

**City Council Building
Chattanooga, Tennessee
August 9, 2005
6:00 p.m.**

Chairman Robinson called the meeting of the Chattanooga Council to order with Councilmen Bennett, Benson, Hakeem, Page, Pierce, Rico and Rutherford present; Councilman Franklin was absent due to personal commitment. Special Counsel Mike McMahan, Management Analyst Randy Burns and Council Clerk Carol O'Neal, CMC, were also present.

PLEDGE OF ALLEGIANCE/INVOCATION

Following the Pledge of Allegiance, Chairman Robinson gave invocation.

MINUTE APPROVAL

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

CLOSE AND ABANDON

MR-2005-064: Thomas B. and Janis A. Wilkey

On motion of Councilman Hakeem, seconded by Councilman Rico,
**AN ORDINANCE CLOSING AND ABANDONING THE PART OF THE
UNOPENED 400 BLOCK OF NOLL (OLD UNION) 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 second and final reading and was signed in open meeting.

CLOSE AND ABANDON

MR-2005-104: Barbara Reedy

On motion of Councilwoman Rutherford, seconded by Councilman Rico,
AN ORDINANCE CLOSING AND ABANDONING AN UNOPENED PORTION OF POPLAR STREET AND AN UNNAMED STREET LOCATED EAST OF THE EAST LINE OF THE 5600 BLOCK OF DAYTON BOULEVARD, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS

passed second and final reading and was signed in open meeting.

2005-2006 OPERATING BUDGET

Councilman Page stated this matter has been discussed in the Budget and Finance Committee and the Mayor. He stated this year's budget comes with no tax increase and is recommended for approval.

On motion of Councilman Page, seconded by Councilwoman Rutherford,
AN ORDINANCE, HERINAFTER ALSO KNOWN AS "THE FISCAL YEAR 2005-2006 BUDGET ORDINANCE", TO PROVIDE REVENUE FOR THE FISCAL YEAR BEGINNING JULY 1, 2005, AND ENDING JUNE 30, 2006, AND APPROPRIATING SAME TO THE PAYMENT OF EXPENSES OF THE MUNICIPAL GOVERNMENT; FIXING THE RATE OF TAXATION ON ALL TAXABLE PROPERTY IN THE CITY, AND THE TIME TAXES AND PRIVILEGES ARE DUE, HOW THEY SHALL BE PAID, WHEN THEY SHALL BECOME DELINQUENT; PROVIDING FOR INTEREST AND PENALTY ON DELINQUENT TAXES AND PRIVILEGES, AND TO AMEND PART II, CHATTANOOGA CITY CODE, SECTIONS 2-285, 7-1, 7-8, 18-103, 18-105, 18-123, 18-124, 31-36, 31-41 AND 31-43

passed first reading.

AMEND ZONING ORDINANCE

Councilman Benson stated the Legal and Legislative Committee recommend approval of this Ordinance.

On motion of Councilman Benson, seconded by Councilman Hakeem,
AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, BY AMENDING ARTICLE V, SECTIONS 120, 150, 160, 253, 403, AND 410 RELATIVE TO RESIDENTIAL PLANNED UNIT DEVELOPMENT (PUD) APPROVAL BY SPECIAL EXEPTIONS PERMIT IN RESIDENTIAL ZONES

passed first reading.

REZONING

2005-092: D L Enterprises

Pursuant to notice of public hearing, the request of D L Enterprises to rezone a portion of a tract of land located at 5540 Highway 153 came on to be heard.

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

Jerry Pace, Director of Development Services with the Regional Planning Agency (RPA), stated that this request is located in Hixson and is currently zoned R-4 and noted there are R-2 and C-2 properties surrounding the site. He displayed the site plan by PowerPoint reflecting three buildings -- two on the upper level and one on the lower level. He stated Planning recommends approval of C-2 on the lower portion only which encompasses about 250 feet of the lower section of the property and leaving the remainder as R-4.

Councilman Page stated the literature in his notebook is confusing and asked if it is only the 250 feet with access from Highway 153 that is being recommended for approval.

Mr. Pace responded "correct"; that Planning requested that a landscaping or grading plan be presented prior to coming to Council, however the matter was advertised and the decision was made to have it on the agenda this evening. He stated one of the conditions was that the plan be presented prior to Council but the plan was never received and is not certain it was submitted.

The applicant indicated that the plan was submitted.

Mr. Pace stated that it was not received in the RPA office which is why the matter is on tonight's agenda and the recommendation is for approval of that portion only.

Councilman Page stated that he wants to be reassured that the grading plan is in compliance with the City of Chattanooga's stormwater regulations and that it meets all the required criteria from an engineering standpoint. He stated it is his understanding that the Council did not see the grading plan.

Mr. Pace responded "correct"; that the applicant has a land serving permit and would have to meet the guidelines regarding stormwater, traffic and all.

REZONING (Continued)

Councilman Page stated that he needed one area clarified as he heard from one of his colleagues tonight that the reason for this rezoning is to put up a billboard, which was never part of the discussion in Planning.

Mr. Pace indicated that he did not recall a discussion at Planning regarding a billboard.

Councilman Page asked if it would be permissible to include a condition that there not be any billboards included in this rezoning and to zone it as the applicant has it and as Planning has recommended. He stated there is a neighborhood all around this property and that people live behind the site and if a billboard is put up it would intrude into the neighborhood at the rear. He again asked that the request be rezoned with no billboards.

Mr. Pace stated billboards are permissible in the C-2 zone and asked the City Attorney if it could be conditioned out of the permitted uses if the Council chooses.

Special Counsel McMahan stated that the ordinance is not drafted that way and it could be added that it is not a permissible use.

The applicant stated that he has been negotiating with a billboard company to possibly put up a billboard on the property and did not want to mislead the Council. He stated he does not want it misunderstood that there are three buildings on the property when there are actually four; that the fourth building is in the lower section next to 153 which is a narrow building where he hopes to have a small retail shop and real estate office. He stated Councilman Page's concern with the neighborhood is why he has a grading plan that was submitted to the engineer and (he) was under the impression it had been submitted to the RPA office. He stated there is a hill that is about 50+ feet next to the property up top and 153 sets 50+ feet lower and the back portion is way above 153, thus he could not see how it would impact the neighborhood.

Councilman Page stated since the Planning Commission meeting the plan to put up a billboard surfaced and **made the motion to defer the matter with an effort to see the plan prior to voting on it; Councilman Hakeem seconded the motion.**

Councilwoman Rutherford stated she could wait until next week when the matter comes back, but would like to know what would be placed in the buildings and why the Planning Commission and Staff oppose rezoning the back part.

REZONING (Continued)

Councilman Benson stated that the matter of the sign was not brought up at the Planning meeting; that the Forestry Service was there and a couple neighbors were present, as well.

The applicant stated that two neighbors were present because they want us to buy their property.

Councilman Benson expressed appreciation for the applicant's candor about the billboard and wished that fact had been known when the public hearing was heard at Planning; that it now voids Planning's recommendation as far as his vote is concerned as that factor was not known at the time. He stated he certainly thinks the matter should not only be deferred and is not saying he would eventually vote it down; that this sort of circumvents the public information meeting as the billboard was not a factor.

The applicant stated that he does not know if the billboard is a factor.

Councilman Benson stated that the public will have to be notified; that he agrees and heartily endorses not voting for approval tonight.

Councilman Page asked if his colleagues are suggesting that the matter go back to Planning.

Councilman Benson stated a sign should not be put out; that the neighbors, Forestry Service and people that have some concern about commercial activity need to know the billboard is very likely to be there.

Councilman Page amended his motion to reflect a 30 day deferral in the hope that in that period of time Planning could meet with the people that oppose it and let them know.

The applicant stated no one is opposing this; that the property owner who knows we have been in negotiations want us to buy their house, however we have no real interest in buying their home. He stated the potential for a billboard going up will be on the very north corner of this property and there are no homes on this northern piece. He offered to ride with Councilman Page to view the property.

Councilman Page stated that he wants to get through this evening and again requested a 30-day deferral; that during that time a site plan would be identified and people would need to be notified.

REZONING (Continued)

Chairman Robinson indicated to the applicant that the site plan is core to this request.

The applicant stated that the site plan was on the PowerPoint presentation but was not identified in "red".

Chairman Robinson asked that it be made clearer the next time.

Councilwoman Rutherford asked if a billboard is permitted in a C-2 with a special permit what is the problem.

Mr. Pace stated there are distance requirements between the billboard and community and he does not know how many residents are there. He stated there must be several hundred feet between the billboard and neighborhood and would have to get that, which would come under the permitting review.

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 REZONE A PORTION
OF A TRACT OF LAND LOCATED AT 5540 HIGHWAY 153, MORE
PARTICULARLY DESCRIBED HEREIN, FROM R-4 SPECIAL ZONE TO C-2
CONVENIENCE COMMERCIAL ZONE, SUBJECT TO CERTAIN
CONDITIONS**
was tabled thirty days (September 13).

REZONING

2005-098: Earlene P. Stewart

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

Mr. Pace stated this request is located near Memorial Hospital and is currently zoned R-2. He stated the property has been used as a triplex for a number of years and the request is to rezone R-3 to bring it into compliance. He stated there are duplexes on either side at this location as well as single family homes along Glenwood Drive. He stated it does come with a recommendation for denial from Staff and approval from Planning subject to the conditions that the *existing structure be used and limited to triplex only.*

REZONING (Continued)

Councilman Hakeem stated there has been community discussion with Staff in regard to this request and, unless someone is present in opposition, the recommendation is for approval.

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 2510 LAURA STREET, MORE PARTICULARLY
DESCRIBED HEREIN, FROM R-2 RESIDENTIAL ZONE TO R-3 RESIDENTIAL
ZONE, SUBJECT TO CERTAIN CONDITIONS**
passed first reading.

REZONING

2005-125: Chattanooga Development, LLC

Pursuant to notice of public hearing, the request of Chattanooga Development, LLC to rezone a tract of land located at 509 Riverfront Parkway came on to be heard.

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

Mr. Pace stated this request is for rezoning along Riverfront Parkway and displayed photos of the site by PowerPoint including other industrial uses in the area. He stated the site is currently vacant and the recommendation is for approval from both Staff and Planning with several conditions attached, including that it should be reviewed by the Urban Design Studio to assure it complies with the downtown plan.

On motion of Councilman Pierce, seconded by Councilwoman Rutherford,
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF
LAND LOCATED AT 509 RIVERFRONT PARKWAY, MORE PARTICULARLY
DESCRIBED HEREIN, FROM M-1 MANUFACTURING ZONE TO C-3
CENTRAL BUSINESS ZONE, SUBJECT TO CERTAIN CONDITIONS**
passed first reading.

REZONING

2005-126: Thomas Charles Reese

Pursuant to notice of public hearing, the request of Thomas Charles Reese to rezone a portion of a tract of land located at 704 Ashland Terrace came on to be heard.

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

Mr. Pace stated that this request is located along Ashland Terrace in the Highland Plaza area and there is a general mix of commercial, R-4 and R-1. He stated the recommendation is for approval subject to *retention of the wooded buffer shown on the site plan and securing a variance from the Board of Zoning Appeals to modify the required Type "B" landscape buffer on the west lot line*. He stated that the request is to approve the front property to C-2 and leave the rear R-1.

Chairman Robinson asked if the applicant agrees with the conditions; the applicant replied affirmatively.

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 A PORTION
OF A TRACT OF LAND LCOATED AT 704 ASHLAND TERRACE, MORE
PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO C-
2 CONVENIENCE COMMERCIAL ZONE, SUBJECT TO CERTAIN
CONDITIONS**

passed first reading.

LIFT CONDITIONS

2005-131: Bobby Fairbanks

Pursuant to notice of public hearing, the request of Bobby Fairbanks to lift conditions 2 and 4 imposed in Ordinance No. 11246 on a tract of land located at 7371 Applegate Lane came on to be heard.

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

Mr. Pace stated this request is located in the Hamilton Place Mall area and one condition was that all structures were to be retained which is one of the conditions requested to be lifted.

LIFT CONDITIONS (Continued)

Mr. Pace stated the other condition has to do with the uses allowed on the property as offices and professional offices only, which is the other requested to be lifted to allow for a parking lot for the business facing Gunbarrel. A site plan was displayed showing the Applegate subdivision and noted that the office park would still retain the residential character. He stated the recommendation is for approval from both Staff and Planning.

Councilman Benson stated this is a petition that started with a lot of concern from a number of people involved and he gave credit to both sides as they met, compromised and negotiated and believes there is no opposition today. He stated the applicant has worked many hard hours on this and pulled a divided community together.

On motion of Councilman Benson, seconded by Councilwoman Rutherford,
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO LIFT CONDITIONS 2
AND 4 IMPOSED IN ORDINANCE NO. 11246 ON A TRACT OF LAND
LOCATED AT 7371 APPLGATE LANE, BEING MORE PARTICULARLY
DESCRIBED HEREIN, SUBJECT TO CERTAIN CONDITIONS**

passed first reading.

PRELIMINARY PUD

2005-034: DMW Group, LLC – Dave Pearson

Mr. Pace stated this is a PUD request in the East Brainerd area off Morris Hill Road and the request is for single family uses. He stated approval is recommended from both Staff and Planning to grant the preliminary PUD.

On motion of Councilman Hakeem, seconded by Councilman Rico,
**A RESOLUTION APPROVING A PRELIMINARY PLANNED UNIT
DEVELOPMENT SPECIAL EXCEPTIONS PERMIT FOR A PROPOSED
PLANNED UNIT DEVELOPMENT KNOWN AS PETTY CROSSING PLANNED
UNIT DEVELOPMENT, ON TRACTS OF LAND LOCATED AT 1700 AND
8600 PETTY 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.

LEASE AGREEMENT

Councilwoman Rutherford stated this matter was discussed in the Public Safety Committee and approval is recommended.

On motion of Councilwoman Rutherford, seconded by Councilman Hakeem,
A RESOLUTION AUTHORIZING THE CHIEF OF THE CHATTANOOGA POLICE DEPARTMENT TO ENTER INTO A LEASE AGREEMENT WITH EASTGATE TOWN CENTER, LLC, RELATIVE TO THE LEASE OF CERTAIN SPACE IN EASTGATE MALL FOR CONTINUED USE AS A PRECINCT STATION

was adopted.

AGREEMENT

On motion of Councilwoman Rutherford, seconded by Councilman Rico,
A RESOLUTION AUTHORIZING AN AGREEMENT AND EASEMENT FOR CHATTANOOGA DEVELOPMENT, LLC IN CONSIDERATION OF THE RECIPIENT BUILDING A STREET, EXTENDING THE REIVERWALK AND BUILDING AND MAINTAINING AN AMPHITHEATER NEAR 509 RIVERFRONT PARKWAY

was adopted.

OVERTIME

Overtime for the week ending August 5, 2005 totaled \$89,531.47.

PERSONNEL

The following personnel matters were reported for the various departments:

PUBLIC WORKS DEPARTMENT:

- **MITCH UNDERWOOD** – Promotion, Biologist, Engineering, Pay Grade 14/Step 3, \$32,932.00 annually, effective August 1, 2005.
- **RONALD L. SMITH** – Return from Family Medical Leave, Crew Worker, City Wide Services, effective August 3, 2005.

PERSONNEL (Continued)

MAYOR'S OFFICE:

- **CARLA R. JOHNSON** – Appointed, Executive Assistant, Education, Arts and Culture, Pay Grade 13/Step 2, \$30,204.00 annually, effective August 1, 2005.

CHATTANOOGA POLICE DEPARTMENT:

- **STEVEN P. PEARSON** – Hire, Communications Officer, Pay Grade 11/Step 1, \$26,402.00 annually, effective August 5, 2005.

CHATTANOOGA FIRE DEPARTMENT:

- **RICHARD RAY** – Retirement, Firefighter, effective August 5, 2005.
- **TYLER HEAD** – Family Medical Leave, Senior Firefighter, effective August 4 – November 3, 2005.

CHATTANOOGA HUMAN SERVICES DEPARTMENT:

- **MARGARET EDWARD** – Resignation, Teacher Assistant, Head Start, effective August 5, 2005.
- **ANGELA WASHINGTON** – Resignation, Teacher Assistant, Head Start, effective July 30, 2005.

COMMITTEES

Councilwoman Bennett scheduled a meeting of the **Economic Development Committee for Tuesday, August 23 immediately following the Legal and Legislative Committee meeting** for a presentation by cre824.

Councilman Benson scheduled a meeting of the **Legal and Legislative Committee for Tuesday, August 16 at 3 p.m.** He stated in line with what was discussed earlier today, he would ask Council staff to call each Council member to make them aware of the agenda for the 3 p.m. meeting as well as give some idea as to length of the meeting.

COMMITTEES (Continued)

Councilman Pierce stated that he was not sure about that. Councilman Benson stated that that is what he thought Councilman Pierce requested.

Councilman Pierce stated he does not support office staff making the calls; that it is his hope Council members would know from week-to-week what was on the agenda for the following week. Councilman Benson stated that Councilman Pierce could call and ask him about the agenda for the meeting. Councilman Pierce then stated that he would like for Councilman Benson to call him personally to make him aware of the agenda for the meeting!

Councilwoman Rutherford suggested that the information be disseminated through electronic mail. It was then noted that all Council members do not access or retrieve electronic mail.

Councilman Hakeem reminded Council members of the **Public Works Committee meeting scheduled for Tuesday, August 16 at 4 p.m.**

EMPLOYER SUPPORT OF THE GUARD AND RESERVE

Councilwoman Bennett expressed thanks to the city for the opportunity to participate in a three-day orientation of the guard and reserve. She stated that she lived like a reservist for three days and that there were 60 city employee reservists that were on personal leave. She stated she is proud that the city can offer that type of support to employees; that it was an honor to see how reservists live and expressed appreciation for their sacrifice.

NORTH SHORE PLANNING SESSION

Chairman Robinson spoke on behalf of herself and Councilwoman Bennett and stated that they would be hosting the North Shore Planning Session September 12 at the Theatre Center. She stated they would be announcing this every week to give adequate notice and get the press interested.

ELDER AMOS BAKER

Elder Amos Baker stated what he saw on television was disturbing about the DARE program and that it is his thought this program should be saved. He stated the program began at Carver Center as part of the after-school program as a prevention project to save our kids.

ELDER AMOS BAKER (Continued)

Elder Baker stated that he worked with the late Chief Cothran who put the program together and helped him get the money from the city to put the program together. He stated that he heard Chief Parks say that the program should go back to Jesse Register and let the schools fund it. He stated that it is his thought Councilman Hakeem was talking about a different thing about having a group relationship with the police department and making sure more blacks have jobs; that he thinks this plays a great part yet we do not want to get rid of something important. He stated gangs in Bradley County are gong up and we have gangs here, too; that this program helped and he has been part of it.

Elder Baker asked the Council to talk with the police chief, school superintendent and other men and women to see if funding could be secured to save the DARE program. He stated the DARE program is important and has been "beefed up"; that it does not teach how to stay off drugs but teaches life skills for making the right decisions. He stated many have talked about him selling his kids with "this and that" and noted that his children graduated from the DARE program, even his special education child. He stated he would be remiss if he did not mention that DARE played a great part in the midnight basketball activity and is very proud to know parents are concerned.

Elder Baker referenced Councilman Pierce in his "fight" for his area noting that he (Baker) is fighting for the children in the city of Chattanooga and state of Tennessee to keep the DARE program and again asked that he Council find a way to fund it. He referenced Councilmen Benson's and Rutherford's comments regarding his "still being out there" working in the community. He stated he has come up and has been "thrown up" and is still out there! He stated last week a man was before the Council who carries a cross downtown and stated he is carrying a cross today -- a cross to save the DARE program and asked that the Council take that into consideration.

ADJOURNMENT

Chairman Robinson adjourned the meeting of the Chattanooga Council until Tuesday, August 16, 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)**