

**City Council Building
Chattanooga, Tennessee
August 14, 2001
6:00 p.m.**

Chairman Hakeem called the meeting of the Chattanooga Council to order with Councilmen Benson, Franklin, Littlefield, Lively, Page, Pierce, Robinson and Taylor present. City Attorney Randall Nelson, Management Analyst Randy Burns and Council Clerk Carol O'Neal, CMC, were also present.

PLEDGE OF ALLEGIANCE/INVOCATION

Following the Pledge of Allegiance, Councilman Benson gave invocation.

MINUTE APPROVAL

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

REZONING

Councilman Taylor made the motion to move Ordinance 6(d) forward on the agenda; Councilman Franklin seconded the motion; the motion carried.

2001-092: Lemon Thomas, Jr.

Pursuant to notice of public hearing, the request of Lemon Thomas, Jr. to rezone a track of land located at 3804 Highland Avenue came on to be heard.

Jerry Pace, Planner with the Regional Planning Agency, stated that this request is located in the Alton Park community off 38th Street. He stated the property is surrounded by R-3 residential with the McCallie Homes complex directly across 38th Street. He stated at the time the matter came before the Planning Commission it was explained that the use was not for alcoholics anonymous but something similar. He stated that the Planning Commission and Staff recommend denial.

REZONING (Continued)

Mike Raulston was present representing Lemon Thomas. He stated his client withdraws any request for rezoning; that the intended use of the property does not fall under Ordinance 6958, Article V, Section 301 and is not a social agency. He stated that the intended use does not require rezoning as it is zoned for whatever use he intends to use it for.

Chairman Hakeem asked for clarification that the request is for withdrawal? Mr. Raulston responded, "yes".

Chairman Hakeem inquired as to the planned use for the property and how it figures into the zoning there?

Mr. Raulston stated that the property is zoned R-3; that churches are allowed and that is sufficient.

Chairman Hakeem asked if the use would be for an alcoholics anonymous clubhouse or something of that nature?

Mr. Raulston responded that that does not have anything to do with this issue.

Mr. Pace stated when the applicant came into the office to make his request, the intended use had to be stated on the application. He stated at the time, the applicant informed them that it was to be used as an alcoholics anonymous clubhouse; that whatever is on the file is what is taken as the applicant's word. He stated at the Planning Commission hearing there was discussion as to what the intended use meant and the applicant stated that there was no intention for the property to be used as an alcoholics anonymous clubhouse, but when the application was completed that is what was reflected. He stated they have to take the applicant at his word, as that is what was received in the office.

Chairman Hakeem asked Mr. Raulston if what he is saying is that the property is planned for use as a church?

Mr. Raulston stated that he was not saying that; that a church is allowed in that zone. He stated he is saying whatever use Mr. Thomas intends to make of his property falls within the parameters of R-3, unless it falls within the definition of R-4.

Chairman Hakeem stated that Mr. Raulston did not state what the use would be; that if he wants to take the chance of doing whatever it is the applicant wants to do with the possibility of being penalized by the law, he may do so.

REZONING (Continued)

Councilman Franklin asked City Attorney Nelson to read what is allowed in the R-3 zone.

City Attorney Nelson stated both R-3 and R-4 allow churches; that R-4 would be for a social agency-type thing such as alcoholics anonymous. He stated Mr. Raulston could withdraw the application at this own risk.

Mr. Raulston stated R-4 allows a social agency for alcohol and drug treatment and R-3 does not. He stated if the request is denied they would have to shut down a church, which would allow for meetings and is not a clubhouse; that it is not a treatment facility, only a meeting place for individuals as with any other.

Chairman Hakeem indicated to Mr. Raulston that he was playing "word games" with him.

Mr. Raulston stated that he was only a representative for Mr. Thomas and his intended use does not fall within R-4.

Councilman Franklin again asked Attorney Nelson to read from the Section as it relates to R-3 and what is not allowed.

City Attorney Nelson stated that the Ordinance only speaks of what is allowed. He stated the R-3 zone allows single-family and two-family dwellings, boarding houses, lodging houses, multiple family dwellings, schools, parks, playgrounds, community buildings, home occupations, accessory uses and buildings, to name a few. He stated by contrast R-4 permits social agencies and other non-commercial and semi-public uses.

Councilman Littlefield stated that the Ordinance speaks definitely of the uses and he is certain the issue of what is and is not a church has been weighed by a number of courts. He stated if the direction is suspect it would be left up to the building official to decide whether it is appropriate and then the appropriate court would decide. He stated if Mr. Raulston wishes to withdraw, so be it.

Councilman Pierce stated it is in order to make a motion to deny at this point and the Council would not have to worry about it coming back in a few months. At this point he **made the motion to deny the request; Councilman Taylor seconded the motion.** He asked if this matter would have to go before the Variance Board?

REZONING (Continued)

City Attorney Nelson stated in the first instance it could be interpreted by the building official and if anybody does not like his decision it can be appealed in court.

Councilman Pierce stated in terms of some type of facility he wondered whether the parking arrangements are adequate or not.

Councilman Hakeem informed Mr. Raulston that the residents of the community would be mindful and diligent in revealing what might be done in their community.

At this point, Councilman Taylor "called for the question".

On motion of Councilman Franklin, seconded by Councilman Taylor,

**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF
LAND LOCATED AT 3804 HIGHLAND AVENUE, MORE PARTICULARLY
DESCRIBED HEREIN, FROM R-3 RESIDENTIAL ZONE TO R-4 SPECIAL
ZONE**

was denied.

(AT THIS POINT, COUNCILMAN PIERCE EXCUSED HIMSELF FROM THE MEETING.)

CLOSE AND ABANDON

2001-024: Charles L. Harrison

In reading the caption of this Ordinance, the Clerk of the Council included the wording ". . . **and three unnamed alleys between the 1900 blocks of Central Avenue and Myrtle street**".

Chairman Hakeem stated that it was his thinking that the three alleys are not a part of this.

Mr. Pace stated this request is just below Rossville Avenue and the map happened to show the three alleys; that he is not sure why it is in the body of the Ordinance. He stated that that portion should be amended.

REZONING (Continued)

Councilman Franklin stated this matter was discussed in Public Works Committee today and the correction was made at that time. He stated the Committee recommends approval.

Mr. Pace stated the three smaller alleys on the north side are still under consideration from the City Engineer's office.

On motion of Councilman Franklin, seconded by Councilman Taylor,

AN ORDINANCE CLOSING AND ABANDONING PART OF THE OPENED 2000 BLOCK OF CENTRAL AVENUE RIGHT-OF-WAY, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS

passed first reading.

AMEND CITY CODE: PARKING METER ZONES

Councilman Franklin stated this request is recommended for approval pursuant to discussion in today's Public Works Committee.

On motion of Councilman Littlefield, seconded by Councilwoman Robinson,

AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 24, SECTION 24-505-SCHEDULE V, RELATIVE TO PARKING METER ZONES

was adopted.

REZONING

2001-090: Glenn Brainerd Partnership

Pursuant to notice of public hearing, the request of Glenn Brainerd Partnership to rezone a tract of land located at 5520 Hixson Pike came on to be heard.

The applicant was present; there was no opposition.

Mr. Pace read the conditions regarding this Ordinance requiring that there be Type B screening, no access to Cedar Creek Road and that all easements be retained. He stated C-6 is neighborhood commercial; that there is C-2 along Hixson Pike along both sides. He stated the recommendation from Planning and Staff is for approval with the conditions previously mentioned.

REZONING (Continued)

Councilman Page inquired as to the proposed use for the property?

Mr. Pace stated that the proposed use is for retail sales or storage, including automobile sales; that he is not exactly sure.

Mr. Page asked for clarification as to when the land use plan for this area will start and its completion?

Mr. Pace stated the plan was scheduled to start this summer but the Executive Office of the Regional Planning Agency pushed it back until the first of the year. He stated that would be a consideration if the Council wants to postpone this rezoning until the study is complete, which probably will not come before the Council until late spring of next year for the Hixson Pike area.

Elder Glenn, partner in the Glenn Brainerd Partnership, stated the Partnership owns the building. He stated at the time of application they thought they would like to change the zoning from C-6 to C-2 to put in storage buildings. He stated since that time they have decided to leave it retail, upgrade the property and divide it. He stated they would still like to be approved for C-2 to have the flexibility to use it for a storage facility or some other facility covered under C-2 if they elected to do so.

Councilman Page asked that Mr. Glenn explain more about the retail space development and inquired if he was also saying that the C-2 zoning would let him develop the retail space he is planning?

Mr. Glenn stated the retail plan is to upgrade and would be permissible under the C-6 present zoning; that since the Planning hearing they would like to be approved to have the flexibility to use it for some other purpose.

Councilwoman Robinson stated since there seems no sense of urgency about zoning there is a neighborhood plan scheduled to take place after the first of the year. She asked Mr. Glenn if his group would be inconvenienced by tabling this request since it will suit the needs for the immediate foreseeable future; that the community meeting could be held before coming back to the Council?

Mr. Glenn stated that it would not be an inconvenience and would hope not to have to make application again.

REZONING (Continued)

Councilman Benson expressed agreement with Councilwoman Robinson's comments, stating that what Mr. Glenn is requesting is speculative. He stated that it is his thinking that the Council frowns on speculative rezoning when it does not know the intent of the property. He stated Mr. Glenn would not have to file another petition and the Council would certainly hold off on this until a plan comes in. He suggested that the matter be deferred until the plan is completed.

Councilman Page asked if the applicant could come back in six months if this request is denied?

City Attorney Nelson responded it would be nine months if denied. He stated if the matter is deferred indefinitely, the applicant could come back and ask that it be placed on the agenda and it can be considered at that time.

Mr. Glenn stated that he looks forward to coming back before the Council in nine months.

Chairman Hakeem encouraged Mr. Glenn to keep in touch with the community and Mr. Pace.

On motion of Councilman Franklin, seconded by Councilman Taylor,

**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF
LAND LOCATED AT 5520 HIXSON PIKE, MORE PARTICULARLY
DESCRIBED HEREIN, FROM C-6 COMMERCIAL ZONE TO C-2
CONVENIENCE COMMERCIAL ZONE, SUBJECT TO CERTAIN
CONDITIONS**

was deferred indefinitely.

REZONING

Councilman Lively made the motion to move Ordinances 6(k) and (l) forward on the agenda; Councilman Franklin seconded the motion; the motion carried.

2001-105: Hamilton County

Pursuant to notice of public hearing, the request of Hamilton County Government to rezone a tract of land located at 2900 River port Road came on to be heard.

REZONING (Continued)

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

On motion of Councilman Lively, seconded by Councilman Franklin,

AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED AT 2900 RIVERPORT ROAD, MORE PARTICULARLY DESCRIBED HEREIN FROM M-1 MANUFACTURING ZONE TO C-2 CONVENIENCE COMMERCIAL ZONE, SUBJECT TO CERTAIN CONDITIONS

passed first reading.

REZONING

2001-106: Hamilton County Government

Pursuant to notice of public hearing, the request of Hamilton County Government to rezone a tract of land located at 1601 Market Street came on to be heard.

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

On motion of Councilman Lively, seconded by Councilwoman Robinson,

AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED AT 1601 MARKET STREET, MORE PARTICULARLY DESCRIBED HEREIN, FROM M-1 MANUFACTURING ZONE TO C-3 CENTRAL BUSINESS ZONE, SUBJECT TO CERTAIN CONDITIONS

passed first reading.

REZONING

2001-093: Jean Ann McAfee

Pursuant to notice of public hearing, the request of Jean Ann McAfee to rezone a tract of land located at 1212 Dartmouth Street came on to be heard.

The applicant was present; there was no opposition.

REZONING (Continued)

Mr. Pace stated that this request is located in the North Chattanooga, Rivermont area on Dartmouth Street. He stated the street plan shows bungalows of single family residential looking back toward Hixson Pike and across the street commercial generally faces Hixson Pike. He stated the request is for a bed and breakfast and the Staff and Planning Commission recommend denial, as it would not be in keeping with the single-family homes along Dartmouth Street.

Jean McAfee, applicant, stated that she purchased the home with the intent of expanding the building for her family and thought that it would make a good home to become a bed and breakfast or a guest house. She stated the property is located in a good area for people to walk to surrounding businesses, as Chattanooga has become a destination town. She stated next door to the house on one side is an Exxon, an office that faces Dartmouth, a catering company directly across the street and rental property on the other side. She stated that she understands the plan for the area and the difficulty in saying "yes" to one person is going to mean that it will be difficult to say "no" to the next. She stated that she believes she has a very good idea as she will be improving the property and improving the street, also. She stated there has been no opposition from the neighborhood and checked with the Planning Agency and found they did not have any phone calls regarding the matter in their telephone bank. She stated that she wants a better reason for denial than the single-family dwellings issue.

Councilman Lively stated from the photo in the PowerPoint presentation parking facilities appear to be limited.

Ms. McAfee responded "right"; that most of those parking at the single-family dwellings have at least one car on the street and because of that she provided a scaled drawing of the property and her intent to build it larger driveway with four parking spaces in the back of the back lot. She stated that she also plans to have a driveway from Dartmouth Street to the middle of the property; that she spoke with Mr. Burnett in the Traffic Division and was told she would be able to take the driveway to the back onto Tremont. She stated the parking places would be at the back lot where persons will have one way in from Dartmouth, park and then go out on Tremont.

Councilman Benson stated that he heard this request at Planning and it seems like a good idea but at a poor time period. He stated there is some degree of futuristic speculation in this and inquired as to whether she intends to enlarge the home for her family and later use it as a bed a breakfast?

REZONING (Continued)

Ms. McAfee responded, "yes", that it would be a couple years before she would actually do that.

Councilman Benson stated that the Planning Commission and Staff recommended rejection because of parking, conflict with the plan and because of the future speculated use rather than the present use. He stated Councilwoman Robinson knows more about the community plan.

Ms. McAfee expressed understanding; that when she looks next door and across the street she does not want to be the one the Council says "no" to.

Councilman Franklin inquired as to the square footage of the house at the present time and the proposed plan for enlargement.

Ms. McAfee stated that the house is presently 950 square feet and her plan would add 1,200 onto it. She stated that she has three children and needs a fairly large addition.

Councilwoman Robinson stated that she has spoken with the applicant and read the recommendations from Planning. She stated as the two of them talked about this, Ms. McAfee understands that this is an R-1 neighborhood and there is a plan in place. She stated if the Council spot zones to change the plan it does "open the door" for others; that there is a rental house next door and that would probably be the next item on the Council's agenda to continue the commercial change from R-1. She stated there is another point that was brought to her attention which are the single-story bungalow style houses; that all of them are single story and the plan called for this house is that it would be made into a two-story home, which would set it apart from the rest of the character on the street.

Ms. McAfee stated that she would not do that unless there is some restriction that says she could not. She stated she chose the house intending to do that before the idea of the bed and breakfast. She stated she plans to expand it to two stories unless she finds some restriction that does not allow her to do that and does not think that is the case.

Councilman Littlefield asked if there is a specified use for a bed and breakfast in the R-3 zone.

Mr. Pace responded that it is termed as a "boarding house"; that he does not know that it says "bed and breakfast".

REZONING (Continued)

At this point **Councilman Page made the motion to deny the request based upon the Planning Commission's recommendation for denial.** He stated that the request causes more speculation in nature and there is community plan that has been developed.

On motion of Councilman Page, seconded by Councilman Benson,
AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED AT 1212 DARTMOUTH ROAD, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO R-3 RESIDENTIAL
was denied.

CLOSE AND ABANDON

MR-2001-094: Brenda Short

The applicant was present; there was no opposition.

Councilman Franklin stated this request was discussed in Public Works Committee and approval is recommended.

On motion of Councilman Franklin, seconded by Councilman Lively,
AN ORDINANCE CLOSING AND ABANDONING AN UNOPENED ALLEY LOCATED BETWEEN PINE STREET AND WALNUT STREET, AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE
 passed first reading.

REZONING

2001-096: Bradley Paul Parker

Pursuant to notice of public hearing, the request of Bradley Paul Parker to rezone a tract of land located at 4009 Clio Avenue came on to be heard.

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

Mr. Pace stated this request is located in the East Lake area along Clio Avenue. He stated the Staff and Planning Commission recommend denial because the request protrudes into the residential area. He stated this would be detrimental to the community as businesses face Rossville Boulevard and traffic would be permitted through the lot to Clio Avenue for access.

REZONING (Continued)

Allison Edgmon was present representing the applicant. She asked that the matter be postponed until the next regular meeting (one week).

Councilman Taylor inquired as to the reason for the postponement? Ms. Edgmon responded that there is a need to look at additional petitions to see if the request is still needed.

Councilman Taylor made the motion to deny the request due to the R-2 integrity of the neighborhood and the residential-type homes therein; that he would like to keep the integrity of the neighborhood. **Councilman Page seconded the motion.**

Councilman Franklin asked Ms. Edgmon if her request was to postpone the request until the next zoning meeting? Ms. Edgmon responded "one week".

Chairman Hakeem asked if there is no need for the zoning change? Ms. Edgmon stated that she would like to help Mr. Parker in assessing what alternatives he might have; that he might still need it next week. She stated she would like to speak to him to determine what can be done.

Chairman Hakeem stated what is being requested is that the matter be deferred one month to determine whether the applicant might not require a zoning change. He stated this does not imply or infer that the matter would be passed. Ms. Edgmon expressed that she understood.

Chairman Hakeem then asked whether the matter would be deferred or move forward with the motion to deny? At this point, Councilman Taylor "called for the question" on the motion to deny.

On motion of Councilman Taylor, seconded by Councilman Page,

**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF
LAND LOCATED AT 4009 CLIO AVENUE, MORE PARTICULARLY
DESCRIBED HEREIN, FROM R-2 RESIDENTIAL ZONE TO C-2
CONVENIENCE COMMERCIAL ZONE**

was denied; on roll call vote:

Benson	"No"
Franklin	"No"
Littlefield	"Yes"
Lively	"No"
Page	"Yes"

REZONING (Continued)

Robinson	“Yes”
Taylor	“Yes”
Hakeem	“Yes”

REZONING**2001-098: Rick Stallard**

Pursuant to notice of public hearing, the request of Rick Stallard to rezone a tract of land located at 2403 Jenkins Road came on to be heard.

The applicant was present; there was no opposition.

Mr. Pace stated that the R-T/Z zoning to the south is presently under construction and to the north and across Jenkins Road is single-family housing. He stated directly across the street to the south is a new single-family subdivision along Jenkins Road. He stated the Planning Commission and Staff both made the recommendation to approve with certain conditions. He stated the applicant has met with the storm water and landscaping departments and has agreed to the terms of the berm and Type C landscaping of the property along the perimeter.

Rick Stallard, applicant, stated that he met with stormwater officials and the civil engineer and brought back a drawing that everyone agreed to; that he is happy and everything is fine.

Councilman Benson stated that this matter was brought before the Planning Commission and certain conditions have been established. He stated that he is very familiar with this as it slops toward his front yard and is anxious to know that the applicant really means to have compliance with the buffer and stormwater problem adjacent to the community. He made reference to a previous project that has been stalled for four years and expressed hope that Mr. Stallard's project would not be stalled as the other one.

Mr. Stallard stated that he is also having problems with that person because he did not do what he was supposed to do and it is hurting him (Stallard). He stated that he would do what he is supposed to do as quickly as possible.

Councilman Benson asked for clarification that Mr. Stallard's project was not speculative and that he has financing to proceed and get it done?

REZONING (Continued)

Mr. Stallard responded that he has financing and agreement has been expressed; that they cannot agree permanently until he gets the zoning change.

Mr. Pace stated that there would be a detention pond between the subdivision and Councilman Benson's property.

On motion of Councilman Benson, seconded by Councilman Littlefield,
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
 KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF
 LAND LOCATED AT 2403 JENKINS ROAD, MORE PARTICULARLY
 DESCRIBED HEREIN, FROM RZ-1 ZERO LOT LINE RESIDENTIAL ZONE TO
 R-T/Z RESIDENTIAL TOWNHOUSE/ZERO LOT LINE, SUBJECT TO CERTAIN
 CONDITIONS**

passed first reading.

REZONING

2001-099: Larry Plemons

Pursuant to notice of public hearing, the request of Larry Plemons to rezone a tract of land located at 1419 Labrea Drive came on to be heard.

The applicant was present; there was no opposition.

Mr. Pace stated this request is located in the airport area along Lee Highway. He stated that this project would be a continuation of the apartments that are in this area. He stated approval is recommended with the condition that there be access only from Vance Road to the site, leave a ten-foot existence of trees and vegetation along Labrea Drive right-of-way to the east and retention of all easements.

On motion of Councilman Lively, seconded by Councilman Littlefield,
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
 KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF
 LAND LOCATED AT 1419 LABREA DRIVE, MORE PARTICULARLY
 DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO R-3 RESIDENTIAL
 ZONE, SUBJECT TO CERTAIN CONDITIONS**

passed first reading.

REZONING

2001-104: Make-A-Wish Foundation

Pursuant to notice of public hearing, the request of the Make-A-Wish Foundation to rezone a tract of land located at 510 South Willow Street came on to be heard.

The applicant was present; there was no opposition.

Mr. Pace stated this request is located in the Ridgedale community. He indicated that there is R-4 across Willow, the Big Brother/Big Sister office and the Highland Park Baptist Church to the east along Bailey Avenue. He stated the Staff made the recommendation for denial due to the Ridgedale Plan adopted in 1998 and the Planning Commission recommended approval as they felt the use proposed for an office would be in keeping with similar type uses in a residential area, especially at the intersection of Bailey and Willow.

Chairman Hakeem inquired as to whether parking requirements will be met? Mr. Pace stated that the parking area is small and they will have to make improvements before opening their operation.

On motion of Councilman Franklin, seconded by Councilwoman Robinson
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
 KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF
 LAND LOCATED AT 510 SOUTH WILLOW STREET, MORE PARTICULARLY
 DESCRIBED HEREIN, FROM R-3 RESIDENTIAL ZONE TO R-4 SPECIAL
 ZONE**

passed first reading.

EASEMENT FOR RELOCATING POWER CABLES

Councilman Franklin stated Resolutions 7(a), (b) and (c) were discussed in Public Works Committee and approval is recommended.

On motion of Councilman Franklin, seconded by Councilman Littlefield,
**A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE
 DEPARTMENT OF PUBLIC WORKS TO EXECUTE ANY AND ALL
 DOCUMENTS FOR THE ELECTRIC POWER BOARD OF CHATTANOOGA
 RELATIVE TO AN EASEMENT FOR RELOCATING POWER CABLES AT
 NORTH MOORE ROAD, AS SHOWN ON THE MAP ATTACHED HERETO
 AND MADE A PART HEREIN BY REFERENCE**

was adopted.

**TEMPORARY USE: CHATTANOOGA PUBLISHING
COMPANY**

On motion of Councilwoman Robinson, seconded by Councilman Franklin,
**A RESOLUTION AUTHORIZING THE CHATTANOOGA PUBLISHING
 COMPANY TO USE TEMPORARILY THE CITY'S RIGHT-OF-WAY AT 400
 EAST 11TH STREET FOR INSTALLATION OF AN AWNING AND A SMALL
 LOADING DOCK, MORE PARTICULARLY DESCRIBED HEREIN, SUBJECT
 TO CERTAIN CONDITIONS**

was adopted.

AGREEMENT: VOLKERT & ASSOCIATES, INC.

On motion of Councilman Franklin, seconded by Councilman Littlefield,
**A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE
 DEPARTMENT OF PUBLIC WORKS TO EXECUTE AN ENGINEERING
 AGREEMENT WITH VOLKERT & ASSOCIATES, INC., RELATIVE TO
 ENGINEERING DESIGN SERVICES FOR CONTRACT NO. SS-3-01,
 MARKET STREET STREETScape FROM 12TH STREET TO 13TH STREET, FOR A
 TOTAL FEE NOT TO EXCEED FORTY-FIVE THOUSAND FIVE HUNDRED
 AND 00/100 DOLLARS (\$45,000.00)**

was adopted.

CERTIFIED TAX RATE DETERMINATION

City Attorney Nelson stated Tennessee law requires that after a general appraisal the City must certify what the amount of money would be on a tax rate to bring the same amount of dollars as the old rate. He stated in this case the old assessment would have been \$2.31 per hundred and the general appraisal went up 11-12 per cent, which necessitates adopting a certified tax rate of \$2.0360 per hundred dollars assessed valuation.

On motion of Councilman Littlefield, seconded by Councilman Franklin,
**A RESOLUTION PURSUANT TO TENNESSEE CODE ANNOTATED, SECTION
 67-5-1701, DETERMINING THE CERTIFIED TAX RATE AFTER THE GENERAL
 REAPPRAISAL DONE BY THE ASSESSOR'S OFFICE TO BE \$2.0360 PER
 HUNDRED DOLLARS ASSESSED VALUATION**

was adopted.

OVERTIME

Overtime for the week ending August 10, 2001 totaled \$93,543.70.

SUCCESSFUL TRACK COMPETITION: MARISSA THOMPSON AND SHAQUILLA BALL

As Chairperson of the Parks and Recreation Committee, Councilwoman Robinson stated that she was present at Lovell Field on Sunday to meet the arriving flights for two national champions, Marissa Thompson and Shaquilla Ball, who successfully competed in the National Hershey Track and Field Competition. She stated they came in first and second, respectively, in the National competition and wanted to extend congratulations to the young ladies who visited the Council last week.

Chairman Hakeem stated that the young ladies will be coming back before the Council again in the future.

PERSONNEL

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

JOSEPH B. WORMSLEY – Promotion, Equipment Operator Senior, Citywide Services, Pay Grade 8/Step 1, \$21,219.00 annually, effective March 21, 2001.

SHANE A. WHITE – Resignation, Heavy Equipment Operator, Waste Resources, effective August 9, 2001.

KENNYA J. TREMBLE – Family Medical Leave, Crew Worker Waste Resources, effective July 5 – September 5, 2001.

MELVIN J. THOMPSON – Transfer, Equipment Operator, Citywide Services, Pay Grade 6/Step 7, \$24,819.00 annually, effective August 15, 2001.

PERSONNEL

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

RODNEY BROWN – Return to Duty from Military Leave of Absence, Police Officer, effective July 25, 2001.

CARLOS L. HEARD – Resignation, Police Cadet, effective August 9, 2001.

JOY A. NELSON – Medical Leave of Absence, Communications Officer, effective July 25, 2001.

HEARING: KIMBERLY THOMAS AND TERRIOUS SMITH

City Attorney Nelson stated two hearings were set last week regarding Human Services Department terminations for Misses Thomas and Smith. He stated since that time he has become aware that the facts can be presented together and is the request of the Department and the individuals, as well.

A joint hearing for Kimberly Thomas and Terrious Smith was scheduled for Monday, September 10 beginning at 3 p.m. with Councilmen Lively (Chair), Littlefield and Franklin serving as the panel.

PUBLIC HEARING

City Attorney Nelson stated that the Council has set a certified tax rate and the budget is to be presented by the Mayor on next Tuesday. He stated he does not know what is going to be presented in the budget and there is anticipation that the Mayor may make a request for a tax rate increase. He stated before the tax rate can be increased there has to be a **public hearing**, which was tentatively set for **August 28, 2001 at the regular Council meeting**. He stated the public hearing would “cover” us in case there is a tax rate increase necessary, and if for any reason there is not a move for a tax increase, then a public hearing would not be necessary.

On motion of Councilman Littlefield, seconded by Councilman Taylor, the Clerk of the Council was authorized to advertise a public hearing for Tuesday, August 28, 2001 at the regular Council meeting.

PUBLIC HEARING (Continued)

Chairman Hakeem stated this is part of the process needed if there should be a tax increase and does not imply what the action of the Council will be.

City Attorney Nelson stated for the public, Council and administration to have a tax rate in effect as of the first of October, it takes twenty-one days in order to enact an ordinance from its first reading to the third reading, with the ordinance becoming effective two weeks after its adoption date. He stated the last date on which the Council can adopt a budget this year and still meet the State deadline would be September 11, which would mean that the first reading, at the latest, should take place on September 4. He stated it could be done on August 28 depending on the budget presentation and what action the Council wishes to take; that we do need to move, thus the reason to have a public hearing.

HIGHWAY 58 LAND USE STUDY

Councilman Page announced that the Highway 58 Land Use Study and Planning Session would commence with its first meeting on Thursday, August 23 at 6 p.m. at St. John Church.

COMMITTEES

Councilman Taylor stated the **Budget and Finance Committee will have its first meeting on August 21 at 4 p.m.** to hear the Mayor's budget presentation. Chairman Hakeem clarified that the Mayor's presentation is scheduled to take place in the Council Assembly Room at 4 p.m. and that Budget Committee meetings are scheduled for the next three weeks.

BOBBY PETTY

Bobby Petty, President of the East Lake Community Council, stated that another community council was formed approximately two-and-a-half years ago and that the lock on the building has been changed and his group cannot use the building. He stated they have to go to a park to have their meetings and there is a \$50 charge for those requesting use if they are not part of the Council. He stated persons have been transported out of the area to have their activities and made reference to having a video and photos of a group using the building and consuming alcoholic beverages.

BOBBY PETTY (Continued)

Mr. Petty stated no one seems to want to listen and asked what gives the other Council the right to deny access to the building?

Chairman Hakeem stated a meeting of the Parks and Recreation Committee is scheduled for August 21 and it is his initial thought to place the matter into that Committee unless the Council sees otherwise. He stated between now and then clarification can be sought as to the process and procedure and whether Mr. Petty's group should have a key or not.

Councilman Littlefield stated that he recalls that this matter came before the Council when the Council was first seated and there was a proposal for an arrangement within the neighborhood associations with the request for some type of lease; that is was never brought back to the Council. He stated the matter might possibly be worked out and it is a good move to put the matter into Committee.

Councilwoman Robinson stated that the matter can be discussed at that time and that it would be helpful if Mr. Petty and someone from the other group could be present, as well.

HOMER GOINS

Homer Goins stated that he has been living downstream from Hamilton Place for sometime. He stated after Hamilton Place was built he started getting flooded and was never flooded prior to this. He stated he sometimes get flooded as often as three times a month and the City has repeatedly promised to fix the problem but always says it will be "two or three years" down the road before a specific plan is offered. He stated when the time comes he looks for bulldozers, calls and finds that he is given some reason as to why they could not do it. He stated they then come up with another plan and he is told it would be another two or three years down the road and when that period of time has expired something else happens and another two or three years are added! He stated this has been going on since Hamilton Place opened in August of 1987; that it is something they should have taken care of up front and he would not be having this problem. He displayed photos and distributed written information regarding the matter and reiterated that he gets flooded each time it rains; that he gets 18 inches in his garage, that his car has flooded several times, has had heat pumps destroyed and push mowers. He stated it has been a tremendous nightmare for him!

HOMER GOINS (Continued)

Councilman Littlefield stated Mr. Goins is a retired Public Works employee; that he has known him for years and is a man of great integrity. He stated he has been away from the problem for quite some time and has suffered along with him. He asked Mr. Goins to give an estimate of dollar damage he has sustained from this occasional flooding.

Mr. Goins stated that he has duplexes and all five are involved; that he keeps prices on all five units at least \$100 under market and that it comes out to about \$60,000+ that he has lost. He stated he has not kept up with the heat pump bills and others; that he has a lot of bills since he is covered up with water and gets a lot of damage.

Councilman Benson stated that he knows Mr. Goins very well and appreciates Councilman Littlefield's remarks; that Mr. Goins does a lot for the community. He stated he has been under seize since 1987 with water running, air conditioners ruined and four houses on Robinson Drive that at one time had value until the water came in. He stated he has been to former Mayor Kinsey and has seen the chronology of all the paper of all the proper steps he has taken in trying to go through the right procedures. He stated he has had delays and just does not know what happened; that he has in writing promises this would be corrected by certain dates that he has brought with him. He stated the Council has an obligation to help this citizen if we participated in the damages. He stated if we let something go in upstream and was not properly inspected, he needs some attention. He stated Deputy Administrator Johnson is present and could work with him.

Mr. Goins stated he has talked with Phillip Lynn and Bill Payne and before then their predecessors; that the City has seized his property to dump stormwater runoff from Hamilton Place and he cannot sell it and it has totally disrupted his retirement plan.

Councilman Benson stated Mr. Goins could have sold the property if there was not a water problem; that he had to pull the property off the market.

Mr. Goins stated that he had three lots sold before the flooding began and then pulled them off the market.

Chairman Hakeem asked Deputy Admin. Johnson to respond to Mr. Goins' issues stating that it may be necessary to investigate and research the matter and get back with him. He expressed the Council's confidence in Mrs. Johnson and asked that he provide her with his name and telephone number prior to leaving.

HOMER GOINS (Continued)

Deputy Admin. Johnson asked that she be allowed an opportunity to check and find out exactly where this mater stands and come back in a couple weeks with a more definitive response to Mr. Goin's or the plan of action, if appropriate.

Chairman Hakeem asked if the report would be made at the August 28 meeting of the Public Works Committee? Deputy Admin. Johnson responded that they would make an effort to do that, and if not notification would be given ahead of time.

Councilman Littlefield made reference to Phase III of the stormwater project for that area as never having been built. He noticed that the City Engineer had left the Council building and indicated that he would hold that matter for discussion until the meeting of the Public Works Committee on the twenty-eighth.

ADJOURNMENT

Chairman Hakeem adjourned the meeting of the Chattanooga Council until Tuesday, August 21, 2001 at 6 p.m.

CHAIRMAN

CLERK OF COUNCIL

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