

Municipal Building
Chattanooga, Tennessee
May 20, 1997

The meeting of the Chattanooga City Council was called to order by Chairman Swafford with Councilman Crockett, Eaves, Hakeem, Hurley, Lively, Pierce, Rutherford and Taylor present. City Attorney Randall Nelson, Management Analyst Randy Burns, and Council Clerk Carol O'Neal were also present.

INVOCATION

Invocation was given by Councilwoman Hurley.

MINUTE APPROVAL

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

1996-137: Edwin T. Yancy

On motion of Councilman Lively, seconded by Councilwoman Hurley, AN ORDINANCE CLOSING AND ABANDONING AN ALLEY LOCATED NORTHWEST FROM DODDS AVENUE, BETWEEN EAST 45TH STREET AND EAST 46TH STREET, MORE PARTICULARLY DESCRIBED HEREIN, UPON CERTAIN CONDITIONS passed second reading. On motion of Councilwoman Hurley, seconded by Councilman Lively, the ordinance passed third and final reading and was signed in open meeting.

CLOSE AND ABANDON

REZONING

1997-076: City Department of General Services

On motion of Councilman Crockett, seconded by Councilwoman Hurley, AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED IN THE 1900 BLOCK OF WILLOW STREET, BEING ON THE SOUTHEAST LINE OF WILLOW STREET AT EAST 20TH STREET, FROM R-2 RESIDENTIAL ZONE TO R-4 SPECIAL ZONE, SUBJECT TO CERTAIN CONDITIONS passed second reading. On motion of Councilwoman Hurley, seconded by Councilman Crockett, the ordinance passed third and final reading and was signed in open meeting.

REZONING

1997-091: Jack Born

Councilman Pierce stated he knows this is second and third reading; that he has been notified by residents of the area who desire an opportunity to speak regarding the matter; that he does not think it would be fair to not allow them to speak.

On motion of Councilman Pierce, seconded by Councilwoman Hurley, residents in opposition were given an opportunity to speak regarding this matter.

Atty. John Anderson of Grant, Konvalinka stated all of what was discussed last week in terms of the request of the applicant is still true; that he will reserve whatever time he has for rebuttal.

Atty. Buddy Presley of Wooden and Presley expressed appreciation to the Council for consideration of this issue; that he understands the matter has been a difficult issue and knows they are placed in the position of being "pulled" by both sides. He stated they would like to express their concern as they did last week; that they are concerned this will become a "domino effect" and will bring about commercial of the whole area. He asked that the Council vote against this request and take responsibility for control of the rapid growth.

David Hall, Chairman of the Church Council of Christ United Methodist Church, stated they have a very active Church of 1,460 members; that the Church voted to oppose this rezoning; that they realize they are in a rapidly developing area. He stated the Winn Dixie was a planned development; that the Church cooperated and granted a drainage easement. He stated the proposed development is quite different; the Church is a seven day church; that they have 100 students enrolled in preschool and lots of traffic in-and-out; that activities go on in the church each of the seven days of the week. He stated the proposed development would place additional traffic in the Church's driveway; that their entrance on East Brainerd Road is heavily used. He reiterated the Church's opposition to the rezoning request.

Rev. Dennis Newson, Pastor of the Church, stated his concern reiterates what Mr. Hall said; that you will find at least 200 people on the property most of the time; that the Church grounds are full of children playing soccer, baseball or others walking. He stated as you exit there is always the fear of traffic hazards; that as you look back on East Brainerd Road you look for gaps to get into the traffic flow. He stated this commercial establishment will require more careful observation; that their fear is for families with children who will be battling this and many community people.

REZONING (Cont'd.)

Mark Warren of the Hurricane Creek Homeowners Association and a taxpayer stated this is "deja vu" all over again; that on behalf of the Homeowners Association they oppose any commercial development on East Brainerd Road and Ooltewah-Ringgold Road until we get four lanes. He stated they feel it is a traffic and safety hazard and will devalue their property and houses; that they have been before the body several times. He stated they were here ten years ago with the former City Commission when the same issue was brought up in October of 1987; that their concerns were the same they have tonight. He stated as taxpayers and homeowners the traffic is not convenient with two lanes. He stated former Mayor Rose, a resident and neighbor, could not support the request because of the traffic on East Brainerd Road; Councilman Littlefield indicated East Brainerd would remain two lanes for some time. He stated the rezoning was voted down because of the traffic issue. He stated they were present three years ago when Winn Dixie's request came forth and expressed appreciation for the Council's consideration at that time. He stated he is happy to report the Winn Dixie is being built and looks fine; that they have had some problems as the original developer left and the project laid dormant for two years; that a new developer has come in and has altered the location and entrance; that because of Councilman Crockett's insistence stipulations were included in the ordinance. He stated Councilman Eaves did not support the development and "flip-flopped" on the vote; that Councilman Hakeem made a very thoughtful statement that his concern was for the best investment for Winn Dixie and "flip flopped" and voted against Winn Dixie. He stated it is time to "draw a line and draw it now"; that the Association opposes any commercial activity.

Atty. Anderson expressed appreciation for the concern of the citizens who have appeared tonight; that he appreciates the admonishment that Council persons act responsibly. He stated each Council member made their decision last week on the zoning; that he would like to point out this property currently has housing on it and is zoned R-2; that it could be a two family unit with another curb cut. He stated the proposed development would be light commercial in terms of operation and curb cuts. He stated he does not envision any additional traffic and asked the Council to approve the rezoning from R-2 to C-2.

REZONING (Cont'd.)

Councilman Hakeem stated he wanted to make remarks regarding the comments made, particularly about the "flip flopping". He stated this Council has always tried to look at every issue on its own merit; that he is hearing about "flip flopping" from the opposition when it involves the Winn Dixie issue; that he did not hear of the "flip flopping" when some Council persons voted for that issue but voted against this; that we should understand when we talk about "flip flopping". He stated there was something bought up last week in regard to this issue about a desire on the part of the Church to swap some land. He asked why a developer would want to swap land and why would you want to swap land fronting on East Brainerd Road if not for development; that it is a tough thing to do; that we are trying to work with what is in the best interest of the community. He stated the commercial strip has started; that if this is approved it does not mean we will approve something all the way down the street. He stated this Council is doing its best to do what is in the interest of the community as a whole.

Councilman Rutherford stated she would like to have an answer to Councilman Hakeem's question about why the Church wanted to swap the land.

Atty. Presley stated the primary purpose was to get Mr. Born off the Church's entrance; that they are against any commercialization of that area. He stated he will not stand and say five-to-ten years from now their minds will change when Councilman Eaves is suggesting to get \$5.5 million for a four lane East Brainerd Road and still try to commercialize that property; that they are again any commercialization and the Church Council has voted. He reiterated the primary purpose was to swap the land and get Mr. Born off their entrance. He stated some Council members have been out and looked at this; that this is a community Church and there is a three time football size area out there that is used for various recreational activities and the Church allows anyone to come in and use it.

Councilman Hakeem expressed appreciation for what Atty. Presley said, but thinks it would have been more appropriate if he had said that last week; that to come back this week and say you will swap it for that purpose is not logical and not acceptable.

On motion of Councilman Hakeem, seconded by Councilman Lively,
AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT
OF LAND LOCATED AT 8625 EAST BRAINERD ROAD, BEING ON
THE NORTHEAST LINE OF EAST BRAINERD ROAD NORTHWEST OF
MORRIS HILL ROAD, FROM R-2 RESIDENTIAL ZONE TOP C-2
CONVENIENCE COMMERCIAL ZONE
passed second reading; on roll call vote:

REZONING (Cont'd.)

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|------------|-----|
| Crockett | No |
| Eaves | Yes |
| Hakeem | Yes |
| Hurley | No |
| Lively | Yes |
| Pierce | No |
| Rutherford | No |
| Taylor | Yes |
| Swafford | Yes |

On motion of Councilman Hakeem, seconded Councilman Eaves, the ordinance passed third and final reading and was signed in open meeting; on roll call vote:

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|------------|-----|
| Crockett | No |
| Eaves | Yes |
| Hakeem | Yes |
| Hurley | No |
| Lively | Yes |
| Pierce | No |
| Rutherford | No |
| Taylor | Yes |
| Swafford | Yes |

REZONING

1997-095: Chattanooga Neighborhood Enterprises, Inc.

On motion of Councilman Pierce, seconded by Councilwoman Hurley, AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED IN THE 1700 BLOCK OF COWART STREET AND WILLIAMS STREET, AND IN THE 200 BLOCK OF WEST 17TH STREET AND WEST 18TH STREET, BEING ON THE SOUTHEAST LINE OF COWART STREET, THE SOUTHWEST LINE OF WEST 17TH STREET, THE NORTHWEST LINE OF WILLIAMS STREET, AND THE NORTHEAST LINE OF WEST 18TH STREET, FROM M-1 MANUFACTURING ZONE TO C-3 CENTRAL BUSINESS ZONE, SUBJECT TO CERTAIN CONDITIONS

passed second reading. On motion of Councilman Pierce, seconded by Councilwoman Hurley, the ordinance passed third and final reading and was signed in open meeting.

REZONING

1997-100: Jewish Community Federation of Greater Chattanooga
On motion of Councilwoman Hurley, seconded by Councilwoman Rutherford,

AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED AT 5326 LYNNLAND TERRACE, BEING AT THE END OF LYNNLAND TERRACE SOUTHEAST OF MCBRIEN ROAD, FROM R-1 RESIDENTIAL ZONE TO R-4 SPECIAL ZONE, SUBJECT TO CERTAIN CONDITIONS
passed second reading. On motion of Councilwoman Rutherford, seconded by Councilman Taylor, the ordinance passed third and final reading and was signed in open meeting.

INTERIM BUDGET

On motion of Councilman Lively, seconded by Councilman Hakeem, PROVIDING FOR AN INTERIM BUDGET AND APPROPRIATING FUNDS FOR THE USUAL AND ORDINARY EXPENSES OF THE CITY GOVERNMENT FOR THE MONTHS OF JULY, AUGUST AND SEPTEMBER, 1997, PENDING THE ADOPTION OF THE 1997-98 ANNUAL BUDGET, AND FURTHER TO AMEND ORDINANCE NO. 10465, THE BUDGET ORDINANCE, AS AMENDED AND AS ENCAPTIONED HEREINBELOW, SO AS TO DELETE FROM SECTION 7(C) THE PROVISION FOR AN ELECTRICAL SIGN INSPECTOR AND A SEPARATE SIGN INSPECTOR AND INSERT IN LIEU THEREOF A PROVISION FOR TWO (2) ELECTRICAL SIGN INSPECTOR
passed first reading.

CLOSE AND ABANDON

1997-056: Jerome Merrell

The applicant was not present.

On motion of Councilwoman Rutherford, seconded by Councilman Hakeem, AN ORDINANCE CLOSING AND ABANDONING AN UNNAMED STREET LOCATED NORTHEAST FROM IRVIN ROAD, SOUTHEAST OF PINEVIEW LANE, MORE PARTICULARLY DESCRIBED HEREIN
was denied.

CLOSE AND ABANDON

1997-067: Thomas A. & Deborah Shirley

The applicant was not present; there was no opposition.

Chairman Swafford asked if the applicant was notified to be present.

Barry Bennett indicated Planning never knows when an abandonment will come before the Council; that the matter is referred to the City Engineer and takes anywhere from four weeks to four months; that they don't usually know until it appears on the agenda.

Councilman Pierce stated in looking at some of the abandonments there are some he might not be supportive of; that we should notify those people to be here as they should have a right to defend the action taken.

Mr. Bennett stated applicants have been asked to contact the City Engineer's office to find out the date the item will be on the agenda; that Planning does not call the applicants.

Councilman Pierce asked if we could be sure the Engineer's office notifies these people.

Jack Wilkinson stated the way it has been done is if they ask us to notify them we do and if they do not we don't. He stated they call and say they want to be notified and we can notify them; they are only notified if they ask to be notified.

Councilwoman Rutherford stated the Staff has recommended approval. She inquired as to the City Engineer's recommendation as to whether he looked at it or someone from the engineering staff.

Mr. Wilkinson responded "yes," that they did look at it and concur with the recommendation for approval.

On motion of Councilwoman Rutherford, seconded by Councilwoman Hurley,

AN ORDINANCE CLOSING AND ABANDONING ALLEYS LOCATED
SOUTHWEST FROM NORTHROP STREET, NORTHWEST OF CROMPTON
STREET, MORE PARTICULARLY DESCRIBED HEREIN, UPON
CERTAIN CONDITIONS

passed first reading.

CLOSE AND ABANDON

1997-082: Roy L. Williams

The applicant was not present; there was no opposition.

Councilman Hakeem inquired as to whether driveways are being closed off in this request. Mr. Wilkinson responded "no;" that the recommendation is based on that.

On motion of Councilwoman Rutherford, seconded by Councilman Hakeem, AN ORDINANCE CLOSING AND ABANDONING AN ALLEY LOCATED SOUTHEAST FROM THE SOUTHERN RAILROAD, BETWEEN BENNETT AVENUE AND EAST 12TH STREET, MORE PARTICULARLY DESCRIBED HEREIN, UPON CERTAIN CONDITIONS passed first reading.

CLOSE AND ABANDON

1997-085: Jackie & Regina Sawyer

The applicant was not present; there was opposition in attendance.

Councilman Pierce stated he knows this is not part of his District; that he received two calls regarding this matter and the neighbors seem to be in opposition. He stated he does not know whether the matter should be tabled and give the applicant an opportunity to be here. He made the motion to deny the request as this is a street closure stating he does not support street closures; Councilman Lively seconded the motion.

Armelia Williams stated she and her husband live across the street from the Sawyers and have rental property adjacent to Morehouse Street; that she is concerned about the closure of Morehouse because of the way it is used. She stated when the freeway was built there was no easy access to the neighborhood; that large parts of the community is in the flood plain and people learned to adjust to the change. She stated many use Morehouse as a way to get to other parts of the community; that children use it as a place to play because it is at the flatter part of the hill; that Morehouse allows her to cut their grass against the fence that has been installed by the Sawyers. She stated the Sawyers have ten adult pit bull dogs and puppies; that children usually cross the street to keep from going near the fence where the dogs are chained; that the dogs have stopped her from cutting the grass along the fence because of the lunging of the dogs. She stated the dogs are on one end and vehicles have been pulled just inside the parking area which blocks the entire area.

CLOSE AND ABANDON (Cont'd.)

Mrs. Williams continued by stating she is also concerned about her rental property because the smell from the dogs is very potent; that the dog houses are visible and is worse when the foliage is down. She stated if this street is closed it will not be conducive in getting a good tenant. She stated she is not sure about why the request is being made for the closure; that it cannot be because the Sawyers can have access to his property because he has that. She stated she has been at her address for 36 years and many of the homeowners have been there as long as she has. She stated a wooden fence is being built inside the chain fence; that it appears they are trying to block the view. She asked that this request be denied.

Councilwoman Rutherford stated she does not know how she will vote on this as she has not heard from the applicant. She made the motion to table the matter one week so that the applicant could be present; Councilman Crockett seconded the motion.

Councilman Hakeem asked if the applicant knew to be here. Mr. Bennett reiterated that applicants have been asked to contact the City Engineer; that Planning does not send out any notification.

Councilman Eaves stated he does not see any use in delaying this; that it seems we might at some time in the future involve Judge Williams; that we have a nuisance to the community.

At this point, Councilman Crockett withdrew his second to the motion to table.

Councilwoman Rutherford stated she was just asking for a tabling motion so that the applicant can tell why he wants to close the road; that that does not have anything to do with the dogs. The motion to table failed for lack of a second.

Councilman Crockett stated on a fairly consistent basis if the applicant fails to appear we have denied because they failed to show; that he wants to sort through these closure things if they knew to be here.

Councilwoman Rutherford stated that is the whole point; that they did not know to be here and that is what concerns her.

CLOSE AND ABANDONMENT (Cont'd.)

Chairman Swafford stated he has looked at this; that he is not 100% positive, but he has spoken with the owner and it is his understanding from that visit that they were aware the closure request was on the agenda for the twentieth because he took an agenda with him for clarification of address because he could not find the street as the (street) sign was down. He reiterated that it is his understanding they knew to be here.

Councilwoman Rutherford stated if they knew to be here that is a different story.

Chairman Swafford again stated that was his understanding that they knew to be here when he talked with them.

On motion of Councilman Pierce, seconded by Councilman Lively,
AN ORDINANCE CLOSING AND ABANDONING MOREHOUSE STREET,
LOCATED SOUTHWEST FROM TALLADEGA AVENUE, SOUTHEAST OF
SPELMAN STREET, MORE PARTICULARLY DESCRIBED HEREIN,
UPON CERTAIN CONDITIONS
was denied.

CLOSE AND ABANDON

1997-097: Don Walker

The applicant was present; opposition was in attendance.

Barry Bennett stated both the Staff and Planning Commission recommend approval subject to the Engineer's review; that the right-of-way is too small for any development and the abandonment does not cut off access to anyone's property that they could determine.

Mr. Wilkinson stated his recommendation for approval was pretty much on the same basis as Planning's; that it is 20 feet wide and has never been open and does not see any need for it to be open.

Don Walker stated he is presently building six houses at the end of Greens Road and by closing this road it will enable him to build larger houses facing Hitchcock. He stated by the closure of this road he has purchased the property from the next door neighbor so that he can build a larger house; that he has purchased the neighbor's ten feet along with his ten feet to build a larger and nicer house that will be 1200 square feet which will sell under \$100,000. He stated it is hard to find lots to build on like this on Greens Road.

CLOSE AND ABANDON (Cont'd.)

Langston Walker, President of the Ashley Mills Homeowners Association, spoke on behalf of the residents and urged the Council to deny the application for the abandonment; that the lot next to this request is too small for legal development; that it is too small and highly undesirable. He stated the road is in a flood plain and TVA's power lines are there, as well; that a creek trickles through the area and is prone to flood; that water has backed up to Hitchcock within the past few days. He stated the homes being constructed will hurt the value of the homes in the surrounding areas; that houses on Greens Road have 900 square feet and requirements for homes in Ashley Mill require 2400 square feet. He stated all the neighbors in Ashley Mill feel any house that will be built will hurt their property value tremendously. He again asked the Council to deny the request; that it is bad for East Brainerd and bad for Ashley Mill. Those present in opposition were asked to stand at this point.

Mr. Walker stated this is a lot of record; that if this is turned down he could put a house on that lot no matter what. He stated it is a lot of record but he has replatted the lot to a 200 x 150 lot or a 100 x 50 lot. He stated he wants this closed to make the house bigger and nicer; that if the Council does not close it a smaller house can be built.

Councilman Pierce asked if Mr. Walker understood that if he does not get the closure he could only build a house 18 x 18. He asked what type of house would that be. Mr. Walker responded "a two story house with 600 square feet."

Councilman Pierce inquired as to the size of the house with the closure. Mr. Walker responded "1100 square feet."

Mr. Walker stated in the adjacent neighborhood the homes have 2400 square feet; that the buildable portion is too small to build a house because you cannot build a house in a TVA right-of-way.

Mr. Walker stated the house would be approximately 40 x 30 with 1100-1200 square feet; that it will equal the size of the other houses.

Councilman Lively stated something does not "add up."

Mr. Walker stated an additional 20 feet is needed and he has bought the property next door; that he can make a deeper and wider house; that he can build two-and-a-half times the size with the closure.

Councilman Lively stated it "still does not add up."

CLOSE AND ABANDON (Cont'd.)

Councilman Eaves recommended denial of the request at this point as he cannot see how anything can be built in there.

On motion of Councilman Eaves, seconded by Councilman Crockett,
AN ORDINANCE CLOSING AND ABANDONING AN UNNAMED STREET
LOCATED SOUTHWEST FROM HITCHCOCK ROAD, AND NORTHWEST
FROM GREENS ROAD, MORE PARTICULARLY DESCRIBED HEREIN,
UPON CERTAIN CONDITIONS
was denied.

AMEND CITY CODE: CITY COURT COSTS

Richard Dyer, City Court Clerk, stated as the ordinance states the request is to raise the basic Court costs from \$22 to \$39.25, a \$17.25 increase in the basic costs. He stated the \$17.25 consists of the Clerk's fee, microfilming and data processing; that out of the \$39.25 the City will keep \$25.50 which will go into the general fund. He stated the amount of revenue generated from the increase will be approximately \$250,000 annually. He stated not any of the items in the Charter have been changed; that the amount remains the same. He stated there was some concern that we were changing what was in the Charter but we have not changed it; that even with the increase the City Court still has the lowest basic Court cost in the surrounding area.

Councilwoman Rutherford stated she is supportive of this; that she wants to know if it can be amended so that whatever amount the State increases it will be proportionate so that we will not get in this deficit again.

Judge Williams stated that was considered but there seems to be some concern from the City Attorney's point of view when that occurs. He stated he is really concerned about this; that it is his understanding that the State is going to increase it. He stated 1969 was when the initial costs were put in; that since 1969 there has been erosion of the costs that come into the City because the State goes up on its fee and we are aware of that. He stated what needs to happen is someone needs to stay on top of this so that this will not occur again; that someone "dropped the ball."

Councilman Pierce stated he questions any increase; that we have a Court which only tries city cases; that it is not a Court of record and is not a State Court as we can only try city cases. He stated of the other municipalities compared the reason their fees are higher is because they can try State cases; that he feels badly when he thinks another tax is being imposed upon a certain class of people.

AMEND CITY CODE: CITY COURT COSTS
(Cont'd.)

Councilman Pierce continued by stating that he asked for the record to be pulled; that there were over 100,000 cases that went through City Court. He stated Judge Williams mentioned that Court costs have not gone up since 1969; that he has been given the authority to charge 45% more; that he went from \$50 to \$500 in Court costs. He stated what we have and what is being represented is how much money can City Court raise for city government; that the thinks what the Judge is asking for is basically "bragging rights" as to how much money he can generate for the City; that he (Pierce) does not want to be a part of this. He stated he is sorry if his colleagues feel this is the only we we can keep money for the City. He stated we have a healthy City Court and why do we have to increase the costs at this point. He stated if we needed money to operate the Court then he could see it. He stated the first problem was to change the Charter; that after further study the Charter amendment would have had to go to a referendum; that they they found out they could change this to include a Court Clerk's fee of \$13.80. He stated we are manufacturing ways to tax people and does not know what the purpose is; that they might ask for another tax. He stated he feels this is the reason we do not have a State Court because of what we did on this Council when we gave the Judge a raise.

Councilman Pierce continued by informing the Mayor that he is looking at all the City's government cars; that Judge Williams receives benefits others do not receive. He stated he will not sit idly by and see people being taxed like this; that this is being promoted by the Judge's point of view and the input he has had in this. At this point Councilman Pierce made reference to having made a bond for a young man for several charges in City Court; that the young man failed to show up in Court. He stated the young man called him and stated he was going to go to jail; that he (Pierce) made the bond and asked him to be in City Court that Monday morning. He stated for some reason the young man went to Sessions Court and he told him to go back the following morning. He stated the young man went to Court yesterday; that he stayed in jail all day long; that his bond had been raised from \$700 to \$1500. He stated he is anxious to know how many Court costs the Judge got out of that case; that he does not think it is fair. He asked the Council to consider not supporting this ordinance.

Councilman Crockett stated he had the information regarding Court costs for other courts within Hamilton County but does not have it with him this evening; that he wondered if Mr. Dyer could read it for him and compare what costs we are talking about.

AMEND CITY CODE: CITY COURT COSTS
(Cont'd.)

Mr. Dyer stated information previously distributed included Red Bank (\$49.00), East Ridge (\$46.75), Signal Mountain (\$43.75), Soddy-Daisy (\$57.50), Memphis (\$86.75), Nashville (\$78.50) and Knoxville (\$68.00). He stated the Hamilton County Clerk's fee is \$27.00.

Councilman Crockett asked if ours is the lowest. Mr. Dyer responded "yes."

Councilman Crockett asked if what is being proposed will still reflect our being the lowest. Mr. Dyer responded "yes."

Councilman Hakeem stated he wanted to clarify if a person comes to Court with more than one case, do they pay the Court cost on each case or one.

Judge Williams stated they pay it on each case unless he finds a basis; that he waives the cost on other cases. He stated he always asks the question as to the person's status and tries to make adjustments accordingly. He asked if he could be allowed to respond to issues raised (by Councilman Pierce).

Councilman Pierce stated he would like to say one more thing as to the information presented by Mr. Dyer regarding surrounding areas, wanting to know if there is information regarding whether they will be able to fine a person. Mr. Dyer stated he did not have that information.

Councilman Pierce stated Judge Williams talked about the point of putting people back in jail; that he asked the City Attorney to get information on what that will cost the City. He stated based on last year's costs to house a person in Hamilton County jail cost \$47.32 per day; at the workhouse it was \$31.44 per day. He stated he thinks this is something that is new; that we should not reward people incarcerated over a traffic violation; that he still says it is the Judge who is insisting on this Court cost.

At this point Councilman Lively "called for the question."

Judge Williams stated he wants to make it clear that he is not insisting the Council raise Court costs; that he never said he wanted to raise Court costs. He stated what he did say in his report was that he was bringing it to the Council's attention; that in his judgment we were out of balance; that it is the Council's call to make; that he does not care whether it is raised or not.

AMEND CITY CODE: CITY COURT COSTS
(Cont'd.)

Judge Williams stated he thinks it will be wrong as the person who is in charge of the Judicial branch that he does not bring certain matters to the Council's attention. He stated he is supposed to know; that the other department heads know about their department. He stated if there is a problem going on at City Court he would hope any Council person would appreciate the person who is in charge would bring it to your attention. He stated as far as "bragging rights" are concerned he has nothing to brag about; that the facts speak for themselves. He stated he remembers a time when the Judge never came to the Council or former City Commission; that he would think the Council would like to hear what is going on. He stated we can hear state cases; that there is no truth to our not being able to. He stated we can hear state cases now; that there has never been an appellate decision that says City Court cannot hear state cases; that the Council decided it would not pursue the matter; that this came down from Judge DiRisio. He stated he has never known where two judges ruled one way and another the other way; that that has never been in the history of jurisprudence. He stated it was the District Attorney's right to change the cases from City Court and into Sessions Court; that he did not really have the full authority to do that. He stated he did not fight it; that he could have the final declaratory judgment, but did not because he proved that each time the City heard a State case we were losing money; that the City got \$59 in Court costs and of that amount the City kept \$13.75. He stated Admin. Boney proved it was costing up to \$38 per cases; it was a financial reason.

Judge Williams continued by stating as far as benefits to the Judge are concerned, he is dismayed that Councilman Pierce would suggest that his bringing to the Council's attention the out-of-balance Court costs would suggest some benefits to him. He stated his friendship and respect for Councilman Pierce would cause him (Pierce) not to mean that; that he knows the Judge pay issue is settled; that he (Pierce) voted along with six others as the vote was 7-2. He stated in doing that consideration was given with regard to the benefits he (Williams) receives versus the benefits of Sessions Judges who are under a different retirements system, insurance and all sorts of things. He reiterated his dismay that Councilman Pierce would mention that.

Judge Williams concluded his comments by making reference to the bond for the gentleman Councilman Pierce mentioned; that if the person cannot read he needs to be put in jail; that he has no sympathy for him. He stated that case came up today and can vaguely remember, but is not certain, that the man didn't show up today.

AMEND CITY CODE: CITY COURT COSTS
(Cont'd.)

Judge Williams stated Chattanooga is a Home Rule municipality; that the only municipality that can raise their fines up to the \$500 are the ones that are Home Rule. He stated before a statement is made information should be checked because not all municipalities in Tennessee are Home Rule.

Councilman Crockett stated it is his understanding we are voting to raise the Court fee to a level that will still be less than any municipality in this area. At this point, he "called for the question."

Councilman Pierce stated you heard the Judge say at the time we were trying State cases we were allowed Court costs of \$59; that Court costs were up at that point. He stated we should not try State cases and should not be at the higher rate . . .

Councilman Lively again "called for the question."

Judge Williams stated if a person makes an erroneous statement, it should be clarified; that Councilman Pierce said the Court cost was \$59; that we kept \$13.75; that all of the money went to the county and State.

Councilman Pierce responded, "I agree, Judge."

On motion of Councilman Crockett, seconded by Councilwoman Rutherford,

AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,
CHAPTER 12, SO AS TO ADD SECTION 12-21, RELATIVE TO
CITY COURT COSTS

passed first reading; on roll call vote:

| | |
|------------|---------|
| Crockett | Yes |
| Eaves | Abstain |
| Hakeem | Yes |
| Hurley | Yes |
| Lively | Yes |
| Pierce | No |
| Rutherford | Yes |
| Taylor | Yes |
| Swafford | Abstain |

ANNEXATION

Mayor Kinsey stated the City of Collegedale moved to annex a fairly large area adjacent to the boundary of Chattanooga near I-75. In making reference to the map attached to the ordinance, Mayor Kinsey stated the ordinance does not annex the whole area but it does do the portion that is extremely important to us. He stated this annexation allows Chattanooga the control of some growth patterns; that it involves the first exit coming in from Bradley County and close to the VAAP property. He stated it is very important we not lose this property; that there is very little residential property in the area we are annexing. He stated a resolution for the plan of services is on tonight's agenda, also; that a property study will have to be complete prior to second and third reading of the ordinance.

Councilman Crockett made reference to the "blue area" identified on the map and indicated his support of the annexation action.

Councilman Pierce inquired about the small section involving Ooltewah; that he is aware a group had plans of filing a law suit against Collegedale. He asked if the Mayor had received any calls from anyone in that area.

Mayor Kinsey responded that he has had calls from several in that area suggesting that we annex them but not from the majority.

On motion of Councilwoman Rutherford, seconded by Councilman Lively, AN ORDINANCE TO ANNEX CERTAIN PROPERTIES ADJACENT TO INTERSTATE 75 AND LEE HIGHWAY, MORE SPECIFICALLY DESCRIBED HEREIN, LYING CONTIGUOUS TO THE PRESENT CORPORATE LIMITS OF THE CITY OF CHATTANOOGA, TENNESSEE passed first reading.

ANNEXATION: PROPOSED PLAN OF SERVICES

On motion of Councilman Lively, seconded by Councilwoman Rutherford, A RESOLUTION TO SUBMIT A PROPOSED PLAN OF SERVICES TO THE CHATTANOOGA-HAMILTON COUNTY REGIONAL PLANNING COMMISSION FOR REVIEW RELATIVE TO THE PROPOSED ANNEXATION OF CERTAIN PROPERTIES ADJACENT TO INTERSTATE 75 AND LEE HIGHWAY, MORE SPECIFICALLY DESCRIBED HEREIN, LYING CONTIGUOUS TO THE PRESENT CORPORATE LIMITS was adopted.

SPECIAL POLICEMEN

On motion of Councilman Lively, seconded by Councilwoman Rutherford, A RESOLUTION AUTHORIZING THE APPOINTMENT OF TIMOTHY E. MOTT AND DARRYL D. CALDWELL AS SPECIAL POLICEMEN FOR ERLANGER MEDICAL CENTER, TO DO SPECIAL DUTY AS PRESCRIBED HEREIN, SUBJECT TO CERTAIN CONDITIONS was adopted.

LICENSE AGREEMENT: CHATTANOOGA
AUDUBON SOCIETY

On motion of Councilwoman Hurley, seconded by Councilman Hakeem, A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE PARKS AND RECREATION DEPARTMENT TO ENTER INTO A LICENSE AGREEMENT WITH CHATTANOOGA AUDUBON SOCIETY, INC. FOR THE USE OF THE ROSS'S LANDING BOAT RAMP was adopted.

AGREEMENT: CONSOLIDATED
TECHNOLOGIES, INC.

On motion of Councilman Lively, seconded by Councilman Hakeem, A RESOLUTION AUTHORIZING THE EXECUTION OF AN AGREEMENT WITH CONSOLIDATED TECHNOLOGIES, INC. FOR ENGINEERING SERVICES RELATIVE TO THE INSTALLATION OF THE STONE DRAINAGE LAYER, PHASE II AREA SUMMIT LANDFILL, FOR AN AMOUNT NOT TO EXCEED THREE THOUSAND, TWO HUNDRED EIGHTY DOLLARS (\$3,280.00) was adopted.

AGREEMENT AMENDMENT: CONSOLIDATED
TECHNOLOGIES, INC.

On motion of Councilwoman Rutherford, seconded by Councilwoman Hurley, A RESOLUTION AUTHORIZING AN AMENDMENT TO THE AGREEMENT WITH CONSOLIDATED TECHNOLOGIES, INC. FOR ADDITIONAL ENGINEERING SERVICES RELATIVE TO GAS SYSTEM IMPROVEMENTS AT SUMMIT LANDFILL, SO AS TO EXTEND THE CONTRACT TIME TO MAY 31, 1997, AND TO INCREASE THE CONTRACT AMOUNT BY TWENTY-FIVE THOUSAND, EIGHTY-SEVEN DOLLARS (\$25,087.00) was adopted.

AGREEMENT AMENDMENT: CONSOLIDATED TECHNOLOGIES, INC.

On motion of Councilman Lively, seconded by Councilwoman Hurley, A RESOLUTION AUTHORIZING AMENDMENT NO. 1 TO THE AGREEMENT WITH CONSOLIDATED TECHNOLOGIES, INC. FOR ADDITIONAL ENGINEERING SERVICES RELATIVE TO THE NORTHWEST GEORGIA SEWER PROJECT, SO AS TO INCREASE THE CONTRACT AMOUNT BY THIRTY-NINE THOUSAND, NINE HUNDRED DOLLARS (\$39,900.00) was adopted.

TEMPORARY USE: THE SAND BOX

On motion of Councilwoman Hurley, seconded by Councilwoman Rutherford,

A RESOLUTION AUTHORIZING THE SAND BOX TO USE TEMPORARILY THE WESTERN SIDEWALK AT 1205 HIXSON PIKE FOR INSTALLING A CANVAS AWNING OVER THE ENTRANCE TO THE BUSINESS, MORE PARTICULARLY DESCRIBED HEREIN, SUBJECT TO CERTAIN CONDITIONS was adopted.

REPEAL RESOLUTION 21355/TEMPORARY USE FOR GREYFRIAR'S COFFEE & TEA COMPANY

On motion of Councilwoman Hurley, seconded by Councilman Hakeem, A RESOLUTION REPEALING RESOLUTION NO 21355, ENCAPTIONED HEREINBELOW, AND AUTHORIZING GREYFRIAR'S COFFEE & TEA COMPANY TO USE TEMPORARILY THE WESTERN SIDEWALK AT 406-B BROAD STREET, FOR PLACING A FEW TABLES AND CHAIRS THEREON, MORE PARTICULARLY DESCRIBED HEREIN, SUBJECT TO CERTAIN CONDITIONS was adopted.

EMINENT DOMAIN

City Attorney Nelson stated this firm has revoked their permission for us to continue using the property and are threatening to go to Chancery Court to get a restraining order to close that portion of the Riverwalk.

Councilman Taylor inquired as to why they have revoked permission. City Attorney Nelson responded that he did not know; that the law firm is breaking up and it's something internal to the law firm.

EMINENT DOMAIN (Cont'd.)

On motion of Councilman Hakeem, seconded by Councilwoman Hurley,
A RESOLUTION AUTHORIZING THE OFFICE OF THE CITY
ATTORNEY TO FILE EMINENT DOMAIN PROCEEDINGS AGAINST
XENO PROPERTIES FOR A PORTION OF THE RIVERWALK BETWEEN
RIVERSET APARTMENTS AND WALNUT STREET BRIDGE
was adopted.

OVERTIME

Overtime for the week ending May 16, 1997 totaled \$18,379.33.

PERSONNEL

The following personnel matters were reported for the Parks and
Recreation Department:

SHEILA F. JOHNSON -- Resignation, Laborer II, Plaza Division,
effective May 7, 1997.

EDDIE G. DAVIS -- Promotion, Equipment Operator II, Parks Division,
Pay Grade 8/Step 1, \$19,127.00 annually, effective May 21, 1997.

PURCHASE

On motion of Councilwoman Hurley, seconded by Councilwoman
Rutherford the following purchase was approved for use by the Parks
and Recreation Department:

VIKING EQUIPMENT (Lowest bid meeting city of Chattanooga
specifications)
Requisition No. 139845

Purchase of Mower/Tractor

\$11,946.00

EMERGENCY PURCHASE

The emergency purchase of fencing for the Parks and Recreation
Department, Purchase Order No. A-1148303 in the amount of \$10,010.35
issued to A-Affordable Fence Company was duly reported and signed in
open meeting.

PURCHASE

On motion of Councilman Lively, seconded by Councilman Eaves, the following purchase was approved for use by the General Services Department:

TRUCKPRO (Only bid received)
Requisition 138092

Purchase of Six-Month Requirements Contract for Power Take-Off Parks and Units

(Price information available and filed with minute material)

PURCHASE

On motion of Councilwoman Rutherford, seconded by Councilwoman Hurley, the following purchase was approved for use by the Public Works Department:

CROCHET EQUIPMENT COMPANY, INC. (Single source purchase)
Requisition No. 139394

Purchase of Repairs to Pactherm Pit Burner per TCA 6-56-301
\$57,405.00

PERSONNEL

The following personnel matters were reported for the Safety Department:

JOE FLETCHER -- Suspension (7 days without pay), Patrolman, effective May 27, 1997.

STEPHEN COLEMAN -- Suspension (3 days without pay), Patrolman, effective May 15-17, 1997.

PURCHASE

On motion of Councilwoman Rutherford, seconded by Councilman Lively, the following purchase was approved for use by the Safety Department:

TENNESSEE FIRE EQUIPMENT & SUPPLY (Lower and better bid)
Requisition No. 139112

Purchase of 4" Fire House
\$18,585.00

NEC TECHNOLOGIES, INC. (Single source)
Requisition No. 123790

Purchase of Maintenance Agreement on NEC Automated Fingerprint Identification System per TCA 6-56-301

\$ 4,029.00/month
50,508.00 annually

PARKING TICKETS INQUIRY

Councilman Pierce stated he had heard the meter maids have recently been instructed to write at the top of parking tickets "must come to court." He inquired as to whether that is a directive from the Safety Department or if Judge Williams has the authority to so; that he talked with Judge Williams and he denied it. He stated a postal worker came to him and indicated his having received a parking ticket on McCallie Avenue while delivering mail; that he (postal worker) asked if he had to go to Court and (I) responded that no one would be able to determine who was driving the vehicle; that maybe the postal worker's supervisor might have to appear. He stated the postal worker came by the office today and informed me that he went to Court and spent \$30+; \$10 for the ticket and the remainder for Court costs. He stated he does not know where mail carriers and others can stop and make their deliveries.

Admin. Dinsmore stated he has not ordered them to write anything on the ticket except what is required to be on the tickets.

Councilman Pierce asked if all the meter maids have radios at this time and if they do why. Admin. Dinsmore expressed his belief that all the meter maids have radios; that they have them in the event they encounter any trouble or need the services of an officer.

PARKING TICKETS INQUIRY (Cont'd.)

Councilman Pierce asked City Attorney Nelson to research the matter as to whether meter maids should have radios. City Attorney Nelson responded that he would research the matter.

Judge Williams stated the matter involving the postal worker is not true; that he has been in conversation with members of the downtown district. He stated there have been numerous problems regarding parking of postal, UPS and other vehicles in front of the Doctors' building on McCallie Avenue shutting the whole lane down; that no one can do that as it backs traffic up; that the same thing is occurring in front of the Chubb Life building. He stated he has asked them to park in the loading zones; that postal vehicles can park at a meter without paying and get out of traffic; that if they shut down a lane they should get a ticket. He stated if they get a ticket, as far as he is concerned, they are going to pay it; that they should not be shutting down lanes. He stated "yes" he has instructed the meter maids if they have a problem when they issue a ticket they should put on the ticket "must appear in court" so that we do not have any continuing problems; that the request has been most effective. He stated home health nurses do not have any place to park when visiting patients at Patten Towers; that when it was brought to his attention he contacted Mayor Roberts and brought him up to date. He stated Traffic Engineering created four spaces reserved for home health nurses around the Patten Towers and now we do not have as many tickets because they have a place to park. He concluded his remarks by stating he did instruct them to write the statement at the top of the ticket (when necessary).

PURCHASE

On motion of Councilman Pierce, seconded by Councilman Eaves, the following purchase was approved for use by the City Council Office:

TOWER CONSTRUCTION (Lower and better bid)
Requisition No. 131470

Purchase of Contract for Remodeling

\$13,576.00

COMMITTEES

Councilman Pierce stated the **Legal and Legislative/Safety Committees will meet on Tuesday, May 27 at 4 p.m.**

Councilman Lively stated the Legal and Legislative Committee met this afternoon; that Ann Coulter brought a video and report regarding Futurescape. He stated Ms. Coulter also discussed what seems to be a growing concern in all districts -- businesses operating out of zone moving into residential areas and "setting up shop." He stated the matter will continue to be discussed in a joint meeting with Public Works next week.

Councilman Hakeem stated in regard to the 97-98 budget, Management Analyst Randy Burns has been in contact with Admin. Boney and several tentative dates have been scheduled for the **Budget Committee to meet: 5 p.m., Monday, June 2; 5 p.m., Monday, June 9; 5 p.m., 5 p.m., Wednesday, June 18; and 5 p.m. Tuesday, June 24.**

Chairman Swafford stated a meeting of the Economic Development Committee was held earlier with a presentation from Rob Taylor, Ann Coulter and Leigh Ferguson regarding the southside development involving housing, as well as progress with the Trade Center and other development in that area. He stated discussion was held regarding the process that takes place over a long period of time involving members of the community and business; that they are ready to bring the report forward for a public hearing in a couple weeks to discuss those plans. He stated the public hearing is scheduled for June 9 and the Committee indicated its support of the public hearing process.

PERSONNEL INQUIRY

Councilman Pierce stated he has had several calls about a personnel matter in the Safety department that appeared on last week's report; that he contacted Admin. Dinsmore about it and was told he (Pierce) was almost a week late (in calling him). He stated the personnel matter involved a promotion within the department and questions how this promotion took place; that on October 11, 1994 the Council had a personnel hearing and upheld the department's recommendation for demotion from Sergeant to patrolman; that between administration and a Council person this person was reinstated (to Sergeant). He stated the Council person was part of the personnel committee that heard the matter in 1994 and asked how we deal with situations like this when the Council sits in judgment of a personnel hearing and if for some reason administration wants to go back and reinstate a person, he feels the administrator should make the request of the Council, but this was not done; that the Mayor was put into a position to "sign off" without knowing of the demotion.

PERSONNEL INQUIRY (Cont'd.)

Admin. Dinsmore stated he was asked to review the action that administration took in 1994 and the Council upheld; that there were additional tapes and records that were given; that he listened to them and read the transcript and what was said and what was on the tape led him to believe the demotion may not have been justified on this officer. He stated he called the Council person who asked him to review the matter; that it was after he got notice he would not be Administrator of Safety; that the Council person went with him to the Mayor. He stated he told the Mayor the same thing and the officer was reinstated.

Councilwoman Rutherford stated she was the Council person; that the officer came to her for a review; that when she sat on the case she did ask administration to review it. She stated she was present when Administrator Dinsmore spoke with Mayor Kinsey and there is no mystery here; that she is the person.

Councilman Hakeem stated he is not dealing with personalities but would like to know if one Council person, as opposed to five or eight, is able to evaluate something of this nature, and asked if the Mayor is able to do this without the majority of the Council's approval.

City Attorney Nelson stated Admin. Dinsmore brought this to him earlier this afternoon; that he told him he (Nelson) had a problem with it but did not have time to research it before Council meeting; that it was mentioned to him this afternoon at staff meeting. He stated he will check into the matter as this afternoon's notice was the first he had known of the matter and want to be sure.

Admin. Dinsmore stated he did not get the contact until last night that there would be a problem.

Councilwoman Rutherford stated she does not want Councilman Hakeem to think she evaluated anything; that she asked for a review and that is all she asked for. She stated at the time the panel made the decision it was never with the understanding this young man could never obtain his rank again; that he was not promoted, he was reinstated.

Councilman Eaves inquired as to whether the person had been fired or just demoted. Admin. Dinsmore responded the officer was given a 28 day suspension and demoted from Sergeant to Private.

PERSONNEL INQUIRY (Cont'd.)

Councilman Eaves stated he felt this was strange in the extreme; that when administration makes a recommendation and we hear that case and go along with the recommendation, if there was intent to reinstate it should have been brought back before the Council.

Admin. Dinsmore stated that could be true; that it is like a Court of Appeals. He stated there was other evidence and circumstances that came up that did not come out during the hearing; that he might have been wrong.

Councilman Hakeem stated he is listening to Admin. Dinsmore and is dealing with the process; that there is something flawed in the process when as a body we have not taken part in this. He stated he really has a problem with that, otherwise, there might be some things he would like to see changed, also.

Councilwoman Hurley stated this is something for the Legal and Legislative Committee to review regarding the whole personnel appeals process; that there might be a "change of heart" on the parts of some. She stated she would like to request that Legal and Legislative look at the personnel hearing process; that if we keep it as is we need to have a formula which would reflect the opinion some have expressed; that if there is a change for any reason it should come back to the Council if the Council has voted in a quasi-legal decision making process; that if is new evidence it should come before the Council. She again asked Legal and Legislative to look at the whole personnel hearing process with the possibility of creation of a Personnel Review Board.

Councilman Eaves stated the Council will have to be very careful; that the Council has had a lot of cases come before us and how many more will come up with new evidence either real or manufactured. He reiterated the Council should be very careful as to how they move on it as the Council might find itself spending three days a week reviewing each case.

VIRGINIA MORGAN

Virginia Morgan of Sale Care presented Council members with picture albums regarding the picnic activity that took place in Sale Creek this past weekend. She asked that Council members exchange the albums with each other as the photos contained within each album are different; that the photos give a much better understanding of the area that the City of Chattanooga is talking about taking for the landfill. She stated the picnic was held in an area known as Hinkle Hollow; that the people from Sale Creek care a great deal about Hinkle Hollow.

SISTER BEY

Sister Bey stated she listened to the Council talk about the southside project; that she has not heard anything about the cleaning up of the (Chatanooga) Creek. She stated she will block the \$5 million that will be coming in as she has no interest in building up the southside; that she is concerned about the health of "her" people. She asked the Council to "get their act together;" that she could care less about the southside as she is concerned about the Creek.

LANE TULLIS

Lane Tullis of the Sale Creek Action Team (SCAT) read a statement to the Council regarding the picnic held on May 17. She stated several officials attended the picnic; that calls or letters from many officials stating their inability to attend was received. She stated they had a perfectly beautiful day on the River; that Bowater Southern provided a wonderful meal and acted as their gracious host. She commended Councilman Lively for attending and thanked Councilman Taylor for touring the site earlier and indicated Councilman Swafford is fully aware of the consequences of the issue. She stated those in her community are worried about the prospect of the area becoming a landfill; that they have been told to "chill out" because it is too early to worry. She stated all residents downstream of the proposed landfill will feel the effects of such an ecologically devastating action. (A copy of Ms. Tullis' statement is filed with minute material of this date.)

JAMES GIESEMANN

James Giesmann, also of SCAT, addressed the Council and stated he has lives in the Sale Creek area on a small farm; that the only road passing his home is Aslinger Road which is the only access to the Bowater property from the land side. He stated he has lived on this farm for over 30 years and has raised five children there. He stated when the announcement was made a few weeks ago that his next door neighbor would be a sanitary landfill real estate values plummeted. He asked that the Council seriously search for the best solution to a problem that has bothered mankind since the beginning. (A copy of Mr. Geisemann's statement is filed with minute material of this date.)

ADJOURNMENT

Chairman Swafford adjourned the meeting until Tuesday, May 27, 1997
at 6 p.m.


CHAIRMAN


CLERK OF COUNCIL

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