

**City Council Building  
Chattanooga, Tennessee  
December 10, 2002  
6:00 p.m.**

Chairman Littlefield called the meeting of the Chattanooga Council to order with Councilmen Benson, Franklin, Hakeem, 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, Chairman Littlefield gave invocation.

### **MINUTE APPROVAL**

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

### **SPECIAL PRESENTATION: CROATIAN DELEGATION**

Councilwoman Robinson stated this week in Chattanooga has been very special; that all have been honored by the presence of eleven visitors from Croatia who had been in town learning all they could in a short time about citizen participation. He stated that she is proud to see all eleven present tonight as another lesson in how Chattanooga can speak up and be heard. She welcomed the delegation and recognized Dr. Mark Chupp, Program Manager for the Civic Engagement Initiative at Cleveland State University in Ohio who helped organize this program. At this point, she presented Dr. Chupp and the citizens from Croatia with City of Chattanooga lapel pins.

Dr. Chupp stated that it was an honor for them to be present tonight and to be in this wonderful city this week. He stated their presence is part of the Project Initiative and Citizen Participation in Government Grant received from the U. S. Agency for International Development. He stated they were asked to select two cities under 200,000 in population that demonstrated model cities of citizen participation; that one was Cleveland Heights, Ohio and the other, Chattanooga. He stated Chattanooga has surpassed all their expectations! He stated the delegation consists of public officials from across the country of Croatia and Chattanooga will be "on the lips" of many people in Croatia in the future.

**SPECIAL PRESENTATION: CROATIAN DELEGATION**  
**(Continued)**

An interpreter for one of the delegates expressed regards to all citizens of Chattanooga, Council members the media and other representatives present tonight. She stated that the delegation comes from the cities of Rijeka, Varazdin, Bjelovar and Crikvenica in Croatia. She stated they have met many wonderful people in Chattanooga who are willing to share lessons as well as being nice and have made their stay extremely pleasant. She stated they will take the lessons learned back to Croatia and use them to the fullest extent. She thanked all for the lessons given, friendship and invited Council members to come see them in the beautiful country of Croatia.

Dr. Chupp thanked Councilwoman Robinson for making their trip possible.

Chairman Littlefield stated that this has been an international week in Chattanooga so far; that over the weekend was a delegation from Chattanooga's sister city of Wuxi, China and now this delegation from Croatia.

**SENATOR WARD CRUTCHFIELD AND JUDGE ARVIN REINGOLD**

Chairman Littlefield recognized the presence of Senator Ward Crutchfield, a major leader of the State Senate, and Judge Arvin Reingold, City Judge from East Ridge. He stated both are present in the capacity as private attorney, but elected officials, also.

**CLARENCE DODDS**

Councilman Taylor recognized the presence of Clarence Dodds, who has been active politically in Chattanooga.

**CLOSE AND ABANDON**

**MR-2002-186: Bryant M. Black**

On motion of Councilman Lively, seconded by Councilman Page,  
**AN ORDINANCE CLOSING AND ABANDONING UNOPENED AND UNUSED RIGHTS-OF-WAY AT THE REAR OF 105 EVERETT STREET, 400 BLOCK OF ALABAMA AVENUE AND ONE BLOCK OF FAIROAK PLACE, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS**

**CLOSE AND ABANDON (Continued)**

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

**REZONING**

**2002-162: James K. Glenn**

The applicant was not present; there was no opposition.

Jerry Pace, Director of Operations with the Regional Planning Agency (RPA), stated that this request was deferred from two months ago for a request to rezone to M-1 property located on Rossville Avenue near Jefferson Street. He stated at the time, the Staff made the recommendation that this case be deferred until the downtown plan is complete. He stated the plan is underway and, hopefully, will be completed around the first of the year or early 2003. He stated the recommendation from Planning is to approve the request for zoning to combine with the other M-1 property.

Councilman Pierce suggested that the matter be deferred for another forty-five days or until the downtown plan is complete. He asked that the applicant be notified of this.

City Attorney Nelson stated that the matter would be placed on the January 28 agenda.

On motion of Councilman Pierce, 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 1918 ROSSVILLE AVENUE, MORE PARTICULARLY  
DESCRIBED HEREIN, FROM R-3 RESIDENTIAL ZONE TO M-1  
MANUFACTURING ZONE**  
was deferred until January 28.

**REZONING**

**2002-192: Patricia Jennings**

Pursuant to public notice, the request of Patricia Jennings to rezone a tract of land located at 2011 Chamberlain Avenue came on to be heard.

## REZONING (Continued)

The applicant was present; there was no opposition.

Mr. Pace stated this request is located in the Highland Park area along Chamberlain. He stated property located west of Willow is generally all R-1 and is part of the overall down zoning plan adopted for Highland Park a few years back to R-1. He stated there is C-2 along Willow and Chamberlain with R-5 and R-3 in the area. He stated the request is for rezoning to R-4 for a beauty salon in a house, which would be used for that; that it will not be a residence but a beauty salon. He stated the request comes with a recommendation for denial from both the Planning Commission and Staff, as it is not in compliance with the adopted Highland Park Plan.

Patricia Jennings stated that she purchased the home at 2011 Chamberlain for the purpose of a salon; that she had been on Chamberlain for seventeen years west of that address. She stated that she purchased the house to put in a salon and also for a temporary residence. She stated there is C-2 in the area and did not think there would be a problem for R-4 because of the C-2 on the corner facing Chamberlain; that the opening does not face Willow, it faces on Chamberlain. She stated to the east are two empty lots; that she needs the zoning change due to State Cosmetology regulations that require her to have a sign outside to identify the business.

Judith Schorr of 601 Union Avenue stated that she is a member of the Highland Park Neighborhood Association and asked others present from the Association to stand. She stated that their opposition is due to the approved plan for the neighborhood, indicating that this is spot zoning and would "open the door" and set a precedent. She stated they have just overcome a "spotty reputation"; and it is felt to rezone this property as a business would be devastating and defeat all the progress and work they have done. She stated their neighborhood plan clearly defines the business area for Main Street, McCallie, Willow and Holtzclaw; that in six months five businesses have located in the proper zones. She stated today, because of the plan, there are thirty-six houses being restored and seven more will be renovated next year; that ninety houses have been completely restored and twenty-seven new houses built. She stated progress is being made; that businesses and homeowners and property owners are taking ownership of vacant land and building houses. She asked that the Council deny this request and keep the neighborhood interior as single family residential.

## REZONING (Continued)

Roger Barney, President of the Highland Park Neighborhood Association, stated that a lot of work is being done on Duncan with new fencing to connect with the family atmosphere. He stated people are spending a lot of money to develop their homes and the Association does not feel spot zoning would enhance the plan for the future.

Charles Shaw, a member of the Association, pointed out that the integrity of the plan is upheld by the Council each time. He stated the last time they had a "fight" like this was when someone purchased a building on McCallie and actually bought and erected a large sign before finding out it was not in the correct zone. He stated they do not like it when that happens, when people buy a building and then find out it is not in the right zoning; that they have fought it every time. He asked the Council to keep the integrity of the plan in tact.

Ms. Jennings stated that the salon is not going to destroy the neighborhood, indicating that she plans to have parking in the back yard available for four parking spaces. She stated the sign she would like to put up is not huge that will be seen from the interstate; that it is a small sign that the State Board can see when they come to inspect her salon to identify where she is. She stated she has been in business over thirty-five years and worked west of this location on Chamberlain for seventeen years. She stated it has been a pleasure for her to move to this location for her business as she has upgraded by moving there; that she rented for seventeen years at the former location on the corner. She stated it was mentioned at the Planning Commission meeting that her business could possibly be a buffer to the C-2 on the corner. She stated that she did not move to this location to degrade Highland Park; that she has been in business too long and she "fights" too. She stated the traffic controller came out and recommended four parking spaces that could be used from the back that go out into the alley and indicated she has done a lot of "fixing" inside; however, she has not "fixed up" the outside, yet.

**Councilman Hakeem** expressed appreciation for the effort put forth by Ms. Jennings and her sincere effort in the Highland Park community. He stated the reality of it is this community has turned itself around and the manner in which it was done is to have in place a neighborhood plan. He stated spot zoning is one thing and if we allow one, we would be "opening the door" to other businesses or entities who desire to come in. He stated great investments have been made in this community not only by the City but the property owners who have come in and renovated. At this point he **made the motion to deny the request** and uphold Planning and Staff's recommendation.

**REZONING (Continued)**

On motion of Councilman Hakeem, 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 2011 CHAMBERLAIN AVENUE, MORE  
PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO R-  
4 SPECIAL ZONE**  
was denied.

**AMEND CONDITIONS**

**2002-193: Pro Properties, G. P.**

Pursuant to public notice, the request of Pro Properties, G. P. to amend conditions imposed in Ordinance No. 10938 on property located at 935 Mountain Creek Road came on to be heard.

The applicant was present; there was no opposition.

Mr. Pace stated this request is located in the Mountain Creek Area and several years ago the property was rezoned C-2 with the condition that it be for the use of an existing building for self-storage. He stated the applicant has asked to lift the conditions so other portions can be used for additional storage on the property as reflected in the site plan. He stated the area is surrounded by R-1 to the east and west and to the north there is R-3 and an R-3 PUD, several complexes and RT-Z. He stated the property is the site of the former elementary school and reuse of older school buildings is welcomed. He stated there is a lot stored outside and the reason for amending the conditions is to have more storage inside. He stated the Staff made the recommendation to deny the request as it was felt the reuse was appropriate, but because of the residential along the area any additional structure on the building would be intrusive and should remain in place. He stated the Planning Commission recommended approval.

Mr. Harry Phillips stated Pro-Storage started five years ago with acquisition downtown and this is the second location. He stated that he met with the representatives of the City, Public Works and planning developers along Mountain Creek, as well as the residents and there is no opposition whatsoever, except for one person. He stated the biggest pluses are that they were able to take the old baseball field and recreation area and develop a nice indoor structure and do away with outdoor storage. He asked the Council for approval of this request.

**AMEND CONDITIONS (Continued)**

**Councilman Lively** stated these people have taken what was an eyesore and made a decent looking structure. He stated while it does appear to be infringing on residential there are actually mountains that set behind this facility. At this point he **made the motion for approval.**

Chairman Littlefield stated any discussion of additional screening the applicant proposes could be done between now and second and third reading.

On motion of Councilman Lively, seconded by Councilman Page,  
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO AMEND CERTAIN CONDITIONS IMPOSED IN ORDINANCE NO. 10838, ON PROPERTY LOCATED AT 935 MOUNTAIN CREEK ROAD, BEING MORE PARTICULARLY DESCRIBED HEREIN, SUBJECT TO CERTAIN CONDITIONS**  
passed first reading.

**REZONING**

**2002-196: Kuebler Builders, Inc.**

Pursuant to public notice, the request of Kuebler Builders, Inc. to rezone a tract of land located at 7640 East Brainerd Road came on to be heard.

The applicant was present; there was no opposition.

Mr. Pace stated there are three components to this case. He stated the first deals with rezoning and requested that cases 2002-210 and 2002-211 be moved forward. He stated 2002-210 lifts conditions on the original case on this property.

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

Mr. Pace continued by stating conditions are to be lifted in the first request that was placed on the property several years ago when East Brainerd Road was being widened and rezoned. He stated there was very little commercial along East Brainerd Road and no landscaping or stormwater provisions and the conditions were placed to make these things less intrusive into the neighborhood. He stated now that we have the ordinances in place the things proposed will take care of what the conditions placed.

**AMEND CONDITIONS (Continued)**

Mr. Pace stated it is recommended the conditions be lifted subject to other conditions added as indicated in the first case.

Chairman Littlefield asked if this is attached to the rezoning request or part of this case (amending conditions).

Mr. Pace stated it is part of 2002-210 and not part of conditions on the C-2 portion. At this point, maps were shown of the area being rezoned for case 2002-196 for an apartment complex on the rear portion of the property. He stated they want conditions on 2002-210 because it is on the C-2 portion to the north and is not being rezoned, but conditions are being lifted. Another map was shown of a smaller area zoned for an office complex on the front of the property with a condition attached for ingress and egress only onto East Brainerd Road, with no traffic through the Stratford subdivision to the west. He stated this is a fairly complex issue but involves one development; that Planning and Staff recommend approval.

Mark Kuebler of Kuebler Builders stated this involved a total of fifty-eight acres centering on a 360-unit apartment unit with fifteen buildings that will be put up in two phases. He stated the first phase will start in May of 2003 and the front ten acres will consist of an office retail-type development with a town center-type look.

On motion of Councilman Pierce, 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 7640 EAST BRAINERD ROAD, MORE PARTICULARLY  
DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE, R-5 RESIDENTIAL  
ZONE AND C-2 CONVENIENCE COMMERCIAL ZONE TO R-3  
RESIDENTIAL ZONE, SUBJECT TO CERTAIN CONDITIONS**  
passed first reading.

**REZONING**

**2002-211: Kuebler Builders, Inc.**

Pursuant to public notice, the request of Kuebler Builders, Inc. to rezone a tract of land located at 7640 East Brainerd Road (part) came on to be heard.

The applicant was present; there was no opposition.



**REZONING (Continued)**

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 7640 EAST BRAINERD ROAD (PART), MORE  
PARTICULARLY DESCRIBED HEREIN, FROM R-5 RESIDENTIAL ZONE TO C-  
2 CONVENIENCE COMMERCIAL ZONE**  
passed first reading.

**AMEND CONDITIONS**

**2002-210: Kuebler Builders, Inc.**

Pursuant to public notice, the request of Kuebler Builders, Inc. to amend conditions imposed in Ordinance No. 9563 on property located at 7640 East Brainerd Road came on to be heard.

The applicant was present; there was no opposition.

On motion of Councilman Benson, seconded by Councilman Lively,  
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,  
KNOWN AS THE ZONING ORDINANCE, SO AS TO AMEND CERTAIN  
CONDITIONS IMPOSED IN ORDINANCE NO. 9563, ON PROPERTY  
LOCATED AT 7640 EAST BRAINERD ROAD, BEING MORE PARTICULARLY  
DESCRIBED HEREIN, SUBJECT TO CERTAIN CONDITIONS**  
passed first reading.

**REZONING**

**2002-197: Hillard V. Wall**

Pursuant to public notice, the request of Hillard V. Wall to rezone tracts of land located at 3801 and 3803 Clio Avenue came on to be heard.

The applicant was present; opposition was in attendance.

Mr. Pace stated this request is located in the East Lake, Rossville Boulevard area for rezoning to C-2 for commercial in conjunction with auto sales along Rossville Boulevard for a parking lot of automobiles to be moved forward for sale. He stated there have been several other zoning along Clio Avenue between 37<sup>th</sup> and 42<sup>nd</sup> Streets with two rezoning approvals in 1969 and 1988 and two others in 1964 and 1970 for commercial uses.

## REZONING (Continued)

Mr. Pace stated one request to the south was rejected in 2001 for commercial back to Clio as it was felt Clio is residential and a very viable street and they have tried to maintain the integrity of the residential uses along Clio. He stated this request comes with a recommendation for denial by the Staff and with approval from the Planning Commission subject to conditions.

Atty. Crutchfield asked if it is possible to defer this matter until January 7 for an effort to talk with the residents of the area.

Jean Swafford of the East Lake Neighborhood Association stated this is a good neighborhood and they have a lot of good things "going"; that they have two new schools, a lovely park that is over 100 years old and a nice recreation center that is due for some improvement work. She stated they would like to keep this as a neighborhood and asked the Council to deny the rezoning.

Chairman Littlefield asked if there is any sympathy for delaying the matter until January 7. Ms. Swafford responded "fine".

Councilman Taylor stated that he appreciates everything Senator Crutchfield has done in working with the East Lake community to revitalize and keep this a thriving community. He also expressed appreciation to the neighborhood organization for their outstanding work and leadership. He stated the Council does not endorse commercial moving into residential neighborhoods because there is a community concern for revitalization and if commercial is allowed to continue to move forward into neighborhoods, the neighborhood deteriorates.

Atty. Crutchfield stated that he needs time to prepare and talk with the residents; that he has dealt with them before and consider them his friends. He stated that he is simply asking that the matter be "put over" until January 7.

Councilman Pierce inquired as to how the neighbors felt about this; whether they would be willing to come back. Ms. Swafford responded "yes, they would be back".

On motion of Councilman Taylor, seconded by Councilman Hakeem,  
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,  
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE TRACT OF  
LAND LOCATED AT 3801 AND 3803 CLIIO AVENUE, MORE  
PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO C-  
2 CONVENIENCE COMMERCIAL ZONE, SUBJECT TO CERTAIN  
CONDITIONS**

was tabled until January 7, 2003.

## **REZONING**

### **2002-199: The Nicolas Group**

Pursuant to public notice, the request of The Nicolas Group to rezone a tract of land located at 100 Sunnyside Drive came on to be heard.

The applicant was not present; there was no opposition.

Chairman Littlefield stated that a letter requesting withdrawal had been received from the applicant a few weeks ago. He stated the applicant does not plan to pursue the matter further; that the development group ran into a "buzz saw" and decided they would not carry it further.

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 100 SUNNYSIDE DRIVE, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO R-3 RESIDENTIAL ZONE**

**was withdrawn at the request of the applicant.**

## **REZONING**

### **2002-205: East Brainerd Youth Athletic Association, Inc.**

Pursuant to public notice, the request of the East Brainerd Athletic Association to rezone a tract of land located at 101 Batters Place came on to be heard.

The applicant was present; opposition was in attendance.

Mr. Pace stated this request is located in East Brainerd at the East Brainerd Youth Association Complex. He stated the site for rezoning to R-3 is for location of a cellular tower. He clarified that the Council would not be voting on the cell tower, only to rezone property R-3 so application can be made to the Board of Appeals for a cellular tower location. He stated the request was reviewed at Planning and did come with a recommendation for denial; that the Staff made the recommendation for approval and the Planning Commission felt it could be located on the property, but at a different location to be further away from residential uses in the area. He stated Planning rejected the request and sent the matter to the Council. He stated this would be a spot zone as it is not in an area desirable for the R-3 zone, which could expand into the future. He reiterated this would be a spot zone and the recommendation is for denial.

## REZONING (Continued)

Atty. Buddy Pressley, representing the East Brainerd Youth Athletic Association, stated that the history with this request began three months ago with an abandonment and removal of lot lines; that the property in question has significant deed restrictions related to use. He stated that the road was abandoned and the lot line for the purpose of moving forward for a potential cell tower construction; that the property has been used by the Athletic Association for over thirty years. He stated the tower issue has been very difficult and this case represents a unique effort that works well in trying to join two components in what would be the best use for the wireless technology and expansion of it and the necessity for more towers. He stated that it has become more difficult to find a good place to put this. He stated in this case a comparable example would be the Standifer Gap matter in the county on property that was owned by the county. He stated the East Brainerd Youth Athletic Association owns the property, which is a public benefit under Tennessee statutes.

Atty. Pressley continued by stating that the request for R-3 resulted from an informal opinion from the City Attorney that the tower statute uses a phrase "publicly owned property" that is not defined within the zoning statute; that an informal request was made of the City Attorney to clarify that. He stated clarification was that publicly owned property could only be city-county government owned property; that with that restriction considered, the Tennessee Supreme Court has enlarged the definition of what publicly owned property was, in his opinion. He stated there was no opposition to the road abandonment and having the lot lines removed; that they wanted to do the same process to tell everyone what we were doing and get approval so this could move forward. He stated the East Brainerd Youth Athletic Association is obviously a benefit to thousands of kids that use and benefit from that facility, and they have for many years. He stated the negotiation with the tower company resulted in a very favorable opportunity for the Athletic Association; that one of the unique aspects of this project that he sees is that this is an opportunity for two forces to join together – a tower company with a charitable organization and use that to provide benefits for these kids and put a tower much needed in that area where there is a "dead zone" where obstruction would be the minimal provided. He stated digital images were done to show how the tower would look potentially in the ball field area; that with the height of the pole already there that would be one of the least obtrusive areas to put one. He stated there is the necessity for the tower with the increase in demand of wireless technology exponentially compounding itself every year; that this seems to be a good combination for a place to locate something where nobody ever wants one in their backyard.

## REZONING (Continued)

Atty. Pressley stated initially with the City Attorney's interpretation of the zoning statute, they did not think they would have to be required to go to R-3 zoning if the publicly owned definition was viewed to include public benefit corporation. He stated the City Attorney takes a very different viewpoint and it was decided to take this route for the zoning change to R-3. He stated the benefit from the negotiations they had with the tower company, if they are able to complete this, will be tremendous for this organization and that area.

Johnny Woodruff, an attorney and resident of the area, stated that the residents are opposed to construction of the tower; that it would be within eyesight of many of them, including his residence. He stated the Hamilton Mill subdivision is the residential development immediately to the north of the property used by the East Brainerd Youth Athletic Association. He stated they are aware the ball field is there as they heard the games taking place even though they cannot see the building or players. He stated residents are opposed to the tower and opposition is widespread in the subdivision; that people currently living there are concerned and do not want the tower there and made reference to declining property values. He stated the Council is aware of the legal issue; that this is clearly a spot zoning request. He indicated further that it is not only spot zoning but a request for the Council to act in an arbitrary and capricious manner! He stated the entire area is zoned R-1; that houses are backed right up to the property line and residents on the other side are opposed to this. He stated they are sympathetic to the needs of the East Brainerd Youth Athletic Association; that residents are opposed to this. He asked the Council to deny the request.

Andy Hodes, a Realtor, Adjunct Professor at UTC and resident of Hamilton Mill, stated that he bought property in the subdivision because of the aesthetic beauty of the neighborhood; that he wanted to live in an area surrounded by single family homes. He stated their subdivision has restricted covenants that protect their investment and they are opposed to the request by the Association to rezone this small tract. He stated that he has spent a lot of time talking to persons in the neighborhood the past couple weeks and there is an overwhelming majority who are opposed and signed a petition that was presented to the Council. He stated they are opposed to changing the land for this use as it would affect property values and aesthetics of the neighborhood; that R-3 in the middle of R-1 does not make sense! He expressed appreciation for the Association and all that they bring and indicated that they understand the challenges they (Athletic Association) face in their budget. He asked the Council to deny this request.

## REZONING (Continued)

Dr. Irene Covington, of Long Drive, stated there are no "dead zones" in this area as she has no problem with cell tower reception. She pointed out that since this is a small spot zoning and almost in their back yards in an empty lot next to them, what would stop others from coming to ask for apartments in the future. She stated they do not need a spot zone; that little is known of the health effects of a tower. She stated if money is a problem with the Association, they need to talk to the county because the City has been funding the Association for a long time! She stated this would decrease the value of their property and asked the Council to deny this.

Atty. Pressley stated towers are always difficult issues, again referencing the matter at Standifer Gap, indicating that nothing decreased in value since 1999. He stated noise from the ball field is an issue for anyone buying a home in that area and the tower is not going to run any more restrictions with the lights there. He stated this tower is 200 feet from the property line pursuant to the ordinance; that it is a unique use and is something that would not be enlarged due to the way the property line is used and has been used for thirty-plus years. He stated on the matter of spot zoning, he does not view this as spot zoning.

Councilman Hakeem asked for a point of clarification and asked if he understood from Mr. Pressley in regard to the road closure that took place and abandonment of the lines that the effort was to come into compliance to construct a tower. He asked if the community understood that.

Atty. Pressley stated that there was a meeting at the ball field and Councilman Benson was there as well as others who were invited before the last meeting of the City Council. He stated this has not been a secret nor had the issue been hidden since "day one".

Councilman Benson strongly stated that he was told the closure and abandonment was to extend the parking lot; that he never heard anything about a cell tower.

Atty. Pressley stated he was not at the meeting, that his partner was (there).

Councilman Benson stated there was no mention of a cell tower; that he was told that the Association was extending the parking lot and the streets were closed to help on that.

## REZONING (Continued)

Atty. Pressley stated that he respects Councilman Benson as this is his district and residential community; that it has never been a secret what they were doing and they never tried to hide it. He stated at every Board meeting there were ten-to-twelve Board members there; that he does not dispute Councilman Benson.

Councilman Hakeem indicated to Atty. Pressley that he (Pressley) could not tell him (Hakeem) that Councilman Benson was aware of this when the meeting took place on the property; that he knew about the tower.

Atty. Pressley stated that he could not tell Councilman Hakeem anything about what Councilman Benson knows because he cannot read his mind!

Councilman Hakeem asked Atty. Pressley not to "play games with him"; that he had said he was not there at the meeting and should say that.

Atty. Pressley stated he was not there; that his partner was there. He stated he had a discussion with the President of the Association "way back" on that. He stated if there is any insinuation that any of this was to hide anything he takes great offense to that because there was not. He stated Councilman Benson is saying he does not know and he cannot dispute that because he (Benson) can speak on his own. He stated he has been involved in this since June or July and it has not been a secret.

Councilman Benson stated that it is a matter of record when we close alleys for the purpose for which they are closed. He asked Mr. Pace if there is anything in the record that said the alley was being closed for a cell tower.

Mr. Pace responded "not that he knows of" as he did not have the case before him. He stated that he did not think it was in the application to that effect.

Councilman Benson stated that was how he made the judgment on the alley; that in his mind he was helping to close to extend parking. He stated that they talked all the way out and encroached on a lady's property; that he does not want to argue about this.

Atty. Pressley stated that his reputation is involved and what he does in this town means something to him; that he is not impugned on this at all. He stated that he talked with every Board member and numerous people had discussions with Councilman Benson since this summer; that he (Pressley) never dealt with him (Benson).

### REZONING (Continued)

Councilman Benson stated that he told him (Pressley) to withdraw the request. **At this point Councilman Benson made the motion to deny the request.**

On motion of Councilman Benson, 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 101 BATTERS PLACE, MORE PARTICULARLY  
DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO R-3 RESIDENTIAL  
ZONE, SUBJECT TO CERTAIN CONDITIONS**  
was denied; Councilman Lively voted "no".

### REZONING

#### **2002-207: Ariosto Gallegos and Nubia Gonzalez**

Pursuant to public notice, the request of Ariosto Gallegos and Nubia Gonzalez to rezone a tract of land located at 200 Spring Creek Road came on to be heard.

The applicant was present; there was no opposition in attendance.

Chairman Littlefield stated Atty. Reingold has asked to delay this for a period of time; that it could be delayed since there is no opposition in attendance.

Atty. Reingold asked that the matter be delayed until January 7, 2003.

On motion of Councilman Lively, 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 200 SPRING CREEK ROAD, MORE PARTICULARLY  
DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO O-1 OFFICE  
ZONE**  
was tabled until January 7, 2003.



## REZONING

### **2002-208: John R. Haddock and Pamela S. Prince**

Pursuant to public notice the request of John R. Haddock and Pamela S. Prince to rezone a tract of land located at 7683 Shallowford Road came on to be heard.

The applicant was present; opposition was in attendance.

Mr. Pace stated this request is located in the East Brainerd community along Shallowford Road, east of the Ashford subdivision. He stated the request is for R-4 for a veterinary clinic. He stated the area is surrounded by R-1 and adjacent to R-4 to the west and O-1 to the west of that, and another O-1 to the west side of Ashwood Drive, with R-4 across the street. He stated the Staff and Planning recommend denial of this request as the area has gone through the planning process and adopted the Hamilton Place Neighborhood Community Plan and this request is in conflict with the plan. He stated two offices located on the other parcels were developed and put in place before the plan was adopted. He reiterated that the Staff and Planning Commission recommend denial.

John Haddock, applicant and Veterinarian, stated that he would like to do a background talk about the situation for the purpose of getting a deferment of the decision for three months. He stated that he talked with Councilman Benson about this several months ago and he directed him to do an R-1 PUD; that it might be a possibility for what he wanted to do and told him that he needed to talk to persons in Planning at the DRC. He stated that he talked with three of them at different times; that his purchase of the property was not contingent upon rezoning, that it was "take it or leave as is".

Dr. Haddock stated that he tried to protect his interest as much as he could by approaching Councilman Benson and the DRC people; that he was very surprised there was opposition to this based on their opinions. He stated he is fully aware of the corridor plan on the north side and would like, if possible, the chance to delay any decision for three months to give him a chance to look into doing the PUD and making it more palatable to all people involved, as well as approaching the subdivision around Ashwood and another neighborhood association. He stated that one of the big concerns about his animal hospital was noise; that there was a statement made recently at the Planning hearing that there would be no outside runs at this structure. He stated animal hospital do not build outside runs anymore as it is too hard to disinfect.

## REZONING (Continued)

Dr. Haddock made reference to photos of the property and the structure there, and stated the photo does not do the structure justice as it is on cinder blocks and is an eyesore beyond all belief. He stated that he wants an opportunity to try to make it more palatable and requested three months to do so.

Mr. Pace stated that a veterinary clinic is not permissible in an R-1 PUD; that it is strictly residential.

Norman Smith, Chairman of the Coalition of East Brainerd Neighborhoods, stated that most of those present tonight were present two years ago in October of 2000 when the Council decided having a plan; that in 2001 the effort was put forth to make the plan with the assistance of a professional consultant approved in October of last year and those of us who live out there have tried to defend the integrity of the plan ever since and intend to keep on! He stated in other cases where people have tried to make changes to the plan through rezoning requests, the Council has turned them down and this request is clearly a violation of the plan. He asked that the Council deny this one, too!

Jim Armstrong, Assistant to the President of the Ashwood Neighborhood Association, stated that Ashwood adjoins this property and has 186 homes in it. He stated that his comments are on behalf of the Association and several hundred of the other East Brainerd residents that participated in developing the East Brainerd land use plan. He stated as it was pointed out, they did go through this two years ago and the Council approved \$140,000 for the study and used out-of-town consultants. He stated that to approve this for the clinic and change the zoning to R-4 would be in direct conflict with the plan; that to approve this could be the beginning of erosion of the plan. He stated a veterinary clinic is not in the plan at all and changing to R-4 is not in the plan, either. He stated that he can safely say all of Ashwood is strongly opposed to changing the zoning and expressed appreciation for the Council's support in that regard.

Phillip Sale, a resident of Ashwood since 1993, stated that they used to go through zoning "stuff" every six months it seemed until RPA came in to do a study on what the land use should be and determined what the best use for it was. He stated they agreed with the study and everyone in the subdivision participated in it and attended numerous meetings to see how the plan was drawn up. He stated in going back to Councilman Hakeem's statement, once you start something and get to spot zoning, it will keep going and going. He urged the Council to abide by the plan and deny the rezoning request.

## REZONING (Continued)

Dr. Haddock asked if there was not going to be a deferment or decision on this.

Chairman Littlefield stated that Dr. Haddock has a right to ask for a deferment; that when the Council has discussion we will see.

Dr. Haddock stated that he had not intended to make a plea for anything other than deferment. He stated that the road is going to be widened dramatically and a large residential development is taking place next to him and traffic in the area will increase dramatically. He stated that he respects the Council's plan of the development of Shallowford; that this is an area in transition.

Councilman Benson indicated that the street was going to be widened; that TDOT had scheduled widening for five lanes, however, not now. He stated it is going to be reduced to a total of three lanes with a turning lane in the middle, sidewalks on both sides and a bike or pedestrian trail. He stated as far as traffic, Goodwin is due to be opened for relief and Igou Gap, we hope, will be widened. He stated the land use plan contains commercial zones where they already are and that is what is going "against" Dr. Haddock in this; that he is asking for business on land contained and restricted from any more business.

Councilman Benson stated that he talked to Dr. Haddock and checked his phone log and it indicated on September 17 he spoke with him, three months ago, and did not hear from him personally until this Friday, since September 17! He stated on that date he (Haddock) asked if it was possible to open a clinic on a parcel of land adjacent to the dentist's office. He stated that he told him that the dentist's office was approved prior to the adopted plan; that the consultant said stop and qualify what we have and work harmoniously together. He stated that he told Mr. Haddock of the two problems standing in his way with the first involving the restricted land use plan which calls for low-to-minimum density residential and the second was getting the adjacent neighborhood to agree to business in the community. Further, that he informed Mr. Haddock that he needed to address those issues prior to purchasing the land; that he does not know what happened with RPA as he did not hear from him since before last Friday and saw him at the Planning meeting two months later asking for a zoning change rather than abiding by the land use plan.

Councilman Benson continued by stating that he would like to have a decision made tonight as people have come out on this rainy cold night to preserve their neighborhood from intrusion of business and a veterinary clinic; that they feel deeply about it. He indicated that he felt sorry for Mr. Haddock and had empathy for him; that he told him on September 17 what the land use plan called for.

## REZONING (Continued)

Councilman Benson informed Mr. Haddock that he had no objection to the matter being withdrawn; that a deferral would make people come back again. He stated nothing is going to change and expressed sorrow if there was any breakdown in communication, reiterating that he had not had a chance to talk with Mr. Haddock since September 17 until recently last Friday.

At this point Mr. Haddock inquired as to what would happen if he withdrew the request.

Mr. Pace stated if the matter is withdrawn, the applicant would be allowed to bring a new request to planning at any time and would have to go through the same process. He stated if the matter is denied at this meeting the applicant would have to wait a minimum of nine months to reapply to planning, which would take about one year to come before this body. He stated the Staff discussed this with Dr. Haddock and indicated to him with the plan in place what the recommendation from Staff would be. He stated Dr. Haddock was told that the land use plan was in place and calls for low-to-medium density residential.

Councilman Benson stated if the Council rezones this the "spirit" of the plan would be violated.

Chairman Littlefield stated it has been suggested that the matter be withdrawn and the R-1 PUD had been mentioned. He stated in order to do that the applicant would have to have a specific plan that will take some time to accomplish which would involve an architect and it is a considerable process. He stated the time would probably not be significant either way; that the matter could either be denied or withdrawn.

Mr. Haddock asked to withdraw the request.

Chairman Littlefield asked that Mr. Haddock note what Mr. Pace had mentioned earlier, that in no case would a veterinary hospital be a permitted use in the R-1 PUD.

On motion of Councilman Hakeem, seconded by Councilman Lively,  
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,  
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF  
LAND LOCATED AT 7683 SHALLOWFORD ROAD, MORE PARTICULARLY  
DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO R-4 SPECIAL  
ZONE**

**was withdrawn at the request of the applicant.**

## REZONING

### **2002-209: Timothy Duckett**

Pursuant to public notice, the request of Timothy Duckett to rezone a tract of land located at 1323 Greenwood Road came on to be heard.

The applicant was not present; there was no opposition.

Councilman Franklin stated that he spoke with the applicant who requested that the matter be deferred for one week. He stated in light of what we know about the land use plan, there has been encroachment of commercial use southeast of Greenwood Road. He asked that the Council allow the applicant to be present at the next meeting.

On motion of Councilman Franklin, 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 1323 GREENWOOD ROAD, MORE PARTICULARLY  
DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO R-4 SPECIAL  
ZONE**  
was tabled one week.

## REZONING

### **2002-212: Billy Higley**

Pursuant to public notice, the request of Billy Higley to rezone a tract of land located at 2017 Dodson Avenue came on to be heard.

The applicant was present; opposition was in attendance.

Mr. Pace stated that this request is located in the Avondale community where there are a mixture of uses along Dodson Avenue including M-2, C-2 and R-2. He stated the request is for R-4 and C-2 on 4.4 acres for construction of an apartment complex along Dodson Avenue. He stated the Planning Staff and Chattanooga Housing Authority (CHA) are beginning the process for a development plan for land use in the East Chattanooga community. He stated the CHA is the "main player" in this plan and the recommendation was to defer this case until the planning process has taken place. He stated the applicant was insistent on moving forward; that Planning did not review this request as plausible and did make the recommendation for denial; that Staff made the recommendation to defer.

## **REZONING (Continued)**

Thomas Johnson, Architect for the project, and Billy Higley, owner of the property and applicant, were present. He stated Mr. Higley's current business is located on this property which is zoned M-2 and used for storage of bulldozers and dirt. He stated their interest initially was to convert from manufacturing to residential; that the original plan meets the guidelines for R-4 for apartments and they could have placed 160 units on the property, but cut it back to 120 to preserve green space on Dodson. He stated the neighborhood association in this area is not real excited about having a large apartment project and prefer to have more single family homes.

Mr. Johnson stated Mr. Higley met with a couple people in the neighborhood association as late as yesterday and proposed to change the original plan from all apartments to 40 apartment units and fourteen single family home lots. He stated this property has some 656 feet of frontage on Dodson with a manufacturing zone across the street; that his commercial property is basically fenced in and used for storage of bulldozers and equipment. He stated it would be a great benefit to convert from M-2 to R-4; that the corner property would be kept as C-2 which is the same as the original plan and instead of 120 apartments there will now be 40 apartments and fourteen single family homes. He stated the neighborhood association was adamant yesterday about having more single family and not building a really large apartment project. He stated that it is felt this is a good compromise to the plan and they are anxious to get the project started as funding has to be used within the next six months or they would lose their "shot" at it, which is why Planning was asked to deny rather than defer because they were afraid they would lose opportunity for funding. He stated the first building would have twenty units and they hope to build another building to get up to forty units and the remainder of the property would be converted to single family homes.

Billy Higley stated at the moment the property is zoned for manufacturing and he understands they are trying to redevelop and better the area. He stated this would be going from manufacturing to R-4 and would be a lot better for the area. He stated that he did speak with three gentlemen yesterday and they met in his office for an hour and a half for input. He stated they are concerned about a large apartment complex, which he understands; that they indicated they would prefer to see more single family homes and that is why he cut back dramatically to make everyone in the community happy.

Ron Cook, Pastor of Rock Island Baptist Church and Director of Inner-City Ministries, stated the Avondale Neighborhood Association is in the process of working with the Planning Commission in putting together a land use plan.

## REZONING (Continued)

Rev. Cook stated there is great concern in the community concerning the multi-family setup, duplexes and a number of other entities that make neighborhoods less desirable. He stated their intention is to move forward with a land use plan and put together a plan that would include those things that will allow the community to come back to the level it used to be. At this point he asked those of the community who were present on this rainy, cold night to stand to show their commitment to their community. He stated those present are interested in making sure as we move along in the planning process they can put together a plan that is acceptable as far as a community is concerned.

James Morgan, a member of the Association, stated that some eight-or-nine years ago this neighborhood was almost unheard of to have an association; that they really abandoned the neighborhood and the neighborhood "went down". He stated the reason why this group is out tonight is that they are in it for their existence; that a lot of "non-value added people" moved in and everyone knows what happens when that happens! He stated now people are afraid to come out at night and they are trying to come together to rebuild the neighborhood so they can be proud again. He stated that he met yesterday with the applicant and talked about the neighborhood and gave him the neighborhood's wholehearted support around single family homes. He stated they also told him if he is willing to do that they would work diligently to find buyers for those homes when they are built. He stated they asked the county to deny the request for an opportunity to work with Councilman Pierce, RPA and others to try to rebuild this area. He stated unless they rebuild the area it will go down, down, down; that when a neighborhood hits "rock bottom" it hits all of us.

Mr. Johnson stated that he is all for a plan and making it "stick" and sometimes something has to happen to get an area started; that this end was abandoned and all the buildings are boarded up. He stated that this industrial property can be converted into fourteen single family homes and apartments, to him, is a great step forward. He stated that he thinks Mr. Higley made good concessions in reducing the apartment project from 160 down to forty; that they are taking three-fourths of the land and turning it into single family residential homes which would be a benefit to the area and an asset to the plan once development.

Councilman Pierce inquired as to the prime use of the C-2 property.

Mr. Johnson responded that they are not sure yet, that it could be a neighborhood grocery store.

## REZONING (Continued)

Councilman Pierce asked if the multi-units would be developed first. Mr. Johnson responded "right". Councilman Pierce then asked the time frame for doing the development. Mr. Johnson responded that they would like to start immediately with the apartment project.

Councilman Pierce stated the single family housing would be developed on the end. Mr. Johnson stated that the apartment is the initial development and would take six-to-eight months to build. He stated the lots will have to be divided up and sold as lots for building on and sold as houses.

**Councilman Pierce** stated the Staff asked for a delay at Planning and for whatever reason Planning turned it down and passed it on to the City Council. He stated he does not know if giving more time the applicant would be able to work more with the neighborhood and come up with a real workable plan. At this point, he **made the motion to deny the request; Councilman Taylor seconded the motion.**

Councilman Franklin stated that the Council is very conscious of neighborhoods, especially when it comes to commercial and manufacturing encroaching into neighborhoods. He stated it appears that the multi-family proposed will come first, which is in conflict with the neighborhood association and what they are trying to do. He suggested that the applicant ask for withdrawal for an opportunity to work directly with the neighborhood and come up with something that will be in the highest interest of the whole neighborhood.

Mr. Johnson inquired as to how long it would take to develop the plan. Mr. Pace responded that the plan is presently getting underway and it would take a minimum of six months for that to occur.

Councilman Hakeem stated that this is nothing personal when it comes to the position the community is taking with the applicant; that this mind set would be there for any developer of the type of houses they are talking about. He stated this is not out of any malice but out of a feeling of being "put upon" for many years, feeling neglected and not receiving attention that other neighborhoods have received. He stated the City is about the business of turning that around and the community wants to be involved in the process from the beginning and not from someone coming forward with a plan and imposing themselves upon the neighborhood. At this point he called for the question on the motion to deny.



## REZONING (Continued)

Mr. Pace agreed the neighborhood should be involved and if the matter is voted for denial it would be a year before it could come back. He stated Dana Stoogenke is working with this and indicated that this plan would not begin until a year and a half from now. He asked if there is some way to bring this as a proposal to the community for them to work out rather than have it denied.

Councilman Hakeem stated in regard to tax credits, it is his understanding they have to be used in the next six months; that this is for the multi-family housing, yet the community wants single family. He stated in this state there are no tax credits for single family housing and does not know what would be gained by deferring the matter.

Mr. Pace stated if it is the community and Council's feeling that tax credits are a problem here, he would say having single family housing as a component is a good step.

Mr. Johnson asked if they would have to wait nine months if they changed to R-1. Mr. Pace stated if the matter is denied they would.

Chairman Littlefield reiterated that the "question" has been called.

Councilman Pierce stated that he does not know how the Council feels; that he is flexible in allowing withdrawal and would be amenable to that.

Mr. Johnson stated that if the land could not be developed for a year and a half Mr. Higley would rather withdraw.

Councilman Taylor stated there is a need to speak to the appropriate state department concerning the tax credit issue for use for single family housing. He stated hopefully this will be an opportunity for the president of the association to send a recommendation to the legislature for the incoming year.

**At this point, Councilmen Pierce and Taylor withdrew their motion and second to deny the request.**

On motion of Councilman Franklin, 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 2017 DODSON AVENUE, MORE PARTICULARLY  
DESCRIBED HEREIN, FROM M-2 LIGHT INDUSTRIAL ZONE TO R-4  
SPECIAL ZONE AND C-2 CONVENIENCE COMMERCIAL ZONE**  
was withdrawn at the request of the applicant.

## REZONING

### **2002-214: Robards Express, Inc.**

Pursuant to public notice, the request of Robards Express, Inc. to rezone a tract of land located at 2201 Hamill Road came on to be heard.

The applicant was present; opposition was in attendance.

Mr. Pace stated this request is located in the Hixson community near the railroad tract on Crescent Club Drive and is presently zoned O-1 and C-2. He stated there is R-1 to the north and east along Crescent Club Drive and to the south commercial and more single family residential. He stated the area was annexed into Chattanooga in 1974; that while in the county the portion next to the railroad and Hamill Road was C-2 with the remainder of the property zoned R-2A. He stated when the property was annexed into the City it was C-2 and O-1 and a portion of the property requested and rezoned commercial in 1988. He stated the Planning Commission and Staff made the recommendation to deny this request; that part of the North River-Hixson Plan calls for a commercial node at this area as it is presently. He stated to go to M-1 would violate the plan and there is no recommendation for manufacturing in the plan. He reiterated that both the Staff and Planning Commission recommend denial.

Attorney Howard Barnwell was present representing the applicant. He stated when this property was originally in Hamilton County prior to annexation in 1974, it was purchased in 1973 and Hamilton County records indicated the building on this property was originally for manufacturing and housed a chili manufacturing company. He stated that manufacturing company terminated and was immediately occupied by a sheet metal manufacturing company, and ultimately in the last two and a half years Robards Express rented part of the property from the owner and expanded his operation; that Mr. Skiles, who owns the property and retired, sold the property to Robards. He stated the problem they are receiving did not have an opportunity to be before Planning; that their situation is that they will supply a brief to Judge Williams as it has been indicated this is a legal matter grandfathered-in manufacturing there and what is now shown on the map in the left hand corner is M-3, which is serviced by an adjacent street. He stated the way the situation is now this property along Crescent Club Road was also deeded as a subservient twenty foot easement or driveway. He stated they are trying, in essence, to not develop that driveway as it is thought it would cause more traffic congestion in the area.

## REZONING (Continued)

Atty. Barnwell stated that the way the property is now is not zoned M-1 and is basically forcing an influx of the rigs onto Hamill Road at the railroad tracks and would be much safer means to allow them to come over the O-1 with the driveway serving as the storage area in the back of 2201 Hamill. He reiterated his thought that this property is grandfathered-in and that Judge Williams will make that decision. He asked the Council to legitimate their grandfathered use of the property.

Mr. Robards of Robards Express stated that he has been in service for two-to-three years and has had no complaints, no accidents or trucks causing an accident related to his trucks since he has been there and indicated that there is adequate room to make turns.

Atty. Ed Lane stated he was not present representing all the people in the neighborhood. He stated that some people signed petitions in reference to this who are opposed to it; that he did not encounter anyone in the community who supports this as all are against it and are alarmed at what was taking place. He stated the roads in that neighborhood are identical roads and not meant to accommodate sixteen wheel vehicles. He stated as Hamill is approached from Highway 153 the signs indicate "trucks of three axle or more not to enter"; that there is no way they can enter into that property the way the road network is concerned. He stated when they turn in there and cannot make the turn they will swing and run over markers and rub against the pole. He stated when they went to the Planning Commission Mr. Robards knew what they wanted and what the community voted for; that people made tremendous investments in homes in that area and reiterated that he has not met anyone who wants this. At this point he asked those in opposition from the community to stand. He stated they want to maintain and promote their community; that they have a greenway in the area and people from all over Chattanooga come over to walk. He stated this request is uncalled for and when it comes to grandfathering-in, he respectfully disagrees with Attorney Barnwell and will present this to His Honor (Judge Williams) when the time comes.

J. C. Knowlin stated that he lives at 2053 Crescent Club Drive and indicated in the last day or two there have not been as many trucks, but they come out at night. He stated when they turn out it was stated they have a lot of room, but when they come out they go up into the left lane and everything is blocked behind them; that it takes two lanes for a truck to turn. He stated that he moved to his residence in 1967 and raised two boys there and the only time he was away was for a six year time period during which time he did not sell his home. He stated that he is a minister and pastored a church in Cleveland, Tennessee for six years and moved back after his ministry.

## REZONING (Continued)

Mr. Knowlin continued by stating that that was the only time he was away from his home and to his knowledge the only manufacturing that was there that he knows about was the company that made chili blocks. He stated they have a wonderful community and really want to keep it that way. He asked that the Council deny this request.

Richard Welch stated that he has lived on Crescent Club Drive for thirty years and verified seeing the trucks coming and going all the time. He stated that the street is not wide enough to accommodate tractor trailers, and plain and simple this is spot zoning. He made reference to some thinking that a meat packing plant was housed at this location when it was actually a small business that made chili blocks that were sold to the Krystal Company. He asked the Council to deny the request.

Atty. Barnwell stated that the only thing he would state is that this is not a trucking terminal; that basically there are certain trucks that come by and most are owner operated trucks. He stated the only thing they are doing is using Crescent Club Lane for angling in so that the flow of traffic would be more safely entered into.

**Councilman Page** stated that he goes by that area every day of his life and Mr. Robards' operation is against the plan everyone worked so hard for for the North River area; that it is way out of the parameters. He stated it is very unsafe as he has seen trucks crossing the railroad trying to turn in, which is most difficult. He stated the road backs up and the high speed rail train that comes through the area is a most unsafe environment. He stated the trucks cannot make the turns and have torn down some of the rubberized poles that our Department of Safety and Traffic has put up to keep the intersection at 153 safe; that it is listed as the third most dangerous intersection in the City! He stated this request is out of zone and **made the motion for denial** stating that enough information will come out in court that will allow this operation not to continue; **Councilman Lively seconded the motion.**

Councilman Lively stated that he did not see how they could be considered as being grandfathered-in; that there has to be a business constantly in operation to do that and that is not true in this case; that this business started operating out-of-zone.

**REZONING (Continued)**

On motion of Councilman Page, seconded by Councilman Lively,  
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,  
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF  
LAND LOCATED AT 2201 HAMILL ROAD, MORE PARTICULARLY  
DESCRIBED HEREIN, FROM O-1 OFFICE ZONE AND C-2 CONVENIENCE  
COMMERCIAL ZONE TO M-1 MANUFACTURING ZONE**  
was denied.

**REZONING**

**2002-216: Paris Mundy**

Pursuant to public notice, the request of Paris Mundy to rezone a tract of land located at 2332 Hickory Valley Road came on to be heard.

The applicant was not present; there was no opposition.

On motion of Councilman Lively, seconded by Councilman Pierce,  
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,  
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF  
LAND LOCATED AT 2332 HICKORY VALLEY ROAD, MORE  
PARTICULARLY DESCRIBED HEREIN, FROM R-3 RESIDENTIAL ZONE TO R-  
4 SPECIAL ZONE**  
was denied.

**GRANT ACCEPTANCE**

Councilwoman Robinson stated Resolutions 7 (a), (b) and (c) were discussed in last week's Public Works Committee and approval is recommended.

On motion of Councilwoman Robinson, seconded by Councilman Franklin,  
**A RESOLUTION AUTHORIZING THE DIRECTOR OF THE OFFICE OF  
PERFORMANCE REVIEW TO APPLY FOR AND ACCEPT GRANTS FROM  
THE BUTLER FAMILY FUND AND THE MARY REYNOLDS BABCOCK  
FOUNDATION IN AMOUNTS OF UP TO SEVENTY THOUSAND DOLLARS  
(\$70,000.00), FOR DEVELOPMENT OF A PLAN TO ADDRESS  
HOMELESSNESS AND RELATED ISSUES**  
was adopted.

**GRANT ACCEPTANCE**

On motion of Councilman Franklin, seconded by Councilman Lively,  
**A RESOLUTION AUTHORIZING THE DIRECTOR OF THE OFFICE OF PERFORMANCE REVIEW TO APPLY FOR AND ACCEPT GRANTS FROM THE OPEN SOCIETY INSTITUTE AND THE JEHT FOUNDATION IN AMOUNTS OF UP TO SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00), RELATIVE TO DEVELOPMENT OF A PLAN TO ADDRESS THE IMPACT OF EX-OFFENDERS RETURNING TO CHATTANOOGA NEIGHBORHOODS**  
was adopted.

**GRANT ACCEPTANCE**

On motion of Councilman Hakeem, seconded by Councilwoman Robinson,  
**A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PARKS, RECREATION, ARTS AND CULTURE TO APPLY FOR AND ACCEPT A GRANT/AWARD FROM THE RUDY BRUNER FOUNDATION IN THE AMOUNT OF FIFTY THOUSAND DOLLARS (\$50,000.00), RELATIVE TO COOLIDGE PARK**  
was adopted.

**CONTRACT: TOWER CONSTRUCTION COMPANY**

Councilman Hakeem stated Resolutions 7(d) – (k) were discussed in Public Works Committee and approval is recommended.

On motion of Councilman Lively, seconded by Councilman Franklin,  
**A RESOLUTION AUTHORIZING THE AWARD OF CONTRACT NO. RW-3-01, ELDER MOUNTAIN ROAD AND O'GRADY DRIVE INTERSECTION IMPROVEMENTS, TO TOWER CONSTRUCTION COMPANY FOR AN AMOUNT NOT TO EXCEED ONE HUNDRED FORTY-TWO THOUSAND TWO HUNDRED SEVEN AND 07/100 DOLLARS (\$142,207.07) INCLUDING A CONTINGENCY AMOUNT OF TEN THOUSAND DOLLARS (\$10,000.00)**  
was adopted.

**CHANGE ORDER**

On motion of Councilman Hakeem, seconded by Councilman Franklin,  
**A RESOLUTION AUTHORIZING THE EXECUTION OF CHANGE ORDER NO. 14, RELATIVE TO THE DEVELOPMENT RESOURCE CENTER, CONTRACT NO. DRC-1-00, WITH J&J CONTRACTORS, INC., WHICH CHANGE ORDER INCREASES THE CONTRACT AMOUNT BY TWELVE THOUSAND NINE HUNDRED SIXTY-NINE DOLLARS (\$12,969.00), FOR A REVISED CONTRACT AMOUNT NOT TO EXCEED ELEVEN MILLION SEVEN HUNDRED EIGHTY-ONE THOUSAND SEVEN HUNDRED NINETY-ONE AND 50/100 DOLLARS (\$11,781,791.50)**  
was adopted.

**SEWER EASEMENT**

On motion of Councilman Hakeem, seconded by Councilman Franklin,  
**A RESOLUTION AUTHORIZING THE PURCHASE OF A PERMANENT SEWER EASEMENT FROM LARRY G. AND CONNIE L. ROBINSON, RELATIVE TO CONTRACT NO. 73B-3, HIXSON MARINA COLLECTION SYSTEM, PARCEL NO. 101-56.10, TRACT NO. 111, FOR AN AMOUNT NOT TO EXCEED EIGHTY-ONE DOLLARS (\$81.00)**  
was adopted.

**SEWER EASEMENT**

On motion of Councilman Hakeem, seconded by Councilman Franklin,  
**A RESOLUTION AUTHORIZING THE PURCHASE OF A PERMANENT SEWER EASEMENT FROM SAMMY C. AND ROBIN R. BOWEN, RELATIVE TO CONTRACT NO. 73B-3, HIXSON MARINA COLLECTION SYSTEM, PARCEL NO. 101-74.01, TRACT NO. 035, FOR AN AMOUNT NOT TO EXCEED FIVE THOUSAND SEVEN HUNDRED EIGHTY-THREE DOLLARS (\$5,783.00)**  
was adopted.

**SEWER EASEMENT**

On motion of Councilman Page, seconded by Councilman Pierce,  
**A RESOLUTION AUTHORIZING THE PURCHASE OF A PERMANENT SEWER EASEMENT FROM CHRISTOPHER A. AND MAUREEN L. WAHLERS, RELATIVE TO CONTRACT NO. 73B-3, HIXSON MARINA COLLECTION SYSTEM, PARCEL NO. 101G-B-033, TRACT NO. 067.1, FOR AN AMOUNT NOT TO EXCEED SIX HUNDRED DOLLARS (\$600.00)**  
was adopted.

**SEWER EASEMENT**

On motion of Councilman Lively, seconded by Councilman Franklin,  
**A RESOLUTION AUTHORIZING THE PURCHASE OF A PERMANENT SEWER EASEMENT FROM CHARLES W. HASSLER, JR., RELATIVE TO CONTRACT NO. 73B-3, HIXSON MARINA COLLECTION SYSTEM, PARCEL NO. 117J-C-032, TRACT NO. 18, FOR AN AMOUNT NOT TO EXCEED EIGHT HUNDRED THIRTY-THREE DOLLARS (\$833.00)**  
was adopted.

**CONTRACT: JDH COMPANY**

On motion of Councilman Hakeem, seconded by Councilman Franklin,  
**A RESOLUTION AUTHORIZING THE AWARD OF THE CONTRACT FOR REMOVAL AND REPLACEMENT OF THE ROOF AT FIRESTATION #14, TO JDH COMPANY FOR THEIR LOW BID IN THE AMOUNT OF THIRTY-EIGHT THOUSAND NINE HUNDRED FORTY-NINE DOLLARS (\$38,949.00)**  
was adopted.

**APPLY FOR GRANT**

On motion of Councilman Hakeem, seconded by Councilman Franklin,  
**A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO APPLY FOR AND, IF APPROVED, ACCEPT A GRANT FROM THE UNITED STATES DEPARTMENT OF ENVIRONMENT PROTECTION AGENCY, RELATIVE TO ENVIRONMENTAL ASSESSMENT IN THE VICINITY OF MARKET STREET, BROAD STREET, M.L. KING BOULEVARD AND ELEVENTH STREET IN THE AMOUNT OF TWO HUNDRED THOUSAND DOLLARS (\$200,000.00)**  
was adopted.

**OVERTIME**

Overtime for the week ending December 6, 2002 totaled \$40,977.67.

**PERSONNEL**

The following personnel matters were reported from the various departments:



## PERSONNEL (Continued)

### PUBLIC WORKS DEPARTMENT:

- ✍ **ALFRED F. JONES, JR.** – Resignation, Light Equipment Operator, Citywide Services, effective December 12, 2002.
- ✍ **BENNIE WARD** – Retirement, Heavy Equipment Operator, Citywide Services, effective December 31, 2002.
- ✍ **JOSEPH A. RODEN** – Retirement, Crew Supervisor, Citywide Services, effective December 31, 2002.
- ✍ **HERMAN BIVINS** – Family Medical Leave, Crew Worker, Citywide Services, effective December 2, 2002 – February 24, 2003.
- ✍ **STEPHEN W. SMITH** – Family Medical Leave, Citywide Services, effective December 4, 2002 – June 4, 2003.

### CHATTANOOGA POLICE DEPARTMENT:

- ✍ **REBECCA MORGAN** – Hire, Animal Services Officer, Pay Grade 9/Step 1, \$23,313.00 annually, effective December 13, 2002.
- ✍ **FRANCES VINE** – Hire, Police Records Clerk, Sr., Pay Grade 5/Step 1, \$18,674.00 annually, effective December 13, 2002.
- ✍ **CHARLES COOKE** – Family Medical Leave, Deputy Chief, effective December 9, 2002 – February 3, 2003.
- ✍ **KENNETH WEATHERS** – Resignation, Police Cadet, effective December 6, 2002.

### CHATTANOOGA FIRE DEPARTMENT:

- ✍ **RONALD WILSON** – Retirement (25± years of dedicated service), Lieutenant, effective December 27, 2002.
- ✍ **LARRY D. RICHEY, WILLIAM MADISON, GEORGE HUBBUCH** – Retirement ((25± years of dedicated service each), Captain, effective December 27, 2002.

## PERSONNEL (Continued)

- ✍ **STEVE HINES** – Retirement (25± years of dedicated service), Firefighter, effective December 13, 2002.

### NEIGHBORHOOD SERVICES DEPARTMENT:

- ✍ **MICHAEL COVINGTON** – Resignation, Special Projects Coordinator, effective December 12, 2002.

### CHATTANOOGA HUMAN SERVICES DEPARTMENT:

- ✍ **APRENTICE ROBERTS** – Promotion, Teacher, \$22,781.20 annually, effective November 25, 2002.
- ✍ **TAMISHA THOMAS** – Promotion, Teacher Assistant, \$13,000.00 annually, effective November 25, 2002.

### PARKS, RECREATION, ARTS AND CULTURE DEPARTMENT:

- ✍ **MARIO Q. RAMIREZ** – Termination, Crew Worker, effective November 7, 2002.
- ✍ **JAMES C. MOULDER** – Voluntary Demotion, Crew Worker, Sr., Pay Grade 5/Step 13, \$38,106.00 annually (no change in pay), effective November 15, 2002.
- ✍ **DANIEL STEPHENS, III** -- Hire, Crew Worker, Pay Grade 3/Step 1, \$18,100.00 annually, effective December 4, 2002.
- ✍ **KIM BATTLE** – Promotion, Recreation Program Coordinator, Pay Grade 14/Step 5, \$34,834.00 annually, effective November 29, 2002.

### FINANCE AND ADMINISTRATION DEPARTMENT, INFORMATION SERVICES DIVISION:

- ✍ **SAM WOFFORD** – Promotion, PC Services Technician, Pay Grade 9/Step 9, \$33,118.00 annually, effective November 29, 2002.

**HOTEL PERMITS**

On motion of Councilman Lively, seconded by Councilman Franklin, the following hotel permits were approved:

**PETTIT HOUSE B&B** – 109 Ochs Highway

**FRICKS MOTEL** – 3535 Cummings Highway

**CASA GRANDE DEL RIO** – 1420 O’Grady Drive

**PARK CITY HOTEL** – 2747 Cannon Street

**WELLESLEY INN** – 7620 Hamilton Park Drive

**PARK INN (FORMERLY COUNTRY HEARTH)** – 7638 Lee Highway

**EASTGATE MOTEL** – 5611 Brainerd Road

**LOOKOUT LAKE BED AND BREAKFAST** – 3408 Elder Mountain Road

**KNIGHTS INN** – 3655 Cummings Highway

**RODEWAY INN** – 2000 East 23<sup>rd</sup> Street

**PURCHASE**

On motion of Councilman Page, seconded by Councilman Pierce, the following purchase was approved for use by the Chattanooga Fire Department:

**MOUNTAIN VIEW FORD (Lowest and best bid)**

**R0054756/B0000734**

Ford Expedition

\$24,179.00

**REFUNDS**

On motion of Councilman Hakeem, seconded by Councilman Lively, the Administrator of Finance was authorized to issue the following refund:

**REFUNDS (Continued)**

**WELLS FARGO REAL ESTATE TAX SERVICE** – Property tax overpayment (Michael H. and Karen S. Martin), Bill No. 36702, \$1,306.58

**HEARING: BRIAN LITTLE**

The hearing for Brian Little was rescheduled for **Monday, January 27, 2003 beginning at 2 p.m.** with Councilmen Hakeem, Littlefield and Franklin serving as the panel; Councilman Lively will serve as alternate if needed.

**CERTIFICATION OF NOVEMBER 5 ELECTION**

City Attorney Nelson stated the Certification of Election as it relates to the six ordinances presented to the Election Commission for the November election has been received. He stated all six were adopted by the people, thereby changing the Charter of the City.

***Ordinance No. 11305 – 54.90% - Relating to fines in City Court, repealing the \$50 provision, which is still restricted by the State Constitution.***

***Ordinance No. 11306 – 66.78% - Repealing Section 2.12 of the Charter relating to city parking facilities.***

***Ordinance No. 11307 – 59.92% - Relating to delinquent taxes.***

***Ordinance No. 11308 – 78.30% - Relating to changing the Charter regarding sessions of City Court being held daily except holidays and weekends; that heretofore it stated every day except Sunday. (City Attorney Nelson stated this Ordinance received the “top vote”.)***

***Ordinance No. 11309 – 71.46% - Struck some of the things relating the “City Planning Commission” which no longer exists.***

***Ordinance No. 11310 – 54.45% - Related to costs in City Court.***

**On motion of Councilman Lively, seconded by Councilman Franklin the Certification document was accepted and spread upon the minutes.**

**CERTIFICATION OF NOVEMBER 5 ELECTION**  
**(Continued)**

Chairman Littlefield congratulated the Council, stating that this is the first time there has been a relatively "clean" and intact *Charter*, which will require it to be published and reprinted. He stated we now have a form of government that would not be confusing to anyone in the future!

**COMMITTEES**

Councilman Benson scheduled a meeting of the **Legal and Legislative Committee for Tuesday, December 17 beginning at 3 p.m.**

Councilman Franklin scheduled a **Safety Committee meeting for Tuesday, January 7, 2003 immediately following the Public Works Committee meeting.**

Councilman Hakeem scheduled a meeting of the **Public Works Committee for Tuesday, January 7, 2003 beginning at 4 p.m.**

Councilman Lively scheduled a meeting of the **Budget and Finance Committee for Tuesday, January 7, 2003 immediately following the Safety Committee meeting.**

**DISTRICT 4 UPDATE**

Councilman Benson stated on Thursday morning, December 12 at 9 a.m., the East Brainerd Hamilton Place Community Corporation will present a PowerPoint presentation in the Council Conference Room regarding what they are doing in the East Brainerd area and how something similar could be done in another district. He stated it is a thirty-minute presentation that will be viewed by the Mayor and Council members showing what has been accomplished and the implementation of the Hamilton Place Plan.

**DISTRICT 7 CHRISTMAS PARTY**

Councilman Taylor invited all Council members, department heads and neighborhood organizations to the District 7 Christmas Party to be held on Monday, December 16 at the South Chattanooga Recreation Center beginning at 6 p.m.

**REDISTRICTING NUMBERS**

Chairman Littlefield stated the preliminary numbers for the redistricting map are coming in and a meeting will be scheduled after the first of the year to discuss this matter.

**CLARENCE DODDS**

Clarence Dodds stated that he came to this City eighty years ago and it was a good City. He stated that he was present to ask the Council to do what God told Moses to do – “. . . let My people go!” He stated to make Ninth Street and McCallie Avenue two-way doesn't mean a thing and if you cannot change the image of the area the effort fails. He stated when he used to travel to California, New York and Miami people would ask where he was from, and when he mentioned that he was from Chattanooga, people would always mention Ninth Street; that Ninth Street had fifty-five murders and is the second largest City in the United States that needs a new image. He stated Chattanooga is a good city and he has been here since 1923.

**ADJOURNMENT**

Chairman Littlefield adjourned the meeting of the Chattanooga Council until Tuesday, December 17, 2002 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)**