULARLY DESCRIBED HEREIN, AND SUBJECT TO CERTAIN
CONDITIONS**

was deferred two weeks.

CLOSE AND ABANDON

MR-2009-121: Kirti Naik

On motion of Councilwoman Robinson, seconded by Councilman Gilbert,
**AN ORDINANCE CLOSING AND ABANDONING AN UNOPENED ALLEY
LOCATED OFF OF THE 2100 BLOCK OF EAST 23RD STREET, MORE
PARTICULARLY DESCRIBED HEREIN, AND SUBJECT TO CERTAIN
CONDITIONS**
passed first reading.

AMEND CITY CODE

Councilman McGary stated that it came to his understanding that the Council received this ordinance today and moved to defer the matter two weeks to allow the Council the ability to review the document.

On motion of Councilman McGary, seconded by Councilwoman Berz,
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,
CHAPTER 5, SECTION 5-75(b), RELATIVE TO THE SALE OF BEER IN THE
UGC URBAN GENERAL COMMERCIAL ZONE**
was deferred two weeks.

AMEND CITY CODE

On motion of Councilman Murphy, seconded by Councilman McGary,
**AN ORDINANCE AMENDING THE CHATTANOOGA CITY CODE, PART II,
CHAPTER 10, SECTION 10-5, AS AMENDED, SO AS TO EXCLUDE
CERTAIN PROPERTIES KNOWN AS LOT 24, ROSSVILLE AVENUE, FROM
THE DOWNTOWN FIRE DISTRICT BOUNDARIES, SUBJECT TO CERTAIN
CONDITIONS**
passed first reading.

LEASE

On motion of Councilwoman Robinson, seconded by Councilwoman Ladd,
**A RESOLUTION AUTHORIZING THE DIRECTOR OF GENERAL SERVICES
TO EXECUTE A LEASE WITH THE TENNESSEE VALLEY REGIONAL
COMMUNICATIONS SYSTEM FOR A TOWER SITE LOCATED ON CROSS
MOUNTAIN IN CAMPBELL COUNTY FOR A TERM OF TEN (10) YEARS
AND A MONTHLY RENTAL AMOUNT OF ONE THOUSAND TWO
HUNDRED DOLLARS (\$1,200.00) FOR YEARS ONE THROUGH THREE,
WITH AN ESCALATING CLAUSE FOR YEARS FOUR THROUGH TEN AS
DESCRIBED HEREIN**
was adopted.

LEASE

On motion of Councilwoman Ladd, seconded by Councilwoman Berz,
A RESOLUTION AUTHORIZING THE DIRECTOR OF GENERAL SERVICES TO EXECUTE A LEASE WITH THE TENNESSEE VALLEY REGIONAL COMMUNICATIONS SYSTEM FOR A TOWER SITE LOCATED ON WINDROCK MOUNTAIN IN ANDERSON COUNTY FOR A TERM OF TEN (10) YEARS AND A MONTHLY RENTAL AMOUNT OF ONE THOUSAND TWO HUNDRED DOLLARS (\$1,200.00) FOR YEARS ONE THROUGH THREE, WITH AN ESCALATING CLAUSE FOR YEARS FOUR THROUGH TEN AS DESCRIBED HEREIN

was adopted.

CONTRACT

Councilwoman Berz made the motion to defer this matter two weeks until the capital budget is approved; Councilwoman Scott seconded the motion.

Councilman Murphy stated this is a necessary project and should not be one that is going to be delayed as it is going to be funded in all probably anyway and is subject to appropriation of funds. He stated he sees no reason to delay it at this time as it is needed work and ameliorating a serious problem not only on a city owned facility but properties that surround that facility; that we may as well go ahead with it.

Councilwoman Berz stated that she understands that; that it is a matter of protocol. She stated we do not ever want to put the "cart before the horse" and what we do is find a budget before it is approved; that she does not know that it will not go through; that it is matter of proper procedure.

Councilwoman Scott stated we have been given information about how this money will be used and according to the specifications of the contract of this total amount of \$1,873,999.00 only \$440,000 actually relates to stormwater, \$277,000 is the parking lot, \$133,000 is for landscaping irrigation, \$200,000 is for electrical work, \$100,000 is a wall, and \$40,000 is the plaza. She stated when you look at all the capital funding requests we have coming forward this year, while this is certainly probably a very worthwhile project it is her thought it should be considered on the same playing fields as many of the other things we have to look at over the budget. She stated she would like to defer this.

Councilman Murphy made the point that it does say "subject to appropriation of funds", and as a mater of protocol we do this type of thing all the time and it is not anything out of the ordinary.

CONTRACT (Continued)

Councilman Murphy stated it is a necessary project as Warner Park is shaping up to be the facility that will be mentioned in the same sentence and breath as Coolidge Park; that it is a park for the whole city and we really should not dally on this. He stated it is "subject to appropriation of funds" and urged his fellow Council members to vote down the motion to defer.

Councilman McGary stated it is his understanding the director of public works offered to have this item removed for a couple week and asked if he were correct there would be no injury if that is done. Adm. Leach responded "correct".

At this point Councilman McGary upheld the motion to delay and called for the question.

On motion of Councilwoman Berz, seconded by Councilwoman Scott,
A RESOLUTION AUTHORIZING THE AWARD OF CONTRACT NO. W-05-007-201, NORTH WARNER PARK STORMWATER DETENTION BASIN, TO THOMAS BROTHERS CONSTRUCTION COMPANY, INC. IN THE AMOUNT OF ONE MILLION SEVEN HUNDRED THREE THOUSAND NINE HUNDRED NINETY-NINE DOLLARS (\$1,703,999.00), PLUS A CONTINGENCY AMOUNT OF ONE HUNDRED SEVENTY THOUSAND DOLLARS (\$170,000.00), FOR A TOTAL AMOUNT NOT TO EXCEED ONE MILLION EIGHT HUNDRED SEVENTY-THREE THOUSAND NINE HUDNRED NINETY-NINE DOLLARS (\$1,873,999.00), SUBJECT TO APPROPRIATION OF FUNDS

was tabled two weeks; on roll call vote:

MCGARY	"Yes"
MURPHY	"No"
SCOTT	"Yes"
ROBINSON	"No"
LADD	"Yes"
GILBERT	"Yes"
BERZ	"Yes"
RICO	"No"

CONTRACT (Continued)

BENSON

"Yes"

CHANGE ORDER

Councilwoman Scott asked Jerry Stewart to come forward and stated that she is not opposed to funding this particular expenditure; however, she is very concerned about why we had to have this expenditure in the first place. She asked to be corrected if she was wrong that this is our second engineer on a project that actually goes back to the Moccasin Bend Wastewater Treatment Plant filter press. She stated the first time we started this it did not go well and this is a second engineer that has been assisting the city subsequent to that. She stated that she has three questions: (1) what is the total cost for the filter press; (2) as many years as it has been on the filter press is it fully operational now, and (3) are we making 100 percent of our sludge as Grade A.

Jerry Stewart stated as part of the remediation program, in agreement with Siemens, Siemens agreed to pay this contract and any costs associated with the third party engineer to come in and do this inspection on our part. He stated as for the approximate cost, as he can not tell in detail, is approximately \$15 million -- \$7.5 in solids and about \$7.5 in equipment in the original cost. He stated all the cost on remediation that has been done has been paid by Siemens; that all is being worked out now as we come to the end of this contract and work out the official closing. He stated the third thing is that of all the biosolids going through not 100% everything was supposed to go through but the portion that we have going through is being classified. He stated it is not the only biosolids system that we have out there; that we have centrifuges, some older model centrifuges and newer model centrifuges that were put in 2002.

Councilwoman Scott asked if this \$15 million filter press is supposed to make all our sludge essentially go to Class A.

Mr. Stewart there is only a portion there; that about 50 percent only for the waste tech portion that is produced for the biological portion of it.

Councilwoman Scott stated the purpose was to do a \$15 million dollar filter press to only do 50 percent of our sludge.

Mr. Stewart stated that is correct; that is part of the whole process.

CHANGE ORDER (Continued)

Councilwoman Scott asked what percentage of our sludge are we making; wanting to know if Mr. Stewart is saying 50 percent of our sludge created by the filter press today is Class A.

Mr. Stewart stated the material that goes through the filter press today is Class A material.

Councilwoman Scott asked how much is going through.

Mr. Stewart stated he could not tell how much was processed today, but it was designed to produce about 50 dry tons a day out of 100 dry tons a day, which is what we produce totally.

Councilwoman Scott stated she still does not think she understands the answer or maybe she is not explaining the question correctly.

Mr. Stewart stated this process was not designed to process all the sludge generated by the plant and turning it into Class A biosolids; that they also have an anaerobic digester that processes the primary sludge that goes through a two step process — thermophilic, mesophilic and anaerobic digestion processes which will also create Class A material.

Councilwoman asked if it is fully operational and whether it produces 50 percent of our waste as sludge Class A.

Mr. Stewart stated it is fully operational and it will produce; that they have had as many as six presses in the past week running through that material. He stated they are producing what the production is “through put” and also meeting the pasteurization requirements.

Councilwoman Scott asked for clarification that 50 percent of it is Class A.

Mr. Stewart stated of the material that goes through that press he can not say it is 50 percent and does not know how much 50 percent is today as it depends upon how much we produce; that when it rains they have less solids coming into the plant. He stated it met the design for production and when they are processing through that process it is meeting the production and pasteurization requirements.

CHANGE ORDER (Continued)

On motion of Councilwoman Robinson, seconded by Councilwoman Ladd,
A RESOLUTION AUTHORIZING THE EXECUTION OF CHANGE ORDER NO. 1 RELATIVE TO CONTRACT NO. W08-005, PERFORMANCE TESTING WITH THE J-VAP REMEDIAL ACTION, WITH JORDAN, JONES & GOULDING (JJ&G), WHICH CHANGE ORDER IS FOR AN INCREASE IN AN AMOUNT NOT TO EXCEED FOUR THOUSAND DOLLARS (\$4,000.00), THIS INCREASES THE ORIGINAL CONTRACT COST FROM ONE HUNDRED FORTY-THREE THOUSAND EIGHT HUNDRED FIFTY DOLLARS (\$143,850.00) TO ONE HUNDRED FORTY-SEVEN THOUSAND EIGHT HUNDRED FIFTY DOLLARS (\$147,850.00)

was adopted.

DEVELOP LAND USE AND REDEVELOPMENT PLAN

Councilman Gilbert expressed hope that in the future that the Eastdale and North Brainerd areas would be included as they have combined together in partnership; that there is a need to look at the growth and planning of the community and the growth plan of the area itself.

Councilman Murphy stated he has every intention to include as he has talked with folks looking for an Eastdale plan. He stated the point of this is that we have a national historic asset in Missionary Ridge that is part of the national park system and also part of an area that the Trust for Public Land identified as an acquisition area because of the national historical character. He stated it has been developed too greatly already and we want to insure this national historic asset which will benefit the areas around the Ridge greatly if it is preserved, promoted and protected. He stated that will benefit Eastdale and North Brainerd, as well as Brainerd, East Lake and all the areas around; that "yes" he is "on it". He stated he has several folks who have old neighborhood plans who want to have them updated; that this area has never had a land use plan or neighborhood plan established.

On motion of Councilman Murphy, seconded by Councilman McGary,
A RESOLUTION AUTHORIZING THE CHATTANOOGA-HAMILTON COUNTY REGIONAL PLANNING AGENCY TO DEVELOP A LAND USE AND REDEVELOPMENT PLAN FOR THE MISSIONARY RIDGE AREA WHICH INCLUDES ALL OF MISSIONARY RIDGE AS WELL AS PARTS OF THE EAST LAKE, RIDGESIDE, GLENWOOD, FOXWOOD HEIGHTS AND AVONDALE NEIGHBORHOODS

was adopted.

GRANT

On motion of Councilwoman Robinson, seconded by Councilwoman Berz,
A RESOLUTION AUTHORIZING THE MAYOR TO APPLY FOR AND, IF AWARDED, ACCEPT AN ENHANCEMENT GRANT FROM TENNESSEE DEPARTMENT OF TRANSPORTATION (TDOT) FOR THE FY 2010 TRANSPORTATION ENHANCEMENT PROGRAM FOR SIDEWALK AND BICYCLE FACILITY IMPROVEMENTS ON MANUFACTURERS ROAD FROM US HIGHWAY 27 TO THE MOCCASIN BEND VISITOR CENTER, IN AN AMOUNT TO BE DETERMINED, WITH EIGHTY PERCENT (80%) BEING THE TDOT SHARE AND TWENTY PERCENT (20%) BEING REQUIRED FROM THE CITY AS LOCAL MATCHING FUNDS
was adopted.

GRANT

Councilman Gilbert stated that he met with the Chamber of Commerce, County Commissioner Warren Mackey and the community people, noting in the second phase of this they are looking at the south side and not necessarily the north side. He stated he wanted to make sure all were clear on that as far as funds are concerned.

On motion of Councilman McGary, seconded by Councilwoman Ladd,
A RESOLUTION AUTHORIZING THE MAYOR TO APPLY FOR AND, IF AWARDED, ACCEPT AN ENHANCEMENT GRANT FROM TENNESSEE DEPARTMENT OF TRANSPORTATION (TDOT) FOR THE FY 2010 TRANSPORTATION ENHANCEMENT PROGRAM FOR SIDEWALK AND BICYCLE FACILITY IMPROVEMENTS ON HIGHWAY 58 FROM WEBB ROAD TO MURRAY HILLS DRIVE, IN AN AMOUNT TO BE DETERMINED, WITH EIGHTY PERCENT (80%) BEING THE TDOT SHARE AND TWENTY PERCENT (20%) BEING REQUIRED FROM THE CITY AS LOCAL MATCHING FUNDS
was adopted.

OVERTIME

Overtime for the week ending October 22, 2009 totaled \$47,960.01.

PERSONNEL

The following personnel matters were reported for the various departments:

PERSONNEL (Continued)

PERSONNEL DEPARTMENT:

- **IRIS NEAL** – Hire, Administrative Support Assistant 2, Range 7, \$27,500.00 annually, effective October 9, 2009.
- **TOMMIE MUNN** – Hire, Administrative Support Assistant 2, Range 7, \$25,500.00 annually, effective October 23, 2009.
- **TIM HOBACK** -- Hire, Occupational Safety and Health Coordinator, Range 21, \$50,000.00 annually, effective October 23, 2009.

GENERAL GOVERNMENT:

- **MARY NELDA SLADE** – Retirement, Administrative Support Specialist, Range 10, \$42,055.72 annually, effective October 30, 2009.
- **MARY NELDA SLADE** – Rehire (Permanent, part-time rehire), Administrative Support Specialist, \$27.24 hourly, effective November 2, 2009.

CHATTANOOGA HUMAN SERVICES:

- **IVONYA DOUGLAS** – Termination, Teacher Assistant, Head Start, effective October 2, 2009.
- **LINDA EVANS** – Termination, Teacher, Head Start, effective October 16, 2009.

CHATTANOOGA FIRE DEPARTMENT:

- **BRADFORD RANSOM** – Military Leave, Firefighter, effective October 20 2009 – June 7, 2010.

PUBLIC WORKS DEPARTMENT:

- **NICHOLAS COOKSON** – Hire, Water Quality Specialist 2, Engineering, Range 14, \$34,749.00 annually, effective October 23, 2009.

PERSONNEL (Continued)

- **LUTHER L. SULLIVAN** – Resignation, Equipment Operator 5, City Wide Services, effective October 3, 2009.
- **PETER D. WOODARD** – Return to duty from Family Medical Leave, Crew Worker 1, Traffic Engineering, effective October 12, 2009.
- **RAYMOND L. LOUNDS** – Suspension (3 days without pay), Crew Worker 1, effective October 22-23, 26, 2009.
- **JASIMINUS A. TAYLOR** – Termination, Crew Worker 1, City Wide Services, effective October 12, 2009.

CHATTANOOGA POLICE DEPARTMENT:

- **KELLI HANEY** – Resignation, Police Property Technician, effective October 19, 2009.
- **SHAMEIKA RUSSELL** – Resignation, School Patrol Officer, effective October 16, 2009.

HOTEL PERMITS

On motion of Councilman McGary, seconded by Councilwoman Robinson, the following hotel permits were approved:

BAYMONT INN & SUITES – 3540 Cummings Highway, Chattanooga, TN

BEST WESTERN HERITAGE INN – 7641 Lee Highway, Chattanooga, TN

MOTEL 6 #700 – 7707 Lee Highway, Chattanooga, TN

REFUND

On motion of Councilman McGary, seconded by Councilman Murphy, the Administrator of Finance was authorized to issue the following refund due to exemption by TSBOE for the years 2007 and 2008.

CAMPUS DEVELOPMENT FOUNDATION	\$1,924.48
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REJECT ALL BIDS

On motion of Councilwoman Robinson, seconded by Councilman McGary, all bids were rejected on R0124378 for the Education, Arts and Culture Department for restroom hygiene services. Necessary changes will be made to the specifications and re-advertised.

HEARING RESULTS: APRIL BOLTON

City Attorney McMahan reported that a hearing was held on Monday, October 26, 2009 regarding Police Officer April Bolton with Councilmen Benson, Murphy and Ladd serving as the panel. He stated the panel voted to uphold the termination.

HEARING: JASIMINUS TAYLOR

City Attorney McMahan stated a request for hearing has been received from Jasiminus Taylor and it is his understanding that Mr. Taylor is not represented by anyone.

A hearing for Mr. Taylor was scheduled for Monday, January 11, 2010 beginning at 9 a.m. with Councilmen McGary, Berz and Rico, serving as the panel; Councilman Murphy volunteered as alternate and Councilman McGary is to serve as Chairman for the hearing.

LEED CERTIFICATION

Councilman McGary stated last week the City Council voted for Fire Hall No. 7 to received LEED Certification with Campbell and Associates for a total of \$22,000. He stated there is a non-profit in town by the name of Green Spaces with their goal of creating 20 certified buildings in the downtown area to serve as a footprint to assure the city is going forward toward green endeavors. He stated Green Spaces has offered to pay the \$22,000 to the City of Chattanooga for this charge and wanted to publicly thank them for volunteering to do so!

COMMITTEES

Councilman Rico scheduled a meeting of the **Public Works Committee for Tuesday, November 3 immediately following the agenda session.**

COMMITTEES (Continued)

Councilman Murphy stated the **Legal and Legislative Committee is scheduled to meet on Tuesday, November 3.**

Councilwoman Ladd stated the **Safety Committee will meet on Tuesday, November 3 after Public Works.** She stated a representative from the NAACP will be present to discuss communications with the Police Department.

Councilwoman Berz stated the **Budget, Finance and Personnel Committee would meet at 2 p.m. on Tuesday November 3** to continue discussion relating to employment and insurance matters and for an overview of the Capital Budget. She stated the Committee is **also scheduled to meet at 2 p.m. on Tuesday, November 10** for a quarterly report regarding the Fire and Police Pension, a presentation of the Interceptor Sewer System budget and have further discussion of the Capital Budget.

NEXT WEEK'S AGENDA: NOVEMBER 3, 2009

Chairman Benson stated agenda items for next week were discussed during the agenda session earlier today in committee.

EMILY BROOKS

Emily Brooks was present on behalf of the Young Democrats of Hamilton County and stated that she is an active member, serves as Treasurer and introduced others present with her. She stated she is a graduate of George Washington University with a major in Political Science and was present to get to better know the operations of this city and the governmental system. She stated that she wanted to address what Mr. Wood said earlier and suggested everyone keep the thought in mind in reference to the difference between a referendum and an ordinance; that the people most certainly elected the Council members to speak on citizens' behalf; that elected officials inform everyone on their rights and of things going on in the community. She stated she also wanted to express thanks to the Council that is comprised of five women, three African-Americans and one Hispanic gentleman representing our community with diversity. She asked that they remember the difference between a referendum and an ordinance; that she was present to speak not only on behalf of the young people in Hamilton County as she loves this city; that she came to observe and see how the Council is representing everyone and asked that they continue to do that.

TERESA BROWN

Teresa Brown of 3920 Juandale Drive stated that her home was flooded on the 19th of last month. She stated that she talked with Councilman Gilbert, TVA, the city of Chattanooga and Moccasin Bend Wastewater personnel; that TVA had previously put valves in to control the water. She presented photos to the Council of the location of her home and the Creek and how the water runs down into the River. She stated the city or Moccasin Bend opened the valves to allow water from Georgia from the Brainerd side through her back yard to get to the Creek on the other side of the River. She stated that she and her sister, Gail Benz, live in a sixteen room house noting that she stays downstairs and all seven rooms were flooded. She stated that she talked to TVA who admitted putting the valves in and it was then turned over to the city; that representatives of the city turned her over to Moccasin Bend and people from Moccasin Bend came out and told her "yes" they have controls for the levee but not for her area, yet her home was flooded and there is nothing they are going to do about it. She stated something needs to be done!

In looking at the photos, Chairman Benson noted that the flooding was at the top of the roof of the garage. Ms. Brown acknowledged that three of four cars were flooded.

Councilwoman Robinson asked if Ms. Brown has had flooding before. Ms. Brown responded "back in the 70's" when Mr. Lansden stayed there it was her understanding TVA or FEMA stepped in and fixed the problem and was told there would be no more flooding, yet, when she spoke to Mr. Talbot of FEMA she was told they could not find the documentation indicating that. She stated that she talked to a gentleman at the city and at Moccasin Bend and TVA is saying it is not their fault; that the fault is the city's.

Gail Benz spoke at this time and stated that she talked to a man at Moccasin Bend noting that he addressed taking water from Brainerd Road and Brainerd School and indicated that they pump water out so it will not flood the school. She stated that she told him by pumping the water it goes directly into their yard and he indicated to her that they do not pump into her yard as it goes out into the Chickamauga Creek. She stated when they do that it automatically floods their house and she was then told there was nothing that can be done. She stated that is not right!

Ms. Brown stated that her sister talked to TVA and told them they were getting flooded and the lady from TVA apologized and told her they had pumped water and the next thing they knew the water stopped. She stated on Monday at 10 p.m. she placed a stick two car lengths from the door to see if the water was coming up and it kept coming.

TERESA BROWN (Continued)

Ms. Brown stated that she called 911 and six police cars came; that she called EPB and TVA many times and was told to call the city of Chattanooga, then to call Moccasin Bend.

Ms. Benz stated three people came out and said the plan shows this is a flood area and they should have flood insurance. She stated back in the 70's when TVA put the pumps in and flooded them they were supposed to have solved the problem so it would not flood.

Councilman Gilbert stated this is located within his district and discussed the matter with Jerry Stewart today; that they had a lengthy discussion in the hope of coming up with some type of solution. He stated that he wanted to know how much square footage is covered to determine if a storage area is needed; that there is a similar problem in Cleveland and they have a storage holding place, which might be a solution. He stated Mr. Stewart is to evaluate the situation.

Jerry Stewart stated personnel from his department went out and investigated the location; that the house is located 30,000 feet downstream from where the levee ends at Moore Road. He stated all times during the flooding situation the pump station that pumps water from the Brainerd Side to the Creek side is functioning properly. He stated at the 28.5 stage on the South Chickamauga Creek about 26,000 CFS or about 189,000 gallons a minute is going down the Creek; that they have five pumps that pump 50,000 per minute. He stated this had a negligible effect on the stage level in the Creek of what they are doing; that Ms. Brown's house was not protected by that and is in the 100 Year Flood Zone after looking at the maps. He stated he does not know what else they could have done other than operated the levee system as required by TVA and have been doing so since 1979 when it was completed or put in.

Chairman Benson asked Ms Brown if she has exercised flood insurance or checked on it.

Ms. Brown responded "yes"; that she checked on flood insurance and it would be \$2,000 a year for \$150,000 on her house and \$60,000 with what is on the inside of her house. She stated her problem is why should she have to put her money out to get this fixed; that God did not do this as it is not rain; that the city allowed water to come through and flood her house! She stated she talked to investigators at TVA who came out and took photographs and noted that they had never seen anything like that before. She stated if a person stands on top of the street they see half of the whole Tennessee River; that she and her sister cleaned the house with purex until she got sores on her hands!

TERESA BROWN (Continued)

Ms. Brown stated all her clothes are gone and now the city and TVA are saying they can do anything they choose to do but she has to use her own money to do it and that is not right!

Councilwoman Berz stated there is a difference between choosing to live in a flood plain and somebody affirmatively pumping water into their yard is a little different. She stated she is trying to get a clear understanding of what happened here.

Mr. Stewart stated for one thing we had a major rain fall event; that one rain gauged a half inch and another half more, operating 500 events for seven days. He stated they can not outshine God; that if a person is living in a low lying area where it has flooded before there are the chances, as far as our pumping anything had impact on that, the answer is no.

Bill Payne spoke in an effort to clarify the matter and stated the Brainerd levee pump station and the associated pump stations do protect portions of Brainerd; that it does not protect the area that is in question tonight. He stated there are also not any gates or any other dividers that completely block the area that come from Georgia that flows down the South Chickamauga Creek; that there is not any additional water that gets pumped across or any other gauges or valves that could be closed to have prevented that from happening.

Councilwoman Berz stated the flood plan and an act of God "stuff" is one thing; that she believes she heard also an act of the city with our pumping water into her yard, which is not an act of God. She asked if that is true or a misconception.

Mr. Payne responded "no"; there is no direct pumping by the city to pump water into this property. He stated even if the pumps turned out and not operated, flooding still would have occurred at substantially the same level; that the pumps protect Brainerd but did not prevent or cause any worse flooding.

Councilman Gilbert asked Ms. Brown if he heard her say not this time but the last time she called and all of a sudden water started dropping.

Ms. Brown responded "yes"; that they could see and hear the bubbles; that they talked to her sister and apologized and the next thing they knew the water ceased.

TERESA BROWN (Continued)

Councilman Gilbert addressed Mr. Stewart and stated that he understands one or two percent is what may be inside this area and asked where the pumps actually put the water, near this place or farther down the line; where do they pump the water to.

Mr. Stewart responded it is about 300,000 feet downstream where the levee ends on Moore Road; that the pump station is located halfway between Brainerd and Moore Roads.

Councilman Gilbert stated it is before it gets to their property; Mr. Stewart responded "correct".

Councilman Gilbert stated any water will cause problems regardless and would still increase; that one percent would increase that concentrated area at that moment.

Mr. Stewart stated it is not sufficient to have an impact on the stage on the Creek if the stage on the Creek is 25.8 which it peaked at; that if only three pumps were running at the same time he could only impact that by 1.2 percent of the total flow coming down the Creek. He stated if all five pumps were open, which they had never done, would have only impacted 2 percent of the flow coming down the Creek. He stated they can not impact the stage on the Creek by pumping the water out the Brainerd side of that thing.

Councilman Gilbert stated as he said earlier today when Eastgate was flooded in 1973 there was a substantial amount of water that was about at least three feet high in Eastgate mall. He stated if that amount of water is pumped over to the other side it will flood the area.

Mr. Stewart stated that was flood water and not just rain and not water that had fallen behind the levee; that there are two totally different situations and scenarios.

Councilwoman Scott stated she wanted to make sure she heard correctly that when Ms. Brown stated she called TVA the first time and complained about the water going up, immediately right after the TVA conversation the water stopped pumping, asking if this occurred the second or first time.

Ms. Brown responded that it was the first time last year.

TERESA BROWN (Continued)

Councilwoman Scott stated immediately Ms. Brown called and immediately it stopped. She asked Mr. Stewart if the city took possession of the pumps from TVA.

Mr. Stewart stated that was in 1979, that he does not know if we get calls from TVA to tell us to turn something on and off; that it is our responsibility under our agreement when we took over the levee to operate and maintain the levee system and the pump station is associated with it.

Mr. Payne clarified that TVA does not operate any flood control facilities within the city of Chattanooga other than Chickamauga Dam; that there are not any other facilities whenever we were getting information from Mr. Stewart earlier today one of the first comments the lady that answered the phone at TVA in River Operations Section in Knoxville told him was the South Chickamauga Creek is an unregulated creek. He stated there are no flood control devices along the length of the South Chickamauga Creek other than the Brainerd levee.

CYNTHIA STANLEY CASH

Cynthia Stanley Cash, President of the North Brainerd Neighborhood Association, stated Ms. Brown's neighborhood is in community and they do have a plan and land use plan adopted in 2007 which addresses the Chickamauga Creek which goes behind her community, too, and is probably part of their flooding problems. She stated that she has indicated previously in the Eastdale Plan of 1998; that they do need to revisit and update their plans and this is a perfect example of how old our plans are. She stated she has spoken to Councilman Gilbert and both Councilmen Gilbert and Murphy need to be at the same "table". She stated Councilman Murphy hurt her feelings in reference to the plans for Missionary Ridge as it seemed he was segregating Foxwood Heights from the Eastdale community as Foxwood Heights is part of the Eastdale community. She stated he mentioned the military issue and all the other historical issues but does not see why Avondale and East Lake fit into that; that it is a good thing he is creating a plan for that.

Councilman Murphy stated he does not want to hurt her feelings; that the point is neighborhood associations have boundaries and all of the neighborhood associations that he named have boundaries that go up the geographic slope of the geographical feature that is Missionary Ridge and that geographical feature is largely unprotected in the land use plan.

CYNTHIS CASH (Continued)

Councilman Murphy stated right now there has never been a plan so it is not meant to plan for all of Foxwood Heights, either; that it is just meant to address properties on Cabin Road and other areas that are in the Foxwood Heights Neighborhood Association boundaries. He stated it is really about the geographic hill where the Battle occurred which has no protection and no land use plan ever. He stated there is a need to address those aging plans but the neighborhoods have no plans and expressed hope she understands this is not actually a land use plan for Foxwood Heights it is only a land use plan for the hill.

Ms. Cash thanked Councilman Murphy for clarifying it that way and noted that they have spent a lot of time on their plans. She expressed embarrassment that the plan is so old and again thanked him for the clarification noting her hope all would be included "at the table".

MARION CLARK

Marion Clark stated that she had a question about Chattanooga STAND with reference to who formed the organization, how it is being funded and what groups of people are involved.

Councilman McGary stated CreateHere is a non-profit organization that is the chief vehicle behind Chattanooga STAND; that it is funded by the Lyndhurst Foundation and gave her the names of Josh McManus or Helen Morgan who are the co-founders for more information.

RECESS

Chairman Benson recessed the meeting of the Chattanooga Council at this time for the public hearing on the annexation of Area 12B.

Council Building
Chattanooga, Tennessee
October 27, 2009
Annexation Public Hearing: Area 12B
7:00 p.m.

Chairman Benson called the recessed meeting of the Chattanooga Council to order with Councilmen Berz, Gilbert, McGary, Ladd, Murphy, Rico, Robinson and Scott present. City Attorney Michael McMahan, Management Analyst Randy Burns, Council Clerk Carol O'Neal and Court Reporter Connie Carpenter were also present.

PUBLIC HEARING TRANSCRIPT

A complete transcript of the public hearing proceedings is available at http://www.chattanooga.gov/annexation/annexation_info.htm.

ADJOURNMENT

At the close of the public hearing, Chairman Benson adjourned the meeting of the Chattanooga Council until Tuesday, November 3, 2009 at 6:00 p.m.

CHAIRMAN

CLERK OF COUNCIL

A LIST OF NAMES OF PERSONS IN ATTENDANCE AT THE COUNCIL MEETING
AND ANNEXATION PUBLIC HEARING FOR AREA12B
IS FILED WITH MINUTE MATERIAL OF THIS DATE