

**City Council Building
Chattanooga, Tennessee
July 14, 2009
6:00 p.m.**

Chairman Benson called the meeting of the Chattanooga Council to order with Councilmen Berz, Gilbert, Ladd, McGary, Murphy, Rico, Robinson and Scott present. City Attorney Michael McMahan, Management Analyst Randy Burns and Council Clerk Carol O'Neal were also present.

PLEDGE OF ALLEGIANCE/INVOCATION

Following the Pledge of Allegiance, Councilwoman Ladd gave the invocation for the evening.

MINUTE APPROVAL

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

RECOGNITION OF KENNY SMITH

Chairman Benson recognized the presence of Kenny Smith, Chairman of the Hamilton County School Board.

AMEND CITY CODE

On motion of Councilwoman Berz, seconded by Councilman Rico,
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,
CHAPTER 5, ARTICLE III, SECTION 5-48, RELATIVE TO ALCOHOLIC
BEVERAGES WITH RESPECT TO PERSONS UNDER THE AGE OF TWENTY-
ONE (21)**

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

AMEND CITY CODE/ZONING ORDINANCE

On motion of Councilman Rico, seconded by Councilwoman Berz,
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,
CHAPTER 38, ZONING ORDINANCE, SECTION 38-228, BY DELETING
SUBSECTIONS (2), (3) AND (4) AND RENUMBERING THE REMAINING
SUBSECTIONS**
passed first reading.

AMEND CITY CODE

On motion of Councilman McGary, seconded by Councilwoman Berz,
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,
CHAPTER 5, ARTICLE III, SECTION 5-108, RELATIVE TO RETAIL SALE OF
WINE**
passed first reading.

REZONING

2008-114: Mehdi Malekzadeh

Pursuant to notice of public hearing, the request of Mehdi Malekzadeh to rezone a tract of land located at 6709 Shallowford Road came on to be heard.

The applicant was present; there was no opposition.

Greg Haynes, Director of Development Services with the Regional Planning Agency (RPA), stated the request is for R-4 for a beauty salon only. He stated this matter was initially requested for rezoning in September 2008 and then deferred for Staff to do a land policy update for the Shallowford Road area. He stated the policy was done and the matter came back before Planning in June and approval was recommended based on the new policy update. The site plan was shown by PowerPoint with R-1 and R-4 properties surrounding the request. He stated the original request in September was deferred for six months until RPA updated the land use policy and once it was completed the plan supported the R-4 request, however in April of this year, the Council sent the matter back to Planning for review along with the new policy which was done in May. He stated the applicant requested deferral until June, Planning reviewed the request and recommends approval with eight conditions, noting special attention to Condition 5 which references a 10' buffer.

REZONING (Continued)

Councilman McGary inquired as to the purpose of the rear wall.

Chairman Benson stated the Planning Commission members made a site visit and the rear wall would buffer other people's back yard that come right up to this where cars would be parked. He stated if no cars are parked another wall might do.

Mr. Haynes stated the rear of all properties on the right side face Shallowford; that this would protect the residential integrity of residential properties in the area. He stated if the parking is relocated to the rear it would screen parking and other activities.

Councilwoman Robinson stated that it seems this has come back and forth between Planning and the city. She asked if Planning recommends approval following their site visit.

Chairman Benson responded "yes, we did", with the conditions. Mr. Haynes confirmed Chairman Benson's comment.

Councilwoman Berz stated the conditions reference no flashing or intermittent signs and asked why there could be neon signs but no flashing or intermittent signs.

Mr. Haynes acknowledged that was a good question and something to think about.

Councilwoman Berz inquired as to the parking.

Chairman Benson stated it would be both in front and back.

Mr. Haynes stated the site plan submitted is fairly crude; that parking is to the rear. He stated any of the properties could come up for a request in this area as the one next to this and to the left and right the same conditions would be applied due to the land use policy. He stated the neon sign is an interpretation enforcement question; that it is a good question but he does not know the answer.

Chairman Benson stated he did not think Planning intended to have flashing signs; that the brick wall in back was supposed to go with any other zoning there to the west and east.

REZONING (Continued)

Councilwoman Berz stated that she knows mixed use is important; that what she does not want this to look like is blockbusting unless it is precedent setting; that we had a meeting about this and knows there were as lot of calls about what people do not want. She stated if this is the first one, then it is going to be precedent setting and if neon is allowed, a wood fence instead of shrubbery, there are those we heard who are just waiting for that to happen so their "stuff" can go on the blockbusting, as well. She stated what she does not want to do is denigrate some of these beautiful neighborhoods as a lot of fine people have lived there for awhile.

Mr. Haynes stated initially the Staff looked at this and recommended denial as the R-4 was spot zoning in a residential area. He stated discussion was held and the street was widened which changed the character and nature of the residential strip, so it is not purely residential anymore. He stated office type uses like this are appropriate; that it may be a precedent but control is in the land use policy, control as far as details of the type of signage may not be in there as far as neon is concerned. He stated there is general control for the land and additional conditions could be added as these come up.

Councilwoman Berz wished the applicant well noting that the first and very important thing is that it is done right. She stated if the applicant wants mixed use he would have to allow people that want to keep homes to do that, not mixed use if you want to blockbust and everything goes down.

Mr. Haynes stated one reason for the condition is the exterior of the structure is to maintain the residential character to be consistent; that it is his guess what Councilwoman Berz means by blockbusting is if this guy or the next could put in a conventional office building.

Councilwoman Berz referenced parking in the back so if there is a house next door they would want to keep the same look and not have the front yard concreted in. She stated she would prefer that things be thought out.

Mr. Malekzadeh stated parking will go around the house and come from the other side; that there will be flowers and bushes in front of the house.

Chairman Benson stated Mr. Malekzadeh indicated he does not want to build a brick fence. Mr. Malekzadeh stated a privacy wall is fine with him.

Chairman Benson clarified when Mr. Malekzadeh was at the Planning Commission meeting it was said it has to be a masonry wall.

REZONING (Continued)

Mr. Malekzadeh responded that masonry is fine with him.

Chairman Benson asked Mr. Malekzadeh if he agrees to the conditions, to which Mr. Malekzadeh responded "yes".

On motion of Councilman Rico, seconded by Councilman Murphy,
AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 38, ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED AT 6709 SHALLOWFORD ROAD, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAPS AND DRAWING ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, FROM R-1 RESIDENTIAL ZONE TO R-4 SPECIAL ZONE, SUBJECT TO CERTAIN CONDITIONS

passed first reading on roll call vote:

SCOTT	"No"
ROBINSON	"No"
RICO	"Yes"
MURPHY	"Yes"
MCGARY	"No"
LADD	"Yes"
GILBERT	"Yes"
BERZ	"No"
BENSON	"Yes"

REZONING

2009-089: David Hudson

Pursuant to notice of public hearing, the request of David Hudson to rezone a tract of land located at 215 Lookout Street came on to be heard.

The applicant was present; there was no opposition.

REZONING (Continued)

On motion of Councilman Rico, seconded by Councilman McGary,
AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 38, ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED AT 215 LOOKOUT STREET, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAPS ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, FROM R-4 SPCIAL ZONE TO C-3 CENTRAL BUSINESS ZONE, SUBJECT TO CERTAIN CONDITIONS
passed first reading.

REZONING

2009-092: Kile Kim

Pursuant to notice of public hearing, the request of Kile Kim to rezone tracts of land located at 1412 and 1420 Crawford Street came on to be heard.

The applicant was present; there was no opposition.

On motion of Councilman Rico, seconded by Councilwoman Berz,
AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 38, ZONING ORDINANCE, SO AS TO REZONE TRACTS OF LAND LOCATED AT 1412 AND 1420 CRAWFORD STREET, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAPS AND DRAWINGS ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, FROM R-1 RESIDENTIAL ZONE AND R-4 SPECIAL ZONE WITH CONDITIONS TO R-4 SPECIAL ZONE, SUBJECT TO CERTAIN CONDITIONS
passed first reading.

CLOSE AND ABANDON

MR-2008-150: Vitality Livarchuk

On motion of Councilman McGary, seconded by Councilman Rico,
AN ORDINANCE CLOSING AND ABANDONING AN UNOPENED PORTION OF THE 1900 BLOCK OF EAST 21ST STREET, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAPS AND DRAWINGS ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS
passed first reading.

**PROHIBITION OF HANDGUNS IN PUBLIC
MUNICIPAL PLACES**

Councilmen Rico and Murphy made the motion and second to adopt this resolution.

Chairman Benson stated this matter has been discussed in Committee and asked the proponents and opponents in reference to this issue to come forward.

Police Chief Cooper stated our parks are a way for families and children of the city to be in a place that is safe and not have to be concerned about persons being there armed. He stated this is not in any way negative toward persons that go to the trouble of having training and proper permits to carry weapons; the reason is there is not a need. He stated this is not really a change in our city from what we already have as we already have a prohibition in those locations. He stated the Council needs to take this action tonight to keep this in accordance with new laws passed this year.

Bobby Davenport stated he is a local resident and has lived in the region his entire life. He stated he is a frequent user and lover of all facilities named in this resolution and owns a fairly large arsenal of guns and loves them! He stated he uses them all the time in hunting and has an old Korean era M-1 carbine, noting that he "has to tell you this is bad stuff" and urged the Council to thoughtfully pass this resolution. He stated he uses the parks all the time and while running Riverpark on early Friday morning he noticed a park policeman with a 9MM Glock on his side and once a bullet leaves the muzzle it cannot be called back. He stated to allow guns in any number other than what is carried by trained law enforcement officials does not make any sense to him.

Adm. Zehnder stated we currently have a prohibition we have had for many, many years, as many as 20 years that he knows of. He stated as the Chief of Police indicated and as Bobby eloquently shared with everyone, guns are great things to have and we have a right to bear arms. He stated in our parks system, with neighborhood parks being so close to homes and special events having thousands of people out there, once a bullet leaves the chamber it cannot be brought back as Bobby said. He stated with special events and performances for youth in parks throughout the city, this is a very important issue for us and we want to continue the prohibition we have had for all these years. He stated being in the park business for 35 years and in different cities he has never seen a situation where guns by citizens in a park resolved any issue.

PROHIBITION OF HANDGUNS IN PUBLIC
MUNICIPAL PLACES (Continued)

Adm. Zehnder stated our police force on the Tennessee Riverpark do not carry guns; that, in general, it just makes good sense not to encourage people to have guns in our parks, especially in neighborhood parks and special event activities. He encouraged the Council to pass this resolution and allow him to post these parks with the signs that are appropriate to prohibit guns in our parks.

Bryon Kordenbrock stated that he lives in the Ooltewah area and Tennessee has the highest permit requirements in the U. S.; that guns may keep criminals, rapists and drug dealers from carrying guns into parks and those are the people we should worry about and not law abiding citizens. He stated he moved here from California two years ago after falling in love with the area and the low cost of living, as well as the common sense approach to government, yet this is one thing he has a problem with. He stated out east there are very stringent requirements, very stringent laws against firearms, noting that it is his belief this is a second amendment issue. He stated when he and his friend go downtown they do everything -- photo shoots, walking, swing dancing -- and believes there is safety with people carrying permits, especially at night.

William Kindle of 6419 Jenkins Road stated that many present with him are actually very well trained; that he spent four years in an anti-terrorism unit and thousands of hours carrying weapons and using them. He stated many permit holders he knows have the same training who are hunters, formerly in law enforcement, former military, all with extensive skills; so should the need arise they could be used to stop the situation and are very well equipped. He stated policemen cannot be everywhere; that they do a wonderful job, however when seconds count policemen are minutes away. He stated it is his thought we would be just as safe, if not safer, allowing citizens to carry; that in his research there has never been any incidence with permit holders doing anything he could find anywhere in public that endangered anybody.

William Cato of 3205 Jocelyn Lane in Red Bank stated that he is trained in combat arms and served in the Gulf and in physical security. He stated one of the basic aspects of physical security is presence determined; that not allowing guns in parks is letting bad guys know there is no one out there by the thought people being out there with weapons can be enough to let them know this is not the best place. He expressed agreement that this is safe for children in public, however carrying guns is not something he takes lightly. He stated he has mixed feelings about this but would like the choice, which is all he is asking for -- that he would like the choice.

**PROHIBITION OF HANDGUNS IN PUBLIC
MUNICIPAL PLACES (Continued)**

Councilman Murphy thanked Mr. Cato and the other speaker for their service to our country; that it does mean a lot to everyone that they put in that time. He stated that he has four brothers and the brother in North Carolina has a concealed carrying permit. He stated that he heard some things both on record and in Legal and Legislative Committee along the sides he felt were disparaging for people with concealed carrying permits as inappropriate, also. He stated in his discussions with the several Assistant Chiefs of Police and from his position as an attorney and dealing with shooting cases, the training level these gentlemen have far exceed, as acknowledged, that requirement of the state minimum to get the permit; that training for police officers has demonstrated when getting into shooting situations that they miss more than half the time. He stated everyone in here agrees those who do go to visit a jail should not be allowed to carry firearms in; that all are not second amendment absolutists, merely a question of where the line is dawn. He stated in this case he does not believe most municipal parks in his district are appropriate places for firearms to be carried by anyone as our park rangers do not carry firearms in this city. He thanked the speakers for coming and wanted to clarify the respect he has for what they have done, noting that he understands they are not a bunch of "trigger happy yahoos" as some might have the Council believe.

Councilman Gilbert stated he has been a coach for at least 20 years and has a concern about firearms in areas as Peewee baseball, football and basketball. He stated he has seen adults fight; that people get heated over basketball games that a child receives a five dollar trophy for; that it is ridiculous but it happens. He stated if someone has a gun and gets heated to that point at a game they might do something they would regret. He stated that is one of the reasons we should not have firearms around kids as anything can happen.

Councilwoman Berz addressed Messrs. Cato and Kindle and stated how proud she was of both gentlemen and the way they served our country. She expressed thanks for their presence, noting that she does not consider either of them anything but honest to our community as it is a very delicate balancing act. She stated if we vote for this we are, in effect, not changing the law as it exists now; that she has to assume that they have not been carrying arms.

Mr. Kindle responded that they are law abiding citizens; that it would be changing the law as the state has come through and said it is allowed subject to the proceedings from individual cities.

**PROHIBITION OF HANDGUNS IN PUBLIC
MUNICIPAL PLACES (Continued)**

Councilwoman Berz asked if there has been a problem because she wrote down what the speaker said in reference to doing a lot of research and had found no incidence of problems in parks that he understands under the current law.

Mr. Kindle clarified there was not an incident with anyone at our parks or any concealed carrying permit holder doing anything rash or stupid.

Councilwoman Berz asked if he has checked out our parks. Mr. Kindle responded "yes".

Councilwoman Berz then asked if they are safe. Mr. Kindle stated there has been no incident of shootings in the parks. Councilwoman Berz noted further this was under our current ordinance. Mr. Kindle again responded "yes".

Chairman Benson stated there was an incident in the 1980's and the park policeman, Harry Wilcox, my wife's second cousin, got killed in the park with his own gun. He stated other than that he does not know of any.

Councilman Rico referenced some of the calls he received, noting he did not get that many; that it was indicated to him that we are doing the right thing. He stated some of the callers have told him he needs to take his own gun to protect his family and his response was he would not take his family anywhere that he would need to protect them with a gun! He stated there is no attempt to take away anyone's second amendment rights; that this is the safe thing for our people in our parks and we are doing the right thing.

At this point Councilman McGary "called for the question".

On motion of Councilman Rico, seconded by Councilman Murphy,
**A RESOLUTION PUSUANT TO T.C.A. SECTION 39-17-1311(d) TO
PROHIBIT HANDGUNS IN CITY PUBLIC MUNICIPAL PARKS, NATURAL
AREAS, HISTORIC PARKS, NATURE TRAILS, CAMPGROUNDS, FORESTS,
GREENWAYS, WATERWAYS, OR OTHER SIMILAR PUBLIC PLACES**
was adopted.

AGREEMENT

Councilwoman Scott stated that it is her thought one of the things that concerns her about this particular contract is that we have indication from a prior internal audit by our internal auditor on a project that preceded this one that did not go well, in which case, this particular contract was prominent in that and that is the Moccasin Bend filter press. She stated she would have difficulty voting to approve this contract with that history involved. She stated that she read the extensive audit and gathered the information where there are rebuttals to that and when she thinks about this particular contract it is her thought if she bought a home and put a roof on and it leaked would she go back to the same roofer or get another roofer. She stated this is a contract she can not support, not because the contract work does not need to be done but because she has concerns about this specific contractor.

Councilman McGary asked if it is Councilwoman Scott's belief this contractor should be stricken from the list of businesses the city does business with.

Councilwoman Scott stated that she did not think she could comment on that at this time.

Councilwoman McGary stated in reference to purchasing, is that possible or would there be difficulty to censure them.

City Attorney McMahan explained that there are two procedures; that the federal government has a debarment process and we do not have debarment in Chattanooga city government except for people who violate the anti-trust law, and if that is violated there is debarment for up to ten years; that it can not be under federal process if someone were to bid a contract and after a hearing, their name can be taken off the list of approved businesses for a period of time. He stated we do not have any such ordinance in place except for matters of violation; that the only way to keep them from permanent work is to evaluate their ability to do a specific job or someone better to do that job at a price.

Councilman McGary stated he was speaking not to confirm or disprove Councilwoman Scott's comments and asked if any discrepancies had been noticed in this contractor's work.

Adm. Leach responded that this is a professional contract and not for work like normal construction work. He stated they are very comfortable with the CTI firm; that they were involved in the filter press and we vetted also for that and knows the City Attorney can attest to that. He stated they are very confident of their abilities to do this and recommend them wholeheartedly to this Council.

AGREEMENT (Continued)

Mayor Littlefield stated in deference to what Councilwoman Scott has says the filter press was one that was a very large, complex project; that he has worked with CTI and most all of the other engineering firms in this area for more than 25 years and it is his thought everyone regrets the problems we have had with the filter press project. He stated it is finally about to be completed and the engineers at CTI worked with us, gave immediate response and brought in others to work it out. He stated CTI is a strong, ethical and confident engineering firm that he knows locally; that he has worked with them not only here but when he was in Georgia when they were brought in to oversee projects within their specialty. He stated all he would say to the Council is to employ this firm with the full knowledge they will be responsible and live up to the requirements of the contract and work out just as they have in the past.

Councilwoman Scott asked members of the Council present today if they have read the audit and if they recall the recommendation made by the auditor. She stated if they have not, the recommendation was to seek legal counsel regarding this matter; that this project that started in 2000 went on to go into three-to-four cost overruns, went into remediation and even now is just barely rumbling into action. She stated that is not a satisfactory situation and noted she has been out to look at the filter press; that it would appear in reading and looking at this it is a problem and to vote for this contract knowing what she knows is something she just ethically can not do.

Mayor Littlefield stated that he had two lawyers in his office today mainly looking at the supplier of the equipment and resolving that and they did bring in independent engineers. He stated that the project was supposed to be complete in 2003 as Councilwoman Scott said and she is very good at all these details, noting that he is not taking any exception to her or the work she has put in on this project, but it was a very expensive project and very important to what we are doing at the Wastewater Treatment Plant. He stated it was supposed to be finished in 2003 and he came into office in 2005 and it still was not finished, which ultimately led to meeting one-on-one with the company that was supposed to supply the equipment. He stated they have spent the last year and a half completing it and it did pass the test; that it finally passed all necessary tests and he would not hold CTI permanently responsible for the trouble of this project.

Councilwoman Berz inquired as to the filter press.

AGREEMENT (Continued)

Mayor Littlefield explained that it passed the 48 hour test, met all contractual requirements and fell a little short in dryness of cake. He stated there is a provision in the contract if it fell short on any specifics there would be liquidated damages back to the city. He stated it should produce a product that should qualify as a Class A bio-solid; however, it is not quite the dryness.

Councilwoman Berz stated her next question has to do with the purchase of services and asked if it was let out for bid.

Mayor Littlefield stated that was in 2000 and none of us were in our present positions back then. He stated they went through the selection process as they always have; that this was a sewer project and there are only three-to-four local firms with qualifications.

Councilwoman Berz asked of the three-or-four firms were they given equal opportunity.

Mayor Littlefield responded that they were probably given equal opportunity.

Councilwoman Berz stated the real question is what percentage of specialized work does CTI get in our city.

Mayor Littlefield responded that they would probably argue not enough of it; that it is fairly equitably divided between Arcadis, CTI and two or three other firms with different specialties; that they try to divide it up depending upon what we feel are projects they can do best based on the work in the past; that sometimes it is a joint venture.

Councilwoman Berz asked if the legal issues are settled to the Mayor's satisfaction.

Mayor Littlefield responded that they will be; that they went over the legal issue this afternoon, met the specifications and requirements and feel it has passed the test to pass contractually.

Councilwoman Berz asked if CTI was the project manager for this piece. Mayor Littlefield stated as best he can recall.

Councilwoman Berz stated even though others were involved the responsibility fell to them for things to be working right. Mayor Littlefield responded "yes"; that they still have responsibility.

AGREEMENT (Continued)

Councilwoman Berz asked if there are additional costs to the city. Mayor Littlefield stated it is more a cost to the company supplying the equipment; that they had a budget and have not gone beyond it.

Councilman Gilbert asked if there were problems with any of the projects they had done with the city before.

Mayor Littlefield stated that he did not remember any with the seriousness of this project; that he is sure they could correct it.

Councilman Gilbert asked if there are any other companies or facilities they worked for that were successful that the city knows of.

Mayor Littlefield stated all these companies can trace their heritage back to Hensley Schmidt, the old Piedmont, Olsen, Hensley Company and the old City Engineer; that the former city engineer formed his own firm that Gary and Jerry Stewart were all a part of and all sort of came from the same heritage. He stated he can not think of any other engineering firms as all were from the same heritage. He stated he does not see anything that makes him permanently mad at people at CTI; that they had trouble and worked it out and were willing and able to do that. He stated we continue to use them in the other projects and have no doubt they will be successful in this project. He stated these projects are not as complex as the filter press; that they were basically inventing a process and system that did not exist and there are only a few projects of that nature in the world.

Councilwoman Robinson stated in dealing with the time line in 2000 how did the malfunction "come to light".

Mayor Littlefield responded that he realized it when he came into office; that it took a little while to work our way through how we were going to handle it and divide pieces of the project. He stated Stan did a very complete audit on the whole contract which laid out responsibility and we have followed that audit; that they brought in an outside engineering firm, noting that the firm met with the Council last week on another project. He stated the firm has a local office and separate attorneys were employed to work out matters of contract. He stated that they stepped up and said "yes" they would do it and put people to work full time, took machines apart and gave a specified time to get it working.

Councilwoman Robinson stated absent the audit, when were we made aware the system was not working.

AGREEMENT (Continued)

Mayor Littlefield responded for a year it was just sitting there; that large pieces of machinery were not working. He stated it is important to go back to our Green Initiative; that up until we got the sludge system working to the degree it is, 20 years ago there was a similar situation with the sludge system involving Rand Corporation which was, at the time, one of the largest companies; that the centrifuge was not working. He stated when he was Public Works Commissioner he had to have some process to get that system up and working and it is still part of the process out there today. He stated he does not hold CTI responsible for all of the problems of this nature; that it was a very difficult project and they stayed with us and helped work around to get it resolved.

Councilman Rico stated this could be "hashed out" all night; that everyone has had a chance to speak and "called for the question".

Chairman Benson asked if CTI has been paid in full for this job.

Adm. Leach responded that they are holding back over one million dollars.

Chairman Benson asked if that is part of the litigation.

Mayor Littlefield stated there is no litigation, right now.

Chairman Benson asked if it has been settled out of court.

Mayor Littlefield stated that has been the intention all along and are succeeding at that.

City Attorney McMahan stated they have settled subject to them liquidating damages.

Chairman Benson stated in all fairness to the Mayor, when he (Littlefield) was on the Council CTI did nearly all the business out there and not since he became Mayor.

Mayor Littlefield stated that they split it up between Arcadis and CTI; that they kept "sharpening the pencil" and doing their best work!

Councilwoman Scott stated that she would like to take exception to the idea there has not been additional money spent with regard to this when it did not work; that the money was borrowed initially and when you borrow money you pay interest on borrowed money initially as it is used.

AGREEMENT (Continued)

Councilwoman Scott stated the money has been spent and it is equivalent to building a house and never getting to move in but you are still paying on the house. She stated in addition, she would think any contractors brought into this probably did not go in and do it pro bono; that it is a multi-million dollar project but has not gone well. She stated there is a lot of blame to go around and does not change her comment made earlier.

Councilman Rico "called for the question" again.

On motion of Councilman Rico, seconded by Councilwoman Ladd,
A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS AND THE INTERCEPTOR SEWER SYSTEM TO ENTER INTO AN AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES FOR THE NEW EASTGATE PUMP STATION AND FORCE MAIN PROJECT, CONTRACT NO. W-09-008 WITH CTI ENGINEERS, INC., IN AN AMOUNT NOT TO EXCEED TWO HUNDRED FIVE THOUSAND DOLLARS (\$205,000.00)

was adopted; Councilwoman Scott voted "no"; Councilwoman Berz abstained.

AGREEMENT

On motion of Councilman Rico, seconded by Councilwoman Ladd,
A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS AND THE INTERCEPTOR SEWER SYSTEM TO ENTER INTO AN AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES FOR THE UPGRADE OF THE SOUTH CHICKAMAUGA CREEK PUMP STATION AND FORCE MAIN PROJECT, CONTRACT NO. W-09-006 WITH CTI ENGINEERS, INC., IN AN AMOUNT NOT TO EXCEED ONE HUNDRED EIGHTY THOUSAND DOLLARS (\$180,000.00)

was adopted; Councilwoman Scott voted "no"; Councilwoman Berz abstained.

"OFFER TO PURCHASE"

On motion of Councilman McGary, seconded by Councilwoman Ladd,
A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AND EXECUTE AN "OFFER TO PURCHASE" RELATIVE TO TRACT 19 OF THE ENTERPRISE SOUTH INDUSTRIAL PARK AND TO EXECUTE DEEDS AND OTHER NECESSARY CLOSING DOCUMENTS CONVEYING SAID PROPERTY TO GESTAMP NORTH AMERICA, INC. OR ASSIGNS

was adopted.

GRANT

On motion of Councilman McGary, seconded by Councilwoman Robinson,
A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO APPLY FOR AND, IF AWARDED, ACCEPT A GRANT FROM THE LYNDBURST FOUNDATION IN AN AMOUNT UP TO AND INCLUDING FIFTY-TWO THOUSAND EIGHT HUNDRED TWENTY-FIVE DOLLARS (\$52,825.00) TO PERFORM THE CITY GREEN ANALYSIS FOR THE CITY OF CHATTANOOGA
was adopted.

CHANGE ORDER

On motion of Councilman Rico, seconded by Councilman Gilbert,
A RESOLUTION AUTHORIZING THE EXECUTION OF CHANGE ORDER NO. 2, RELATIVE TO CONTRACT NO. W-07-004-401, CONSTRUCTION INSPECTION SERVICES WITH DENNIS SMITH, WHICH CHANGE ORDER INCREASES THE CONTRACT AMOUNT BY THIRTY THOUSAND DOLLARS (\$30,000.00), FOR A REVISED CONTRACT AMOUNT NOT TO EXCEED TWO HUNDRED TEN THOUSAND DOLLARS (\$210,000.00)
was adopted.

CONTRACT

On motion of Councilman Rico, seconded by Councilman McGary,
A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A MAINTENANCE CONTRACT WITH THE TENNESSEE DEPARTMENT OF TRANSPORTATION FOR FISCAL YEAR 2009-2010, RELATIVE TO THE STATE REIMBURSING THE CITY FOR MAINTENANCE WORK ON STATE HIGHWAYS ROUTED THROUGH THE CITY
was adopted.

CONTRACT

On motion of Councilman Rico, seconded by Councilwoman Ladd,
A RESOLUTION AUTHORIZING THE AWARD OF CONTRACT NO. E-04-036-202, ENTERPRISE SOUTH ROADWAY EXTENSION PHASE 1B TO EAST TENNESSEE GRADING, INC. IN AN AMOUNT NOT TO EXCEED NINE HUNDRED THIRTY-FIVE THOUSAND THREE HUNDRED SEVENTY-FOUR AND 51/100 DOLLARS (\$935,374.51)
was adopted.

CONTRACT

On motion of Councilman McGary, seconded by Councilwoman Ladd,
A RESOLUTION AUTHORIZING THE DEPARTMENT OF NEIGHBORHOOD SERVICES AND COMMUNITY DEVELOPMENT TO ENTER INTO A CONTRACT WITH THE CHATTANOOGA CONVENTION CENTER FOR AN AMOUNT NOT TO EXCEED FORTY THOUSAND DOLLARS (\$40,000.00) FOR THE 11TH ANNUAL NEIGHBORHOODS AND CODES CONFERENCE SCHEDULED FOR OCTOBER 22-23, 2009
was adopted.

DECLARE SURPLUS

MR-2009-110: City of Chattanooga c/o Dan Thornton

On motion of Councilman Rico, seconded by Councilman Gilbert,
A RESOLUTION DECLARING SURPLUS (33) PARCELS, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO, AND AUTHORIZING THE DIRECTOR OF GENERAL SERVICES TO EXECUTE A DEED AND OTHER CLOSING DOCUMENTS TO TRANSFER SAID PARCELS TO THE CHATTANOOGA-HAMILTON COUNTY HOSPITAL AUTHORITY, SUBJECT TO REVERSION IF A STIMULUS GRANT IS NOT APPROVED
was adopted.

OVERTIME

Overtime for the week ending July 9, 2009 totaled \$6,411.95.

PERSONNEL

The following personnel matters were reported for the following department:

CHATTANOOGA POLICE DEPARTMENT:

- **MICHAEL FAVORS** – Family Medical Leave, Police Officer, effective June 27 – September 19, 2009.
- **GAY SHETTER** – Resignation, School Patrol Officer, effective July 6, 2009.
- **ERIC JONES** – Military Leave, Police Officer, effective July 1, 2009 – July 1, 2010.

NOTE OF THANKS!

Councilman Murphy acknowledged Adm. Zehnder on how wonderful it was for the Triathlon to take place using our Waterfront and the economic impact Chattanooga received. He stated the numbers were over \$90,000 in economic impact for that one event alone! He stated as a member of the Board and a member of the Chattanooga Track Club he wanted to express thanks; that it was a wonderful event this year.

Adm. Zehnder expressed thanks and stated that the event was great; that the Chattanooga Track Club and Outdoor Chattanooga helped put this on and did an extraordinary job. He stated that he knows it was an inconvenience to some businesses downtown and they would hear from them, yet, generally, all are in favor and happy with the amount of economic impact that was spent at their business. He stated this past year they had 300-400 new participants in this event which is continuing to grow.

Chairman Benson stated that he received a call from the Associated Press out of Knoxville saying that Murfreesboro has been told they had to prohibit guns in their parks and if they did not they would lose the "Spring Fling" and it would come to Chattanooga.

Adm. Zehnder stated that they put in a bid for "Spring Fling", got a letter and it seems to be very possible for Chattanooga; that he hopes they will choose Chattanooga as they are pushing for it!

HOTEL PERMITS

On motion of Councilwoman Robinson, seconded by Councilman McGary, the following hotel permits were approved:

HAMPTON INN – 1920 Hamill Road, Hixson, TN

RED ROOF INN – 7014 Shallowford Road, Chattanooga, TN

DONATION

Chief Williams duly reported the donation of \$2,000.00 from Tactical Electronics to be used to pay for training ammunition and equipment to help the SWAT Team prepare and compete in the Tactical World Cup SWAT Competition in November.

SUMMIT OF SOFTBALL OPENING

Dan Johnson reminded Council members that the Mayor is scheduled to dedicate the Summit of Softball on Friday at 4 p.m. and everyone is invited!

BOARD RE-APPOINTMENTS/APPOINTMENT:

On motion of Councilman Rico, seconded by Councilman Murphy, the following Board appointments were approved:

TRANSPORTATION BOARD:

- Re-appointment of *J. BARTLETT QUINN* and *TERRY HART* for a three year term expiring April 1, 2012.

STORMWATER REGULATIONS BOARD:

- Appointment of *BARRY PAYNE* for a three year term expiring July 14, 2012.

PURCHASES

On motion of Councilwoman Robinson, seconded by Councilman Rico, the following purchases were approved for use by the various departments:

GENERAL SERVICES:

MHC KENWORTH (Best bid)
R0124800/B0006019

Purchase of Refuse Recycling Collection Trucks

\$440,762.19

PHILADELPHIA ELECTRICAL EQUIPMENT (Single source)
R0124770

Purchase of a Used Natural Gas Generator per TCA 6-56-304.6

\$38,446.00

PURCHASES (Continued)

MAYOR'S OFFICE, INFORMATION SERVICES:

ACS GOVERNMENT SYSTEMS (Single source)

R0124852

Purchase of Annual Software and Maintenance Agreement for Banner Financial Software System per TCA 6-56-304.2

\$63,150.13

RESCIND CONTRACT/CANCEL REQUISITION

On motion of Councilwoman Robinson, seconded by Councilman Rico, the request to rescind contract and cancel R0116316/B0005676/P0032102 for General Services to Harry Lewis Chrysler in the amount of \$19,186.00 was duly approved. A new requisition will be created with specification standards which will promote greater competition with definite delivery schedules.

NORTHPOINT BOULEVARD RIBBON CUTTING

Adm. Leach stated they have been working for quite awhile on the Northpoint Boulevard bypass from Hamill Road to Hixson Pike, which will open up the back end of Northgate. He stated the dedication is scheduled for Wednesday at 11 a.m. and all are invited. He quipped that it would not be as festive as Larry Zehnder's event as they are under budget constraints!

Chairman Benson expressed thanks to Adm. Leach for the little bit of work on Igou Gap; that it involved no more than 50 feet, however, it looks good.

ANNEXATION BRIEFING

City Attorney McMahan stated that he has asked permission from Councilman Murphy to appear before the Legal and Legislative Committee on next week to explain the process of annexation. He stated the briefing is not for purposes of discussion for any particular area of town, but to explain how it is supposed to be done if it is decided to do any annexations.

ANNEXATION BRIEFING (Continued)

Chairman Benson stated Legal and Legislative used to meet every single week and they were able to keep up with things. He stated two years ago someone said they were meeting too much and should meet every other week.

Councilwoman Robinson suggested that Councilman Murphy could schedule Legal and Legislative as often as there is a need to call a meeting.

Councilman Murphy announced beginning the second week of August, until we get through the backlog, the Committee would meet weekly.

2009-2010 BUDGET

Councilman McGary asked for an update on creating the budget for the fiscal year, as well as the timeline.

Mayor Littlefield responded that the budget is 95 percent complete and assured Council members they have not been dragging their feet! He stated they are waiting on the county to get through with the reappraisals and gotten that down to where they think is adequate. He stated he, along with Daisy Madison and Dan Johnson, have had conversations last week and this week about options for making the final adjustments to the budget. He stated they are not trying to keep anything away from the Council as it should be complete for final decision and adjustments the Council wishes to make very soon.

COMMITTEES

Councilman Murphy reminded Council members of the meeting of the **Legal and Legislative Committee scheduled for Tuesday, July 21 immediately following the agenda session** to discuss various *Code* amendments, the street renaming policy, taxi regulations and the annexation briefing as the City Attorney has referred to us. He stated the briefing is general information for the Council for educational purposes in the event there were any annexations we would consider. He stated there may be one or two other matters added and written documentation would be available to the public.

NEXT WEEK'S AGENDA: JULY 21, 2009

The agenda for next week, July 21, 2009, is spread below:

Special Presentations.

2009 WORLD CHANGERS – VANESSA JACKSON

Ordinances - Final Reading:

a) An ordinance to amend Chattanooga City Code, Part II, Chapter 38, Zoning Ordinance, Section 38-228, by deleting subsections (2), (3), and (4) and renumbering the remaining subsections.

b) An ordinance to amend Chattanooga City Code, Part II, Chapter 5, Article III, Section 5-108, relative to retail sale of wine.

c) 2008-114 Mehdi Malekzadeh (R-1 Residential Zone to R-4 Special Zone.) An ordinance to amend Chattanooga City Code, Part II, Chapter 38, Zoning Ordinance, so as to rezone a tract of land located at 6709 Shallowford Road, more particularly described herein and as shown on the maps and drawing attached hereto and made a part hereof by reference, from R-1 Residential Zone to R-4 Special Zone. **(Not recommended for approval by Planning.)**

2008-114 Mehdi Malekzadeh (R-1 Residential Zone to R-4 Special Zone.) An ordinance to amend Chattanooga City Code, Part II, Chapter 38, Zoning Ordinance, so as to rezone a tract of land located at 6709 Shallowford Road, more particularly described herein and as shown on the maps and drawing attached hereto and made a part hereof by reference, from R-1 Residential Zone to R-4 Special Zone, subject to certain conditions. **(Recommended for approval by Planning.)**

d) 2009-089 David Hudson (R-4 Special Zone to C-3 Central Business Zone.) An ordinance to amend Chattanooga City Code, Part II, Chapter 38, Zoning Ordinance, so as to rezone a tract of land located at 215 Lookout Street, more particularly described herein and as shown on the maps attached hereto and made a part hereof by reference, from R-4 Special Zone to C-3 Central Business Zone. **(Not recommended for approval by Planning.)**

2009-089 David Hudson (R-4 Special Zone to C-3 Central Business Zone.) An ordinance to amend Chattanooga City Code, Part II, Chapter 38, Zoning Ordinance, so as to rezone a tract of land located at 215 Lookout Street, more particularly described herein and as shown on the maps attached hereto and made a part hereof by reference, from R-4 Special Zone to C-3 Central Business Zone, subject to certain conditions. **(Recommended for approval by Planning.)**

NEXT WEEK'S AGENDA: JULY 21, 2009 (Continued)

- e) 2009-092 Kile Kim (R-1 Residential Zone and R-4 Special Zone with conditions to R-4 Special Zone.) An ordinance to amend Chattanooga City Code, Part II, Chapter 38, Zoning Ordinance, so as to rezone tracts of land located at 1412 and 1420 Crawford Street, more particularly described herein and as shown on the maps and drawings attached hereto and made a part hereof by reference, from R-1 Residential Zone and R-4 Special Zone with conditions to R-4 Special Zone. **(Not recommended for approval by Planning.)**

2009-092 Kile Kim (R-1 Residential Zone and R-4 Special Zone with conditions to R-4 Special Zone.) An ordinance to amend Chattanooga City Code, Part II, Chapter 38, Zoning Ordinance, so as to rezone tracts of land located at 1412 and 1420 Crawford Street, more particularly described herein and as shown on the maps and drawings attached hereto and made a part hereof by reference, from R-1 Residential Zone and R-4 Special Zone with conditions to R-4 Special Zone, subject to certain conditions. **(Recommended for approval by Planning.)**

- f) MR-2008-150 Vitality Livarchuk (Abandonment). An ordinance closing and abandoning an unopened portion of the 1900 block of East 21st Street, more particularly described herein and as shown on the maps and drawings attached hereto and made a part hereof by reference. (Not recommended for approval by Planning or Public Works.) (Recommended for deferral by Staff.)

MR-2008-150 Vitality Livarchuk (Abandonment). An ordinance closing and abandoning an unopened portion of the 1900 block of East 21st Street, more particularly described herein and as shown on the maps and drawings attached hereto and made a part hereof by reference, subject to certain conditions. (Recommended for approval by Planning and Public Works.)

Ordinances – First Reading:

Resolutions:

- a) **A resolution authorizing the Administrator of the Department of Education, Arts & Culture to execute a License Agreement with Eastgate Town Center, LLC, for temporary use of certain facilities located at 5600 Brainerd Road, Eastgate Town Center, for the operation of the Eastgate Senior Activity Center from July 1, 2009 to June 30, 2010, at no cost. (Revised.)**
- b) A resolution authorizing the Administrator of the Department of Parks and Recreation to enter into an Encroachment Agreement with Chattanooga Gas Company to use an area over the City of Chattanooga Transmission Line #1 adjacent and parallel to the east side of North Hawthorne Street in Hamilton County.

NEXT WEEK'S AGENDA, JULY 21, 2009 (Continued)

- c) A resolution authorizing the execution of Change Order No. 2 (Final) relative to Contract No. W-02-004-201, Shallowford Road Sewer Relocation Contract, with Mayse Construction, Inc., which change order decreases the contract amount by \$14,470.08, for a revised contract amount not to exceed \$370,529.92.

- d) **A resolution authorizing the Administrator of the Department of Parks and Recreation to enter into an agreement with Tennessee Valley Railroad Museum (the "Railroad Museum") to develop and construct improvements and signalization at the railroad crossing at Holtzclaw Avenue and the entrance to Warner Park, including labor and materials, in an amount not to exceed \$75,000.00, with the remainder of the cost to be paid to the Railroad Museum by Friends of the Zoo. (Added by permission of Council Chair Benson.)**

ADJOURNMENT

Chairman Benson adjourned the meeting of the Chattanooga Council until Tuesday, July 21, 2009 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)