

**City Council Building
Chattanooga, Tennessee
June 14, 2005
6:00 p.m.**

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

INVOCATION/PLEDGE OF ALLEGIANCE

Following the Pledge of Allegiance, Chairman Robinson gave invocation.

AMEND ZONING ORDINANCE

Jerry Pace, Director of Development Services with the Regional Planning Agency (RPA), stated this matter was discussed in last week's Legal and Legislative Committee meeting and the recommendation is to defer the matter one month. He stated the matter was sent back to Planning and it was discussed at the Planning Commission meeting on yesterday. He stated it is scheduled to come to the Council next month during its regular rezoning night, July 12.

On motion of Councilman Page, seconded by Councilman Pierce,
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, BY AMENDING ARTICLE V,
SECTION 400, R-4 SPECIAL ZONE TO ADD REGULATIONS ENTITLED
"MIXED USE OVERLAY ZONE (MXU-0Z)" FOR THE PURPOSE OF
CREATING MIXED USE SUBURBAN DEVELOPMENTS**
was deferred one month (July 12).

AMEND CITY CODE

Councilman Benson stated this matter was taken under advisement in the meeting of the Legal and Legislative Committee and it is recommended that the matter be deferred two weeks.

AMEND CITY CODE (Continued)

On motion of Councilman Benson, seconded by Councilman Pierce,
**AN ORDINANCE TO AMEND CITY CODE, PART II, CHAPTER 3,
SECTIONS 3-19 AND 3-17 (a)(6), RELATIVE TO SIGNS**
was tabled two weeks (June 28).

REZONING

2005-048: DeFoor Brothers Development, LLC

Pursuant to notice of public hearing, the request of DeFoor Brothers Development, LLC to rezone tracts of land located in the 2400 block of Elam Lane came on to be heard.

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

Mr. Pace stated this request is located in East Brainerd near Hamilton Place and is north of Shallowford and McCutcheon Roads; that the property is currently vacant and abuts I-75 on the west. He stated the property to the south is currently R-4, to the east is R-1 and across the Interstate is C-2 and R-3. He stated the request for R-4 is part of the overall development proposal that will be before the Council next month. He stated the request is recommended for approval from both Planning and Staff for rezoning to R-4.

Councilman Benson stated this request comes with a recommendation for approval from Planning. He noted that a great deal of community discussion has been involved for the past six years for mixed use development.

On motion of Councilman Benson, seconded by Councilman Rico,
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE TRACTS OF
LAND LOCATED IN THE 2400 BLOCK OF ELAM LANE, MORE
PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO R-
4 SPECIAL ZONE, SUBJECT TO CERTAIN CONDITIONS**
passed first reading.

REZONING

2005-055: Orville Payne

Pursuant to notice of public hearing, the request of Orville Payne to rezone tracts of land located at 360 and 364 Brown's Ferry Road came on to be heard.

REZONING (Continued)

A representative for the applicant was present; there was no opposition.

Mr. Pace stated this request is located in the Lookout Valley area and did not know if the Council wanted him to proceed with the matter or defer it until next week so that the Council person representing this district could be present.

Councilman Page suggested that the matter be deferred since Councilwoman Bennett is not present.

Councilman Benson stated that he had no objection to hearing the matter if there are no persons in opposition present.

It was noted there was no one in opposition present.

Councilman Rico stated if there is no one present in opposition why not pass it on first reading.

Mr. Pace stated that the recommendation is for approval from Planning and that Staff recommended denial as it is not in compliance with the Lookout Valley Plan which calls for low density residential in the area. He stated there is R-5 and a mobile homes park to the north.

Chairman Robinson suggested that the matter be passed on first reading and that Councilwoman Bennett would be present for the second reading next week.

Councilwoman Rutherford inquired as to the R-3MD zone.

Mr. Pace responded that the moderate density zone involves a certain amount of density and this request is "conditioned" on it being one triplex.

On motion of Councilman Benson, seconded by Councilman Rico,
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE TRACTS OF
LAND LOCATED AT 360 AND 364 BROWN'S FERRY ROAD, MORE
PARTICULARLY DESCRIBED HEREIN, FROM R-2 RESIDENTIAL ZONE TO R-
3MD MODERATE DENSITY ZONE, SUBJECT TO CERTAIN CONDITIONS**
passed first reading.

REZONING

2005-063: Don Walker

Pursuant to notice of public hearing, the request of Don Walker to rezone tracts of land located at 513 and 515 Airport Road came on to be heard.

The applicant was not present; opposition was in attendance.

Mr. Pace stated this request is located in the Lee Highway, Airport Road area for a request from O-1 to M-2 for light industrial. A copy of the site plan was displayed and it was noted part of the lot is currently single family residential on the front portion and that the applicant is requesting rezoning two parts of two lots. He displayed photos of residential and other mixed uses in the area and noted the building that is currently on the property, indicating that when the permit was obtained the discussion through the permitting office called for building a garage to the house on the front but it was being used for a paper delivery distribution site. He stated M-2 warehousing is not permitted in O-1, which is the reason for the zoning change. He stated the recommendation is for denial from Planning and Staff.

Councilman Benson stated that there is a recommendation for denial and quite a number from the community were in protest at the Planning Commission meeting as this is spot zoning. He stated when the time is appropriate he would like to make the motion to deny.

Councilwoman Rutherford quickly interjected that Councilman Benson would have to beat her in making the motion for denial! She expressed thanks to Madeline Sims and others in the neighborhood who were present in support of the recommendation for denial and noted that the neighborhood appreciates the vote of the Council for denial.

On motion of Councilwoman Rutherford, seconded by Councilman Rico,
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE TRACTS OF
LAND LOCATED AT 513 AND 515 AIRPORT ROAD, MORE
PARTICULARLY DESCRIBED HEREIN, FROM O-1 OFFICE ZONE TO M-2
LIGHT INDUSTRIAL ZONE, SUBJECT TO CERTAIN CONDITIONS**
was denied.

REZONING

2005-067: Hamilton County Partners II, L.P.

Pursuant to notice of public hearing, the request of Hamilton County Partners II, L.P. to rezone a tract of land located at 200 East 37th Street came on to be heard.

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

Mr. Pace stated the site in question is the old Franklin Middle School in the Alton Park community located along 37th Street. He stated the request is for R-3 and noted there is R-2 zoning around the area to the north and in the rear is an old landfill area. He stated the property is currently vacant and the proposal is for an apartment complex. He stated the request is recommended for approval from Planning and Staff with conditions. He stated there is a safe walk program, the new HOPE VI housing development in the area and there is a need for all projects to work together for connectivity. He stated approval is recommended.

Councilman Hakeem asked if the environmental concerns have been satisfied and whether there was opposition to this request.

Mr. Pace responded "yes" that the environmental concerns were satisfied and that he did not believe there was any opposition at the Planning Commission meeting.

On motion of Councilman Rico, seconded by Councilman Hakeem,

**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF
LAND LOCATED AT 200 EAST 37TH STREET, MORE PARTICULARLY
DESCRIBED HEREIN, FROM R-2 RESIDENTIAL ZONE AND M-1
MANUFACTURING ZONE TO R-3 RESIDENTIAL ZONE, SUBJECT TO
CERTAIN CONDITIONS**

passed first reading.

REZONING

2005-068: Joseph Chaudhari, LLC

Pursuant to notice of public hearing, the request of Joseph Chaudhari, LLC to rezone a tract of land located at 3420 Wilcox Boulevard came on to be heard.

The applicant was not present; there was opposition in attendance.

REZONING (Continued)

Mr. Pace stated this request is located at the intersection of Wilcox and Tunnel Boulevards. He stated that the site plan calls for a convenience store and service station with outbuildings for other uses in the area. The property in question was displayed by PowerPoint wherein it was noted that the largest portion of the property is currently vacant and that a house used to be there and that there is a service station that is no longer in operation. He stated looking east along Wilcox are other uses, noting there is a commercial service station and convenience store across the street. He stated the area was downzoned a few years back from C-2 to C-5 due to concerns of the neighborhood regarding some of the development going in the area which was not what the neighborhood wanted. He stated the Staff made the recommendation for denial based on the C-5 zoning study and Planning recommended approval of the development for C-2.

Anthony Andrews, owner of the Conoco across the street from the location, stated that he attended the neighborhood meeting last Thursday and thought he would have seen Councilman Hakeem there. He stated a vote was taken to protest against having the facility come in and there were several reasons for that. He stated that he was present as a small businessman as he has three Conoco locations and has worked with Conoco for twenty-five years; that he came to Chattanooga eight years ago from Houston and decided to make Chattanooga his home. He reiterated that he owns the Conoco across the street and has studied the traffic count as it is a big part in determining where one would put a convenience store. He stated that he found the traffic count at that intersection does not justify two gasoline stations. He stated Mr. Chaudhari would like to put in six MPD pumps and through his (Andrews) twenty-five years with Conoco it does not justify having two convenience stores across the street from each other along with six MPD pumps at that location. He stated that he does not have a problem with competition, noting that what he does not understand is there are several other neighborhoods and communities in Chattanooga that do not have this same footprint or blueprint; that there are no gasoline stations across from another in any residential area.

Mr. Andrews stated in just listening to everyone last week the vote was in the majority that they did not prefer this to happen. He stated the week before, there was a meeting and Councilmen Hakeem and Franklin attended but he (Andrews) was not able to attend. He stated one of the things brought out at the meeting last week was that they thought the matter would be deferred and it was indicated that he does not do anything for the community. He stated this coming weekend would be his sixth year of customer appreciation, noting that he was not aware of any company doing that in Chattanooga.

REZONING (Continued)

Mr. Andrews continued by stating his gas prices would be cut "rock bottom" and there would be vendors, reiterating that this is his sixth year of customer appreciation on Father's Day weekend. He stated that he does this at his other locations and noted that he gives out roses to all mothers on Mother's Day and flags are given to anyone coming in the store on Fourth of July.

Councilman Benson asked Mr. Andrews if he attend the Planning Commission meeting. Mr. Andrews replied "yes".

Councilman Benson stated there were a lot of people there; that the Staff recommended to reject the matter at that time, however after the Planning Commissioners looked at it, and even though some of Mr. Andrews' people were in objection, it ended up that going eastward on Wilcox could be much safer cutting to the right going in as opposed to going in the left lane at Wilcox and Tunnel, which discounted the object about danger. He stated in fact, the Traffic Engineer said to some extent it would be safer, he (Benson) believed. He stated then the discussion centered around the real motivation in objecting other than spot zoning; that the intent was to approve with conditions. He stated the matter would never have passed Planning without the conditions which in itself enhances and governs security to it rather than just a blanket zone change. He stated the only other reason is private enterprise coming into a free market enterprise; that they had to look at the citizens out there and the opportunity they could have in comparison shopping and all of that. He stated Mr. Andrews has been very fair in saying he does not mind competition, but part of Planning's consideration is that they never give a monopoly or use zoning to do it. He asked that the conditions for this request be read.

Mr. Pace read the conditions listed in the ordinance which include (1) only the allowable uses in C-5 with the exception that they can sell beer and gasoline products; (2) a twenty foot Type B landscape buffer as described in the landscaping requirements of the Chattanooga Landscaping Ordinance along Martin Street; (3) all lighting to be directed away from all residential properties; (4) dumpster operation only from 8 a.m. – 6 p.m.; and (5) all existing easements are to be retained.

Councilman Benson inquired if the applicant could build anything in there without any of the conditions.

Mr. Pace stated without the conditions the applicant would have the C-5 uses the property is already zoned for and noted the applicant would not be able to sell beer or gasoline in that C-5 zone.

REZONING (Continued)

John Ware, son of John and Daisy Ware, stated that his parents are the only remaining residents on that side; that there is a house on the hill next to the family health center. He expressed agreement with a previous statement that Wilcox could not accommodate two stations and that one would eventually close. He stated if there is a problem on one side there would be a problem on the opposite side. He stated Eastdale has become a high crime area and the idea of bringing in a brand new station would keep the crime element there. He stated Eastdale residents would be present in larger mass but they are presently at a neighborhood meeting and were under the impression this matter would be delayed until the end of the month so more people could be present. He reiterated his concern regarding the crime element and referenced the way the area was when his parents moved there in 1968. He stated drugs are now in the area, people are walking up and down the street all the time and another gas station would increase that. He stated it is his belief what was discussed in the meeting was the possibility of maybe leaving the property as C-5 and therefore allowing some developer to come in and develop the area back to a more neighborhood community-type setting. He stated duplexes are on the other side of the street and asked that the community be allowed to address the issue of crime to see if the crime could "get out of the area" and keep it more of a community-type area.

Mr. Ware stated Wilcox used to have four gas stations on each corner and at that time there were no Conoco, Kayo, Jet or Gulf stations. He stated other than that he could see no real reason this would benefit the community. He stated that he realizes "VJ" (Chaudhari) came to the meeting and stated he would bring an economic boon to the community however people in the community do not want this and feel all it would be doing is increasing the flow of kids in the area and music up and down the street. He stated they are looking at the possibility of the community going back to a community base so that the kids will have some place to play again as opposed to those kinds of businesses.

Councilman Hakeem stated we did not request that Mr. Chaudhari to be here this evening and in regard to the meeting last week, Mr. Andrews noted that he thought he would have seen him (Hakeem) there however the same people that supported our position asked that he not be there even though it is in his district. He expressed his thought that there is a need to look at the conditions imposed; that some of the things circulated through the community is that there may be a liquor store put in there and all kinds of wild things however the reality is that the conditions limit what he (Chaudhari) can do.

REZONING (Continued)

Councilman Hakeem stated he does have a concern about the statement made by the gentleman as to what Mr. Chaudhari has to say about an economic boon and so forth and speaking on behalf of the community and Conoco when he does not live there. He stated that he is willing to discuss the matter tonight unless there is a desire to delay until June 28.

At this point Councilwoman Rutherford made the motion to defer the matter until June 28; Councilman Benson seconded the motion.

Councilman Pierce expressed wonderment as to how the community got word this matter would be passed until the twenty-eighth. He stated he listened to Mrs. Clark, one of the community leaders, on a radio talk show over the weekend. **At this point Councilman Hakeem corrected Councilman Pierce's reference to Mrs. Clark, clarifying that it was Mrs. Cash.** Councilman Pierce stated on the radio Mrs. Cash stated that the community is not in opposition and that they just wanted to review the plans; that the plans had been revised and they welcome this place coming in. He stated that he really wonders if the community would be here if the matter was delayed. He suggested that the matter pass on first reading and have second reading week-after-next.

Councilwoman Rutherford stated she would feel much better about this if the applicant were present. She stated that she goes through that intersection frequently and traffic through there is horrendous at 9 a.m. in the morning and would really like for the applicant to be present if there is opposition so she could hear about it.

Councilman Page expressed appreciation for Councilman Hakeem speaking for a tabling motion if there is a need to. He stated that he really does not see any reason to postpone this unless there is some community reason, noting that there was someone on behalf of the community on the radio in favor of this. He stated that he would like to hear what Councilman Hakeem has to say about this.

Councilman Benson stated that his reason for delaying is to give an opportunity for people from the community to be here. He stated that Councilmen Franklin and Bennett are not here tonight and noted that Councilman Franklin has a very close relationship in that area and represented it until the new redistricting. He stated two Council members are absent tonight and he would feel more comfortable if all were present.

REZONING (Continued)

Councilman Hakeem stated he would see what his colleagues “say” about approval if the motion and second to defer the matter is withdrawn.

At this point Councilmen Rutherford and Benson withdrew their initial motion to defer.

Councilman Hakeem then made the motion to pass the matter on first reading; Councilman Page seconded the motion. Councilman Hakeem stated that the intent would be to hold second reading until June 28 to hear from the applicant and the neighborhood.

On motion of Councilman Hakeem, seconded by Councilman Page,
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF
LAND LOCATED AT 3420 WILCOX BOULEVARD, MORE PARTICULARLY
DESCRIBED HEREIN, FROM C-5 NEIGHBORHOOD COMMERCIAL ZONE
TO C-2 CONVENIENCE COMMERCIAL ZONE, SUBJECT TO CERTAIN
CONDITIONS**

passed first reading; **second reading is scheduled for June 28.**

REZONING

2005-069: Lyle Finley Trust

Pursuant to notice of public hearing, the request of Lyle Finley Trust to rezone tracts of land located at 4413 Oakwood Drive and part of 4411 Oakwood Drive came on to be heard.

A representative for the applicant was present; there was no opposition in attendance.

Mr. Pace stated this request is located in the Highway 58 area and there was discussion prior to tonight’s Council meeting regarding this. He stated that the person having the case rezoned had a signed affidavit from the owner of the property to represent and buy the property if it were rezoned. He stated he had a discussion with the property owner who lives in Florida and the request is defer the matter until next week so a decision could be made whether to continue with the request for rezoning or withdraw the application.

REZONING (Continued)

On motion of Councilman Rico, 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 4413 OAKWOOD DRIVE AND PART OF 4411
OAKWOOD DRIVE, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-
4 SPECIAL ZONE TO C-2 CONVENIENCE COMMERCIAL ZONE, SUBJECT
TO CERTAIN CONDITIONS**
was tabled one week (June 21).

REZONING

2005-070: Mike Blanchard, River Street Architecture

Pursuant to notice of public hearing, the request of Mike Blanchard, River Street Architecture to rezone a tract of land located at 950 Siskin Drive came on to be heard.

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

Mr. Pace stated that this request is for the expansion of the Siskin facility and the recommendation is for approval from Planning and Staff with the condition that a meeting be held with the City Engineer for approval of the site plan for revised access to the facility.

Councilman Hakeem inquired as to the M-1 and R-4 zones and whether they are more restrictive than C-2.

Mr. Pace responded that the M-1 zone is the most liberal zone; that it is a manufacturing zone and everything can be done except crushing rock. He stated in this case a portion is being rezoned; that a majority of the property is C-2 and a portion will be rezoned R-4 to construct their facility where the parking lot is located.

On motion of Councilwoman Rutherford, 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 950 SISKIN DRIVE, MORE PARTICULARLY DESCRIBED
HEREIN, FROM C-2 CONVENIENCE COMMERCIAL ZONE AND M-1
MANUFACTURING ZONE TO R-4 SPECIAL ZONE, SUBJECT TO CERTAIN
CONDITIONS**
passed first reading.

REZONING

2005-082: Michael A. Dowlen

Pursuant to notice of public hearing, the request of Michael A. Dowlen to rezone a tract of land located at 5506 Cassandra Smith Road came on to be heard.

Mr. Pace stated this request is located in Hixson along Cassandra Smith Road. He stated the R-1 PUD scheduled next week is part of the property to the north of which this will be a part. He stated the request is to defer this matter until next week so that both cases could be heard together. He stated residents of the neighborhood will be present and both could be heard at the same time.

On motion of Councilman Pierce, seconded by Councilman Rico,
AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED AT 5506 CASSANDRA SMITH ROAD, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-5 RESIDENTIAL ZONE TO R-1 RESIDENTIAL ZONE, SUBJECT TO CERTAIN CONDITIONS
was tabled one week.

AGREEMENT

On motion of Councilwoman Rutherford, seconded by Councilman Rico,
A RESOLUTION AUTHORIZING THE CHIEF OF THE POLICE DEPARTMENT TO ENTER INTO A MULTIYEAR SOFTWARE SERVICE AGREEMENT WITH VISIONAIR, INC. FOR THE PERIOD JULY 1, 2005 THROUGH JUNE 30, 2009, SUBSTANTIALLY IN THE FORM ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE
was adopted.

CONTRACT

On motion of Councilman Rico, seconded by Councilwoman Rutherford,
A RESOLUTION AUTHORIZING THE AWARD OF CONTRACT NO. R-04-004, ST. ELMO PASSIVE PARK - PHASE I: BUILDING DEMOLITION, TO GARY JACKSON ENTERPRISES FOR A TOTAL AMOUNT NOT TO EXCEED TWENTY-EIGHT THOUSAND SEVEN HUNDRED SIXTY-EIGHT DOLLARS (\$28,768.00), INCLUDING A CONTINGENCY AMOUNT OF TWO THOUSAND DOLLARS (\$2,000.00)
was adopted.

CONTRACT

On motion of Councilwoman Rutherford, seconded by Councilman Rico,
A RESOLUTION AUTHORIZING THE AWARD OF CONTRACT NO. E-04-039-103, CITY HALL RENOVATIONS ASBESTOS-LEAD AIR MONITORING, TO ALTERNATIVE ACTIONS, INC. FOR A TOTAL AMOUNT NOT TO EXCEED TWENTY-ONE THOUSAND FIVE HUNDRED SEVENTY-FIVE DOLLARS (\$21,575.00), INCLUDING A CONTINGENCY AMOUNT OF THREE THOUSAND DOLLARS (\$3,000.00)
was adopted.

CONTRACT

On motion of Councilman Hakeem, seconded by Councilman Rico,
A RESOLUTION AUTHORIZING THE AWARD OF CONTRACT NO. 3-03-029-201, CHEROKEE BOULEVARD STREETScape IMPROVEMENT CONTRACT, TO EAST TENNESSEE GRADING, INC. FOR A TOTAL AMOUNT NOT TO EXCEED SIX HUNDRED NINETY-SIX THOUSAND SEVEN HUNDRED FIFTY-FOUR DOLLARS (\$696,754.00), INCLUDING A CONTINGENCY AMOUNT OF FIFTY THOUSAND DOLLARS (\$50,000.00)
was adopted.

EASEMENT

On motion of Councilman Rico, seconded by Councilwoman Rutherford,
A RESOLUTION AUTHORIZING THE PURCHASE OF A PERMANENT DRAINAGE EASEMENT, SLOPE EASEMENT, AND TEMPORARY CONSTRUCTION EASEMENT FROM DONALD RAY LANDFORD AT 7425 IGOU GAP ROAD, PARCEL NO. 149P-A-008, TRACT NO. 13, RELATIVE TO THE IGOU GAP ROAD WIDENING PROJECT, CONTRACT NO. E-03-011, FOR AN AMOUNT NOT TO EXCEED ONE THOUSAND EIGHT HUNDRED FORTY-TWO DOLLARS (\$1,842.00)
was adopted.

TEMPORARY USE

On motion of Councilman Rico, seconded by Councilwoman Rutherford,
A RESOLUTION AUTHORIZING JUDSON JADOOBIRSINGH TO USE TEMPORARILY THE CITY'S RIGHT-OF-WAY ALONG 41ST STREET FROM 16TH AVENUE TO 15TH AVENUE TO INSTALL A FOUR INCH (4") SEWER LATERAL, AS SHOWN ON THE DRAWING ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS
was adopted.

AGREEMENT

On motion of Councilman Rico, seconded by Councilwoman Rutherford,
A RESOLUTION AUTHORIZING THE PERSONNEL DIRECTOR TO EXECUTE AN AGREEMENT WITH JOINER & ASSOCIATES, A COPY OF WHICH IS ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE, RELATIVE TO THE DEVELOPMENT AND ADMINISTRATION OF PROMOTIONAL EXAMS FOR THE POSITIONS OF FIRE LIEUTENANT AND FIRE CAPTAIN
was adopted.

ACCEPT DONATION

On motion of Councilwoman Rutherford, seconded by Councilman Rico,
A RESOLUTION AUTHORIZING THE CHIEF OF POLICE TO ACCEPT THE DONATION OF A CAR TRAILER FROM TRUCK N TRAILERS USA WHICH WILL BE USED INITIALLY IN THE POLICE DEPARTMENT'S BEAT THE HEAT PROGRAM AND EXPRESSING THE GRATITUDE OF THE CITY COUNCIL FOR SAID DONATION
was adopted.

CONTRACT

On motion of Councilman Rico, seconded by Councilman Page,
A RESOLUTION AWARDDING A CONTRACT FOR THE SUMMIT HEAD START CENTER KITCHEN HOOD SYSTEM INSTALLATION TO VIKING INDUSTRIAL, INC. FOR THEIR LOW BID IN THE AMOUNT OF TWENTY-ONE THOUSAND EIGHT HUNDRED FORTY DOLLARS (\$21,840.00)
was adopted.

AMEND RESOLUTION 24435

On motion of Councilwoman Rutherford, seconded by Councilman Pierce,
A RESOLUTION TO AMEND RESOLUTION NO. 24435 ENCAPTIONED "A RESOLUTION ADOPTING A REORGANIZATION PLAN FOR THE GOVERNMENT OF THE CITY OF CHATTANOOGA"
was adopted.

OVERTIME

Overtime for the week ending June 10, 2005 totaled \$77,221.65.

PERSONNEL

The following personnel matters were reported for the various departments:

PUBLIC WORKS DEPARTMENT:

THOMAS A. SMITH – Resignation, Crew Worker, Citywide Services, effective June 10, 2005.

GILLRAY GATES, JR. – Suspension (3 days without pay), Equipment Operator, Sr., Citywide Services, effective June 6-8, 2005.

LABRONE PARRIS – Suspension (4 days without pay), Equipment Operator, Sr., Citywide Services, effective June 6-9-2005.

JEFFREY C. ERLANDSON – Promotion, Electrical Instrument Technician, Waste, Pay Grade 11/Step 1, \$27,596.00 annually, effective June 8, 2005.

KEITH CURTIS – Hire, Stormwater Manager, Stormwater, Pay Grade 29/Step 7, \$62,587.00 annually, effective June 24, 2005.

NEIGHBORHOOD SERVICES DEPARTMENT:

TIMMY J. BELCHER – Resignation, Code Enforcement Inspector, effective June 10, 2005.

MAYOR'S OFFICE:

STAN SEWELL – Appointed, Director of Internal Audit, \$74,575.00 annually, effective May 24, 2005.

MARIE G. CHINERY – Appointed, Administrative Assistant, \$35,000.00 annually, effective April 20, 2005.

CHATTANOOGA FIRE DEPARTMENT:

MARVIN HUDGINS – Return to Duty (From leave of absence without pay), Firefighter, effective May 24, 2005.

PERSONNEL (Continued)

DAVID ANDERSON – Return to Duty (From leave of absence with pay), Captain, effective June 11, 2005.

BRADFORD D. BROWN – Rescind Resignation, Officer, effective June 13, 2005.

JONATHAN WATKINS – Suspension (28 days without pay), Officer, effective June 10 – July 7, 2005.

DEPARTMENT OF FINANCE AND ADMINISTRATION, TREASURER'S OFFICE DIVISION:

SHARON MORRIS – Return from Family Medical Leave, Business Tax Inspector, effective June 3, 2005.

PURCHASES

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

HAPCO LIGHTING SOLUTIONS (Sole source)
R0081698/B0002390

Hapco Lights, Poles and Fixtures per TCA 6-56-304-2.

\$22,932.00

PURCHASE

On motion of Councilwoman Rutherford, seconded by Councilman Rico, the following purchase was approved for use by the Chattanooga Police Department:

JAKE MARSHALL SERVICE, INC. (Lower and better bid)
R0081998/B0002350

HVAC System

\$11,500.00

PURCHASES

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

G & K SERVICES (Lowest and best bid)
R002244/B0002328

Shop Towels, Floor Mats and Treated Dust Mop Rental

\$8,268.20

HEARING: DAVID FRYE

City Attorney Nelson stated that the Council set the hearing for Mr. Frye for August 22 and explained that the attorney for David Frye has communicated that his schedule conflicts with the August 22 date.

Councilwoman Rutherford asked if this is the last time this would be rescheduled.

City Attorney Nelson responded that it is the last time the attorney for Mr. Frye could ask, noting that the City has asked for a continuance prior to this because the Chief was scheduled to be out of the city. He clarified that the August 29 date agrees with both Chief Parks and Attorney Shelley Parker.

The hearing for David Frye was rescheduled for Monday, August 29 beginning at 10 a.m. with Councilmen Rico, Rutherford and Franklin; Councilman Page volunteered as alternate.

COMMITTEES

Councilman Page scheduled a meeting of the **Budget Committee** and asked **that it be held jointly with the Legal and Legislative Committee at 3 p.m. on Tuesday, June 21.**

Councilman Hakeem reminded Council members of the **Public Works Committee meeting scheduled for Tuesday, June 21 at 4 p.m.**

Councilman Benson scheduled a meeting of the **Legal and Legislative Committee for Tuesday, June 21 beginning at 3 p.m.**

DR. LORETTA P. PRATER

Dr. Loretta Prater of Missouri read from a prepared statement which has been spread upon the minutes below:

“Do I want police officers to treat each citizen equally, yes, I do. But do I want to hammer this subject in the ground, no I don’t.” It is this kind of statement that gives a green light to police officers who are perpetrators of police brutality. It is this kind of sentiment that secures a system of injustice. It is this kind of attitude that facilitates a continuous cycle of injustice. It is an announcement of this nature that results in abusive police actions, without accountability, that results in gravesites like this one of Leslie Vaughn Prater and the gravesides of others such as Darryl Melvin, John Perry, Wadie Suttles, George Lee Brown, Claiborn Owens, Rosalyn Bradford, Bennie Silvers, Walter McPhearson, Ricky Thompson, Michael Earls, Hayden Price, Tony Swain, Clarence Hatcher, Larry Powell, Crawford Watkins, Bennie Lewis, Tabron Bell, John Emmons, Montrail Collins, Kevin McCullough, Samuel Petty, Richard Hatcher, Samuel Held, Torris Harris, and John Eric Henderson. It is deliberate indifference in Chattanooga by certain police officers and their leaders and, now, by a City Council member that is appalling, utterly distrusting, insensitive and irresponsible. According to the June 2, 2005 edition of the Chattanooga News Free Press, that statement is attributed to Council woman Marti Rutherford.

Because of the lack of accountability in Chattanooga for citizen deaths resulting from direct actions from police, the question is, “Who serves and protects citizens, all citizens, from the police”: Who protects Constitutional rights and ensures due process for all citizens? . . . certainly not Steve Parks, who fires a police officer for having sex on duty in his police car (which is inappropriate behavior), but does nothing when police murders an unarmed citizen. I know Steve Parks has recently made some politically correct and timely decisions, which probably serve to secure his 6 figure income, but I do not believe that he is the Poster Boy for Police Accountability. What is needed is for more officers, good officers, and I do believe that there are some good officers, to have the courage to defy their peers who are abusive to citizens.

I know there has been a lot of talk in Chattanooga about police and community relations. Researchers, sponsored by the Police Executive Research Forum, have already reported what works in fostering positive community and police relations. These strategies include: effective training at all level, accountability of personnel at all levels; involvement of citizens in decision-making, such as an independent citizens review board; use of research that is current; use of technology and data systems that support community policing.

Successful initiatives associated with community policing cannot survive in a police agency managed in traditional ways. According to Edward Flynn, the Mass. Secretary of Public Safety, community policing is just good policing.

DR. LORETTA P. PRATER (Continued)

He further stated that the success of community policing lies in the development of trust-based partnerships between law enforcement agencies, local gov. officials, and citizens. Community policing recognizes that the police cannot effectively deal with crime and disorder by only reacting to individual incidents. The ultimate goal of community policing is to strengthen communities, so that they have the power to police themselves.

Do I believe that police should be respected, yes I do. Do I believe that this respect comes merely from putting on a uniform, accessorized with a badge, gun, pepper spray and a taser, no I don't.

Councilwoman Rutherford stated that she did not want to belabor the issue, however, Dr. Prater included her (Rutherford) name in this. She stated she and Dr. Prater have never spoken and does not know how she (Rutherford) feels on any issue as she (Prater) has taken two very short statements out of about a fifteen minute interview. She expressed hope that they two of them could speak sometime in private so that they could have a better understanding of each other.

Councilman Benson stated that he knows Dr. Prater; that she served with him as a colleague for a long number of years and holds her in very high respect, expressing his hope that the feeling is mutual. He stated much of what was said is true and wanted to say for Councilwoman Rutherford's sake that there were two very short "sound bites" and it is pretty hard to make a judgment. He expressed hope that Dr. Prater would get with Councilwoman Rutherford and talk it through; that both would find each other very responsive. He stated he had to sit in judgment of two policemen recently and is taking a lot of criticism; that he did not assume they were guilty at the beginning. He stated policemen do have citizenship rights and that right extends to the presumption of innocence on each individual case until proven they are guilty. He assured Dr. Prater that the Council is doing the very best they can and assured her that the Council wants the same thing she wants. He expressed appreciation to her for helping the Council bring that about and asked that she give them a chance. He stated that he sat on the panel and put back to work two individuals; that there was strictly no evidence of guilt that he could "hang his hat on" and terminate those people, noting that they have citizenship rights just as every citizen in this community. He stated that the Council tries to preserve the rights of all citizens.

DR. LORETTA P. PRATER (Continued)

Dr. Prater responded that she understood about rights, however in her situation her son's rights were completely taken away, his life was taken away. She stated from what she has experienced thus far only policemen's rights have been considered, certainly not her son's or her rights.

Councilman Benson asked the City Attorney where we go from here regarding this case.

City Attorney Nelson reminded the Council of the lawsuit pending in this matter.

Dr. Prater stated there is a lawsuit; that when she first came and made a plea there was no lawsuit at the time and Councilman Benson said she could meet with the Council and (she) expressed thanks for that. She stated she and her husband went back to Missouri and rearranged their schedule time and was preparing to come back when she received a call that the Council was not allowed to meet; that Randy Nelson said the Council could not and didn't (meet). She stated if that meeting would have happened the Council would not be involved in this lawsuit today; that she felt there was no sensitivity to the fact she has a gravesite she visits and others have to visit. She stated they continue this fight because they do not want another parent to suffer what they have suffered; that all of their son's tomorrows have been taken away. She stated death is very final and it seems that sometimes, except for her relatives and friends, no one in other positions really care about the fact that her son was brutally murdered, so she continues to fight. She stated too many other families would suffer similar consequences; that she continues to do what she can to make sure others do not suffer similar situations.

Councilman Benson assured the Council that "they do not make them any finer" than Dr. Prater; that in his opinion she comes with the highest credibility.

Dr. Prater expressed thanks to Councilman Benson, noting that the two of them have worked together for a long time; that she has worked long and hard in this community in many situations for 50 years. She stated she would love to see this city be responsive to this situation and does not want Chattanooga to be another Philadelphia, Mississippi and not have to re-deal with this for 40 years before being solved.

Councilman Hakeem stated that he knows Council members have been advised not to deal with this individual case; that there have been questions and concerns raised in the community as to the sensitivity to what happens in one neighborhood and community as opposed to another.

DR. LORETTA P. PRATER (Continued)

Councilman Hakeem stated some suggestions were brought forth in a meeting at Second Baptist Church on May 14 which was open to the community. He stated citizens expressed concerns in regard to excessive force or lack of sensitivity by police and a wealth of information was collected. He stated there is an interest on the part of people involved in the meeting to bring that information to the Council so that a better understanding could be had as to what may be happening in particular neighborhoods. He stated one suggestion was to have a public forum and that did not seem to go far. He asked the Council to give consideration to the report being brought to one of the Council's committees for discussion, clarifying that there is no intent to have a debate, just impart information and answer questions. He asked that the Council give consideration to that between now and next week and decide where it would go.

MAXINE COUSIN

Maxine Cousin of 904 Sheridan Court stated that she was present because, in following Dr. Prater's comments, her father was killed by policemen here in Chattanooga. She stated that she wrote a letter to the U. S. Department of Justice, Civil Rights Division in regard to the two officers who picked up a homeless man and put him in their trunk. Prior to reading the document, she asked that the letter be spread upon the minutes:

*U. S. Department of Justice
Civil Right Division
940 Pennsylvania Avenue, NW
Washington, DC 20530-0001
Attention: Mr. Mark Goss*

Dear Mr. Goss: Re: Violation of Civil Rights

My name is Maxine Cousin and I am the Executive Director of the Concerned Citizens for Justice, a grassroots civil rights organization in Chattanooga, Tennessee, with a focus on police accountability. I wish to make a complaint against two Chattanooga Police Officers, Daniel Gibbs and Stephen Miller, for falsely arresting a homeless man, driving across the border into a neighboring state, and then abandoning him in a secluded area. These two officers were subsequently fired from the police department and then rehired by the City Council.

MAXINE COUSIN (Continued)

Because they acted in interstate activity, I believe this action by these officers constitute official oppression and violation of this man's civil rights pursuant to 18 U.S. C, Section 242; if so, the federal government would have jurisdiction to criminally prosecute this matter, if it so chooses. I am writing to urge that you do so because, once again, the Chattanooga Police Department and politicians are playing games in firing and rehiring these officers without punishment.

These are crimes, rather than administrative matters we are talking about, and the police officers should be prosecuted and imprisoned. They are dangerous criminals and make a mockery of the law enforcement profession. They can't be allowed to kidnap and exile people, even if they are poor or homeless.

*Thank you,
Maxine B. Cousin*

Ms. Cousin stated that she would like for this letter to be made public and again asked that the letter be spread upon the minutes.

SHIRLEY DEAKINS

Shirley Deakins of 222 Baker Street stated all she has done is analyze and tell and warn, yet she has not been respected; that she has been marginalized by a lot of people who individually stand and collectively marginalize because they represent other interests. She stated this is disgusting, odious behavior; that for eighteen years she has been trapped in this town of her birth and has been watching and observing things that are beneath us as spiritual beings connected to one another, citizens of this same planet, this same town, this same community. She stated she does not care about the shades of clay we are made with, that we are spiritual beings and she is sick and disgusted with politics and politicians and "bologna"! She stated that the Chamber of Commerce has control of everything and is nothing but a shadow of publicity, a "Madison Avenue publication" trying to bring in tourist money, noting that she is really not happy with what they have. She referenced that all on the Council are "on their (Chamber's) strings" and have been "on their strings". She stated she has been homeless and has never been arrested. She asked if it would have been alright if it (arrested as homeless man's situation) happened to them (Council member) or someone they loved.

SHIRLEY DEAKINS (Continued)

Ms. Deakins grimaced and noted that this is a disgusting set of events and how it has come about; that this is all she wanted to say. She referenced meditating and praying and finding out what Christianity is all about instead of this "dog and pony show" she sees operating all the time with all of the economic disadvantages, corruption and crookedness held in place by these persons who consider themselves entitled!

ADJOURNMENT

Chairman Robinson adjourned the meeting of the Chattanooga Council until Tuesday, June 21, 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)**