

City Council Building
Chattanooga, Tennessee
January 13, 2004
6:00 p.m.

Chairman Franklin called the meeting of the Chattanooga Council to order with Councilmen 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, Councilwoman Robinson gave invocation.

MINUTE APPROVAL

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

AMEND ORDINANCE NO. 11494

On motion of Councilman Taylor, seconded by Councilman Littlefield,
**AN ORDINANCE AMENDING ORDINANCE NO. 11494, ADOPTED
DECEMBER 2, 2003, ENCAPTIONED "AN ORDINANCE TO AMEND PART
II, CHATTANOOGA CITY CODE, CHAPTER 24, ARTICLE IV, SECTION 24-
504, RELATIVE TO ONE-WAY STREETS." SO AS TO CORRECT THE ENTRY
REGARDING SECOND STREET IN SECTION 2**
passed second reading. On motion of Councilman Littlefield, seconded
by Councilman Page, the Ordinance passed third and final reading and
was signed in open meeting.

AMEND CITY CODE

Councilman Lively and Benson made the motion and second to substitute the amendments to this Ordinance; the motion passed.

Councilman Taylor asked if the amended version includes persons formerly in the military. City Attorney Nelson stated that the amended version authorizes the City to hire people with previous experience from other agencies and the military, as well as re-employ City police officers over the age of 40.

Councilman Taylor asked if that includes the military police. City Attorney Nelson stated that the Ordinance reflects "military". Councilman Taylor stated that could mean a person could be a janitor in the military.

City Attorney Nelson clarified that the Ordinance references persons employed by another agency or the military, which indicates they are eligible to work for the City. Councilman Taylor asked if that addresses the matter specifically. City Attorney Nelson responded "yes"; that they need to have had some police function in the military.

Councilman Littlefield commended Councilman Lively for coming up with the language, which makes everyone on the Council more comfortable with the whole idea of lifting the age cap.

At this point Councilwoman Robinson "called for the question".

Councilman Pierce stated that he did not have an opportunity to speak at last week's Council meeting and the matter was discussed in Committee. He stated there is no use belaboring the point and indicated that he wants the record to reflect that he does not support the change and still feels the Council is doing something that will be detrimental in the future once it is locked in; that the City Attorney explained that we will not be able to correct this. He stated that he may be wrong and will be the first to admit it, however, at this point there is no way to prove to him this is beneficial to the City. He stated he will not vote in the positive position and will oppose on both the second and third readings.

On motion of Councilman Lively, seconded by Councilman Littlefield,

**AN ORDINANCE TO AMEND PART II, CHATTANOOGA CITY CODE,
CHAPTER 16, ARTICLE I, SECTION 2, SO AS TO REPEAL THE MAXIMUM
AGE LIMITATION FOR THE EMPLOYMENT OF POLICE OFFICERS**

passed second reading; **Councilman Pierce voted "no"**. On motion of Councilman Hakeem, seconded by Councilman Lively, the Ordinance passed third and final reading and was signed in open meeting; **Councilman Pierce voted "no"**.

CLOSE AND ABANDON

MR-2003-201: Reed Watson

On motion of Councilman Hakeem, seconded by Councilman Littlefield,

AN ORDINANCE CLOSING AND ABANDONING TWO UNOPENED PORTIONS OF THE 2900 BLOCK OF RIVERPORT ROAD, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS

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

CHANGE RIGHT-OF-WAY NAME

2003-203: City of Chattanooga c/o Phillip Lynn

On motion of Councilman Lively, seconded by Councilwoman Robinson,

AN ORDINANCE TO CHANGE THE RIGHT-OF-WAY NAME OF PINE STREET, LOCATED NORTH OF OAKHILL ROAD, TO SUNFLOWER LANE, SAID RIGHT-OF-WAY BEING MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE

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

CHANGE RIGHT-OF-WAY NAME

2003-205: City of Chattanooga c/o Phillip Lynn

On motion of Councilman Taylor, seconded by Councilwoman Robinson,

AN ORDINANCE TO CHANGE THE RIGHT-OF-WAY NAME OF PINE STREET, LOCATED EAST OF SENECA VENUE, TO EDELWEIS STREET, SAID RIGHT-OF-WAY BEING MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE

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

CLOSE AND ABANDON

MR-2003-216: Barry Payne

On motion of Councilman Lively, seconded by Councilman Page,

**AN ORDINANCE CLOSING AND ABANDONING AN EXISTING
SANITARY SEWER EASEMENT AND LINE LOCATED BETWEEN MANHOLES
#308 AND #310, LOCATED OFF TYNER ROAD AND KNOWN AS
"DOGWOOD VILLAGE", MORE PARTICULARLY DESCRIBED HEREIN AND
AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART
HEREOF BY REFERENCE**

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

CLOSE AND ABANDON

MR-2003-220: City of Chattanooga c/o Phillip Lynn

On motion of Councilman Benson, seconded by Councilman Hakeem,

**AN ORDINANCE CLOSING AND ABANDONING AN UNOPENED FORTY
FOOT (40') RIGHT-OF-WAY LOCATED BETWEEN 7458 AND 7460
TWINBROOK DRIVE, MORE PARTICULARLY DESCRIBED HEREIN AND AS
SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF
BY REFERENCE, 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.

CLOSE AND ABANDON

MR-2003-224: City of Chattanooga c/o Phillip Lynn

On motion of Councilman Lively, seconded by Councilman Littlefield,

**AN ORDINANCE CLOSING AND ABANDONING AN UNOPENED
PORTION OF MORGAN STREET AT THE INTERSECTION OF 28TH STREET,
MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE
MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE**

passed second reading; **Councilman Pierce recused himself from voting.** On motion of Councilman Littlefield, seconded by Councilman Taylor, the Ordinance passed third and final reading and was signed in open meeting; **Councilman Pierce recused himself from voting.**

ANNEXATION

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

On motion of Councilman Lively, seconded by Councilman Hakeem,

AN ORDINANCE EXTENDING THE CORPORATE LIMITS OF THE CITY OF CHATTANOOGA, TENNESSEE, BY ANNEXING CERTAIN TERRITORY CONTIGUOUS TO THE PRESENT CORPORATE LIMITS OF SAID CITY, BEING AN AREA WITHIN LOOKOUT VALLEY IN HAMILTON COUNTY, TENNESSEE, OWNED BY ALFRED N. VAIL, JR. AND TERESA D. VAIL, BEING MORE FULLY DESCRIBED HEREIN

passed first reading.

REZONING

2003-148: Glasscock Development, Joe Glasscock

Pursuant to notice of public hearing, the request of Glasscock Development, Joe Glasscock to rezone a tract of land located at 613 West View Road came on to be heard.

The applicant was not present; there was no opposition.

Jerry Pace, Director of Operations with the Regional Planning Agency (RPA), stated that the applicant telephoned and asked that this matter be postponed for one more month. He stated that the applicant does not have control of the property at this time and does not want to rezone until he does (have control).

On motion of Councilman Littlefield, 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 613 WEST VIEW ROAD, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO RT-1 RESIDENTIAL TOWNHOUSE ZONE, SUBJECT TO CERTAIN CONDITIONS

was deferred until February 10.

REZONING

2003-187: City of Chattanooga

Pursuant to notice of public hearing, the request of the City of Chattanooga to rezone tracts of land located west of Orchard Knob Avenue and north of Fifth Street came on to be heard.

Several persons from the neighborhood were present in support of this request; persons in opposition were in attendance, as well.

Jerry Pace stated that there should be a correction made in the caption as there is one parcel that is presently zoned C-5 that is used as a single family residence which is recommended for R-1; that there is a need to add R-1, M-3 and C-5 in the caption.

Councilman Hakeem inquired as to the C-5 designation. Mr. Pace explained that one parcel is presently zoned C-5 that was not in the caption which is being rezoned to R-1. He stated it is presently used as R-1 and is located on Oak Street between Hickory and North Holly; that it was rezoned several years ago.

Mr. Pace stated the Bushtown study has gone before the Planning Commission and is now before the Council for review. He stated a portion of the neighborhood is located in the urban core of downtown Chattanooga and is one of the older more historic neighborhoods located around the historic Orchard Knob National Military Park. He stated it is a beautiful neighborhood with single-family Victorian and bungalow homes throughout the area, with the exception of one industrial manufacturing property along North Holly. He stated that the existing land use is predominantly single-family, yet there are duplexes in the area; that about 85 percent of the property is used for R-1 single family. He stated there are a couple commercial areas that back into the neighborhood from McCallie, as well as a church and the National Military Park.

Mr. Pace stated 97 percent of the area is zoned R-2 for duplexes and 85 percent single-family residential. He indicated 49 percent is rental property and 51 percent is owner occupied. He stated it is a very well kept neighborhood and displayed photos by PowerPoint of the sidewalks and housing that is unprecedented in an area such as this and commended the residents for taking care of their homes and taking pride in their neighborhood. He stated commercial or industrial zoning is on the fringe of the neighborhood and displayed the photo of one multi-family unit in the area. He stated there is the hope that Vine Street, which is presently closed by temporary use, would be opened to reconnect the neighborhood for better circulation for higher density residential/mixed uses.

REZONING (Continued)

Mr. Pace continued by stating that there are well-designed multi-family units in the area that are attractive with landscaping and walkways; that there are opportunities for future visioning in the area. He stated RPA would like to help the neighborhood and sit down with them to assist with design and other advantages to help with the continuation of the success of the neighborhood. He stated the planning process started in November and the matter is now before the Council; that future projects are not called for at this time, just recommendations for mixed use housing, design guidelines, a green system plan and Citico site redevelopment. He stated this matter is recommended for approval from both Planning and Staff.

At this point, Chairman Franklin recognized the presence of representatives from the Bushtown community and commended them for a job well done.

Peggy Kilpatrick of the Bushtown Neighborhood Association stated they have been in conversation with Planning since November working with this down zoning issue. She stated they are working to revitalize the neighborhood and it is their desire to have stable families to bring the neighborhood back to a healthy state. She stated when the matter began in November it was and is the desire of the residents to have all R-1, which is their major concern. She admitted that this was a good process and they are pleased with the overall results of the plan and recommendation.

Ms. Kilpatrick clarified that it must be known that the residents are still concerned about parcels that are going to be R-2 and R-4; that from experience when they heard of the R-2 designation they immediately thought of duplexes because Bushtown is already overrun with duplexes! She stated they have had bad experiences with that; that they want to make the area a healthy neighborhood and R-1 would be more suitable for that to happen. She stated that they realize there is a commercial parcel, however, with proper buffering that can be made possible and is doable. She reiterated that it is very important that it is understood the residents are not 100 percent satisfied; that at the time the process started it was the understanding everything was going to be R-1, yet, since that time they understand the recommendation from Planning and are very pleased with what has been accomplished.

Bobbie Brown, a resident of the area, inquired of the C-5 address on Oak Street and indicated that she had not been contacted about the neighborhood meetings. Mr. Pace responded that he did not have that information with him.

REZONING (Continued)

Ms. Brown stated that she attended the Planning meeting and nothing happened; that the issue needs to be addressed regarding homes in Bushtown as this is not a façade issue; that the real issues are in the homes and buildings. She stated the older homes need major reconstruction, most of which comes from funding and grants which failed her again this year. She made reference to monies coming in from questionable means that is re-circulated back into the public to cover peoples' consciences. She stated she is not for the changes; that the community needs to come together for everyone and not for a few. She stated that she tried to address the serious issue of homes in the neighborhood at the Planning meeting and it seems all the neighborhood wants to do is put on a "pretty face" for everyone. She stated there are some nice homes and it is a nice community, but there are serious issues. She stated she has never been able to find out about plumbing, sewer or septic issues from the City and has been told different stories. She stated she does not know how the commode flushes! She stated there are water issues; that two homes on either side of her were standing in water that was draining from the Church in the area. She stated serious issues need to be addressed in Bushtown other than wanting to put on a "pretty face"; that it seems all the City if interested in is putting on a "pretty face".

Carol Gaddis stated that her home backs up directly to commercial and indicated that she was late and missed the presentation. She asked if the commercial properties would remain commercial in this and if she applied to the Council for a commercial zoning would she be turned down.

Chairman Franklin stated that is a separate issue; that in a lot of instances plans may not allow for any other encroachment, which is why R-1 is being enforced. He stated every property is separate and has to be brought before the Council and Planning.

Ms. Gaddis expressed appreciation for Chairman Franklin's comments and stated if an individual citizen who adjoins commercial is going to be prevented from being able to sell their home and move out further, they are not going to get a high price for their home if they are not allowed to have it zoned commercial. She asked if she and Ms. Brown and three-or-four in the neighborhood in the same situation combined their houses for a larger property for a commercial price, would the Council prevent them from doing so.

Chairman Franklin stated he could not answer that; that instances where properties are combined for a commercial price would not be in keeping with the character of the neighborhood and, in addition, would be further encroachment into the neighborhood.

REZONING (Continued)

Councilman Hakeem stated that he takes issue with Ms. Brown's reference to the neighborhood association and the broader Bushtown community not being informed. He stated he has been to four neighborhood meetings on this subject; that the matter was announced on the radio, in the newspaper and with leaflets. He stated this is not about a few people as many residents have been a part of this and came to the meetings and assisted in making this decision. He stated this is a zoning plan and it is not about plumbing or anything else; that she should be mindful this is a neighborhood zoning plan. He stated he had an opportunity to work and talk with the neighborhood association on this issue and indicated that the Community Impact Fund worked with the neighborhood, also. He stated 95 percent of what is proposed is acceptable to the neighborhood and the "bottom line" is that this is a winner!

Councilman Hakeem continued by stating that he has sat down with the Chairman of the Board of the 28th Legislative CDC and the meetings have been informative to those who wanted to be informed. He stated Ms. Kilpatrick raised the issue of the type of properties someone could build in the area that may be R-2 or R-4 and in talking with the Planning Staff they are willing to work with us for design standards so that something unattractive would not be built on that. He stated everyone should be mindful of the area that is M-3, now; that the gentleman is down zoning some of his property from M-3 to R-2 and R-4 and if we were to take his primary property and downzone it, we could wind up in court. He stated some questions raised were in regard to water issues and it is hoped 311 would be contacted to start that process; that as far as Neighborhood Services is concerned, they make a genuine effort to assist our residents in every way they can. He stated they cannot do it all; that there are some things designated they are to do and some things they are not.

Ms. Brown stated when a person discusses matters in detail with someone and they do not come through with what they said they would do, she considers that a violation. She stated that Councilman Pierce is her Councilman and does not know why Councilman Hakeem is involved in this.

Councilman Pierce informed Ms. Brown that he no longer represents the Bushtown area.

Ms. Brown asked if Council members could trade districts at will; that she was not familiar that that could be done; that she thinks that would be a violation.

REZONING (Continued)

Councilman Littlefield stated this matter is turning more into a debate than a hearing. He stated these ladies have had ample opportunities; that he does not know if they were present during those nights when we were going through redistricting. He stated if the hearing is over and there is no one else to be heard, he would like to make a motion.

Ms. Brown stated if one property was left out of the zoning as Mr. Pace stated, she asked that her property at 1806 Oak Street be left out as well.

Ms. Gaddis stated she was not present for any of the meeting and she is having a problem with stormwater. She stated she is told people will come out and do something and then no one shows up; that if she calls a second time she is told she is being disruptive. Councilman Hakeem asked Ms. Gaddis to call 311.

Chairman Franklin stated stormwater is not a part of this issue; that Councilman Hakeem has been trying to inform Ms. Gaddis to contact 311 and register her complaint to help resolve the issue. He stated Admin. McDonald is present and she could speak with him at the conclusion of the meeting.

Ms. Gaddis stated that she did not mean to be rude; that this is the only public forum she has to let the Council know when things are not going the way it looks on paper.

Councilman Littlefield stated that he was ready to make a motion if there is no one else to speak regarding this issue.

Linda Carter, a resident of the area for rezoning, stated she was born and raised in the area and is part of the Bushtown Neighborhood Association. She stated she has talked with residents of the neighborhood and they still want the R-1 if possible. She stated Planning has presented a wonderful plan to them, yet their concern is still in regard to the R-2; that they do not want duplexes, only single family homes. She stated her grandmother owns a lot of property in the area and this is one of the older African-American communities in the City. She stated they have a lot of pride and their homes are well kept. She stated opening Vine Street would give an additional flow of traffic and they are concerned about that. She stated they do have problems, yet residents work to keep their property up; that there are a lot of residents who are sick and not able to go to the meetings but are still concerned. She stated they did get a chance to voice their opinion at the meetings and they petitioned the City for a plan for the neighborhood.

REZONING (Continued)

Ms. Carter stated most residents have been in the neighborhood for a long time and would like to have R-1 zoning to keep out any "twins" that might come in. She stated the area on Hickory Street is R-1 on one side and R-2 on the other; that when all the houses are completed it will be a beautiful neighborhood. She stated the area has a lot of potential and it is her hope the Council will do the best for their neighborhood.

Mr. Pace stated that he spoke with Mr. Sheets today and told him his M-3 property is now recommended for R-4 and R-2. He stated Mr. Sheets, who could not be present tonight, indicated that he would prefer M-3, however if it is rezoned he has no problem with it. He reminded everyone that this area has been zoned R-2 since 1961; that Mr. Sheets property will not have a big effect on this community.

Councilman Pierce asked if Mr. Sheets had any plans. Mr. Pace responded that his property is for sale, yet he does not plan to develop it himself; that there were a couple businesses in there and the last one moved out before Christmas. He stated it is a very nice building, all brick and an excellent place for some sort of business to go in that is neighborhood-friendly. He stated the property is nice with large trees and is not the typical industrial looking structure; that it could be an office or light industrial high tech-type assemblage plant that could be part of the neighborhood and hopefully it will be.

Forestine Watson of the 28th Legislative CDC stated they support the neighborhood and residents and understand the concerns that have been expressed by Ms. Carter and Ms. Kilpatrick. She stated they want to make sure the redevelopment that takes place meets the historical aspect of the physical environment. She reiterated the CDC's support of the residents.

Councilman Littlefield stated the residents started this process of down zoning in 1970 and he understands the wishes expressed for the neighborhood blanket zone of R-1. He stated that he knows from painful experience you always encounter properties where you have to settle for something that simply works; that the Planning Staff and others in the neighborhood have been successful in taking a giant step toward a much more orderly and well protected neighborhood in terms of zoning by accomplishing down zoning of more of the neighborhood to R-1 and negotiating in particular areas discussed tonight. He stated this is a great compromise and it is hoped sometime in the future if people do not proceed to develop in that fashion to take the next step and further downzone.

REZONING (Continued)

City Attorney Nelson amended the caption in open meeting by adding, "... C-5 Neighborhood Commercial Zone . . ."

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 REZONE TRACTS OF LAND LOCATED WEST OF ORCHARD KNOB AVENUE AND NORTH OF FIFTH STREET, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-2 RESIDENTIAL ZONE, C-5 NEIGHBORHOOD COMMERCIAL ZONE AND M-3 WAREHOUSE AND WHOLESALE ZONE TO R-1 RESIDENTIAL ZONE, R-2 RESIDENTIAL ZONE, R-4 SPECIAL ZONE AND M-3 WAREHOUSE AND WHOLESALE ZONE
passed first reading.

REZONING

2003-207: Greater Chattanooga Christian Services

Pursuant to notice of public hearing the request of Greater Chattanooga Christian Services to rezone a tract of land located at 6845 Ty-Hi Drive came on to be heard.

The applicant was present; there was no opposition.

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 6845 TY-HI DRIVE, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO O-1 OFFICE ZONE, SUBJECT TO CERTAIN CONDITIONS
passed first reading.

REZONING

2003-214: Michael G. Oshier

Pursuant to notice of public hearing the request of Michael G. Oshier to rezone a tract of land located at 6809 Conner Lane came on to be heard.

The applicant was present; there was no opposition.

REZONING (Continued)

Mr. Pace stated this request for C-2 is for a wrecker service. He stated when the applicant attempted to renew his license he found that he was out-of-zone and would have to come into compliance to be made legal. He stated this area is part of the Hamilton Place Plan and the Staff looked at this made the recommendation for denial; that Planning recommends approval.

Michael Oshier stated that he purchased the property in July of last year; that the property was a car lot for the last four years and the wrecker service has been operating since then. He stated he did not realize the property was not C-2; that a business has been operating there the whole time. He stated that he found out the property was R-4 and some type of business has been there since 1997. He asked for approval of this request and indicated that he has a good renter that pays and (he) would like to keep him.

Councilman Benson stated this request is contrary to the land use plan; that he knows at the Planning meeting the matter was voted upon so that it could be sent to the Council. He stated we have a real problem and indicated that the operation of the business was in violation when Mr. Oshier bought the property outside the legal zoning.

Mr. Pace responded "yes"; that when he tried to renew his license he found out he was out-of-zone and needed to have the property rezoned C-2. He stated the parcel does have a history and was denied previously for a request for commercial; that long after Councilman Littlefield was with Planning and prior to his (Pace's) tenure, the parcel across the street was purchased as C-2 from an error Planning made in 1997 and was rezoned C-2 at that time. He stated Mr. Oshier's property has been turned down in the past for commercial.

Councilman Benson stated the question he is getting to is that the City failed in some way in enforcing zoning there for a long time.

Mr. Pace stated he would not say they failed to enforce it; that a lot of times things occur that are not brought to their attention unless there is some complaint; that in this case Mr. Oshier found out when he applied for a wrecker license. He stated there is no fault for the City not enforcing this; that it was just something they were not aware of.

Mr. Oshier stated the previous business operated three years; that he now has a different renter at the same location. He stated he is new to the zoning matters and does not understand how a business across the street could have been rezoned in error but he has to come before the Planning and Council for rezoning.

REZONING (Continued)

Councilman Benson stated that the Planning Commission felt Mr. Oshier was in a "Catch 22".

Mr. Oshier expressed that he felt that he is; that if it is fair for the person across the street it should be for him because he is not going any further into the residential area than they are. He stated if he has to go to R-4 to correct an error, the gentleman across the street should be R-4 or shut his business down also.

Councilwoman Robinson offered a compromise that the Council permit use for the duration of the company that occupies the property for their lease; that until they go out of business or relocate the issue of rezoning would not become an issue.

Mr. Oshier stated it would become an issue if another person wanted to rent for the same type of use. Councilwoman Robinson stated that was her point.

Councilman Littlefield stated that he knows the policy along Brainerd Road is to retain the commercial zoning to confine to the first tier of lots, which is pretty much the case here. He suggested if the applicant is willing to file a plat, raise the property line and place the property under one ownership to maintain the policy of only having the first tier of lots would not be a precedent the Council could not live with. He stated this would not affect his ability to rent the property, yet it does ensure if the property were sold the whole property would be sold and not just part of it.

Mr. Oshier stated if both properties could be C-2 it is acceptable. He asked if there would be a problem if he decided to sell the properties. The response was that there would be no problem at all.

Councilman Littlefield proposed that the matter pass first reading with the understanding the matter would be worked out with Planning before acting on second reading.

Mr. Pace stated the caption should be amended to reflect "*. . . subject to replatting of property with the parcel at 6902 Lee Highway*".

City Attorney Nelson amended the caption to reflect "*. . . subject to certain conditions*" and the body of the Ordinance to read, "*. . . subject to the condition that the property be replatted to be a part of the adjacent lot fronting on Lee Highway.*"

Councilman Pierce asked Mr. Oshier how long he has owned the business.

REZONING (Continued)

Mr. Oshier responded that he had an instant sign company there and has owned the front part of the property on Lee Highway since 1997 and both since July of last year.

Councilman Pierce asked Mr. Oshier if he read the deed prior to purchase; that Mr. Oshier is asking the Council to forgive him for not understanding what this is all about.

Councilman Littlefield stated that Mr. Oshier was trying to be honest and came into a situation that looked like a commercial operation.

Councilman Pierce stated there are a number of businesses operating out of compliance; that we cannot go back to every business that is operating out of compliance.

Councilman Benson stated the City has some responsibility for enforcing zoning.

Councilman Pierce stated that the City cannot monitor everything unless someone calls it to our attention.

Councilman Littlefield stated there is no opposition; that this is not a precedent we cannot live with.

Councilman Benson stated that the whole neighborhood needs to be blanket zoned.

On motion of Councilman Littlefield, 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 6809 CONNER LANE, MORE PARTICULARLY
DESCRIBED HEREIN, FROM R-4 SPECIAL ZONE TO C-2 CONVENIENCE
COMMERCIAL ZONE, SUBJECT TO CERTAIN CONDITIONS**
passed first reading.

GRANT APPLICATION

On motion of Councilman Page, seconded by Councilman Littlefield,
A RESOLUTION AUTHORIZING THE COUNTY MAYOR TO SUBMIT A GRANT APPLICATION TO THE TENNESSEE DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT TO PROVIDE INFRASTRUCTURE IMPROVEMENTS FOR AMERICAN PLASTICS INDUSTRIES, LTD., AND APPROVING A PORTION OF THE LOCAL REQUIRED MATCH IN THE AMOUNT OF THIRTY-TWO THOUSAND SEVEN HUNDRED FIFTY-SIX DOLLARS (\$32,756.00)
was adopted.

OVERTIME

Overtime for the week ending January 5, 2004 totaled \$80,244.95.

PERSONNEL

The following personnel matters were reported for the various departments:

PUBLIC WORKS DEPARTMENT:

- ✍ **JOHN D. COFFELT** – Hire, Heavy Equipment Operator, Citywide Services, Pay Grade 10/Step 1, \$25,208.00 annually, effective January 5, 2004.
- ✍ **LEE D. BROWN JR.** – Termination, Equipment Operator, Sr., Waste Resources, effective November 18, 2003.
- ✍ **EDWARD R. BARTON** – Suspension (without pay), Equipment Operator, Citywide Services, effective December 26, 2003 – January 13, 2004.
- ✍ **JAMES COLLIER, III** – Suspension (without pay), Crew Worker, Sr., Citywide Services, effective December 29, 2003 – January 6, 2004.
- ✍ **ERIC T. CROSS** – Suspension (without pay), Equipment Operator, Sr., Citywide Services, effective December 26-30, 2003.
- ✍ **HERANA ROBINSON, SR.** – Suspension (without pay), Sanitation Worker, Citywide Services, effective December 26, 2003 – January 5, 2004.
- ✍ **SALEM K. TEMPLIN** – Promotion, Crew Supervisor, Sr., Citywide Services, Pay Grade 12/Step 1, \$27,596.00 annually, effective January 9, 2004.

PERSONNEL (Continued)

CHATTANOOGA FIRE DEPARTMENT:

- ✍ **MARVIN D. HUDGINS** – Military Leave (Extended), Captain, effective January 11, 2003.

CHATTANOOGA POLICE DEPARTMENT:

- ✍ **WILMA J. BROOKS** – Military Leave (Extended), Officer, effective January 17, 2003 – January 17, 2005.
- ✍ **JENNIFER SCHRAMM** – Return to Duty (from Military), Officer, effective January 17, 2004.
- ✍ **JANET CRUMLEY** – Retirement, Captain, effective January 8, 2004.
- ✍ **ROY MICHAEL PHIPPS** – Termination, Police Cadet, effective January 12, 2004.
- ✍ **SHAWN HICKEY** – Military Leave (Extended), Sergeant, effective January 17, 2003 – January 17, 2005.

PURCHASE

On motion of Councilman Littlefield, seconded by Councilwoman Robinson, was approved for use by the Public Works Department:

MARSHALL MIZE FORD (Lowest and best bid)
R0071608

¾ Ton Truck (Amount reflects allowable trade-in of eight (8) vehicles totaling a value of \$24,000.00)

\$152,742.00

REFUNDS

On Motion of Councilman Pierce, seconded by Councilman Littlefield, the Administrator of Finance was authorized to issue the following refunds for stormwater fees and/or property taxes for tax year 2003 due to overpayment:

THOMAS GOODEN	\$1,224.81
MICHAEL MORRISSEY	1,248.08
HERMAN B. TROTZ TR	1,388.60

PURCHASE

On motion of Councilman Hakeem, seconded by Councilman Pierce, the following purchase was approved for use by the Finance Department, Fleet Maintenance Division:

LEE-SMITH, INC. (Lowest and best bid)
R0072320/B0001162

Rebuild Detroit Engine

(Price information available and filed with minute material)

PURCHASE

On motion of Councilman Hakeem, seconded by Councilman Pierce, the following purchase was approved for use by the Finance Department, Purchasing Division:

COS BUSINESS PRODUCTS (Lowest and best bid)
R0061548

Citywide Office Supplies

(Price information available and filed with minute material)

LIQUOR LICENSE

Admin. Eichenenthal presented a liquor license for Kitan Patel for a store located at 7000 Lee Highway. He indicated five Council member signatures were needed to complete the application process.

LIQUOR LICENSE (Continued)

Councilman Benson stated that he had heard a liquor store (kiosk) was going to be placed in the WalMart off Gunbarrel Road and asked if that is permissible.

Admin. Eichenthal expressed that he did not know; that he has not seen an application for that.

City Attorney Nelson stated that there are set back requirements for various things; that the State issues liquor licenses and the City does not. He stated that a wine store can be set up but would be surprised if a liquor store is placed there.

HEARING: CHRISTOPHER GAYNOR

City Attorney Nelson stated former Officer Gaynor's trial is scheduled for February 10 and the hearing originally scheduled for January 26 should be rescheduled.

The hearing for Christopher Gaynor was rescheduled for Monday, March 29 beginning at 1 p.m. with the full Council hearing the appeal.

PURCHASE

On motion of Councilman Page, seconded by Councilman Taylor, the following purchase was approved for use by the Personnel Department:

ALLIANZ

Property Insurance (2004-2005 Property and Boiler & Machinery Renewal Proposal; includes Terrorism Coverage)

\$197,130.00

COMMITTEES

Councilman Lively scheduled a special meeting of the **Safety Committee for Thursday, January 15 beginning at 3 p.m.** to allow for questions to the proposed new Chief of Police.

COMMITTEES (Continued)

Councilman Littlefield scheduled a meeting of the **Legal and Legislative Committee for Tuesday, January 20 at 3 p.m.**

HELEN CARTER

Helen Carter, owner of the Monkey Tree, stated that her business is located between Fourth and Fifth Streets; that she and other business owners in that block decided to get in touch with the Council to be placed on the agenda. She stated when she contacted the Council office she was told that their concern was not a proper item for the agenda; that matters of planning and zoning could be added but nothing of the sort of private downtown business owners. She stated she was told to contact the Council Chairman wherein she left two messages that have gone unanswered. She stated she and other business owners are in serious trouble; that they hear about plans for Bushtown and the Southside and they want to know who is helping implement the plans so they do not destroy what is already existing.

Ms. Carter continued by stating her business was down 30 percent in October, 65 percent in November and 35 percent in December. She stated Taco Mac and Q'doba are totally deserted in the evening. She stated on December 20th the streets were turned into two-way and there is an increase in traffic on Market, which is an already blocked area. She stated she tried to get to the other side of Market Street and on one occasion it took 40 minutes and on another 30 (minutes); that she and other business owners have serious problems and they need serious people to help them and are asking the elected officials, who represent citizens having problems, to assist. She stated they do not know where to go and do not know what to do; that they would like to talk with whoever can help and they do not know whom that might be.

Chairman Franklin stated the Council is glad to help her and apologized for the appearance of any lack of concern.

Ms. Carter stated that they want to know why there has been an increase in traffic when the streets were converted two-way; that they asked the Downtown Partnership and Public Works Department if a traffic study had been done.

Chairman Franklin asked Admin. McDonald if there are any dates regarding completion of the infrastructure construction downtown.

HELEN CARTER (Continued)

Admin. McDonald stated that the only thing is the work on Fourth Street, which is scheduled for completion in early spring. He stated the other work going on would be on Riverfront Parkway and (he) does not have an exact date for completion. He stated work going on for the Twenty-First Century Plan will continue for another twelve-to-fourteen months and they have not started on some of it.

Ms. Carter stated they would be more than happy to sit down with the Council, as the downtown revitalization will be going on for a long time. She stated a lot of it is the tail end of traffic going away from Market Street and the orange barrels and so many projects under completion.

Councilman Benson stated that he and Ms. Carter go back a long way and apologized if she called him and have not answered her calls; that maybe he failed to receive the message. He stated he did not understand a couple things and asked if there is increased traffic on Market. Ms. Carter responded "yes".

Councilman Benson stated that it seems that a lot of people in cars are going up-and-down in traffic. Ms. Carter stated there is a real need for parking or access to parking lots.

Councilman Benson stated he and Councilman Pierce worked on a problem for her and got it resolved. He asked if the Traffic Engineer is working on this. Ms. Carter responded "no".

Councilman Benson stated that he, Chairman Franklin and Councilwoman Robinson will work on this, however they cannot until they know the complexity of the problem. Ms. Carter indicated that this does not involve just her business.

Councilman Benson asked if Ms. Carter's store could be used as a meeting place, to which she responded affirmatively. He stated that he and Councilwoman Robinson would ask John VanWinkle and Bill McDonald to have someone present to represent them to help with the solution to calm the matter.

Ms. Carter stated downtown business owners want to know if there is some way to speed up the process; that bricks are being dug up that were recently put down! She stated they need the street open for development, new businesses and existing businesses.

FRANK HAMILTON

Frank Hamilton on the Chattanooga Police Department and President of the Fire and Police Pension Fund expressed thanks to the Council for the amendment to the ordinance on police hiring. He stated that they are concerned about the attitude of the Police Department and feel that the residency requirements should be addressed as well as hiring retired offices on a contractual basis.

Councilman Littlefield stated the issue of residency requirements is a Charter matter and the City Attorney has indicated the earliest public referendum would be August. He asked that Mr. Hamilton stay in touch with the Council and the Legal and Legislative Committee for an official request to put the matter to the voters. He stated that is not something we can simply deal with as an Ordinance; that it requires quite a bit of effort and their political support would be helpful.

ACKNOWLEDGEMENT OF ATTENDANCE

Chairman Franklin acknowledged the presence of former City Court Judge Walter Williams, School Board member Charles Love and Vince Dooley.

ADJOURNMENT

Chairman Franklin adjourned the meeting of the Chattanooga Council until Tuesday, January 20, 2004 at 6:00 p.m.

CHAIRMAN

CLERK OF COUNCIL

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