

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

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

MINUTE APPROVAL

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

AVONDALE NEIGHBORHOOD PLAN

Councilmen Hakeem and Littlefield made the motion and second to move Resolutions 7(e) and (f) forward on the agenda; the motion carried.

Kelly Martin of the Regional Planning Agency (RPA) stated that the Agency has been working on this for the last three-to-four months and it is now in its final stages. He expressed thanks to Councilmen Hakeem and Pierce for providing valuable feedback, as well as those from the Avondale area who were especially helpful in the planning process. He recognized persons in attendance from the Avondale Neighborhood Association.

James Gordon, a member of the Avondale Association, stated that they worked closely with RPA and other parties on the plan and became a great team and they are pleased with the plan.

There was no one in opposition present in regard to this plan.

AVONDALE NEIGHBORHOOD PLAN (Continued)

Councilman Hakeem acknowledged the presence of Rev. H. H. Wright who was with the group from Avondale. He added that the Council recognized Rev. Wright several months ago for his distinguished years of service.

On motion of Councilman Hakeem, seconded by Councilman Pierce,
**A RESOLUTION AUTHORIZING THE ADOPTION OF THE AVONDALE
NEIGHBORHOOD PLAN**
was adopted.

NORTH BRAINERD AREA PLAN

George Krauth of the RPA stated that the final recommendations for the land use plan and transportation for North Brainerd has been presented, indicating that RPA met with representatives of the community for three months and had three public meetings.

Councilman Franklin thanked RPA for their input, as well as residents of the community who were involved in the process. He stated the land use plan solidifies other pieces in the North Brainerd area that had not been under a plan and this was a very fruitful process. He recognized those present in support of the plan.

On motion of Councilman Franklin, seconded by Councilman Hakeem,
**A RESOLUTION AUTHORIZING THE ADOPTION OF THE NORTH BRAINERD
AREA PLAN**
was adopted.

REZONING

2004-068: Richard Burke

Pursuant to notice of public hearing, the request of Richard Burke to rezone a tract of land located at 2807 Walker Road came on to be heard.

The applicant was present; there was no opposition.

Mr. Pace, Director of Operations with RPA, stated this request is located in the Lee Highway area near Bonny Oaks Drive for O-1. He stated there are other offices in the area as well as commercial along Lee Highway. He stated the original request was for M-2, which was denied, and the applicant requested the change to O-1. He stated the Staff and Planning Commission recommend approval.

REZONING (Continued)

On motion of Councilman Littlefield, seconded by Councilman Lively,
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF
LAND LOCATED AT 2807 WALKER ROAD, MORE PARTICULARLY
DESCRIBED HEREIN, FROM R-4 SPECIAL ZONE TO O-1 OFFICE ZONE**
passed first reading.

AMEND CONDITIONS

2004-094: Gregory Shawn Petree

Pursuant to notice of public hearing, the request of Gregory Shawn Petree to amend certain conditions imposed in Ordinance No. 11475 on property located at 2510 Duncan Avenue came on to be heard.

The applicant was present.

Mr. Pace stated this request is located in the Ridgedale community near Dodds, Bailey and Duncan Avenues. He displayed the site by PowerPoint and indicated that the building is deteriorating from the weather and the applicant plans to demolish it. He stated Planning and Staff recommend approval of the request to lift conditions and replace the structure with a new building subject to the site plan, which has not been completed at this point. He stated the applicant is working with the Urban Design Studio on the design for the building to be situated close to the street in keeping with the urban neighborhood and parking will be to the rear and side of the structure rather than in the front.

Gregory Petree displayed a conceptual drawing that the Design Studio came up with. He stated representatives of the Design Studio felt the initial design of the building was not what they were looking for; that they wanted a building with more shape with two stories. He stated John VanWinkle did not want any access off Duncan or Bailey and indicated that the final site plan problem has been with the other variances he has been required to secure. He stated it has been suggested that he take part of the alley for the site plan and would need a variance for that. He asked that the conditions be lifted so he can get a new site plan and does not have a problem being approved pursuant to the site plan, as long as he can move forward with it due to the variances he will have to get even after it is approved.

AMEND CONDITIONS (Continued)

Councilman Hakeem asked Mr. Petree how long he has had the property.

Mr. Petree stated that he has been working on this for about a year and a half, and it was first rezoned R-4 with the intent of using the building, at which time he hired a crew and "gutted" the building. He stated once that was done the building began to deteriorate; that the beams were termite infested and it became a condemnable building.

Councilman Hakeem stated that that was the concern he had; that the building has been open for quite some time.

Mr. Petree stated it has been open since the process for a new site plan began; that the matter has been deferred several times.

Councilman Hakeem asked Mr. Pace if there are requirements or standards in regard to the site plan, if there is an interest and desire to have a quality structure and whether this request "locks" Mr. Petree in to have a quality structure.

Mr. Pace responded, "yes it does" and this is the purpose for it. He stated when the matter was originally reviewed, the Ridgedale Plan recommended residential for the triangular part at Bailey, Dodds and Duncan on the south area in transition with commercial to the east. He stated the request is to have something in keeping with the neighborhood and not something that would be an eyesore. He stated a drawing was requested to make sure the building would fit within the neighborhood and Mr. Petree has gone through working with the Design Studio to assure that would happen. He stated they do not have the final design of what the building will look like. He stated that he mentioned to Admin. McDonald just now that it was his thought there would be no access off Bailey; that the access would come off Duncan. He stated those matters would have to be worked out before second and third reading; that there is a sharp curve going up to the tunnel which is very hazardous to have an entrance off Bailey. He stated he would have the Traffic and City Engineers reassure those were the requirements.

Councilman Hakeem asked if there have been any concerns expressed by the neighborhood.

Councilman Pierce stated representatives for the neighborhood are not present tonight and indicated that he has a concern regarding the project.

AMEND CONDITIONS (Continued)

Gary Ball addressed the Council and stated that he is not in opposition; that the community has worked with Mr. Petree for eight months trying to move this along. He stated Patricia Rogers' house is the house next door to the vacant lot and she could not be present because her mother is in the hospital. He stated that he spoke with Ms. Rogers and her concern has to do with parking on the lot next door that is not rezoned; that the second lot is not zoned R-4 and they want to make sure whatever happens on the site would respect her property. He stated once Mr. Petree gets the variance to park on the residential lot, he would not have to have buffer requirements. He stated that he does not know how to work with Mr. Petree on this as it has "shuffled along"; and he does not want this to end up with a rezoned piece of property that becomes speculative because he can not make the job "go" and it will sit around for some period of time. He stated they could work to get it moved along if everyone is comfortable he will deliver. He stated that he spoke with Jerry Pace and they worked with another developer sixteen months ago for a rezoning and nothing was done with it. He stated now it sits there waiting for someone else to come by and buy it. He stated they do not want Mr. Petree getting property to a point he can speculate on it.

Councilman Littlefield asked if it was originally intended that this house would be used and inquired about the traffic.

Mr. Ball stated that it was assumed it would get worked out with traffic coming off Bailey through the alley, and assumed that everything would be worked out when Mr. Petree wanted to use the house and then ended up getting a variance on the next property for more parking. He stated that it is his thought it is doable if traffic engineering wants to work with him (Petree); that this is a tough spot with the triangle there and getting traffic out.

Councilman Littlefield asked Mr. Ball if he has worked with Mr. Petree representing the neighborhood.

Mr. Ball stated that the feeling is that the residents in the area want to make sure he is "the man"; that when they first went through this with Planning they wanted to retain the residential integrity and not tear it down because Mr. Petree would try to make it fit in. He stated then they found out it was not doable to bring it back as commercial for medical on the bottom and office on the top. He stated directions were changed in the middle of the project and now he (Petree) wants to sit down and work all the logistics out to do the traffic.

AMEND CONDITIONS (Continued)

Councilman Littlefield stated even if this passed on first it will not change anything; that Mr. Petree still has to come in with the site plan. He expressed whether acting on this tonight would be beneficial to anybody.

Mr. Ball expressed that he did not think so as they cannot work the traffic situation out in a week.

Mr. Petree stated that he met with John VanWinkle within the last two weeks and he (VanWinkle) came out and finalized the traffic portion and determined he wants it cut off at Duncan and will let him (Petree) widen the alley.

Councilman Littlefield expressed concern about traffic coming off Bailey; that the area between Bailey and McCallie was a "bottleneck" and dangerous when it was one way and the two-way has not changed that. He stated the other thing is that it seems as if we're treating the Design Center as if they have absolute control. He stated that Mr. Petree needs to make neighborhoods happy and bring that to this body; that the Design Studio can advise but they do not have authority.

Mr. Petree stated that he did that and took the building site plan to the Ridgedale Association and they approved the plan and later said they did not like the building.

Councilman Littlefield stated that is why it is necessary to make the neighborhood happy and traffic engineering happy. He stated this is probably ready to go; that he wants to make sure everything is "squared away" and Mr. Petree is the one to carry it through to completion, reiterating that the Council is not interested in a speculative venture. At this point he **made the motion to postpone the matter two weeks; Councilman Taylor seconded the motion.**

Councilman Taylor inquired as to whether a buffer is in place for the residential home behind this.

Mr. Pace stated unfortunately the house at 2512 is not shown on the map; that it is a vacant lot zoned R-2. He stated Mr. Petree would have to go to the Board of Appeals in order to park on that, which is not part of the zoning case; that the only conditions required are those for the rezoning to R-4.

Councilman Taylor again asked if there would be a buffer on anything.

AMEND CONDITIONS (Continued)

Mr. Pace responded that there are no requirements for that protection of next door residences. He stated the Design Studio has a concept and he understands Mr. Petree will take the concept to the architect to design the proper parking in relation to the building and the residents next door. He stated that was the only suggestion from the Urban Design Studio of how the building would sit on the property.

Councilman Taylor asked Mr. Petree if he plans to have a buffer. Mr. Petree responded "yes".

On motion of Councilman Littlefield, seconded by Councilman Taylor,
AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO AMEND CERTAIN CONDITIONS IMPOSED IN ORDINANCE NO. 11475 ON PROPERTY LOCATED AT 2410 DUNCAN AVENUE, BEING MORE PARTICULARLY DESCRIBED HEREIN, SUBJECT TO CERTAIN CONDITIONS
was tabled two weeks (July 27, 2004).

REZONING

2004-105: SEW Construction, LLC

Pursuant to notice of public hearing, the request of SEW Construction, LLC to rezone tracts of land located at 7229, 7231 and 7233 Noah Reid 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, Shallowford Road area for an R-T/Z zone. He stated Planning recommends approval of the request with conditions. The original site plan was shown by PowerPoint, as well as the revised site plan the applicant is recommending showing the drive way moved further to the south so that there would be better site distance for the entrance. He stated Planning recommends Type C landscaping with evergreens and the large trees on the south are to stay and protect the area. He stated the condition regarding conditional landscaping or appropriate screening would be determined when the landscape coordinator reviews the project; that the engineer's office has been provided with the additional conditions because Planning recommended an additional right-of-way and construction of three lanes along the east property line of Noah Reid Road for the entire property.

REZONING (Continued)

Mr. Pace stated that the engineer provided more detailed language with regard to widening to city standards with curbs and gutters with the centerline thirteen feet to form the base the length of Noah Reid Road. He stated other conditions are that there would be a 25' undisturbed buffer along the north property line, no back out parking and only one entrance from Noah Reid Road. He stated the Planning Commission recommends approval.

Gregory Wilson of CTI spoke on behalf of SEW Construction and stated in regard to the condition requested by the city engineer with curb and gutters, there would be no curb or gutter for the length of Noah Reid Road. He stated the traffic engineer looked at this and had someone from his department go out to the property and look at this and his recommendation did not include conditions for curbs and gutters or widening of the existing pavement. He stated the owner would like to have the Council consider eliminating that requirement. He stated the engineer did require dedication of a right-of-way along the eastern property line of Noah Reid Road, which is fine.

Chairman Benson stated that he understands there are large trees.

Mr. Wilson stated that in the site plan submitted, most of the trees were surveyed and at the cost of losing potential lots the design would incorporate location of the trees into the layout and road design. He stated they would design the property so that the lots will not require elimination of the trees and a protection fence would be put up to protect and align the road to minimize the number of trees taken out. He reiterated that this would cost them several lots, yet the trees would really enhance the development for a much nicer project overall. He stated some trees have 70-80 foot branch spreads and it is their hope to leave them in to give quality to this development.

Chairman Benson made reference to the applicant's request to be released from the curb and gutter recommendation from the Traffic Engineer.

Admin. McDonald stated when a rezoning for units such as this is built his department generally requires that the road is widened and paved to standards and curbs and gutters put in. He requested that the requirement be left in.

Chairman Benson asked if the applicant is prepared to give up the zoning request if forced to do the curb and gutters. He stated it is not too late to withdraw the request.

Mr. Wilson stated that the owner is prepared to do that, give it up.

REZONING (Continued)

Councilman Franklin inquired as to the number of units for this project.

Mr. Wilson stated at the RPA meeting they were permitted for 112 units, which is well below the density for R-T/Z. He stated with the current plan only 93 are allowed and they are trying to look at more lots, if possible. He stated they would not get close to the 112, reiterating that the plan shows 93 lots.

Councilman Franklin stated based on what he has heard, the area borders his and Councilman Benson's districts. He stated the Council goes a long way in protecting communities and he would not be in favor of rezoning if curb and cutters and widening of the street for traffic are not included.

Councilman Littlefield expressed agreement with Councilman Franklin's comments, indicating that the question of curbs and gutters is something that is going to be a necessity. He stated there would be a lot more turning movement in-and-out and if this is a "deal breaker" for the developer, then we really do not need to go further. He stated this matter is only up for first reading and the applicant should have a week to think about it, whether it is something they wish to abandon the project over.

Councilman Page stated that he wanted to make sure he heard completely that the applicant is indicating that he would rather have the project denied as opposed to putting up curbs and gutters and widening the road.

Mr. Wilson stated that is what the developer is indicating to him. He stated they would consider putting the matter off a couple weeks for further discussion to see if there is a different decision.

Richard Toby, owner of property across the street, stated that he is firmly opposed to not widening the street and not putting in gutters. He stated the original plan he heard was for 48 units and now he hears there will be 93, and that is a real concern for him. He asked that the Council definitely reject this request at this time.

Chairman Benson stated that it is his belief that the original plan was for a lower density.

Tony Green of 7301 Francis Drive stated that he is still having problems with water and was told that everything would be better since Shallowford has been raised. He stated this past Saturday water was standing in his yard and fortunately did not get in the house. He stated he is concerned about the water and if this project is constructed the water would get deeper and deeper.

REZONING (Continued)

Mr. Green stated that he is tired of moving furniture and would like some assurance he would not be flooded-out more than he is now. He stated everything that has been done has made it worse on him; that his only issue is that he gets flooded and it has become worse since Shallowford has been raised.

Councilman Littlefield stated that Mr. Green's problem sounds like a stormwater question and his concern would be taken into consideration.

Mr. Green stated that he does not care what is put out there and if it floods his house he wants to be bought out and if that were done he would start that tomorrow! He asked if he could be assured this would not affect him.

Councilman Benson stated that no more stormwater could be placed on him and it is hoped he would be relieved of his stormwater problems.

Admin. McDonald asked for Mr. Green's address to investigate his specific problem and see if there is something the department could do. He stated they would review the construction plans and make sure whatever is done would not increase his problem.

Councilman Littlefield stated that the Council has heard the applicant and those in opposition and knows the other question is to address stormwater and the curb and gutter issue and does not want those to be misinterpreted. In order to move this along, he **made the motion to approve this on first reading** and address the other questions. He made it clear that approval on first reading does not necessarily mean approval on second and third. He stated that he has usually heard from the people at Precept Ministries in the past and several other properties that usually call; however he has not heard from them on this. He stated he would call them and he might have a difference of opinion next week.

On motion of Councilman Littlefield, seconded by Councilman Lively,
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE TRACTS OF
LAND LOCATED AT 7229, 7231 AND 7233 NOAH REID ROAD, MORE
PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO R-
T/Z RESIDENTIAL TOWNHOUSE/ZERO LOT LINE ZONE, SUBJECT TO
CERTAIN CONDITIONS**

passed first reading; **Councilmen Benson and Franklin voted "no"**.

REZONING

2004-109: Tony Daniel

Pursuant to notice of public hearing, the request of Tony Daniel to rezone a tract of land located at 5927 Winding Lane came on to be heard.

The applicant was present; there was no opposition.

Mr. Pace stated this request is located in the Hixson area with R-1 to the east and R-3 to the west of the site. He stated the C-2 in the area is the entrance to the WalMart Center to the north of this location. He stated there is a structure on the property that would be torn down and a new building constructed that would have back-out parking onto Winding, which is a narrow road. He stated the matter was taken to the Leadership Committee of Hixson in regard to the North River Plan. He stated there are three lots tucked in this and the owners of the other two property were talked to and it is their wish to have their properties rezoned as well, however no application has been received to make it an R-4 area. He stated the request is for a veterinary hospital, which can go in an R-4 zone with a special permit. He stated the Leadership Council and Planning Commission recommend approval subject to review of the site plan by the Public Works permitting office for on-location parking.

Councilman Page expressed appreciation to the applicant for working with the community and the Plan. He stated there was a little "tweaking" of the Plan.

On motion of Councilman Page, 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 5927 WINDING LANE, MORE PARTICULARLY
DESCRIBED HEREIN, FROM R-5 RESIDENTIAL ZONE TO R-4 SPECIAL
ZONE**

passed first reading.

AMEND CERTAIN CONDITIONS

2004-110: Carmack & Johnson, LLC

Pursuant to notice of public hearing, the request of Carmack & Johnson, LLC to amend certain conditions imposed in Ordinance no. 11421 on property located at 912 Sutton Drive came on to be heard.

The applicant was present.

AMEND CERTAIN CONDITIONS (Continued)

Mr. Pace stated the applicant is asking to lift conditions “*from bank only*” and to add language that would state “*for bank only and professional office*” to accommodate a building. He stated approval is recommended and a “gentleman’s agreement” has been drawn up between the applicant and the next-door neighbors, the Millards, to accommodate a distance setback from her property to the building. He stated a legal document has been drawn up which would need to be registered with the deed to make it more permanent.

City Attorney Nelson stated that it is his thought those concerned may want to add more in the form of a covenant and deed restrictions. He stated he would speak with Mr. Carmack’s attorney over the next week to assure everyone is protected. He stated the matter could be adopted on first reading if the Council chooses.

Councilman Page stated with respect to the parties present he has had various discussions with them. He stated that he is prepared to make a motion to approve the matter on first reading with the agreement both parties would review the document and work with the City Attorney and establish a new document which would include a covenant restriction which would run with the ownership of the land if it is changed. He stated Mr. Carmack has agreed to do that.

Councilman Lively stated his concern is for the protection of the Millards; that on the O-1 in the back the Council inadvertently failed to bring the 50-foot barrier around from the back to the sides to protect their property. Mr. Pace stated that is correct and that is why no conditions are attached and why there is a written agreement, a contract between them that is not part of the conditions.

Councilman Page expressed appreciation for Councilman Lively’s concern. He stated the formal document that has been presented with this zoning request did not include the language the City Attorney requested in order to make it carry on with the deed of the property.

On motion of Councilman Page, seconded by Councilman Hakeem,
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO AMEND CERTAIN
CONDITIONS IMPOSED IN ORDINANCE NO. 11421 ON PROPERTY
LOCATED AT 912 SUTTON DRIVE, BEING MORE PARTICULARLY
DESCRIBED HEREIN, SUBJECT TO CERTAIN CONDITIONS**

passed first reading.

REZONING

2004-112: CAP Investments

Pursuant to notice of public hearing, the request of CAP investments to rezone a tract of land located at 1711 Olive Street came on to be heard.

The applicant was not present; there was no opposition.

Mr. Pace stated that this request is located on Olive Street and has insufficient square footage for even a duplex! He stated the property could be placed under a lot of record for approximately a year before having a variance on it; that more square footage is required for an R-3 zone. He stated Planning and Staff recommend denial.

Councilman Hakeem stated that he and Councilman Pierce did a lot of research on this item and both agree this would not be in accordance with the plan being developed in that area.

On motion of Councilman Hakeem, seconded by Councilman Taylor,

**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF
LAND LOCATED AT 1711 OLIVE STREET, MORE PARTICULARLY
DESCRIBED HEREIN, FROM R-2 RESIDENTIAL ZONE TO R-3 RESIDENTIAL
ZONE**

was denied.

REZONING

2004-122: LDG Construction, Inc.

Pursuant to notice of public hearing, the request of LDG Construction, Inc. to rezone tracts of land located at 507 and 511 North Germantown Road and 3525 Rogers Road came on to be heard.

The applicant was not present.

Mr. Pace stated that this area is part of the Brainerd down zoning during the past few years to R-1; that the majority of properties in the area are R-1 single family. He stated the Staff and Planning Commission recommend denial.

REZONING (Continued)

On motion of Councilman Pierce, seconded by Councilman Taylor,
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE TRACTS OF
LAND LOCATED AT 507 AND 511 NORTH GERMANTOWN ROAD AND
3525 ROGERS ROAD, MORE PARTICULARLY DESCRIBED HEREIN, FROM
R-1 RESIDENTIAL ZONE TO R-2 RESIDENTIAL ZONE**
was denied.

REZONING

2004-123: Tag Bailey

Pursuant to notice of public hearing the request of Tag Bailey to rezone a tract of land located at 727 Battery Place came on to be heard.

The applicant was present; opposition was in attendance.

Mr. Pace stated this request is located along Battery Place and two sites are involved, with one at 727 Battery Place and the other at 110 Douglas Street. He stated both are requested for the same C-3 zoning with one lot presently zoned R-3 and the other R-4; that the same conditions are attached to both cases. He displayed by PowerPoint the site on Battery Place off Riverfront Parkway. He stated the requested site is adjacent to the Riverwalk, which runs along the north side of the property. He stated the recommendation is for approval from the Staff and Planning Commission subject to a number of conditions that are attached to C-3 properties downtown, which are attached.

Pat Neuhoff of Neuhoff Architects stated they have been working on this project for over a year and are requesting the C-3 central city zone as this project falls within C-3. He stated this area is part of the area that Planning, through their studies over the last year and a half, have identified as being prime for essential C-3 zoning to bring upscale housing to downtown. He stated over \$200 million is presently being spent improving the infrastructure and amenities with the goal for housing. He stated adjacent properties are a compatible use as most on this street are multi-family. He stated adjacent properties, such as the Waterchase Condominiums, are a similar development. He stated the project is 2.5 stories and there will be two parking spaces for each unit, which is a condition for the zoning; that the project has been revised to meet the landscaping, traffic, building, sewer and stormwater requirements and are all incorporated within the current plan. He stated that he met with Public Works and identified avenues to handle those conditions.

REZONING (Continued)

Mr. Neuhoff stated parking for the structure will be underneath both buildings; that they will be submerged and will not be visible from the ground. He stated Mr. Bailey is asking that his property be rezoned so that he can benefit from his property as adjacent property owners have. He stated they followed the guidelines of the Central City Plan and consistently worked to provide a progressive, sensitive approach. He stated the project has been revised from the previous version and will have ten units on one and thirteen units on the other.

Jack Marcellis, President of the Waterchase Condominiums Association located at 120 Douglas Street and adjacent to the one requested at 124 Douglas Street, stated one of the stated intentions and goals of the C-3 zone is to protect the character of the neighborhood and he and others at Waterchase do not believe this development will protect the character of the neighborhood due to the high density, no building setbacks and no guarantee of off street parking. He stated the density is extremely high, and in the case of Waterchase there are 18 units on 1.6 acres of land and the developer is calling for ten units on a quarter of an acre, which would be 40 units per acre and another development is having one unit on about 3.10 acres, which would be 42 units per acre, more than four times that of Waterchase. He stated there are also no setbacks and on one site there is a zero setback and one zero setback mentioned is not the full setback of a normal R-3. He stated Waterchase obtained a variance for a density that is much lower. He asked that a condition be incorporated that all loading would be off-street, which would include moving vans and all dumpsters; that there is limited parking in the area and is very well used by patrons from UTC, the Riverwalk and the football team.

Councilman Hakeem asked Mr. Marcellis as to the type of restrictions that his complex has when we talk about vans moving in-and-out and off-street parking.

Mr. Marcellis responded "yes"; that the complex was zoned R-4 and the setback was approved by the Variance Board; that they went on two separate occasions for variances and were denied twice.

Councilman Hakeem stated Mr. Marcellis "ticked off" five-to-ten restrictions or requirements. He asked if those are the types of requirements that have been placed on his complex (Waterchase).

REZONING (Continued)

Mr. Marcellis responded "yes", indicating that on parking they have eighteen units and 45 parking spaces, nearly three parking spaces per unit. He stated the density is low and parking is in excess of what is required. He stated they have all the setbacks that normally go with an R-4 zone, except one which and the Variance Board did not grant.

Councilman Hakeem stated Mr. Marcellis indicated something about off-street parking.

Mr. Marcellis stated that was in reference to dumpsters and loading.

Councilman Hakeem asked Mr. Marcellis if his complex has the same restrictions regarding dumpsters and loading. Mr. Marcellis responded "yes".

Councilman Hakeem stated the question Mr. Marcellis has in regard to parking is resolved, as parking for this project is planned to be underneath the building.

Mr. Marcellis stated it was indicated they would have two parking spaces per unit and if the C-3 is approved he would for like that to be included as a condition; that it still has quite a high density and is not compatible to the residential neighborhood.

Councilman Hakeem asked Mr. Marcellis if he prefers no development at all.

Mr. Marcellis responded that he would prefer an R-3 or R-4 type development that would have less density than a C-3 development.

Councilman Page asked Mr. Pace if there is a plan we have already constructed that addresses this zoning and if so, what is the answer. He also asked if there has been any discussion between the neighborhood and developers; that the Council has to make a decision, which could be made better is the developer and residents have come together with some kind of agreement, if possible.

Mr. Pace stated in response to Councilman Page's first question about a plan, the downtown plan does address this in detail; that the plan has been under revision by the Urban Design Studio for sometime now and is nearing completion. He stated they do recommend residential in this area and he is not sure if the density issue is attached to it. He stated he could not answer the second question and does not know if the developers have met with the neighborhood.

REZONING (Continued)

Mr. Pace stated that he knows the C-3 zone is highly used downtown to accommodate development, residential and commercial, with restraints on setbacks and parking. He stated in this design the conditions state this project could be reviewed by the Urban Design Studio and the parking component would be reviewed at that point. He stated that he would certainly hate to think the developer is going to develop something with no parking; that he would not be able to sell any units if there were no parking.

Mr. Neuhoff stated approximately a year ago a meeting was set up and he contacted all the adjacent property owners and the only ones who attended were members of the Waterchase Condominiums. He stated at that meeting he did not see any opposition, which has since surfaced, and subsequently in an attempt to address their concerns, which came out in a public meeting, the density has been lowered significantly to bring the building no taller than their existing building and we have the same zero setback they have. He stated they tried to go even further in shielding parking underneath the building. He stated Mr. Marcellis mentioned the matter of the dumpster; that their dumpster will be underground and Waterchase's dumpster sits out in the open along their entrance! He stated this developer is providing a higher level of value than what exists in the area, now, as the entry level price will be \$250,000, which is over twice what some of the existing properties are.

Councilman Taylor inquired as to whether he was correct that the meeting occurred over a year ago. He asked if the neighborhood residents have seen this present design or was there an opportunity to present the plans to them.

Mr. Neuhoff stated that the design submitted has been made public through drawings and in public meetings they have attended over the last two months.

Councilman Taylor again asked if there has been a neighborhood meeting. Mr. Neuhoff responded that they did have a meeting a year ago.

Councilman Taylor stated that it appears as if there should be another reason to update.

Councilman Littlefield stated that he talked with Mr. Neuhoff some months ago and also talked with Mr. Bailey; that this is a very interesting situation and he has friends on this issue and friends who came to the Board of Appeals. He asked if there was anyone else in opposition, no one else from the audience responded.

REZONING (Continued)

Councilman Littlefield stated this is controversial and remembered the Waterchase issue was controversial and was “massaged” quite a bit. He stated it is his thought once this is built it will be something people will be far more acceptable of than the fears in their minds at this time. He stated the C-3 zone is one that has been designed and adopted by this body to promote this type of urban center development. At this point he made the motion to approve the request on first reading; Councilman Pierce seconded the motion.

Councilwoman Robinson stated that she wanted to speak to the whole issue of downtown and what is happening in the wake of the downtown revitalization, which began with the opening of the Tennessee Aquarium in 1992 and continues with the 21st Century Waterfront Plan that is nearing completion. She stated this is the kind of project we will see a lot of as more people want to move back close to downtown. She stated we have a number of condominiums under construction now across from the Aquarium. She stated that she did a quick calculation and it looks like units will be built at 155 per square foot, which is certainly a generous amount for this quality of project. She stated that she plans to vote for approval.

On motion of Councilman Littlefield, 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 727 BATTERY PLACE, MORE PARTICULARLY
DESCRIBED HEREIN, FROM R-3 RESIDENTIAL ZONE TO C-3 CENTRAL
BUSINESS ZONE, SUBJECT TO CERTAIN CONDITIONS**
passed first reading; **Councilman Taylor abstained.**

REZONING

2004-124: Tagner H. Bailey

Pursuant to notice of public hearing, the request of Tagner H. Bailey to rezone a tract of land located at 110 Douglas Street came on to be heard.

The applicant was present; opposition was in attendance.

Mr. Pace stated this request includes the same conditions and recommendations as the previous request and is located directly across the street. He stated the Staff and Planning Commission recommend approval with conditions.

REZONING (Continued)

On motion of Councilman Littlefield, 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 110 DOUGLAS STREET, MORE PARTICULARLY
DESCRIBED HEREIN, FROM R-4 SPECIAL ZONE TO C-3 CENTRAL
BUSINESS ZONE, SUBJECT TO CERTAIN CONDITIONS**
passed first reading; Councilman Taylor abstained.

CLOSE AND ABANDON

MR-2004-005: Chattanooga Housing Authority

Mr. Pace stated that an electronic communication was received from Mark Rudisill of the Housing Authority requesting that this matter be deferred until August 17.

On motion of Councilman Taylor, seconded by Councilman Franklin,
**AN ORDINANCE CLOSING AND ABANDONING THE 600 BLOCK OF
WEST 37TH STREET, PART OF THE 3500 AND 3700 BLOCKS OF CHANDLER
AVENUE AND AN UNOPENED ALLEY LOCATED AT THE EAST LINE OF THE
3700 BLOCK OF CHANDLER AVENUE, MORE PARTICULARLY DESCRIBED
HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE
A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS**
was deferred until August 17 at the request of the applicant.

CLOSE AND ABANDON

MR-2004-009: City of Chattanooga and Chattanooga Housing Authority

On motion of Councilman Taylor, seconded by Councilman Littlefield,
**AN ORDINANCE CLOSING AND ABANDONING AN UNOPENED ALLEY
LOCATED IN THE 3800 BLOCK OF CHANDLER AVENUE, AN UNOPENED
PORTION OF OAKLAND AVENUE LOCATED IN THE NORTH LINE OF THE
500 BLOCK OF WEST 42ND STREET, THE UNOPENED 600 BLOCKS OF
WEST 40TH STREET AND WEST 41ST STREET AND A PORTION OF THE
UNOPENED 700 BLOCK OF WEST 40TH STREET RIGHT-OF-WAY, MORE
PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP
ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE,
SUBJECT TO CERTAIN CONDITIONS**
passed first reading.

PRELIMINARY PUD

2004-090: Wise Properties – TN, LLC

The applicant was present; there was no opposition.

Mr. Pace stated this request is located in the North Chattanooga area between Forest Avenue and Woodland Avenue. He stated the Staff and Planning Commission have reviewed the matter and it has gone through the appropriate PUD review by the subdivision review process. He stated approval is recommended subject to the requirements of the subdivision review process. He stated that he knows the developer has met with the neighborhood as several are present this evening that may want to address the Council. He stated the applicant has a revised plan showing the changes that were worked out with the neighborhood which should be made a part of the conditions to the preliminary PUD and incorporated into the final plan that will be brought back before this body for final approval with the conditions attached. He stated approval is recommended for the preliminary planned unit development.

Rick Lee, Architect with Wise Properties, stated about a month ago when they met, the Council Chairman asked if there was any opposition and it is his thought approximately 70 persons stood and when it was asked who was in favor only he and John Wise stood. He stated Councilmen Lively and Robinson suggested that Mr. Wise meet with the neighborhood to see if concerns could be worked out and rather than try to speak to the issue, he introduced Sid Huntley.

Sid Huntley stated that he lives in the 500 block of Forest Avenue and when this first came up they were very opposed and feels it was due to lack of information on their part as they did not know what it was all about. He stated they had neighborhood meetings and decided to contact their Councilpersons (Lively and Robinson). He stated on June 8 they were ready to adamantly oppose the development, yet, as a result they have found it a pleasure working with Messrs. Lee and Wise who have more than addressed their concerns. He stated the development would have three bedrooms and two baths with a two-car garage, which is more in keeping with the other homes on Forest Avenue; that their neighborhood is "on the way up" and is slowly turning into a premier neighborhood in North Chattanooga. He stated they do not want anything to run it down as they have made investments there. He stated that he has listened to this evening's deliberations and is impressed with the Council, as they have a true concern for the integrity of neighborhoods. He expressed appreciation to the Council and Mr. Wise.

PRELIMINARY PUD (Continued)

On motion of Councilman Lively, seconded by Councilwoman Robinson,
A RESOLUTION APPROVING A PRELIMINARY PLANNED UNIT DEVELOPMENT SPECIAL EXCEPTIONS PERMIT FOR A PROPOSED PLANNED UNIT DEVELOPMENT KNOWN AS TOWNHOMES OVER CHATTANOOGA PLANNED UNIT DEVELOPMENT, ON A TRACT OF LAND LOCATED IN THE 500 BLOCKS OF WOODLAND AND FOREST AVENUES, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS
was adopted.

PRELIMINARY PUD

2004-115: Chris Amos

The applicant was present; there was no opposition.

Mr. Pace explained that this request is located in the Mountain Creek area for a residential R-1 PUD. He stated the Staff and Planning Commission recommend approval with conditions. He stated Mr. Amos has developed a project similar to this in Councilman Benson's district and the one in Mountain Creek will be equally as nice.

On motion of Councilman Lively, seconded by Councilwoman Robinson,
A RESOLUTION APPROVING A PRELIMINARY PLANNED UNIT DEVELOPMENT SPECIAL EXCEPTIONS PERMIT FOR A PROPOSED PLANNED UNIT DEVELOPMENT KNOWN AS CHRIS AMOS PLANNED UNIT DEVELOPMENT, ON A TRACT OF LAND LOCATED AT 1134 MOUNTAIN CREEK ROAD, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS
was adopted.

PRELIMINARY PUD

2004-121: Barry A. Payne

The applicant was present; opposition was in attendance.

PRELIMINARY PUD (Continued)

Mr. Pace stated this request is located in the Tyner community and there is opposition present. He stated the development would be in keeping with the R-T/Z zone and development that is occurring along Tyner Road. He stated there is a road in between two houses and one condition is that it would not be used for construction trucks for the development. He stated that it is his belief that the developer plans to make sure the conditions are attached to the PUD review from the Subdivision Review Committee so that it could be incorporated into the final PUD plan; that the Staff and Planning Commission recommend approval.

Barry Payne of 8210 Pierpoint Drive in Harrison, Tennessee stated that there is a target market for single family, first time buyers and "empty nesters" and the target price will be \$120,000 - \$150,000. He stated on the day he put the zoning sign up he went up-and-down Tyner and Kirkman and knocked on each door and talked with each homeowner; that he did the same thing two other nights and talked to all he could. He stated there were two people in opposition when the matter went to the Regional Planning Commission; that one involved the neighborhood to the northeast where there is a house that is very close to the property line and another was neighborhood concern about traffic on Kirkman Road. He stated after the meeting he met with the gentleman whose house was close to the property line and tried to work it out; that it ended up that he (Payne) would give the gentleman 100 feet down each property line along the triangle to protect his house and he was happy. He stated the other was the traffic on Kirkman, which went back to engineering; that engineering and Planning recommended explicit instructions not to use access points during construction. He stated he is trying to sell and cannot until this is all cleared up.

Kirk Johnson stated that he owns property on the east side of Kirkman and has lived there all his life. He stated there is a lot of traffic that goes through the Bess T. Shepherd and Tyner Junior and Senior High traffic zones. He stated in the mornings the way it is now a person cannot get out on either end of Kirkman or Bonny Oak. He stated there are 120 houses on Bonny Oak and it will present an extreme burden if there is a road going out to Tyner Road. He stated that he owns property on the southwest and has options on some of it; that this is a very narrow road at this point.

Mr. Payne stated that he just took about 100 feet and understands he cannot give it to them; that it has to be made as a buffer and if it changes the outer perimeter he would have to start the process over again. He stated as far as property on the front of Tyner, there would be a problem that way because he is not the sole owner and the other persons does not want to sell it, and he is stuck there. He stated it would be a better development if it were taken out on Kirkman.

PRELIMINARY PUD (Continued)

Councilman Littlefield inquired as to what traffic engineering is recommending.

Mr. Pace stated that he did not have any remarks from traffic engineering about traffic; that he knows Mr. VanWinkle said he would rather have two entrances onto Tyner and Kirkman. He stated he does not have any conditions from traffic and having the outer boundary would require Mr. Payne to go back through the process of the preliminary PUD and then final PUD plans.

Councilman Littlefield stated that it was his thought this exit to Kirkman would be something traffic engineering did not strongly oppose.

Mr. Pace stated that he did not think so; that in going through the subdivision review they had input and it was indicated this would meet all traffic concerns.

Councilman Littlefield stated apparently Mr. VanWinkle felt with it going to Tyner there would be a problem with the school zone. He **made the motion to postpone the matter one week for the traffic engineer to review the matter.**

Chairman Benson inquired as to the density for the R-1 PUD.

Mr. Pace responded that it would be 4.5 units per acre, which is below the required density.

Councilman Littlefield stated that he has no problem with the density; that when a preliminary PUD is approved a lot of things are put in motion that are hard to stop and he wants to make sure the traffic situation is correct.

Mr. Payne stated that he has lowered the density from 120 units to 112.

Councilman Littlefield stated that it is his thought the density is fine; that the development looks good and should succeed. He stated he wants to make sure about the traffic coming into the intersection.

Julia Arfken stated that she is a property owner and lives on Tyner Road and is not opposed to this request. She stated people coming out of the subdivision turn up Kirkman and go to Bonny Oak to get to the interstate. She stated they will not come up Tyner Road to turn up Kirkman to go to Bonny Oak and will not take the long way to get to the interstate going behind the high school to Hickory Valley and Shallowford up to Bonny Oak. She stated they turn around and go straight up Kirkman and do not go down Tyner Road.

PRELIMINARY PUD (Continued)

Ms. Arfken stated she has lived on Tyner Road her whole life, also, and Mr. Johnson, who is opposing this, is her cousin. She stated he has opposed every development on Tyner Road!

Councilman Littlefield asked Admin. McDonald if the arrangement is acceptable.

Admin. McDonald stated that he wants to take a look at this, as he has not reviewed this with the traffic engineer. He requested an opportunity to look at this prior to moving forward.

Councilman Littlefield stated that he is more concerned about traffic at this intersection, which would require a slight redesign.

On motion of Councilman Littlefield, seconded by Councilman Lively,

A RESOLUTION APPROVING A PRELIMINARY PLANNED UNIT DEVELOPMENT SPECIAL EXCEPTIONS PERMIT FOR A PROPOSED PLANNED UNIT DEVELOPMENT KNOWN AS PAYNE ON KIRKMAN PLANNED UNIT DEVELOPMENT, ON A TRACT OF LAND LOCATED AT 2817 AND 2827 KIRKMAN ROAD, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS

was tabled one week.

PRELIMINARY PUD

2004-126: Michael A. Dowlen

The applicant was present; there was no opposition.

Mr. Pace stated there are two properties involved at this site with one home that was demolished to accommodate an entrance. He stated there is a very narrow road that curves and on the west side are duplexes, as well as R-1 single-family development in the area. He stated the vacant property is visible from the freeway; that traffic engineering reviewed the matter and made the following recommendations: provide for a second access point at Greenway Drive, dedication of an additional right-of-way along North Concord Road 30 feet from the centerline and build the roadway to city standards to allow for a turn lane, move the entranceway north to improve sight distance for traffic exiting the subdivision and the unregulated floodway analysis shall be required prior to any placement of fill. He stated the Staff and Planning Commission recommend approval subject to conditions.

PRELIMINARY PUD (Continued)

Chairman Benson stated that Mr. Dowlen started out with 200 people in opposition; that residents of the neighborhood met June 7 and worked it out and no one is here in opposition tonight, which is most unusual. He stated that this developer put in an unusual amount of work to try to bring about a harmonious development.

On motion of Councilman Hakeem, seconded by Councilman Littlefield,
A RESOLUTION APPROVING A PRELIMINARY PLANNED UNIT DEVELOPMENT SPECIAL EXCEPTIONS PERMIT FOR A PROPOSED PLANNED UNIT DEVELOPMENT KNOWN AS DOWLEN AT CONCORD PLANNED UNIT DEVELOPMENT, ON TRACTS OF LAND LOCATED IN THE 6900 BLOCK OF DELBERT LANE, THE 1500 BLOCK OF NORTH CONCORD ROAD AND THE 3800 BLOCK OF INTERSTATE 75, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOW ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS

was adopted.

TEMPORARY USE

On motion of Councilman Littlefield, seconded by Councilman Hakeem,
A RESOLUTION AUTHORIZING DANNY PATEL TO USE TEMPORARILY THE CITY'S RIGHT-OF-WAY LOCATED IN THE 2300 BLOCK OF SHALLOWFORD VILLAGE DRIVE AT THE INTERSECTION OF SHALLOWFORD ROAD TO PLANT CREPE MYRTLES, AS SHOWN ON THE DRAWING ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS

was adopted.

TEMPORARY USE

On motion of Councilman Lively, seconded by Councilman Littlefield,
A RESOLUTION AUTHORIZING ADAM COHEN TO USE TEMPORARILY THE CITY'S RIGHT-OF-WAY LOCATED IN THE 1600 BLOCK OF LONG STREET TO CONNECT BUILDING ENTRANCE STOOPS TO THE PUBLIC SIDEWALK AS SHOWN ON THE MAPS ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS

was adopted.

DONATION OF CERTAIN REAL PROPERTY

On motion of Councilman Taylor, seconded by Councilman Franklin,
A RESOLUTION AUTHORIZING THE CITY FINANCE OFFICER TO EXECUTE ANY AND ALL DOCUMENTS NECESSARY TO FACILITATE THE DONATION OF CERTAIN REAL PROPERTY LOCATED AT 0 PIROLA STREET, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, TO THE CHATTANOOGA COMMUNITY HOUSING DEVELOPMENT ORGANIZATION
was adopted.

DONATION OF CERTAIN REAL PROPERTY

On motion of Councilman Hakeem, seconded by Councilman Littlefield,
A RESOLUTION AUTHORIZING THE CITY FINANCE OFFICER TO EXECUTE ANY AND ALL DOCUMENTS NECESSARY TO FACILITATE THE DONATION OF CERTAIN REAL PROPERTY LOCATED AT 75 WALL STREET, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, TO CHATTANOOGA NEIGHBORHOOD ENTERPRISE
was adopted.

SALE OF CERTAIN REAL PROPERTY

On motion of Councilman Littlefield, seconded by Councilman Hakeem,
A RESOLUTION AUTHORIZING THE CITY FINANCE OFFICER TO EXECUTE ANY AND ALL DOCUMENTS NECESSARY TO FACILITATE THE SALE OF CERTAIN REAL PROPERTY LOCATED AT 0 HOLLYWOOD CIRCLE, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, TO MARK SIEDLECKI, FOR A TOTAL CONSIDERATION OF ONE HUNDRED DOLLARS (\$100.00)
was adopted.

CONDUCT ZONING STUDY: AVONDALE NEIGHBORHOOD

On motion of Councilman Pierce, seconded by Councilman Hakeem,
A RESOLUTION REQUESTING THE CHATTANOOGA-HAMILTON COUNTY REGIONAL PLANNING AGENCY TO CONDUCT A ZONING STUDY FOR CERTAIN PROPERTIES LOCATED IN THE AVONDALE NEIGHBORHOOD AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE
was adopted.

OVERTIME

Overtime for the week ending July 9, 2004 totaled \$111,339.91.

COUNTY SCHOOLS ISSUE

At this point, Chairman Benson recognized Pastor Kevin Adams and others present with him in reference to the county schools funding issue.

Pastor Kevin Adams apologized for interrupting the Council's scheduled agenda and stated he was present along with other members of the Clergy and citizens in this community in reference to the county school system's problems. He expressed that he knows this is a county issue, however, at this point, it is an emergency with only three weeks before the kids will go back to school. He stated they have been going to all venues to see if all are aware or know of any funds that the city oversees that may be used as emergency funds to help with transportation or sports or any school concerns. He stated their main issue for being present is to see if there are any funds the Council knows of, again expressing his knowledge that this is a county issue; that there might be some monies that the county issues that the city oversees that could be used as emergency funds or any consideration for help.

Chairman Benson explained that the first thing is that this is outside of the Council's jurisdiction; that the Council has to be careful and respect the authority, responsibility and jurisdiction of the county. He stated the city has established a budget and Councilman Pierce chaired the Budget Committee.

Councilman Pierce stated that he could not foresee any funding that makes a connection between the city and county; that basically, the city funds the county schools through the half-cent sales tax, which the city has been funding to the county for the last eight years to the "tune" of \$8.5 million dollars. He stated it has become law that the city makes that funding after the half-cent sales tax was voted in this past year. He stated the city has to set our budget and the county has to set theirs; that what bothers him is that at the time the city operated the school system there was no outcry from the public as far as the city turning the city schools over to the county. He stated this is something he did not want to see done, but it was and it was at the wishes of the people. He stated the city has gracefully supported the school system over the past years, although we "went out of the business" eight years ago. He stated the Mayor presented a balanced budget and he (Pierce) chaired the committee and it was adopted on final reading last week. He stated to go back now and find new money, he does not see that the city would have it; that someone else might have more of an impression of something that might be out there.

COUNTY SCHOOLS ISSUE (Continued)

Councilman Littlefield stated that there was a meeting last night that was well conducted; that everyone was very "to the point" about the issue of transportation. He indicated that Pastor Adams might recall that he (Littlefield) was reluctantly "dragged" to the front by Rev. Billingsley. He stated that many points about transportation were well taken and there was a discussion about this in committee this afternoon and at the Council's request, Tom Dugan, Executive Director of CARTA, our local transportation authority, came in and talked with us in some detail tonight after the committee meetings. He stated the city puts \$3.4 million into CARTA and at the same time, as in the past, they have carried young people to school and still do in some cases. He stated while they are not absolutely able to expand and take care of the whole problem, Mr. Dugan did indicate the feeling there are some things they might be able to do. He reiterated that the city puts \$3.4 million into CARTA and they requested something over \$100,000 from the county and they cut it \$15,000; that they continue to support transportation to urban areas to alleviate that part of the problem. He stated Mr. Dugan is to meet with the school board next week to see what they might be able to do; that the problem is that city buses do not run the same way school buses do and he is hopeful CARTA can prove to be some incremental part of the solution. He stated he could speak for the rest of the Council that they are concerned; that the Council is still in the "people business" and want to make sure our young people are well cared for and have education opportunities. He stated the Council would continue to work with them.

Councilman Hakeem expressed appreciation for all the work Pastor Adams does in the community and with children. He stated we have realities we have to deal with here in the city and one phrase his colleagues have used is if we were to go into the "rainy day" fund we would be opening "Pandora's box". He stated if we go into it for an operating expense like this, there are other agencies that would say their needs are just as great. He stated there are bonding agencies the city has to deal with so as not to have our bonding percentages low. He stated some of the things the city has run into is that the federal government has made mandates for not sending money and the state has to assist in that effort. He stated the county has decided not to raise taxes and to deal with it. He stated we have a responsibility to all of Chattanooga, including its children, but the reality of it is whether the county has a "rainy day" fund, and in addition, we as Chattanooga citizens pay 61 percent of that tax, clarifying that in more than one way the city is doing more than its share. He stated what he is saying is that the responsibility lies with the county and they should "step up to the plate". He stated if there is anything the Council can do in that regard they would do, but the reality is that we do not want to start something we cannot continue doing.

COUNTY SCHOOLS ISSUE (Continued)

Councilman Franklin echoed the sentiments of his colleagues, indicating that he has a sixteen-year old daughter in a similar situation where she lives. He stated that it is not just school transportation, but inner school athletics, which allows children to better themselves and gives them a competitive nature. He stated a lot of inner city residents have both parents that work various shifts and some of them do not have adequate public transportation. He stated in addition to the \$8.5 million the city gives, incentives have also been provided for teachers to be at some of the schools that are at risk in an effort to deal with the inefficiencies in some core courses and Title I monies have been utilized in some of the recreation centers to provide mentoring. He stated that the "bottom line" is that he wishes he could have been one of the five votes to vote on the tax issue in the county; that he applauds the Commissioners that did vote for it; that it is either pay now or pay later. He stated that he has looked at the salaries of a lot of the employees of the county and some way there has to be a sacrifice made. He stated that we have "stepped up to the plate" to try to do a lot of things up front and sometimes second guessed ourselves regarding monies we have given in the hope it is going in the right places.

Councilman Franklin continued stating that it is his thought this is not over; that there are still going to be concessions made one way or another. He again stated that it was his wish that he could have been in the position to vote for the matter and was speaking only for himself, indicating that he would have voted for it and it would have taken care of the problem. He stated that there are a lot of different things going on; that we have the 21st Century Waterfront going on downtown and other brick and mortar issues, yet without our kids having an education that they can not be managers and owners as opposed to working out at the mall all the time. He stated the Council is very sensitive to the plight of our kids and want them to have it a little bit better than we did. He indicated to those in attendance that the Council hears and shares their concerns; that they have children, as well. He stated many on the Council come from families that are educators and will continue to work to try to get the issue resolved; that if the children can't get to the schools they can't achieve.

Pastor Hill stated that this issue came down on him "like a ton of bricks"! He stated that we have twenty-first century city buildings and who wants to come in with their families to live in the modern city and you can't educate your children. He stated it might be the county's problem however the Mayor has to look at this; that if the county can't do it someone has to take care of our children. He stated we have a problem, not just the county -- all of us. He stated Councilman Pierce stated this happened some years ago when we voted to turn over the schools, which was a bad decision and we see it now.

COUNTY SCHOOLS ISSUE (Continued)

Pastor Hill asked what can we do as we cannot drop this issue; that we need to think now how to turn it around to find the funds. He stated the children are suffering from this; that this is a problem for all of us!

Barbara Readnow of 9580 Priscilla Drive stated that she was really upset not only with all on the Council but the Mayor's office. She stated when a person works 34 years in city government they know how politics works and how deals and business transactions are made. She stated she has seen the city pull out private businesses to keep them from going bankrupt; that they have pulled others out of trouble and gave them money. She stated she has seen this city aid other people when they had crises. She stated what else she has seen is that we pay little attention to the children and families in housing developments and poor neighborhoods and indicated that she wouldn't talk about South Chattanooga! She stated that she knows how things work and knows when the budgets are made the city and county has to talk because they own millions and millions of dollars worth of joint property, and that tells her the city has to know when the county was making a budget; that she was not saying all on the Council had to know. She stated what bothers her most is when the budget was cut, someone had to know -- they had to talk! She stated when the school system took a "hit", why didn't someone ask how is this going to affect the city and our poor neighborhoods. She stated there is no way she could ever accept that the Council cannot pull the county out this one time; that the city is a powerful structure! She stated there is no way this city should sit down and allow our children to drop out; that what they are doing is creating a domestic work force! She stated that she still holds the Council responsible and still says the Council needs to go to the Mayor and find some way to get the kids a ride on the bus!

A parent in the audience stood and stated that a percentage of money from tourists or from the aquarium should go into the school system; that Mr. Dugan might work out something, yet where she and her daughter live they don't have transportation to get to school. She stated they cannot get on public transportation to her school in Hixson. She stated the routes should be expanded for public transportation so that other children can get to school and if they do that there might be a need to have classes start later. She stated there would be repercussions from this with a higher drop out rate, higher absenteeism and tardiness and something needs to be done! She stated there is so much money coming into the city and it is her thought part of that is what the city gets from entities and lobbying businesses.

COUNTY SCHOOLS ISSUE (Continued)

Pastor Adams expressed appreciation for the comments that have been made and asked the Council to reconvene and put something "on the table" to see how the city could help. He gave the scenario of a man drowning in quicksand with two men standing on either side arguing which one would pull him out, while the man ends up drowning in the quicksand! He stated this is the "picture" that is being displayed with the city and county.

Chairman Benson assured Pastor Adams and those with him that the Council would do the best they can on what they can do. He stated this is a county responsibility but the city's to encourage the county to find answers, and we certainly will do that.

Councilman Pierce asked Pastor Adams if he might try to convene a meeting of ten-or-eleven ministers and four Council members and talk; that he does not know what the solution would be. He stated the county is not in the city, the city is in the county and it is mandated by the state that the county run the school system. He stated it is like asking a person in jail to bail the jailer out, which is impossible. He stated the City is not in the position to bail the county out.

Pastor Adams stated that they would be at the County Commission meeting on Thursday at 9:30 a.m. and again asked the Council to give some consideration.

Councilman Taylor thanked everyone for coming and sharing; that what they brought was very informative and Councilman Pierce has put forth on the agenda a meeting to look at what we can do as a partnership. He stated the parent that stood had an excellent idea with regard to partnering with businesses; that these are our kids and we will sit down and see what we can do.

Pastor Adams inquired as to where the four Council members would meet with them.

Councilman Pierce responded that the meeting would be Monday, July 19 at 8:30 a.m. in the Council Conference Room.

OMETA MARTIN

Ometa Martin stated that she taught at Howard School for 22 years and is present in sympathy with parents of the Chattanooga community. She stated she did not come with a speech and occasionally attends Council meetings to see what is going on.

OMETA MARTIN (Continued)

Ms. Martin stated the Council has a number of issues pertaining to education in the Chattanooga community that should not be an issue involving children and parents. She stated Council members assumed the responsibility and she was not present to discipline them for making sure all citizens are able to live happily as they can with the best possible education this city and county can afford. She stated the whole issue is that it is personal within the "fathers" of the Chattanooga community and county; that she did not know if she was in order to ask the Council to consult with their legal counsel to see what they could do. She stated with the amount of money the government is pouring into education in the county and city we could possibly get federal monies. She stated that some educators, administrators and executives appear to be "foot dragging" and education has no time for foolishness, envy or hate! She asked for a resolution, if legal counsel says it is appropriate and in order, to bring in federal negotiators to get the Council and county together to see why these citizens are being denied a proper education; that she does not know if it would work or not, yet somebody has to come together.

Chairman Benson stated that the matter would be referred to legal counsel and that it is an intriguing, interesting thought. He asked her to call within a few days to see if there may be an answer. He expressed appreciation to Mrs. Martin for standing up for education.

PERSONNEL

The following personnel matters were reported for the various departments:

PUBLIC WORKS DEPARTMENT:

- **RICHARD JONES** – Termination, Crew Supervisor, Citywide Services, effective July 1, 2004.
- **MICHAEL SIMS** – Termination (granted disability), Concrete Worker, Citywide Services, effective July 18, 2004.
- **MITCHELL UNDERWOOD** – New Hire, GIS Specialist, Technical Information, Pay Grade 11/Step 2, \$27,695.00 annually, effective July 9, 2004.

PERSONNEL (Continued)

CHATTANOOGA POLICE DEPARTMENT:

- **DANIEL B. JONES** – Military Leave (not to exceed 365 days), Police Officer, July 6, 2004 – July 6, 2005.
- **MICHAEL F. ADAMS** – Resignation, Police Officer, effective July 1, 2004.
- **JOHN STUERMER** – Retirements (26 years of dedicated service), Captain, effective July 22, 2004.
- **SANDRA J. BRINLING** – Resignation, School Patrol Officer, effective July 1, 2004.
- **ERIC L. JONES** – Military Leave (not to exceed 365 days), Police Officer, effective July 6, 2004 – July 5, 2005.
- **DIANE HOLLAND** – Suspension, Administrative Coordinator, effective July 13-15, 2004.

Chief Parks recognized the retirement of Captain John Stuermer after 27 years with the police department. He stated Captain Stuermer is leaving to take the executive directorship with the 911 District. He stated that he looks forward to working with him; that the department is losing an excellent manager and leader and it is the county's gain.

CHATTANOOGA FIRE DEPARTMENT:

- **STEPHEN L. DAVIS** – Retirement, Captain, effective July 9, 2004.
- **KENNETH CAMPBELL** – Resignation, Fire Cadet, effective July 6, 2004.
- **GARY ANDERSON** – Reinstatement, Firefighter, Pay Grade F1/Step 11, \$40,316.00 annually, effective July 12, 2004.

HEARING: GARY ANDERSON

Councilwoman Robinson reported that Captain Gary Anderson requested a hearing before the City Council to appeal his termination from the Chattanooga Fire Department.

HEARING: GARY ANDERSON (Continued)

Councilwoman Robinson stated on Monday, July 12 she and Councilmen Pierce and Littlefield served on the panel and following a two-hour hearing, voted to demote Mr. Anderson to firefighter status and imposed probation for a period. She stated Mr. Anderson has the right to appeal to Chancery Court regarding the Council's action in this matter.

HEARING: TERRY TISDALE

City Attorney Nelson reminded Council members of the personnel hearing for Terry Tisdale scheduled for Monday, July 19 beginning at 3 p.m. with Councilmen Lively, Hakeem, and Page serving as the panel and Councilman Benson as alternate.

HEARING: CHRISTOPHER GAYNOR

City Attorney Nelson reported that the hearing for Christopher Gaynor would have to be rescheduled as his first criminal trial ended in a hung jury.

Mr. Gaynor's hearing was rescheduled for October 18 beginning at 1 p.m. City Attorney Nelson reminded Council members that the full Council would hear this request.

AUTHORIZATION TO FILE LAWSUIT

City Attorney Nelson requested authorization from the Council to file a lawsuit on behalf of the City. He stated a police officer was injured and signed a subrogation with the city; that the gentleman on the other side was driving under the influence and made a left turn and hit the police officer. He stated under the Statute of Limitations he needs authorization to file the lawsuit.

On motion of Councilman Littlefield, seconded by Councilwoman Robinson, the City Attorney was duly authorized.

COMMITTEES

Councilman Taylor stated that the **Health, Education, Human Services and Housing Opportunities Committee would meet jointly with Legal and Legislative on Tuesday, July 20 at 3 p.m.**

Councilman Littlefield reiterated that the **Legal and Legislative Committee would meet jointly with the Housing Opportunities Committee on Tuesday, July 20 at 3 p.m.** to discuss the parking in yards issue and the City Attorney is to bring "housekeeping" amendments to the Charter.

Councilman Hakeem stated the **Public Works Committee would meet on Tuesday, July 20 at 4 p.m.**

ADJOURNMENT

On motion of Councilman Franklin, seconded by Councilman Lively, the meeting of the Chattanooga Council was adjourned until Tuesday, July 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)