

**Municipal Building  
Chattanooga, Tennessee  
August 24, 1999**

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

**INVOCATION**

Invocation was given by Ed Freeman of Second Missionary Baptist Church.

**MINUTE APPROVAL**

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

**REZONING**

**1999-118: Jack Born**

On motion of Councilwoman Rutherford, seconded by Councilman Hakeem,

**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED AT 1042 GRAYSVILLE ROAD, BEING ON THE NORTHEAST LINE OF GRAYSVILLE ROAD, SOUTHEAST OF EAST BRAINERD ROAD, MORE PARTICULARLY DESCRIBED HEREIN, FROM O-1 OFFICE ZONE TO C-2 CONVENINENCE COMMERCIAL ZONE**

passed second reading. On motion of Councilman Franklin, seconded by Councilwoman Rutherford, the Ordinance passed third and final reading and was signed in open meeting.

**REZONING**

**1999-099: Alvin Cannon**

The applicant was present; there was opposition in attendance.

Alvin Cannon distributed information to the Council and stated he and Councilman Franklin met with members of the Mimosa Community and agreed to the rezoning of the entire tract of 8.8 acres to C-5. He stated the buffer between the tract and the Mimosa Park subdivision is to be 50 feet with 60 Pin Oak trees planted 15 feet apart and right-of-way access from the tract to the Mimosa Park subdivision will be abandoned. He stated two persons expressed a concern about the water that would result from the tract going back toward the Mimosa Park subdivision; that he pointed out that an erosion and sediment control plan is required prior to issuance of a building permit. He displayed a drawing of the site plan and stated a detention pond will provide that no water from this site will back up into the Mimosa Park subdivision.

Barry Bennett stated all parties have agreed that the four different Ordinances presented to the Council are not applicable anymore, as he understands the nature of the compromise. He stated what they are proposing would require a new legal description; that the most closely approximate recommendation from Planning of C-5 for the entire tract requires a 75 foot buffer, but they have agreed to a 50 foot buffer with a specific type of trees to be planted along the south property line, and also no access from the property over to Mimosa Park, as well as an open right-of-way at the north end of the site.

Charles Fields of 5031 Mimosa Circle expressed thanks to Councilmen Franklin and Hurley for meeting with them and suggesting that the matter come back in two weeks, respectively. He stated there was a meeting held on August 19 wherein a lot of fruitful discussion was held. He stated it was agreed at that point that the right-of-way on Mimosa to Mr. Cannon's property be abandoned; that it was agreed Mr. Cannon would provide a 75 foot buffer between Mimosa Park and his C-5 property. He stated after agreeing on C-5 for the property they found out the 75-foot buffer would take off part of Mr. Cannon's building and several feet of space. He stated he had indicated to Councilman Franklin that the community does not intend to impede progress in any way and met with Mr. Cannon on August 20 to consider a 50 foot buffer; that the 50 feet would allow Mr. Cannon to maintain his building as it is outlined in design without losing any building space. He stated they agreed to that and have agreed to his letter of application to change his property from R-1, R-2 and R-5 to C-5 with the following conditions: that there be a 50 foot buffer and an undisturbed barrier is to be placed between his property and the Mimosa Park community where there would be no visibility of his building from Mimosa; that they also agreed that the right-of-way on his property be abandoned. He reiterated that the meeting was fruitful and this is a situation where it can turn out to be a win-win situation.

**REZONING (Continued)**

Councilman Hakeem inquired as to the community's concern brought by Mr. Cannon regarding the erosion plan. Mr. Fields indicated that he has not seen that information. Councilman Hakeem referred Mr. Fields to the written information distributed by Mr. Cannon. Mr. Fields again indicated that he had not seen the information.

Chairman Lively suggested that the matter be passed on first reading and the necessary changes be made prior to second and third reading.

City Attorney Nelson asked if everyone has agreed on the new conditions distributed by Mr. Cannon. Mr. Fields indicated that this was the first time he has seen it; that after review it is basically what they talked about.

City Attorney Nelson asked if the detention pond upon the property is to specifically be included or if would it be made part of the sediment control plan. Mr. Cannon responded that as he understood that is necessary and a part of the site plan.

Mr. Fields stated the pond is on the other side of Highway 58 from Mimosa Park and does not affect them.

Councilman Franklin stated that the other item that the Mimosa Park community discussed with Mr. Cannon was to make sure that stormwater is aware of this and that there be no other flooding subject to stormwater's approval as part of the conditions.

On motion of Councilman Franklin, seconded by Councilwoman Rutherford

**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE TRACTS OF LAND LOCATED IN THE 5100 BLOCK OF HIGHWAY 58, BEING ON THE SOUTHEAST LINE OF HIGHWAY 58, NORTHEAST OF SWAN ROAD, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE, R-2 RESIDENTIAL ZONE AND R-4 SPECIAL ZONE, TO C-5 NEIGHBORHOOD COMMERCIAL ZONE, SUBJECT TO CERTAIN CONDITIONS**

passed first reading.

**REZONING**

**1999-121: Al Cannon**

The applicant was present; there was no opposition.

**REZONING (Continued)**

Alvin Cannon distributed information and stated that he is requesting that this property be rezoned to C-5, also; that the precedence has already been established by prior spot zoning in this area. He made reference to a chart of the area and indicated that his property is between property zoned C-5 and Highway 58. He stated there are three other properties between his property and Highway 58, one of which is zoned C-5 and two that are probably out of zone. He stated there is C-1 zoning at Highway 58 and Champion Road; that Barry Bennett pointed out there was no opposition at the Planning hearing, and out of a total of three meetings there has not been any opposition. He stated nine persons have signed indicating they would like for the property to be rezoned C-5 and pointed out that some of the occupants of property in the area might not have gone through the proper procedure for rezoning; that he is trying to do this correctly and would appreciate the Council's support.

Councilman Franklin stated he had an opportunity to visit this area last week when the matter was discussed in an effort to review the property and its surrounding. He stated Mr. Cannon stated there are some non-conforming uses to the right of his property as Champion Road is approached. He stated as far as residents in the immediate proximity there is a home across the street that has been burned out and possibly one other house that is vacant. He stated the Council is very sensitive to encroaching upon R-1 residents in the area and to his knowledge and others that frequently travel the area for recreational purposes there is no major development in that area and recommended approval of the request on first reading.

On motion of Councilman Franklin, 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 IN THE 5300 BLOCK OF CHAMPION ROAD, BEING ON THE SOUTHWEST LINE OF CHAMPION ROAD, NORTHWEST OF HIGHWAY 58, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO C-5 NEIGHBORHOOD COMMERCIAL ZONE**

passed first reading.

**REZONING**

**1999-128: Roy Belk & James Downer**

The applicant was present; there was no opposition.

Mr. Bennett stated the applicant is requesting a zoning change to construct a ten-unit apartment building. He stated zoning in the area to the north is R-3 and to the south and west of the property is R-1.

**REZONING (Continued)**

Mr. Bennett continued by stating the primary concern with Staff and Planning was that there were three new single family residences built on Oakwood Drive south of this property; that the discussion at Staff meeting was that this is considered to be a borderline situation since it has R-3 to the north. He stated there was discussion, also, regarding extensive screening and landscaping between the two properties, something the Staff recommends if this is approved; that initially the Staff and Planning Commission recommended denial because of the proximity to the new single family residential development.

Roy Belk of 3709 Lake Hills Circle stated Mr. (Robert) Tucker owns the three new houses as well as other property in the area. He presented a letter from Mr. Tucker indicating that he has no objection to the property being rezoned R-3.

Councilman Taylor reminded Mr. Belk that the Council has requested that he have site plans available for viewing. Mr. Belk presented the site plan, which reflected units with two bedrooms and a full bath upstairs, and a living room, kitchen and a half bath downstairs.

Chairman Lively stated mention was made of three single-family homes and the other property being owned by Mr. Tucker. He asked how he thinks people would feel when the three houses are sold with an R-3 development in the area.

Mr. Belk stated Mr. Tucker owns the houses and does not plan to sell them; that they are rental homes.

Councilman Crockett inquired as to the landscaping for R-3 zoning. Mr. Bennett stated the most stringent landscaping is between residential and commercial; that this type of development will require something more extensive than what the landscaping ordinance would require. He stated a more specific sight obscuring landscaping screen could be developed prior to second and third reading next week if the Council is inclined to approve the rezoning request.

Councilman Franklin asked if there was any opposition to the request. Chairman Lively indicated there is no opposition present nor at the Planning hearing.

Councilman Franklin made the motion to approve the request on first reading subject to Planning adding stringent landscaping requirements prior to second and third reading; Councilman Crockett seconded the motion.

**REZONING (Continued)**

On motion of Councilman Franklin, seconded by Councilman Crockett,  
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED AT 4805, 4809, AND 4813 JERSEY PIKE, BEING ON THE NORTHWEST LINE OF JERSEY PIKE, NORTHEAST OF OAKWOOD DRIVE, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO R-3 RESIDENTIAL ZONE, SUBJECT TO CERTAIN CONDITIONS**  
passed first reading subject to addition of a landscaping screen amendment prior to second and third reading.

**QUITCLAIM DEED**

On motion of Councilman Hakeem, seconded by Councilwoman Hurley,  
**A RESOLUTION AUTHORIZING THE MAYOR AND CITY FINANCE OFFICER TO EXECUTE AND ATTEST, RESPECTIVELY, A QUITCLAIM DEED JOINTLY WITH HAMILTON COUNTY CONVEYING TO HABITAT FOR HUMANITY OF GREATER CHATTANOOGA, INC. CERTAIN PROPERTY LOCATED AT 2013 EAST 14<sup>TH</sup> STREET, TAX MAP NO. 156B-E-022**  
was adopted.

**LEASE AGREEMENT/MEMORANDUM OF UNDERSTANDING**

Councilman Pierce stated he has not been briefed on this and does not know if anyone else has; that he would like for the matter to go to Committee.

On motion of Councilman Pierce, seconded by Councilwoman Hurley,  
**A RESOLUTION AUTHORIZING THE DEPARTMENT OF GENERAL SERVICES ADMINISTRATOR TO ENTER INTO A LEASE AGREEMENT AND A MEMORANDUM OF UNDERSTANDING WITH THE 28<sup>TH</sup> LEGISLATIVE DISTRICT COMMUNITY DEVELOPMENT CORPORATION, RELATIVE TO CERTAIN PROPERTY LOCATED AT 815 NORTH HICKORY STREET**  
was tabled for discussion in the Legal and Legislative Committee.

**MEMORANDUM OF UNDERSTANDING**

On motion of Councilwoman Hurley, seconded by Councilman Franklin,

**A RESOLUTION AUTHORIZING THE DEPARTMENT OF GENERAL SERVICES ADMINISTRATOR TO ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH THE CHATTANOOGA AFRICAN/AMERICAN MUSEUM RELATIVE TO THE LEASE OF BESSIE SMITH HALL**

was adopted.

**CONTRACT AMENDMENT: TDOT**

Councilman Franklin stated Resolutions 7(d) - (i) came before Public Works Committee and are recommended for approval.

On motion of Councilman Franklin, seconded by Councilwoman Hurley,

**A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AMENDMENT NO. 1 TO CONTRACT NO. 597 WITH THE TENNESSEE DEPARTMENT OF TRANSPORTATION, RELATIVE TO THE RIGHT-OF-WAY AND CONSTRUCTION PHASE OF THE GUNBARREL ROAD TO MURRAY ROAD PORTION OF PROJECT NO. STP-M-1122(1), SHALLOWFORD ROAD, GUNBARREL ROAD TO JENKINS ROAD, WITH CHATTANOOGA'S SHARE TO BE TWENTY PERCENT (20%) OF THE TOTAL COST OF THREE MILLION, TWENTY-FIVE THOUSAND DOLLARS (\$3,025,000.00) OR SIX HUNDRED FIVE THOUSAND DOLLARS (\$605,000.00)**

was adopted.

**AGREEMENT: ARCADIS, GERAGHTY & MILLER**

On motion of Councilwoman Rutherford, seconded by Councilwoman Hurley,

**A RESOLUTION AUTHORIZING THE EXECUTION OF AN ENGINEERING CONSULTING AGREEMENT WITH ARCADIS, GERAGHTY & MILLER, RELATIVE TO THE DESIGN OF A STREETScape PROJECT FOR THE SOUTH SIDE OF BRAINERD ROAD FROM SEMINOLE DRIVE TO THE BACKSTAGE DINNER THEATRE, FOR AN AMOUNT NOT TO EXCEED TWELVE THOUSAND, FIVE HUNDRED DOLLARS (\$12,500.00) UNDER WORK AUTHORIZATION NO. 1**

was adopted.

**EXPENDITURE**

On motion of Councilman Hakeem, seconded by Councilman Franklin,

**A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE PUBLIC WORKS DEPARTMENT TO EXPEND UP TO THREE HUNDRED NINETEEN THOUSAND DOLLARS (\$319,000.00) FROM THE ECONOMIC DEVELOPMENT FUND FOR THE DESIGN AND CONSTRUCTION OF UP TO THIRTEEN (13) PROPOSED TRAFFIC SIGNALS**

was adopted.

**EXPENDITURE**

On motion of Councilman Taylor, seconded by Councilwoman Hurley,

**A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE PUBLIC WORKS DEPARTMENT TO EXPEND UP TO TWO HUNDRED FIVE THOUSAND DOLLARS (\$205,000.00) FROM THE ECONOMIC DEVELOPMENT FUND FOR THE DESIGN AND CONSTRUCTION OF STREET FURNITURE AND THE CHANGE-OUT OF PEDESTRIAN LAMP FIXTURES ALONG MARKET STREET, SIXTH (6<sup>TH</sup>) STREET THROUGH MARTIN LUTHER KING BOULEVARD**

was adopted.

**CONTRACT: WASTE-TECH, INC.,  
NOVAC & ASSOCITES, AND HYCOR  
CORPORATION**

On motion of Councilwoman Rutherford, seconded by Councilwoman Hurley,

**A RESOLUTION AUTHORIZING THE AWARD OF CONTRACT NO. CSO-5c(EP)-99, CITICO CSO CONTROL FACILITY EQUIPMENT PROCUREMENT, TO WASTE-TECH, INC. FOR SCREENING DEVICES FOR THEIR BID IN THE AMOUNT OF SIXTY-SEVEN THOUSAND, NINE HUNDRED FORTY-FIVE DOLLARS (\$67,945.00); TO GRANDE, NOVAC & ASSOCIATES FOR TIPPING BUCKETS FOR THEIR LOW BID IN THE AMOUNT OF FORTY-TWO THOUSAND, SEVEN HUNDRED SEVENTY-SIX DOLLARS (\$42,776.00); AND TO HYCOR CORPORATION FOR SCREENING DEVICES FOR TREMENT STREET CSO FOR THEIR BID IN THE AMOUNT OF TWO HUNDRED NINETEEN THOUSAND DOLLARS (\$219,000.00)**

was adopted.



**TEMPORARY USE: FOUNTAIN DRUGS**

On motion of Councilman Taylor, seconded by Councilman Crockett,

**A RESOLUTION AUTHORIZING FOUNTAIN DRUGS TO USE TEMPORARILY THE CITY'S RIGHT-OF-WAY AT 710 MARKET STREET FOR ATTACHMENT OF A SIGN TO THE BUILDING ON A MAST ARM SEVENTEEN (17) FEET ABOVE THE SIDEWALK AND PROJECTING FIVE (5) FEET, SIX (6) INCHES OUT OVER THE SIDEWALK AS SHOWN ON THE SKETCHES ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS**

was adopted.

**REFER TO PLANNING**

On motion of Councilman Hakeem, seconded by Councilman Pierce,

**A RESOLUTION REFERRING TO THE CHATTANOOGA-HAMILTON COUNTY REGIONAL PLANNING COMMISSION CERTAIN PROPERTY LOCATED AT 1725 NORTH ORCHARD KNOB AVENUE, BEING ON THE NORTHWEST LINE OF ORCHARD KNOB AVENUE AT OLIVE STREET, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE, FOR POSSIBLE REZONING TO C-5 NEIGHBORHOOD COMMERCIAL ZONE, SUBJECT TO THE CONDITION THAT NO BEER SALES SHALL BE PERMITTED**

was adopted.

**GRANT: U.S. DEPARTMENT OF JUSTICE**

Councilman Taylor stated this matter was heard in the Safety Committee and is recommended for approval.

On motion of Councilman Taylor, seconded by Councilwoman Hurley,

**A RESOLUTION AUTHORIZING THE CHIEF OF POLICE TO APPLY FOR A GRANT FROM THE UNITED STATES DEPARTMENT OF JUSTICE, LOCAL LAW ENFORCEMENT BLOCK GRANT PROGRAM FOR 1999, IN THE AMOUNT OF SIX HUNDRED SEVENTEEN THOUSAND, FOUR HUNDRED TWENTY-FIVE DOLLARS (\$617,425.00), WHICH, IF AWARDED, WILL REQUIRE LOCAL MATCHING FUNDS OF TEN PERCENT (10%) OF THE GRANT, WITH HAMILTON COUNTY RECEIVING ONE HUNDRED THIRTY-FOUR THOUSAND, SIX HUNDRED DOLLARS (\$134,600.00) AND THE CITY OF CHATTANOOGA RECEIVING FOUR HUNDRED EIGHTY-TWO THOUSAND, EIGHT HUNDRED TWENTY-FIVE DOLLARS (\$482,825.00) OF SAID GRANT FUNDS**

was adopted.

**PROPERTY ACQUISITION**

On motion of Councilman Hakeem, seconded by Councilman Taylor,

**A RESOLUTION AUTHORIZING THE ACQUISITION OF CERTAIN PROPERTY LOCATED AT 804 CENTRAL AVENUE FOR THE INNER CITY DEVELOPMENT CORPORATION FOR A CONSIDERATION OF FOURTEEN THOUSAND DOLLARS (\$14,000.00)**

was adopted.

**OVERTIME**

Overtime for the week ending August 20, 1999 totaled \$16,824.32.

**PERSONNEL**

The following personnel matters were reported for the General Services Department:

EDWARD M. LAWLER, SR. -- Termination, Security Guard, General Services Maintenance, effective July 15, 1999.

**PERSONNEL (Continued)**

ALAN L. GOINS -- New Hire, Custodian, General Services Maintenance, Pay Grade 2/Step 1, \$14,115.00 annually, effective August 2, 1999.

MIRIO A. GURROLA -- Transfer, Crew Worker, Sr., General Services Maintenance, Pay Grade 5/Step 3, \$19,205.00 annually, effective August 20, 1999.

JAMES E. PURYEAR -- Transfer, Custodian, General Services Maintenance, Pay Grade 2/Step 2, \$14,821.00 annually, effective July 23, 1999.

**PERSONNEL**

The following personnel matters were reported for the Public Works Department:

ALONZO STRICKLAND -- Promotion, Sanitation Worker, City-wide Services, Pay Grade 6/Step 7, \$24,332.00 annually, effective August 18, 1999.

JAMES R. BROWN -- Resignation, Concrete Worker, City-wide Services, effective July 29, 1999.

TERRY CARTER -- Suspension (4 days without pay), Equipment Operator, City-wide Services, effective August 12, 13, 16, 1999.

JAMES BRANDON -- Dismissal, Crew Worker, City-wide Services, effective August 11, 1999.

ST. CLAIR BORNGNE' -- Resignation, Light Equipment Operator, City-wide Services, effective August 10, 1999.

**PURCHASES**

On motion of Councilwoman Rutherford, seconded by Councilman Taylor, the following purchases were approved for use by the Public Works Department:

**SYNTHETIC INDUSTRIES (Best Bid)**  
**Requisition No. R0039000**

Twelve Months Requirements Contract for Erosion Control Blanket

**(Price information available and filed with minute material of this date)**

**PURCHASES (Continued)**

**BURCH-LOWE, INC. (Best Bid)**  
**Requisition No. R0040976**

Asphalt Compactor (Roller)

\$87,883.00

**FURROW-JUSTICE MACHINERY (Best and only bid)**  
**Requisition No. R0041084**

Boom Mower, 21" Mid-Mounted Articulated, Severe Duty

\$133,690.00

**CENTERLINE INDUSTRIES (Best bid)**  
**Requisition No. R0042853**

Yellow Water Based Traffic Paint, White Water Based Traffic Paint

\$15,895.00

**CLARK ASSOCIATES (Only bid)**  
**Requisition No. R0037238**

Xerox 8825-2C DDS, Digital Document System, CALCOMP SOLUS4 Model, 54423 (Trade-in)

\$21,650.00

**TENNESSEE VALLEY ICE**  
**Requisition No. P0009398**

Extension of Contract for Ice for an Additional Twelve Months per City Code, Section2-342, Paragraph V

**(Price information available and filed with minute material of this date)**

**PERSONNEL**

The following personnel matters ere reported for the Chattanooga Police Department:

DEWAYNE V. PRATER -- Voluntary Demotion, Service Technician, Pay Grade 3/Step 1, \$15,230.00 annually, effective August 27, 1999.

CARSON HENNESSEE -- 14 day suspension, Police Officer, effective August 19, 1999.

Councilwoman Hurley inquired as to the 14-day suspension reported by the Department. Chief Dotson stated the suspension was given to an officer who basically failed to carry out his duties; that it was basically due to negligence.

**PURCHASE**

On motion of Councilman Hakeem, seconded by Councilman Taylor, the following purchase was approved for use by the Chattanooga Police Department:

**WOLF CAMERA #448 (Only vendor bidding all 60 items)**  
**Requisition No. P0012929**

Contract for Photographic Supplies (6) Months Requirements

**(Price information available and filed with minute material of this date)**

**BOARD APPOINTMENTS**

On motion of Councilman Taylor, seconded by Councilwoman Rutherford, the following Board appointments were approved:

**BOARD OF SIGN APPEALS:**

- Reappointment of **CHARLES R. O'MARY** (representing District 1) and **BRAD ALLEN** (representing District 4) for terms ending July 31, 2002.

**CHATTANOOGA HUMAN RIGHTS/HUMAN RELATIONS COMMISSION:**

- Appointment of **MRS. JAMESETTA HUDSON** (representing District 7) for a term ending August 31, 2002.

**COMMITTEES**

Councilman Hakeem **cancelled** the meeting of the **Budget, Finance and Personnel Committee** scheduled for **Tuesday, August 31**.

Councilwoman Rutherford reminded Council members of the **Parks and Recreation Committee** meeting scheduled for **Tuesday, August 31 at 4 p.m.**

Councilman Taylor scheduled a meeting of the **Safety Committee** for **Tuesday, August 31 immediately following the Parks and Recreation Committee** to discuss an amendment to the Pawnbrokers Ordinance.

Councilman Eaves scheduled a meeting of the **Legal and Legislative Committee** for **Tuesday, August 31 immediately following the Safety Committee** to discuss the Lease Agreement/Memorandum of Understanding with the 28<sup>th</sup> Legislative District Community Development Corporation relative to property located at 815 Hickory Street tabled from tonight's meeting.

**HEARING: RANDY NABORS**

City Attorney Nelson stated the Randy Nabors hearing from last night needs to be rescheduled. Mr. Nabor's hearing was **rescheduled for Monday, October 4 at 6 p.m.** with Councilmen Hurley (Chairman), Franklin and Lively serving as the panel hearing the request.

**SMART GROWTH PUBLIC HEARING**

Chairman Lively reminded Council members of the public hearing regarding the Smart Growth plan scheduled for Thursday, August 26 beginning at 5 p.m. in the Council Assembly Room.

**HEARING: REGINALD FINLEY**

Council members were reminded of the personnel hearing for Reginald Finley scheduled for Monday, August 30 at 6 p.m. with Councilmen Crockett (Chair), Eaves and Rutherford serving as the panel hearing the request.

**ATTY. ARVIN REINGOLD**

Atty. Arvin Reingold stated that he represents Mr. and Mrs. Fairbanks and asked that their application for rezoning be referred back to Planning for referral back to the Council for reconsideration.

City Attorney Nelson asked if this is the rezoning the Council denied. Atty. Reingold stated the Council denied it four weeks ago and (he) is asking that the Council refer it back (to Planning) for reconsideration.

City Attorney Nelson stated the only way to bring it back within nine months is that the Council sends it back. Councilman Pierce stated that it was his thoughts that if a certain number of Council members agreed it can be referred back.

City Attorney Nelson responded "no;" that this is not like the one the Council denied on Orchard Knob.

**At this point Councilman Eaves made the motion to refer the matter back to Planning; Councilman Pierce seconded the motion.**

Chairman Lively stated a motion has been made to refer the matter back to the Planning agency.

Councilman Taylor asked for clarification; that it is his understanding this rezoning was denied by the Council.

Atty. Reingold responded "that is correct;" that it should go back through the process.

Councilwoman Rutherford asked if this is the rezoning request that was going to be for C-2. Atty. Reingold responded "no, the request was for C-5."

Councilwoman Rutherford asked if this is in the part of Gunbarrel that no "C" zoning is being done in.

Councilman Hakeem asked for clarification on the "C" zoning for the area in question.

Barry Bennett explained that there is commercial zoning at the intersection of East Brainerd Road and Gunbarrel; that C-2 was approved at the intersection of Gunbarrel and Igou Gap Road. He stated all the properties between these two intersections along the strip on either side are either R-4 or O-1, which is in conformance with the policy that is currently in that area. He stated there have been a number of commercial zones that have been turned down or discouraged from applying because of the policy.

**ATTY. ARVIN REINGOLD (Continued)**

Councilman Eaves stated there is "C" zoning in several places along this area; that when he looked at this he noticed that it did not touch any "R" zoning, unless a day care is considered an R-1 zoning. He stated the only thing behind this property with "R" zoning is an R-4 which is covered by a retention pond and there can be no building on it. He stated Mr. Fairbanks is not going to have a curb cut into his place as the day care center which is next door has signed an agreement with him and the few people he has coming to his salon that they will use the common driveway between them, thereby preventing another curb cut into the street.

Councilman Taylor tried to refresh his memory as it relates to the situation and asked if there is any way to postpone this until next week. He stated since it was denied he would like to look at all the evidence surrounding the property before making a decision to send it back to Planning.

Councilwoman Rutherford asked if the "C" zoning in that location was there prior to the study being done and the recommendation.

Mr. Bennett stated all the commercial that is there now has been there for several years prior to the adoption of the policy with the single exception of the 38 acre tract that CBL has at Igou Gap. He stated the reason the CBL property was considered to be different was because there was going to be controlled access to a shopping center at the major intersection as opposed to an individual strip commercial center.

Councilwoman Rutherford asked if the policy has been violated since it has been in effect. Mr. Bennett responded "not in regard to strip development."

Atty. Reingold stated the Fairbanks are not suggesting it be a strip center; that they will have ingress and egress, which has been reduced by joining into an agreement with the adjoining owner. He stated he does not want it suggested that this would be a strip commercial enterprise; that it involves only one building occupied by the Fairbanks.

Mr. Bennett stated he is not suggesting this one development would be (strip development); that he is trying to avoid the establishment of a precedent of spot zoning along either side of Gunbarrel to encourage further development that will result in strip development similar to Brainerd Road.

Atty. Reingold stated Mr. Fairbanks has made a considerable concession by avoiding another curb cut.



**ATTY. ARVIN REINGOLD (Continued)**

Councilwoman Hurley stated she is not clear why everybody the Council turns down would not think they could come back on the next night or the following week for reconsideration. She stated there is no new information she is aware of and does remember what the vote was. She stated the Council would be setting a precedent to have it come back and argue the case either way by starting it through the process again.

Councilman Pierce asked what is happening (on the property), whether this is the original zoning to C-5. Atty. Reingold stated they have new information and want the matter to go back to the Planning Commission and Staff.

**On roll call vote of the motion and second by Councilmen Eaves and Pierce to refer the matter back to Planning:**

<b>Taylor</b>	<b>"No"</b>
<b>Rutherford</b>	<b>"No"</b>
<b>Pierce</b>	<b>"Yes"</b>
<b>Hurley</b>	<b>"No"</b>
<b>Hakeem</b>	<b>"Yes"</b>
<b>Franklin</b>	<b>"Yes"</b>
<b>Eaves</b>	<b>"Yes"</b>
<b>Crockett</b>	<b>"No"</b>
<b>Lively</b>	<b>"No"</b>

**The motion failed.**

In casting his vote, Councilman Crockett stated Mr. Fairbanks talked with him and has a very impelling case; that he has an important business, which is much more important than he realized prior to talking with him. He expressed his concern with regard to the precedent and stated he has not heard as much a new case and new evidence as would give the Council a reason to reopen it. He stated the previous vote was 5-3-1 with three in favor and five against. He stated this is bad precedent and reluctantly voted "no."

Chairman Lively stated he talked with Mr. Fairbanks and looked at the problem and told him if he came back in nine months he would vote for it then; that his vote tonight is "no" as it is his thinking that it will set a bad precedent.

**MEETING RECESS**

Chairman Lively recessed the meeting until Thursday, August 26, 1999 at 5 p.m.

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**CHAIRMAN**

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**CLERK OF COUNCIL**

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

**Municipal Building  
Chattanooga, Tennessee  
August 26, 1999**

The recessed meeting of the Chattanooga Council was called to order by Vice Chairman Hakeem with Councilmen Crockett, Eaves, Franklin, Hurley, Pierce, Rutherford and Taylor present; Chairman Lively joined the meeting later.

Vice Chairman Hakeem stated today's meeting is the second of two scheduled public hearings regarding the City's Urban Growth Plan. He recognized the presence of State Representative Tommie Brown and members of the County Commission: Commissioners Adams (Chairman), Dr. Cassavant, JoAnn Favors, Jim Vincent, Charlotte Vandergriff and Harold Coker; Commissioner Cotton joined the meeting later.

At this point Vice Chairman Hakeem recognized Kenneth Hays, Chief of Staff to the Mayor of the City of Chattanooga.

Kenneth Hays stated this is a process that was started in August of last year after the State Legislature passed Public Chapter 1102, which was a Bill that was passed to promote orderly growth in Tennessee. He stated the City's growth boundaries will be presented and the Council will need to vote on the plan or the amended plan and send it to the Coordinating Committee, who in turn will adopt an overall comprehensive plan and send it back to each municipality and county for ratification. He stated one of the most encouraging things in the process is the relationship that governments have had with each other; that when the process started last August several Mayors of municipalities in our County did not know each other. He stated the meetings were held on a monthly basis with a Task Force involving many people throughout the County. At this point he introduced Mayor Kinsey, who continued the presentation of the Plan.

Mayor Kinsey stated this is an undertaking which took a tremendous staff effort and expressed thanks to Blake Drury, Yuen Lee, John Bridger and all Department heads for their time and effort. He indicated maps would be distributed closer to the end of the meeting explaining that the maps require one small change since their printing earlier in the day.

Mayor Kinsey began his presentation by chronicling the City's growth beginning in 1840 in map form through 1999 reflecting additional growth including Lookout Mountain, East Ridge, Signal Mount, Red Bank, Soddy-Daisy, the City of Collegedale and Lakesite. He presented a PowerPoint presentation reflecting the City's growth as of today with the current ten cities and their municipalities and indicated it has been amazing that the ten cities have been able to work together as well as they have toward making the entire region better off.

Mayor Kinsey made reference to the map and the different opportunities the City has for growth and stated to the west and the south are the mountains, Georgia, and Marion County where there is very little room for growth. He stated further north is Signal Mountain and Walden with steep slopes; that Soddy-Daisy is visible and little room for additional growth. A slide of Lakesite was shown with its current boundaries and Soddy-Daisy, where he also indicated there is very little room to grow for the City of Chattanooga.

Another slide was shown of Collegedale with its major ridges and slopes and it was indicated that this is a vibrant area with growing commercial opportunities. He made reference to the Volunteer site for future economic development and growth opportunities; that I-75, clearly with the Volunteer site, is going to be the future growth of this region; that all are going to be within the growth corridor and can see that happening both to the south and north with more and more growing together along I-75. He stated with Volunteer being the center of the growth of this region, this is the critical area to make sure we have the proper infrastructure in to take care of the needs of businesses that will locate here. He stated this is the area that will be mainly focused upon.

Another slide of Collegedale was shown to reflect their growth boundaries and what they will be proposing at their public hearing. Mayor Kinsey indicated Collegedale is increasing in size significantly and in every instance the City of Chattanooga has tried to work with other cities to minimize conflict to be able to provide services necessary. He stated the City is looking at including this in our boundaries to fill in the gap in the growth boundaries Collegedale came up with. At this point Councilman Eaves indicated that he thought the City of Chattanooga had originally agreed to the ridge line north of Collegedale and asked if that the way it is now. Mayor Kinsey responded "no." Mr. Hays stated that particular line does not go up to the Ooltewah exit; that we have not gotten up to that point, yet; that the slides reflected are still at the bottom section in the presentation.

Mayor Kinsey continued the presentation by showing Soddy-Daisy's growth boundaries and indicated Lakesite's anticipated growth. He stated we are trying to look at new growth; that we have Hixson Pike as a major transportation corridor for commercial and business opportunities. At this point he showed the ridge line that Councilman Eaves made reference to and indicated this area certainly needs to be looked at as I-75 runs along there.

Councilman Eaves stated that he thought the City was working out where the water flows in the watershed areas. Mayor Kinsey stated Councilman Eaves is right; that we are fortunate that was done in the City's fringe area study in 1996. He stated the areas that were studied in 1996 were followed and centered around drainage basins; that what we have looked at as our main growth area is along the Volunteer site and along I-75 and Highway 58. He expressed his belief that there are tremendous opportunities for this community to have additional commercial development in this area; that this is where it is believed growth will happen.

Mayor Kinsey stated this is a 20 year plan and we have to think big; that we are going to experience a lot of growth over the next 20 years. He stated this county and region are going to see more economic opportunities and see robust growth. He stated the City is looking at filling in some gaps in the Lookout Valley area where we already have services and are looking at going up the Suck Creek area where Signal Mountain Cement is doing a \$100 million expansion nearby; that there will be real opportunities to have additional growth. A slide was shown of the map of Hamilton County with the City's growth boundaries outlined, as well as the proposed boundaries and other cities. He pointed the portion on the side of Signal Mountain and indicated Signal Mountain and Walden are hopeful they will come down the mountain and take that particular portion in.

Mayor Kinsey concluded his presentation by displaying a statistical chart of the boundaries in numbers; wherein it reflected Collegedale's proposal will increase its size by 238%, Lakesite by 103%, Soddy-Daisy by 89% and the City of Chattanooga under 50%. He stated the City will need additional growth and planning for 20 years and beyond.

Vice Chairman Hakeem thanked Mayor Kinsey for his presentation and invited citizens and elected officials in attendance to express their concerns at this time.

**(CHAIRMAN LIVELY JOINED THE MEETING AT THIS POINT)**

Mr. Hays distributed color-coded maps with the urban growth boundaries reflected for each municipality and indicated major principals in each of the City's departments are available to answer questions people may have.

**Dale Cook**, Chief of the The Original Cherokee Nation, stated he wanted to express his Nation's position; that they have had a certain amount of conflict by various local towns wanting to encroach upon the boundaries and made reference to the five historic towns in the Chickamauga area, which is basically Hamilton County. He read a notice in its entirety which indicated that "Chattanooga does not have authority to annex areas which do not come within the boundaries of Hamilton County and/or the State of Tennessee . . ." **(A copy of Chief Cook's notice if filed with minute material of this date).**

Mr. Hays stated they are still working on a plan which did not get shaded in on the maps distributed which includes the area around the Hixson boundary. Mayor Kinsey pointed out the Creek and an area that will be included in the proposed boundary that is not on the map distributed.

Commissioner Charlotte Vandergriff stated she wanted to make sure as the District 3 County representative that she understands the map; that according to what the Mayor stated the dividing line was on Hixson Pike; that the map distributed shows it going over to Middle Valley Road.

Mayor Kinsey clarified that his comment was that Hixson Pike is where it is anticipated significant growth will be; that they looked at both sides of Hixson Pike.

Commissioner Vandergriff stated she was interested as to whether the boundary is at Middle Valley Road or Hixson Pike; that she could not see the larger map very well that was presented by PowerPoint presentation from where she was sitting.

Mayor Kinsey again clarified that they are looking at significant growth along Hixson Pike; that the line is at Middle Valley Road. Commissioner Vandergriff indicated that the Mayor's comment clears the issue.

**(COMMISSIONER WILLIAM COTTON JOINED THE MEETING AT THIS POINT.)**

**Russell Snyder** of Hixson stated his question is in regard to the Hixson corridor; that he is now being told by Planning that there will be no more commercial along Hixson Pike.

Mr. Hays stated he is not sure; that the matter will be clearly up to the legislative body to determine zoning in both the City and county; that the area is currently in Hamilton County and they are the approving zoning authority. He stated the Planning Commission and Staff recommends and the legislative bodies are the City and County.

Mr. Snyder asked what the plan is for annexation. Mr. Hays stated this is a 20-year growth plan; that the City will be working and looking area-by-area as City services are in certain areas. He stated there is no time table determined at this time; that the City is beginning the second stage of the urban coordinating committee process; that those are decisions that will be happening over the next 20 years. Mr. Snyder expressed thanks.

Vice Chairman Hakeem asked, in regard to services are we talking about going into an area and not providing services?

Mr. Hays stated State Law Public Chapter 1102 did basically say a city has to act like a city and provide services; that they laid out very strict requirements for delivering the plan for services and requirements and there are penalties. He stated what will happen over the next 20 years with this and other bodies throughout the State, the areas will be looked at more closely and more detailed work will be done and a more succinct plan of services will be done. He stated our department heads spent many hours looking at the plan of services; that other documents have to be completed to submit to the coordinating committee. He reiterated detailed work has to be done prior to recommendations to this body if annexation is to occur.

Mr. Snyder inquired as the time frame; that he was annexed 20 years ago and only three years ago received services; that he does not call that "timely."

**Steve Garvalink** of Middle Valley stated the time frame is vague; that he would like to know why the City continues to try to annex the areas of the county when it is clear the people of Middle Valley have asked not to be annexed; that they are trying to form their own community and has been courted by a number of areas.

Mr. Hays expressed that there is no timetable and will try to get a legal opinion. He reiterated that we are beginning the second stage of our urban boundary process and have not determined timetables for when annexations will take place. He stated he cannot say it any clearer; that they do not have the information on that. He stated how to prevent that is written in the law and Assistant City Attorney Phil Noblett will address that.

Atty. Phil Noblett stated the specific statutory requirement he is aware of are that there has to be a plan of growth; that this is the first time the City, County and State have looked forward to a plan for urban growth. He stated the area Mr. Garvalink specifically asked about will not be applicable to him; that they are looking at a plan which does not include areas of Middle Valley and the area he lives in is not included. Mr. Garvalink clarified "yes, it does (include him)."

Atty. Noblett stated the eastern side is the only reason Mr. Garvalink will be involved; that the timetable and plan of services will be a decision the Council will make at some point in time over the next 20 years. He stated if an area is annexed the City will have some knowledge of time to bring services to connect in a better method.

Mr. Garvalink stated the county has brought the sewers in; that he does not see any benefit he will receive with the doubling of his taxes if annexed. He stated the county is handling things well and he would like to stay within the county.

Atty. Noblett stated at some point in time if you have opportunity the matter can go before the court system; that there is no change in regard to filing an action report. He stated the growth boundaries do have some effect on what the burden of proof is and places it on an individual not receiving any reasonable services. He stated services can be provided by various departments who can give a better time of when services will be available.

Councilman Crockett stated there is not a planned timetable of annexation; that it is just a general growth project area and there is a great big difference in those two things. He stated he has heard it said from people who live right on the boundary close to the City and Hixson and areas on Highway 58 where there are completed sewers that that is the only service they received. He stated services were provided immediately upon annexation to him and everyone in Hixson and Highway 58, every single service with the exception of sewers. He stated that is the only service that was not immediately provided. He stated future annexations will have a much more definite service schedule and a much tighter time schedule than what was provided in the past.

Mr. Garvalink again asked why the City is trying to annex against people's will and why continue.

Mr. Hays stated that is a philosophical question that can be debated for hours; that we are the "hub" of the region and the "heart." He stated the viability of this region is going to be as strong as its largest city. He stated studies written say it could have been a very non-existing place with no funding for downtown and revitalization would not be there. He stated this City Council and Mayor has run a good government, lowered taxes for the first time in history and presented a lower capital budget. He stated the record of this community stands on its own; that cities cannot live in isolation and we must live as one; that it is a part of life!

Councilman Eaves stated three Councilmen on this Council were annexed in the early 1970's -- Councilmen Crockett, Lively and himself. He stated they were taken against their will and it was a real "donnybrook!" He stated prior to the early 1970 annexation it was put forth by the State that you had to deliver all services that the City has in a five-year period. He stated he would not want to take in an area without giving all the city's services including sewers within a five-year period. He stated it takes a long time to do pre-engineering work; that you have to dig up a lot of street, reiterating that he would not want to annex anything that we would not put full services in. He stated it should not take more than ninety days to give full services on most things.

Vice Chairman Hakeem asked if the City were to move forward in annexing some areas, would those persons living there be taxed prior to services? Mayor Kinsey responded "yes"; that services would be at the time of annexation as Councilman Crockett pointed out; that historically, all services have been there other than sewers. He stated we have to be ready; that sewers might not be there then, but they are not part of property taxes.

City Attorney Nelson stated as far as sewer service charges go that is not imposed until such time as sewers are actually available to each individual household or business; that those charges would not be available.

**Claire Hale** stated that she lives on Stringer's Ridge across the River; that there was discussion regarding infrastructure services and it is a great concern to her that there is growth. She stated as we grow she hopes we will not only rezone but will also consider design; that as we grow as a city we should have a beautiful city which will attract people the way Portland has.

Councilman Hakeem inquired as to how restrictive we would be on building homes or buildings in annexed areas. Mr. Hays responded that this law has nothing to do with zoning; that this is an urban growth plan; that zoning is still a matter between the Council and the Planning Commission.



Councilman Crockett stated that it is important distinction because this is more a process about boundaries than about how we grow and the things we want to grow, such as better jobs. He stated we want to grow a number of things; that discussions on how we will grow and what we will look like have not started, yet, reiterating that we are focusing on boundaries and how we will grow and prosper.

**Jim Kennedy**, CEO of the Chamber of Commerce, stated he serves on the Coordinating Committee and was present only to listen. He stated that it is worth making a note that this community's economic development future is tied up in what we are talking about today. He stated more and more we hear about and read about businesses wanting to locate in communities that are manageable and livable; that we hear about communities that are tired of the excesses that go with communities that have growth without some sort of direction and vision. He stated this growth plan will give this community direction and vision; that it is his sense that as we go about the business of trying to recruit new business and keep them here with us we are going to find more and more people interested in wanting to know what this will look like in 20 years. He stated that he knows there has been a lot of discussion about growth being restrictive; that some have said this plan is restrictive, regressive and limited. He stated it is important to take a broader view and realize that as we move into a new century all of us, including businesses, will be interested in this type of planning process and embrace it as progressive thinking, rather than restrictive. He echoed Mayor Kinsey's, Mr. Hays' and what the Council said about the process to this point as having been thoughtful and reflects a fairly marvelous avenue of cooperation.

**Commissioner Vandergriff** stated she represents about one-third of District 3 in the City. She stated the remaining two-thirds left in the unincorporated areas are comprised of people who live there because they have chosen not to be a part of the municipality, which is her greatest concern. She stated there was an effort underway to incorporate part of the Middle Valley area that was defeated; that she thinks those people she represents strongly would prefer to remain in an unincorporated area. She stated she is anxious to get all of this mapped together concerning all of Hamilton County to see what is left and how much will be unincorporated. She stated she needed to speak for the folks she represents and indicated that she lives in the City's limits.

**Patricia Rogers** stated we have been told what it means to be human around Chattanooga and there is a need to value all areas. She stated we will all have to pull together.

**Sister Bey** stated she is confused; that none of "her people" have seen any of the money that has been spent; that she is tired of being pushed around. She stated the more she understands the more she sees how slaves were treated and how "her people" have been kept down by trying to please some who never was and never will be pleased! She stated it is time to stop living in a dream and get down to reality!

Mr. Hays proposed that the resolution regarding the urban growth proposal be on the Council's agenda for formal adoption a week from Tuesday (September 7) so the Plan can be sent to the Coordinating Committee.

**On motion of Councilman Pierce, seconded by Councilwoman Hurley, the City Attorney was instructed to prepare a Resolution for the September 7 Council agenda; the motion passed.** It was indicated the Council will have an opportunity for questions at that time.

There being no further discussion, Councilmen Hurley and Pierce made the motion to adjourn the hearing; the motion passed.

**ADJOURNMENT**

Vice Chairman Hakeem adjourned the meeting until Tuesday, August 31, 1999 at 6 p.m.

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**CHAIRMAN**

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**CLERK OF COUNCIL**

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