

**City Council Building
Chattanooga, Tennessee
November 13, 2012
6:00 p.m.**

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

PLEDGE OF ALLEGIANCE

Councilwoman Robinson led everyone in the Pledge of Allegiance. She acknowledged the delegation from Hamm, Germany, noted the month of November as the season of Thanksgiving and expressed thanks and appreciation for each other as citizens of the world. She thanked the Hamm delegation for the book that tells all about Hamm, as well as the lapel pins.

MINUTE APPROVAL

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

SPECIAL PRESENTATION: DELEGATION FROM SISTER CITY OF HAMM, GERMANY

Mayor Littlefield stated 35 years ago the city of Chattanooga entered into a Sister City relationship and noted that the first Sister City was Hamm, Germany. He stated over the years the relationship has been more and more fruitful and has provided an opportunity for public officials to go back and forth to learn about that culture that has become so important to us in Chattanooga's position today as we have taken on a second Sister City, Wolfsburg. He stated Hamm is still our original Sister City, even before Wuxi and the others, and they are like family; that he and his wife, Lanis, had an opportunity to go to Hamm 25 years ago and stayed for a number of days with a German family that spoke no English and he no German and it was an interesting time! He stated by the end of the week they were telling each other jokes in some type of language they had fashioned for the occasion!

**SPECIAL PRESENTATION: DELEGATION FROM
SISTER CITY OF HAMM, GERMANY (Continued)**

Mayor Littlefield stated what they learned has stayed with them all these years; that Hamm was one of his favorite cities as it is a city that has transformed as Hamm was bombed heavily almost to the ground during the devastation the war caused throughout Europe, rose from the ashes and became the great city they are today. He referenced the park that was created from a coal mine and an industrial building that was converted into the likeness of an elephant named "Maxi" that is several stories tall, noting the trunk is an elevator. He displayed a Pez dispenser in the shape of an elephant that serves as a replica of "Maxi". At this point he asked Karen Claypool to come forward and introduce the Hamm guests and noted the presence of Hanno Grabitz who was instrumental in the Sister City relationship 25 years ago.

Karen Claypool stated she has been involved with Sister Cities almost as long as she has been in Chattanooga and has been on the Board for sixteen years as Vice President and it is unbelievable all of the contacts they have made. She referenced the student exchange, intern and adult exchange programs; that there have been people who have made friends and have come back to visit, sometimes bringing their whole family. She introduced the visiting guests: Frau Ulrike Waesche, Deputy Mayor of Hamm; Herr Volker Waesche; Herr Uwe Sauerland; Frau Annette Daelman; Herr Seigbert Kuenzel; Frau Ruth Kuenzel; Herr Hanno Grabitz; Herr Juergen Graef; Frau Anita Ciszewski, the youngest member of Hamm's City Council; and Herr Robert Ciszewski.

Ulrike Waesche extended best wishes and greetings from Hamm, a town of 180,000 inhabitants. She stated this is her first time visiting Chattanooga and it is so great and noted she has met many friendly people. She expressed thanks for the friendship all through the 35 years; that it is good for the young people to visit each other and the young people of Chattanooga are always in Hamm. She again expressed thanks for the invitation and the partnership.

On behalf of the citizens of Chattanooga, Mayor Littlefield thanked the delegation for their long friendship noting that all look forward to decades more!

Councilman McGary stated he and Chairman Ladd had an opportunity to visit Wolfsburg this past year and it was there he had the privilege of meeting Anita Ciszewski, noting that he is the youngest on the Council!

**SPECIAL PRESENTATION: DELEGATION FROM
SISTER CITY OF HAMM, GERMANY (Continued)**

Councilman Gilbert stated his son had an opportunity with the Choo Choo Kids years ago to go to Hamm and enjoyed it. He stated his son is an artist now and wrote some music at the facility where he stayed indicating how beautiful it was.

Chairman Ladd expressed thanks for their visit.

**SPECIAL PRESENTATION: PRESENTATION OF GFOA
AWARDS/RECOGNITION OF FINANCE STAFF**

Mayor Littlefield asked Admin. Madison to come forward and stated the city has an award winning finance department and almost every year he has been Mayor he has had an opportunity to recognize their excellence. He stated once again we have received the *Certificate of Achievement for Excellence in Financial Reporting* for the city's Comprehensive Financial Report (CAFR) and also a repeat award for *Distinguished Budget Presentation* for the fiscal year beginning July 2011. He stated one other thing the city has not received before that we should be very proud of is an award for *Outstanding Achievement in Popular Annual Financial Reporting*, basically putting our financial report in understandable terms and presenting it to the public so it is useful to them. He congratulated Mrs. Madison and her staff for doing the wonderful things CPA's and finance people do and putting documents into understandable terms.

Admin. Madison thanked the Mayor for allowing them to operate in a manner that facilitates professionalism in financial reporting and thanked the Council for allowing a budget to be put in place that allows them to have professional, competent staff that is a joy to work with who take pride and ownership of the job they do. She stated while the Mayor mentioned her primarily, she noted she does very little in reference to these awards the department has received from the national organization of the Government Finance Officers Association that recognizes excellence in accounting and financial reporting of governmental entities in the United States and Canada. In recognizing staff members she had high remarks of praise in introducing those present: Vickie Haley, Brian Smart, Fredia Kitchen, Gayle Keown, Simone White, Preciosa Goduco, Greg Anderson, Jennifer Pedginski, Jennifer Benefield, Misty O'Malley, Christy Creel, Timothy Scotton, Kay Stanford, Barbara Wyatt, Karen Davis, Jamie Zurkiya, and Eleanor Liu. She stated all work together and no one person is responsible for any of the projects noting the last award was spearheaded voluntarily by Ms. Liu.

**SPECIAL PRESENTATION: PRESENTATION OF GFOA
AWARDS/RECOGNITION OF FINANCE STAFF
(Continued)**

Admin. Madison stated a lot of the people in the department were not able to attend tonight, however this is a representative group of the finance department and presented to the Council the best group of professionals in the city of Chattanooga! (A standing ovation was given at this time by all in attendance.)

Councilwoman Berz stated as Chair of the Budget and Finance Committee for the Council she has often said she is totally impressed by the professionalism of the department and noted that she told Mrs. Madison that, as well. She stated during budget time there is no request or no response that is ever non-professional noting she really appreciates working with a co-professional like Mrs. Madison and her staff. She stated they are terrific and we should be very proud to have them in this city. She expressed her personal thanks and knows the Council thanks them, as well.

Chairman Ladd stated we are very proud of Mrs. Madison does, how she leads this department and the "heart" the department has. She stated she gives the department a degree and element of confidence and is in a department that has to be above reproach; that this entire city has to have total confidence in their integrity and the way they handle their jobs as they are handling our money! She stated she highly respects this department, trusts the information that comes out of it and the department has an excellent leader! She extended her "hat" to all the staff and the great leadership of Daisy Madison!

Councilman Benson stated they might nicely go home now so there is no overtime!

Admin. Madison again expressed thanks noting the staff makes her look good, the city of Chattanooga look good and hope they make the Council proud!

RECOGNITION OF COMMISSIONER JOE GRAHAM

Chairman Ladd recognized the presence of County Commissioner Joe Graham and thanked him for his presence.

AMEND BUDGET ORDINANCE

Councilwoman Scott requested that the Chattanooga Regional Homeless Coalition bring their statistics on the numbers of people that they helped with this particular money as they did on the proposal they brought so we can have a little bit of feedback on how many were helped during the coldest winter months of the year.

On motion of Councilwoman Berz, seconded by Councilman Rico,
AN ORDINANCE TO AMEND ORDINANCE NO. 12622 KNOWN AS "THE FISCAL YEAR 2012-2013 BUDGET ORDINANCE" SO AS TO APPROPRIATE SEVENTY-FIVE THOUSAND (\$75,000.00) FROM THE GENERAL FUND CONTINGENCY TO THE CHATTANOOGA REGIONAL HOMELESS COALITION TO BE USED TO PROVIDE EMERGENCY NIGHT SHELTER FOR INDIVIDUALS AND FAMILIES DURING THE PERIOD DECEMBER 1, 2012 THROUGH FEBRUARY 28, 2013

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

AMEND CITY CODE

On motion of Councilman Benson, seconded by Councilman Rico,
AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 38, ZONING ORDINANCE, SECTION 38-672(2), METHOD OF PROCEDURE TO INCLUDE SPECIAL PERMIT PETITIONS

passed first reading.

AMEND CITY CODE

On motion of Councilman Rico, seconded by Councilman Murphy,
AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 18, ARTICLE VII, SECTION 18-124 RELATIVE TO WOOD RECYCLING AND COMPOST FACILITY

passed first reading.

AMEND CITY CODE

On motion of Councilman Rico, seconded by Councilman Murphy,
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,
CHAPTER 31, ARTICLE II, SEWER SERVICE CHARGES, SECTION 31-36,
SCHEDULE, RELATIVE TO LATE FEES ON UNPAID SEWER BILLS**
passed first reading.

REZONING

2012-117: Erica Stearns

Pursuant to notice of public hearing, the request of Ericka Stearns to rezone property located at 906 East 10th Street came on to be heard.

The applicant was present; opposition was in attendance.

Councilmen McGary and Benson made the initial motion and second to deny this request.

Greg Haynes, Director of Development Services with the Regional Planning Agency (RPA), briefed the Council on this request noting the request is for R-3 for an existing two story house built as a multi-unit dwelling that dates back to 1928 as an apartment building and noted that a parking plan was submitted to take advantage of five on-street parking spaces. He stated the M. L. King Plan adopted in February of 2009 indicates single family for this lot and the plan also suggests diversity of housing is needed in the area. He stated parking was one of the issues that became a concern and problem when the Staff reviewed it and received comments from the Traffic Engineer. He stated the policy indicates required parking to be on the parcel with the units unless there is a shared use agreement for being on another parcel. He stated Planning recommends denial of the R-3.

Erica Stearns displayed a photo of the property by PowerPoint and noted that she purchased the property in 2007 from CNE who renovated the inside six apartments. She stated CNE was prepared to rent the property but went through an organizational change and decided not to rent any properties and chose only to sell; that during that time CNE left the electricity off in the units and as a result the units were down zoned to R-1.

REZONING (Continued)

Ms. Stearns displayed photos of the apartments and noted there are six meters; that the property has roughly 3,500 square feet with no back yard or off street parking. She stated the property is not conducive to lease or sell as a single family house and there is a need in the community for diverse housing and this property can satisfy that. She referenced the study that was done in 2009 that suggests the need for diverse housing, support for nearby businesses, townhouses and larger apartment buildings; that since the down zoning in 2003 Planning has come back to look at this and the change in the community and made a more current assessment of what the neighborhood needs. She continued her presentation by presenting a petition signed by residents who live and own property on East Tenth Street who are in favor of this, as well as local business support. She stated she would like to help improve the neighborhood and there is a need now for this type of housing in the community. She stated she attended the neighborhood meeting and does not feel those present were fully representative of the majority sentiment of the neighborhood; that she asked the group what the chief concern was and it was stated parking. She stated she has secured on-site parking and has a letter from Pastor Poindexter of the Greater Friendship Baptist Church.

Councilman Benson asked if this property was purchased with the thought it could get zoned back as the original designation. Ms. Stearns responded "yes and no"; that she took a chance.

Councilman Benson stated he was on the CNE Board at the time and thinks she got a good deal because of the loss to down zoning. He stated there are six meters and her plan is to rent four units. Ms. Stearns responded her goal is to use all six.

**(At this point Chairman Ladd excused herself
from the meeting and handed the gavel to Vice Chairman Murphy)**

Councilman Benson stated there is no back yard. Ms. Stearns responded "no" but parking has been addressed.

Councilman Benson referenced the petition and noted some of the people who signed do not live in the area questioning the signature of Warren Logan (of the Urban League). Ms. Stearns stated Mr. Logan signed as a business person within the community supporting the request; that persons 9-22 who signed all live right on East Tenth Street.

(Chairman Ladd returned to the dais at this time.)

REZONING (Continued)

Councilman Benson stated in his opinion this is all contingent on parking; that it is a nice place and she lives in the district and speculates she could do well with this as an apartment. He stated what was established in 2002 was rough getting through the M. L. K. Land Use Plan and would be interested if they support what he thinks is a need for more apartments, but does not know if it is needed at this place.

Councilman Murphy stated Ms. Stearns had a letter showing an agreement on parking and asked that she hand it to him. Ms. Stearns stated it is not a full contract. After reading the letter Councilman Murphy stated it is a letter of intent.

Councilman Murphy inquired as to how far a walk it would be from this lot to the apartment. Ms. Stearns stated it is directly across the street and Pastor Poindexter has agreed to allow the potential tenants to use the parking spaces that front East Tenth Street.

Councilman McGary stated as the Council representative for District 8 he has received input from the neighborhood association concerning this request and is aware not every individual who lives in M. L. K. neighborhood is an active participant or aware of the existence of the association; that the organization speaks with limited voice in representing the interest of its neighbors. He stated accepting this zone change would be an example of spot zoning which is incorrect; that the association felt the neighborhood should be strictly R-1 and have worked hard to keep it R-1; however, the Plan actually states otherwise. He stated this revolves around parking and asked John Bridger if on-site parking were permitted would RPA review the decision.

John Bridger, Executive Director of the RPA, stated from his perspective as long as parking is in close proximity, within a block, he would think that is reasonable noting he is not a traffic engineer. He stated parking was the key hang up.

Councilman McGary stated he is very appreciative of Mr. Bridger's opinion on the parking and asked if Ms. Stearns produced the letter signed by Pastor Poindexter, would the RPA be willing to reconsider the parking situation if the matter is deferred a week; whether a new revised opinion from his office could be received.

Mr. Bridger suggested John Van Winkle review this and would deliberate with him to provide a response within the next two weeks due to the holiday next week.

REZONING (Continued)

Councilman McGary expressed thanks to Ms. Stearns for taking the recommendation from RPA seriously and addressing the parking issue. He **modified his previous motion to defer the matter two weeks; Councilman Murphy seconded the motion; the motion carried.**

Ms. Stearns asked those in support of her request to stand; several in attendance stood who are property owners in the neighborhood.

Councilwoman Scott asked for a legal opinion from Mr. McMahan if the Council approves the zoning change subject to the lease agreement and for whatever reason the lease does not continue and the Church decides to sell the property and would not be able to give a lease for the property for parking, what then happens, whether it reverts back to the original as to how will it be handled.

City Attorney McMahan stated he will take the matter under advisement and report in two weeks as that is a difficult question.

Mr. Haynes clarified if the Council decides to approve, he suggested the condition "*...that a shared parking agreement as agreed by the Traffic Engineer Department...*" be added as they are the ones who look at the number of spaces to make sure the agreement meets the policy requirements.

Julie Beige of 912 East M. L. King Boulevard stated her husband is the president of the neighborhood association and is out of town right now; that they met with the property owner and there were not more than one or two issues that were brought up and came out in force against this in previous issues. She stated this is spot zoning and those at the meeting were homeowners in the immediate vicinity of the property that felt strongly about this. She stated they are concerned about opening up one large house into apartments which would open up a very unattractive flood gate of precedence in the neighborhood that will decrease property values and change the neighborhood; that they understand diversity is important and heartily supported new construction in the area of townhomes and condominiums but feel projects like this that are not well supported are not in the neighborhood's best interest.

Councilman Gilbert inquired as to the number of members in the neighborhood association that live on this street. Mrs. Beige responded that she did not have the roster with her but there are probably seven-or-eight that live on East Tenth Street.

REZONING (Continued)

Discussion of the matter continued with Councilman McGary asking Mrs. Beige if she agrees the issue is parking. Mrs. Beige responded "zoning and parking".

Councilwoman Berz stated this property has come before the Council previously and was turned down and asked what led Ms. Stearns to believe this time with nothing different it would go through. Ms. Stearns stated she did not present in front of Council previously.

Councilwoman Robinson stated the request was before the Council in February, 2010.

Councilwoman Berz stated people who have bought into a neighborhood are trying to revitalize and are home owners and asked how Ms. Stearns weighs their interest against what some call transient people and wants to hear more in two weeks about the parking and the idea what happens should the parking go away and what this does to single residences who have put a lot into that and now being subjected to this apartment business again.

Ms. Stearns stated this neighborhood has always had a diverse makeup; that everyone who bought into the neighborhood was or is aware of that. She stated being in close proximity to downtown is what helps to draw in a diverse population and because of that demographic there is housing needed to support that. She stated the people present in favor of this are also right on Tenth Street. Councilwoman Berz asked if they are property owners to which Ms. Stearns responded "they are".

Councilwoman Berz inquired as to the "domino effect" this would bring. Ms. Stearns responded that she feels the way John Bridger feels when he spoke; that cases like this property should be looked at individually and the fact this property appears to have been built this way and has other physical constraints that make it non-conducive to single family should be taken into consideration.

Councilman Benson stated there is a need for multiple housing, but the question was asked about the "domino effect" and reminded the Council a year or two ago we turned down Daniel Thomas' request for a similar request on M. L. King whose grandfather status was lost during remodeling; that he voted against Mr. Thomas at that time and would have to vote for others if he votes for this one.

REZONING (Continued)

Barbara Webb stated she lives next door and has been battling this; that she has lived there ten years and works at UTC. She stated she knows the target audience is UTC students and they already have them in some of the bigger houses that are single family homes with multiple students and have had problems. She referenced the drawing and the location of the parking area to the home; that if the preacher leaves the parking can be gone and expressed concern that the tenants would end up parking on the street; that both sides of the street are full of cars as there are four townhomes, a duplex, single family homes, and manufacturing in the area, as well as the traffic from trucks from public works. She stated she cannot park in front of her house because the rest of the neighbors are parking there as most houses have three-to-four cars; that she is fortunate to have a driveway in the rear of her home. She stated it is a shame they worked so hard for so long to build up the M. L. K. neighborhood and this is about spot zoning and can name three or four people who will come forward for rezoning the minute this goes through as they want the population from UTC and the bottom line is because it is about the money! She stated Ms. Stearns could rent the one apartment she has and has rented it before; that the Council denied this before and was present previously when the matter was considered.

Councilman McGary stated he feels Ms. Webb's pain concerning her neighborhood and suggested the plan is a guideline that is necessary to determine whether or not there are certain uses that are more appropriate than others; that within the plan there is language that suggests that multi-family unit dwellings have a particular place. He stated the concern if we do this for one automatically that means everybody else will get their turn is not true; that they may come before the Council but to suggest just because they come before the Council the Council has to do it for them is not true. He stated the same plan will guide the Council's decision as the same plan is guiding now; that this was not given a recommendation because RPA indicated parking was needed and Ms. Stearns has acquired parking. He stated it is only fair to give the opportunity for it to be evaluated and in two weeks we will have an opportunity to have more information.

On motion of Councilman McGary, seconded by Councilman Murphy,
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,
CHAPTER 38, ZONING ORDINANCE, SO AS TO REZONE PROPERTY
LOCATED AT 906 EAST 10TH STREET, MORE PARTICULARLY DESCRIBED
HERIEN, FROM R-1 RESIDENTIAL ZONE TO R-3 RESIDENTIAL ZONE**
was deferred two weeks (November 27, 2012).

REZONING

2012-121: The Broadway Group, LLC/Lee McCay/Tiftonia Church of Christ

Pursuant to notice of public hearing, the request of The Broadway Group, LLC/Lee McCay/Tiftonia Church of Christ to rezone property located at 151 Browns Ferry Road came on to be heard.

The applicant was present; opposition was in attendance.

Mr. Haynes presented a briefing on this request noting Planning and Staff recommend approval with two conditions; that opposition was in attendance at the Planning meeting.

Lee McCay of 231 Holmes Avenue, NW, Huntsville, Alabama stated there was discussion of flooding issues during the Planning meeting and since that time an engineer has looked at the problem; that the new plan has not been submitted to Public Works however as recommended by RPA it will be submitted once the plan is approved and will not be "in the works" if it is denied. He distributed copies of the plan with reference to grading and the site plan, as well as a FEMA map detailing the flood zone for this area. He stated the property is located in a Zone AE with an established elevation for the 100 year flood at 654 which is pretty much primarily because it is the backwater from the Tennessee River and based on that Lookout Creek floods all the way back in that area. He stated the seller of the property attempted to clean out the ditch so if it floods the water will go out quicker. He stated with reference to the sewer issue he has submitted information to Public Works noting he has been told they are understaffed and have not been able to make a full complete review and are waiting for the formal submittal to make a full review.

Mike Fryar of 140 North Moss Avenue stated his property is directly behind this in an R-1 zone and is not against the request but suggested that the plan be flip flopped which would help a lot. He stated with the building on the bottom end the folks on Centro are going to see a new flood, however if it is flip flopped there would be less fill if they do this; that he has seen it flood many times and if it is turned around and the building put on high ground it would make a big difference.

Deborah Dotson of 126 Centro Street stated the ditch is between her property and this Church property; that she has been flooded three times in ten years and the last time was November of last year and is still having problems from that. She stated if the Church has to have this hall please ask that something be done about the ditch.

REZONING (Continued)

Councilman Murphy inquired as to whether the city requires certain detention runoff that the site might generate if this is developed as a commercial site; that it seems if the detention capacity is high enough these people could get a “leg up” on their runoff situation if the water is held on the property and delayed.

Admin. Leach responded the department did get preliminary plans on this which are incomplete and the staff does not have a comment about this specific design standard; that Councilman Murphy’s point is well taken and they will assure whatever is developed we will require them to do certain drainage, detention onsite so it is not causing any issue for abutting property owners.

Councilwoman Berz stated if this is an addition to the Church what is the C-2 all about. Mr. Haynes responded that is new to him as RPA has not heard of any additions to the Church and there would be no rezoning required for that; that the rezoning is for a commercial use which would require rezoning.

Councilwoman Berz asked if it is for commercial use and what is it going to be. Mr. McCay stated it will be a nationally known recognized retail store; that they are under contract with the Church to purchase the property to put in the retail store.

Councilwoman Berz stated the only way she could approve this is the protection of the residential will be there and asked if that is what the engineering study is about. Mr. McCay responded “yes”, based upon the FEMA flood map the area is under water on the 100 year flood anyway and even based on detention requirements they could dig a hole to China and it will still be at the 654 elevation when the Tennessee River backs up on the 100 year event. He stated it will flood whether they put in a detention pond or not.

Councilwoman Scott stated this is a complicated situation and there are two separate problems, one was a problem relating to sanitary sewage which is located in the same general vicinity but solving one does not solve the other. She stated the issue with regard to this zoning matter is not what to do with the sanitary sewer it is whether the stormwater runoff issues can be solved; that the property owners that are asking for rezoning are required to handle the water on his property. She stated the property has served as a hold area when water comes for a temporary period of time and the City Engineer has said they will have to meet the engineering requirements that every other property that gets rezoned, whether in a flood zone or not, will have to compensate.

REZONING (Continued)

Councilwoman Scott stated those who have spoken in opposition live in a low lying area and separate and apart from this it will be low lying. She stated this property does not fit as an R-1 on Browns Ferry Road where it is, so if it cannot be rezoned as this she does not know what value the property would have at all. She stated what the Church wants is separate and apart from this zoning question and whatever the Church does to "pull" a permit will have to meet the requirements for that particular property just like any other would. She recommended approval of this request and knows the engineering has been done; that we cannot know what will happen in a rain storm and we do not know what "mother nature" is going to hit with. She stated they meet the requirements put on all properties and urged Council members to vote in favor of the rezoning.

Faye Pryor of 129 Centro spoke in opposition and stated the sewage problem and water is not the same issue; that last November it rained so much sewage pumped next to the property overflowed onto Ms. Dotson's property that was three feet deep in her house. She stated in September of this year it overflowed again and came up in the manhole in the street two houses down from her and that is the main problem they have with the property now.

Councilwoman Scott stated it is her understanding it is true there is a sanitary sewer problem with an overflow; that the association with the rain was storm related to an electricity failure on the pump station and the fact there was no check valve. She stated sewage is only supposed to go in one direction out of the house and on this particular property the pipe from the normal city connection is on private property and up to the house is private lateral; that when this house was built there was no check valve put on it and when the pump failed the sewage failed to go in the direction it was intended and backed up into the houses. She stated it happened at the time of a rain but does not think the rain was the cause; that the failure of the electricity to the pump station was actually the cause of the problem.

At this point Councilman Rico called for the question.

Mr. McCay stated he has submitted the engineering plans to Public Works and they have met every requirement as far as the flood water and detention requirements; that as soon as he can he will meet with the city engineer and discuss further aspects. He stated he heard about concreting the bottom of the ditch and noted he could not control the Tennessee River; that if he could no one would flood, however on a 100 year event his parking lot will be under water, his detention pond will be under water as the property is already low as it

REZONING (Continued)

is lying now. He stated as for the sewer issue he will have to get with Public Works; that his thinking on that is they are not responsible for the problem that is already there because they will only be putting less than a one bedroom house as far as the sewer flow onto the line.

On motion of Councilwoman Scott, seconded by Councilman Rico,
AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 38, ZONING ORDINANCE, SO AS TO REZONE PROPERTY LOCATED AT 151 BROWNS FERRY ROAD, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO C-2 CONVENIENCE COMMERCIAL ZONE, SUBJECT TO CERTAIN CONDITIONS

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

REZONING

2012-129: John Wise

Pursuant to notice of public hearing, the request of John Wise to rezone property located at 1810 Chestnut Street came on to be heard.

The applicant was present; there was no opposition.

On motion of Councilman McGary, seconded by Councilman Murphy,
AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 38, ZONING ORDINANCE, SO AS TO REZONE PROPERTY LOCATED AT 1810 CHESTNUT STREET, MORE PARTICULARLY DESCRIBED HEREIN, FROM M-1 MANUFACTURING ZONE TO C-3 CENTRAL BUSINESS ZONE, SUBJECT TO CERTAIN CONDITIONS

passed first reading.

REZONING

2012-131: Don Skiles

Pursuant to notice of public hearing, the request of Don Skiles to rezone property located at 6811 McCutcheon Road came on to be heard.

The applicant was present; there was no opposition.

REZONING (Continued)

On motion of Councilman Rico, seconded by Councilman Benson,
AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 38, ZONING ORDINANCE, SO AS TO REZONE PROPERTY LOCATED AT 6811 MCCUTCHEON ROAD, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO R-3MD MODERATE DENSITY ZONE, SUBJECT TO CERTAIN CONDITIONS
passed first reading.

REZONING

2012-137: Homebuilders Association/Teresa Groves

Pursuant to notice of public hearing, the request of the Homebuilders Association/Teresa Groves to rezone properties located at 3215, 3219, and 3221 Harrison Pike came on to be heard.

The applicant was present; there was no opposition.

Councilman Gilbert stated whatever they decide to do will be just for that purpose. Mr. Haynes responded "correct"; that there are six conditions and one of them states "*for proposed use only*".

On motion of Councilwoman Robinson, seconded by Councilman McGary,
AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 38, ZONING ORDINANCE, SO AS TO REZONE PROPERTIES LOCATED AT 3215, 3219, AND 3221 HARRISON PIKE, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-4 SPECIAL ZONE TO C-2 CONVENIENCE COMMERCIAL ZONE, SUBJECT TO CERTAIN CONDITIONS
passed first reading; **Chairman Ladd abstained due to conflict of interest.**

REZONING

2012-140: Barry Evans/James Pratt

Pursuant to notice of public hearing, the request of Barry Evans/James Pratt to rezone property located at 402 Forest Avenue came on to be heard.

REZONING (Continued)

Councilwoman Robinson made the motion to defer this request 30 days noting that the applicant wishes to work through sewer and water issues; Councilman Murphy seconded the motion.

On motion of Councilwoman Robinson, seconded by Councilman Murphy,
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,
CHAPTER 38, ZONING ORDINANCE, SO AS TO REZONE PROPERTY
LOCATED AT 402 FOREST AVENUE, MORE PARTICULARLY DESCRIBED
HEREIN, FROM R-4 SPECIAL ZONE TO R-TZ RESIDENTIAL TOWNHOUSE
ZERO LOT LINE ZONE, SUBJECT TO CERTAIN CONDITIONS**

was deferred for 30 days at the request of the applicant due to sewer/water issues.

REZONING

2012-143: James D. Lee

Pursuant to notice of public hearing, the request of James D. Lee to rezone property located at 8203 East Brainerd Road came on to be heard.

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

Councilmen Benson and Murphy made the initial motion to approve the request for C-5 zoning with conditions.

Mike Price of MAP Engineers stated that he talked with Staff and believe they are in agreement that this be approved as C-2 with conditions; that in a C-5 zone there are limits to building no greater than 5,000 square feet and they have a site plan they have submitted for a small strip center which will force them to break up the "L" shape building into three separate buildings which is not a good use of the property (in breaking it up). He stated in the land use plan on page 28 it states "... *C-5 or C-2 with conditions* ..." is appropriate and has given a list to John Bridger striking out some conditions as it relates to restriction of adult businesses, predatory lending, liquor sales and things such as that so it still remains a neighborhood commercial but does not put the 5,000 square foot restriction on this. He asked for C-2 with conditions to be approved.

REZONING (Continued)

Councilman McGary asked the professional opinion of RPA. John Bridger stated they are comfortable with the C-2 with conditions as it has the same impact as far as C-5; that there is C-5 on either side and is not introducing something different that is already in the area. He stated as long as the uses are limited as suggested they are comfortable with the buffering condition.

Councilman McGary asked if Councilman Benson's motion was to approve C-5 or C-2.

Councilman Benson stated he is comfortable with this and is concerned that the wording is correct; that there is no opposition in the community.

Chairman Ladd asked if Councilman Benson's motion is based on C-5 or the C-2 zone.

Councilman Benson stated motion was for C-5, but the conditions . . .

Mr. Price stated they are fine with all the conditions other than this be C-2 with certain items that are typically allowed in C-2 are stricken; that John Bridger has the list and it can be brought back before the Council at the final reading.

Councilman Benson stated that is what he wants his motion to be but does not know how to word all of that!

City Attorney McMahan stated he does not mind having the Council approve C-2 with conditions but someone will have to have the conditions in writing prior to voting on second reading as there is nothing in the record right now to support those conditions.

Mr. Price stated they have given that to Staff and can be brought forward before the next Council meeting.

Mr. Bridger stated RPA will work with the applicant to have that ready.

Councilman Murphy stated "no outdoor sales" are one of the conditions. Mr. Price responded "yes".

Councilman Benson made the motion to approve the intent of this request for C-2 to which Councilman McGary quickly stated it is his understanding the Council cannot vote (on C-2) without having the conditions listed.

REZONING (Continued)

City Attorney McMahan clarified that the Council cannot finalize the ordinance without having the conditions in the ordinance; that they could be added on second reading.

On motion of Councilman Benson, seconded by Councilman Murphy,
AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 38, ZONING ORDINANCE, SO AS TO REZONE PROPERTY LOCATED AT 8203 EAST BRAINERD ROAD, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO C-2 CONVENIENCE COMMERCIAL ZONE, SUBJECT TO CERTAIN CONDITIONS
passed first reading.

CLOSE AND ABANDON

MR-2011-107: Paul Mallchok

The applicant was present; there was no opposition.

Paul Mallchok stated it is his understanding everyone in the neighborhood is in agreement with the closing.

Councilwoman Scott asked that the record reflect approval is subject to the retention of a private easement for a private sewer line within the abandonment.

On motion of Councilwoman Robinson, seconded by Councilman Murphy,
AN ORDINANCE CLOSING AND ABANDONING AN UNNAMED ALLEY LOCATED IN THE 200 BLOCK OF BAKER STREET, MORE PARTICULARLY DESCRIBED HEREIN, SUBJECT OT CERTAIN CONDITIONS
passed first reading.

CLOSE AND ABANDON

MR-2012-142: RWM TECHNOLOGIES

The applicant was present; there was no opposition.

CLOSE AND ABANDON (Continued)

On motion of Councilman Murphy, seconded by Councilman Rico,
**AN ORDINANCE CLOSING AND ABANDONING A PORTION OF
SANITARY SEWER LINE AND SEWER EASEMENT ON THE PROPERTY
LOCATED AT 3801 NORTH HAWTHORNE STREET, MORE PARTICULARLY
DESCRIBED HEREIN, SUBJECT TO CERTAIN CONDITIONS**
passed first reading.

LEASE AGREEMENT

On motion of Councilman McGary, seconded by Councilman Gilbert,
**A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE
DEPARTMENT OF PARKS AND RECREATION TO ENTER INTO A LEASE
AGREEMENT WITH BALLET TENNESSEE FOR THE GROUND LEVEL WING
OF THE JOHN A. PATTEN ARTS CENTER FOR A TERM BEGINNING
JANUARY 1, 2013 THROUGH DECEMBER 31, 2013 AT THE RATE OF ONE
THOUSAND FOUR HUNDRED DOLLARS (\$1,400.00) PER MONTH AND
OTHER CONSIDERATIONS**
was adopted.

EASEMENT

On motion of Councilman Benson, seconded by Councilman Gilbert,
**A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN EASEMENT
TO THE ELECTRIC POWER BOARD FOR THE PURPOSE OF EXTENDING
UNDERGROUND SINGLE PHASE PRIMARY FACILITIES TO ALLOW
HAMILTON COUNTY TO CONSTRUCT A NEW MAINTENANCE FACILITY
LOCATED AT ENTERPRISE NATURE PARK WITH THE CITY OF
CHATTANOOGA AND TO REIMBURSE HAMILTON COUNTY FOR ONE-
HALF IN THE AMOUNT OF ONE HUNDRED TWENTY-SEVEN THOUSAND
FIVE HUNDRED DOLLARS (\$127,500.00), FOR A TOTAL AMOUNT NOT TO
EXCEED TWO HUNDRED FIFTY-FIVE THOUSAND DOLLARS (\$255,000.00)**
was adopted.

ADVERTISE PUBLIC HEARING, AREA 3A

Councilmen Murphy and Robinson made the motion and second that Resolutions (c) through (i) be read as one; the motion carried.

ADVERTISE PUBLIC HEARING, AREA 3A
(Continued)

On motion of Councilman Rico, seconded by Councilwoman McGary,
A RESOLUTION AUTHORIZING AND DIRECTING THE CLERK OF THE COUNCIL TO ADVERTISE FOR PUBLIC HEARING ON DECEMBER 4, 2012, AT 6:00 P.M., A REPORT ON THE PROGRESS OF THE PLAN OF SERVICES FOLLOWING THE ANNEXATION OF AREA 3A, WHICH IS ADJACENT TO TEXTILE LAND AND CUMMINGS HIGHWAY NEAR LOOKOUT CREEK AT THE BASE OF LOOKOUT MOUNTAIN
was adopted.

ADVERTISE PUBLIC HEARING, AREA 3C

On motion of Councilman Rico, seconded by Councilwoman McGary,
A RESOLUTION AUTHORIZING AND DIRECTING THE CLERK OF THE COUNCIL TO ADVERTISE FOR PUBLIC HEARING ON DECEMBER 4, 2012, AT 6:00 P.M., A REPORT ON THE PROGRESS OF THE PLAN OF SERVICES FOLLOWING THE ANNEXATION OF AREA 3C, WHICH INCLUDES PROPERTIES ADJACENT TO RUBY FALLS AND THE U.S. PARK SERVICE ON THE SDIE OF LOOKOUT MOUNTAIN
was adopted.

ADVERTISE PUBLIC HEARING, AREA 4B

On motion of Councilman Rico, seconded by Councilwoman McGary,
A RESOLUTION AUTHORIZING AND DIRECTING THE CLERK OF THE COUNCIL TO ADVERTISE FOR PUBLIC HEARING ON DECEMBER 4, 2012, AT 6:00 P.M., A REPORT ON THE PROGRESS OF THE PLAN OF SERVICES FOLLOWING THE ANNEXATION OF AREA 4B, BEING CERTAIN PARCELS ADJACENT TO STREETS INCLUDING, BUT NOT LIMITED TO, GOLD CREST, DAHL SPRINGS, AND FAIRVIEW ROAD
was adopted.

ADVERTISE PUBLIC HEARING, AREA 8B

On motion of Councilman Rico, seconded by Councilwoman McGary,
A RESOLUTION AUTHORIZING AND DIRECTING THE CLERK OF THE COUNCIL TO ADVERTISE FOR PUBLIC HEARING ON DECEMBER 4, 2012, AT 6:00 P.M., A REPORT ON THE PROGRESS OF THE PLAN OF SERVICES FOLLOWING THE ANNEXATION OF AREA 8B, WHICH IS ADJACENT TO INTERSTATE 75 AND RELOCATION WAY
was adopted.

ADVERTISE PUBLIC HEARING, AREA 9A

On motion of Councilman Rico, seconded by Councilwoman McGary,
A RESOLUTION AUTHORIZING AND DIRECTING THE CLERK OF THE COUNCIL TO ADVERTISE FOR PUBLIC HEARING ON DECEMBER 4, 2012, AT 6:00 P.M., A REPORT ON THE PROGRESS OF THE PLAN OF SERVICES FOLLOWING THE ANNEXATION OF AREA 9A, WHICH IS ADJACENT TO THE ENTERPRISE SOUTH PROPERTY AND THE RIGHT-OF-WAY OF INTERSTATE 75
was adopted.

ADVERTISE PUBLIC HEARING, AREA 10A

On motion of Councilman Rico, seconded by Councilwoman McGary,
A RESOLUTION AUTHORIZING AND DIRECTING THE CLERK OF THE COUNCIL TO ADVERTISE FOR PUBLIC HEARING ON DECEMBER 4, 2012, AT 6:00 P.M., A REPORT ON THE PROGRESS OF THE PLAN OF SERVICES FOLLOWING THE ANNEXATION OF AREA 10A, WHICH IS ADJACENT TO OLD LEE HIGHWAY
was adopted.

ADVERTISE PUBLIC HEARING, AREA 10B

On motion of Councilman Rico, seconded by Councilwoman McGary,
A RESOLUTION AUTHORIZING AND DIRECTING THE CLERK OF THE COUNCIL TO ADVERTISE FOR PUBLIC HEARING ON DECEMBER 4, 2012, AT 6:00 P.M., A REPORT ON THE PROGRESS OF THE PLAN OF SERVICES FOLLOWING THE ANNEXATION OF AREA 10B, WHICH IS ADJACENT TO OLD LEE HIGHWAY AND APISON PIKE
was adopted.

PUD SPECIAL EXCEPTIONS PERMIT

2012-144: Chattanooga Construction Company, LLC

On motion of Councilman Rico, seconded by Councilman Murphy,
**A RESOLUTION APPROVING A SPECIAL EXCEPTIONS PERMIT FOR A
RESIDENTIAL PLANNED UNIT DEVELOPMENT ON PROPERTIES LOCATED
IN THE 100 THROUGH 200 BLOCKS OF TEMPLETON LANE, SUBJECT TO
CERTAIN CONDITIONS**
was adopted.

OVERTIME

Overtime for the week ending November 8, 2012 totaled \$3,927.72.

PERSONNEL

The following personnel matters were reported for the various departments:

CHATTANOOGA HUMAN SERVICES:

- **WILLIE MAE TISDALE** – Retirement, Dietary Assistant, Head Start, effective November 1, 2012.

PUBLIC WORKS:

- **MICHAEL HAPONSKI** – Resignation, Manager, Water Quality, Land Development, effective November 9, 2012.

CHATTANOOGA POLICE DEPARTMENT:

- **LATOYA TATE** – Resignation, Police Officer 1, effective November 5, 2012.
- **ADAM COOLEY, SEAN EMMER** – Termination, Police Officer 1, effective November 7, 2012.

PURCHASES

Dan Johnson stated the purchase for Public Works would be held one week in an effort to review the bids again.

On motion of Councilman Murphy, seconded by Councilman Rico, the following purchases were approved for use by the Chattanooga Fire Department:

MES (Best bid) R66381/302258

Purchase of Two (2) Hurst S 700E Electro-Hydraulic Cutters

\$14,000.00

MOTOROLA SOLUTIONS, INC. (Single source) R68083

Purchase of Eight (8) Motorola Radios and Accessories per TCA 6-56-304.6

\$54,894.48

BOARD APPOINTMENTS/RE-APPOINTMENTS

On motion of Councilwoman Berz, seconded by Councilman Rico, the following Board appointments/re-appointments were approved:

MULTICULTURAL AFFAIRS ADVISORY BOARD:

- Appointment of *JAY HOPKINS* representing District 6 for a three-year term expiring July 1, 2015.

TRANSPORTATION BOARD:

- Appointment of *SANDRA D. GURGONE* for a three year term expiring April 21, 2014.
- Re-appointment of *J. BARTLETT QUINN for* a three year term expiring April 1, 2015.

PERSONNEL (Continued)

- Re-appointment of *MIKE SHUFORD* for a three year term expiring April 1, 2013.

CITY ATTORNEY'S REPORT

City Attorney McMahan referenced the attorney/client meeting held earlier today and stated he has two recommendations for the Council with the first being the ANT development group propose to develop an IHOP on Gunbarrel Road and the matter has been in mediation. He stated his recommendation based on the fact they can reapply as soon as probably December is to discontinue the mediation and let it go back through the normal course of business through the rezoning process if the applicant desires to further their plan. He stated if there is no opposition he would move forward with the recommendation; there was no opposition.

City Attorney McMahan stated the next issue involves the Hoback case noting there are actually two different cases with one pending in the Sixth Circuit Court of Appeals and also a mediation under the Sixth Circuit Mediation Plan and also a secondary case pending in Chancery Court of Hamilton County which involves a former police officer who was discharged due to certain health related issues. He stated the question before us is whether or not this person would be eligible to come back as a police officer, whether or not he is physically or mentally fit to do so and the recommendation is the case pending in Chancery Court will be sent back to this body for a decision about whether to put him back to work, the proposal is that be the first thing that happens in this matter before we do anything further with respect to the Sixth Circuit case.

Councilman McGary made the motion to accept the City Attorney's recommendation; Councilman Murphy seconded the motion; the motion carried.

Councilman Murphy asked if the Council will hear this as a panel of the whole. City Attorney McMahan stated that is the recommendation.

PIE EATING CONTEST

Chairman Ladd encouraged Council members not to let Councilman Rico go unchallenged in Sunday's Pie Eating Contest at the Sunday Market beginning at 1 p.m.! She stated contributions will go toward the Grateful Gobbler event and our homeless community.

GRATEFUL GOBBLER WALK

Councilman Benson stated even more important, the pie eating contest leads up to the Grateful Gobbler Walk scheduled for Thanksgiving morning and asked that everyone be ready to walk or observe. He stated public officials are recognized each year and the Walk is important and to give their moral support if they cannot participate in the walk.

COMMITTEES

Councilwoman Robinson announced there will be a Housing Committee meeting on either December 11 or 18 to receive a report by the EPA and others to summarize the status of lead contamination in the soil in certain south side properties and to report on all corrective measures that have been undertaken to date and planned as we go forward summarizing further soil sampling in the adjacent area already known to be contaminated properties.

Councilman Rico scheduled a meeting of the **Public Works Committee for Tuesday, November 20** immediately following the Agenda Session.

Councilman Gilbert rescheduled a meeting of the **Parks and Recreation for Tuesday, November 20** immediately following Public Works to discuss the Stringer's Ridge Park development.

Councilwoman Berz stated the agency packets are on the web and have been for a while and the agencies know it; that there is a deadline of January 4 for requests to be in. She stated it is about time to start educational sessions again. She asked if there has been any discussion or thought about the holidays, noting Christmas and New Year are on Tuesdays.

Chairman Ladd stated the Council would not be meeting on those two days.

Councilman Benson stated at the first convenient time he would like to schedule an Economic Development Committee meeting to listen to a presentation by RiverCity as they have two proposed developments they want to bring that has already been through the county.

NEXT WEEK'S AGENDA: NOVEMBER 20, 2012

Chairman Ladd referred Council members to next week's agenda and inquired as to whether there were questions; being none, the meeting continued.

ROBERT HILLS

Robert Hills of 38 West 51st Street stated he has a next door neighbor who lives at 36 West 51st Street; that he bought the house from a friend in March of last year and ever since problems have been created, noting the neighbor built a porch over his property; that he called the building inspector and they made him take it down. He stated there was another problem of junk cars which was also resolved. He stated he is an epileptic and bought the property thinking it would be peaceful there, however the neighbor has dogs that bark and he (Hills) has made complaints to McKamey. He stated the neighbor wants to get a breeder's license from McKamey to raise pit bulls; that he called Councilman Rico who told him what to do, however the problem continues. He stated he has been in court concerning the barking dogs however the case gets continued each time; that last Thursday a McKamey supervisor came to his home to see if his dog was licensed making him feel McKamey is now coming after him because he has been calling them. He stated a McKamey officer came today to leave a citation for his dog not being leashed and almost hit him; that the officer got out of the truck abruptly as if he was going to hit him.

Chairman Ladd stated McKamey has its own separate board and has autonomy; that the city contracts with them for animal services and his issue is with McKamey.

Mr. Hills stated he has a problem with his neighbor's yard and the officer from McKamey was very abrupt to him and his wife.

Chairman Ladd stated one of Mr. Hills issues needs to be addressed through Neighborhood Services and asked if Councilman Rico would work with Mr. Hills for some resolution to the ongoing concerns he has and have someone from McKamey contact him.

Councilman Benson suggested Mr. Hills call McKamey as soon as he can to find out when the next Board meeting will be held and appear before them if he has a problem with some of their personnel as the Council has no authority over them.

Mr. Hills stated the judge told him to call McKamey if he had any problems with the dogs barking and McKamey turned it around on him and he will probably end up hiring an attorney if he has to. He stated he tries to be a good neighbor; that this person next door has no respect for anyone.

Chairman Ladd stated it is her belief the McKamey Board would help him and Councilwoman Rico will help with the other issues.

ADJOURNMENT

Chairman Ladd adjourned the meeting of the Chattanooga Council until Tuesday, November 20, 2012 at 6:00 p.m.

CHAIRMAN

CLERK OF COUNCIL

**(A full digital audio of the Council Meeting of this date
is filed in the Clerk of Council's Office)**

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