

City Council Building  
Chattanooga, Tennessee  
February 9, 2010  
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, City Attorney Michael McMahan gave invocation.

**MINUTE APPROVAL**

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

**RECOGNITION OF SOUTHERN ADVENTIST STUDENTS**

Chairman Benson recognized and welcomed the presence of students of the Advanced Reporting Class from Southern Adventist College.

**AMEND CITY CODE**

On motion of Councilman Murphy, seconded by Councilwoman Berz,  
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,  
CHAPTER 31, SECTION 31-355(a), TO EXTEND THE TIME IN WHICH TO  
FILE A NOTICE OF PROTEST CONCERNING THE ACCURACY OF WATER  
QUALITY FEES IMPOSED IN 2009 ONLY FROM MARCH 1, 2010 TO JUNE  
1, 2010**

Passed second and final reading and was signed in open meeting.

## AMEND CITY CODE

The Clerk of Council read the version of the Ordinance referenced on the agenda for the evening.

**Councilmen Murphy made the motion to substitute the version of the ordinance most recently discussed earlier in Committee.**

Chairman Benson stated the version on the Council agenda is the substituted ordinance.

City Attorney McMahan clarified that the version read by the Clerk is the ordinance first drafted by Mr. Rogers that is on the agenda.

**At this point, Councilman Gilbert seconded the motion to substitute.**

Councilwoman Berz stated that she is unclear which version it is; that the version we had today in committee did not have the word "shall" or did it have the word "shall".

Councilman Murphy clarified that "shall" is still in there.

**At this point, the Clerk of Council read the ordinance that was discussed in Committee.**

Councilwoman Robinson expressed concern that this has not been published until today and that concerns her.

Councilwoman Berz stated her concern is that we have heard from both the proponents and opponents say they had not seen it until this afternoon in Committee meeting. She stated she does not know if they want to speak here or not; that she needs to be clear on that.

Chairman Benson stated a motion to table could be made if it is felt there has not been time to digest the new substitution.

Councilman Rico stated we have "beaten this dead horse" long enough; that it is time to vote it up or down.

Councilman McGary stated in regard to Councilwoman Robinson's concern about the matter being published today, he asked the City Attorney if there are legal ramifications.

AMEND CITY CODE (Continued)

City Attorney McMahan responded “no”; that the Council has the authority to pass the substitute version if they so desire.

**On roll call vote on Councilmen Murphy and Gilbert’s motion and second to substitute:**

SCOTT	NO
ROBINSON	NO
LADD	YES
GILBERT	YES
BERZ	YES
RICO	NO
MCGARY	YES
MURPHY	YES
BENSON	NO

The motion carried.

Councilman Rico made the motion to deny the ordinance.

**Councilwoman Robinson** stated she would like to open the matter up for discussion so the audience can have the benefit of some of the discussion this afternoon. She stated to get the motion on the floor a second is needed and **seconded the motion to deny.**

There was no further discussion on the matter at this time.

**On roll call vote on Councilmen Rico and Robinson’s motion and second to deny:**

ROBINSON	YES
LADD	NO

AMEND CITY CODE (Continued)

GILBERT	NO
BERZ	NO
RICO	YES
MCGARY	NO
MURPHY	NO
SCOTT	YES
BENSON	YES

The motion failed.

**Councilman McGary made the motion to approve the ordinance; Councilman Gilbert seconded the motion.**

Councilman Murphy stated the Council has gone around and around on this and what we are really voting on is a tie breaker. He stated there is much to be made by some people that reciprocity would kick in and this would cut our folks business; that he does not think he could fault the city of Atlanta if they used locality of workforce as a tie breaker because it is a tie breaker. He stated it is specifically authorized by State law; that it is far, far less than what proponents of this wanted because what they wanted was not allowed under State law; that we could not do that even if we wanted. He stated there were good arguments on both sides of what we should or should not do what was originally sought. He stated so no one misunderstands what we are voting on, in all the folks talked to at the city they cannot recall a single tie, so this is going to be a highly infrequently used substitution in place of a flip of a coin or rebid. He stated that he finds it interesting parties most active are those in the construction fields; that the odds of a tie in construction bids are extremely lower than a tie on price of commodity. He stated this has been a lot of effort to achieve a tie breaker; that this is allowed under State law and takes into account locality. He stated an excellent point was made by Councilwoman Ladd about this being something that may be onerous to administer should it pass and should we ever have a tie; that he honestly thinks that is worth doing and probably better than a coin flip.

### AMEND CITY CODE (Continued)

Councilwoman Robinson stated several things came out in discussion today in Committee that deeply concerns her. She stated what we are talking about is assuring the greatest number of local employees are called to work and given jobs -- that is what we need to stay focused on. She stated what we heard today is that according to work that Councilwoman Scott did the 75 mile diameter around Chattanooga takes in 83 percent of our companies we already have working and it includes 97 percent of the people who are already included and working on jobs. She stated what concerns her is that Chattanooga will get the reputation, if we do this, of an unintended consequence of being a city that allows preferential local hiring; that she is afraid we will end up hurting ourselves if we do this because we know based on what the companies have told us if we adopt something that shows a preference, even if it is a laudable one to keep our local people as first hired, other cities are going to do the same thing against Chattanooga and that will end up hurting the very people we want to help. She stated it will end up when a questionnaire is given "do you allow preferential hiring" the answer will be "yes"; that she does not know if we are ever going to get any further than that to explain; that all we are talking about is we don't want to be doing coin tossing which is probably one out of a "jillion" that will ever even happen. She stated the answer for Chattanooga, Tennessee is going to be "yes" and that is not a good answer when we want to keep our men and women in jobs in other cities. She stated that is the reason she is afraid that in an attempt to do a good thing we are going to err and have an unintended consequence and end up being hurt by it and it really, really worries her.

Councilwoman Scott stated that it is her thought this is going to be hard to keep up with; that in looking at all the above equivalents it will be more than just a particular price and a dollar will not make the difference. She stated it will be difficult for the city to keep up with this; that she cannot even figure out how this is defined, when it is said 75 miles radius, she asked if anyone has decided if this is from the borders or from the center of the city; that she has not heard that discussed or explained. She asked if we will be asking people to say where they come from and who will be keeping up with that. She stated the other thing is that it is her thought there is a misconception that this particular thing is going to assure that jobs go to Chattanooga; that the 75 mile radius takes in four states and local residents are by the 75 mile radius out in North Carolina, Georgia, Alabama and also in Tennessee. She stated when she thinks about local, most people tend to think about right here in this city, this local is in four states.

## AMEND CITY CODE (Continued)

Councilwoman Scott continued by stating she does not support this ordinance because she does not understand how it will be done and interpreted and asked if anyone were present from Purchasing and the response was "no", to which she stated that is why she does not support this. She stated the other thing is the data the Council has so far, we are already doing it; that if we are doing it and do not know how the new thing is going to be managed that the Council wants to do, she stated that it makes her wonder why we should do it in the first place.

Councilwoman Berz stated what Councilwoman Scott said is true; that it is regional, not local. She stated local today is defined as regional; that we cater and we get from a much larger area and we need to think more globally. She stated that she does not see this as a protection as she sees it as an economic measure to assure that people in the region all contribute to the Chattanooga area. She stated all things being equal; that she is smiling because there is a lot of discussion, yet everyone on the Council said this might happen one in a very rare instance. She stated coin toss may be a bit crass, but the bottom line is when the other 13 criteria shall be met as we talked about and previous Councils have passed them, and all things are equal, not comparable, but equal. She stated the last thing we look at is what is going to contribute to our economy the best; that it is not about local companies, it is about anyone coming in here and taking a look at hiring local labor. She stated the other thing is we are already doing a lot of this; that what this does is recognize it and also says to our citizens "we care about you", "we know you are under stress and we are doing whatever we can to make sure that you have jobs". She stated she and Councilman Gilbert were at a meeting at Brainerd High School this morning and one of the things they heard right and left is that there is nothing here that government and other people are saying out loud that insures jobs that our young people will want to stay. She stated this does not insure jobs, it says we are looking at it; that there is a need to do it as she firmly believes we need to say to the people in this area we are growing, we are changing and we do care about them and we want to make sure, when all else is equal, we want to consider the fact you are in there with us.

Councilman McGary stated Councilwoman Berz brought up a very pointed point this afternoon regarding the definition of "responsible" and Councilwoman Scott indicated there are some terms that are undefined. He stated in our own ordinance which currently exists we have the language "lowest responsible bidder submitting the best bid" and asked "what does responsible mean".

**AMEND CITY CODE (Continued)**

Councilman McGary stated when we have 13 criteria that identify what bids are accepted and the majority of the criteria are financials; that there are some issues such as character and integrity that is also part of the equation. He stated we see nothing about health care, nothing about minority hiring practices, we see none of these items identified as "responsible" bids. He stated when we have a tie, as heard from Councilman Murphy, in all likelihood is not going to happen but every so often. He suggested that we begin to define what "responsible" means; that this body should define what it means. He stated it is his belief in the event of a tie we would err, if we are going to err on the side of our own employees, is a step in the right direction. He stated this is an ordinance that does not do enough; that it is a step in the right direction but there is more to be done.

Councilman Gilbert stated earlier today he stated a lot of times he hears the City Council and other business say that we want our kids to stay here in Chattanooga; that saying it and doing it are two different things. He stated we need to start promoting jobs here for locals; that we need to support our kids and give them opportunities because right now we hear things about shootings here and there and it is going to get worse if we do not provide opportunities. He stated some people feel safe in certain areas, but we are not safe as it gets worse. He stated we need to start looking at helping our youth and getting opportunities as far as jobs.

On motion of Councilman McGary, seconded the Councilman Gilbert,  
**AN ORDINANCE TO AMEND THE CHATTANOOGA CITY CODE, PART II,  
CHAPTER 2, SECTION 2-553, RELATIVE TO LOCAL PREFERENCE**

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

LADD	YES
GILBERT	YES
BERZ	YES
RICO	NO
MCGARY	YES
MURPHY	YES
SCOTT	NO

AMEND CITY CODE (Continued)

ROBINSON

NO

BENSON

NO

AMEND ZONING ORDINANCE

Councilman Murphy submitted to the Council that the reason this special exceptions process exists is because our planners wanted us to avoid spot zoning. He stated there are areas of our city that have been down zoned and as a result some properties have lost their status as a two family dwelling. He stated what this has done has resulted in some neighborhoods' money structures being boarded, some securely, others not so securely. He stated there is blight on those neighborhoods. He stated if we pass this and go back to changing the zone to the correct zone, that means we will have (1) validated and instituted spot zoning; (2) to the extent we ever do that, adjoining properties are then eligible to say they would like to be R-2 also because they adjoin an R-2 zone. He stated it is his thought people have gotten very much ahead of themselves in saying reflexively this is a bad thing; additionally, during the dependency of this discussion we have had a person come here and re-plot their duplex. He stated they re-plotted it and got zero lot line designation which is what will happen in the future should we approve this and that is just another work around the issue of down zoned areas and inappropriately located duplexes.

Councilman Murphy stated there is a great deal of money coming in to help with foreclosed and abandoned properties in some of these problem areas. He stated he is not suggesting that we should grant special exceptions permits until a lot of those funds have run their course, but the property values in some part of our city, combined with the cost of renovation to take a structure from an as built duplex to a single family dwelling does not make economic sense and because it does not make economic sense, and should the Council do away with this provision, will be guaranteeing that those neighborhoods carry blight for years and years and years to come. He stated there is no incentive on the part of an owner who has been down zoned who cannot responsibly restore that use, there is absolutely no incentive for them to take that structure down and they will not. He stated as part of the law of unintended consequences he forewarned the Council to be aware they may be casting blight and maintaining blight longer than it needs to be by eliminating this in the name of being friendly to neighborhoods and doing the right thing because it is actually not; that a tool is being taken away from our planners.



**AMEND ZONING ORDINANCE (Continued)**

Councilman McGary stated much like the previous ordinance this ordinance is a step in the right direction. He stated as all have experienced on the Council we are placed in a very tenuous position when asked to approve a special exceptions permit because there is no standardized method to determine who should or should not receive it. He stated it is currently based upon if any of know if an individual has gotten approval of a neighborhood or not and in many cases individuals who have stood before the Council have not received neighborhood approval and they were denied, some have said they have gotten approval and there has been a different response. He cited an example in Highland Park with a different response. He stated the ordinance as it stands places the Council in a very uncomfortable position and unless we amend it is best we pass the ordinance "as is" and start a process by which to determine the most standardized way to approve this process otherwise we should not go in that direction.

Councilman Murphy suggested rather than revoke it from the books we should fix the process and standardize it that is the solution, not to "throw the baby out with the bath water".

Councilman McGary stated if he remembers we asked RPA to actually help us with that process such as required petition forms and otherwise and does not exactly remember the response; that he does not think we have gotten a response. He stated he does not believe we have gotten anywhere and if there is another track to try he would certainly be open to it.

At this point Councilman Rico called for the question.

On motion of Councilwoman Berz, seconded by Councilman McGary,  
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,  
CHAPTER 38, ZONING ORDINANCE, BY REMOVING IN THEIR ENTIRETY  
SECTIONS 38-43(4) AND 38-524, RELATIVE TO TWO FAMILY DWELLINGS  
IN A R-1 RESIDENTIAL ZONE**

Passed first reading; **Councilmen Murphy and Scott voted "no"**.

## REZONING

### **2009-197: City of Chattanooga**

Pursuant to notice of public hearing, the request of the City of Chattanooga to rezone tracts of land located within the Boundaries of Area 1B as listed by Ordinance No. 12291 as adopted by City Council on October 6, 2009 from Temporary R-1, RT-1, R-2, R-3 and C-2 to Permanent Zones R-1, RT-1, R-3 and C-2 came on to be heard.

Greg Haynes, Director of Development Services with the Regional Planning Agency (RPA), stated that this request simply makes temporary zones in the recently annexed area in Lookout Valley, in area 1B, permanent and is a standard process.

On motion of Councilman Rico, seconded by Councilman Murphy,

**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 38, ZONING ORDINANCE, SO AS TO REZONE TRACTS OF LAND LOCATED WITHIN THE BOUNDARIES OF AREA 1B AS LISTED BY ORDINANCE NO. 12291 AS ADOPTED BY CITY COUNCIL ON OCTOBER 6, 2009, MORE PARTICULARLY DESCRIBED HEREIN, FROM TEMPORARY R-1 RESIDENTIAL ZONE, RT-1 RESIDENTIAL TOWNHOUSE ZONE, R-2 RESIDENTIAL ZONE, R-3 RESIDENTIAL ZONE, AND C-2 CONVENIENCE COMMERCIAL ZONE**

Passed first reading.

## REZONING

### **2010-006: Fraternal Order of Firefighters c/o Kevin M. Carpenter**

Pursuant to notice of public hearing, the request of the Fraternal Order of Firefighters c/o Kevin M. Carpenter to rezone tracts of land located at 4393, 4397 and 4401 Bonny Oaks Drive came on to be heard.

The applicant was present; there was no opposition.

Greg Haynes stated that the request is for R-4 to have an office and hold Fraternal meetings. An aerial photo of the site was shown as well as the site plan. He stated that the applicant wants to put parking in front and access would not be directly off Bonny Oaks but off the side street; that the building would be behind the parking and the rest of the property would remain wooded. He stated there are a mixture of uses and zones in the area.

## REZONING (Continued)

Mr. Haynes stated Staff recommendation, which was different from Planning's, was to rezone only a portion of the site; that there are two parcels and rather than rezone the whole property that would be left wooded to R-4, Staff recommended only the portion that they did show would be used in the site plan for the building and parking and leaving a 100 foot undisturbed wooded buffer to the rear to maintain distance between existing residential. He stated it was felt at planning there were some questions left unanswered by the site plan and Planning felt the need to recommend denial.

**David Anderson**, President of the Fraternal Order of Firefighters, stated they are currently located at 2511 Dodson Avenue and have been there for 30 years. He stated there are 77 members at this time and they are working hard to secure money to improve their status by moving to another location. He stated when the rezoning process started Councilman Benson was very succinct in stating they used a "match box" to display their site plan, however, they have secured the architectural services of Miller and McCoy who have given a much better site plan and moved some things around to improve the site. He stated one of the major things they want the Council to know about who they are is that they have been located in East Chattanooga and really enjoyed the situation and loved the neighborhood, but it is time to expand like any other entity; that either they expand or wither and die. He stated they are willing to expand their charitable giving by improve the location of warehousing of household goods for burned out families and want to add recreational facilities for their members, such as basketball goals and a court down the road, and in their current position right now they cannot do that.

**Kevin Carpenter**, Secretary/Treasurer of the Fraternal Order of Firefighters, stated they have new plans and have consented to all the Staff's recommendations; that they have 20 foot buffers everywhere they abut an R-1, even the R-1 that they are planning to purchase. He stated they left the 100 foot buffer and as the Staff recommended they put the building in the front and the parking lot in the rear; that they have a detention area for storm water runoff as required. He stated Mr. McCoy with Miller and McCoy has been real good in working with them and are a good engineering firm.

Councilman Gilbert asked Mr. Carpenter to elaborate about the surrounding area as far as the neighbors and the church are concerned.

## REZONING (Continued)

Mr. Carpenter stated there were some comments at the RPA which led people to believe their proposed neighbors would be against this; that he has letters and included copies in the packets distributed to the Council from the day care center on Bonny Oaks Drive directly in front of this property and from Andrea McCrary at 4049 Bonny Oaks Drive who lives directly next door, both of whom have signed a letter of support regarding their efforts to build. He stated he has talked personally with Rev. Willie Stevens located next door and the owner of Covenant Funeral Home across the street who also voiced their support although he does not have any signed documents.

Councilman Gilbert inquired as to the opportunity for the community to actually utilize the facility for community meetings.

Mr. Anderson responded "absolutely"; that there will be a 50 X 50 meeting area that would be plenty of size for improvement as far as a meeting room. He stated they will have a 125 seating capacity for that and welcomed the community to visit and use their facility for neighborhood meetings or community meetings.

Councilman Murphy asked if there is any way the organization can acquire property adjacent to where they are now in East Chattanooga. He stated he really does not want to let them go; that it would be a lot cheaper!

Mr. Anderson stated they would love to stay where they are, however the size of the area they have now would be tough and there are no open areas adjacent to their property to expand.

Chairman Benson commended them for doing a good job and noted all Council members would love to have them in their districts!

Councilman Gilbert acknowledged that he has them in his district!

On motion of Councilman Gilbert, seconded by Councilwoman Ladd,  
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,  
CHAPTER 38, ZONING ORDINANCE, SO AS TO REZONE TRACTS OF  
LAND LOCATED AT 4393, 4397 AND 4401 BONNY OAKS DRIVE, MORE  
PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO R-  
4 SPECIAL ZONE, SUBJECT TO CERTAIN CONDITIONS**

Passed first reading.

## REZONING

### **2010-011: D & M Properties, LLP**

Pursuant to notice of public hearing, the request of D & M Properties, LLP to rezone a tract of land located at 1091 Mackey Avenue came on to be heard.

The applicant was present; there was no opposition.

Chairman Benson inquired as to the conditions from the community for this request.

Mr. Haynes clarified that the conditions go with the PUD that comes up later on tonight's agenda; that this is a request for rezoning, noting that they rarely get a rezoning request going from R-3 to R-1 and in this case it is a good thing as it is a more restrictive zone. He stated the Staff and Planning recommend approval.

On motion of Councilman Rico, seconded by Councilman Murphy,  
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,  
CHAPTER 38, ZONING ORDINANCE, SO AS TO REZONE A TRACT OF  
LAND LOCATED AT 1091 MACKEY AVENUE, MORE PARTICULARLY  
DESCRIBED HEREIN, FROM R-3 RESIDENTIAL ZONE TO R-1 RESIDENTIAL  
ZONE**

Passed first reading; **Councilwoman Scott voted "no"**.

## LIFT CONDITION

### **2010-013: Don Walker**

Pursuant to notice of public hearing, the request of Don Walker to lift a condition imposed in Ordinance No. 11926 (Case No. 2006-235) on tracts of land located in the 6900 block of Park Drive came on to be heard.

The applicant was present; there was no opposition.

Chairman Benson inquired as to the conditions for this request.

City Attorney McMahan stated the conditions were on the original request, which was not the version asked to be changed.

Chairman Benson made reference to the condition about moving the fence.

### LIFT CONDITION (Continued)

Mr. Haynes stated there were two conditions and the request is to lift the condition in regard to requiring a wall or fence at the rear of the property that requires "installation of a six foot high wooden or vinyl sight obscuring fence or masonry wall along the southern property line".

Chairman Benson asked if this is the one from the community on Robinson Drive to approve.

Mr. Haynes stated this one came to RPA's attention from the inspection department who enforces these conditions; that inspection was made during construction.

Chairman Benson asked the applicant, Don Walker, if this is the one that backs up to Robinson Drive. Mr. Walker responded "yes".

Chairman Benson asked if Mr. Walker wants to put up a fence instead and the condition requires a wall.

**Don Walker** stated the original condition was to put up a fence separating his property from the duplexes that are immediately behind. He stated the City Engineer, Joe Booth and others, as they progressed with this realized there was not a reason to cut the trees down; that originally he had the property rezoned to build a building and his building was about a 50 foot deep building sitting farther off Park Drive. He stated since that time he sold the property to another builder who built a shorter building and moved it close to Park Drive and still left plenty of room for parking, so there is not a need for all the trees in the back to be cut down to put up a fence. He stated that he had a letter and read it at this time: *"To whom I may concern: I, Homer Goins, give my consent to remove the special condition requiring a privacy fence to be constructed between the property located at 6918 . . . "*

Chairman Benson stated we know; that Mr. Goins made contact with us.

Councilwoman Berz stated since this is in her district, Mr. Goins has said he is for that. She stated she understands the trees are not going to be removed and asked if that is correct.

Mr. Walker stated that is correct, they will not be removed as everybody wants the trees to stay there and that is what they want to do.

Councilwoman Berz asked if there is any way to insure that they really keep the density there as that is what she is concerned about.

### LIFT CONDITION (Continued)

Mr. Walker assured her there will not be one tree cut down unless it dies and has to be removed.

Councilwoman Berz again clarified that the trees will be left. Mr. Walker responded "yes". Councilwoman Berz stated she has no problem with this going forward.

Mr. Haynes stated there is a condition that was recommended to amend lifting the condition from Planning Commission and Staff; that the original condition requested a six foot high fence or wall and this recommendation to amend is to delete the requirement of construction of a turn around and installation a six foot high wooden or vinyl sight obscuring fence or masonry wall along the southern property line "*subject to the existing natural vegetation remaining undisturbed and supplemented with evergreen trees to be approved by the Landscape Coordinator*". He stated even though the applicant is not going to take any trees out, the Landscaping Coordinator will double check to see if there are any gaps that can be filled in and recommends filling in with evergreen trees.

Councilwoman Berz stated that is exactly what she would want.

On motion of Councilman Rico, seconded by Councilman Murphy,

**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE PART II, CHAPTER 38, ZONING ORDINANCE, SO AS TO LIFT A PARTICULAR CONDITION IMPOSED IN ORDINANCE NO. 11926 (CASE NO. 2006-235) ON TRACTS OF LAND LOCATED IN THE 6900 BLOCK OF PARK DRIVE, 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.

### CLOSE AND ABANDON

**MR-2010-007: City of Chattanooga**

There was no opposition.

Admin. Steve Leach explained that this closure is adjacent to the recreation center in North Chattanooga and on the west side.

CLOSE AND ABANDON (Continued)

On motion of Councilman Rico, seconded by Councilman Murphy,  
**AN ORDINANCE CLOSING AND ABANDONING A PORTION OF THE UNOPENED 600 BLOCK OF DRUID LANE, MORE PARTICULARLY DESCRIBED HEREIN, SUBJECT TO CERTAIN CONDITIONS**  
Passed first reading.

PAYMENT AUTHORIZATION

On motion of Councilman Rico, seconded by Councilwoman Ladd,  
**A RESOLUTION AUTHORIZING PAYMENT TO PLANNING ASSOCIATES, INC. FOR ARCHITECTURAL SERVICES TO REMOVE AND REPLACE THE ROOF AT THE FIRE TRAINING CENTER IN AN AMOUNT NOT TO EXCEED THIRTEEN THOUSAND FOUR HUNDRED SIXTEEN AND 74/100 (\$13,416.74)**  
Was adopted.

ARCHITECTURAL SERVICES

On motion of Councilman Rico, seconded by Councilman Ladd,  
**A RESOLUTION AUTHORIZING APPROVAL OF ARCHITECTURAL SERVICES FROM FRANKLIN ARCHITECTS FOR A MAXIMUM AMOUNT NOT TO EXCEED TWENTY-THREE THOUSAND DOLLARS (\$23,000.00) FOR SERVICES RENDERED ON THE EXPANSION OF THE CHATTANOOGA COMMUNICATIONS BUILDING**  
Was adopted.

LEASE AGREEMENT

On motion of Councilman Rico, seconded by Councilman Murphy,  
**A RESOLUTION AUTHORIZING THE DIRECTOR OF GENERAL SERVICES TO MODIFY A LEASE AGREEMENT WITH THE DEPARTMENT OF THE NAVY TO EXTEND THE EXPIRATION DATE TO SEPTEMBER 30, 2010, AND TO ALLOW A WAIVER OF THE THIRTY (30) DAY NOTIFICATION REQUIREMENT AND ACCEPTANCE OF THE GOVERNMENT'S WRITTEN NOTICE TO EXERCISE THE OPTION TO RENEW**  
Was adopted.



**PAYMENT AUTHORIZATION**

On motion of Councilman McGary, seconded by Councilman Murphy,  
**A RESOLUTION AUTHORIZING THE CITY FINANCE OFFICER TO PAY INVOICES FROM SIMPLEX GRINNELL FOR AUTOMATIC RENEWAL OF ANNUAL MAINTENANCE SERVICE AGREEMENT FOR SPRINKLER TEST, FIRE PUMP SYSTEM, KITCHEN HOOD, ALARM AND DETECTION, AND SYSTEM EXTINGUISHERS' INSPECTIONS IN AN AMOUNT NOT TO EXCEED TWELVE THOUSAND NINE HUNDRED THIRTY-TWO DOLLARS (\$12,932.00) TO BE PAID AS AN OPERATIONAL EXPENSE BY DOGWOOD MANOR, LLC**

Was adopted.

**CONTRACT**

On motion of Councilman Gilbert, seconded by Councilwoman Ladd,  
**A RESOLUTION AUTHORIZING THE AWARD OF CONTRACT NO. R-09-001-401 TO THOMPSON ENGINEERING, INC., SOUTH CHICKAMAUGA CREEK GREENWAY PROJECT, FOR CONSTRUCTION ENGINEERING INSPECTION, IN AN AMOUNT NOT TO EXCEED ONE HUNDRED FIFTY-EIGHT THOUSAND TWO HUNDRED EIGHTY DOLLARS (\$158,280.00)**

Was adopted.

**CONTRACT**

On motion of Councilwoman Robinson, seconded by Councilman McGary,  
**A RESOLUTION AUTHORIZING THE AWARD OF CONTRACT NO. R-09-001-201 TO RBA CONSTRUCTION, INC., SOUTH CHICKAMAUGA CREEK GREENWAY PROJECT, IN THE AMOUNT OF TWO MILLION FIVE HUNDRED FORTY-FOUR THOUSAND NINE HUNDRED TWENTY-SEVEN AND 85/100 DOLLARS (\$2,544,927.85), WITH A CONTINGENCY AMOUNT OF ONE HUNDRED THIRTY THOUSAND DOLLARS (\$130,000.00), FOR A TOTAL AMOUNT NOT TO EXCEED TWO MILLION SIX HUNDRED SEVENTY-FOUR THOUSAND NINE HUNDRED TWENTY-SEVEN AND 85/100 DOLLARS (\$2,674,927.85)**

Was adopted.

## CONTRACT

Councilman Murphy inquired as to the source of funds for this resolution.

Admin. Larry Zehnder responded that they are federal funds, stimulus money, as well as highway funds for transportation enhancement and private donors.

On motion of Councilman Rico, seconded by Councilwoman Ladd,

**A RESOLUTION AUTHORIZING THE AWARD OF CONTRACT NO. E-04-036-204 TO HIGHWAYS, INC., ENTERPRISE SOUTH ROADWAY EXTENSION PHASE 1C, IN THE AMOUNT OF THREE MILLION THREE THOUSAND THIRTY-SIX AND 75/100 DOLLARS (\$3,003,036.75), WITH A CONTINGENCY AMOUNT OF THREE HUNDRED THOUSAND DOLLARS (\$300,000.00), FOR A TOTAL AMOUNT NOT TO EXCEED THREE MILLION THREE HUNDRED THREE THOUSAND THIRTY-SIX AND 75/100 DOLLARS (\$3,303,036.75)**

Was adopted.

## AGREEMENT

On motion of Councilwoman Berz, seconded by Councilman Gilbert,

**A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO ENTER INTO AN AGREEMENT FOR PROFESSIONAL SERVICES WITH VOLKERT AND ASSOCIATES RELATIVE TO CONTRACT NO. E-09-020-101, INTERSECTION IMPROVEMENTS AT DISCOVERY DRIVE AT HICKORY VALLEY ROAD AND DISCOVERY DRIVE AT ENTERPRISE SOUTH BOULEVARD, IN AN AMOUNT NOT TO EXCEED ONE HUNDRED SEVENTY-FOUR THOUSAND FOUR HUNDRED DOLLARS (\$174,400.00)**

Was adopted.

## AGREEMENT

On motion of Councilman Gilbert, seconded by Councilwoman Berz,

**A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO ENTER INTO AN AGREEMENT FOR PROFESSIONAL SERVICES WITH LAMAR DUNN AND ASSOCIATES RELATIVE TO CONTRACT NO. E-09-021-101, SR. 153 NORTHBOUND OFF RAMP AT JERSEY PIKE AND BONNY OAKS DRIVE INTERSECTION IMPROVEMENT, IN AN AMOUNT NOT TO EXCEED ONE HUNDRED NINETY THOUSAND FORTY DOLLARS (\$190,040.00)**

Was adopted.

**AGREEMENT**

On motion of Councilman Rico, seconded by Councilwoman Robinson,  
**A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO ENTER INTO AN AGREEMENT FOR PROFESSIONAL SERVICES WITH ARCADIS U.S., INC. RELATIVE TO CONTRACT NO. E-09-022-101, SR 58 AND HICKORY VALLEY ROAD INTERSECTION IMPROVEMENT, IN AN AMOUNT NOT TO EXCEED ONE HUNDRED THIRTY-SEVEN THOUSAND FOUR HUNDRED FORTY DOLLARS (\$137,440.00)**

Was adopted.

**SPECIAL EXCEPTIONS PERMIT**

**2010-008: River City Property Management, Inc., c/o Robyn Judd**

On motion of Councilwoman Robinson, seconded by Councilman Rico,  
**A RESOLUTION APPROVING A SPECIAL EXCEPTIONS PERMIT FOR A DUPLEX IN AN R-1 RESIDENTIAL ZONE ON A TRACT OF LAND LOCATED AT 719 NORTH HIGHLAND PARK AVENUE, MORE PARTICULARLY DESCRIBED HEREIN**

Was denied.

**PRELIMINARY PUD**

**2010-012: D & M Properties, LLP**

The applicant was present; there was no opposition.

Mr. Haynes stated this is the same project as the one previously heard and is the second part of the process for the residential PUD. He read the conditions that came from Planning: "density not exceed 3.8 units per acre and the requirements set forth on pages 1 through 5 of the attached PUD plan." He stated five additional conditions are being proposed tonight: (1) Maximum height of two stories, (2) Type C landscape buffer, typically where shaded green on the site plan, (3) Widen Mackey Avenue to a minimum of 26 feet wide with concrete curbing for East Brainerd Road (4) Construct sidewalks, concrete along sides of road where indicated in orange on the site plan and (5) Single family homes only, minimum lot width shall be 50 feet.

### PRELIMINARY PUD (Continued)

Chairman Benson asked Mr. Walker to address the conditions and the whole PUD request; that the matter might have to be deferred.

Mr. Walker stated the conditions are fine; that the only thing he questioned was the limitation of 50 foot wide lots; that they did have a request for several 40 foot lots to build.

Chairman Benson stated he did not think that was one of the conditions.

Mr. Walker stated that is what he was asking; that single family homes are no problem.

Mr. Haynes stated the fifth condition on the list states "single family homes only with minimum lot width of 50 feet".

Chairman Benson inquired as to the problem with that.

Mr. Walker stated they did have several lots in there, mainly the area west of the power lines; that there is a 21-lot subdivision or street west of the power lines that they did have predominantly 40 foot wide lots to build a lesser expensive home and build more of them. He stated since this is over there all by itself they did not feel that would be a problem and if it is they can alter it but would really like to keep the third street with several 40 foot wide lots.

Chairman Benson inquired as to the power line easement in the back.

Mr. Walker stated that they have already gotten everything squared away with TVA and the Electric Power Board.

Chairman Benson read the five conditions and asked if they are okay. Mr. Walker responded that he has no problem with that.

Chairman Benson did not mention the condition regarding the 3.8 density and City Attorney McMahan reminded him of it.

Mr. Walker responded that he has no problem because they have 20.89 acres.

## PRELIMINARY PUD (Continued)

Councilwoman Robinson stated that it occurs to her as she looked at this that it is developed on the right hand side of the road with lots of neighborhoods and a street that is not at all developed and wondered why. She stated she looked at the map and noticed it is in the 100 year flood plain and asked if that is a real problem.

Mr. Walker stated it was in the 100 year flood plain and it has all been filled in, compacted, tested, approved and has been withdrawn from the flood mass by FEMA.

Councilwoman Robinson asked what food plain it is in now. Mr. Walker stated it is not in the flood plain now.

Councilwoman Robinson asked if it is a 100 or 500 year flood plain; that it has to be one of them.

Mr. Walker stated it would be in the 1,000 year flood plain he would guess; that it will not flood now. He stated according to FEMA he had it all approved, surveyors have benchmarked it and it has all been withdrawn from it and has the letters to prove that. He stated there is a subdivision south of the property just now being completed with homes in the range of \$189,000-\$249,000; that the same builder that built that is buying this entire tract to build similar houses.

Councilwoman Robinson stated she thought she would mention it because if it is indeed in a flood plain when people go to buy the homes the lender will require them to have flood insurance and if it is out of the flood plain the lender will not require that if it is enough out of the flood plain. She stated it is her thought the person would have to be at least in a 500 year flood plain before being exempt; that he might check on it.

Mr. Walker stated they already have and nobody would be required to have flood insurance.

Chairman Benson stated Mr. Walker is asking that the 50 feet be excluded to 40 feet for how many -- three.

Mr. Walker stated he does not know how many there are; that there are several on the third street that is 40 feet wide.

Chairman Benson stated he counted eight and was corrected that there are 16.

## PRELIMINARY PUD (Continued)

Mr. Walker stated what he is not understanding is why they would limit that; that right now as it is zoned 400 apartments could go in there with no permission from anyone; that they reduced that to 77.

Councilwoman Scott stated that she thought she had read the conditions that went with this property and the map she had that was given to the Council showed it was in a flood plain and the conditions she recalled reading had to do with FEMA requirements, building and elevation. She asked if Mr. Walker is saying all of this has been elevated up.

Mr. Walker responded "yes"; that two years ago when he went in to build the subdivision south of this project called Davidson Glen, they filled in the entire amount of land both east and west of the power line. He stated west of the power line took seven feet of dirt to be put in to bring it above the flood zone; that there are 20.89 acres there right now and not one inch of the acres, except under the power line, is in the flood zone. He stated no buildable lot is in the flood zone and it is already filled, mapped and approved by FEMA to withdraw from the flood plain. He stated that has already been given to the city of Chattanooga and approved.

Chairman Benson stated this is his jurisdiction and these things have been asked to be incorporated as conditions and he (Walker) is not agreeable to the 50 feet. He stated we might need to postpone this to work it out. He asked if Mr. Walker had talked to the community.

Mr. Walker stated he has not talked with anyone in the community; that he did not know anyone was against the down zoning of it. He stated if they are, they are, but did not know anybody was. He stated they have not had one conversation with anybody that did not like what the builder has already built and what will be built on this part. He asked if it is because of the neighborhood if the requests for smaller homes has been denied or is it the Planning Commission or what.

Councilman Benson stated he would be glad to talk with Mr. Walker after the meeting.

Mr. Walker asked if this is postponed would it have to be postponed for a month; that he is under a time frame right now.

### PRELIMINARY PUD (Continued)

On motion of Councilman McGary, seconded by Councilman Gilbert,  
**A RESOLUTION APPROVING A SPECIAL EXCEPTIONS PERMIT FOR A RESIDENTIAL PLANNED UNIT DEVELOPMENT, KNOWN AS THE MACKEY GLENN PLANNED UNIT DEVELOPMENT, ON A TRACT OF LAND LOCATED AT 1091 MACKEY AVENUE, MORE PARTICULARLY DESCRIBED HEREIN**

Was tabled one week.

### LEASE AGREEMENT

**MR-2010-014: City of Chattanooga c/o Dan Thornton**

Councilman McGary inquired as to how the ten year term was arrived and why not five.

Chief of Staff Dan Johnson responded that neither Dan Thornton nor Paul Page is present and he could not answer for sure. He stated it is in an area he was kidding Paul about in mowing the yard; that it is property we do not use for anything nor have any plans for use. He stated it is a renewal of an existing contract.

Councilman McGary asked if it always comes in ten year approvals and if it comes in five. Mr. Johnson responded "not necessarily, not a specific duration". He stated he could not answer the five or ten year term as he does not know.

On motion of Councilman Rico, seconded by Councilman Murphy,  
**A RESOLUTION AUTHORIZING THE DIRECTOR OF GENERAL SERVICES TO ENTER INTO A LEASE AGREEMENT WITH DALE LOVELADY FOR A TRACT OF LAND LOCATED AT 2300 MARK LANE, TAX MAP NOS. 138N-C-020 AND 021, FOR A TERM OF TEN (10) YEARS FOR AN ANNUAL RENTAL RATE OF ONE DOLLAR (\$1.00)**

Was adopted.

### OVERTIME

Overtime for the week ending February 4, 2010 totaled \$13,945.65.

**Chairman Benson excused himself from the meeting at this point.  
Vice Chairman Rico chaired the remainder of the meeting.**

## PERSONNEL

The following personnel matters were reported for the various departments:

### COMMUNITY DEVELOPMENT

- **SUSAN GORMAN** – Promotion, Administrative Support Assistant 2, Range 7, \$24,306.00 annually, effective January 29, 2010.

### CHATTANOOGA POLICE DEPARTMENT:

- **PETER MILLER** – Suspension (5 days without pay), Police Officer, effective February 2-5, 2010.

## HOTEL PERMITS

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

**BLUFF VIEW INN, INC./MARTIN** – 412 East 2<sup>nd</sup> Street, Chattanooga, TN

**BLUFF VIEW INN, INC./THOMPSON** – 212 High Street, Chattanooga, TN

**COURTYARD BY MARRIOTT** – 200 Chestnut Street, Chattanooga, TN

**HILTON GARDEN INN** – 311 Chestnut Street, Chattanooga, TN

**HOLIDAY INN EXPRESS** – 440 West M. L. King Boulevard, Chattanooga, TN

**MAIN STAY SUITES** – 7030 Amin Drive, Chattanooga, TN

**SLEEP INN** – 2341 Shallowford Village Drive, Chattanooga, TN

## REFUND

On motion of Councilman McGary, seconded by Councilman Murphy, the Administrator of Finance was authorized to issue the follow refund of water quality fees and/or property taxes:

**NORTHGATE CROSSING APTS, LP** -- \$5,786.07



**PURCHASES**

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

MAYOR'S OFFICE:

**AIRNET**

**R23554, R23401, R23403**

Purchase a contract for maintenance co-location Storage, Webhosting and Redundant WAN Link

\$58,248.13

**ORACLE (Single source)**

**R23665**

Purchase a Contract for Oracle/ERP License & Support per TCA 6-56-304.6

\$115,975.23

**INTEGRATED NETWORK TECHNOLOGIES (INTEC) (Lowest and best bid)**

**R22630/B0006507**

Purchase of a Contract for Cabling Work on Walnut Street Bridge

\$14,159.21

PUBLIC WORKS DEPARTMENT:

**DLT SOLUTIONS (Single source)**

**R23684**

Purchase of AutoCAD Annual Software Maintenance Subscription per TCA 6-56-304.2

\$15,982.28

**PURCHASES (Continued)**

BICENTENNIAL LIBRARY:

**ELECTRIC POWER BOARD TELECOM (Lower and better bid)**  
**R22565/B0006500**

Purchase of Internet Service Provider

\$63,900.00

GENERAL SERVICES DEPARTMENT:

**MOUNTAIN VIEW FORD, VILLAGE VOLKSWAGEN, MARSHALL MIZE FORD**  
**R0125198**

Purchase of a Requirements Contract for Vehicles and Light Trucks

\$3.2 Million – Annual approximation

CHATTANOOGA FIRE DEPARTMENT:

**HENRY SCHEIN (Best complete bid)**  
**R22859/B0006503**

Purchase of Medical Supplies

\$10,913.61

CHATTANOOGA POLICE DEPARTMENT:

**EQUIPMENT MANAGEMENT TECHNOLOGY (Only bidder)**  
**R21469/B0006496**

Purchase of a Contract for Network Optimization Solution Software

\$22,960.00

## ZONING CHANGES WITH LIMITATIONS

Councilman Murphy stated he wanted to bring up to the Council something he has noticed in reference to passing zoning changes with limitations; that he has recently had this come up in his district where something was zoned C-2 but was only for the purpose of expanding an existing restaurant. He stated that did not happen for several years and currently on that lot someone is selling sheds, outbuildings, and someone has just petitioned the Zoning Appeals Board for a setback variance to build something on the lot that is not an expansion of the existing restaurant. He expressed that this is something the Council needs to talk about in the future in establishing some kind of process to track when we are granting this zone but only for this purpose and whether people actually follow-up on it. He stated he is afraid what is going to happen is that this person who is applying for a permit to build, the permit will be rejected and the person will be told the property is actually in an R-2 zone and not a C-2. He stated what is worse the person may well sell the property to a third person who would believe it has an exemption for setback and is C-2, when in fact it is not. He stated the Council needs to have the discussion in the near future when putting limitations or conditions on zones and how anyone is keeping up on them. He stated that he is sure this is occurring in other Council members' districts, as well.

## COMMITTEES

Councilwoman Scott announced a brief meeting of the **Economic Development Committee for Tuesday, February 16 following Legal and Legislative** to get a consensus on deregulation for Comcast.

Councilwoman Robinson reminded Council members of the **Health, Human Services and Housing Opportunities Committee scheduled for Tuesday, February 16 following Public Works** to receive a report from John Dorris of the Homeless Blueprint Oversight Committee and there will be discussion regarding the CDBG Federal Entitlement Allocations.

Councilman Murphy stated the **Legal and Legislative Committee will meet on Tuesday, February 15** to hear a ten minute presentation regarding Census participation and activities some groups are engaging in to encourage participation and other ordinances and resolutions within the Committee's jurisdiction.

Councilwoman Ladd stated the Safety Committee met today for a discussion about the liquor and beer ordinance and a panel was authorized to move forward toward making a more effective ordinance.

**COMMITTEES (Continued)**

Councilwoman Berz stated the Budget, Finance and Personnel Committee met today and will begin putting together a schedule for budget hearings relative to the budget coming forth this year. She stated the Committee also had some discussion about the format and procedure relative to appeals employees have and more work is to be done on that. She stated she would be sending the Council a memorandum of what she understood she heard thus far.

Vice Chairman Rico announced that the **Public Works Committee would meet next Tuesday, February 16 following the agenda session** and that the **Blue Ribbon Water Quality Committee plans to make their final report to the Council on Tuesday, February 23 at 2 p.m.**

**NEXT WEEK'S AGENDA**

Vice Chairman Rico stated that the agenda for next week was discussed during the agenda session in Committee earlier today.

**ADJOURNMENT**

Chairman Benson adjourned the meeting of the Chattanooga Council until Tuesday, February 16, 2010 at 6:00 p.m.

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**CHAIRMAN**

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**CLERK OF COUNCIL**

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