

**CITY COUNCIL BUILDING
CHATTANOOGA, TENNESSEE
MAY 9, 2006**

Chairman Pierce called the meeting of the Chattanooga City Council to order with Councilmen Bennett, Benson, Franklin, Page, Powers, Rico, Robinson and Rutherford present. City Attorney Randall Nelson, Management Analyst Randy Burns, and Shirley Crownover, Assistant Clerk to the Council, were also present.

**PLEDGE OF ALLEGIANCE/
INVOCATION**

The Pledge of Allegiance was led by Councilman Rico. He noted that we had a special guest with us tonight, Andy Mendonsa, who would introduce the person who would deliver the invocation. He introduced Ms. Orna Greenman from Israel, who is second generation of a Holocaust survivor. She was in town as a special speaker for Widows' Harvest, and she delivered the invocation.

**SPECIAL PRESENTATION:
MAYOR LITTLEFIELD/
WIDOWS' HARVEST**

Chairman Pierce joked that we had a limitation on the times one person could speak at the Council meeting, with Mayor Littlefield responding that he appreciated the opportunity to "grace the Council's presence" once again—that with the number of people in the room tonight, everyone could understand why he chose to give his State of the City Address at the last two meetings and not on zoning night.

Mayor Littlefield recognized the presence of a number of widows present, who were affiliated with the Widows' Harvest Ministry, whom Mr. Mendonsa had referred to. He stated that the week of May 8th through May 15th would be proclaimed a week of Special Recognition and Development for the Widows' Harvest Ministry and at this point read a Special Proclamation. He asked Mr. Mendonsa to say a few words.

WIDOWS' HARVEST MINISTRY
(CONT'D)

Mr. Mendonsa stated that he would defer to Ms. Greenman and would ask her to speak. He mentioned a banner designed by his daughter, noting that they had added a quote in her memory. He thanked the Council for this official recognition, stating that he would let Orna say a few words.

Ms. Greenman stated that in our very human eyes we view widows as "sweet little old ladies" and basically that is all; however these "little old widows" had lived a life of poverty and had nothing but their relationship with God—that when they cried out to HIM, HE heard them and did protect them; that HE would defend them. She reiterated that when they cried out to God, he answered them. She stated if Councilmembers had never had the opportunity to hear widows pray, that she invited them to come and listen; that everyone should be on the side of those who deserve a blessing. She asked what could a poor and helpless person give but a blessing from the bottom of their heart—that this is everything that they have. She went on to say that the work she did in Israel needed a lot of prayer—that it was a terror-stricken country, and the Widows Harvest Ministry was their major support and that she came here once a year to attend a conference and to thank these widows for their prayers. She thanked these women present, who are mighty in our eyes, and she thanked the City Council for opening their hearts to them. She ended by saying that often widows are taken advantage of and ignored sometimes and that she was glad to be here where they are considered mighty, and she thanked the Council for being a part of this.

At this point Councilman Powers noted that the first Ordinance on the Agenda was discussed at the Public Works Committee meeting, as well as six Resolutions, and that they all come with a recommendation for approval.

CLOSE AND ABANDON

2006-015 (Robert S. Davis, Jr.)

On motion of Councilman Rico, seconded by Councilwoman Rutherford,
AN ORDINANCE CLOSING AND ABANDONING AN UNNAMED ALLEY LOCATED ON THE EAST LINE OF THE 300 BLOCK OF SOUTH WILLOW 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.

CHARTER CHANGE
EMPLOYEE HEARINGS

Councilman Benson stated that this comes with a recommendation from the Legal and Legislative Committee; that it is the recommendation of a Blue Ribbon Task Force that was chaired by Councilman Powers. He took this opportunity to thank Councilman Powers for his service on this task force, as well as his service as an interim Councilman.

Councilwoman Bennett stated that she had a couple of questions that she had spoken to Attorney McMahan about. She referred to Section © in the document, where it spoke to the fact that Councilmembers would have representation, but it did not specifically say that they had the option to serve themselves. She stated that there were a couple of things that needed to be updated and suggested that this be sent back to committee.

On motion of Councilwoman Bennett, seconded by Councilwoman Robinson,

AN ORDINANCE TO AMEND THE CHARTER OF THE CITY OF CHATTANOOGA, AND ALL ACTS, ORDINANCES, AND OTHER CHARTER PROVISIONS AMENDATORY THEREOF, PURSUANT TO THE PROVISIONS OF ARTICLE XI, SECTION 9, OF THE CONSTITUTION OF THE STATE OF TENNESSEE (HOME RULE AMENDMENT) TO AMEND PROVISIONS OF THE CHARTER SO AS TO ESTABLISH A PERSONNEL BOARD FOR THE PURPOSE OF HEARING APPEALS OF CERTAIN EMPLOYEE DISCIPLINARY MATTERS
was deferred for one week.

At this point Chairman Pierce went over the procedures for Rezoning cases.

REZONING

2006-028 (Paragon Development, Inc.)

Pursuant to notice of public hearing, the request of Paragon Development to rezone tracts of land located in the 5800, 5900 and 6000 Blocks of Highway 153, 5900-6200 Blocks of Gothard Rd., and 6300-6306 and 6410-6500 Blocks of Grubb Road from R-1, R-2, R-4, C-2 to C-2 Convenience Commercial Zone came on to be heard.

Mr. Jerry Pace, Director of Development Services with RPA (Regional Planning Agency) presented this case to the Council, noting that there had been great partnering with the Community Steering Committee. The slide presentation showed the zoning boundaries. He explained that the entire portion was being requested for development but that this had been revised, and he showed a conceptual plan, noting that two traffic signals were proposed for this development. He stated that this came with a recommendation from the Planning Commission and Staff with several conditions, which the applicant was aware of. He read the conditions as follows: (1) Subject to the conceptual site plan; (2) No access to Grubb Road; (3) No out parcel access to 153 except the lower parcel near Grubb Road; (4) Develop, design and build traffic signals per City specifications and review and approval of the City Traffic Engineer regarding signal design and not to be activated until full build-out; (5) 100' screening/buffer from Grubb Road as shown on site plan and a 50' screen and buffered area with Type B landscaping along the property line abutting the R-4 property on Grubb Road, landscaping along Grubb Road to consist of 2 staggered rows of evergreen trees 15' on center at the bottom and top of slope to be 2" caliber or 6' tall; (6) Commitment for full build-out with any major deviations going back to the Staff for approval; (7) Detention pond with capability of handling a 50 year storm event; (8) All lighting directed toward the development and away from residential properties, and (9) Dumpster activity only from 7:00 a.m. until 7:00 p.m.

Mr. Alan Nichols, Attorney with Miller and Martin, spoke for the applicant. He stated that there had been a number of meetings with the RPA Staff and the Neighborhood Advisory Group; that approval was unanimous

REZONING (CONT'D)

with the Planning Staff and nearly unanimous with the Advisory Group; that Mr. Everett Fairchild was present tonight and would also speak briefly. He stated that the problems raised in the community meetings had really been addressed, mentioning a limited number of curb cuts, noting that if these ten tracts had been developed separately there would have been many more curb cuts.

Mr. Nichols went on to say that there were would be traffic signals on 153; that traffic speed had been an issue; that these traffic signals would be placed in an appropriate position to slow people down, and we were eliminating curb cuts entirely; that this was a narrow winding road and was two-way only in theory. He went on to talk about the long-range plan for Grubb Rd., noting that medium density housing would only increase the traffic. He noted that stormwater drainage issues had been raised; that this was at the bottom of a ravine and in times of heavy rain, water rushes down to Grubb Rd.; that an integrated system would include a detention pond to slow the water down. He stated that this development makes sense to the neighborhood, and he hoped it would make sense to the Council. At this time he deferred to Everett Fairchild.

Chairman Pierce asked Mr. Nichols if the applicant agreed with the conditions, and the answer was yes.

Mr. Everett Fairchild was the next speaker. He stated that he was Chairman of the Hixson Community Committee and that he and several members attended two meetings and had urged legislation concerning traffic, conditions of the street, and stormwater; that they did not feel that anything adverse was being created by this development; that the problems were already there, and the developer was responding to these concerns. He stated that he had heard Bucky Wofford, who developed the Target complex speak, and he had given impressive figures in regards to taxes, and he felt this development would be no different; that there would be only two curb cuts, regulated by traffic lights, and this would be an asset and that they preferred this to strip development. He stated that they were looking forward to working with the developer and the community to resolve any resulting problems.

REZONING (CONT'D)

Ms. Melissa Helton spoke in opposition. She stated that she lived at 325 Bradford Place Drive and was speaking on behalf of 128 residents who had signed a petition against this; that they were basically opposed to commercial development in their back yard and the potential problems it would bring. She mentioned drainage and increased traffic, and cuts into the shopping center. She stated that they were also concerned on the back side about appearance—that she knew that there was a proposal for landscaping, but they feared that what had happened at the Wal-Mart Development and the Target Development would happen on this development, and these were very unsightly. She stated that they did not want to look at the backside of a shopping center and were also concerned about the loading and unloading with a commercial development in their back yard.

Mr. John Anderson, Attorney with Grant, Konvalinka, and Harrison, was present on behalf of the Whitaker family. He stated that he was not necessarily in opposition and understood that the Whitaker's property had been taken completely out of this; that they had also been concerned about stormwater, but this seemed to be even more stringent. He reiterated that he was not speaking in opposition.

Mr. Nichols questioned if the petitions were signed and delivered to the Planning Staff before the neighborhood meetings, where the concerns were addressed; that he felt like these petitions were signed before the people knew what they were proposing. He went on to say that there would be landscaping across the back and that they had agreed with a 100' landscaping buffer, which was greatly more than what Wal-Mart or Target had, and this should be what everyone strived for. He also noted that the hours of dumpster removal were contained in the RPA conditions that were before us tonight, and these concerns had been addressed. He reiterated that this makes sense to the Community Advisory Committee, and he hoped it also made sense to the Council.

Councilwoman Bennett asked Ms. Helton if she had participated in the community meetings. Ms. Helton responded that some had been at the meetings—that the names on the petition were gathered before and also after the meetings.

REZONING (CONT'D)

Councilman Page thanked the community and the developer and especially Mr. Fairchild, the Chairman, for working so hard on this. He stated that there had been lots of meetings, and they had not made everyone happy but felt this might work well for the community, mentioning the large buffer on Grubb Rd., which was a better buffer than the Target development had. He noted that it would be a lot more private and that they had also looked at the lighting, stormwater, traffic, and noise; that he thought this protected the neighborhood to the extent that we can protect them. Councilman Page stated that he did understand that they could not make an announcement as to who would be moving in yet and that he would like to add something to condition #6—***Commitment for full build-out with any major deviations going back to the staff for approval***; that he would like something to strengthen this to say that they would go back to RPA if **any** changes were made in the Site Plan—that this should be presented to the Staff so that they could get a look at it. He added that they did not want a “pig in a poke”, and he would support this with this added condition.

Councilman Benson stated that they studied this carefully at the Planning Commission meeting; that he knew the neighbors would love for this to remain as it is, but the only way they could insure this would be to buy it themselves; that they had had to face this in East Brainerd, mentioning the car wash on Gunbarrel Rd. that looks like something in Pigeon Forge, explaining that they might be better off without all these curb cuts. He stated that he had heard nothing about dumpsters and noise, and he wanted to make sure this was honored. He urged them to “cut their losses” and get the best thing they could get out of property that they did **not** own. He stated that he regretted this could not be barren with trees.

Councilwoman Robinson echoed the remarks made by Councilman Page. She noted that Mr. Nichols had met with the developer, Mr. Fairchild, and the residents at the North River Civic Center, and she felt there were good questions raised and had seen a lot of progress with this being developed in a positive way. She stated that it was always gratifying when the developer met with community leaders; that there was a lot of growth taking place and that she was pleased with this and the conditions that had been agreed upon, which she felt afforded a lot of protection to the neighborhood, and she thanked Mr. Fairchild and the neighborhood for resolving this.

REZONING (CONT'D)

On motion of Councilman Page, seconded by Councilman Benson,
AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AT THE ZONING ORDINANCE, SO AS TO REZONE TRACTS OF LAND LOCATED IN THE 5800, 5900 AND 6000 BLOCKS OF HIGHWAY 153, 5900-6200 BLOCKS OF GOTHARD ROAD, AND 6300-6306 AND 6410-6500 BLOCKS OF GRUBB ROAD, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE, R-2 RESIDENTIAL ZONE, R-4 SPECIAL ZONE WITH CONDITIONS, C-2 CONVENIENCE COMMERCIAL ZONE, AND C-2 CONVENIENCE COMMERCIAL ZONE WITH CONDITIONS TO C-2 CONVENIENCE COMMERCIAL ZONE, SUBJECT TO CERTAIN CONDITIONS,
passed first reading.

REZONING

2006-041 (Jackie L. Ray)

Pursuant to notice of public hearing, the request of Jackie L. Ray to rezone a tract of land located at 3814 Montview Drive from R-1 to R-3 came on to be heard.

Mr. Jerry Pace, Director of Development Services with RPA, made the presentation, stating that this property was in Brainerd at the corner of Sunnyside Drive and Montview Dr. He presented a slide presentation showing the uses along Montview as being partially multi-family units. He explained that in 1995 a study of this area was done and it was downgraded and brought into compliance as R-1; that some R-3 Multi-family structures existed, and they were grandfathered in—that this grandfather stipulation would exist until such property was abandoned and then it would revert back to the R-1 zoning. He explained that this was what had happened on this parcel of land. He showed the single-family housing that existed in the area. He stated that they had reviewed this and both the Planning Commission and Staff recommended denial in an effort to say consistent.

REZONING (CONT'D)

Whitney Durand spoke on behalf of the applicant. He stated that he had a slide presentation and would need some assistance. He explained that a visual presentation would mean a lot since this was not a collection of R-1 residences—that in general, it was just the opposite. He showed structures in the area that had been grandfathered in, noting that they were occupied by several families. He stated that the building in question was an eyesore and that Mr. Ray would make it a very valuable development. He reiterated that many families lived in the adjacent building. He showed another building on the same street with several families. At this point he showed the Council what Mr. Ray had done before in Florida, stating that Mr. Ray was a native of Chattanooga who had been living in Florida and that he would be living in the property he wished to develop on Montview Drive. He stated that he would let Mr. Ray speak for himself and that a lot of the neighborhood was in favor of this.

Mr. Ray spoke next. He stated that he was a native of Chattanooga and was going to retire from the Ft. Lauderdale Fire Dept.; that he planned to make this property his home, along with other family members. He stated that it had been rezoned from R-3 to R-1, and he would like to ask that this be grandfathered in; that he was willing to beautify this and would put \$60,000 into it; that it would improve the neighborhood blight and you would never see “For Rent” signs nor Section 8 housing. He explained that this would be four units for himself and other family members; that he wished to make Chattanooga his home. He stated that a couple of residents were present who were in favor of this—that one of them was Bobby Dixon, who had lived here for 27 years, and that he would like to say a few words.

Bobby Dixon spoke next, stating that he had been in this neighborhood for 27 years; that he had known Mr. Ray and how he kept up his property for 40 years, and the biggest problem in the neighborhood was that the previous owner did not upgrade this property and had degraded their neighborhood and had given it no attention, and this was why most of the neighbors were opposed; that once he found out that Mr. Ray had purchased the property that he knew it would be upgraded, and he thought he was doing the neighborhood justice in speaking in support of this. He reiterated that Mr. Ray would take care of the property.

REZONING (CONT'D)

Mr. Ray stated that another young man would like to speak.

Chairman Pierce reminded him that he would only have a minute. It was noted that actually the proponents had three more minutes.

Mr. Gregory Foote of 302 Sunnyside Drive was the next speaker. He stated that when he moved in the neighborhood the property in question was in bad shape and now the whole community has improved, and he felt safe there; that there were no more gangs and drugs; that he owned an apartment building up the street, and he thought this would be a good asset to the community and Sunnyside Drive.

Before the opposition spoke, Councilwoman Bennett wanted to ask Mr. Pace a question. She wanted to know if this property was not "grandfathered" in. Mr. Pace explained to her that it was abandoned five years ago; that if it has not been occupied for 100 days, then it reverts back to R-1.

Councilman Franklin wanted to know if the property was purchased after it was downgraded from R-3 to R-1, and if it were under R-1 zoning when it was purchased. Mr. Ray responded that it was R-1 when he purchased it, prompting Councilman Franklin to say, "then you knew it was R-1". Mr. Ray responded that he did not understand the full zoning procedures; that in Florida it could be vacant for 20 years and not revert back to R-1; that the structure was too big for a single-family home. Councilman Franklin asked him how many sq. ft. it had and was told 3,500 sq. ft.

Councilwoman Rutherford stated that the day Mr. Ray purchased this property that she advised him she would not sit by and see this rezoned; that he knew from her and other representatives that this was R-1 zoned property and that she intended for it to remain R-1; that he should not have spent his money thinking that it could be used for multi-family.

REZONING (CONT'D)

Ms. Robinson of 3821 Montview Drive spoke in opposition. She stated that she got the brunt of the traffic; that she had lived here for 30 years and raised her children here and had had to clean up debris from the property in question and contend with loud music and gangs; that they had robberies in their neighborhood with a flow of tenants coming in and out and in and out; that cars came in her driveway and turn around at all hours, playing loud music; that the apartments are not what they appear to be—that they are in need of re-hab. She went on to say that they were trying to beautify their neighborhood; that they could not beautify their street when two months ago a person was allowed to have a Day Care Center there. She stated that most of the people were retired and settled and were having to fight drug dealers and debris on the street. She stated that she was the only house facing this, and she felt if this was allowed to be rezoned to R-3 that it would start a domino effect; that they wanted a healthy and quiet neighborhood; that this same thing had been on the agenda year before last and last year and on behalf of the neighborhood, she was in opposition and asked the Council to please not grant R-3 zoning.

Rob Hatch of 326 Crestway Drive was the next speaker in opposition. He stated that the neighborhood was primarily R-1—all of Crestway Drive and most of Sunnyside; that there was an exception up Montview. He stated he would like to see it all revert to single-family.

J. Holloway of 107 Sunnyside Drive was the next speaker in opposition. He stated he did not know that Mr. Ray was moving his family in; however he still felt it would open up a floodgate; that near him was a huge area of land for sale, and he thought this would be setting a precedent and whoever bought this area of land would say give me R-3 zoning also. He added that it would also open up the neighborhood to more traffic, and they could barely handle what they had now; that the man had spoken earlier about the drug problem diminishing but about two weeks ago he had to stop kids from mischief; that he often walked the neighborhood with his dog and the people he encountered were not ones you would want to hang out with. He stated that they were the ones that had stolen this lady's car; that they had broken into his laundry room and stole from his back porch. He was very much against opening this up to R-3.

REZONING (CONT'D)

Mr. Durand stated that he would like to pass around to the Council 21 names on a list that was for this in this neighborhood; that these people were not here, but they did support this; that like Councilman Benson had stated earlier, this neighborhood ought to make a deal with Mr. Ray because he would be the best possible owner and would live here himself, and he was a public servant and developer and would be the ideal person to live here; that Mr. Ray was a first class resident and developer.

Councilman Franklin spoke next, stating that his comments were for Mr. Ray's benefit; that what he had done in Florida with a multi-family unit was impressive; however in Chattanooga, zonings are handled differently; that most of the people who had spoken are concerned citizens in at least two neighborhood associations, and they are grass root organizations; that there needs to be the opportunity for developers to have some dialog with the neighborhood associations so that they can voice their concerns; that from this scenario there is blight in the neighborhood, and this is no reflection on Mr. Ray; that there was a serious problem with the Day Care, and the level of concern had heightened. He explained that two City Councilpersons share this district and that in looking at the site today, he knew the area well; that we have something called "in keeping with the character of the neighborhood" and this is where zoning comes in. He explained that normally there is the grandfather scenario but this has been more than 100 days so that is a null and void issue, which was no reflection on Mr. Ray individually. He stated the issue remains and individuals are sensitive to this.

Councilman Franklin went on to say that as a Real Estate Developer, Mr. Ray made a decision based on information and the zoning issue was specified; that he made assumptions in this case, and it was a gamble at best. He went on to say that the house contained 3500 sq. ft., which would make a nice size single-family dwelling.

He explained that the Council had downgraded from R-3 to R-1, and to go back to R-3 would set a precedent in the neighborhood, even though there are duplexes on both sides; that if this property had not been abandoned for more than 100 days, then the grandfather clause would have been allowed to kick in; that unless Mr. Ray could have conversations with the neighborhood associations to come up with some

REZONING (CONT'D)

resolution, that it puts the Council in a bind; that we had to support the neighborhood associations; that we were in a precarious situation; that he knew Mr. Ray was a quality individual, but he knew when he purchased this that it was R-1.

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 3814 MONTVIEW DRIVE, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO R-3 RESIDENTIAL ZONE was denied.

RECOGNITION OF STUDENTS

While the room was clearing, Chairman Pierce took this opportunity to recognize students that were present. He stated that they were here to watch how government functions and that they might have their cup full by now; that they were Red Bank High School students, and they needed to let their instructor know that they were here; that if they wished to be excused at this point, he would understand, and he gave them the opportunity to come forward and let Councilmembers sign a paper that they had been present tonight.

REZONING

2006-075 (City of Chattanooga—City Council)

Pursuant to notice of public hearing the request of the City of Chattanooga to lift conditions imposed in Ordinance No. 11719 on a tract of land located at 200 Manufacturers Road came on to be heard.

Jerry Pace of RPA made the presentation and stated that it comes with a recommendation for approval from both the Planning Commission and the Staff; that this is along the south side of Manufacturers Rd.; that a

REZONING (CONT'D)

cross section and elevation shows a taller building but only four stories are above ground next to Manufacturers Rd., and he would like to have this wording attached to the Ordinance.

Councilwoman Robinson confirmed that there are eight stories, but two are below grade, making only six above.

On motion of Councilman Rico, seconded by Councilwoman Rutherford,

AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO LIFT CONDITION NO. 2(d) IMPOSED IN ORDINANCE NO. 11719 (CASE NO. 2005-107) ON A TRACT OF LAND LOCATED AT 200 MANUFACTURERS ROAD, MORE PARTICULARLY DESCRIBED HEREIN, SUBJECT TO CERTAIN CONDITIONS

passed first reading.

REZONING

2006-080 (City of Chattanooga by RPA Staff)

Pursuant to notice of public hearing, the request of the City of Chattanooga to rezone certain parcels within the Avondale Study Boundary from R-1 to R-2, R-3, R-4 C-2 and M-1 came on to be heard.

Jerry Pace of RPA explained that this was in Avondale and was downzoning; that some of the property on the boundary line was inadvertently included and was not supposed to be in this zone.

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 CERTAIN PARCELS WITHIN THE AVONDALE STUDY BOUNDARY, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO R-2 RESIDENTIAL ZONE, R-3 RESIDENTIAL ZONE, R-4 SPECIAL ZONE, C-2 CONVENIENCE COMMERCIAL ZONE, AND M-1 MANUFACTURING ZONE

passed first reading.

REZONING

2006-086 (Flournoy Development Company)

Pursuant to notice of public hearing, the request of Flournoy Development Co. to rezone a tract of land located at 7477 Commons Boulevard from O-1 to R-3 came on to be heard.

Jerry Pace of RPA explained that this was in the Hamilton Place area, near Lowe's and Home Depot; that we have a condition as far as landscaping which reads "*Provide a 20-foot deep undisturbed natural vegetation buffer or a 20-foot deep landscape yard along the north property line that is adjacent to the existing R-1 zone and a 50' undisturbed landscape buffer along the east property line as shown on site plan. The landscape yard shall be planted with evergreen trees spaced a maximum of 10 feet on-center.*" He explained that we were saying a 50' undisturbed buffer, and the developer agrees with a 50' buffer but wants 30' of undisturbed buffer and 20' of Type B landscaping. He stated that Planning had agreed with the change and would have this ready in time for the second reading; that both Staff and Planning Commission recommended this.

Councilman Benson asked for the developer to be allowed to speak. Mr. Healey explained that this would be for high-end apartments. Councilman Benson thought that there would be no setbacks, but it was explained that all will have setbacks. He also thought that there would be an overhang over the street, but this also was not true. The developer stated that there would be 319 units and 11 buildings. Mr. Healy asked if he could get a copy of the conditions changing the 50' buffer. Mr. Pace explained to him that this will be corrected before next week's meeting.

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 REZONE A TRACT OF LAND LOCATED AT 7477 COMMONS BOULEVARD, MORE PARTICULARLY DESCRIBED HEREIN, FROM O-1 OFFICE ZONE TO R-3 RESIDENTIAL ZONE, SUBJECT TO CERTAIN CONDITIONS

passed first reading.

REZONING

2006-089 (Frank Goodwin)

Pursuant to notice of public hearing the request of Frank Goodwin to rezone tracts of land located in the 8200 Block of Graham Road from R-1 to R-T/Z came on to be heard.

Jerry Pace of RPA stated that they did get a letter from the applicant asking to withdraw this.

Councilman Benson stated that Mr. Pace should have addressed this at the first of the meeting so that anyone interested could have left. Mr. Pace apologized for this. Councilman Benson stated that he had told some people in the neighborhood to come down here tonight. Councilman Benson asked if this was withdrawn if they would have to start the process again with the Planning Commission; that he would implore the Council to just deny this; that this could open it up to another developer and to deny would give us eight months of peace.

Councilwoman Rutherford asked if we denied this, could another developer come back to us next month, and the answer was "no".

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 8200 BLOCK OF
GRAHAM ROAD, MORE PARTICULARLY DESCRIBED HEREIN,
FROM R-1 RESIDENTIAL ZONE TO R-T/Z RESIDENTIAL
TOWNHOUSE/ZERO LOT LINE ZONE**

was denied.

REZONING

2006-090 (Mary Sue Foskey)

Pursuant to notice of public hearing the request of Mary Sue Foskey to rezone tracts of land located at 2819 and 2821 Walker Road from R-2 to O-1 came on to be heard.

REZONING (CONT'D)

Jerry Pace of RPA explained that this was out in the Tyner community; that it currently has a residential structure on it and that some wanted to defer this matter.

Councilman Benson explained that this was in court and under litigation.

Attorney John Anderson was present and confirmed that this is in litigation.

Mr. Pace stated that the Planning Commission recommended this for approval with some conditions.

Councilman Benson reiterated that if this was in litigation, then he thought it was proper to defer this.

Attorney Anderson explained that this was scheduled for next Tuesday before Chancellor Brown; that he represented the tenant on the property, and the issue before the court has to do with evaluation; that his client wanted to purchase the property and not have it rezoned.

On motion of Councilwoman Robinson, seconded by Councilman Franklin,

AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE TRACTS OF LAND LOCATED AT 2819 AND 2821 WALKER ROAD, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-2 RESIDENTIAL ZONE TO O-1 OFFICE ZONE, SUBJECT TO CERTAIN CONDITIONS

was deferred until after the courts make a ruling.

Mike Whitener was present and stated that his sister-in-law, Mary Sue Foskey, was the applicant; that the problem with the litigation is not a zoning matter; that Mr. Anderson's client wants to buy it; that it is presently being leased; that he doesn't want to have it rezoned because then he would have to pay more money for it; that they needed to get this rezoned; that he is using it as an office, and it is a residence; that why he was opposed to the rezoning, he had no clue, unless it is that he does not want to pay them for what it was being used for—that it was leased for five years. He stated that this may go to court but that Ms. Foskey has the right to zone the property for what it is leased for; that she did not know he was using this as an office.

REZONING (CONT'D)

Mr. Anderson stated that he did not have a copy of the contract with him tonight; that this is in litigation because of the value; that his client did not desire rezoning until the litigation is over.

Councilman Page stated that there was a cloud over this issue; that he thought we should step back and defer it.

Councilwoman Rutherford asked Mr. Whitener how long his sister-in-law knew that it was being used as an office. Mr. Whitener explained that it was her understanding that he would just put files over there; that this was totally wrong; that the man had a phone and office, and that he had advised his sister-in-law to get it rezoned. Councilwoman Rutherford stated that we should let the courts resolve this; that Ms. Foskey can list the property at any price she wants; that we need to let the courts make their ruling; that she felt uneasy about this.

Councilwoman Franklin asked if we were deferring this or tabling it. Councilman Benson stated that the motion could be re-worded.

Some felt that it should be deferred until a time certain. Councilwoman Rutherford suggested holding it until 14 days after the court has ruled.

Mr. Pace stated that they needed a date, and this would need to be re-advertised.

Mr. Anderson stated that he could not say that Chancellor Brown would make a decision next Tuesday; that he would get the decision to the City Attorney whenever he got it.

At this point Councilwoman Robinson rescinded her earlier motion to defer, as did Councilman Franklin.

Councilman Benson then made the motion to table this for two weeks after we receive notification from Attorney Anderson. The date of June 20th was decided upon. This was seconded by Councilman Rico.

Attorney Nelson stated there was one other problem; this person was operating out of zone and had been visited by the Building Inspector.

REZONING (CONT'D)

Councilman Benson stated that we already know he is out of zone.

Councilwoman Rutherford still questioned if this had been leased for five years and the owner did not know what it was being used for? Mr. Whitener explained to her that it was a five-year lease; that the person had not been renting that long. Mr. Whitener went on to say that the problem was that the Attorney's client was buying the property; that they wanted to sell but not as residential property.

REZONING

2006-091 (Jay Caughman)

Pursuant to notice of public hearing, the request of Jay Caughman to rezone a tract of land located at 102 Central Ave. from R-3 to R-4 came on to be heard.

Jerry Pace of RPA made the presentation, stating that this was near Erlanger Hospital and is currently a parking lot; that it is near a residential neighborhood and that it does come with conditions, which he read. *Condition (1) Building being relocated to accommodate Type "C" Landscaping along Blackford Street and east property line; (2) No vehicular access to Pierce Avenue; (3) Sidewalk along Central Avenue and Blackford Street; (4) Access to be located as shown on site plan and approval of City Traffic Engineer; (5) Dumpster shall be located adjacent to building away from residential area; and (6) Variances being approved by the Board of Zoning Appeals for landscaping, height, and setbacks.*

Mr. Pace explained that after the Planning Commission put the conditions on there that the applicant has changed the location of the building and landscaping would come under the Landscape Ordinance, which would eliminate Condition #1. In Condition #5, the dumpster would be near the residential area and adjacent to the building is not the appropriate location. As far as Condition #6, this goes before the Board of Appeals tomorrow for a variance on setbacks and height and landscaping should not be included here. Mr. Pace stated that they wished to add Condition #7, which would call for a Conceptual Site Plan to be attached.

The applicant stated that he agreed with these conditions.

REZONING (CONT'D)

Attorney Nelson questioned if all of this occurred after the Planning Commission meeting. Mr. Pace responded that things were not clearly known at that time; that they did discuss the landscaping and sidewalk; that this was all part of the development and the Landscaping Ordinance can take effect; that if he is granted a variance at the Board of Zoning Appeals, then the landscaping will be part of it. He explained that these changes did not detract from the intent of the Planning Commission. Attorney Nelson noted that we would have to come back with an amended Ordinance.

Mr. Pace explained that the version read was the one from Planning; that landscaping was required and also the dumpster location would be changed. He stated that he would get these changes to Attorney Nelson's assistant.

On motion of Councilman Rico, seconded by Councilwoman Robinson,

AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED AT 102 CENTRAL AVENUE, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-3 RESIDENTIAL ZONE TO R-4 SPECIAL ZONE, SUBJECT TO CERTAIN CONDITIONS

passed first reading.

AGREEMENT

On motion of Councilwoman Rutherford, seconded by Councilman Franklin,

A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO EXECUTE AN AGREEMENT WITH CONSOLIDATED TECHNOLOGIES, INC. FOR ENGINEERING SERVICES IN CONNECTION WITH REPLACEMENT OF THE COOLING TOWER FOR THE OXYGEN PLANT AT MOCCASIN BEND WASTEWATER PLANT IN AN AMOUNT NOT TO EXCEED EIGHT THOUSAND NINE HUNDRED DOLLARS (\$8,900.00)

was adopted.

AGREEMENT

On motion of Councilman Rico, seconded by Councilwoman Rutherford,
A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO EXECUTE AN AGREEMENT WITH ARCADIS G&M, INC. FOR THE ODOR ASSESSMENT STUDY FOR THE MOCCASIN BEND WASTEWATER TREATMENT PLANT IN AN AMOUNT NOT TO EXCEED FORTY THOUSAND DOLLARS (\$40,000)

was adopted.

R-O-W PURCHASE

On motion of Councilwoman Rutherford, seconded by Councilman Rico,
A RESOLUTION AUTHORIZING THE PURCHASE OF A RIGHT-OF-WAY, SLOPE EASEMENT, AND TEMPORARY CONSTRUCTION EASEMENT FROM JOSE I. HERRERA AT 7503 IGOU GAP ROAD, PARCEL NO. 159A-B-002, TRACT NO. 21A, RELATIVE TO THE IGOU GAP ROAD WIDENING PROJECT, CONTRACT NO. E-03-011, FOR AN AMOUNT NOT TO EXCEED FIVE THOUSAND TWO HUNDRED DOLLARS (\$5,200.00)

was adopted.

GRANT

On motion of Councilman Rico, seconded by Councilwoman Rutherford,
A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO APPLY FOR AND, IF APPROVED, ACCEPT A HOUSEHOLD HAZARDOUS WASTE PROGRAM GRANT 2006/2007 FROM THE TENNESSEE DEPARTMENT OF ENVIRONMENT AND CONSERVATION, DIVISION OF COMMUNITY ASSISTANCE, IN THE AMOUNT OF EIGHTY-FIVE THOUSAND DOLLARS (\$85,000.00)

was adopted.

ENTERPRISE SOUTH ROW

On motion of Councilman Rico, seconded by Councilman Powers,
**A RESOLUTION RESERVING A RIGHT-OF-WAY TWO THOUSAND
FOUR HUNDRED FEET (2,400') LONG BY NINETY FEET (90') WIDE
AT ENTERPRISE SOUTH INDUSTRIAL PARK FOR PUBLIC ROAD
EXTENSION OF ENTERPRISE SOUTH BOULEVARD FROM THE CUL-
DE-SAC TO THE NEW ENTERPRISE SOUTH PARKWAY, AS SHOWN
ON THE DRAWING ATTACHED HERETO AND MADE A PART
HEREOF BY REFERENCE**

was adopted.

TEMP.ROW USAGE

On motion of Councilman Rico, seconded by Councilman Franklin,
**A RESOLUTION AUTHORIZING DENIS CORE TO USE TEMPORARILY
THE CITY'S RIGHT-OF-WAY AT 618 GEORGIA AVENUE FOR THE
BRASS REGISTER RESTAURANT TO INSTALL AN AWNING, TABLES,
AND CHAIRS, AS SHOWN ON THE DRAWINGS ATTACHED
HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO
CERTAIN CONDITIONS**

was adopted.

**MONTAGUE PARK
ENVIROMENTAL RESTRICTIONS**

On motion of Councilwoman Rutherford, seconded by Councilman
Franklin,

**A RESOLUTION AUTHORIZING THE CITY FINANCE OFFICER TO
EXECUTE ANY AND ALL DOCUMENTS NECESSARY TO PLACE THE
ATTACHED ENVIRONMENTAL RESTRICTIONS FROM THE
TENNESSEE DEPARTMENT OF ENVIRONMENT AND
CONSERVATION ONTO THE CITY OF CHATTANOOGA OWNED
PARCEL IDENTIFIED AS TAX MAP NO. 156A-D-001, COMMONLY
KNOWN AS MONTAGUE PARK**

was adopted.

OVERTIME

Overtime for the week ending May 5, 2006, totaled \$13,628.64.

PERSONNEL

The following personnel matters were reported for the various departments:

PUBLIC WORKS DEPARTMENT:

- ✓ **ROBERT C. THOMPSON, JR.**—Resignation of Heavy Equipment Operator, effective 4/17/06.

CHATTANOOGA HUMAN SERVICES DEPARTMENT:

- ✓ **ALLEN GRAVITT**—Resignation of Teacher Assistant, effective 5/11/06.
- ✓ **FAITH LACY**—Resignation of Teacher, effective 4/28/06.
- ✓ **TYRONDA WILKERSON**—Resignation of Teacher, effective 4/26/06.

CHATTANOOGA FIRE DEPARTMENT:

- ✓ **RODNEY RIVERS**—Promotion to Senior Firefighter, F2A/4, \$32,442.00 annually, effective 4/28/06.
- ✓ **RONALD HODGE**—Promotion to Senior Firefighter, F2A/4, \$32,442.00 annually, effective 4/28/06.
- ✓ **DAVID BROOKS**—Return from FMLA of Captain/Fire Inspector, effective 5/1/06.

CHATTANOOGA POLICE DEPARTMENT:

- ✓ **NORMA J. MCAFEE**—Hire School Patrol Officer, \$28.22 a day, effective 4/28/06.

PURCHASE

On motion of Councilwoman Rutherford, seconded by Councilwoman Robinson, the following purchase was approved for use by the Chattanooga Human Services Department:

CAP SYSTEMS, INC. (Single Source Purchase)
Requisition No. R0089517

Fuel Assistance Upgrade

\$35,525.00

PURCHASE

On motion of Councilwoman Rutherford, seconded by Councilman Rico, the following purchase was approved for use by the Department of Parks and Recreation:

RICK HONEYCUTT SPORTSWEAR (Lowest and best bid meeting specs)
Requisition R0087520/B0002941

Requirements Contract for Uniforms

\$70,000.00

PURCHASE

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

CUES, INC.(Single Source Purchase)
Requisition R0089347/B0003118

One (1) Ford E450, One (1) Retrofit-Seal Truck, One (1) Retrofit-CCTV Truck, and One (1) Retrofit-W630TV Inspection System Upgrade for Moccasin Bend Interceptor Sewer System

\$218,989.00.

PURCHASE

On motion of Councilman Franklin, seconded by Councilwoman Rutherford, the following purchase was approved for use by the Chattanooga Police Dept.:

MOTOROLA, INC. (Single Source Purchase)
Requisition R0087881

Motorola Portable Radios

\$120,176.00

REFUND

On motion of Councilwoman Rutherford, seconded by Councilwoman Robinson, the Administrator of Finance was authorized to issue the following refunds for property tax and stormwater fees due to district change:

JEFF AND ANNALISA KIRK

\$1,068.19

HEARING: RONALD MADDEN

Councilman Page stated that Chairman Pierce chaired the hearing for Ronald Madden on Monday, May 8th, along with a panel of himself and Councilman Rico. The panel sustained Administration's termination of Mr. Madden's employment with the City of Chattanooga.

STATE LEGISLATIVE ACTION
RE: MUNICIPAL BEER BOARD

Councilman Benson stated that today, as a piggyback issue in the Public Works Committee meeting, we discussed pending legislation limiting the authority of Beer Boards; that this was a fast-track issue that had already been in the Senate and was about to go the House today. He stated that this could do untold harm to enforcement of adolescent drinking and would take away a lot of the authority of the Beer Board. **He stated that he would like to go on record as to making a motion that we as a**

BEER BOARD LEGISLATION
(CONT'D)

Council, object to any changes in legislation that usurps the authority of municipal Beer Boards at this time. This was seconded by Councilman Rico.

Councilwoman Rutherford stated that she agreed with this but would like to have this motion e-mailed to House members to let them know where we stand. She asked if this would be the responsibility of Assistant Clerk Crownover or Management Analyst, Mr. Burns.

Councilman Franklin stated that he would pass this on to the TML Staff.

Councilwoman Rutherford stated that she had spoken to Bo Watson, and he knew nothing about this; that she wanted to make sure our delegates know where we stand.

Chairman Pierce suggested doing this in the form of a Resolution next week; however Councilwoman Rutherford stated that this would be too late, with Attorney Nelson adding that "the horse might already be out of the barn". Chairman Pierce still felt that Attorney Nelson should make this draft.

Councilman Powers pointed out that we voted in committee to make our views known; however Chairman Pierce felt like we needed something in writing.

Councilwoman Robinson moved that we let the City Attorney make a statement and draft it and then e-mail it to our representatives and TML. This was seconded by Councilwoman Rutherford.

AGREEMENT W/SEGAL CO.
PERSONNEL COMP. STUDY

Councilman Benson stated that he wanted some more discussion on the Personnel Classification and Compensation Study; that it came from the Legal and Legislative Committee with 100% endorsement of the Study, with the admonition if we don't do this soon, the need will be even greater. He stated that he disagreed very strongly about going out of the State of Tennessee with a \$210,000 Study.

Councilman Benson made the motion to defer execution of the Personnel Compensation Study contract to whatever time it takes to find local resources or individuals willing to submit an RFP for comparison with those submitted from outside the City.

Councilwoman Rutherford stated that she thought bids had already been sent out, and we had gotten the bids back.

Ms. Kelley explained that it was Requests for Proposals.

Councilwoman Rutherford questioned why we would handle this any differently from purchasing a truck; that the Personnel Dept. had already done what they were supposed to do.

Ms. Kelley explained that this Study had been worked on during two different Administrations and everyone had been involved for many hours.

Councilwoman Rutherford stated that this had already been presented to us, and we had the lowest bid. Councilman Benson informed Councilwoman Rutherford that she was not at today's meeting. Councilwoman Rutherford responded that she had a previous commitment, and she was sorry, but she still did not understand out of all our contracts and approvals why this one was being handled differently; that she would like an answer to this question. Councilman Benson answered that he thought we could get a better response than \$210,000 from an out of town firm.

PERSONNEL COMP STUDY
(CONT'D)

Councilwoman Bennett stated that she did have a question and that she understood the time-sensitivity; that there were a lot of questions, and she thought if we had a little more time we could resolve this. **She stated that she would second Councilman Benson's motion; however she was not comfortable with deferring this indefinitely but would prefer to put a time limit on it.**

Councilman Benson suggested four weeks, with Chairman Pierce adding, within a reasonable time. Councilman Benson stated that it would be no more than four weeks and that he would like the timeframe to be shorter; that he thought we should do this if it could save taxpayers money.

Councilman Page stated that he would have to speak against the motion; that this is a highly specialized study that needs to be done; that he was not sure it needs to be local; that this was a good firm with a good reputation, and he thought it was important for the City and was not sure we would want a local firm because we need an objective look and local people could have prejudices. He stated that he thought an outside firm was better, noting that he did respect Councilman Benson and Councilwoman Bennett's concerns.

Councilman Franklin stated that he concurred with Councilman Page and called for the question. **The previous motion failed.**

COMMITTEES

Councilman Benson scheduled a meeting of the **Legal and Legislative Committee at 3:00 p.m. on May 16th.**

Councilwoman Rutherford stated that she was trying to avoid setting a committee meeting; that if there were any questions about the Fire and Police Pension that Sgt. Hamilton would be glad to answer any questions.

HEARING: SGT.TOM MCKINNEY

Attorney Nelson reminded Councilmembers of the Hearing set for **Sgt. Tom McKinney for next Monday, May 15th at 9:00 a.m.** The original panel was Councilmen Page, Rico, and Robinson, with Councilwoman Rutherford as alternate. Councilwoman Rutherford stated that she would be unable to serve. Councilman Powers offered to serve in the place of Councilwoman Robinson, and Councilman Pierce offered to serve as alternate. **The panel will be Councilmen Powers, Rico and Page, with Councilman Pierce as alternate.**

LORA CHATMAN

Ms. Lora Chatman appeared before the Council, stating that it was ironic that none of the Councilmen wanted to serve on the Personnel Hearing panel since this was what she was going to address.

She read the following statement:

*I am very much concerned about the manner in which this municipal government has shirked its responsibilities concerning city employee hearings. Since the very change of the government back in 1990, this council, under the advisement of an adversary of the new government, has found ways to deny its employees and the voters representation by a quorum of the council. I am very familiar with the lack of action that this council as it relates to employees. The council has repeatedly violated the federal court order of **Brown v. the Board of Commissioners** every time it allowed a three member panel to sit on an administrative panel, void of **1st a quorum is present & 2nd five votes of yea or nay.** I get frustrated and even furious as I think of all the employees that you have denied access to the city council for an employee hearing.*

Before the change in government, the Commission had these hearings during Commission Business. Currently, this council is only authorized to adjourn on Tuesday by referendum of the voters. How can anything done on any day other than a Tuesday have any binding effect as it relates to Council Business? The Council does not even vote on the recommendations of this administrative panel during regular council meeting.

LORA CHATMAN (CONT'D)

*The Office of the City Attorney has been at the helm of this sham. Mr. Randall L. Nelson fought this change in government and is doing everything to circumvent it. He stated "**Brown v. the Board of Commision** was just an amendment to the charter and we changed it" while under oath in Chancery court on July 30, 2004. He has never gotten over the loss and has done everything to deny the voters, the minorities, the liitle people, or those who NO CONNECTIONS access to the government that was created June 11, 1990.*

*Please before you continue on this path research the lawsuit **Brown v. the Board of Commissioners.** Correct the mistakes of the past. Then decide how you will equip those authorized by the City Council to adequately give the city employees and the voter and citizens of Chattanooga, a hearing that exposes all of the facts and is not corrupted by alternate agendas. First learn what great effort was done by a few black citizens of Chattanooga that allowed you to sit as a council.*

Thank you

/Lora Chatman/

Chairman Pierce explained to the Council that Mrs. Chatman's husband worked for the City as a Police Officer and was terminated and that she had done quite a bit of research.

ADJOURNMENT

Chairman Pierce adjourned the meeting of the Chattanooga City Council until Tuesday, May 16th at 6:00 p.m.

CHAIRMAN

CLERK OF COUNCIL

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

