

**Council Building
Chattanooga, Tennessee
January 29, 2008
6:00 p.m.**

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

PLEDGE OF ALLEGIANCE/INVOCATION

Following the Pledge of Allegiance, Randy Burns gave invocation.

MINUTE APPROVAL

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

AGREEMENT

Councilman Pierce made the motion to move Resolution (e) forward on the agenda; Councilman Franklin seconded the motion; the motion carried.

Mayor Littlefield stated that the SETHRA issue has been something of a controversial issue and it is his hope that a lot of issues could be laid to rest with a short PowerPoint presentation. He stated one other person would speak on this issue from Whiteside Faith Manor. He stated this is a service that is important to people in this community who have homes and live in the city and knows there has been a lot of talk about the homeless and bringing homeless in. He stated this is an important service that helps people to stay out of the homeless lifestyle or be able to be put in housing; that there is a proposal now with the Chattanooga Housing Authority to spend over \$600,000 in Federal Home Funds to provide transitional housing.

AGREEMENT (Continued)

Mayor Littlefield stated that the type of service is an urban transportation service and the buses are familiar to many as they have STS on the side which is the urban part of the SETHRA family. He noted that STS stands for Special Transportation Services and SETHRA serves outlying counties; that there is a similar service in Georgia that serves counties there. He stated these urban services are in every county he knows of for people who are elderly, disabled and who are economically disadvantaged. He stated not everyone can own and maintain a vehicle; that there are elderly people who can very well maintain a vehicle and disabled persons who might have a vehicle of their own but need special services later in life. At this point he acknowledged the presence of members of the Mayor's Council on Disability as these are services that many of them use. He stated SETHRA operates 24 vehicles, made over 83,000 trips last year, served over 4,000 passengers and clocks almost a million miles per year. He stated they are currently operating out of a very small space at CARTA, 2,500 square feet, which is crowded and they need to move. He stated this space was found and they indicated it would be perfect, is right in the middle of their service area and is a good fit for us.

Mayor Littlefield stated there are fifty-or-so clients at Whiteside Faith Manor and the buses are parked at assisted living facilities, various homes and private homes where people need to have the service if they are wheelchair bound as the buses are wheelchair lift equipped. He stated the average trips take people to the doctor's office, the hospital, for dialysis or some special service; that most of the buses are congregated around the third street area, a medical service area in Chattanooga, and the doctor's building under construction will utilize these services, as well. He noted that the passenger destination percentages reflect that 52% are for medical, 33% are for job access, nine percent for elderly and disabled services and six percent for childcare that is mostly for homeless children. He stated the Interfaith Homeless Network has 42 participating congregations and all have worked to raise \$160,000 to have new offices in this location. He stated they do not congregate people there as they take them in, determine their needs, make an assignment and are then taken out of the area. He stated children have to get to child care, schools and get the services they need, which is the six percent that relates to homelessness.

Mayor Littlefield continued by stating that the location offers 15,000 square feet for the facility and will be a regional transit and training center; that the buses will be parked at night and will be fenced, secured and lighted. He stated there would be office space, a vehicle staging area and light maintenance. He stated City Yards is located a block away and has a heavy maintenance garage and can offer for pay good mechanics to help maintain hydraulics.

AGREEMENT (Continued)

Mayor Littlefield stated there is also a fueling station and they would have access to diesel and bio-diesel fuel for their buses. He stated there will be a driver training facility and a centralized bus terminal for buses stationed there to park at night and a transfer hub. At this point the Dunlap facility was shown with the Mayor adding that the Chattanooga facility would be very similar, noting that drivers would be trained at this location and retrained and tested as necessary. He stated the important thing is the synergy; that people can learn and quality for a commercial drivers license (CDL) utilizing this facility. He stated Wanza Lee has indicated that they can train people there off the street for the CDL license as there is a high demand for people with CDL licenses.

The Mayor gave a breakdown by district of regular passengers using SETHRA's services where it was noted that the facility is intended to be located in the dead center of the highest number of regular users within District 8.

The Mayor continued his presentation for the former Farmer's Market site by noting that the back portion is where SETHRA is proposing to go, which was not the cleanest site in the world as tire were tires piled there, however, it has been cleaned up and the environmental people say it is the perfect site for a parking lot and the proposed building. He noted the location of the Community Kitchen across the street and other buildings proposed for retail-type uses. He stated that he spent a long time with the leader from the M. L. King Boulevard area today and showed the plans for a day center and things already funded by this Council with CDBG money. He stated across the street would be a thrift store, eventually, a recycling drop-off and the location for the Interfaith Homeless Network was identified with the Mayor clarifying again that there would not be any people congregating there. He stated a police precinct has been asked for; that there is one on Walnut Street and noted that on the weekend police cars are parked on Lot 9. He stated there would have to be more space to build a proper Eleventh Street police station and it would be a perfect use in the midst of all that is proposed for the area.

At this point has asked Ms. Wofford to come forward, noting that he had covered most of the points. He stated that this is a service that is needed by people who live in the area now; that it is homeless related only in the case that it does provide transportation for children who are presently homeless.

Gene Wofford was present representing Whiteside Faith Manor apartments. She stated that they would like to be able to see STS have office space; that STS not only helps those in homes but helps the elderly and disabled to take them to their appointments and those who do not have families to see after them.

AGREEMENT (Continued)

Ms. Wofford stated that STS offers a service for people that are not homeless but need transportation to get health care and should be offered in the area they live in.

Mayor Littlefield presented petitions to the Clerk of Council signed by persons in favor of the facility. **(The petitions are filed with minute material of this date.)**

Chairman Page asked those in support of the matter to stand. A large delegation stood in support.

Dr. Anita Polk Conley of 1020 East Tenth Street and President of the M. L. King Neighborhood Association stated that she met with the Mayor and had a great conversation with him this afternoon. She stated that they really disagree about where SETHRA should be located, noting that this is not about the services SETHRA provides, but about simply the best location for SETHA to provide the services it provides. She stated for those who live in the M.L. King community all have lots of concerns about this location as it is not near a major thoroughfare; that her suggestion, and those in the Neighborhood Association, is why not put it somewhere on Amnicola which would afford an opportunity to get back and forth from other places and give a closer proximity to the areas they serve at Erlanger, Memorial, other hospitals and medical facilities. She stated she and others in the Association ask if this is the best location in this area for this facility; that STS and SETHRA provide enormous services to people who can not provide for themselves, which is not a knock against those services; that this, again, is for clarity as to whether this is the best location for SETHRA.

Dr. Conley continued by stating that their second concern as the Council talks about the Farmer's Market site and as Ms. Wofford stated about the homeless complex, is if the Council says "yes" to this proposal, they are, in effect, saying "yes" to the Farmer's Market site and this Master Plan. She stated if this is so it is her belief that the people present will believe when the Council says "yes" to SETHRA, they are saying "yes" to this Master Plan. Thirdly, she stated, we have several service providers in our area -- the Community Kitchen, Chattanooga Rescue Mission and the Salvation Army -- and would dare say when those plans were put on the books for those places they thought the people they were serving would be going to a place where they would find themselves all outside and people serving them; that they thought it would become a place that would attract different kinds of predators to take advantage of the very people they are trying to serve.

AGREEMENT (Continued)

Dr. Conley concluded her comments by stating that the concerns she personally has, and there are many about this Master Plan, is this will expand and concentrate those very people who find themselves in this homeless situation who need help and support. She stated when a person thinks of someone that finds themselves homeless, it is her belief three things are needed to help the individual: transitional housing, supportive services and job, jobs and more jobs! She stated that she mentioned to the Mayor not many jobs are in this Plan.

Josh Frizzell of 916 East Tenth Street thanked everyone present who engaged themselves in the process of trying to find a solution, most notably, the M. L. King neighborhood, itself. He stated as many know the neighborhood has really taken upon themselves to say while they do not agree with the proposals coming forth, they do agreed to go ahead and find something we can do to help. He stated throughout the process they wanted to let the Council know when everything was going on as there were a lot of meetings and charrettes and different organizations doing different things; that some where problematic for them. He stated while the residents were out trying to come up with solutions they were constantly being bombarded; that great ideas came out of the charrette but unfortunately they were not put on paper, were ignored and things were not happening which was problematic for them. He stated the most critical items in the diligence phase were overlooked as far as a community to insure safety. He stated for the Council's part, they have been trying to talk to them about issues bothering them; that he came here to talk before there were any plans to address on the table and from these very committees resolutions are being passed to allow different things to happen that he thinks is irresponsible; that it really marginalizes things they are trying to do, marginalizes the Chattanooga citizens and it needs to stop. He stated they want to help and thinks everyone wants to help and to let them help. He stated they do not want problems, they want solutions!

Matt Hodges of 315 Crewdson Avenue commended Councilman Pierce for the comment made in the interest of the community and for standing up when it was difficult to stand up. He thanked Councilwoman Bennett for standing by her recommendations and thanked Councilman Feely for his open mind, heart and ear to talk with concerned citizens and noted that it is sad not having him continue to represent his District. He stated he was not present to speak on behalf of the M. L. King area as he is present to stand up for the citizens. In an effort to elicit a response he turned to the Mayor and noted that he and Council members were all charged to uphold the City Charter and that each took an oath.

AGREEMENT (Continued)

At this point Chairman Page cautioned Mr. Hodges that there would be no dialogue.

Mr. Hodges continued his comments and read an excerpt from the Charter regarding the disposition of surplus property. He asked those in attendance if they would agree to leasing this land for one dollar per year which goes completely against what the Charter says. He asked those in attendance to stand if they think the Council is responsible for upholding the Charter. He commended those challenged by transportation for coming to the open forum and asked the question -- noting that the person with Whiteside Faith Manor should not think about it -- if the Mayor's office, Mr. Chapman or "Mr. Moses" is concerned about the community's needs why wait the day before this meeting to come and ask persons to come to be here in opposition of a petition that was signed months ago. He stated that they should know the services provided will not change whether in Dunlap or Chattanooga; that they will continue serving, picking up and delivering where a person needs to be. He stated another question is if we do not get anything from SETHRA's moving, why allow them to come and why give them the land; that he knows as a businessman if land was bought for a million dollars he would think long and hard before giving it away for one dollar a year for a 40 year commitment. He stated the Mayor is not taking official responsibility for this and the Council is rubber stamping it and it is sad. He stated those who believe the Council and other elected officials' responsibility, including the Mayor, is to represent the city and are willing to hold them responsible should hold them responsible! He stated it is not an issue of what SETHRA can do it is about doing the right thing.

Councilman Rico stated before making the motion to accept this he wanted to make the statement that this is not about people, land or the Charter. He stated that it is his personal feeling that if he did not support this God would have a special place in hell for him!

Councilman Benson stated there are two different issues and the only issue on the table is SETHRA and that is a clear issue and absolutely no relation between SETHRA and homeless people walking around down there. He stated that he visited SETHRA and it is for individuals who are handicapped, otherwise need transportation and do not have the blessings some have of cars, friends or relatives to help in getting to and from health care facilities; that it is going to take SETHA and STS to get it done. He stated this is a way of getting it done cost effectively.

AGREEMENT (Continued)

Councilman Benson stated the issue on the table is SETHRA and the validity of their mission and it is his thought people have misunderstood the situation. He stated that he could not believe some of those in attendance have such little compassion to fight what SETHRA is trying to do; that he just can not believe that. He stated as far as rubber stamping, he and Mr. Hodges could get up close and personal about a lot of things; that this Council is not a rubber stamp and resents Mr. Hodges saying so! He stated that if Mr. Hodges has read the paper recently about the conflict over an ex-Council member, he would know this Council is not a rubber stamp!

Councilman Pierce stated that this has been drawn out and he would have to say that he has been with the community and continues to support the community; that it is his thought the way Dr. Conley presented herself is that we do not oppose SETHRA in any form, shape or fashion; that we are merely talking about the location. He stated that it bothers him when the Mayor talks about what the city can get by SETHRA being there and to know we will supply gas and use our mechanics and do the work for half the cost. He stated we would give them gas at a discount and then enter into a lease agreement for this facility – why not give them the land! He stated he does not see the one dollar per year, especially for forty years!

Councilman Pierce continued by stating that he has great concern about the police precinct and knows a lot of communities would like to have a police precinct; that it is incurring other costs upon the city when we open up these precincts. He stated the downtown precinct is in a high development district and understands they are going to be moving; that this is an opportune time to bring that precinct down here. He stated he does not know if a police precinct would benefit the community or try to imprison the homeless once the complex is in place. He stated that he just feels, as he has said previously, that this is being done piecemeal, a day-at-a-time. He stated he does not know what the lease agreement reads other than for forty years and does not know how SETHRA became familiar with this property. He stated that it is his belief they were solicited to come to this area and indicated to each Council member that this would bring more traffic and they are encouraging traffic; that Dr. Conley stated there is no corridor to take care of the traffic. He stated that he would like for the Council to table this issue and let SETHRA look further to find other land that may be conducive to what they want to do. He stated forty years is a long time; that he would live there himself if the land was given to him!!

AGREEMENT (Continued)

Mayor Littlefield stated that the Charter issue as referenced by Mr. Hodges is not an issue in this case; that it applies only if the property has been declared surplus and is not being used for government purposes. He stated it is clear this is for government purposes and the city regularly enters into these types of agreements with the federal and state governments and others, and they do with us, as well; that we benefit and so do they.

Councilman Feely stated that he works with a majority of low income persons in the center city and plans to vote for this tonight. He stated that he definitely hears the pain and anguish from at least some in the M. L. King community about this. He stated whether or not the perception is things are being introduced piecemeal would concern him, too; that it definitely means there should be a lot more talking from time-to-time. He stated that he plans to vote favorably for this tonight but as a private citizen in about seven days, he would want to be more involved in that conversation; that he does see a place for some real common ground.

At this point Councilman Rico made the motion to approve the Resolution; Councilman Feely seconded the motion.

Councilwoman Gaines stated while she agrees with most of the statements made by the Council she certainly could say she understands the lack of transportation and is very concerned as STS is in her district quite often, as well in Councilman Pierce's (district). She stated some of the people she has heard today certainly are not her feelings in regard to need; that she does have concerns about the agreement and asked the Mayor to better explain how this decision was made.

Mayor Littlefield stated that this is a standard lease agreement for one dollar a year which the city has done with others previously; that the agreement has the standard language and the intent is to basically enable them to use the property without the city giving up the property because the city has invested in this area of town for a long time and will continue. He stated should SETHRA decide not to continue or some other service takes their place, mechanisms for releasing that agreement are in place, if they are there at the end of forty years a new agreement will be provided. He stated this has been done with other good uses of property not even government related, per se, as property has been leased to museums, a lease for the sculpture garden at Hunter and it has worked out well. He stated that he would be glad to have the Council look at the language as they do need the ability to move forward.

AGREEMENT (Continued)

Councilwoman Gaines stated that her concern with that is that she is curious and asked if the Mayor could share briefly with all as to how he arrived at this agreement and with this particular agency.

Mayor Littlefield stated on the issue of this being a piecemeal approach the plan was presented and the architects plan took something like a year-and-a-half to produce and there were numerous public meetings on that. He stated like any other charrette there will always be individuals who like some of what happens or what comes out of the process and others who do not; that it was similar to the master plan for the Riverfront and some people on the Council were opposed to that. He stated there was a lot of dissention and controversy, particularly about the Aquarium; that we go through a process, discuss, agree and disagree. He stated the plan is intended to be the best product possible and was presented to the city as a gift by a local architect and one of the recommendations was this transportation element. He stated SETHRA came to him and he first heard about this from Beth Jones as they had been needing a new location and need to be in that area. He stated this is a good fit and "yes" we can fuel them and there is no problem with that as they will pay for it. He stated if we make repairs they will pay for it; that we have a government rate we charge for repairs if a mechanic is put to work and we do that already for the county ambulances. He stated we have made repairs for others around the city at the requestor's expense.

Councilwoman Gaines stated what she guesses she needs to complete her question is if there was any other agency, aside from SETHRA, whether the Mayor communicated with other human services agencies.

Mayor Littlefield asked if she was referring to transportation agencies.

Councilwoman Gaines asked if a list of some of the agencies in the city that were considered could be shared.

Mayor Littlefield stated there is still space there; that there is no space on the front of the buildings that are along Eleventh Street as not every use has been placed. He stated there is a plan for retail, a thrift shop and other types people, in general, can make use of.

Councilwoman Gaines inquired about the thrift shop across the street,

Mayor Littlefield responded they have options should they move across the street.

AGREEMENT (Continued)

Councilwoman Gaines added they will house citizens who are bedridden.

Mayor Littlefield stated they have those plans they are going to present to us; that it has been in the Blueprint Plan for many years. He stated every effort has been made to follow the plans the community is working toward; that he told Dr. Conley that they have often been involved in many issues and have always been on the same side and it hurts him deeply to find they are not. He stated that he knows of no use that is more benign in this community than this use. He stated sure it will mean more traffic eventually for the whole area; that there are empty warehouse we do not own that are going to refill. He stated that he told Dr. Conley speed bumps could be installed.

Councilman Pierce noted that speed bumps are no solution.

On motion of Councilman Rico, seconded by Councilman Feely,

A RESOLUTION AUTHORIZING THE DIRECTOR OF GENERAL SERVICES TO ENTER INTO A LEASE AGREEMENT WITH SOUTHEASTERN TENNESSEE HUMAN RESOURCE AGENCY (SETHRA) RELATIVE TO 740 EAST 12TH STREET, LEASE AREA "C," AS REFERENCED IN CASE NO. MR-2007-213 AND AS SHOWN ON THE MAP AND DRAWING ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE IN THE AMOUNT OF ONE DOLLAR (\$1.00) ANNUALLY AND A TERM OF FORTY (40) YEARS

was adopted; Councilman Pierce voted "no"; Councilwoman Bennett abstained.

AMEND CITY CODE

On motion of Councilman Pierce, seconded by Councilman Franklin,

AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 3, SECTION 3-100, RELATIVE TO SIGNS, TO ALLOW THE DIRECTOR OF THE LAND DEVELOPMENT OFFICE OR DESIGNEE TO WAIVE CERTAIN REQUIREMENTS FOR MAJOR MIXED-USE DEVELOPMENTS LOCATED IN THE DOWNTOWN C-3 CENTRAL BUSINESS ZONE UNDER CERTAIN CONDITIONS

passed first reading.

APPROPRIATION/REIMBURSEMENT

Councilman Franklin stated that this matter was discussed in today's Parks and Recreation Committee meeting and approval is recommended.

APPROPRIATION/REIMBURSEMENT Continued)

On motion of Councilman Franklin, seconded by Councilman Rico,
AN ORDINANCE APPROPRIATING FROM THE CAPITAL PROJECTS FUND TO FRIENDS OF THE ZOO, INC. AN AMOUNT NOT TO EXCEED TWO MILLION DOLLARS (\$2,000,000.00) TO BE USED FOR SITE IMPROVEMENTS TO THE CHATTANOOGA ZOO AND AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PARKS AND RECREATION TO ENTER INTO AN AGREEMENT WITH FRIENDS OF THE ZOO, INC. TO REIMBURSE THE CITY AN AMOUNT NOT TO EXCEED TWO MILLION DOLLARS (\$2,000,000.00) OVER A TERM OF FIVE (5) YEARS
passed first reading.

CLOSE AND ABANDON

MR-2007-133: Ken DeFoor

On motion of Councilman Franklin, seconded by Councilman Rico,
AN ORDINANCE CLOSING AND ABANDONING A PORTION OF A TWENTY-FOOT (20') SANITARY SEWER EASEMENT LOCATED WITHIN A TRACT OF LAND LOCATED AT 7315 SHALLOWFORD ROAD, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP AND DRAWING ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE
passed first reading.

REZONING

2007-184: Robert Hughes, Trustee Chair, Tyner United Methodist

The applicant was present; there was no opposition.

Greg Haynes, Director of Development Services with the Regional Planning Agency (RPA), stated that this matter was deferred three weeks ago; that it is for R-2 zoning of an existing duplex to come into compliance with the zoning. He stated the Planning Commission recommends approval for the R-2 change and Staff recommends approval of a special permit. He stated when this was previously heard Councilman Pierce asked if a special permit would satisfy the lender, which is the reason for the request (to satisfy the lender). He stated the case was deferred so the applicant could be present.

REZONING (Continued)

Chairman Page asked the applicant if he could get financing under the conditions the Council is discussing.

Robert Hughes, applicant and Trustee Chair of Tyner United Methodist Church, stated that he must have rezoning to R-2.

Chairman Page asked if the applicant must have the R-2 zoning for financing,

Mr. Hughes stated that the matter goes back to the lender; that the banks are extremely particular on what they loan money for. He introduced Renee Sullivan, buyer of the property, noting that as a Church they were trying to protect the buyer "down the road" in the event they want to sell.

Councilman Benson stated that we had a long conversation a few months ago about spot zoning and was wondering if this is what is being created. He stated his question is whether this is spot zoning if we change the zone to R-2, if we are encouraging spot zoning in communities that have a land use plan.

Mr. Haynes responded "yes, this would be a spot zone". He stated Planning did recommend approval of the R-2 even though this is a spot zone. He stated what makes the Staff uncomfortable is that this is a spot zone and the precedence it sets; however, it is an existing duplex, built as a duplex and used as a duplex as early as the sixties and that is the problem and why the special permit is recommended, yet this particular lender will not be satisfied with that, as previously stated. He stated that it depends on the lender; that some may accept it and some may not.

Councilman Pierce stated basically, what he is hearing, is that this particular property has been out of compliance; that in the sixties it was used as a duplex but already zoned R-1. He stated he does not have a problem if it is still being used as a duplex but to continue its use he does not know where we are on that; that they may be in violation of the Code. He asked if it could be grandfathered-in.

City Attorney Nelson stated as long as the property continues to be used for duplex use then it is grandfathered; that if it goes 100 days without being used for a duplex it goes to R-1.

Councilman Benson stated that he knows that the Planning Commission recommended approval out of sympathy and mercy, noting that he did not vote for it – not because he does not have sympathy and mercy – but this is spot zoning and spot zoning is illegal.

REZONING (Continued)

Councilman Benson stated it gives grounds for putting others on like this and it will break open the Plan for the community. He stated that he just does not think banks should be dictating zoning or financing; that rezoning has never been based on financing.

Mr. Haynes stated he wanted to comment on the history of this property; that it was built as a duplex back in the sixties as an urban residence prior to annexation and the county did allow the duplex. He stated when it was zoned into the city the zoning went to R-1 and did not allow duplex use, however, the use was grandfathered and will always be grandfathered until it is not used for 100 days. He stated there has been a lot of history and conflicting zoning use; that before it did have correct zoning and the applicant is simply trying to get zoning for financing to R-2.

Councilman Franklin asked if this could be considered non-conforming use and under that could it be grandfathered.

Mr. Haynes stated that it is grandfathered; that the city sent the applicant a letter saying it is a legal, non-conforming use and the lender was not satisfied with that; that the same was true with the permit. He stated that it seems like the only thing the lender would accept is a zone change.

City Attorney Nelson stated that it makes no sense asking for something illegal; that they should not be able to rely upon that.

Mr. Hughes stated the letter is good if the person is in Chattanooga and can investigate the property; that if the mortgage is outside of Chattanooga it would still be listed as R-1.

Chairman Page asked if the City Attorney could give the applicant/buyer a legal opinion to take to the lender.

Rene Sullivan stated that she is purchasing the property on Nelson Road and using a lender that is out of Chattanooga who will not approve it in this way. She stated currently the Church is paying city taxes for R-2 on the property and she does not understand why it could not be zoned properly. She stated she wants to make improvements and thinks it may take over 100 days and after that period of time it will be a single person property which will cause her a lot of problems. He asked that the property please be zoned as it should be and was to begin with.

REZONING (Continued)

City Attorney Nelson stated what Ms. Sullivan is really asking the Council to do is to do something the Council does not have the power to do; that her bank is essentially asking the Council to give them a bad title to make a loan bad, which is absolutely ridiculous.

Ms. Sullivan stated that she does not understand why it is illegal.

City Attorney Nelson stated under Tennessee law if property is surrounded by single family R-1 property and if you zone something R-2 that is spot zoning in the middle of R-1.

Ms. Sullivan stated that there is another spot further down that is that has a different zone.

Mr. Hughes stated that the property on the opposite corner is R-3.

Chairman Page stated that City Attorney Nelson could look at it more closely and come up with a legal opinion.

Councilman Pierce stated that it is “plain as day” that this is spot zoning. At this point he **made the motion to deny the request; Councilman Benson seconded the motion.**

On motion of Councilman Pierce, seconded by Councilman Benson,
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF
LAND LOCATED AT 208 NELSON ROAD, MORE PARTICULARLY
DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO R-2 RESIDENTIAL
ZONE**

was denied; Councilman Rico voted “no”.

After the vote, Chairman Page informed the applicant that the request has been denied and asked that they get in touch with the City Attorney for a letter or legal opinion for the financial agency.

AMEND CITY CODE

Chairman Page stated our new Councilperson (Feely) saw an injustice and brought it before the Council.

AMEND CITY CODE (Continued)

On motion of Councilman Feely, seconded by Councilman Rico,
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,
CHAPTER 2, SECTION 2-178 RELATIVE TO UNRESOLVED GRIEVANCES
OF CITY EMPLOYEES**
passed first reading.

ACCEPT DONATIONS

Councilman Franklin made the motion to amend this Resolution to have department administrators bring matters of this nature before the Council during departmental reports; Councilman Rico seconded the motion.

City Attorney Nelson amended the body of the Resolution in open meeting to reflect, *“Such donations shall be reported to the City Council during the departmental report by the Administrator of said department at the next City Council meeting”*.

On motion of Councilman Franklin, seconded by Councilman Rico,
**A RESOLUTION AUTHORIZING THE MAYOR AND THE INDIVIDUAL
DEPARTMENTS OF THE CITY TO ACCEPT DONATIONS FOR WHICH THE
CITY HAS NO OBLIGATION TO ENTER INTO A CONTRACT/AGREEMENT
OR PERFORM SERVICES FOR SAID DONATIONS**
was adopted.

PAYMENT AUTHORIZATION

On motion of Councilwoman Gaines, seconded by Councilman Franklin,
**A RESOLUTION AUTHORIZING PAYMENT TO PUBLIC AGENCY TRAINING
COUNCIL (PATC) IN THE AMOUNT OF TWENTY-FOUR THOUSAND THREE
HUNDRED DOLLARS (\$24,300.00) FOR TRAINING FOR OFFICERS IN THE
CHATTANOOGA POLICE DEPARTMENT**
was adopted.

ACCEPT DONATION

On motion of Councilman Franklin, seconded by Councilwoman Bennett,
**A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE
DEPARTMENT OF PARKS AND RECREATION TO ACCEPT A DONATION
IN THE AMOUNT OF ONE THOUSAND DOLLARS (\$1,000.00) FROM THE
LOOKOUT VALLEY WAL-MART TO BENEFIT THE JOHN A. PATTEN
RECREATION CENTER FOR SUMMER DAY CAMP MATERIALS AND
SUPPLIES AND A SECURITY CAMERA SYSTEM FOR THE FACILITY**
was adopted.

AGREEMENT

Councilwoman Bennett stated that this Resolution seems similar to Resolution (a) on tonight's agenda. She asked if this would be a normal situation that each of the items come before the Council for approval and now we have it all bundled together. Paul Page responded, "hopefully we will not have to bundle it".

Councilwoman Bennett stated apart from this, would it be a situation to bring each individual request to a committee meeting for approval.

Mr. Page responded "no, not to committee"; that after the request reaches \$10,000.00, even if it is over by a dollar, it would be reported so as not to have little things coming back-and-forth.

Councilwoman Bennett stated that her concern is whether this is similar to the first Resolution that was approved tonight to at least have ongoing communication about dollars spent and reports added on a regular basis about where they stand; that it may already be in the budget and already covered.

Mr. Page stated in most cases that is true.

On motion of Councilman Rico, seconded by Councilman Franklin,

A RESOLUTION AUTHORIZING THE DIRECTOR OF GENERAL SERVICES TO ENTER INTO AN AGREEMENT WITH BARGE, WAGGONER, SUMNER & CANNON, INC. FOR PROFESSIONAL ARCHITECT AND ENGINEERING SERVICES ON AN AS-NEEDED BASIS FOR VARIOUS CITY DEPARTMENTS ACCORDING TO THE ATTACHED SCHEDULE OF RATES

was adopted.

DECLARE SURPLUS

MR-2008-027: City of Chattanooga c/o Dan Thornton

On motion of Councilman Franklin, seconded by Councilman Rico,

A RESOLUTION DECLARING AS SURPLUS A TRACT OF LAND LOCATED AT 1456 MERCER STREET, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE

was adopted.

DECLARE SURPLUS

MR-2008-028: City of Chattanooga c/o Dan Thornton

On motion of Councilman Franklin, seconded by Councilwoman Gaines,
**A RESOLUTION DECLARING AS SURPLUS A TRACT OF LAND LOCATED
AT 308 42ND STREET, MORE PARTICULARLY DESCRIBED HEREIN AND AS
SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF
BY REFERENCE**

was adopted.

CHANGE ORDER

Councilman Rico stated Resolutions (h) – (k) were discussed in Public Works Committee and approval is recommended.

On motion of Councilman Rico, seconded by Councilman Franklin,
**A RESOLUTION AUTHORIZING THE EXECUTION OF CHANGE ORDER
NO. 1 (FINAL) RELATIVE TO CONTRACT NO. E-05-024-201, GUNBARREL
ROAD AT STANDIFER GAP ROAD INTERSECTION IMPROVEMENT, WITH
TALLEY CONSTRUCTION COMPANY, INC., WHICH CHANGE ORDER
DECREASES THE CONTRACT AMOUNT BY FIFTY-TWO THOUSAND
SEVENTY-TWO AND 65/100 DOLLARS (\$52,072.65), FOR A REVISED
CONTRACT AMOUNT NOT TO EXCEED THREE HUNDRED TWO
THOUSAND NINE HUNDRED TWENTY-SEVEN AND 35/100 DOLLARS
(\$302,927.35)**

was adopted.

CHANGE ORDER

On motion of Councilwoman Bennett, seconded by Councilman Franklin,
**A RESOLUTION AUTHORIZING THE EXECUTION OF CHANGE ORDER
NO. 1 (FINAL) RELATIVE TO CONTRACT NO. E-06-003-202, CITY
SIDEWALK REQUIREMENTS FOR BROWNS FERRY ROAD, STUART STREET,
AND CAMPBELL STREET, WITH KLEENCO CONSTRUCTION OF
TENNESSEE, INC., WHICH CHANGE ORDER DECREASES THE CONTRACT
AMOUNT BY SIXTEEN THOUSAND NINE HUNDRED SEVENTY-SEVEN AND
15/100 DOLLARS (\$16,977.15), FOR A REVISED CONTRACT AMOUNT
NOT TO EXCEED FIVE HUNDRED TWENTY-THREE THOUSAND TWENTY-
TWO AND 85/100 DOLLARS (\$523,022.85)**

was adopted.

CHANGE ORDER

On motion of Councilman Rico, seconded by Councilman Franklin,
A RESOLUTION AUTHORIZING THE EXECUTION OF CHANGE ORDER NO. 1 (FINAL) RELATIVE TO CONTRACT NO. S-06-012-201, 601 NORTH MOORE STORMWATER PROJECT, WITH TALLEY CONSTRUCTION COMPANY, INC., WHICH CHANGE ORDER DECREASES THE CONTRACT AMOUNT BY TWENTY-FIVE THOUSAND EIGHTY-FOUR AND 95/100 DOLLARS (\$25,084.95), FOR A REVISED CONTRACT AMOUNT NOT TO EXCEED TWO HUNDRED FOUR THOUSAND NINE HUNDRED FIFTEEN AND 05/100 DOLLARS (\$204,915.05)
was adopted.

TEMPORARY USE

On motion of Councilman Franklin, seconded by Councilwoman Robinson,
A RESOLUTION AUTHORIZING CHATTANOOGA DATA LINK, INC. TO USE TEMPORARILY THE RIGHT-OF-WAY OF WEST 8TH STREET NEAR THE INTERSECTION WITH CHESTNUT TO INSTALL TWO (2) 1.25" HDPE SCHEDULE 40 CONDUITS, ONE FOR FIBER OPTIC CABLE WITH A TRACER WIRE, AND THE OTHER WILL REMAIN VACANT FOR EMERGENCY RESTORATION, AS SHOWN ON THE DRAWING ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS
was adopted.

EXTEND MORATORIUM

On motion of Councilwoman Bennett, seconded by Councilman Franklin,
A RESOLUTION DECLARING A MORATORIUM ON SELECTED REZONING REQUESTS IN AN AREA HEREIN BELOW DESCRIBED THROUGH APRIL 30, 2008
was adopted.

RESCIND RESOLUTION 25353 AND AWARD CONTRACT

Adm. Leach stated there was an effort made to contract with Action Plumbing but were told there was a financial issue. He stated there were four properties needing sewer repair and rather than lose CDBG money a contract was made with Street Cuts, LLC to do the same thing to help these folks out. He stated the cost is the same and we are just changing the contract vendor.

**RESCIND RESOLUTION 25353 AND AWARD
CONTRACT (Continued)**

On motion of Councilwoman Gaines, seconded by Councilman Franklin,
A RESOLUTION RESCINDING RESOLUTION NO. 25353, ENTITLED, "A RESOLUTION AUTHORIZING THE AWARD OF CONTRACT NO. S-07-010-201, PRIVATE SANITARY SEWER SERVICE LINE REPAIR (SLAP), TO ACTION PLUMBING IN THE AMOUNT OF ELEVEN THOUSAND THREE HUNDRED FIFTY DOLLARS (\$11,350.00), PLUS A CONTINGENCY AMOUNT OF TWO THOUSAND SEVEN HUNDRED SEVENTY-FIVE DOLLARS (\$2,775.00), FOR A TOTAL CONTRACT AMOUNT NOT TO EXCEED FOURTEEN THOUSAND ONE HUNDRED TWENTY-FIVE DOLLARS (\$14,125.00)" FOR FAILURE TO EXECUTE SAID CONTRACT AND AWARDING SAID CONTRACT TO STREET CUTS, LLC IN THE AMOUNT OF TWELVE THOUSAND TWO HUNDRED FIFTY DOLLARS (\$12,250.00), PLUS A CONTINGENCY AMOUNT OF ONE THOUSAND EIGHT HUNDRED SEVENTY-FIVE DOLLARS (\$1,875.00), FOR A TOTAL AMOUNT NOT TO EXCEED FOURTEEN THOUSAND ONE HUNDRED TWENTY-FIVE DOLLARS (\$14,125.00)

was adopted.

OVERTIME

Overtime for the week ending January 25, 2008 totaled \$10,114.70.

PERSONNEL

The following personnel matters were reported for the various departments:

PUBLIC WORKS DEPARTMENT:

- **GLENN S. KINES** – Hire, Inventory Clerk, Waste, Pay Grade 5/Step 1, \$20,650.00 annually, effective December 14, 2007.
- **DARREN J. LOQUIDICE** – Hire, Plant Maintenance Mechanic, Waste, Pay Grade 11/Step 1, \$28,010.00 annually, effective January 11, 2008.
- **DIANE E. BENTON, CARL J. FRAZIER** -- Hire, Electrical Instrument Tech, Waste, Pay Grade 12/Step 1, \$29,277.00 annually, effective January 18, 2008.

PERSONNEL (Continued)

- **CLIFFORD J. DENTON** – Hire, Plant Operator, Waste, Pay Grade 9/Step 1, \$25,474.00 annually, effective January 18, 2008.
- **BRANDON L. COX** – Hire, Crew Worker, City Wide Services, Pay Grade 3/Step 1, \$20,650.00 annually, effective January 18, 2008.
- **MICHAEL L. DAVIS** – Promotion, Automated Garbage Collection Equipment Operator, City Wide Services, Pay Grade 9/Step 6, \$31,704.00 annually, effective January 4, 2008.

CHATTANOOGA FIRE DEPARTMENT:

- **JAMES J. SMITH** – Suspension (1 day without pay, date to be determined), Lieutenant.

CHATTANOOGA POLICE DEPARTMENT:

- **DAYNA M. HIGHTOWER-COX, JOSHUA R. DOVER, JEAN M. ROGERS** – Hire, Communications Officer, Pay Grade 11/Step 1, \$28,010.00 annually, effective January 18, 2008.
- **ANDREW GADDIS** – Resignation, Police Cadet, effective January 21, 2008.
- **SCOTT AVILA, JASON IRVIN, CHRIS PHILLIPS, JEFF REARDEN** – Promotion, Sergeant, Pay Grade P2/Step 4, \$43,605.00 annually, effective January 25, 2008.
- **SCOTT BALES, RODNEY THOMPSON** – Promotion, Sergeant, Pay Grade P2/Step 3, \$41,734.00 annually, effective January 25, 2008.
- **TAMMY COOK, ANTHONY EASTER, MARK SMELTZER** – Promotion, Sergeant, Pay Grade P2/Step 1, \$37,993.00 annually, effective January 25, 2008.
- **JEFF GAINES, AUSTIN GARRETT, EVANDER LLOYD** – Promotion, Sergeant, Pay Grade P2/Step 5, \$45,475.00 annually, effective January 25, 2008.
- **CORLISS COOPER** – Promotion, Lieutenant, Pay Grade P3/Step 6, \$54,110.00 annually, effective January 25, 2008.

PERSONNEL (Continued)

- **NEALIE HOGG** – Promotion, Lieutenant, Pay Grade P3/Step 7, \$56,251.00 annually, effective January 25, 2008.
- **DANNA VAUGHN** – Promotion, Lieutenant, Pay Grade P3/Step 3, \$47,685.00 annually, effective January 25, 2008.
- **TOMMY WOODS** – Promotion, Lieutenant, Pay Grade P3/Step 5, \$51,969.00 annually, effective January 25, 2008.
- **SUSAN BLAINE, RANDY DUNN, TOMMY KENNEDY** – Promotion, Captain, Pay Grade P4/Step 6, \$60,868.00 annually, effective January 25, 2008.
- **STEVEN CRUISE** – Reinstatement, Police Officer, Pay Grade P1/Step 6, \$38,918.00 annually, effective January 25, 2008.

NEIGHBORHOOD SERVICES DEPARTMENT:

- **DENNIS TATE** – Return from Family Medical Leave, Neighborhood Relations Coordinator, effective January 21 – 28, 2008.
- **DWAIN E. REDDEN** – Hire, Code Enforcement Inspector, Pay Grade 11/Step 2, \$29,382.00 annually, effective January 18, 2008.

FINANCE DEPARTMENT:

- **ULYSTEAN OATES** – Hire, Management and Budget Analyst, Pay Grade 20/Step 3, \$43,299.00 annually, effective January 25, 2008.

PURCHASES

On motion of Councilman Franklin, seconded by Councilman Rico, the following purchases were approved for use by the Public Works Department:

STOWERS MACHINERY (Complete bid)
R0104431/B0004691

PURCHASES (Continued)

Articulated Steer Loader (*Although Stowers Machinery was not the lowest bid, the bid was complete and meets all the required specifications. Nortrax, the lowest bidder, did not meet the required specifications by choosing not to participate in the buy-back option and is considered non-responsive. Chattanooga Tractor's bid, the next lowest bidder, was considered incomplete and non-responsive for failing to include the model and size of the equipment offered.*)

\$179,957.00

REFLECTIVE APPAREL FACTORY (Fair, reasonable and meet specifications)
R0104835/B0004735

High Visibility Apparel (*The Strong Group, Inc., Stroud Safety Apparel and Safety Zone Specialists, Inc. offered lower bids; however, their bids were incomplete and considered to be non-responsive and ineligible for the award..*)

\$86,345.00

FLOTTWEG SEPARATION TECHNOLOGY, INC. (Sole source)
R0105018/B0004751

Centrifuge Parts per TCA 6-56-304.2

\$31,024.80

TENNESSEE ELECTRIC MOTOR CO. OF NASHVILLE (Sole source)
R0106291

Two (2) Utility Carts per TCA 6-56-304.6

\$14,750.00

ALLESCO (Lowest and best bid)
R0105518/B0004779

Seepex Pump Parts

\$10,750.00

EMERGENCY PURCHASE

The emergency purchase of Reconnection of Sewer Line for the Public Works Department, R0106147, to McGinnis Brothers Construction in the amount of \$19,900.00 was duly reported and signed in open meeting.

HOTEL PERMIT

On motion of Councilwoman Robinson, seconded by Councilwoman Gaines, the following hotel permit was approved:

RED ROOF INN #7162 – 7014 Shallowford Road, Chattanooga, TN

PURCHASE

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

SPECIALTY VEHICLE SOLUTIONS, LLC (Best bid)
R0102800/B0004726

Special Van (Mxros, Inc. was the lowest bidder; however, their bid was ruled non-responsive since they failed to submit the required specifications and descriptive literature of the vehicle they bid.)

\$115,400.00

REFUND

On motion of Councilwoman Robinson, seconded by Councilwoman Gaines, the Administrator of Finance was authorized to issue the following refund of stormwater fees and/or property taxes:

LAURENCE & DORIS HARWOOD \$1,094.06

PURCHASE

On motion of Councilwoman Gaines, seconded by Councilwoman Robinson, the following purchase was approved for use by the Chattanooga-Hamilton County Bicentennial Library:

HEWLETT PACKARD (City Wide Contract P0025787) R0106004

City Wide Contract for Desk Top Computers and Monitors

\$16,848.00

Councilman Pierce inquired as to whether this is funded jointly by the city and county.

Adm. Madison responded that it is funded by the city and county and comes out of the library budget.

BOARD APPOINTMENT

On motion of Councilman Franklin, seconded by Councilwoman Bennett, the following Board appointment was approved:

TAXI BOARD:

- Appointment of **ROBERT B. DOAK** for a two year term expiring January 29, 2010.

BOARD REAPPOINTMENTS

On motion of Councilman Franklin, seconded by Councilwoman Robinson, the following Board reappointments were approved:

HAMILTON COUNTY BOARD OF EQUALIZATION:

- Reappointment of **GRADY RHODEN** and **LORA DAWSON** for two year terms each expiring May 31, 2010. (Current terms for Mr. Rhoden and Mrs. Dawson expire May 31, 2008; reappointment is for June 1, 2008 – May 31, 2010).

LAWSUIT/BOND PAYMENT AUTHORIZATION

City Attorney Nelson stated last week a lawsuit against James Simmons was filed after being put on notice that funds were missing from a local golf course. He stated that a lien lease lis pendens has been filed which ties up the gentleman's property until the end of the lawsuit. He stated in order to get that a bond of \$37,500 has to be posted and he needs a motion from the Council to ratify the action on the lawsuit and authorizing payment of up to \$37,500 for the bond.

Councilman Pierce asked if Mr. Simmons has been charged criminally. City Attorney Nelson stated that he believed so.

On motion of Councilman Rico, seconded by Councilman Franklin, authorization was duly given to ratify action on the lawsuit and payment of up to \$37,500 for the bond.

ANIMAL SERVICES INQUIRY

Councilwoman Bennett stated that she was approached a week-or-so ago by Animal Services employees. She stated the transition to the new McKamey Center is being made and there are questions and concerns by that group about how their positions will transition and what will happen to them. She asked Donna Kelley to give a report on the status of that transition and what will happen to them. She stated that she knows the Humane Society part is well taken care of but wanted to be sure there is no gap in the enforcement side as the transition is made.

Adm. Kelley stated that she was curious to know if anyone has a committee assigned that she might work with within ACT.

Councilman Benson expressed an apology and stated that he did not report on the meeting; that Ms. Kelley is on top of this, as well as Dan Johnson and Chief Maffett. He stated he does not know what else can be said in open meeting; that it could be discussed in Committee. He expressed that he could guarantee there will be equity and fairness.

Adm. Kelley stated that she is working with the 911 consolidation, as well.

Chairman Page inquired as to how efforts are coming along with Segal and the Police and Fire Pension Fund.

ANIMAL SERVICES INQUIRY (Continued)

Adm. Kelley stated there was work to be completed that was not completed at the Segal level and MTAS was asked to help with that. She stated Richard Stokes has agreed and will be here on Thursday and will remain for two-and-a-half weeks to finish up the final recommendations.

Chairman Page asked if there would be an opportunity to go through the final document before any departments are dealt with.

Adm. Kelley responded "yes".

TML DISTRICT MEETING

Councilwoman Bennett stated that she attended the TML district meeting and indicated she would be placing information about upcoming legislation that directly applies to our city in Council members' mailboxes.

COMMITTEES

Councilman Benson stated that **the Legal and Legislative Committee** is scheduled to meet on **Tuesday, February 12 at 3 p.m.** He stated the agenda includes discussion about the Fire and Police Pension Board composition and the Committee might or might not be ready for more discussion regarding the Taxi Board.

Councilman Rico stated the **Public Works Committee would meet on Tuesday, February 5 at 3 p.m.**

Councilwoman Robinson reminded Council members of the meeting of the **Health, Human Services and Housing Opportunities Committee** scheduled for **Tuesday, February 5 immediately following Public Works.**

DISTRICT 9 MEETING

Councilwoman Gaines announced that the Mayor's District 9 Neighborhood meeting is scheduled for Thursday, January 31 at 5:30 p.m. in Parkridge Hospital's Community Room.

TIM GIBBONS

Atty. Tim Gibbons of Chambliss, Bahner & Stophel and residing at 160 North Crest Road, stated that he was present representing Mr. Paul Pickett, a long time resident of the Green Hills subdivision. He distributed a document detailing his concern and stated a PUD was approved over 20 years ago as detailed in the document. He stated the PUD expired by the terms of regulations in effect in 1985 and 1987 and recently, 20 years later, the PUD is under construction with a completely different plan. He stated not only is the PUD invalid, it was not filed properly initially; that it has changed so substantially that it has to also go back through the planning process. He state there are other concerns that come from the neighborhood as it is a two prong problem with what is going on; that the developer is out there trying to accomplish by means of bulldozing what he lost over 20 years ago to put something up before somebody does something about it. He expressed appreciation to the City Attorney's office and Phil Noblett for giving him the 1980 and present regulations. He stated there is a meeting tomorrow at the DRC in which it is hoped something will be accomplished; that it was felt this was a matter that should be brought before the Council as development is going on without a valid permit.

Chairman Page stated Councilwoman Robinson has been on top of this, as well as the City Attorney.

City Attorney Nelson stated that it is his thought first thing tomorrow morning some of Atty. Gibbons' fears will be assuaged as Public Works will issue -- if it has not been done already -- a stop work order. He stated there is a meeting set up tomorrow and depending on what is accomplished at that meeting will take into consideration to continue the stop work order and perhaps make recommendations to the parties.

Atty. Gibbons expressed appreciation to the City Attorney and Councilwoman Robinson and thanked the Council for hearing him.

Councilwoman Robinson asked those in attendance in support of this issue to stand and expressed appreciation for their coming and staying throughout the meeting.

Councilman Benson stated twenty years ago the Statute of Limitations on this should have some bearing as this seems unreasonable.

Chairman Page cautioned not to talk too much about this at this time.

TIM GIBBONS (Continued)

Greg Haynes stated that the original Resolution for the PUD was approved in August or September in 1985 and was not recorded or begun until two years later in 1987. He stated as far as the PUD and the subdivision plat there is a two year limitation for recording and approval but if they are not recorded they expire. He stated the first signature on the plat was on the first day and twenty-four months later the other signature needed to record was three-to-four days later.

Councilman Benson stated that some new rules should be in place; that it has the effect of speculative zoning.

Mr. Haynes stated that subdivisions are approved every month, but it was two years before this was recorded; that there are a lot of other details involving this case that will be discussed at the meeting tomorrow. He stated the developer has been contacted, representatives from the neighborhood and the staff of the RPA will be present in the hope of coming to some type of resolution, which is the purpose for the meeting.

Chairman Page expressed thanks to the neighborhood and legal counsel and noted that everyone looks forward to a resolution of the matter.

JERRY HIGHTOWER

Jerry Hightower of 6636 Declaration Drive distributed drawings and a petition signed by residents of the neighborhood of more than 100 names within the communities of Green Hills and Dale Acres. He stated that they asking the City Council and Mayor to revoke the building permit and place a moratorium on further construction. He stated as City Attorney Nelson indicated they may be in the process of that happening and pointed out that this body of government has worked with these people over the years and each time a development has come up for proposal the developer has worked closely with the neighborhood. He stated because properties on three sides are single family it is very significant to them that this new proposal has changed and the drawings distributed show how significant the changes are; that there is a three-to-four story building that has been moved back slightly. He stated the PUD specifically indicated a building had to be one story and they want to emphasize that; that the Commission at that time approved a buffer or berm that had to be 25 feet wide and the construction now has three feet. He stated that he wanted to put the issues out to have them resolved.

JERRY HIGHTOWER (Continued)

Councilwoman Bennett stated that she wondered if Councilman Rico could have PUD regulations discussed at next week's Public Works Committee meeting to talk about this situation and a similar one that is happening on the Stringers Ridge property.

PARK INQUIRY AND RESPONSE

Chairman Page stated a few weeks ago a young lady was present in reference to the constitutionality of public parks and various procedures. He stated the City Attorney has information to present at this time in that regard.

City Attorney Nelson stated that he checked with the assistant who drafted the ordinance and was advised that it was patterned very closely after the Chicago Park District's ordinance which has been upheld by the U. S. Supreme Court by unanimous decision on January 1, 2002. He stated Justice Scalia in giving his Opinion of Court went by the First Amendment and its purpose and said that in any case such as this where there is no regulation of speech based on its content the city does have a right to regulate and to which would include a fee because we need to make sure the park is kept up and authorizes more people to use the park so that one group can not come and monopolize services. He stated rather than it being an anti-speech problem it is actually pro-speech the way the U. S. Supreme Court put it. He gave the young lady the case citation in the event she would like to look at it: *Thomas vs. Chicago Park District*, 534 U.S. 316, 122 Supreme Court 775, 151 L.Ed.2d 783. He noted that the case also started in the District of Chicago which found for the Chicago Park District after an appeal to the Seventh Circuit Court of Appeals, which affirmed and was a unanimous decision by the U. S. Supreme Court, which is "pretty good authority"!

RAY WEST

Ray West stated that he is a recruiter and has contact with the Department of Children's Services for foster homes. He stated that he wanted to start the process and get input as to the best way to do that for a variance to put hard signs out for a temporary period of time to recruit foster families. He stated he is not selling anything but wondered if the city considers it an appropriate process to go through.

Chairman Page stated Richard Hutsell is the Chief Sign Inspector over signs and codes and would be the first place to start.

RAY WEST (Continued)

Mr. West stated that he understands the codes and wondered if the Council could consider this.

City Attorney Nelson stated if the Council approved this for foster families today, someone else would come in tomorrow for something else and the Council would have to determine where to draw the line.

Mr. West stated that he was trying to find homes for 60 foster children.

City Attorney Nelson suggested that Mr. West talk with Comcast or the local public television station Channel 45 and the one out of Georgia.

Mr. West stated that they utilize public television but have found yard signs to be a very effective means.

Councilman Benson stated Channel 3 has developed "Wednesday's Child" and indicated Channel 12 does not have anything; that he could talk with them and possibly do a "Wednesday's Foster Child" program.

City Attorney Nelson stated when a person puts signs in their yard it lowers the property values of homes around it.

ADJOURNMENT

Chairman Page adjourned the meeting of the Chattanooga Council until Tuesday, February 5, 2006 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)**