

City Council Building
Chattanooga, Tennessee
December 11, 2007
6:00 p.m.

Chairman Page called the meeting of the Chattanooga Council to order with Councilmen Bennett, Benson, Feely, Franklin, Gaines, Pierce, Rico and Robinson present. Special Counsel Mike McMahan, Management Analyst Randy Burns and Council Clerk Carol O'Neal were also present.

PLEDGE OF ALLEGIANCE/INVOCATION

Following the Pledge of Allegiance, Councilman Feely introduced Rabbi Meir Goldstein of the B'Nai Zion Congregation who gave invocation for the evening.

AMEND CITY CODE

Councilman Benson stated Ordinances (a) and (b) were discussed in the Legal and Legislative Committee and are recommended for approval.

On motion of Councilman Benson, seconded by Councilwoman Robinson,
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,
CHAPTER 4, WHICH IS KNOWN AS "THE CHATTANOOGA AIR
POLLUTION CONTROL ORDINANCE," BY PROVIDING FOR
INCORPORATION BY REFERENCE OF CERTAIN STATE REGULATIONS
AND FEDERAL REGULATIONS**

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

AMEND CITY CODE

On motion of Councilman Rico, seconded by Councilman Franklin,
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,
CHAPTER 4, WHICH CHAPTER IS KNOWN AS "THE CHATTANOOGA AIR
POLLUTION CONTROL ORDINANCE," BY PROVIDING FOR REVISED
RULES FOR NEW SOURCES REVIEW AND PORTLAND CEMENT PLANTS;
INCREASED PERMIT FEES; REVISED AMBIENT AIR QUALITY STANDARDS;
AND CERTAIN HOUSEKEEPING PROVISIONS**

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

AMEND CITY CODE

Chairman Page stated that this involves a “housekeeping” matter and was presented by the City Attorney in Committee today; that approval is recommended.

On motion of Councilman Rico, seconded by Councilman Pierce,
AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 24, BY AMENDING, ADDING OR DELETING SECTIONS 24-1, 24-12, 24-23, 24-30, 24-45, 24-46, 24-48 AND 24-177 RELATIVE TO MOTOR VEHICLES AND TRAFFIC
passed first reading.

AMEND CITY CODE

On motion of Councilman Rico, seconded by Councilman Franklin,
AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 4, ARTICLE IV, SECTIONS 7-41 AND 7-42 AND CHAPTER 25, SECTIONS 25-8, 25-9, 25-10, 25-11, 25-17, 25-38 AND 25-82 THROUGH 25-85, RELATIVE TO MISCELLANEOUS OFFENSES
passed first reading.

AMEND ZONING ORDINANCE

On motion of Councilman Rico, seconded by Councilwoman Robinson,
AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, BY AMENDING ARTICLE V, SECTION 1011, TO PERMIT LIMITED RESIDENTIAL IN THE M-2 LIGHT INDUSTRIAL ZONE
passed first reading.

REZONING

2007-130: City of Chattanooga

Pursuant to notice of public hearing, the request of the City of Chattanooga to rezone specific R-2 residential zone properties within the Shepherd Community to R-1 residential zone came on to be heard.

Opposition was in attendance.

REZONING (Continued)

Brian Shults of the Regional Planning Agency (RPA) stated that he gave the recommendations at last week's Committee meeting regarding the study and boundaries to rezone all existing single family and vacant properties to R-1; that all existing two-family properties will remain R-2.

Councilman Benson stated that he had one question: that the Planning committee members voted to deny and the professional Staff is recommending acceptance.

Mr. Shults responded "correct, that Planning recommended denial and Staff recommended approval", which means the area shall stay R-1. He stated the Staff's recommendation is a compromise between the neighborhood, residents and property owners; that they had several meetings in the area and went through different scenarios for the area to remain R-1 and monitor it, do nothing or just monitor it for a year. He stated this is the compromise they came to, to rezone all existing single family and all vacant properties to R-1, except two family structures that will remain R-2.

Atty. Walter Williams asked the Council to support the Staff's recommendation by rezoning property, particularly vacant property, from R-2 to R-1. At this point he asked those in favor of the rezoning to stand, a large delegation of those in attendance stood. He stated that he represents the Shepherd Community Council, the recognized community association for the Shepherd community. He stated that the community has been recognized by the city in many instances by the community improvements that have been granted through the Chattanooga Neighborhood Services office. He stated three speakers would speak on behalf of the request and noted that he would like to have one minute reserved for him to "wrap it up" at the end. He stated Shepherd is an old community and probably one of the oldest African American communities still existing. He stated many of the persons who are here tonight have lived in the community all of their lives and noted that he has represented them for over thirty years, some many years ago when he first started the practice of law when he came before the then City Commission and asked to use the old Chickamauga Elementary School as the Shepherd Community Center. He stated the City Commission approved and funded it and this Council has funded many improvements of the Center over the years. He stated that this is a well organized community and distributed information reflecting the kinds of activities the Shepherd Council has engaged in to keep the community intact.

REZONING (Continued)

Atty. Williams stated while the community would love to see all the vacant R-2 lots rezoned down to R-1 as Mr. Shults indicated, the community was willing to compromise to keep the current duplexes, and as far as adding additional duplexes the community is totally against that, totally! He stated Shepherd is trying to regain its community spirit; that for years Shepherd was infested with drug trafficking and they do not have that anymore. He stated the police have done an excellent job in trying to weed out the persons who engage in illegal activity from Shepherd and the community appreciates the city's actions in that regard. He stated the city has been involved with Shepherd in increasing recreational activities for the residents and the residents now want this Council to help maintain this community. He stated one lady and a resident for seventy-three years, Carolyn Jackson, has lived there longer than anyone else. He stated Mrs. Jackson will come forward and ask for the Council's support of the Staff's recommendation. He stated Malcolm Walker, President of the Shepherd Community Council, will speak and ask for the Council's support and Minister Keith Sammons of the Metropolitan Tabernacle Church will ask for the Council's support, as well, in trying to maintain this community.

Carolyn Nance Jackson read from a prepared statement noting that she is the oldest resident to have lived her entire life in the Shepherd community and has seen many, many changes to the community and the progress of its people. She stated as a child all of the residents were poor, first-time land owners who labored as farmers, foundry workers, maids, cooks and other menial jobs. She stated her father was born in 1877 and was among the first of his race to legally learn to read and write. She stated that she attended Chickamauga Elementary School and her parents served as leaders in the St. James AME Church. She stated that that the residents organized the Shepherd Cemetery Association in 1931 and paid five dollars toward the purchase of the land from Judge Lewis Shepherd which allowed for members, their descendants and spouses to be buried there. She stated on October 30 of this year she buried her husband there and expects to live the remainder of her life as a widow in Shepherd and would not want to live her remaining time in fear that the peace she desires could be disrupted by the building of more duplexes; that they do not deserve the challenges more duplexes would bring. She asked that the Council take a stand so she and others could live in a community where progress and pride are possible. **(A copy of Mrs. Jackson's statement is filed with minute material of this date.)**

Malcolm Walker spoke next and also read from a prepared statement wherein he noted he has been an active member of the Shepherd Community Council for 39 years and currently serves as President of the neighborhood association.

REZONING (Continued)

Mr. Walker continued by stating one of the ladies who owns duplexes in the Shepherd area wrote a letter several weeks ago who now lives in a more affluent neighborhood. He stated the letter referenced the lady knowing the neighborhood and the people of Shepherd and the "good time" house she could view from her kitchen window when she lived in Shepherd and the illegal trend that changed to drugs later with Shepherd having the reputation of being drug invested. He stated the letter also noted that "...*the problem in Shepherd is drugs and that a 'silk purse' could not be made out of sows ears...*," meaning Shepherd's reputation was destroyed years ago. He stated that the lady mentioned all to that to justify duplexes in Shepherd and to seemingly express that Shepherd is the place for duplexes because it is just a community of "good time houses" and illegal drugs. He admitted that Shepherd has had its share of social problems but as a community and Council they have not given up, have consistently striven for a better life and are experiencing success. He stated the Community Council has worked hand-in-hand with the Chattanooga Police Department and are proud to say the drug problem has improved and is not nearly as overt as it has been. He stated there is plenty of work to be done and they are present today to plead to the Council to help in lessening their load by not allowing the building of more duplexes as they are unsightly and cause congestion. He concluded his comments by asking the Council for their help. **(A copy of Mr. Walker's statement is filed with minute material of this date.)**

Minister Keith Sammons was present representing Dr. Steve Ball, Pastor of the Metropolitan Tabernacle, who could not be present due to a death. He stated he was present in support of Malcolm Walker and the Shepherd Community Council. **(Due to time constraints, Mr. Sammons could not read the letter from Dr. Bell, which has been filed with minute material of this date.)**

Atty. Williams stated that he asked the Court Clerk's office to print out information regarding duplexes in Shepherd and activities by way of Code violations. He stated the information he received reflects owners of thirty-four properties and of the thirty-four there have been eighteen violations reported to City Court alone. He stated another property owner had sixteen properties and seven actions in City Court which does not include numerous involvements of the Neighborhood Services Department which inspected the properties. He stated he has the records and if someone says they are keeping their property up he has the records to refute that and will hold the records until a statement of that nature is made.

REZONING (Continued)

Ladell Herman King of 6211 Walden Avenue stated he has been living at the address since 1993 and the first thing he heard was someone saying the area was going to be zoned R-1; that he went to the Center and they asked him to come back to another meeting and was told everything would stay the same. He stated that he left and two days a letter was sent and he went to another meeting where it was again said everything would stay the same. He stated now they say it would be R-1 and wants to know what they are going to do. He stated that he keeps the grass and does not know what other maintenance needs to be done; that he keeps the apartments and the lawn and shrubbery clean. He stated that he wants to know why it keeps changing as it has changed three times and (he) has been to three meetings; that he has heard nothing from the Shepherd Community Council and all he wants to know is why.

Delta Brogden stated that he has talked with each Council person and would like to talk about the facts rather than deception. He stated he was given an award for being outstanding in the community and was told by the Council it was not an award for being outstanding in the community but being so bad they thought the award would help him. He stated that he has facts of what the community said in those meetings; that in the meeting of September 17 there were no zoning changes and that was with everyone involved. He stated on September 18 he received a note from the Staff that they had met with then Councilwoman Rutherford, the President of the Council and several of its members and the adjustments would be made because of the meeting. He stated that he still maintains that the community wants the property left alone, just as it is. He stated as far as deception the people were not allowed to attend the meetings; that one person spoke and said what lies she had been told and was told to sit down – deception. He stated now he sees people from all over and is not sure whether there are people here from Alton Park, but when he asked the question if he could bring one hundred people down he was told “no” that would not be fair -- again deception. He stated that he sees one thing and what he sees might not be what others see.

Frank Brogden stated that he was raised in the Shepherd Community and currently lives at 7385 Old Cleveland Pike; that Delta Brogden is his big brother and (he) is proud of him. He stated those in attendance are the people he was raised with and (he) is proud of them. He stated one of the things he would like to echo is that the Council is very active and does a wonderful job in the community yet noted some of the things that come from them changes from day-to-day. He stated it was earlier stated that the zoning study area was one confined to an area east of Highway 153 and several meetings that took place ended in meetings where people were not allowed to participate.

REZONING (Continued)

Mr. Brogden stated some of the people speaking today live in areas that have not been involved in what he thinks the Shepherd community is at all. He stated the fact is that duplexes are opportunities for housing that exist for people who are being displaced; that we talk about having a homeless community problem in Chattanooga and this housing affords adequate housing. He concluded his comments by stating that is all he has to say.

Delta Brogden stated that he had a question to ask to which Chairman Page responded that there was no time for questions at this point, however, he stated that he wanted to be fair and asked Mr. Brogden to come forward.

Councilman Benson stated while Mr. Brogden comes forward the proponents were asked to stand and asked those in opposition to stand; three persons stood.

Delta Brogden inquired as to the problem with Ms. Rutherford, how the Staff fits into the picture and is it legal and if the Council's decision appealable. He stated his last question is, is there is anything he could do to convince the Council that he prefers to deal with the facts; that he does not deal with emotion and knows what the facts are as he talked to enough Council members for them to know that whatever he said to them is factually accurate. He stated he is not aware of what the police department said as he has never heard that before. He expressed thanks to the Council.

At this time Chairman Page declared the public hearing closed and asked Special Counsel McMahan to respond to Mr. Brodgen's question.

Special Counsel McMahan stated that the question was whether persons can appeal action of the Council; that the Council's action is considered to be a quasi-legislative function. He stated the court will entertain appeals of decisions of City Council however the courts are required by law to give opinions in effect to zoning which can be appealable but a very difficult appeal.

Councilman Feely mad the motion to adopt the Shepherd Neighborhood Plan put forth by Staff; Councilman Pierce seconded the motion. He stated most are aware he has been on the Council just for a few weeks and for the first weeks the first thing "on his plate" required quite a bit of reading and speaking and after counting up the time he has spent roughly two-to-three hours with folks on different sides of this issue.

REZONING (Continued)

Councilman Feely stated after looking at these facts, looking at the number of duplexes last built, he noted there have not been any R-2 properties built in the last number of years and then to see this proposal is recommended by Staff as a compromise of the Regional Planning Agency he could speak as someone wherein most of his housing time has been spent living in rental properties as he presently lives in a building owned by the church. He noted that he has a friend in Brainerd who owns duplexes and duplexes keep that housing stock available. He stated he did not see this as an issue that takes away from the current duplexes as they will be allowed to be there. He stated that he looked at the long time viability of this very historic and important community in Chattanooga, looked at the 2030 Plan and a few other things and it is his thought it is important to recommend this rezoning with conditions the Staff recommended for the viability of the Shepherd community in coming years.

On motion of Councilman Feely, seconded by Councilman Pierce,
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE SPECIFIC R-2
RESIDENTIAL ZONE PROPERTIES WITHIN THE SHEPHERD COMMUNITY,
MORE PARTICULARLY DESCRIBED HEREIN, TO R-1 RESIDENTIAL ZONE,
SUBJECT TO CERTAIN CONDITIONS**
passed first reading; **Councilman Franklin and Rico voted "no"**.

REZONING

2007-182: City of Chattanooga c/o RPA

Pursuant to notice of public hearing, the request of the City of Chattanooga c/o RPA to rezone specific R-3 residential zone and R-4 special zone properties within the Fortwood area came on to be heard.

Karen Rennich of the Regional Planning Agency stated that there was discussion about this matter at last week's Legal and Legislative Committee meeting; that the matter came as a request from the Council for RPA to conduct a zoning study for this area. She stated that they have recommendations for the property as most properties in the Fort Wood study boundary are zoned R-3 and R-4; that the recommendation for property zoned R-3 to be rezoned R-3MD with a cap of no more than four dwelling units while the existing zoning is based on square footage. She stated R-4 is recommended for rezoning with several conditions; that this rezoning has gone through the public process and addresses several issues in the Fort Wood community. She stated the Staff recommendation is for approval and Planning recommended denial.

REZONING (Continued)

Councilman Benson stated that he had a call this afternoon from a person in Lambda Chi who was told there could be no more than four fraternity/sorority houses in this new proposed plan. He stated that they have a problem in that they have nine bedrooms and if they wanted to move a block down the street they would not be able to. He asked if this plan does not say where the four fraternity houses would be. Ms. Rennich responded "correct".

Councilman Benson stated that the problem is that they have a nine bedroom home and it does say not more than four apartments. He stated once this has been a fraternity house, marketing would lock in at that spot and tend to make things deteriorate if they can not move out.

Ms. Rennich stated that they do have to have a special permit as a fraternity which allows that specific use for that Greek organization; that the underlying zoning is R-4. She stated if that organization has to expand and move the special permit would move with them to the next location, she believed, but the land use in the R-4 zoning onsite would remain, noting that she would have to talk with Greg (Haynes) or check with the City Attorney.

Councilman Benson stated that this concerns him as it could present a problem.

Ms. Rennich stated that the land use shows four fraternal organizations in this community and during the public process there were a mix of properties where appropriate and the comments given were that it was felt there should be no more Greek organizations as they are historically part of the neighborhood. She stated it is their recommendation in saying more than four would not be recommended for this community; that if one went out and UTC created a Greek Row another could go in if they request a special permit.

Councilman Benson stated that this is getting to be something like the Taxi Board and selling privileges; that they could sell a privilege to have a fraternity move across McCallie Avenue and work out a deal.

Ms. Rennich stated they would have to go through the special permit process and a public hearing at the Board of Appeals for that, remarking that she does not know how to answer Councilman Benson's questions.

Councilman Franklin stated with regard to fraternity houses as he is a member of a fraternity organization it is his thought a special permit would be address specific. Ms. Rennich responded that it is.

Councilman Franklin stated if they move they would have to apply again.

REZONING (Continued)

Councilman Pierce stated that he was proud to see everyone present and noted up front that he was going to support whatever has been recommended as he was asked to request the study and was acting in what was in the best interest of the community and what they wanted. He stated that he received a number of phone calls yesterday and is sort of "caught in between two logs" at this point; that he does not want to hold anyone here on the Council hostage as to supporting him in his position. He stated he has been making requests for Fort Week since he has been on the Council; that there have been many studies and thinks it has just about come to the end of the line as far as studies are concerned. He stated his latest request was to have a traffic study done, however, it costs the city many dollars when we go through studies and try to downzone. He stated that he has no problem with the fraternities and sororities but since 1990 the community has been concerned about the sorority houses and what have you; that nobody would try to rid them from this area as what is there will be there; that they have a permit to stay and he does not have a problem with that.

Councilman Pierce stated that it is his thought the city would have to think about these studies in the future as to whether this is something the community wants or something certain groups within the community want. He stated that he has always been a people person and (he) knows all do not participate in their neighborhood association. He stated he has always said he would do what people in the District want him to do as they voted him into office and "hired" him to dictate to him how he should operate. He stated that he intends to support this basically because he asked for it in the interest of the neighborhood association and informed each Council person to listen and make up their own minds as to how they want to vote. He stated that his position was to table the matter ninety days to see if there could be togetherness of the minds however it is his thought it would be a waste of time as everyone here knows what they want and do not want. He promised everyone that it will be a long time before he asks for any study for any neighborhood from this day forward! He jokingly stated that it is his thought the neighborhood association should take up some type of offering to pay his cellular phone bill due to the number of calls received on this matter! He offered an apology to those he unintentionally hung up on as there were several calls coming in to his cellular phone.

Councilman Gaines asked if she understood that Councilman Pierce offered a motion to table the matter ninety days.

Councilman Pierce stated that he would like for the Council to decide as all have had telephone calls on the matter. He stated it is up to the Council to come to some type of conclusion.

REZONING (Continued)

Tom Bibler, President of the Fort Wood Neighborhood Association, stated that the Association does not have any money to pay Councilman Pierce's cellular bill! He expressed appreciation to Councilman Pierce for efforts on the Fort Wood community's behalf. He stated when a person buys a home in an historic neighborhood they really discover they are not really a homeowner but a care taker; that a lot of people lived in your house before it was bought and lots, hopefully, after. He stated that he feels that way about the neighborhood and wanted this kind of proposal which represents a compromise, frankly, to work toward preservation of the neighborhood. He stated it does not address all of the uses that are grandfathered in and does not change the neighborhood; that it does prevent being overrun by an increasing population density. He stated their major problems are parking, trash and noise that are all exaggerated and aggravated by an increase in population. He stated they have not sought removal of businesses or apartments but simply feel they are at a "tipping point" and more of these places would be detrimental to the nature of this historic community which is why they are in support of Staff's proposal.

Matt Martin of 1863 Oak asked for everyone in support of the Staff's recommendation to stand; several in attendance stood at this point. He stated that he was on the committee to look at the issue the task force created which was launched, in part, because of the problems Tom alluded to; that they are not new problems but have been highlighted. He stated as a neighborhood Fort Wood has changed with many families coming in and a lot of families have come in within the last five-to-seven years and are trying to put in some platform to help the neighborhood maintain value. He stated when they first came up with ideas and talked about furthering the R-1 zone they talked door-to-door, had meetings and found that people were not ready for R-1 like all surrounding neighborhoods. He stated this proposed compromise attacks the problem of boarding houses and fraternities. He stated they need help to insure this neighborhood does not stop its transformation and asked that the Council approve the Staff's recommendation.

Hal Baker stated he has lived in Fort Wood for thirty years and is a member of the Board; that the vitality of this community can be preserved for the City of Chattanooga. He stated this residential neighborhood was pulled from the depths of neglect and abandonment by hard working residents to preserve and maintain decent housing in the core of our city long before the million dollar condominiums at Ross' Landing. He stated through CDBG allocations sidewalks were provided and the shared cost for period street lights. He stated the HUD planning grant provided more investments for the neighborhood and housing.

REZONING (Continued)

Mr. Baker stated they are on the verge of being overrun by business and others with no longevity to the neighborhood that close up shop and leave "cold" structures nights and weekends. He stated the proposal before the Council will limit future development of transitional housing within the existing zoning. He expressed thanks to RPA for their hard work, Councilman Pierce for his leadership and the Council for supporting the Staff's recommendation.

Dr. Clay Pickard stated that he owns property at 822 Vine Street and read from a prepared statement noting that his building was built in the late 1800's, always had a mixed use and has never been utilized as only a single family residence. He stated the downzoning would affect the value of his property and he is not supportive of it. He stated although there are issues concerning density, traffic and parking, the Planning Commission's study does not fully address these issues nor did prior studies undertaken by the city concerning traffic congestion and parking were incorporated into the current study. He stated the downzoning will not result in positive effects relating to parking, traffic or density issues and indicated that noise is also an issue that was not address by any study in any manner. He recommended that the Council table the matter to require a traffic study to determine the best method to solve congestion and parking, that Planning Staff be directed to review their study and address issues of noise, traffic, parking and density, that the revised study include potential alternatives to downzoning in solving these problems and that after the studies are revised, residents be allowed a reasonable time to respond. **(A copy of Dr. Pickard's statement is filed with minute material of this date.)**

Clay Whittaker of 846 Oak Street presented a petition signed by sixty persons opposing the rezoning and asked persons in opposition to stand; a large group of persons in the Assembly Room stood at this time. He stated the problems in Fort Wood identified as parking, trash and noise by Dr. Bibler were not addressed by any survey that has been done by the city's planning agency; that the problem they have with the survey was the questionnaire as the questions did not identify the problem. He stated there was not one study done or any evidence put forth supporting this zoning nor any "tipping point". He stated that he heard an important admission by Mr. Martin that families are moving back in; that they are moving in under the same zoning regulations we have now, R-4 and R-4 for the majority of the neighborhood. He stated if this is such a bad zoning why would families move in next to fraternity houses; that the reason is Fort Wood works and is a premier neighborhood for downtown living! He stated until the city has Planning identify the "tipping point" the zoning should be left alone and they should be allowed to keep the money they invested in their homes and avoid the problems that Councilman Benson and Franklin identified.

REZONING (Continued)

Mr. Whittaker stated he has lived in the neighborhood seventeen years and invested thousands of dollars and asked that the Council deny this request.

Richard Wilson of 865 Oak Street stated that this is the first time in thirty-seven years of living in Chattanooga that he has spoken before the city's legislative body and would not ask for anything as he has not asked for anything in thirty-seven years! He stated that it is his thought this matter needs to come to an end and noted that he is opposed to the rezoning and does not think there needs to be a study. He addressed Councilman Pierce and informed him that he supported him in every race and listened to what he said tonight. He stated he is a member of the Fortwood Neighborhood Association and they may not be particularly aware as there is no membership list; that the Association is not the majority of the neighborhood. He stated he was asked by people on the Council for whom he has immense respect, and it does not make him happy to say this, to ask to defer this; that this group has had time and time-after-time second chances; that these second chances, as Councilman Pierce informed us, are very expensive. He stated money was spent on the one-way street issue, on a massive traffic study wherein it was decided we should have a traffic circle which was put in and then three-or-four weeks later was taken out! He stated the statement this is a compromise is not true and despite the time put into it, it is a bad idea, he is sorry to say.

Chairman Page declared the public hearing closed at this time.

Councilman Pierce stated since both sides have been heard what would be accomplished in tabling this.

Mr. Wilson stated that the most important thing everyone needs to understand is everyone needs to work together; that if this is done one more time and this time really involve everyone, it needs to be accountable for the money spent.

Councilman Pierce stated that he is not willing to ask for one more study.

Councilman Benson stated that he served on the Planning Commission in the eighties and now since he has been on the Council for a total of seventeen years and the Commission has evolved quite a bit. He stated that they have to be consistent as they have people coming down all the time wanting a commercial zone and they say R-1 and use the property they want to use for commercial. He stated the property can be used the way it is presently zoned; that if they want to change the zone then they have to show, in his opinion, that the use is not going to have a negative effect upon the surrounding lands.

REZONING (Continued)

Councilman Benson stated it is his thought this works in reverse, here, and it really worries him; that they have to show that this is not going to hurt the value of their property if we automatically take the zoning away, reiterating that this worries him philosophically. He stated the only problem and imperial evidence out there is sometimes we can downzone and the value of the property "shoots" up, similarly to what was done on Glendon Place. He stated the point he is making in studying longer is it forces the community to get back into one family as they are currently divided over this issue, which is not good. He stated he would like to see the matter deferred and force them to work together and if they do not do it he does not know what to do; that as it is it is counter productive.

Ms. Rennich stated that it was mentioned at Planning that this would not solve everything; that one of the reasons there was a lot of discussion among Staff is that past meetings involved a lot of people yelling and it was very unpleasant over the years. She stated they decided to take the approach to go with the survey so people could say their options and they wanted to avoid frustration, anger and disagreement because it has been a disruptive issue. She stated she did not know if deferring or meeting again would bring healing as she does not think there is agreement within the community. She stated past history indicates it has been difficult and if it is the will of the Council she would be glad to take guidance on how to move forward.

Councilwoman Bennett stated that she has heard through speakers the term about downzoning; that she sees this more as a conditional zoning that does not change to an R-1. She asked if she were correct in thinking that some conditions are addressed that will stabilize the situation.

Ms. Rennich stated downzoning is already a difficult term and right now if a person owned R-3, R-4 or a larger property, how many they have is based on square footage as some can have multiple units. She stated some that exist as a multi-family structure have been pulled out of the study and there are a couple that have more than four units; that some are grandfathered in, which has been an issue among the community for the past couple days.

Councilman Benson asked if Ms. Rennich could think of anything that would not be grandfathered.

Ms. Rennich stated there are some properties that have five and several with eight; that it is her thought one has ten on Central and another in the middle of Fortwood that were pulled out; that the others would be grandfathered under this proposal.

REZONING (Continued)

Ms. Rennich stated one thing that that she wanted to remind everyone of is if someone chooses to have four units and want five, they can have that condition lifted or be rezoned; that if the zoning is changed it would have to go through the process and the community involved. She stated anyone can request a rezoning to lift conditions, even to rezone to something different.

Councilwoman Bennett stated that she knows there are a lot of people in opposition and expressed her curiosity as to how many were opposed that actually owned property by asking them to stand; very few of those in opposition stood.

Councilman Pierce stated that he tried to get this meeting started with a compromise with both sides and he has to take a stand and be counted. He stated at this point since he has asked that this study be done he would have to support the recommendation of the study and **made the motion to approve the Staff's recommendation.** He stated that he mentioned in the beginning that each Council member has heard this information and he wants them to vote their own conscience of support; **Councilwoman Gaines seconded the motion.**

At this point the Clerk of Council read the caption of the Staff's recommendation.

On motion OF Councilman Pierce, seconded by Councilwoman Gaines,
AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE SPECIFIC R-3 RESIDENTIAL ZONE AND R-4 SPECIAL ZONE PROPERTIES WITHIN THE FORT WOOD AREA, WHICH IS BOUNDED ON THE NORTH BY EAST 5TH STREET, ON THE SOUTH BY MCCALLIE AVENUE, ON THE EAST BY CENTRAL AVENUE, AND ON THE WEST BY PALMETTO STREET, MORE PARTICULARLY DESCRIBED HEREIN, TO R-3MD MODERATE DENSITY ZONE AND R-4 SPECIAL ZONE WITH CONDITIONS, SUBJECT TO CERTAIN CONDITIONS

passed first reading on roll call vote:

BENNETT	"YES"
BENSON	"NO"
FEELY	"YES"
FRANKLIN	"NO"

REZONING (Continued)

GAINES	"YES"
PIERCE	"YES"
RICO	"NO"
ROBINSON	"YES"
PAGE	"NO"

(Councilwoman Robinson excused herself from the meeting at this point.)

REZONING

207-190: Jack L. Webb

Pursuant to notice of public hearing the request of Jack L. Webb to rezone a tract of land located in the 1200 block of Cowart Street came on to be heard.

The applicant was present; there was no opposition.

On motion of Councilman Pierce, seconded by Councilman Rico,

**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF
LAND LOCATED IN THE 1200 BLOCK OF COWART STREET, MORE
PARTICULARLY DESCRIBED HEREIN, FROM M-1 MANUFACTURING
ZONE TO C-3 CENTRAL BUSINESS ZONE, SUBJECT TO CERTAIN
CONDITIONS**

passed first reading.

REZONING

2007-192: Dawson L. Carver

Pursuant to notice of public hearing, the request of Dawson I. Carver to rezone a tract of land located in the 5600 block of Delashmitt Road came on to be heard.

REZONING (Continued)

The applicant was present; there was no opposition.

On motion of Councilman Rico, seconded by Councilman Franklin,
**AN ODINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF
LAND LOCATED IN THE 4600 BLOCK OF DELASHMITT ROAD, MORE
PARTICULARLY DESCRIBED HEREIN, FROM R-2 RESIDENTIAL ZONE TO R-
3MD MODERATE DENSITY ZONE**
passed first reading.

REZONING

2007-197: William G. Bulls, III

Pursuant to notice of public hearing, the request of William G. Bulls, III to rezone part of a tract of land located at 5312 Brainerd Road came on to be heard.

The applicant was present; there was no opposition.

Councilman Feely stated that he is not opposed to this request; that he looked at the site and it is not consistent with the Comprehensive 2030 Plan and was curious what that meant. He stated that he wanted to have the question on record as he is curious about the long term trends.

Greg Haynes, Director of Development Services with the Regional Planning Agency (RPA), stated that he was not sure how the Comprehensive 2030 Plan addresses this specific type use; that the Plan generally does not make recommendations about zonings; that it makes recommendations about principles, assuming the Plan is referring to location of commercial on main thoroughfares and intersections of major roads and residential areas. He stated if it says it is not consistent it means there is the possibility of commercial intrusion into a residential area.

Councilman Feely stated that he wanted the information for a historical record and nothing else and notices this happens from time-to-time.

REZONING (Continued)

Councilman Benson stated Councilman Feely is exactly right and this did not go "sliding through" Planning; that there are some problems here, in his opinion, of intruding back into the neighborhood.

Greg Haynes stated there was quite a bit of discussion and the Staff recommended denial of the request and the request was made of the applicant to secure a special permit to allow access through the existing zone. He stated in looking at the PowerPoint presentation, for entrance to the existing building persons would not be able to enter the parking lot at the curb but would have to go more to the south and into part of the property zoned R-1. He stated zoning regulations do not allow for crossing a residential zone into a commercial zone and the applicant wants to rezone that portion to have access at that point. He stated the use is not the problem the Staff has in rezoning that portion of the property; that the applicant could get a special permit from the Board of Appeals to acquire access.

Councilman Pierce stated that the property owner came by to talk with him and it was expressed that the intent was to use this for parking. He stated that he told Mr. bulls what he would need to do is go to the Variance Board and get a variance just for parking as this is a spot zone into the residential neighborhood.

Councilman Benson stated that he certainly agrees; that if the Council spot zones this there is no way we could turn persons down toward the south.

Mr. Haynes clarified that this is not spot zoning; that it is an extension of an existing zoning.

Councilman Pierce stated that he regrets that a fee was paid to go through Planning; that he probably spent several hundred dollars. He asked if there is a way for Mr. Bulls to be reimbursed and apply for a variance.

Mr. Haynes stated that they go through all the options and obstacles with every applicant.

Councilman Benson stated we would have a problem if we start rezoning to the south.

Mr. Haynes stated that the issue involves expansion through the R-1 zone.

REZONING (Continued)

William Bulls of 9211 Royal Mountain Drive stated that he purchased the property to build a retail store and discovered this after he purchased it as it had to be a "quick buy". He stated that the architect and civil engineer are present and discovered the zoning situation with the property.

John Combs, of Horvath Associates located at 537 Market Street, stated that he is the Civil Engineer on the project. He stated when they went through the pre-submitting process with City Staff they were informed they had to get a variance for a setback and was also told they needed a special permit for parking. He stated when they submitted information for a variance they requested that they get a special permit for parking rather than rezoning the entire property to C-2, which they did. He stated they received a side yard variance and were then told it would be better for the whole property to be C-2.

Chairman Page asked if the rezoning could be conditioned just for parking.

Mr. Haynes stated that is what is recommended from Planning, to approve subject to two conditions: the site plan and proposed use for parking only.

Councilman Pierce stated before voting on the matter he would like for the Council to take under consideration assigning an ordinance, not only for this young man, to see that the fee applicants pay can be waived; that by the time he would be able to make application that ordinance could have passed and he should not have to pay another fee to have a variance.

Chairman Page asked if the matter should go to the Variance Board.

Councilman Pierce stated that this should be denied so they could get an application for a variance just for parking. He stated that we do not know how they (Variance Board) would react; that he would think they would react favorably. He stated that he hates Mr. Bulls' money has been for a rezoning.

Councilman Franklin asked if this particular matter would have to have a site obscuring buffer; that he knows some properties on Brainerd Road have issues on both sides so as not to intrude into the neighborhood. He asked if two-or-three conditions would allow some sort of buffer between the residents and this location.

Mr. Haynes stated in looking at the PowerPoint photo, there is a screen already in place, noting that a white fence is present on the southern property line and the residences in the rear, reiterating that a buffering screen is in place.

REZONING (Continued)

Councilman Franklin stated that Mr. Bulls would not have to do anything additional.

Adm. Leach asked if there is parking already on site and if a special permit had been issued to park. The response was "yes" parking is already on site but a special permit has never been issued.

Ms. Rennich stated that this matter was before the Board of Appeals and there was an issue with advertising the original application. She stated one of the issues the Board always addresses is the need granted on zonings for a 25 foot setback to the rear yards. She stated in looking at the setback, they pulled the records and could not find there was ever a special permit issued. She stated the Variance Board made the motion and took action on part of it and recommended that they pursue rezoning. She stated they could not find that there was ever a special permit issued which is why this gentleman had to take some action.

Councilman Benson suggested that the matter be deferred one week to work things out.

Mr. Combs stated that they were told to come to the Council.

At this point Councilman Pierce withdrew his motion so the matter could pass on first reading.

Chairman Page reiterated that the Council would approve the matter on first reading and that the City Attorney and the Attorney for the Board of Appeals would meet to see what needs to be done prior to second reading next week.

Councilman Pierce reminded Special Counsel of the request for an ordinance to be prepared regarding refunding persons who have not been adequately instructed with regard to rezonings.

On motion of Councilman Franklin, seconded by Councilwoman Gaines,
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE PART OF A
TRACT OF LAND LOCATED AT 5312 BRAINERD ROAD, MORE
PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO C-
2 CONVENIENCE COMMERCIAL ZONE, SUBJECT TO CERTAIN
CONDITIONS**

passed first reading; **Councilman Rico abstained.**

RIGHT-OF-WAY NAME CHANGE

2007-198: City of Chattanooga c/o Bill Payne, City Engineer

Pursuant to notice of public hearing, the request of the City of Chattanooga c/o Bill Payne, City Engineer to change the right-of-way name of part of access Road to Lana Lane came on to be heard.

On motion of Councilman Rico, seconded by Councilman Franklin,
AN ORDINANCE TO CHANGE THE RIGHT-OF-WAY NAME OF PART OF ACCESS ROAD TO LANA LANE, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE
passed first reading.

RIGHT-OF-WAY NAME CHANGE

2007-199: City of Chattanooga c/o Bill Payne, City Engineer

Pursuant to notice of public hearing, the request of the City of Chattanooga c/o Bill Payne, City Engineer to change the right-of-way name of the 2000 to 2500 blocks of Kelly Road to the 7800 and 7900 blocks of Will Kelley Road came on to be heard.

On motion of Councilman Benson, seconded by Councilman Franklin,
AN ORDINANCE TO CHANGE THE RIGHT-OF-WAY NAME OF THE 2000 TO 2500 BLOCKS OF KELLEY ROAD TO THE 7800 AND 7900 BLOCKS OF WILL KELLEY ROAD, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE
passed first reading.

RIGHT-OF-WAY NAME CHANGE

2007-200: City of Chattanooga c/o Bill Payne, City Engineer

Pursuant to notice of public hearing the request of the City of Chattanooga c/o Bill Payne, City Engineer to change the right-of-way name of the 4200 block of East Avenue to the 4200 block of Westridge Road came on to be heard.

RIGHT-OF-WAY NAME CHANGE (Continued)

On motion of Councilman Rico, seconded by Councilman Franklin,
**AN ORDINANCE TO CHANGE THE RIGHT-OF-WAY NAME OF THE 4200
BLOCK OF EAST AVENUE TO THE 4200 BLOCK OF WESTRIDGE ROAD,
MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE
MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE**
passed first reading.

LAND ACQUISITION

MR-2007-014: City of Chattanooga c/o Paul Page

On motion of Councilman Rico, seconded by Councilman Franklin,
**A RESOLUTION AUTHORIZING THE ACQUISITION OF A TRACT OF LAND
LOCATED AT 1410 JENKINS ROAD, MORE PARTICULARLY DESCRIBED
HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE
A PART HEREOF BY REFERENCE, FROM JENKINS ROAD L.L.C. FOR THE
EXTENSION TO HERITAGE PARK, AND AUTHORIZING THE DIRECTOR OF
GENERAL SERVICES TO EXECUTE ANY AND ALL DOCUMENTS
NECESSARY TO ACQUIRE SAID PROPERTY**
was adopted.

ACCEPT DONATIONS

On motion of Councilman Franklin, seconded by Councilman Rico,
**A RESOLUTION AUTHORIZING THE DEPARTMENT OF PUBLIC WORKS TO
ACCEPT DONATIONS FROM PRIVATE AND PUBLIC SOURCES FOR THE
PURCHASE, TRANSPORTATION AND PLANTING OF TREES AT THE
DIRECTION OF THE CITY FORESTER AND TREE COMMISSION**
was deferred until the first of the year.

ACCEPT GRANT

On motion of Councilman Rico, seconded by Councilman Franklin,
**A RESOLUTION AUTHORIZING THE CHATTANOOGA POLICE
DEPARTMENT TO ACCEPT A GRANT FROM SAM'S CLUB, STORE #8112,
IN THE AMOUNT OF ONE THOUSAND DOLLARS (\$1,000.00) TO BE USED
FOR THE PURCHASE OF EQUIPMENT FOR THE SWAT TEAM**
was adopted.

SPECIAL POLICEMAN (UNARMED)

On motion of Councilman Rico, seconded by Councilman Franklin,
**A RESOLUTION AUTHORIZING THE APPOINTMENT OF KEVIN BRADY AS
SPECIAL POLICEMAN (UNARMED) FOR THE CITY OF CHATTANOOGA
DEPARTMENT OF PARKS AND RECREATION TO DO SPECIAL DUTY AS
PRESCRIBED HEREIN, SUBJECT TO CERTAIN CONDITIONS**
was adopted.

EMINENT DOMAIN

On motion of Councilman Rico, seconded by Councilman Franklin,
**A RESOLUTION AUTHORIZING THE OFFICE OF THE CITY ATTORNEY TO
INSTITUTE EMINENT DOMAIN PROCEEDINGS AGAINST MARK T. YOUNG
FOR RIGHT-OF-WAY AND TEMPORARY CONSTRUCTION EASEMENTS
LOCATED AT 2121 HAMILL ROAD, PARCEL NO. 110J-A-002, TRACT NO.
2, RELATIVE TO CONTRACT NO. E-06-006-201, THE NORTHPOINT
BOULEVARD EXTENSION, PHASE I**
was adopted.

OVERTIME

Overtime for the week ending December 7, 2007 totaled \$76,909.76.

PERSONNEL

The following personnel matters were reported for the various departments:

PUBLIC WORKS DEPARTMENT:

- **MICHAEL D. DUFFEY** – Voluntary Demotion, Heavy Equipment Operator, Waste, Pay Grade 10/Step 3, \$29,362.00 annually, effective December 7, 2007.
- **JEFFREY M. MOORE** – Family Medical Leave, Heavy Equipment Operator, City Wide Services, effective December 4, 2007 – February 25, 2008.
- **STACY D. WILEY** – Hire, Crew Worker, City Wide Services, Pay Grade 3/Step 1, \$20,650.00 annually, effective November 26, 2007.

PERSONNEL (Continued)

- **EDWIN T. SPENCE** – Family Medical Leave, Crew Worker Sr., City Wide Services, effective December 12, 2007 – March 5, 2008.

CHATTANOOGA POLICE DEPARTMENT:

- **JONATHAN DODD** – Resignation, Communications Officer, effective November 30, 2007.
- **ERIC L. JONES** – Military Leave, Police Officer, effective November 30, 2007 – June, 2008.
- **MILA M. ARCHER** – Resignation, School Patrol Officer, effective December 1, 2007.
- **ALAN C. CHANCE** – Retirement, Lieutenant, effective December 7, 2007.
- **CHRISTOPHER CAMPBELL** – Hire, Police Service Technician, Pay Grade 3/Step 1, \$20,650.00 annually, effective December 7, 2007.
- **TRACY M. MAY** – Family Medical Leave, Police Officer, effective December 7, 2007 – February 1, 2008.

PURCHASE

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

SANSOM EQUIPMENT CO. (Best bid)
R0103976/B0004653

Combination Sewer Cleaner/Vacuum Truck

\$244,561.52

HOTEL PERMIT

On motion of Councilman Franklin, seconded by Councilwoman Bennett, the following hotel permit was approved:

RED ROOF INN – 7014 Shallowford Road, Chattanooga, TN

REFUND

On motion of Councilman Franklin, seconded by Councilwoman Gaines, the Administrator of Finance was authorized to issue the following refund of property tax and gross receipts tax, respectively:

WILLIAM LANGSTON -- \$1,315.03

JANKINS MASONRY, INC. -- \$1,721.77

PURCHASE

On motion of Councilman Rico, seconded by Councilman Franklin, the following purchase was approved for use by the Mayor’s Office, General Services Division:

ACE LOCK AND KEY (Lowest and best bid)
R0102737/B0004537

City Wide Lock and Key Services

(Price information available and filed with minute material of this date)

COMMITTEES

Councilman Franklin stated that the Economic Development Committee met this afternoon to discuss a PILOT project for Coca Cola and the Council asked for more information regarding certain criteria that was unclear as it relates to the number of new employees. He stated the presenters were asked to come back next Tuesday for more verification and deliberation in the Legal and Legislative Committee.

Councilman Benson scheduled a meeting of the **Legal and Legislative Committee for Tuesday, December 18 at 3 p.m.**

FINAL COUNCIL MEETING OF THE YEAR

Chairman Page reminded everyone that next Tuesday, December 18, would be the final Council meeting for the year.

ADJOURNMENT

Chairman Page adjourned the meeting of the Chattanooga Council until Tuesday, December 18, 2007 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)**