

City Council Building
Chattanooga, Tennessee
May 3, 2005
6:00 p.m.

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

PLEDGE OF ALLEGIANCE/INVOCATION

Following the Pledge of Allegiance, Councilman Benson gave invocation.

MINUTE APPROVAL

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

CLOSE AND ABANDON

MR-2005-003: City of Chattanooga

Councilman Hakeem stated this matter was discussed in Public Works Committee and is recommended for approval. He stated the residents of the neighborhood involving this request are aware of the need for this transfer.

On motion of Councilman Hakeem, seconded by Councilman Franklin,
**AN ORDINANCE CLOSING AND ABANDONING AN UNOPENED
PORTION OF THE CITY' S RIGHT-OF-WAY ALONG THE WEST LINE OF THE
300 BLOCK OF NORTH LYERLY STREET, 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.

REZONING

2005-033: Chattanooga Neighborhood Enterprise

Councilman Pierce noted that Bob McNutt of CNE requested that this matter be tabled an additional week. He stated Mr. McNutt is out of the city today and could not be present for the Council meeting, thus the reason for the request to table.

On motion of Councilman Franklin, seconded by Councilman Pierce,

AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE TRACTS OF LAND LOCATED AT 1902, 1904 AND 1910 ROSSVILLE AVENUE, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-3 RESIDENTIAL ZONE AND M-1 MANUFACTURING ZONE TO C-3 CENTRAL BUSINESS ZONE, SUBJECT TO CERTAIN CONDITIONS

was deferred until May 10 at the request of the applicant.

AMEND CITY CODE

Chairman Robinson noted that this Ordinance was added to tonight's agenda pursuant to discussion in today's Legal and Legislative Committee.

Councilman Benson stated this Ordinance and Resolution 7(a) were discussed in Committee and both are recommended for approval.

On motion of Councilman Benson, seconded by Councilman Pierce,

AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 25, ARTICLE III, SECTION 25-68(A), SO A TO ADD A NEW SUBSECTION PROHIBITING CERTAIN SOUNDS

passed first reading.

TRANSFER

Councilman Benson stated this was discussed in Committee today and there was an inquiry or two made about some details of the transfer.

Atty. Dan Baltimore of the Nashville firm Farer and Bates was present representing KMC Telecom. He stated he was not aware of the 3 p.m. meeting and would have been present to have more time in Chattanooga! He stated he was here with visitors from Normandy, France last weekend and all had a good time here.

TRANSFER (Continued)

Councilman Page stated that he had a question initially and it was his thought Chief of Staff Dan Johnson and City Attorney Nelson cleared up some of the questions he had. He asked Mr. Baltimore to inform the Council of what is going on with regard to the transfer of rights and the company.

Atty. Baltimore stated that KMC is a telecommunications company based in Atlanta, GA with operations in Tennessee -- mostly in East Tennessee, Chattanooga and the Tri-Cities area. He stated KMC is selling most of its local business to CenturyTel and includes customers, wire services, etc. He stated his understanding of the law is that the transfer of assets includes financial agreements with the City of Chattanooga and the transfer needs to be approved.

Councilman Page asked if there is a franchise fee paid to the city, what the customer base consisted of and if there is anything locally Mr. Baltimore might know of. He stated he would like to know a little bit about the company being purchased and any other information.

Atty. Baltimore stated that most of his work is in Nashville doing regulatory work. He stated KMC has quite a bit of customers in Chattanooga totaling a few thousand, most of which are business customers. He stated it is his understanding customers will not notice any change and would be notified by mail that CenturyTel has bought the rights to the change in Chattanooga. He stated the rate will remain the same as under the present contract.

Councilman Page clarified that it is a transfer of business data. Atty. Baltimore responded "correct".

On motion of Councilman Benson, seconded by Councilwoman Rutherford,

**A RESOLUTION TO AUTHORIZE THE TRANSFER AND ASSIGNMENT OF
THE RIGHTS AND OBLIGATIONS OF KMC TELECOM III, INC., AS SET
FORTH IN ITS FRANCHISE WITH THE CITY OF CENTURYTEL
ACQUISITIONS, LLC**

was adopted.

CONSOLIDATED PLAN

Councilman Page indicated that he did not recall a presentation on this matter.

Councilman Benson clarified that it was discussed in last week's Legal and Legislative Committee by Mr. Pfitzer and is recommended for approval.

CONSOLIDATED PLAN (Continued)

On motion of Councilman page, seconded by Councilman Benson,
**A RESOLUTION ADOPTING THE CITY OF CHATTANOOGA'S
CONSOLIDATED PLAN FOR 2005-2010, A COPY OF WHICH IS
ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE**
was adopted.

PAYMENT AUTHORIZATION

Councilman Hakeem explained that the city is working with the state and are allowed to use up to \$50,000 of this amount to assist homeowners with hookup to the sewer.

Councilman Benson stated that the matter has been put on a "fast track" as it has to be submitted by May 15.

On motion of Councilman Hakeem, seconded by Councilman Franklin,
**A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE
DEPARTMENT OF PUBLIC WORKS TO AUTHORIZE A PAYMENT IN AN
AMOUNT UP TO ONE HUNDRED THOUSAND DOLLARS (\$100,000.00) TO
THE TENNESSEE DEPARTMENT OF ENVIRONMENT AND CONSERVATION
(TDEC) IN ACCORDANCE WITH THE COMMISSIONER'S ORDER AND
ASSESSMENT DATED APRIL 12, 2005**
was adopted.

TEMPORARY USE

Councilman Page indicated that people in the neighborhood have been waiting to get the sign up. He expressed appreciation to Vice Chairman Pierce for allowing the matter to be added to tonight's agenda.

On motion of Councilman Page, seconded by Councilman Pierce,
**A RESOLUTION AUTHORIZING JIM LANE TO USE TEMPORARILY THE
CITY'S RIGHT-OF-WAY AT THE INTERSECTION OF HAMPSHIRE STREET
AND HAMILL ROAD TO INSTALL A SUBDIVISION ENTRANCE SIGN, AS
SHOWN ON THE DRAWING ATTACHED HERETO AND MADE A PART
HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS**
was adopted.

AMEND RESOLUTION 21194

Councilman Benson stated this matter was discussed in today's Legal and Legislative Committee and the recommendation is for approval. He stated this comes as a result of last week's Council meeting of persons wanting to postpone hearings; that they will now have to attend a regular Council meeting and show the reason for the postponement.

On motion of Councilman Benson, seconded by Councilman Rico,
A RESOLUTION TO AMEND RESOLUTION NO. 21194 ENCAPTIONED "A RESOLUTION ADOPTING ADMINISTRATIVE REGULATIONS FOR CONDUCT OF EMPLOYEE DISCIPLINARY HEARINGS", RELATIVE TO RESCHEDULING OF HEARINGS
was adopted.

OVERTIME

Overtime for the week ending April 29, 2005 totaled \$86,846.59.

PERSONNEL

The following personnel matters were reported for the various departments:

PUBLIC WORKS DEPARTMENT:

- ❖ **CHARLES J. SHANNON** – Hire, Concrete Worker, Pay Grade 6/Step 1, \$20,429.00 annually, effective May 25, 2005.

CHATTANOOGA POLICE DEPARTMENT:

- **DAVID MAYS** – Reinstatement, Police Officer, Pay Grade 13/Step 4, \$32,324.00 annually, effective April 29, 2005.
- **JANIE REEVES** – Rescind Promotion, Communications Officer, effective April 29, 2005.
- **ADAM PATTERSON** – Rescind Resignation, Police Officer, effective May 1, 2005.
- **AUDRA WILSON, ARCHIE GRIFFIN** – Hire, School Patrol Officer, \$27.59 per day, effective May 2, 2005.

PERSONNEL (Continued)

CHATTANOOGA FIRE DEPARTMENT:

- **KENNY LYDA** – Family Medical Leave, Lieutenant, effective April 27, 2005.
- **DAMIEN VINSON** – Return from Military Leave, Firefighter, effective April 29, 2005.
- **MARVIN HUDGINS** – Return from Family Medical Leave, Captain, effective May 7, 2005.
- **MARVIN HUDGINS** – Leave of absence without pay, Captain, effective May 8, 2005.

PURCHASE

On motion of Councilwoman Rutherford, seconded by Councilman Pierce, the following purchase was approved for use by the Public Works Department:

MARSHAL MIZE FORD (Best bid)
R0076660/B0002060

Three (3) Sports Utility Vehicles

\$58,776.00

PURCHASE

On motion of Councilwoman Rutherford, seconded by Councilman Pierce, the following purchase was approved for use by the Finance and Administration Department:

PAYFORMANCE CORPORATION (Best overall proposal)
R0069729

Laser Check Printing Solution

\$40,795.00

BOARD APPOINTMENTS

On motion of Councilman Pierce, seconded by Councilman Page, the following Board appointments were approved:

NORTH SHORE REVIEW COMMITTEE:

- ❖ Appointment of **WILL WOMACK** (representing District 1) and **SID HUNTLEY** (representing District 2) for terms expiring May 3, 2008.

HEARING: STEVE CAMPBELL

Atty. Brian Hoss stated he was present for Officer Campbell's appeal regarding his termination from the Chattanooga Police Department:

City Attorney Nelson stated that he would like to show why the Council is changing the rules and gave the history of the requests for postponement of Mr. Campbell's hearing. He stated the hearing was originally scheduled for March 21, at which time the Police Department requested that it be rescheduled because Chiefs Parks and Cooper were scheduled to be out of town and the hearing was scheduled for March 30. He stated on March 23, a request for rescheduling was made from Attorneys Lee Davis and Gary Gerbitz because of their conflicting schedules; the hearing was rescheduled for April 13. On March 29, another request for a date change was requested by attorneys for Mr. Campbell because of their "loaded" schedules and the hearing was rescheduled for May 5. On April 5, Council members serving on the panel realized that the rescheduled date of May 5 conflicted with the joint city/county budget hearing and the date was rescheduled for May 12. Finally, on April 26, a letter was faxed to the Clerk of Council from Atty. Lee Davis requesting that the date be reset because necessary witnesses would be out of town on May 12.

Councilman Benson stated that he thought Mr. Hoss had just finished court litigation. City Attorney Nelson clarified that that case involved Officer Gaynor.

Atty. Hoss stated this incident involved a high speed chase through North Georgia that ended up at a gas station and the incident was caught on video tape. He stated several officers were involved and several have been terminated or suspended. He stated Mr. Campbell has hired a private attorney, Gary Gerbitz, and he and Atty. Davis were appointed through the Fraternal Order of Police to represent Mr. Campbell. He stated finding out if Gary Gerbitz' schedule met with the Chief's has been what has been happening.

HEARING: STEVE CAMPBELL (Continued)

Atty. Hoss stated he and Mr. Davis are a two-man office and given a date of one-or-two weeks off conflicts (with their schedules). He stated they are not putting this off to delay the hearing, but are just trying to find the best available date.

Chairman Robinson stated that it sounds as if the matter has been changed several times by several different parties. She asked that a date be scheduled.

Councilman Pierce asked what happens if a date is scheduled and there is another problem with another attorney; that Mr. Gerbitz might say his schedule does not correspond.

Atty. Hoss responded "that won't happen"; that he talked to Mr. Gerbitz and he is prepared to speak on his and Davis' behalf.

City Attorney Nelson noted that the panel for the hearing consists of Councilmen Robinson, Benson and Hakeem, with Councilman Franklin as alternate.

Councilman Pierce inquired as to how long Mr. Campbell has been off already. It was clarified that he was terminated at the beginning of March.

Councilman Benson asked that he be given one last chance.

City Attorney Nelson informed Mr. Hoss that hearings are usually heard on Mondays so as not to conflict with courts as much. A few dates in June were mentioned as possible reschedule dates; Councilman Pierce asked that the hearing begin at 10 a.m. rather than 9 a.m.

Mr. Campbell's hearing was rescheduled for Monday, June 6 beginning at 10 a.m. with the same panel and alternate.

Atty. Hoss stated he and Mr. Davis do the majority of hearings here at the city. He stated they need time to "move things around" and asked if a provision could be made for attorneys to be present to help set dates for hearings so this will not happen in the future.

AUTHORIZATION TO PROCEED TO COURT

City Attorney Nelson stated the Stormwater Board issued civil penalties to L. D. Brown and Ron Duke with respect to property located at 4502 Midland Pike for a penalty of \$7,918.00 on that tract, as well as penalties to Kelly Vannoy on property located at 5003 and 5005 Swann Road in an amount of \$3,467.00. He stated they appealed the civil penalties to the Stormwater Board in March and the penalties were upheld and thus far they have failed to pay (their penalties). He asked the Council for authorization to go to court to collect the civil penalties.

On motion of Councilman Franklin, seconded by Councilman Benson, City Attorney Nelson was authorized to proceed to court to collect civil penalties pursuant to penalties issued by the Stormwater Board for L. D. Brown, Ron Duke and Kelly Vannoy.

CLARIFIATION OF RESIGNATION RESCINSION

Councilman Hakeem asked for clarification regarding Adam Patterson's rescinded resignation as a police officer. He asked what this means as far as legalities are concerned.

City Attorney Nelson responded that Mr. Patterson resigned and the resignation has been rescinded as he wants to come back to work.

Deputy Chief Vaughn responded that the City Attorney is correct; that Mr. Patterson had some personal issues, asked to resign and was taking some accumulated time. He stated in that period of time the personal issues have been resolved and he wants to come back and they are pleased to have him. He stated no disciplinary action was involved.

Councilman Hakeem stated that he thought the individual was involved in the 20th Street incident. Deputy Chief Vaughn responded "no, no sir".

COMMITTEES

Councilman Hakeem reminded Council members of the meeting of the **Public Works Committee scheduled for Tuesday, May 10 beginning at 4 p.m.**

Councilman Franklin stated the Parks and Recreation Committee met this afternoon and heard from representatives from the Friends of the Zoo.

COMMITTEES (Continued)

Councilman Franklin stated during their presentation it was noted that a request would come before Council in a few weeks for a nominal increase in admission to the Zoo. He stated "Sophie" the Australian Cockatoo was a visitor at the meeting and provided entertainment for all! He stated a good presentation was made and Darde Long and staff are doing a wonderful job.

DISTRICT 9 MEETING

Councilman Hakeem announced that there will be a District 9 meeting on May 23 at Second Missionary Baptist Church beginning at 5:30 p.m.

DISTRICT 1 MEETING

Councilwoman Bennett announced that she would be hosting the first District 1 meeting on Thursday, May 5 beginning at 6:30 p.m. in the Lookout Valley neighborhood at the John A. Patten Center.

PASTOR EUGENE OVERSTREET

Pastor Overstreet of Cornerstone Baptist Church and proprietor of Family Mortuary stated that he had a birthday since he was before the Council last. He congratulated each Councilperson for running a very fruitful and productive campaign, even through some were sometimes turbulent. He also congratulated them for the magnanimous job they have before them and the tedious pressures from all who will confront them. He expressed his utmost respect for Councilman Rico and noted that the Council is now a mosaic myriad of diversified men and women. He stated a "dead fish can float downstream, however it takes a living fish to swim upstream". He again congratulated them for their victories and stated that all look forward to none less than their best and (he) knows each are capable of delivering that.

LOUISE HAMMOND

Louise Hammond of the Oak Grove Neighborhood Association stated that representatives from four communities were present with her; that they were present to give input for the police department. She stated that she read in last week's newspaper that Chief Parks is not working in the neighborhoods and noted that no neighborhood has had a police chief that worked with a neighborhood. She stated the Association meetings are held once a month in the senior building in her area and they had a meeting last week wherein every neighborhood in Chattanooga was invited, yet so far they cannot get a lot of them to come. She stated they have a court watch program and every community is invited to work with them. She stated the police department is working with them, however they cannot get anyone from Councilman Hakeem's area to participate, indicating that they would like for Glenwood and Bushtown to work with them. She stated her community is safer than it ever has been and noted that the only thing she really does not hear out of this Council, and she hears it a lot, is when it comes to diversity; that she can go into offices in Chattanooga and see they are "equaled out". She stated she is "real pleased" with the police in her community and they do not have a problem with Chief Parks; that all the police work with them. She again invited everyone to the Association meetings.

ADJOURNMENT

Chairman Robinson adjourned the meeting of the Chattanooga Council until Tuesday, May 10, 2005 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)