

**City Council Building  
Chattanooga, Tennessee  
November 11, 2003  
6:00 p.m.**

Chairman Franklin called the meeting of the Chattanooga Council to order with Councilman Benson, Hakeem, 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, Pastor Chris Hanson of Trinity-Lutheran Church gave invocation.

**MINUTE APPROVAL**

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

**RECOGNITION OF RED BANK HIGH SCHOOL STUDENTS**

Councilman Page stated that he taught a class in American Government today at Red Bank High School and recognized the students present for the meeting from the class. He stated the students would receive "credit" for attending the Council meeting.

**AGREEMENT: KEN DEFOOR PROPERTIES**

**Councilman Page made the motion to move Resolution (g) forward on the agenda; Councilwoman Robinson seconded the motion; the motion carried.**

**AGREEMENT: KEN DEFOOR PROPERTIES**  
**(Continued)**

**Councilman Pierce made the motion to table this matter a week** because he was not aware of this until this afternoon. He stated it is his feeling there are some numbers that need to be looked at prior to acting at this present time. He stated he does not know what the underlying cost will be or anything about the floor plan.

**Councilman Littlefield** stated that it was his thought there would be discussion prior to getting to this point and knows that a tabling motion takes precedence over everything else. He stated that he has questions and just received the lease form Saturday and was a little surprised by the terms. He stated they are not that bad, yet was under the impression we had a situation that involved a favorable rate to the City; that in looking at the terms it appears to be pretty much the market rate. He stated he knows there were discussions of a gift of property associated with it, of arrangements with hospitals for parts of staffing and expressed concerned about staffing of the facility. He stated that he has not seen the floor plans for exactly what is proposed, plumbing plans or anything! He stated that he had hoped to be able to support it but would have to abstain. At this point he **seconded the motion to table**.

**On roll call vote on the motion by Councilmen Pierce and Littlefield to table the matter one week:**

Benson	No
Hakeem	No
Littlefield	Yes
Lively	No
Page	No
Pierce	Yes
Robinson	No
Taylor	No
Franklin	No

**The motion failed.**

**Councilmen Lively and Hakeem made the motion to adopt the Resolution.**

Councilman Littlefield stated that he has to confess that he did not hear all of the discussion at last week's committee meeting when it was first brought up, as it was the first he heard of it.

**AGREEMENT: KEN DEFOOR PROPERTIES**  
**(Continued)**

Councilman Littlefield stated he is absolutely in favor of Hixson having what they need to conduct their civic activities; that in the past he has supported a number of capital expenditures in Hixson, including Spangler Farm, ball fields, things with the North River Y, Rivermont Park -- just a number of projects in Hixson. He stated that he was a little surprised that they are not taking advantage of some of the space we have there and land. He stated his concern with this agreement is that it is a ten-year lease and has a pretty hefty price tag on it; that it is basically not outside the market but is the market! He stated this is not a situation where the City is getting a substantial benefit; that if the lease continues it will be \$78,300 per year with a built-in two percent escalator not to exceed five percent, which is pretty favorable to the developer. He stated there is a common area maintenance charge at \$2.75 per square foot on top of the lease, which is \$14,850 annually and that also has an escalator built-in!

Councilman Littlefield stated the utilities and others are normal "stuff" with the principal mechanical utilities of heating and air conditioning, which would all be our responsibility. He stated simply having this lease arrangement does not protect us from cost in that regard. He stated there is nothing built in as far as how to staff this; that there was discussion with the hospital up there yet there is nothing in writing. He stated he knows this is supposed to be a gift of land, but there is nothing in writing. He stated that he has a problem with approving something that has a lot of things that are not included in the aural details of the arrangement. He stated the best he will be able to do is abstain, as there are too many questions yet unanswered.

Councilman Benson stated in a way he supports what Councilman Littlefield has said. He stated the way this was presented last week he thought he understood and now others are telling him they did not. He stated that as he gets into it deeper he is prepared not to go with it tonight until second and third reading. At this point, it was clarified that this is a Resolution and only requires one vote (as opposed to three votes for an Ordinance). He then indicated since it is a Resolution, the Council would have to "fish or cut bait" now. He stated the problem about this is we do not have a business plan and that nobody would enter into a venture like this without a business plan or procedure of how to operate, maintain and costs down the road.

**AGREEMENT: KEN DEFOOR PROPERTIES**  
**(Continued)**

Councilman Benson stated that it is his thought this is a wonderful opportunity and the availability of this land and this building is something we should take advantage of, however, he indicated until he hears from Admin. Mitchell as to who will be responsible, who will have keys to open, close, operate, maintain and the cost it will take he cannot vote for it at all tonight. He stated he would love to and wished that it had been tabled. He indicated he would listen to the debate.

Councilman Page expressed appreciation for Councilmen Benson and Littlefield's questions, thoughts and concerns. He stated this was discussed in committee last week and apologized for not bringing it up more so everyone could better understand what has been planned toward the civic center. He stated with regard to a business plan, this is not Dan Page's, Sally Robinson's or John Lively's project; this is a community project and they do not have a business plan. He stated a lot of time was spent in charrettes where people in the community identified those things in the north river area they wanted. He stated in reference to the question with regard to staffing they would have to get something approved before they could go forward with that; that there has been discussion about it. He stated North Park Hospital wanted to participate and many of the people as we move forward will come forward and fill in some of the spaces that need expertise. He stated they certainly do want a facility developed in a professional manner that provides services for an area that has been void for many years. He reminded Council members and others this area does not have a community center; that there is a lot of interest in the community for health screenings, classes in diabetes and arthritis, passive recreational activities including chess, cards and other games, places for education and horticultural cooking. He stated there is a large number of retired people in the community who need and deserve services, cultural activities, art shows and poetry reading.

Councilman Page stated they are developing this civic center with today's dollars; that they are getting construction costs at today's dollars and the building is ninety percent complete now. He stated the price includes furniture and equipment, which is a tremendous asset to the facility. He stated there is free rent that will be included and if we do not buy it at a certain point, the cost in terms of the lease, would be minute. He stated the piece of property is strategically located near the Northgate Library that could have additional green space, near the post office and a lot of senior living space. He stated this is really an opportunity to develop that community.

**AGREEMENT: KEN DEFOOR PROPERTIES**  
**(Continued)**

Councilman Page asked Ken Defoor to come forward and speak in regard to the lease, including the furniture, equipment and donation of land, which he knows are some of the issues Councilmen Littlefield and Benson talked about.

Ken Defoor stated interior needs are spelled out on the drawing with tables and chairs, which was attached to the lease. He stated the price of the space that will be occupied is \$675,000 for 5,200 feet. He stated the price is a lot for ten years, however the emphasis of this development is there is a lot of property.

Mr. Defoor continued by stating this is basically at the market rate with free rent until March 1, 2004. He stated the project is already way over \$675,000 and all the interior needs are met including curtains, spotlights, tables, chairs, gardening sinks, extra cabinetry needed for meetings, ovens, ranges – all of that! He stated it was discovered the land between the library and building is beautiful and there is a ditch that is being bridged. He stated the area could provide for a gazebo and (even) extra parking for the library; that whatever is decided will be the City's after moving in. He stated it is being surveyed now and is approximately eight-tenths of one acre.

Councilman Pierce inquired as to the maintenance of the property.

Mr. Defoor stated the City does not have any maintenance; that he is the City's landlord. He stated the City would not be subject to cleaning; that if the City had a big shindig and leave the property with paper all over the parking lot the City would have to clean it up; that on a day-to-day basis there is no maintenance.

Councilman Pierce then inquired as to the interior and electrical expenses. Mr. Defoor stated the City would pay the utilities.

Councilman Hakeem asked Mr. Defoor if what is being proposed has been reviewed by administration and officials of the Parks and Recreation Department. Mr. Defoor responded "yes".

Councilman Hakeem stated he would venture to say just as the Brainerd Complex and the St. Elmo Recreation Center was reviewed by administration prior to coming to the Council this has, too. He stated that it is his understanding that a series of meetings were held and this is what the community desired, this is what they wanted. Mr. Defoor responded "yes".

**AGREEMENT: KEN DEFOOR PROPERTIES**  
**(Continued)**

Councilman Hakeem asked if this is an outgrowth of the 2008 Plan. Mr. Defoor again responded "yes".

Councilman Hakeem then asked if there is presently no recreation in the area of this community. Mr. Defoor responded "correct".

Councilman Hakeem then addressed comments to Councilman Page stating that he (Page) is a successful businessman and has observed him talk about projects in other Council members' areas that are considered prudent. He asked if Councilman Page sees this as a good deal or bad deal for the City.

Councilman Page expressed appreciation for Councilman Hakeem's confidence in him, adding that he sees this as an opportunity for an area strategically located to put a stake in building the future; that it is a good project.

Councilman Hakeem asked if it is Councilman Page's thought this is a good idea. Councilman Page responded, "it is a good idea".

Councilman Hakeem stated because of Councilman Page's history and track record on this Council, his (Page's) comments weigh very much with him (Hakeem).

Councilwoman Robinson stated in addition to the hundreds of people that attended this is where the North River-Hixson community begins and where the three districts represented by her, Lively and Page come together and triangulate. She stated this is the ground center for where the districts all come together and there were a huge number of people represented at Hixson High and other places, in addition to the advice and counsel they received from citizens during the process. She stated the Leadership Council has been in place for the past twelve months headed by Everett Fairchild and have been meeting regularly and moving forward. She stated this plan is very grounded in the community and really interprets what the citizens in the area expressed they wanted. She emphasized the unique position this civic center could occupy in the middle of the post office, library, hospital, mall and the triangulation and synergy it is believed it will be beneficial. She stated that she looks forward to occupying the same space with North Park and Memorial Hospitals and their Gold Circle of activities. She stated they have a good partnership and great deal of community and public support for this.

**AGREEMENT: KEN DEFOOR PROPERTIES**  
**(Continued)**

Councilman Taylor stated that it is his understanding the building is ninety percent complete and able to be moved into.

Mr. Defoor stated the building can be ready in thirty days if given the go ahead; that the City would not pay rent until March 1.

Councilman Taylor stated the building could be occupied in thirty days and wondered if it takes longer than thirty days would there be any adjustment in the time the rent is due beyond the March 1 date.

Mr. Defoor stated when the project started it included five-to-six months free rent; that there could be an extension out to June.

Councilman Taylor stated the \$675,000 price is locked in for ten years, so if it is decided the City would buy it could what is paid be used to "knock the price down" or would the City have to pay all of it at one time.

Mr. Defoor stated the price is for a full price offer at any time.

Councilman Taylor still asked for clarification that the full amount has to be paid; that the City could not pay \$100,000 this year toward the price.

Mr. Defoor responded, "of course"; that the rent payment is set for \$675,000 and will be adjusted accordingly. He stated the rent would be adjusted downwardly and does not know what the formula would be.

Councilman Taylor stated the building is \$75,000 and paying regular monthly notes of about \$100,000 would work toward the principle. Mr. Defoor responded, "yes"; that they would have to come to a formula of how much rent comes down and the balance on the loan, which could be achieved easily; that it can be done.

Councilman Taylor asked if Parks and Recreation would be responsible for the payments.

Councilman Page stated Parks and Recreation has been on board from "day one". He explained that Admin. Mitchell is out of the city this evening and did not think there would be too many questions or discussion since the matter was discussed in committee, otherwise he would be here. He stated this much additional discussion was not anticipated.

**AGREEMENT: KEN DEFOOR PROPERTIES**  
**(Continued)**

Councilman Taylor asked if the service by the Hospital would be charged or free. Councilman Page stated North Park Hospital is leasing under their auspices a portion of the building and will be paying for it. He stated they have another lease with Mr. Defoor and will lease a portion of the building.

Councilman Taylor stated in the part we are leasing would the hospital help to pay part. Councilman Page responded "no"; that this will be a facility open to many civic organizations and non-profits; that it will really be a total health movement. He stated there would be many organizations that may come in and provide a series particularly to seniors of the North River area.

Councilman Littlefield stated the City would have no maintenance charge but the lease includes maintenance to begin immediately. He stated the lease says \$2.75 per square foot to begin prior to rent.

Mr. Defoor stated that should not be there.

Councilman Littlefield stated it would cost \$14,850 annually and is all detailed. He stated that gain is reasonable; that everyone wants to do the best thing. He stated that he absolutely wants to see the people of Hixson have a civic center, but this was the first time he heard of furnishings. He stated he has not seen the floor plan, the schedule of detailing of furniture and something has been said about ranges. He stated he is used to considering plans for civic centers and has been doing it a long time; that many have not seen the floor plan and perhaps others have. He stated these are normal sorts of questions in expecting the Council to have the opportunity to look at what we are buying before paying what will become \$100,000 a year, and over a period of time it would be a one million dollar deal. He again reiterated that he wants the people of Hixson to have a civic center, but thinks the Council has the responsibility to know what the details are. He stated if we have a lease that says paying common maintenance at \$2.75 per square foot immediately and has an escalator clause we need some time to address that.

Mr. Defoor stated there is no need for common maintenance here; that the City is not responsible whatsoever.



**AGREEMENT: KEN DEFOOR PROPERTIES**  
**(Continued)**

Councilman Pierce stated that he was not a part of the meeting last week and just learned about this about thirty minutes prior to the Council meeting when he was confronted about it. He stated he wants to know what the plan is and wants to see the agreement that has been reached. He stated that it is his feeling the Council is rushing and does not know what the end result will be; that we need to slow down and count dollars. He stated that he does not have anything like this in his district. He stated that there has been talk about the 2008 Plan and there have been a number of things changed from that plan; that we are not going by what was suggested five years ago. He inquired as to how long this has been in the making; that we are at the point now thirty days from opening up the facility. He stated this comes to the Council as one deal and maybe as the result of the last meeting with Councilpersons in committee who did not understand what was being said in the meeting and supported it and now that they have learned more they are having second thoughts.

Councilman Pierce stated he was sorry his motion to table did not pass as he feels there is more to be explored. He stated it is easy to incur debt and sign on the bottom line, and as Councilman Littlefield said we will incur \$100,000 a year for someone to manage that facility and we have not looked at any of that, yet all are in agreement to go ahead with this. He inquired as to how long Mr. Defoor has been negotiating this.

Mr. Defoor responded, "well over a year".

Councilman Pierce stated that it is too bad the Council is just being "brought on board" at the last minute to take an active part in voting for this.

Mr. Defoor stated the concept started well over a year ago and was honed down in the last few months.

Councilman Pierce inquired as to the construction timeframe. Mr. Defoor stated that the construction started months ago.

Councilman Pierce stated there is no way he could support this at this time. He commended Councilman Page for doing a good job of "selling" this and expressed admiration for him (Page) and Councilmen Robinson and Lively. He stated that he would like to see certain things in his district; that his district is basically from Avondale to Alton Park and he does not have any facility of this nature.

**AGREEMENT: KEN DEFOOR PROPERTIES**  
**(Continued)**

Councilman Pierce stated what is done for one area should be done for others; that he is well aware the idea is also in Councilman Hakeem's district and wonders how long it would be before something will come forward to be set up in Carver Center; that there is already a request for an addition to the building. He asked that the Council not open a "can of worms".

Councilman Lively expressed respect for the concerns of some Council members; that he and Councilmen Page and Robinson are more comfortable with this because they have been closer to it. He stated he would say this is a rare opportunity to the City; that with each facility the City operates there is an expense involved. He stated to be able to come by a location like this with benefits for the community is the most important thing; that this did not originate with the Council as it came from the community that came up with the idea. He stated it is his belief having North Park Hospital on board and civic clubs in the area this will be a tremendous success. He expressed hope that the Council would approve.

Councilman Hakeem stated this whole decision today is a learning experience for all; that it is his thought what this is going to mean is we all get more information than we want in the future on any project going on in our district. He stated there was no attempt to hide anything, just a matter of assumption all of us were "in the loop".

Councilman Benson stated that he wished he felt the same way; that he certainly respects Mr. Defoor who has been a fine corporate citizen and knows his intent is good. He stated he does not like the idea of voting on this tonight until he can see more of what the cost will be "down the road" and what operation it will provide as far as services. He stated that he really does not see any rush to judgment tonight and why not wait a week and get information. He stated he feels overwhelmed with information and probably will not vote for this if there was a vote tonight.

**At this point, Councilmen Benson made the motion to defer the matter one week for adequate discussion in Parks and Recreation Committee; Councilman Pierce seconded the motion.**

Councilman Hakeem stated his only comment is that this has been in concept stage for a year. He stated he hears what is being said about deferring one week, but would not want a week to turn into a month. He stated he would like to see the Council move forward.

**AGREEMENT: KEN DEFOOR PROPERTIES**  
**(Continued)**

Councilman Taylor asked for clarification that Mr. Defoor indicated he would remove the fee for maintenance.

Mr. Defoor stated all payments start at the same time and not immediately. He stated the lease should reflect that things begin to "click" on March 1. He stated that he could assure the Council there will be no out-of-pocket costs except for utilities before March 1; that he would move back six weeks for the time lost which brings the due date to April or May. He expressed sorrow that he did not bring the plan, explaining that it is an excellent plan with tables, chairs, a kitchen layout, bathrooms and plumbing. He stated this is not a moneymaker for him and this is not his agenda, yet is happy to do it. He stated the rent would be free until June.

Councilman Taylor stated he would join in with the deferral for one week to make sure we do go in and clean up the lease and make sure it is "solid" and have a presentation of the building if not a site visit to get acclimated. He stated this would give Council members time to "get on board" and dialogue.

Councilman Littlefield stated that he wants to be able to support it and expressed that Mr. Defoor does excellent work. He stated that he needs to see the floor plan and that right now he has a picture of a "vanilla box" and that is it. He stated in the week to come he will be ready to support it and have questions answered that cannot be answered tonight.

Mr. Defoor stated there is no big windfall at the end of the year for him on this.

Councilman Page stated out of respect for his colleagues, he does not want to defer, but knows some on the Council may never approve it no matter what, yet it is apparent to him that there are some who may need more information. He stated that he would join in the deferral and in that period of time he requested that the lease be "firmed" up; that this additional week will give administration authorization to "firm it up" and clarify issues. He stated there is clarity in his mind but not in everyone's; that he wants the lease to reflect clearly what the Council has indicated they do not understand. He stated that he really wants the Council to be with the North River area on this and join in with himself and Councilmen Lively and Robinson. He reiterated that he joins in deferring the matter to bring it back next week for discussion in the Parks and Recreation Committee.

Councilman Lively stated that he would much rather see everyone comfortable with it even though a majority of Council members support it.

**AGREEMENT: KEN DEFOOR PROPERTIES**  
**(Continued)**

On motion of Councilman Benson, seconded by Councilman Pierce,

**A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PARKS, RECREATION, ARTS & CULTURE TO EXECUTE A LEASE AGREEMENT WITH KEN DEFOOR PROPERTIES, IN THE FORM ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, RELATIVE TO A SITE LOCATED AT 1001 RING ROAD FOR USE AS A HIXSON CIVIC CENTER**

was deferred one week for discussion in Parks and Recreation Committee.

**REZONING**

2003-150: Napier Associates

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 7327 SHALLOWFORD ROAD, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO R-4 SPECIAL ZONE, SUBJECT TO CERTAIN CONDITIONS**

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

**AMEND ZONING ORDINANCE**

Jerry Pace, Director of Operations for the Regional Planning Agency (RPA), stated that this ordinance clarifies language regarding a PUD; that streets below standard in a PUD have to have a variance from the Variance Board of Appeals and Planning. He stated this eliminates the appeal to the Board and the appeal process would now come to the Council as a recommendation from Planning. He stated the matter is recommended for approval from Planning and Staff.

Chairman Franklin declared a public hearing in process for those wishing to speak for or against this Ordinance; being none, the hearing was duly closed.

On motion of Councilman Benson, seconded by Councilman Pierce,

**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, BY AMENDING ARTICLE V, SECTION 1208, SUBSECTION (1), TO INCORPORATE NEW LANGUAGE RELATIVE TO SITE IMPROVEMENTS IN A PLANNED UNIT DEVELOPMENT (RESIDENTIAL)**

passed first reading.

### AMEND ZONING ORDINANCE

Councilman Littlefield stated this was initiated by the Legal and Legislative Committee several weeks ago and has been to Planning and back for action. He stated flag lots are a piece of property that only touches the road by a small appendage, usually a drive way, and then goes back and “flags out” off the road behind other property. He stated this amendment enables the developer to make use of long narrow tracts of land; that there have been problems of abuse of this type of development in the City, putting houses immediately behind other houses and causing a problem with established neighborhoods. He stated a couple moratoriums on this type of development had been adopted in order to stabilize the situation until we could be more precise; that this will raise the minimum area for flag lots to one acre. He stated there has been a lot of objection from the development community about this; that there are other things we can do which will take a little more negotiation and work. He stated this amendment would stabilize the situation in present neighborhoods from being decimated by these abuses of flag lot privilege. He stated the matter is now open for public discussion.

Chairman Franklin declared a public hearing in process for those wishing to speak for or against this Ordinance; being none, the hearing was duly closed.

On motion of Councilman Littlefield, seconded by Councilman Benson,  
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,  
KNOWN AS THE ZONING ORDINANCE, BY AMENDING ARTICLE II,  
DEFINITIONS, TO INCORPORATE NEW LANGUAGE RELATIVE TO THE LOT  
SIZE FOR FLAG LOTS**  
passed first reading.

### REZONING

#### **2003-168: Barbara Davis**

Pursuant to notice of public hearing, the request of Barbara Davis to rezone a tract of land located at 1900 Broad Street came on to be heard.

The Clerk of the Council clarified that the “Attorney’s version” caption was read.

The applicant was not present; there was no opposition.

Mr. Pace stated this request is located on South Broad within the downtown central business district. He stated Planning reviewed this and conferred with the City Attorney. He stated conditions are attached and the matter is recommended for approval from both Planning and Staff.

**REZONING (Continued)**

On motion of Councilman Taylor, 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 1900 BROAD STREET, MORE PARTICULARLY  
DESCRIBED HEREIN, FROM M-1 MANUFACTURING ZONE TO C-3  
CENTRAL BUSINESS ZONE, SUBJECT TO CERTAIN CONDITIONS**  
passed first reading.

**CLOSE AND ABANDON**

**MR-2003-169: Will Smith**

The applicant was present; there was no opposition.

Councilman Hakeem stated Ordinances (d), (g), and (i) and Resolutions (c) and (d) were discussed in today's Public Works Committee and approval is recommended.

On motion of Councilman Hakeem, seconded by Councilwoman Robinson,  
**AN ORDINANCE CLOSING AND ABANDONING AN UNOPENED RIGHT -  
OF-WAY LOCATED BETWEEN THE 400 BLOCK OF WEST 47TH STREET  
AND THE CENTRAL OF GEORGIA RAILROAD RIGHT-OF-WAY, MORE  
PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP  
ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE**  
passed first reading.

**REZONING**

**2003-171: Napier Associates**

Pursuant to notice of public hearing, the request of Napier Associates to rezone a tract of land located at 2313 Timberland Trail came on to be heard.

The Clerk of the Council clarified that the "Attorney's version" caption was read.

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

**REZONING (Continued)**

Mr. Pace stated that this request is located in the Hamilton Mall area and is in conjunction with the earlier rezoning at the intersection of Shallowford and Timberlane Trail for development of an office complex. He stated the recommendation is for approval for rezoning with the condition that there will be no apartment or multi-family uses and all easements are to be retained.

Councilman Benson inquired as to the other condition regarding traffic.

Mr. Pace responded that that was taken care of in the earlier rezoning request (2003-150); that all parties concerned met with Public Works, the Traffic Engineer and the plan is all-inclusive. He stated a memorandum received earlier this week "speaks" to the traffic study.

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 2313 TIMBERLANE TRAIL, MORE PARTICULARLY  
DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO R-4 SPECIAL  
ZONE, SUBJECT TO CERTAIN CONDITIONS**

passed first reading.

**REZONING****2003-172: Napier Associates**

Pursuant to notice of public hearing, the request of Napier Associates to rezone a tract of land located at 7301 Shallowford Road came on to be heard.

The Clerk of the Council clarified that the "Attorney's version" caption was read.

The applicant was present; there was no opposition.

Mr. Pace stated this is part of the same development, just on the west side of Shallowford and Timberlane and back behind where the mobile home sits. He stated the same conditions are applied as the previous request and approval is recommended.

Councilman Benson inquired as to whether there is the stipulation about extra land.

**REZONING (Continued)**

Mr. Pace stated this is in the agreement between Public Works, the Traffic Engineer and the developer on what is needed before the traffic study.

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 7301 SHALLOWFORD ROAD, MORE PARTICULARLY  
DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO R-4 SPECIAL  
ZONE, SUBJECT TO CERTAIN CONDITIONS**  
passed first reading.

**CLOSE AND ABANDON**

**MR-2003-173: Joseph S. Hailey**

On motion of Councilman Lively, seconded by Councilman Hakeem,  
**AN ORDINANCE CLOSING AND ABANDONING AN UNOPENED ALLEY  
BEGINNING AT THE EAST LINE OF THE 2400 BLOCK OF BROAD STREET  
TO THE WEST LINE OF THE 2400 BLOCK OF COWART STREET, MORE  
PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP  
ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, WITH  
TENNESSE-AMERICAN WATER COMPANY AND BELL SOUTH  
TELECOMMUNICATIONS, INC. RETAINING THEIR RESPECTIVE  
EASEMENTS IN THE FULL WIDTH OF THE EXISTING RIGHT-OF-WAY**  
passed first reading.

**REZONING**

**2003-174: Thomas C. Rumph**

Pursuant to notice of public hearing, the request of Thomas C. Rumph to rezone a tract of land located at 8402 East Brainerd Road came on to be heard.

The applicant was not present; there was no opposition.

The Clerk of the Council clarified that the "Planning version" caption was read.

Mr. Pace stated this request is for an office and is in compliance with the plan for the area. He stated both Planning and Staff recommend approval for use as an office only.



**REZONING (Continued)**

On motion of Councilman Benson, 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 8402 EAST BRAINERD ROAD, MORE PARTICULARLY  
DESCRIBED EHREIN, FROM R-1 RESIDENTIAL ZONE TO R-4 SPECIAL  
ZONE, SUBJECT TO CERTAIN CONDITIONS**  
passed first reading.

**CLOSE AND ABANDON**

**MR-2003-176: Joe McNew**

On motion of Councilman Hakeem, seconded by Councilman Littlefield,  
**AN ORDINANCE CLOSING AND ABANDONING AN UNOPENED ALLEY  
LOCATED IN THE 3200 BLOCK OF EAST 43<sup>RD</sup> STREET, MORE  
PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP  
ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE**  
passed first reading.

**LIFT CONDITIONS**

**2003-177: Crest Mortgage Lenders, LLC**

Pursuant to notice of public hearing, the request of Crest Mortgage Lenders, LLC to lift conditions imposed in Ordinance No. 10530 on property located at 6016 East Brainerd 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 Road area near Lee Highway to lift conditions placed on property when it was rezoned O-1 and that there would be no parking on the front and no signage. He stated this is an area where the policy between Lee Highway and Chickamauga Road allows office in this area. He stated when this was rezoned O-1 it was for a very low intense use for office with only UPS trucks coming in and out. He stated there was no need for signage or parking in the front yard even though conditions had been placed on the property.

**LIFT CONDITIONS (Continued)**

Mr. Pace stated since it was rezoned there have been several others along this portion of East Brainerd Road and allowance was made to designate low, small signs yet still no parking. He stated it is felt allowing another use for a 3 X 3 sign and front parking is unnecessary as there is ample room in the rear; that there is access to the road adjacent to the site or the option of driving into the old Big Lots shopping area. He stated it is much safer to pull out and have the option to people traveling toward the light at Lee Highway and Brainerd Road to exit; that back toward Lee Highway is a dangerous curb even with the existing driveway on East Brainerd Road. He displayed photos of the C-2 property across the street and the homes located next door and indicated small signs have been allowed in the area; that there are a couple more signs near the end of Chickamauga Road where signs are in the yard. He indicated some of the trees in the yard have been taken down due to disease. He stated Planning and Staff recommend approval with conditions for the 3 X 3 sign and no parking in front except a handicap parking space near the front door due to ADA and other regulations.

Carol Crisp, owner of Crest Mortgage, stated that she purchased the property at 6016 East Brainerd Road on May 5 and was not advised by the realtor, seller or anyone of any ordinance attached to this property. She stated on May 22 she met with RPA at 9 a.m. and talked with a gentleman who did not mention any ordinances; that he told her how many parking spaces would be needed and that she would need a handicapped space and had to have a handicap bathroom. She stated that she has completed the interior corrections and was told she needed a surveyor and civil engineer; that she told them she wanted parking in the front and a sign. She reiterated that she was not aware of any ordinances until she was ready to sign off on the final approval for her plans. She stated she does want handicapped parking and a sign that is visible to people that do business with her company. She stated that she feels she is part of the Brainerd community as she lives on Skyline Drive. She indicated that a great job has been done inside and would like to opportunity to make the outside look better.

Carol Berz, representing the Brainerd Hills community, expressed that she was sorry if Ms. Crisp had been misled by the City of Chattanooga and RPA in not knowing this until she was ready to sign. She stated she and others are back again on the same piece of property they were before the Council about several years back. She stated they mediated a condition for a lady by the name of Revels for a mail order building but because it was R-1 she could not have secretaries in the building nor people outside the family working there.

**LIFT CONDITIONS (Continued)**

Ms. Berz stated O-1 was agreed upon with special conditions and now they find that this mortgage lender did not think to look at the conditions and here we are again! She clarified that the trees that were removed were not diseased and was told they were cut down for signage. She stated they have been trying to revitalize the area and there are no other signs on that side of East Brainerd Road; that what they did and the Council agreed previously was that all signs would be on the other side of East Brainerd Road with the exception of one sign which was grand parented-in due to spot zoning twenty-to-thirty years ago. She stated what has happened, because the Council agreed with them, is a community plan which is working; that people are buying houses and living in them; that the whole area along East Brainerd Road is being revitalized. She stated they just found out through their Councilperson that they have funding to start the engineering study for sidewalks, which would really revitalize the East Brainerd Road area. She asked that they be given time to do what they have been working with the neighborhood plan to do and not allow people special dispensation. She stated if any legal history is needed Mr. Dupree can give that to the Council; that one was drawn up several weeks ago but they are waiting to see what happens with this before completion.

Mr. Dupree stated they were present in 1996 when Ms. Revels bought it as R-1; that the realtor told her she could not run a business and since that time they have fought off three rezonings based on the fact they were able to have limited signage, limited traffic, no parking and special conditions on O-1 property here. He stated across the street is a special rezoning where a gentlem an makes dulcimers that wanted a sign and the condition at that time was the house had to maintain a residential character and that was done on the other side, also. He stated the Brainerd Hills Plan was passed against five rezoning applications on this same side of the street; that the Plan was developed to protect East Brainerd Road all the way down past the church to the railroad track. He stated this property is maintained as residential and if the character is changed – and it already has since the trees were “lopped” out in anticipation of a sign – they might run into a situation where there would be four-to-five or possibly more commercial rezonings and lose that side of the road. He stated this is beautiful residential property that sits back from the road. He stated they have been “fighting like mad” for the past seven years (in protecting the area).

**LIFT CONDITIONS (Continued)**

Ms. Crisp stated that she does not consider one tree as a group of trees; that one tree was removed from the yard in anticipation of being able to change the exit from the property. She stated she is surrounded by commercial, and as far as she is concerned the whole neighborhood looks like business property, citing a used car lot, the Brainerd Hills shopping area, the Utility Shopper and others with parking in the yard. She stated people are amazed she cannot have parking or a sign nor does she!

Councilman Littlefield inquired as to when the property was actually purchased. Ms. Crisp responded "May 5 of this year".

Councilman Littlefield then inquired as to whether she moved in shortly thereafter. Ms. Crisp responded that they started painting and carpeting the house and moved in the end of July, which was when the lease was up at the previous location.

Councilman Littlefield stated as the residents have noted, there has been quite a lot of activity in this area. He stated this property was allowed use as an office after someone had already mistakenly purchased it and used it as such. He stated there is presently a bank next to this property and is a commercial use and Big Lots in the back of the property. He stated he was not going to ask Ms. Crisp who her realtor was; that she is in the mortgage business and knows the responsibility realtors have in regard to disclosure. He stated that it is unfortunate that there is a weakness in the way we do these types of rezonings where we attach restrictions and limitations for property, which might not be picked up in a normal title search. He stated there should be some way to remedy that so mortgage companies would not find themselves in that position.

Councilman Littlefield stated another property further to the east was recently sold and opened a shop that was thought to be commercial; that his guess is that the realtor had to do a lot of backtracking on that. He stated he is a realtor and knows the responsibility of closure; that realtors have to pay for errors and omissions to cover when they fail to responsibly present a piece of property. He stated in this case it is his belief Ms. Crisp has remedies and believes something of a covenant has been made with the neighborhood through the re-planning process. He made reference to funding for an engineering study that is in the capital budget, however there have been no negotiations regarding the engineering costs.

**LIFT CONDITIONS (Continued)**

**Councilman Littlefield** concluded his comments stating that a pact has been made with the neighborhood and that he had to say “no” to a good friend of his representing another piece of property close to this. He stated that he does not see any way to do anything without prolonging Ms. Crisp’s “agony” by continuing this process. He made reference to talking with her earlier in the day and the possibility of putting it off a week or so; however, people who come again-and-again are getting weary of it. He reiterated that she does have a remedy and **made the motion to deny the request; Councilman Benson seconded the motion.**

Councilman Taylor asked Ms. Crisp if she would be able to operate in the O-1 as it is, now. Ms. Crisp responded that people are having a hard time finding the location and indicated she could paint the building a color that would be recognizable such as pink or orange to represent “Big Orange”!

Councilman Littlefield indicated to Ms. Crisp that that would not be a good thing to do!

On motion of Councilman Littlefield, seconded by Councilman Benson  
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,  
 KNOWN AS THE ZONING ORDINANCE, SO AS TO AMEND CERTAIN  
 CONDITIONS IMPOSED IN ORDINANCE NO. 10530, ON PROPERTY  
 LOCATED AT 6016 EAST BRAINERD ROAD, BEING MORE PARTICULARLY  
 DESCRIBED HEREIN, SUBJECT TO CERTAIN CONDITIONS**  
 was denied.

**REZONING**

**2003-178: Harold Lasater, Jr.**

Pursuant to notice of public hearing, the request of Harold Lasater, Jr. to rezone tracts of land located at 1610, 1612 and 1618 51<sup>st</sup> Street came on to be heard.

The applicant was present; there was no opposition.

Mr. Pace stated this request is located near Rossville at the State line. He stated the Staff recommends denial of the request and Planning recommends approval.

Councilman Littlefield stated that Mr. Lasater has been very responsible about this and indicated his thinking that he (Lasater) would not have a problem with approval of the request.

**REZONING (Continued)**

On motion of Councilman Lively, seconded by Councilman Benson,  
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,  
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE TRACTS OF  
LAND LOCATED AT 1610, 1612 AND 1618 51<sup>ST</sup> STREET, MORE  
PARTICULARLY DESCRIBED HEREIN, FROM R-2 RESIDENTIAL ZONE TO  
M-2 LIGHT INDUSTRIAL ZONE**  
passed first reading.

**CONTRACT EXTENSION**

On motion of Councilman Lively, seconded by Councilman Page,  
**A RESOLUTION AUTHORIZING THE EXTENSION OF AN ADDITIONAL  
THREE (3) MONTHS OF A PERSONAL SERVICES CONTRACT WITH  
CITYSCAPE DEVELOPMENT SERVICES TO PERFORM SERVICES AS A  
CONSULTANT FOR THE CITY AND COUNTY IN THEIR DEVELOPMENT  
PLANNING ACTIVITIES AT ENTERPRISE SOUTH**  
was adopted.

**SPECIAL POLICEMAN**

On motion of Councilman Lively, seconded by Councilman Taylor,  
**A RESOLUTION AUTHORIZING THE APPOINTMENT OF LABAN R.  
DEFRIESE, JR. AS SPECIAL POLICEMAN FOR ERLANGER HEALTH  
SYSTEMS TO DO SPECIAL DUTY AS PRESCRIBED HEREIN, SUBJECT TO  
CERTAIN CONDITIONS**  
was adopted.

**TEMPORARY USE**

On motion of Councilman Hakeem, seconded by Councilman Littlefield,  
**A RESOLUTION AUTHORIZING THE OOLTEWAH UNITED METHODIST  
CHURCH TO USE TEMPORARILY THE CITY'S RIGHT-OF-WAY LOCATED IN  
THE 2900 BLOCK OF LEE HIGHWAY TO INSTALL A DIRECTIONAL SIGN,  
SUBJECT TO CERTAIN CONDITIONS**  
was adopted; Councilman Pierce abstained .

**TEMPORARY USE**

On motion of Councilman Littlefield, seconded by Councilman Hakeem,  
**A RESOLUTION AUTHORIZING NORTH HIXSON CHURCH OF CHRIST TO USE TEMPORARILY THE CITY'S RIGHT-OF-WAY LOCATED IN THE 5400 BLOCK OF HIXSON PIKE, FORTY-FIVE (45) FEET NORTHEAST OF OLD HIXSON PIKE AND LONG VIEW DRIVE, TO INSTALL A 1' BY 3' DIRECTIONAL SIGN, SUBJECT TO CERTAIN CONDITIONS**  
was adopted.

**INFORMAL ALLIANCE**

Councilman Taylor stated this matter was discussed in the Health, Education, Human Services and Housing Opportunities Committee and approval is recommended.

On motion of Councilman Hakeem, seconded by Councilman Taylor,  
**A RESOLUTION ACKNOWLEDGING THE INFORMAL ALLIANCE WHICH COMPRISES THE COMMUNITY IMPACT FUND AS THE FORMALLY INCORPORATED TENNESSEE NOT-FOR-PROFIT PUBLIC WELFARE CORPORATION OPERATING UNDER THE NAME "COMMUNITY IMPACT OF CHATTANOOGA, INC." AND ACCEPTING THEIR ONGOING ASSISTANCE AND SUPPORT IN REVITALIZING DISTRESSED URBAN NEIGHBORHOODS WITHIN THE CHATTANOOGA COMMUNITY**  
was adopted.

**AGREEMENT: CLEAR CHANNEL OUTDOOR**

On motion of Councilwoman Robinson, seconded by Councilman Lively,  
**A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PARKS, RECREATION ARTS AND CULTURE TO EXECUTE A LEASE AGREEMENT WITH CLEAR CHANNEL OUTDOOR FOR A SITE ON THE EAST SIDE OF AMNICOLA HIGHWAY NORTH OF CHICKAMAUGA CREEK**  
was adopted.

**OVERTIME**

Overtime for the week ending November 7, 2003 totaled \$14,486.95.

**PERSONNEL**

The following personnel matters were reported for the various departments:

**PUBLIC WORKS DEPARTMENT:**

- ✍ **STEVE E. OLSON, II** – Hire, Equipment Operator, Citywide Services, Pay Grade 6/Step 1, \$20,429.00 annually, effective November 5, 2003.
- ✍ **MICHAEL S. REAMS** – Lateral Transfer, Crew Worker, Citywide Services, Pay Grade 3/Step 11, \$25,823.00 annually, effective November 12, 2003.
- ✍ **SIGMUND BLATT** – Compulsory Medical Leave, Crew Worker, Citywide Services, effective November 4, 2003 – May 4, 2004.

**FINANCE DEPARTMENT, INFORMATION SYSTEMS DIVISION:**

- ✍ **TEKELIA C. KELLY** – Hire, Programmer Analyst, Pay Grade 25/Step 5, \$51,644.00 annually, effective November 17, 2003.

**CHATTANOOGA POLICE DEPARTMENT:**

- ✍ **MICHAEL S. MULLINS** – Resignation, Police Officer, effective November 10, 2003.
- ✍ **MARVIN L. TOLBERT** – Resignation, Police Officer, effective November 14, 2003.
- ✍ **CYNTHIA ROWE** – Family Medical Leave, Communications Officer, effective November 19, 2003 – February 10, 2004.
- ✍ **KEVIN SCHROPSHIRE** – Transfer/Voluntary Demotion, Police Service Technician, Pay Grade 5/Step 6, \$23,911.00 annually, effective October 31, 2003.
- ✍ **BRENDA J. JACKSON** – Resignation, School Patrol Officer, effective November 4, 2003.



**PURCHASES**

On motion of Councilman Hakeem , seconded by Councilman Littlefield, the following purchases were approved for use by the Public Works Department:

**WES BLAKEMORE TRUCKING**  
**R0067229**

*This contract will be a reprocurement to replace contract 0018518P for services of straddle carrier operators and roll-off truck drivers with Sitton Construction Company. The Council approved the original contract with Sitton on January 28, 2003; the Department Administrator terminated the contract on September 8, 2003 due to the contractor's failure to comply with the contract requirements.*

*A new contract will be issued to Wes Blakemore Trucking to cover the remaining time of this first contract from September 30, 2003 through January 27, 2004 at the original contract price of \$14 per hour. Blakemore Trucking was the next low bidder on the original invitation to bid offering a price of \$25 per hour for the first year contract term. Since this company has agreed to accept the replacement contract at the original price, it will not be necessary to bill Sitton Construction for excess reprocurement costs. Considering the circumstances, the fact that Blakemore Trucking's original bid met specifications for the City of Chattanooga and this company's previous performance record has been most satisfactory, awarding them the replacement contract is recommended.*

Operators and Truck Drivers Replacement Requirements Contract

\$14.00 per hour

**GENERAL ELECTRIC SUPPLY (Lowest bid)**  
**R0070735/B0001015**

Two (2) Electric Motors (\$40,415.00 each)

\$80,830.00

**HEARING: ANTHONY CHATMAN**

City Attorney Nelson stated there is the need to reschedule the hearing for Anthony Chatman due to witnesses that will be needed.

**Mr. Chatman's hearing was rescheduled for Monday, December 15 at 3 p.m. with Councilmen Page, Franklin and Littlefield serving as the panel; Councilman Benson volunteered as alternate.**

**NORTHSIDE COMMUNITY ASSOCIATION**

Councilwoman Robinson announced that the Northside Community Association is scheduled to meet on Thursday at the church on Bell Avenue at 6:30 p.m.

**COMMITTEES**

Councilman Page stated the **Economic Development Committee is scheduled to meet jointly with the Legal and Legislative Committee on Tuesday, November 18 at 3 p.m.** He stated a discussion regarding the Hixson Civic Center would be discussed in the Parks and Recreation Committee at 4 p.m.

Councilman Lively scheduled a meeting of the **Safety Committee for Tuesday, November 18 immediately following the meeting of the Public Works Committee.**

Councilman Littlefield stated that the **Legal and Legislative Committee is scheduled to meet next week at 3 p.m.** and indicated there was not much on the Committee's agenda and would move in to the Economic Development Committee meeting rather quickly.

Councilman Hakeem reminded Council members of the **Public Works Committee meeting scheduled for Tuesday, November 18 at 4 p.m.**

**ADJOURNMENT**

Chairman Franklin adjourned the meeting of the Chattanooga Council until Tuesday, November 18, 2003 at 6:00 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)