

**City Council Building
Chattanooga, Tennessee
September 20, 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 were also present.

PLEDGE OF ALLEGIANCE/INVOCATION

Following the Pledge of Allegiance, Rev. Overstreet gave invocation.

SPECIAL PRESENTATION: INTERNS

Mayor Littlefield was present to introduce interns who had been working in city government. He stated four are from Germany and two from UTC. He presented the German interns with Honorary Citizen certificates and In Appreciation certificates to the UTC students. German students included Jens Krause, interning with the Fire Department; Christian Pientka, interning with Information Systems; Stefan Feige, interning with the Police Department; and Anja Pytioch, interning with the Personnel Department. UTC students introduced were Natalie Dickie, interning in the Mayor's Office and Nickie Jones.

Chairman Robinson expressed best wishes to the interns for jobs well done.

MINUTE APPROVAL

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

AMEND CITY CODE

On motion of Councilwoman Rutherford, seconded by Councilman Rico,
AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, SECTION 14-2, IN ORDER TO ADOPT THE NATIONAL ELECTRICAL CODE OF 2005 AS THE OFFICIAL ELECTRICAL CODE OF THE CITY OF CHATTANOOGA AND TO AMEND SECTION 14-3, REGARDING CERTAIN AMENDMENTS TO THE NATIONAL ELECTRICAL CODE AND TO REVISE CERTAIN LANGUAGE UNDER SECTION 14-15 REGARDING NON-REFUNDABLE FEES

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

AMEND ZONING ORDINANCE

On motion of Councilman Hakeem, seconded by Councilwoman Rutherford,
AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, BY AMENDING ARTICLE V, SECTION 603(11), RELATIVE TO WORKSHOP TYPE USES IN THE C-2 CONVENIENCE COMMERCIAL ZONE

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

REZONING

2005-092: D L Enterprises

On motion of Councilman Franklin, 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 LOCATED AT 5540 HIGHWAY 153, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-4 SPECIAL ZONE TO C-2 CONVENIENCE COMMERCIAL ZONE, SUBJECT TO CERTAIN CONDITIONS

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

REZONING

2005-132: Kimberly E. & William T. Wade, Jr.

On motion of Councilwoman Rutherford, 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 2322 CENTER STREET, MORE PARTICULARLY
DESCRIBED HEREIN, FROM R-2 RESIDENTIAL ZONE TO C-2
CONVENIENCE COMMERCIAL ZONE, SUBJECT TO CERTAIN
CONDITIONS**

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

REZONING

2005-134: City of Chattanooga c/o Regional Planning Agency

On motion of Councilwoman Rutherford, seconded by Councilman Franklin,
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF
LAND LOCATED AT 3821 BRAINERD ROAD, MORE PARTICULARLY
DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO R-4 SPECIAL
ZONE, SUBJECT TO CERTAIN CONDITIONS**

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

REZONING

2005-136: Michael J. Steward, Agent for owner Martin Shofner, et. al.

Councilman Benson stated two issues are involved in this one. He apologized to Councilwoman Rutherford for any confusion on the issue speaking strictly on Lee Highway and not on the eastern end of this. He stated the eastern end has real problems and it is his thought Mr. Pace needs to separate them. He stated the ordinance on the Lee Highway portion for the call center is already zoned and has nothing to do with it, really.

Jerry Pace, Director of Development Services with the Regional Planning Agency (RPA), stated that the rezoning on the Lee Highway portion is to be rezoned C-2 and several conditions were discussed last week. He stated the conditions have been amended to allow *convenience stores, service stations and restaurants with drive-thru facilities must be reviewed by the pre-submittal committee* by public works. He stated the conditions were discussed with the applicant and he has accepted them.

REZONING (Continued)

Mr. Pace stated Councilwoman Rutherford will address grading and excavation of the site; that there are some drainage and stormwater problems that have not been addressed.

Chairman Robinson stated Councilwoman Rutherford has indicated a willingness to stay and meet tonight.

Councilwoman Rutherford stated that she made the motion to approve the matter in committee and it comes to the Council with a recommendation for approval.

Councilman Benson stated that he has one question for the record; that the only reason for his involvement is that he has a real passion against speculative zoning. He asked if speculative zoning has been removed and the request can be put in.

Mr. Pace stated that it does in a sense; that the conditions eliminate certain uses that would be offensive or determined not a good use next to the development of T-Mobile and the neighborhood close by.

Councilwoman Rutherford stated the second issue is the problem. She stated she, Steve Leave, Lee Norris and Henry Yankowski went to the site after Council meeting. To those in attendance who were present regarding this matter, she noted that she would be happy to meet with them and go over what they have seen today and the plans she knows that have been permitted. She invited other Council members and any others who would like to stay after tonight's Council meeting are welcome in an effort to clarify stormwater and landscaping issues and anything else they have to bring before her about the T-Mobile location.

Chairman Robinson stated for those who are satisfied with the action of the Council they are free to leave and anyone who wished to say will meet following the Council meeting with some of the Public Works representatives and Council representatives. Councilman Benson stated that it should be a short meeting.

Councilman Pierce asked those in attendance regarding the landscaping and stormwater matters if they were satisfied with what they saw earlier or would prefer to stay to meet afterward.

Charles Loney, President of the Hickory Manor Neighborhood Association, stated that he was satisfied with the conversation with the gentleman in the hall.

REZONING (Continued)

Councilwoman Rutherford stated if they are pleased and got all their questions answered before the meeting the Public Works representatives did a good job. She stated if any of them have questions they should call her or Steve Leach; that both would do their best to answer their questions and make sure things are going smoother. She apologized for any inconvenience they may have experienced.

Councilmen Rutherford and Page made the motion and second to substitute the amendments to this ordinance; the motion carried.

On motion of Councilman Hakeem, seconded by Councilman Franklin,
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF
LAND LOCATED AT 6390 LEE HIGHWAY, MORE PARTICULARLY
DESCRIBED HEREIN, FROM R-4 SPECIAL ZONE TO C-2 CONVENIENCE
COMMERCIAL ZONE, SUBJECT TO CERTAIN CONDITIONS**
passed second and final reading and was signed in open meeting.

REZONING

2005-139: 84 Lumber

Councilmen Franklin and Benson made the motion and second to substitute the amendments to this ordinance; the motion carried.

On motion of Councilman Benson, seconded by Councilman Franklin,
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF
LAND LOCATED AT 2846 EBLEN DRIVE, MORE PARTICULARLY
DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO M-2 LIGHT
INDUSTRIAL ZONE, SUBJECT TO CERTAIN CONDITIONS**
passed second and final reading and was signed in open meeting.

REZONING

2005-143: Earl Chandler

On motion of Councilman Hakeem, 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 2600 BROAD STREET, MORE PARTICULARLY
DESCRIBED HEREIN, FROM R-3 RESIDENTIAL ZONE AND M-1
MANUFACTURING ZONE TO C-3 CENTRAL BUSINESS ZONE, SUBJECT TO
CERTAIN CONDITIONS**

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

CLOSE AND ABANDON

MR-2005-128: NL Ventures V Mercer, LP

The applicant was present; no opposition was in attendance.

Phillip Whitaker was present representing the applicant and stated that this is the site of the old Dixie Yarns in Highland Park on South Watkins. He stated his client is getting refinancing of the property and the lender had a survey done; that the survey shows several encroachments. He stated the building was built in 1920 and has been added to since then. He stated the encroachment into the right-of-way is around the entire block and his client is having trouble getting lending approval for refinancing until it is cleared. He stated that his client filed application for abandonment where the right-of-way and fenced area encroaches; that Staff recommends approval for the abandonment of every place where the building encroaches into the right-of-way, but did not recommend approval where the fences and wall encroached. He stated the thinking is that the fence could be moved if it is to be abandoned and at the meeting at RPA, the Planning Commission recommended that this be abandoned. He stated the ordinance today from the City Attorney's office does not adopt what Planning recommended as it still says the abandonment of the portion where the fenced area encroaches will not be granted. He stated that he would like for the entire area to be abandoned; that if the fence is not abandoned and his client has to move it they are looking at a gigantic financial expense as the fencing would be half mile and a detention pond would have to be moved that encroaches into the right-of-way.

Chairman Robinson stated that the ordinance before the Council is incomplete.

REZONING (Continued)

Councilman Rico stated that he looked at this and does not see why we can not abandon what they want as it really does not amount to anything.

Mr. Pace stated if the Council approves this he would meet with the applicant to make sure the legal description is correct before second reading to assure this is what Planning recommended for approval.

Councilman Page stated that he was trying to figure out if Councilman Rico would want this to go back to Public Works for their okay before it is passed. Councilman Rico responded "no".

Councilwoman Rutherford stated this used to be in her district and it is a wonderful site. She asked why Staff recommended not doing it.

Mr. Pace stated the concern was that the fence could be moved therefore not abandoning the right-of-way; that the building would be hard to move and it did encroach into the right-of-way. He stated Public Works reviewed this on the City Engineer's review and recommended approval.

On motion of Councilman Hakeem, seconded by Councilwoman Rutherford,
AN ORDINANCE CLOSING AND ABANDONING PORTIONS OF THE EAST LINE RIGHT-OF-WAY OF THE 1000 BLOCK OF SOUTH LYERLY STREET RIGHT-OF-WAY AND PORTIONS OF THE WEST LINE RIGHT-OF-WAY OF THE 900 BLOCK OF SOUTH WATKINS STREET RIGHT-OF-WAY, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP AND SITE SURVEY ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE SUBJECT TO CERTAIN CONDITIONS
passed first reading.

CONTRACT

On motion of Councilman Hakeem, seconded by Councilman Franklin,
A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF NEIGHBORHOOD SERVICES TO EXECUTE A CONTRACT WITH THE URBAN LEAGUE OF GREATER CHATTANOOGA RELATIVE TO THE EARNED INCOME TAX CREDITS CAMPAIGN IN AN AMOUNT NOT TO EXCEED THIRTY THOUSAND DOLLARS (\$30,000.00)
was adopted.

SPECIAL POLICEMAN

On motion of Councilwoman Rutherford, seconded by Councilman Franklin,
A RESOLUTION AUTHORIZING THE APPOINTMENT OF MITCH UNDERWOOD AS SPECIAL POLICEMAN (UNARMED) FOR THE CITY OF CHATTANOOGA DEPARTMENT OF PUBLIC WORKS, STORMWATER DIVISION, TO DO SPECIAL DUTY AS PRESCRIBED HEREIN, SUBJECT TO CERTAIN CONDITIONS
was adopted.

CHANGE ORDER

On motion of Councilman Benson, seconded by Councilwoman Rutherford,
A RESOLUTION AUTHORIZING THE EXECUTION OF CHANGE ORDER NO. 1, RELATIVE TO RENOVATION OF THE EXISTING STRUCTURE AT HERITAGE PARK, WITH P&C CONSTRUCTION, INC., WHICH CHANGE ORDER INCREASES THE CONTRACT AMOUNT BY FOURTEEN THOUSAND THREE HUNDRED SIX AND 53/100 DOLLARS (\$14,306.53), FOR A REVISED CONTRACT PRICE OF TWO HUNDRED TWENTY-FIVE THOUSAND ONE HUNDRED THIRTY AND 53/100 DOLLARS (\$225,130.53)
was adopted.

AGREEMENT

On motion of Councilwoman Rutherford, seconded by Councilman Franklin,
A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A COOPERATION AGREEMENT WITH THE U.S. ARMY CORPS OF ENGINEERS RELATIVE TO THE TERMINAL ROAD STREAMBANK PROTECTION PROJECT FOR A TOTAL AMOUNT NOT TO EXCEED SEVENTY THOUSAND DOLLARS (\$70,000.00)
was adopted.

AGREEMENT

On motion of Councilman Hakeem, seconded by Councilman Franklin,
A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO EXECUTE AN AGREEMENT WITH EARTHWORX, LLC RELATIVE TO CONTRACT NO. S-05-010-101, STORM AS-FOUND PROGRAM, IN AN AMOUNT NOT TO EXCEED NINE HUNDRED TWENTY-FIVE THOUSAND DOLLARS (\$925,000.00)
was adopted.

CONTRACT

Councilman Pierce inquired as to the contract amount for this Resolution.

Councilman Benson stated this was discussed at length in Legal and Legislative Committee; that at the end of the year we want an accounting of how much federal and state money this firm brought in and the Mayor assured us at the end of the year he would report on that. He stated this would be a good investment on the city's part as the return would be much, much greater.

City Attorney Nelson stated that the lobbying would not only be in Nashville, but also in Washington, DC. He stated there are issues before Congress that affects cities that need to be heard and one now is that Congress had a bill that would do away with all cable franchise fees, which could cost us about one million a year.

Councilman Pierce asked when a report would be made on this. Councilman Benson responded that the report would be in twelve months when the contract is up for renewal.

Councilman Pierce asked if there would be a semi-annual report at six months as progress moves. He stated this is a lot of money and the firm may pay off; that the Council will pass this and never think of it again. He stated the Council needs to be more accountable to things passed and get some type of feedback.

Councilman Page suggested a friendly amendment to have a report in six months to the Council added to the Resolution.

City Attorney Nelson stated the problem he has is that the General Assembly in Nashville will only be partially through session and he does not know what result they will have in six months.

Councilman Pierce stated the report would be partial as the federal portion of this is in session, now.

Councilman Page and Pierce made the motion and second to amend the Resolution by adding "A report shall be made to the City Council in March 2006 by said firm"; the motion carried with Councilman Benson voting "no".

CONTRACT (Continued)

On motion of Councilman Pierce, seconded by Councilman Page,
A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH AKERMAN SENTERFITT TO PROVIDE REPRESENTATION SERVICES, INCLUDING LOBBYING, TO THE CITY OF CHATTANOOGA, AT A RATE NOT TO EXCEED FIFTEEN THOUSAND DOLLARS (\$15,000.00) PER MONTH, PLUS EXPENSES AT CITY APPROVED RATES, WHICH EXPENSES WILL NOT EXCEED TWENTY-ONE THOUSAND DOLLARS (\$21,000.00) FOR THE DURATION OF THE CONTRACT WHICH SHALL RUN FROM SEPTEMBER 1, 2005 THROUGH AUGUST 31, 2006
was adopted.

ADOPTION OF NATIONAL INCIDENT MANAGEMENT SYSTEM

On motion of Councilwoman Rutherford, seconded by Councilman Rico,
A RESOLUTION TO ADOPT THE NATIONAL INCIDENT MANAGEMENT SYSTEM FOR THE CITY OF CHATTANOOGA
was adopted.

OVERTIME

Overtime for the week ending September 16, 2005 totaled \$73,588.72.

PERSONNEL

The following personnel matters were reported for the various departments:

PUBLIC WORKS DEPARTMENT:

- ❖ **TIMOTHY L. MILLER** – Promotion, Concrete Worker, City Wide Services, Pay Grade 6/Step 1, \$20,429.00 annually, effective September 14, 2005.

CHATTANOOGA POLICE DEPARTMENT:

- ❖ **WAYNE HENNESSEE, JESSE SUTTLES** – Resignation, School Patrol Officer, effective August 30, 2005.

PERSONNEL (Continued)

- ❖ **JACQUELINE MCCAIN** – Termination, Communications Officer, effective September 12, 2005.
- ❖ **KEN SHRUM** – Retirement, Sergeant effective September 26, 2005.

CHATTANOOGA FIRE DEPARTMENT:

- ❖ **DEBORAH JACKS** – Promotion, Office Assistant, Pay Grade 3/Step 1, \$19,350.00 annually, effective September 16, 2005.
- ❖ **WILLIAM MATLOCK** – Family Medical Leave, Senior Firefighter, effective September 22 – December 15, 2005.
- ❖ **WILLIAM MELHORN** – Family Medical Leave, Captain, effective September 19 – December 12, 2005.

NEIGHBORHOOD GRANTS

Adm. Beverly Johnson stated that applications for neighborhood grants will be offered beginning next week. She stated they are open to non-profit organizations and the application process will go through November. She stated an independent team will be put together to review the applications and award them, hopefully, around December. She stated that it will be published for city wide distribution and will be posted on the website. She stated she wanted the Council to know this is forthcoming.

Councilman Hakeem asked if the listing of community organizations and contact persons has been updated.

Adm. Johnson stated that she was not sure it is updated; that they have a listing available of all neighborhood associations and do have names of individuals; that they will check to make sure they are current for the organizations they represent.

Councilwoman Rutherford asked who is actually eligible to receive these grants.

Adm. Johnson responded they should be non-profit organizations that have been in existence at least six months.

NEIGHBORHOOD GRANTS

Councilwoman Rutherford stated some neighborhood organizations do not have a Treasurer or anything and do not have non-profit status.

Adm. Johnson stated they need to have a Board of Directors in place or whatever the bylaws call for in terms of officers, that is what they will look at, clarifying that they need to have a formalized organization in place. She stated her Department will provide technical assistance workshops to assist with the application process.

Councilwoman Rutherford asked what happens if an organization has not gone through the formal process to become non-profit, would they still be eligible.

Adm. Johnson stated each would be reviewed on a case-by-case basis; that the main thing is that there is a structure in place and that they represent a neighborhood-based group of individuals and can document that.

Councilman Hakeem stated that he did not know if he heard correctly, that he thought he heard they do not have to be a 501c3.

Adm. Johnson stated she did not say that.

Councilman Hakeem stated to be non-profit the neighborhood association has to have 501c3 status.

Adm. Johnson clarified that they do not have to have 501c3 tax exempt designation.

EDUCATION, ARTS AND CULTURE DEPARTMENT

Chairman Robinson stated that the Education, Arts and Culture Department hope to have a report within the next few weeks on the progress of the new department, which has been established by the Mayor's Office.

HOTEL PERMITS

On motion of Councilwoman Rutherford, seconded by Councilman Rico, the following hotel permits were approved:

PARK CITY HOTEL – 2747 Cannon Avenue, Chattanooga, Tennessee

DAYS IN-TIFTONIA – 3801 Cummings Highway, Chattanooga, Tennessee

REFUND

On motion of Councilwoman Rutherford, seconded by Councilman Franklin, the Administrator of Finance was authorized to issue the following refund of property taxes:

JAMES H. RIFKIN

\$1,229.94

BOARD APPOINTMENTS

On motion of Councilwoman Rutherford, seconded by Councilman Rico, the following board appointments were approved:

BEER BOARD:

- Appointment of **THOMAS GREGORY LUTHER** to fill the unexpired term of William Thomas for a term ending July 12, 2008 representing District 7;
- Reappointment of **PHILLIP SALLEE** for a term expiring August 1, 2008 representing District 4;
- Reappointment of **CHRISTOPHER KEEN** for a term expiring July 31, 2008 representing District 8.

STADIUM CORPORATION BOARD:

- Appointment of **MICHAEL DAVIS** to fill the unexpired term of Doug Thigpen for a term expiring November 1, 2006.
- Appointment of **STEVE SLOAN** for a term expiring September 20, 2009.

HEARING: OFFICER DAVIE FRYE

Councilman Franklin stated that a personnel hearing for Officer David Frye of the Chattanooga Police Department was held with the panel consisting of himself and Councilmen Page and Rutherford. He stated the panel voted to modify the Department's decision, indicating that the 28 day suspension was upheld and given as time served. He stated the initial demotion from Lieutenant to Officer or patrolman was modified to promotion as Sergeant and that back pay would go back as far as the 28 day suspension ended. He stated the probation period was waived and the vote was two-to-one in favor of the modifications.

EXPRESSION OF THANKS TO DEPARTMENT HEADS

Councilman Benson expressed thanks to department heads present at the Council meeting, noting that he had wanted to say that for a long time. He stated the Council can never know when a question might arise that a department head can answer and that happened today in the hall prior to the meeting. He stated it is nice to have department heads present and noted what is disconcerting to him is that the Council never sees some departments represented. He stated if a problem arose there would be someone to solve it immediately and it would be carried over sometimes, making the problem magnify. He expressed appreciation to Dan Johnson for his presence, as well.

COMMITTEES

Councilman Benson scheduled a meeting of the **Legal and Legislative Committee for Tuesday, October 4 beginning at 3 p.m.**

Councilman Hakeem reminded Council members of the **Public Works Committee meeting scheduled for 4 p.m. on Tuesday, September 27.**

Councilwoman Rutherford stated a **Public Safety Committee** meeting was held today; that personnel and the Police Chief brought the Council up-to-date on recruiting practices for the police department. She stated the Committee is scheduled to meet on **Tuesday, September 27 at 3:30 p.m.** with Juvenile Court Judge Suzanne Bailey as the special guest to tell what is going on with Juvenile Court.

NORTH SHORE MEETING

Councilwoman Bennett stated a great North Shore meeting was held with over 150 participants as well as other department heads from the city. She stated everyone is anxiously awaiting the outcome.

Chairman Robinson stated she and Councilwoman Bennett had the privilege to lead the parade of the last entourage across the Market Street Bridge before closing and it was a great deal of fun for everyone. She stated that she looks forward to having a new bridge completed on schedule.

BOB GRAHAM

Bob Graham, President of the Chattanooga Neighborhood Council, was present along with other members of his group representing the Police Interaction Committee. He stated they meet every Tuesday in various neighborhoods and met in East Chattanooga the other night. He stated the meetings allow citizens to meet the police officers who represent the sector and complain or compliment them and ask questions. He stated after the questions are asked the officer responds to them at the next meeting. He encouraged all sectors to try to set up this type of meeting as it works very well. He stated in their recent meeting three issues were discussed: one involved curfews, which is a major problem through neighborhoods in this eastern sector as kids from 8-10 years old are out at 2 a.m. with no parents anywhere! He stated the second issue involved noise as it is heard all the time emanating from homes and vehicles late at night, creating a restless atmosphere; and the third, which he was told not to bring up, involves indecent exposure, a problem throughout the city. He stated there are signs in some parks that speak to dress codes for admittance; that some wear pants that hang halfway down to their knees. He asked the Council to assist in addressing the three primary problems.

Councilwoman Rutherford stated in a meeting last Tuesday at the Police Services Center where several of the Chiefs, Bill Cox and a number of others including Dan Johnson were present, a representative from Juvenile Court, Chris Albright, explained that state and federal law prohibits juveniles who are truant or breaking the curfew to be in the same structure with juveniles who are there because of a crime that may have been committed. She stated that is the reason so many of our officers cannot pick them up. She stated she rode with the police a week ago on a Saturday night and 10-12 year old children were out by themselves at 2 and 3 a.m. She stated when she questioned the officer about it he told her basically the same thing; that she thinks the issue has to be resolved and has to be resolved at the local level, then it comes down to not having a facility to put them in. She stated that is something she hopes to discuss with Judge Bailey next week.

Councilman Benson stated it is his wish that Mr. Graham give specific recommendations for ordinances that might be tightened; that there are now three problems and there should be three solutions. In regard to the curfew he asked the City Attorney if parents could be held responsible. City Attorney responded, "in what way".

Councilman Benson stated contributing to the delinquency of a minor or child abuse, even! City Attorney Nelson stated it really is not abuse, he didn't believe; that it is something that ought to be explored with Judge Bailey next week.

BOB GRAHAM (Continued)

Councilman Franklin suggested that Judge Bailey be invited to the Legal and Legislative Committee to address the issues.

Councilman Benson stated he would call her to see if there is something and asked the Council's Management Analyst, Randy Burns, to research the matter.

Councilman Pierce asked the City Attorney if an ordinance could be passed regarding dress code; that the school system has a dress code and wondered if we could pass one for indecent exposure.

City Attorney Nelson responded "no"; that we would run into the First Amendment right of freedom of expression. He stated we do have an ordinance on the books against indecent exposure which is fairly specific as to what can and cannot be shown. He stated to pass a city wide dress code, no, as we would have trouble there.

LOUISE HAMMONDS

Louise Hammonds of the Oak Grove community stated a lady from Virginia who has moved into Councilman Hakeem's Glenwood neighborhood said the Council in Virginia passed a law that all teenagers with their pants below their bottoms would be charged \$50 and it worked. She stated that she brought this up in their meeting and if it worked for them she does not know why it would not work here.

Councilman Pierce stated it would work until it gets to the ACLU!

City Attorney Nelson we would be looking at big time attorney's fees under federal civil rights matters.

REV. OVERSTREET

Rev. Overstreet complimented Chairman Robinson for her itinerary with the Mayor and others; that he is certain Chattanoogaans will be the beneficiaries of their trips and trust it will help the city. He stated that he wanted to say as a matter of record that three weeks ago he was privileged to be contacted by President William Jefferson Clinton, with whom he developed a relationship many years ago when he was Governor of Arkansas, to participate in the cleanup in the gulf. He stated the group of 50 involved the Council of Black Mayors, Tom Joiner, SCLC, NAACP and others; that the Southern Baptists joined them, as well. He was thankful to have been included and noted it was a tedious and tragic site anyone would want to see.

REV. OVERSTREET (Continued)

Rev. Overstreet stated if anyone wants to see how important black or white is, let tragedy strike! He related a story of a large Texas gentleman touching him on the shoulder while they were working and asked if he was from Hamilton County. He responded that he was and the gentleman asked if he was familiar with the "Tennessee Waltz". He stated that he knew what the gentleman was referring however his response was "dancing" and that is all he wished to know as he wanted to get back to work! He stated when he thinks about "waltzing" he thinks about dancing.

EXPRESSION OF THANKS TO PARKS AND RECREATION DEPARTMENT

Chairman Robinson expressed thanks to Adm. Rob Healy and others in the Parks and Recreation Department for their assistance in providing a clean, dry and warm shelter for so many people in such great need!

LEE TRIPP

Lee Tripp of the Cedar Hill neighborhood stated he and others in the area are fighting extreme overgrowth; that for the last six-to-eight years absentee landlords have neglected their properties and gotten away with it. He stated the houses are fairly close together and whenever the hackberry trees and bushes grow up and become large "privacy barriers" as some call them there is a fire code problem. He stated it seems like people would like to leave it like that because they have something to hide; that there are a lot of residents that do drugs and there is some prostitution and the community took it upon themselves last week to clean it up. He stated prostitution has gotten so bad that a mattress was placed under a tree over on the side where it could not be seen; that police go by three-to-four times a night. He stated they picked up six large bags full of beer bottles and are cleaning up the property; that they cannot get the landlord over to do anything! He stated they need help as the City Code needs to be more specific on what constitutes overgrowth and make it stick. He stated thanks to Councilman Rico, Neighborhood Services is helping.

Chairman Robinson encouraged Mr. Tripp to get in touch with Neighborhood Services and Adm. Johnson. Mr. Tripp noted that they connect with Neighborhood Services on a weekly basis.

LEE TRIPP (Continued)

Councilwoman Rutherford stated that she had a conversation about hedges with one of our inspectors, Randy Ridge, who asked if this could be brought to a committee meeting. He stated Mr. Ridge feels we need a better definition of the word hedge and how to maintain it.

MARY BARNETT

Mary Barnett stated she is a resident of St. Elmo and has lived there for years. She stated she was present representing her community as they are deeply concerned about a 35 foot billboard structure that seems to be going up in the center of the district. She stated that she asked Councilman Rico to put a halt to this until problems could be solved and an effort to explore the issue with the property owner. She stated no one in the neighborhood was aware this was going up and do not know if it is legal or not. She stated there was some question about grandfathering of the sign that was painted on the exterior wall of the Zahnd's dry good store that was demolished 45 days ago. She asked that this be halted until there is more explanation and outreach into the community.

Richard Hutsell stated this location is the Zahnd's Dry Goods that partially collapsed and was demolished 45 days ago. He stated the side of the building did have an off premise sign for many years that had Rock City and Ruby Falls painted on it. He stated the city is bound by state law that permits an owner of property to rebuild within a 90 day period; that we look at this hard and after the building was demolished he (Hutsell) received a call 30 days ago on behalf of the old owner that the property was purchased by Joel Fortune. He stated Mr. Fortune applied for a permit to rebuild the sign and the way the ordinance is set up the structure is not defined. He stated in this case the sign was originally on the side of a building and now it will be on a monopole structure as the building is gone. He stated he did ask the owner to hold down on the height as much as possible as the height requirement is 50 feet and they told him they would; that it is his understanding it is 45 feet. He stated the city is limited on what can be restricted and it is obvious by the number of phone calls he had today. He stated he tried to explain to those who called that we as a city have to abide by state and federal guidelines by virtue of the law; that this has happened many times in the last sixteen years since this ordinance has been in effect.

Ms. Barnett stated out of respect for the people of St. Elmo who have worked hard in defining their community and creating a master plan, this is important to Mr. Rico's constituents as they are offended by it. She stated out of respect for how hard they have worked to keep character in their neighborhoods they ask that this be halted and discussed with the community in mind.

MARY BARNETT (Continued)

Councilman Rico asked City Attorney Nelson if this is legal for us to do.

City Attorney Nelson stated the city can not overrule state law; that in the hierarchy we have to observe federal law, state law and then the city. He urged Ms. Barnett to take the matter to her state representative to see if the law could be changed.

Teresa Wood, also a member of the St. Elmo community, asked if there is a way the city could challenge the law in court.

City Attorney Nelson responded "no".

GREG LUTHER

Greg Luther stated that he lives in St. Elmo and one thing that irritates citizens more than anything else is lack of information; that he is getting a little tired of finding out after the fact when it is too late to do anything. He displayed photos which do not speak to anything about a sign for a parking lot, yet they now have a huge sign going up. He displayed a photo showing the support column for the sign which is higher than the Zahnd's building was. He stated if this is illegal something needs to be done about it; that they had a big drawn out process years ago when Alexian Brothers took over the old public school and they were told this was going in to guide the development of not only the residential area of St. Elmo but commercial, as well. He stated this is definitely outside of that spirit and is the fault of the city.

ADJOURNMENT

Chairman Robinson adjourned the meeting of the Chattanooga Council until Tuesday, September 27, 2006 at 6:00 p.m.

CHAIRMAN

C LERK OF COUNCIL

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