

CITY COUNCIL BUILDING
CHATTANOOGA, TENNESSEE
October 12, 2010

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

**PLEDGE OF ALLEGIANCE/
INVOCATION**

Councilwoman Robinson led the Pledge of Allegiance, followed by invocation given by Father Peter Kanyi.

MINUTE APPROVAL

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

**SPECIAL PRESENTATION
DOMESTIC VIOLENCE AWARENESS**

Mayor Littlefield was present and introduced **Regina McDevitt** with Family and Children's Services. He stated that he was issuing a Proclamation that recognizes a problem that is not unique to this community and one that we hope every year becomes less and less. He stated that one of the things that many people forget is that when Chattanooga Venture and Vision 2000 were first instituted that they were not just involved with the "glitzy, glamorous stuff"; that their first effort was something that had been missing in Chattanooga for a long time—a Family Violence Shelter—that this was back in the 1980's and needed to be addressed—that a small group founded the Family Violence Shelter so that people would have a place where they could exist quietly and could go to escape and get away from disastrous circumstances. He noted that domestic violence affects this community and every other community and proceeded to read the following Proclamation:

DOMESTIC VIOLENCE AWARENESS
(CONT'D);

- WHEREAS:** October has been proclaimed National Domestic Violence Awareness Month by the President of the United States since 1987, and
- WHEREAS:** The family is the foundation of a safe and healthy community and it is a goal of this mayoral administration for our communities to be safe, and
- WHEREAS:** The domestic violence affects all citizens of Chattanooga, crossing all racial, social, religious, ethnic, geographic, and economic groups, and
- WHEREAS:** At least 107 people in Tennessee died last year as a result of domestic violence, according to the Tennessee Crime TIBRS report, and
- WHEREAS:** Domestic violence is an immense problem in our city, where in 2009, over 3000 victims received services from the Partnerships Family Violence and Sexual Assault programs and 131 women and children were provided with emergency safe housing, and
- WHEREAS:** Ending domestic violence requires a collaborative effort involving every part of our society and requires our law enforcement and justice system to work together to hold offenders accountable and to protect victims and their children

NOW THEREFORE,

I, Ron Littlefield, Mayor of the City of Chattanooga, do hereby
Proclaim the 4th Sunday in October 24, 2010, as the

“SHAE” BANTHER WISER DOMESTIC VIOLENCE MEMORIAL WALK

In witness whereof, I have set my hand and caused the Seal
Of the City of Chattanooga to be affixed this the
24th day of October, 2010

Mayor Littlefield asked Ms. McDevitt if she would like to say a few words.

**DOMESTIC VIOLENCE AWARENESS
(CONT'D)**

She stated that Tennessee is the 5th in the nation for Domestic Violence and that she was very appreciative of the City of Chattanooga; that awareness is important in saving lives; that this is an epidemic, and their goal was to save lives and reduce violence in our community.

TEMPORARY USAGE

On motion of Councilwoman Robinson, seconded by Councilwoman Berz, Resolution (g) on the Agenda was moved forward. On motion of Councilwoman Robinson, seconded by Councilman Gilbert, the Resolution was amended.

On motion of Councilwoman Robinson, seconded by Councilman Gilbert,
**A RESOLUTION AUTHORIZING FATHER PETER KANYI ON BEHALF
OF TAKE ROOT GARDENS TO USE TEMPORARILY PROPERTY ON
THE CITY OF CHATTANOOGA HUMAN SERVICES PROPERTY FOR
COMMUNITY GARDEN AND OFFICE SPACE, SUBJECT TO CERTAIN
CONDITIONS**

was adopted.

AMEND ZONING CONDS.

2010-099 (Jerry Hagan)

Councilman Benson stated that this applicant had asked that this case be withdrawn.

On motion of Councilman Benson, seconded by Councilwoman Robinson,
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART
II, CHAPTER 38, ZONING ORDINANCE, SO AS TO LIFT THE
CONDITIONS IMPOSED IN ORDINANCE NO. 11313-3B (CASE NO.
2002-113) ON TRACTS OF LAND LOCATED AT 7373 AND 7385
APPLEGATE LANE, MORE PARTICULARLY DESCRIBED HEREIN
AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A
PART HEREOF BY REFERENCE**

was withdrawn per request of the applicant.

REZONING

2010-069 (Page Family Properties, Inc.)

Chairman Rico stated that Greg Haynes of RPA was present to answer any questions. He also had slides to help show the location if needed by the Council.

Ms. Page was present representing Page Family Properties, LLC. She stated that she had brought some information.

Councilman Benson noted that there was quite a bit of opposition at the Planning Commission meeting and asked if the problems had been reconciled.

Ms. Page indicated that she had not been able to speak to the opposition.

Lee Tripp was present to speak in opposition. He stated that this was an economically depressed area, and this building had been there for years; that their main objection was the severe noise that was being created; that this was an area of predominantly elderly people and shut-ins; that the business claimed they had no cranes but right now if you drove by, you could see them; that just blocks away was ear-splitting noise; that he suffered from migraines, and this was bad for him; that these people were not obeying the City Sound Ordinance with the decibel level; that they claimed there were no cars, but they were demolishing cars constantly; that the noise was their main concern. He stated that he would like to yield the rest of his time to Ms. Virginia Goss.

Ms. Goss stated that she had made a complaint about the unbearable noise; that it was causing her to have headaches and nausea, and she had to use ear plugs; that it was ruining her nerves and causing a hearing loss; that they had two cranes running and were crashing cars down; that they were tearing up cars, regardless of what they said. She stated that they had tractor trailer trucks and one did not need such trucks for aluminum cans; that it was a lot more than cans. She stated that she could not bear the noise; that the cranes had wheels like army tanks and was like what you would hear in a battle zone; that there were constant "bongs" and both of her ears were stopped up and her head hurt, too. She stated that she could not get away from the noise and when the nerves in your ears go, you become deaf. She stated that she could not bear this anymore, and this was all she had to say.

REZONING (CONT'D)

Councilman McGary asked Mr. Burns to pull back up the actual neighborhood and asked how many residential properties were in question. Mr. Haynes responded that he did not know—that two blocks north there was a substantial residential neighborhood. Councilman McGary asked Mrs. Goss if she had spoken with other neighbors and what their response was? She responded that one man talked to the Mayor of Rossville about this; that they had no licenses for cars and cranes—that this man went to the Mayor of Rossville; that another man said it would not do any good to come down and complain, but she stated she felt like she had to put forth the effort. Councilman McGary asked if her issue was with the cranes? She responded that they said they dealt with aluminum cans but Orange Grove takes in cans; that they were bringing cars down, and the noise was not bearable.

Councilman Benson asked Mr. Haynes what the Planning Commission and Staff recommended? Mr. Haynes responded that the Planning Commission recommended rezoning this property on E. 51st St.; that the applicant wanted M-1 Manufacturing for the storage of vehicles and heavy equipment; that there had been some confusion as to the specific uses; that Ms. Page specified it was for storage of vehicles such as tractor trailers and heavy equipment. He went on to say that the Staff said that they would not recommend M-1 Zone but would recommend approval of M-2 with conditions; that the Planning Commission then recommended M-2 with conditions instead of M-1. At this point he read the following three conditions: (1) Storage and maintenance of vehicles and equipment only. (2) Maintenance activity or any noise-producing activity is permitted Monday through Friday between 8 a.m. and 6 p.m. only. (3) Site Plan to scale showing Zoning of site and adjoining properties, etc. He added that the Site Plan had been done. Mr. Haynes reiterated that the Planning Commission recommended M-2 with these conditions. Councilman Benson stated that he could not find anything that showed where these conditions were written out. Mr. Haynes noted that the conditions were included in the packets given to the Council. Councilman Benson stated that he would like to be able to see the recommendations appear on the agenda because Staff recommendation meant a lot to him. Mr. Haynes assured him that nothing had changed on their end.

Councilwoman Berz stated that irrespective of the zoning that she would like to understand if cars were being demolished in an area that is zoned R-2 now? Mr. Haynes responded that he did not know in this case what specifically was going on; that there had been communication with Mrs. Page as to what she can and cannot do. Councilwoman Berz questioned if unacceptable “stuff” was going on in an R-2 Zone and now the applicant wanted to rezone to M-1 Zone and do “worse” things?

REZONING (CONT'D)

Mr. Haynes stated that the applicant had been encouraged to rezone; that it was said that the noise was not coming from this site but on the Georgia side of the line, which might be debatable.

Councilwoman Berz still maintained that it was unacceptable in the present zone and questioned if Codes Enforcement would allow them to do unacceptable things?

Mr. Haynes suggested that Mrs. Page speak again; that she had been told that she could not park tractor trailer trucks nor store equipment—that she would have to have the property rezoned.

Mrs. Page passed out the information she had with her. She stated that her parents operated this business—Page Family Properties; that the property in question is zoned residential; that it was originally zoned M-1; that when they purchased it, they purchased it as a whole piece of property—all the way to the Georgia side; that somehow the Tennessee side of the property got zoned R-2, and they were not aware of this when they purchased the property; that they wished to park heavy equipment that they used in different places, and they needed to be able to maintain and park heavy equipment.

Councilwoman Berz asked if it was zoned R-2 now and what they were doing on the property now? Mrs. Page responded “nothing”. Councilwoman Berz asked if the noise was coming from across the State line? Mrs. Page responded that the noise was from the Georgia property; that they were not “dropping” cars; that they had taken expensive steps to eliminate a lot of the noise; that they were trying to work through the zoning process and had tried to address the noise problems; that they only wanted to park equipment on the Tennessee side.

Councilman McGary stated that he had heard some curious comments such as people using ear plugs to prevent the sound. He asked Mrs. Page how many employees they had and if they were using ear plugs? She responded only one employee, and he did not use ear plugs. He asked Mrs. Page if she had had conversations with residents in the area? She responded “yes”; that she had several letters and 29 residents had signed stating they had no objections and mentioned their actions to improve the area.

Councilwoman Ladd asked if the actions on the Georgia side might cause noise? Ms. Page responded that they were a recycling business; that they purchased

REZONING (CONT'D)

cans, cars, and metal, and they did have large trucks; that they had purchased larger trucks in an effort to eliminate noise; that they sold to bigger recycling places; that they bought from local people.

Councilman Gilbert asked how long they had owned this property? Ms. Page answered about a year. He asked if they purchased the Tennessee side a year ago. She responded that they purchased the property as a whole piece of property, and the Tennessee side was zoned R-2. Councilman Gilbert asked if when someone purchases property if it says what the zone is? Mr. Haynes responded that he was not sure. Councilwoman Robinson stated that it would be on the property description; that zoning is a matter of public record.

Councilman McGary confirmed that Ms. Page had a copy of 29 signatures and asked Mrs. Goss if she did not sign this? Mrs. Goss responded that she had not seen anything such as this, again mentioning her ear plugs. She stated that she had never heard of this.

Councilman Benson asked if the signatures were within the vicinity? Mrs. Page responded that they were from three blocks of 51st Street. Councilman Benson noted that she said they did not know it was zoned R-2, but he thought they probably paid a R-2 price for the property.

Mrs. Page stated that they were willing to do what they needed to do; that this same situation exists with the next piece of property on the agenda.

On motion of Councilman McGary, seconded by Councilwoman Robinson,
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART
II, CHAPTER 38, ZONING ORDINANCE, SO AS TO REZONE
TRACTS OF LAND LOCATED AT 1500 AND 1506 EAST 51ST
STREET, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-2
RESIDENTIAL ZONE TO M-2 LIGHT INDUSTRIAL ZONE, SUBJECT
TO CERTAIN CONDITIONS**

was denied on roll call vote as follows:

REZONING (CONT'D)

COUNCILWOMAN LADD	“NO”
COUNCILMAN BENSON	“NO”
COUNCILMAN GILBERT	“NO”
COUNCILWOMAN BERZ	“NO”
COUNCILMAN MCGARY	“YES”
COUNCILMAN MURPHY	“YES”
COUNCILWOMAN SCOTT	“NO”
COUNCILWOMAN ROBINSON	“YES”
CHAIRMAN RICO	“NO”

REZONING

2010-117 (Page Family Properties)

Mr. Haynes stated that this was the same song—different verse.

On motion of Councilman McGary, seconded by Councilwoman Scott,
AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 38, ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LCOATED AT 1562 EAST 51ST STREET, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-2 RESIDENTIAL ZONE TO M-2 LIGHT INDUSTRIAL ZONE, SUBJECT TO CERTAIN CONDITIONS

was denied, with Councilman Murphy voting “no”.

Councilman Murphy had a question for the applicant. He asked since she did not prevail on the prior issue, if it would have been of any help if this case had passed?

Mrs. Page just wanted to know where she was on this issue. Councilman Murphy again asked if it would have helped her any if she could have won on

REZONING (CONT'D)

the second case, in other words “was it all or nothing”? She responded that she was not sure and wanted to know what she would have to do now to make this acceptable? Mr. Haynes explained to her that the next step would be to take this to Court. Attorney McMahan explained to her that R-2 Zone did not allow manufacturing or commercial purposes. She asked would she have to take this matter to Court? Attorney McMahan explained to her that the Council chose not to rezone this property, and she could not use it for the purpose of parking vehicles—that her property was useless for her intended purposes and could be used for residential only. She asked if she could not even park her personal vehicle on the property or anything else? Attorney McMahan responded that she would be in violation; that she would have to take this to Chancery Court or Circuit Court of Hamilton County.

Councilwoman Scott asked Mr. Haynes if there was not another zone that would enable her to do what she wanted to do—something between these two zones that would be something more in line of her desires? Mr. Haynes responded “unfortunately, no”—that they had already suggested M-2 rather than M-1; that M-2 was the only zone that would allow what she wanted to do.

Councilman Benson stated that she could build a house or a duplex and have a home occupation. Mrs. Page responded that she wanted the property on the other side for the purpose of parking equipment.

Councilwoman Berz asked her what the second piece of property was zoned and was told that it was also R-2.

Councilman McGary reminded the Council that we had turned her down, and we needed to get this over with.

Councilwoman Scott still asked if property of this nature could not be grandfathered in? Mr. Haynes responded that it was at one time, but it had been out of use for 100 days.

REZONING

2010-122 (S. Daniel Thomas)

Mr. Greg Haynes of RPA presented this case. He explained that it is a request for R-3 Zoning to renovate the existing structure; that the Zoning Map shows that it is R-1 and there are single family residences on each side. The Planning Commission is recommending denial for R-3 Zoning, and the Staff is also recommending denial. The Staff would, however, recommend approval of R-2 or R-3MD with conditions, with the Planning Commission recommending denial.

Mrs. Thomas, the applicant, along with her attorney Arvin Reingold approached the podium. Attorney Reingold stated that it was not the desire of the applicant to turn this into a boarding house; that they wanted to come to a compromise that would work well; that they had owned this property at 906 E. Martin Luther King Boulevard for 28 years and had maintained it. He stated that their intention was to move into this dwelling, and it would always be owner-occupied; that they did not want 3-4 units; that this was a very large dwelling and very substantial; that they intended to move in there, and it would always be owner-occupied—that it would be something like a mother-in-law apartment; that they wanted one additional unit in the home, and he did not think this had been made clear; that they had not discussed this with the Neighborhood Association.

Mr. Reingold went on to say that this dwelling is not out of character and complements the area; that it is substantially built, and the Thomases did not wish to turn it into a dormitory; that it would be forever occupied by the owner with one additional apartment. He stated that someone in this area had an in-law apartment. He stated that this was all they were asking—not to have a duplex, or tear the house down or turn it into a boarding house. He stated that this was reasonable for this large home. He added that Mrs. Thomas was a faculty member at the University.

Mrs. Thomas spoke next. She noted that she had gotten married 57 years ago, and they had purchased this property 28 years ago when it was East 9th Street; that it was a very large house and was also on a large lot; that they purchased it intending to change it into four units; that they got the permit to do this and started; that they built the first unit and found out that young people could not afford to rent such apartments; that one apartment is complete. She noted that the property was in poor condition when they purchased it; that they had asked the Planning Commission for three units—one on top for them to live

REZONING (CONT'D)

in—that one young person already lives there now. She went on to say that on the 13th of September, the Staff recommended that they be allowed to go on with this; that they had made sure that they maintained the outside; that they wanted to complete the top of the house for them to live in and that was the appeal they were making today; that the house on the corner is the only residence in this block, and it would not bother anyone else; that they also owned the house next door. She reiterated that it would not be a bother to anyone and that this house had been kept up.

Councilwoman Berz stated that she was confused—that this property was zoned R-1, yet it had an apartment in it. Mrs. Thomas responded that they had previously gotten a permit for four units. Councilwoman Berz still noted that it was zoned R-1 and questioned two dwellings in property zoned R-1? Mrs. Thomas stated that they only completed one unit because that was all they could afford. Councilwoman Berz asked how many people lived in the structure and was told just one person—that the rest had been vacant all this time.

Councilman Benson explained that the problem now was that we had downzoned this in 2003; that a request was made in 2007, and the neighborhood all came out in opposition; that now they had changed their plans. He asked about Julian Brown's house. Mrs. Thomas stated that that was next door; that 904 and 906 belonged to them and 908 and 910 belonged to Julian Brown and was not single homes. Councilman Benson asked her if they were agreeing to live in one section? She responded that would be the top section, and they wanted to complete the bottom. Councilman Benson questioned if this could be conditioned on if the owner moved out, this would go back to R-1. Attorney Reingold stated that it would only be owner-occupied. Councilman Benson asked if this meant if Mr. and Mrs. Thomas sold this, the new owner would still have to live there? Mrs. Thomas stated that there would be one unit for the Thomases and the bottom for apartments. At this point Councilman Benson indicated that he could not hear Mrs. Thomas. She spoke louder, stating that they wished to be allowed to complete the top floor for the Thomases and one apartment was already completed, and they would let that remain. She stated that she did not know about the word "forever".

Attorney Reingold questioned if there could be conditional zoning? Attorney McMahan stated that we would have to see if the Council would consider this.

REZONING (CONT'D)

Councilman McGary stated that first, the Council could only vote on the Ordinance as it is—that there was some confusion as to what is being asked for. He read the caption of the Ordinance that is before the Council tonight and asked if this reflected the applicant's request.

Attorney Reingold asked if there could not be conditions placed on this and it be deferred until this can be done; that it be passed at some future time with conditions. Mrs. Thomas indicated that she would like it passed tonight.

Councilman McGary asked if from R-1 to R-3 reflects their request? Attorney Reingold responded "yes" but still asked if it could not be amended in some of the ways that had been discussed. Councilman McGary confirmed that currently the Thomases were not living there, and he was assuming that if this passed, they would move in and the answer was "yes". Attorney Reingold reiterated that their intent was to occupy this as their dwelling—that they wanted to come home and that would be a condition—that the dwelling be owner-occupied. He stated that the question was whether this could be done tonight, and he did not think it could. He indicated that he would like for this to be deferred for conditions and to give them time to meet with the neighborhood people.

Councilman Murphy related to Mrs. Thomas that this is a beautiful home and built when homes were well built, and it was spectacular; that 28 years ago four units would have been permitted, prompting him to ask "how long is a permit good for?" He stated that he thought Mrs. Thomas was suffering from her honesty; that they did have a valid permit to do the work, and it was a shame that they could not do what they wanted to do. He stated that his thinking was that the professional Planning Staff wished greater density, which could serve this City well and help prevent urban sprawl; that if he had his "druthers", he would give the applicant a couple of weeks to work with the community; that suffice it to say, there was nothing wrong about a mother-in-law apartment; that we need to start thinking about density.

Councilman Benson stated that he was prone to go along with this request; however he had known Attorney Reingold since he was 17 years old and knew that he played games with words; that the Thomases had a nice house in Eastdale, and he questioned Attorney Reingold's use of "occupy", still allowing that there might be a condition placed on this. Attorney Reingold responded

REZONING (CONT'D):

that he could say “reside” instead. Councilman Benson still questioned if the Thomases were going to live there, eat there, and sleep there. He stated that he knew Mrs. Thomas would not lie. Attorney Reingold noted that they had had numerous opportunities to sell this property.

Councilman Gilbert questioned the wisdom in deferring this and getting with the community; that what they are wanting is different from what this Ordinance says; that they might could get with the community and persuade them.

The opposition in the audience were asked to raise their hands.

Anita Polk-Conley came forward as the spokesman for the group. She stated that several of her neighbors were opposed to this project; that she had a letter in her packet from the Church, which listed some of their issues and also a letter from the President of the MLK Neighborhood Association. She stated that there were a couple of things—that this is spot zoning; that it is zoned for R-1 and some of the uses had been grandfathered in. She stated the other issue was something that Councilman Benson had brought up—could they actually believe that the owner will actually live here. She stated that the Church was concerned about providing more easement for parking. She questioned the need for additional parking for just a couple of apartments. She went on to say that one of their top concerns was that for years this had not been well maintained; that they had had to clean out the alleyway.

The next person to speak in opposition was **Moses Freeman**, who lives at 807 E. 10th St. He reminded the Council that they approved their neighborhood plan and did allow room for high density; that they had very few single family residences and a lot of apartments, and they wanted to preserve their single-family, which they had a desperate need for. He stated that approval of this would begin to destroy their neighborhood and that it needed to remain R-1.

Councilman McGary stated that he had spoken with Moses Freeman and with Mrs. Thomas this afternoon and had heard different accounts; that he was starting to piece everything together with a timeline. He asked Mrs. Thomas if there was room for negotiation?

Mr. Freeman responded that there was no room for negotiation; that they wanted it denied and to remain R-1.

REZONING (CONT'D)

Councilman McGary clarified that he was asking Mrs. Thomas if there was room for negotiation. Mrs. Thomas responded “yes”—that they were willing to negotiate; that she thought there had been some misunderstandings tonight and that it bothered her as a Christian as to what Councilman Benson alluded to earlier; that it was bothering her; that they were willing to negotiate, and she thanked everyone very much. She reiterated that one apartment is completed and would like approval for them to complete the top floor for their family.

Councilman McGary stated that he was representing both sides; that as far as the neighborhood was concerned, it would be setting a precedent with allowing apartments in a structure that was previously residential. He questioned if strict conditions could be set in so far as saying this must be owner-occupied; that based on their desire to make additional apartments, it would require more parking.

Mr. Haynes spoke to conditioning this to be owner-occupied, stating that we had never done this and that it would be a legal question; that conditions are only as good as can be enforced; that to say it had to be owner-occupied would be very difficult to enforce. He noted also that there were certain parking requirements but they would have some breaks here because it is in an urban setting, and they would have room to meet the parking requirements; that they would have to provide a Site Plan for parking. He noted that a residence two doors down has access to the rear—that if parking was an issue, there might be enough on the street.

Councilwoman Ladd stated that she felt left out because she did not know Mrs. Thomas and felt like she had missed a lot. She stated that she was concerned with the plausibility of condition of being owner-occupied—that it was a great theory but not plausible. She stated that this was an awesome piece of property that had excellent curb appeal.

Councilman Benson stated that he did not have a concern with putting a condition of owner-occupied; that he could go along with this if he thought that Mr. and Mrs. Thomas would live there; that with this condition, if they moved out, it could revert back to R-1 Zone. He still questioned if they really meant to live there and not just “occupy” it; that he would be agreeable that if they ever moved out, they would lose the R-3 Zoning.

Attorney Reingold stated that the legal ramifications were not insurmountable; that this could be done in numerous ways.

REZONING (CONT'D)

Councilman McGary stated that he had grave concerns about enforcement of conditions and stated that he would make the motion to deny this.

Councilwoman Scott questioned putting a condition that this must be owner-occupied and asked if we had ever done this before? She mentioned mixed use zoning where there is commercial on the first floor and a residence on the second. She wanted to know what the legal ramifications are about this reverting back to R-1, questioning if a person inherits this property.

Attorney McMahan stated that he did not recall us ever doing this before; that home occupation people live in a building with a light business, stating that Attorney Reingold was talking about a covenant running with the land.

Councilwoman Scott asked if someone else bought this property, would they have to live in it? Attorney McMahan stated that would be true if the covenant runs with the land. She stated that if it is owner-occupied now and then these owners die and their heirs inherit and they have a child, is it mandated that the child has to live in the property?

Attorney McMahan noted that the type of questions being asked were indicative that there would be a difficulty in doing this; that it would create a lot of practical difficulties.

Mr. Haynes went back to what Councilman Benson had said about reverting back to R-1. He explained that we don't have reversionary zoning—that the zone would not change.

On motion of Councilman McGary, seconded by Councilwoman Scott,
AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 38, ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED AT 906 EAST MARTIN LUTHER KING BOULEVARD, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO R-3 RESIDENTIAL ZONE
was denied, with Councilman Murphy voting “no”.

REZONING

2010-125 (Chris Sterchi)

The applicant requested that this be withdrawn.

On motion of Councilman McGary, seconded by Councilwoman Robinson,
AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 38, ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED AT 1901 BROAD STREET, MORE PARTICULARLY DESCRIBED HEREIN, FROM M-1 MANUFACTURING ZONE TO UGC URBAN GENERAL COMMERCIAL ZONE, SUBJECT TO CERTAIN CONDITIONS
was withdrawn per request of the applicant.

Councilman Murphy questioned the need for the Council to take action if the applicant asked for a case to be withdrawn.

REZONING

2010-131 (Chattanooga City Council)

Mr. Haynes noted that the Council was the applicant in this case.

On motion of Councilman Murphy, seconded by Councilwoman Ladd,
AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 38, ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED AT 399 MCCALLIE AVENUE, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-4 SPECIAL ZONE TO C-3 CENTRAL BUSINESS ZONE
passed first reading.

APPROPRIATION/
LIBRARY

On motion of Councilwoman Robinson, seconded by Councilman Gilbert,
AN ORDINANCE APPROPRIATING NINETY THOUSAND SIXTY-EIGHT DOLLARS (\$90,068.00) FROM THE GENERAL FUND CONTINGENCY TO THE CHATTANOOGA-HAMILTON COUNTY BICENTENNIAL LIBRARY AS A MATCH OF HAMILTON COUNTY FUNDS, TO BE USED FOR ELEVATOR AND ROOF REPAIRS OF THE DOWNTOWN CENTRAL LIBRARY BUILDING
passed first reading.

DAVID TURNER

Mr. David Turner came forward at this time in response to the Ordinance concerning the Library, stating that Saturday night would be like a Fund Raising night (ClubLib); that he hoped all of the Council had received their invitations and asked that they call the Library and let them know if they were planning to attend. He stated that Councilman Rico had promised to dance (Chairman Rico noted he would be out of the country). In that case, Mr. Turner stated that he was sure if Councilwoman Ladd was present that she would dance with him! He stated that they submitted their budget and both the City and County had approved it; that a city employee, who was their ally, had visited the Library and noticed that their elevator was not working, and he thanked the Council for this appropriation, stating that they were wonderful! He then introduced three ladies who were with him—Eva Johnston, Margaret Curtis, and Carol Green, whom he stated were all saints!

LEASE AGREEMENT

On motion of Councilwoman Ladd, seconded by Councilwoman Robinson,
A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PARKS AND RECREATION TO ENTER INTO A LEASE AGREEMENT WITH ERMCO OF AMERICA FOR THE LEASE AND MANAGEMENT OF THE SKATE PARK AND PRO SHOP KNOWN AS CHATTOWN SKATE PARK
was deferred indefinitely.

PURCHASE (DIAZEPAM)

On motion of Councilwoman Ladd, seconded by Councilman Murphy,
A RESOLUTION AUTHORIZING THE FIRE CHIEF TO PURCHASE ONE THOUSAND FIFTY (1,050) DOSES OF DIAZEPAM FROM THE CHATTANOOGA-HAMILTON COUNTY HEALTH DEPARTMENT FOR USE BY THE CHATTANOOGA FIRE DEPARTMENT IN AN AMOUNT NOT TO EXCEED TWENTY-NINE THOUSAND NINETY-SIX DOLLARS (\$29,096.00) FROM THE METROPOLITAN MEDICAL RESPONSE SYSTEM (MMRS) 2008 GRANT
was adopted.

PURCHASE (CONT'D)

A man in the audience wished to speak to this Resolution and Councilwoman Scott encouraged Chairman Rico to recognize him, noting that there had been a lot of discussion about this, and she wanted to be sure that everyone was clear about this; that she had gotten her questions answered, and the Public should get their questions answered, as well.

Mr. Art Rahn asked for an explanation of \$30,000 worth of Valium, which was ten times the normal street value.

Chief Parker agreed that it was higher than normal; however he explained that it is auto-injection kits, and this is the City's only source; that it is approved world-wide and is similar to a military kit. He reiterated that this is our sole source—that it is high, but there is no one else to buy it from. He explained that it is part of Home Land Security.

Mr. Rahn asked what it was used for?

Chief Parker explained that it is an antidote—part of a nerve agent and used by the Fire and Police Department; that we are the administrator of the Grant, and the drug is kept under lock and key and has to be administered within seconds and be readily available.

Mr. Rahn verified that it was for First Responder use.

Chief Parker added that it could also be used for the general public.

AGREEMENT

On motion of Councilwoman Robinson, seconded by Councilwoman Ladd,
A RESOLUTION AUTHORIZING THE DIRECTOR OF GENERAL SERVICES TO ENTER INTO AN AGREEMENT WITH RIVER STREET ARCHITECTURE, LLC TO DESIGN THE NEW FIRE HALL IN LOOKOUT VALLEY FOR AN AMOUNT NOT TO EXCEED, INCLUDING REIMBURSABLE EXPENSES, ONE HUNDRED THIRTEEN THOUSAND FIVE HUNDRED THIRTY-FIVE DOLLARS (\$113,535.00)
was adopted.

LEASE

On motion of Councilwoman Ladd, seconded by Councilman Murphy,
A RESOLUTION AUTHORIZING THE DIRECTOR OF GENERAL SERVICES TO ENTER INTO A LEASE WITH MID AMERICAN TOWERS, INC. FOR A RADIO TOWER SITE LOCATED IN CENTERVILLE, TENNESSEE, FOR AN INITIAL TERM OF FOUR (4) YEARS AND A MONTHLY RENTAL AMOUNT OF ONE THOUSAND THREE THUNDRED SEVENTY-FIVE DOLLARS (\$1,375.00), WITH FOUR (4) AUTOMATIC RENEWALS FOR FOUR (4) YEAR TERMS AND AN ESCALATION OF RENT OF THREE PERCENT (3%) ANNUALLY
was adopted.

Councilwoman Scott stated that she could add some additional information that the public might not be aware of for clarification. Centerville, Tennessee is part of a regional location for response around counties in the region involving the Police and Emergency Units, and this is part of a project started with Grant funds. These funds have now run out and the cost is being picked up by users of this, which includes the City of Chattanooga and Hamilton County. The user fee is based on the people using it, and this is how it is being funded.

LICENSE AGREEMENT

On motion of Councilwoman Ladd, seconded by Councilwoman Robinson,
A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF EDUCATION, ARTS & CULTURE TO EXECUTE A LICENSE AGREEMENT WITH EASTGATE TOWN CENTER, LLC, FOR TEMPORARY USE OF CERTAIN FACILITIES LOCATED AT 5600 BRAINERD ROAD, EASTGATE TOWN CENTER, FOR THE OPERATION OF THE EASTGATE SENIOR ACTIVITY CENTER FROM JULY 1, 2010 TO JUNE 30, 2011
was adopted.

WAIVER OF FEES

On motion of Councilwoman Ladd, seconded by Councilwoman Scott,
**A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE
DEPARTMENT OF PARKS AND RECREATION TO WAIVE ALL FEES
FOR THE USE OF COOLIDGE PARK, FOR A DOMESTIC VIOLENCE
AWARENESS MARCH**
was adopted.

GRANT

On motion of Councilman Murphy, seconded by Councilwoman Robinson,
**A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE
DEPARTMENT OF PUBLIC WORKS TO ACCEPT A GRANT FROM
THE DEPARTMENT OF COMMERCE'S ECONOMIC DEVELOPMENT
ADMINISTRATION (EDA) FOR IMPROVEMENTS TO THE SUMMIT
LANDFILL GAS GENERATION FACILITY TO SUPPLY METHANE
GAS FOR A GAS ENGINE GENERATOR FOR THE NEW
VOLKSWAGEN AUTOMOTIVE ASSEMBLY PLANT IN THE AMOUNT
OF THREE HUNDRED SIXTY-TWO THOUSAND DOLLARS
(\$362,000.00)**
was adopted.

It was noted that this sounds like a donation to the Volkswagen project; however, due to the responsibility of the Landfill and City to take care of greenhouse gases, the Council was informed today that we would have to spend this money to manage the gases anyway.

OVERTIME

Overtime for the week ending October 7, 2010, totaled \$37,206.58.

PERSONNEL

The following personnel matters were reported for the various departments:

PUBLIC WORKS DEPARTMENT:

- **JACK LOVE**—Retirement of Combination Inspector for Land Development, effective 10/31/10.
- **MICHAEL GRAVETT**—Lateral Transfer to Equipment Operator 5, R/12, \$31,021 annually, effective 10/5/10.
- **TIMOTHY BROOKS**—Lateral Transfer to Equipment Operator 5, R/12, \$31,021 annually, effective 10/5/10.
- **HERSHELL (PETE) SHAW**—Retirement of Crew Supervisor 2, effective 9/30/10.
- **GINNIFER COFFEY**—Promotion to Plant Operator 3, Range 13, \$32,573 annually, effective 9/17/10.

PARKS AND RECREATION DEPARTMENT:

- **WILLIAM GRUETTER**—Resignation of Bldg. Maint. Mech. 1, effective 10/7/10.

CHATTANOOGA POLICE DEPT.:

- **TAMMY COOK**—Return to Duty of Sergeant, effective 10/1/10.
- **MAQUITTA S. GREEN**—Resignation of School Patrol Officer, effective 10/1/10.

PERSONNEL (CONT'D)

CHATTANOOGA FIRE DEPT.:

- **EDRIUS PUTMAN**—Promotion to Senior Firefighter, FD 2, \$36,004.00 annually, effective 7/30/20.
- **ACE GARDNER & ALFRED WALKER**—Promotion to Lieutenant, FD 3, \$43,358.00 annually, effective 9/24/10.

REFUNDS

On motion of Councilwoman Ladd, seconded by Councilwoman Scott, the City Finance Officer was requested to make the following Property Tax Refunds for 2009:

CORNER PROPERTIES, INC.--\$5,791.71

EDUCATION CORP. OF AMERICA--\$5,575.79

JONES AIRWAYS, LLC--\$1,201.40

PURCHASES

On motion of Councilwoman Ladd, seconded by Councilwoman Scott, the following purchases were approved for use by the various departments:

GENERAL SERVICES:

J. MARK BOWERY INSURANCE, INC. (Increase Original Contract)
Requisition 501358

Annual Increase of Insurance for Tn Valley Regional Communications System

\$1,586.00

PURCHASES (CONT'D)

PUBLIC WORKS DEPARTMENT:

ENGINEERED SOFTWARE PRODUCTS, INC. (Sole Source)
Requisition No. R34112

SCADA Software Upgrade

\$16,950.00

SOUTH EAST TOTAL SERVICE, LLC (Lowest and Best Bid)
Requisition No. 32817

Blanket Contract for Televised Inspection of Private Sanitary Sewer Service Lines

\$20,000.00 approx. annually

BOARD APPOINTMENTS

On motion of Councilwoman Ladd, seconded by Councilwoman Robinson, the following Board Appointments were approved:

CITIZENS REVIEW COMMITTEE:

Appointment of **John Caudill** (District 7) (Term to be determined)

BOARD OF ZONING APPEALS:

Re-Appointment of **John Crawford** (District 4) for a three-year term to expire **October 12, 2013**.

COMMITTEES

Councilmen Benson scheduled a **Safety Committee** meeting to immediately follow the Agenda Session on Tuesday, October 19, 2010.

In the absence of Councilwoman Berz, Attorney McMahan scheduled a **Budget and Finance/Personnel Committee** meeting to immediately follow the **Public Works Committee** on Tuesday, October 26, 2010, to discuss a recent Audit performed at the request of the Audit Committee.

Councilman Murphy reminded everyone of the **Legal and Legislate Committee** meeting scheduled to immediately follow the Safety Committee on Tuesday, October 19, 2010. He noted that the fowl issue would be taken up.

Councilman Gilbert related to the Council two great events that had taken place in his district—the first was a Softball Event. He stated that all who participated and visited our city enjoyed Chattanooga. The other thing was that 125 African-American men showed up in Brainerd, along with 300 kids. This was a mentoring event to get kids to go the right way. Councilman Gilbert related that there was a great speaker, and they hoped to have more people next year.

JIM FOLKNER

Mr. Jim Folkner of 4701 Mountain Creek Rd, addressed the Council. He stated that he, along with others, had opposed Mr. Littlefield's 30% tax increase. The question arose as to how the City Budget would be controlled. He stated that he was present tonight to suggest more possibilities for saving money. One was cell towers. He stated that they were not essential and would save \$100,000. Another possibility was the redesign of the Fire Hall. The third possibility he mentioned was the stormwater project for the Chattanooga Golf and Country Club in the amount of \$750,000. He stated that all told, this was \$1 million dollars; that it would cost another \$300,000 to \$400,000 to fight the Tennessee American Water Co. increase. He stated that this has to be decided by TRA and questioned the City spending this amount of money on attorney fees. He offered his service to work with the City on implementing these changes. He stated that these were just some of his suggestions to save the City money—that the savings could be given to lower paid City employees and the Police Dept. He stated that he was making these proposals, and there would be more in the future.

ADJOURNMENT

Chairman Rico adjourned the meeting of the Chattanooga City Council until Tuesday, October 19, 2010, at 6:00 P.M.

CHAIRMAN

CLERK OF COUNCIL

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

