

**City Council Building
Chattanooga, Tennessee
November 10, 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 Robinson gave invocation.

MINUTE APPROVAL

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

ANNEXATION AND PLAN OF SERVICES: AREA 9B

Chairman Benson clarified this is area 9B which is mainly on the main highway involving commercial property.

In referencing the map, City Attorney McMahan stated it is the property to the north of the triangle or Y-shape.

Tamara Woodard Henderson came forward to speak in opposition.

Chairman Benson clarified that this area is north of the interstate and not near the Summit landfill.

Ms. Woodard stated that she has been told it is from I-75 to Old Lee Highway. She stated that she received something from her daughter this afternoon and was asked to provide a copy to the Council. At this point she read a letter from her daughter, Ash-Lee Woodard Henderson, which has been spread upon the minutes below:

Dear Councilpersons: It is with deepest regrets that I type this letter. I am sure that those of you who know me or my family, know that to the Woodards and our extended family of community members in Summit, education comes first, so I will be fulfilling that commitment and staying in Johnson City where I attend school at East Tennessee State University. I wish I could be there with you, so that I could better explain to you why not annexing Summit is so important to me and answer any questions you may have.

ANNEXATION AND PLAN OF SERVICES: AREA 9B
(Continued)

I have been following the news on the annexation plans for Summit online and reading the responses that my fellow Chattanoogaans have been posting. I have read that Summit is a "cesspool" of drug selling social deviants. I have read that the property in Summit is more important and valuable than the people in Summit. Stereotypes of the people who live in Summit have troubled me. Let me give you my perspective of Summit:

I am a fifth generation descendent of strong men and women who lived and flourished in Summit. I grew up there, raised by my mother, my grandmother, who spent most of her adult life cleaning the houses of wealthy people who lived on Lookout Mountain, my grandfather, who dedicated his life to educating young people in Chattanooga schools, and my community who protected and nourished me and educated me about the history of "our Summit". It is there that I learned what family and community mean. It was in Summit that I learned to appreciate nature and our connection with the earth. It is there that I learned that hard work yields great benefits. It is in Summit where I learned that education and privilege come with a responsibility to give back to the people who helped create the person you are and sacrificed for you to grow into that person.

I absolutely understand every possible reason as to why Chattanooga would want to have Summit for itself, but I do not think the Council and Mayor Littlefield have fully digested what will happen to Summit if you all decide to annex. I can promise you that families in Summit who have been there as long as mine, but have not had access to all of the opportunities my family has had, will not be able to afford the property taxes on their property—which would increase in value because of the sprawl and development from the city. After spending 5, 6, 7 generations in Summit, these beautiful people will be forced by circumstances to leave the only homes, the only community, the only family they have ever known. Sure jobs and property values will increase, but at what costs? The costs would be the destruction of a community, a Summit family. It is not a stretch by any means to believe that the actions taken by the city of Chattanooga will have negative impacts on Summit. Let us look back to when the city decided to put their landfill in Summit. The toxins and pollutants from the city's trash polluted our water systems in Summit. The methane from the dump is inhaled by Summit community members who live adjacent to the dump. Our families' cemetery is right below the dump, so that even when mourning or spending time remembering our loved ones who have passed on, we are constantly reminded of how much the city cares about our well being. Although it has not been studied, people in Summit have believed for decades that the landfill is to blame for the alarming number of people from Summit who have been diagnosed with and who have died from various forms of cancer. If the City of Chattanooga indeed annexes Summit, a study on the impacts of the Summit landfill on the health of Summit residents should be something that the municipality pays for and insures takes place.

What in your own circle of life would you never allow a person to put a monetary value on? For me, it is my community, my family, my birthright, my Summit. As my family and the other wonderful families of Summit usher in the 6th generation of young people born and raised in Summit, I beg of you to give us an opportunity to continue our way of life. I beg of you to not take action that will lead to the destruction of my community.

ANNEXATION AND PLAN OF SERVICES: AREA 9B
(Continued)

I beg of you to question the stereotypes you hear of when speaking of Summit, and when you hear them, tell them about me, a Summit raised East Tennessee State University Buccaneer with over a 3.0 GPA who intends to graduate in May 2010, come back and continue to strengthen her community in Summit.

I thank you in advance for considering your impact on my community. Sincerely, Ash-Lee Woodard Henderson

Chairman Benson stated there was reference in the letter about the landfill and other things that are not in proximity.

Mayor Littlefield responded "right", that we have all been familiar with the Woodard family and their long proud history in the Summit area. He stated nothing we are proposing to do will take any right of land ownership from this; that this is the property that has been bisected by the negotiation of the existing interchange presently being extended over to Enterprise South and the Volkswagen site; that the next extension will connect across this tract to be annexed to Apison Pike.

Ms. Woodard stated there are over 50 families that will be impacted.

Mayor Littlefield stated no matter what jurisdiction this is in it is going to be developed and we can not make progress go away in this case.

Councilman McGary asked the Mayor to address Ms. Woodard's concerns about capping of the landfill and other health issues.

Mayor Littlefield stated the landfill has been capped over a number of years; that \$10 million was spent in building the softball complex right there at the foot of the landfill. He stated the landfill is constantly monitored for any type of lime or leachate or fluids in the landfill or any possible migration of methane gas.

Ms. Woodard spoke almost inaudibly from a distance and stated in addressing the methane gas it is not working properly.

Mayor Littlefield stated we are managing all of that and has discussed all of that with the Council. He stated the landfill has been in the city for a couple decades.

ANNEXATION AND PLAN OF SERVICES: AREA 9B
(Continued)

Councilwoman Berz stated she has heard Ms. Woodard say on several occasions that the annexation somehow would take the property from her family and she needs help in understanding that.

Ms. Woodard continued to speak almost inaudibly from a distance and stated if Councilwoman Berz has been in the area people do not have transportation; that they are good, country folk and do not come to town period because that is not what they do. She stated they get phone calls when they hear of their problems because her family and parents were very concerned and her grandparents were very involved with people in the community. She stated they get phone calls saying "pray for me" because they will not be able to pay the taxes, can not pay for the sewers and they take that as a great responsibility when those people come to them and say they can not afford it; that they try to go in their pockets to help these people keep their land.

Councilwoman Berz stated in reviewing some of the minutes she has heard Mrs. Woodard say on several occasions she has been there through five generations and their way of life and all of this will change because they will be deprived of their land; that Ms. Woodard is not talking about herself but talking about some other folks that live in the area.

Ms. Woodard responded inaudibly distantly that she was talking about people in the community.

Councilman Gilbert stated he wanted to clarify that Ms. Woodard was referring to people like the Witherows, the McPhersons and families up there that not only can not pay taxes but can not afford to renovate their homes based on the city's standards. He stated if they are annexed they are looking at land being taken, that is what she is referring to.

Mayor Littlefield stated as far as renovations, when they are annexed into the city most likely they will qualify for an urban development action grant and assistance to various housing programs the city offers should they choose to remain there. He stated right now the County does not have the same capabilities.

Councilwoman Berz asked when an area is annexed, are they grandfathered-in or are the repair requisites retroactive. She stated she is trying to figure out how the mere fact of annexation, other than taxes, if property is indeed worth much and apparently . . .

ANNEXATION AND PLAN OF SERVICES: AREA 9B
(Continued)

Mayor Littlefield stated the appraised value of the property is established by the county and once the extension of the interchange to Apison Pike takes place very likely, whether in the city or county, the appraised value of that property will rise dramatically. He stated he has had the unfortunate opportunity over the years to talk to people in the Hamilton Place area and others, when progress of this nature is occurring simply saying we wish it would go away will not make it go away. He stated they would be powerless and the county is powerless to say we are not going to build this extension to the interchange. He stated the design and the right-of-way is being acquired and it is just a matter of a very short amount of time before this area will change dramatically. He stated the Council will remember the issue around Hamilton Place and the Bonds Terrace area that held out for awhile and eventually sold out; that he “feels” for the people who have long ties to their land, but people in the Pinewood Drive area and other places where progress has come should hold out for a price and make sure when they sell the price is appropriate for them. He stated we can not make progress go away.

On motion of Councilman Rico, seconded by Councilwoman Ladd,

AN ORDINANCE ADOPTING A PLAN OF SERVICES AND EXTENDING THE CORPORATE LIMITS OF THE CITY OF CHATTANOOGA, TENNESSEE, TO ANNEX CERTAIN TERRITORY CONTIGUOUS TO THE PRESENT CORPORATE LIMITS OF THE CITY OF CHATTANOOGA KNOWN AS AREA 9B, BEING CERTAIN PARCELS ADJACENT TO OLD LEE HIGHWAY AND APISON PIKE WITHIN THE URBAN GROWTH BOUNDARY OF THE CITY OF CHATTANOOGA, IN HAMILTON COUNTY, TENNESSEE, AS SHOWN BY THE ATTACHED MAP

passed second and final reading; **on roll call vote:**

SCOTT	“No”
ROBINSON	“Yes”
LADD	“Yes”
GILBERT	“No”
BERZ	“Yes”
RICO	“Yes”
MCGARY	“Yes”

ANNEXATION AND PLAN OF SERVICES: AREA 9B
(Continued)

MURPHY "Yes"

BENSON "Yes"

REZONING

2009-122: Kim Helton

Chairman Benson made the request to move Ordinance (g) forward on the agenda without prejudice.

Pursuant to notice of public hearing the request of Kim Helton to rezone part of a tract of land located at 7230 Noah Reid Road came on to be heard.

The applicant was present.

Greg Haynes, Director of Development Services with the Regional Planning Agency (RPA) stated that the applicant has requested that the matter be withdrawn.

Chairman Benson asked those in objection to this request to stand; a few persons stood at this point.

On motion of Councilwoman Robinson, seconded by Councilwoman Berz,
AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 38, ZONING ORDINANCE, SO AS TO REZONE A PART OF A TRACT OF LAND LOCATED AT 7230 NOAH REID ROAD, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO R-T/Z RESIDENTIAL TOWNHOUSE/ZERO LOT LINE ZONE, SUBJECT TO CERTAIN CONDITIONS

was withdrawn at the request of the applicant.

AMEND CITY CODE

On motion of Councilman Murphy, seconded by Councilman McGary,
AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 38, ZONING ORDINANCE, SECTIONS 38-2, 38-361, 38-363, 38-365 THROUGH 38-368, AND 38-378, TO UPDATE FLOOD REGULATIONS

passed first reading.

AMEND CITY CODE

Councilwoman Robinson stated something about this feels like a “slippery slope” to her; that we have neighborhoods that are really fragile that have worked very, very hard to achieve the R-1 down zoning regulations. She stated she is speaking specifically of neighborhoods like Highland Park, North Chattanooga and others; that it is her thought this could potentially undermine neighborhoods as it has unintended consequences. She stated having sat on the Council through many years of listening to the countless volunteers working on behalf of communities to have R-1 status, at the end of the day this really worries her and is not going to be able to support it.

Councilman McGary echoed Councilwoman Robinson’s concerns; that it places the Council in a very tenuous position to decide which structures to allow the three-or-four unit dwellings within the R-1 zone. He stated currently we allow those two unit dwellings to provide special exception and thinks those have also been a cause of great concern. He expressed regret he can not support the ordinance as is.

Councilwoman Berz expressed agreement with her colleagues, noting that it puts the Council in a very difficult position, even when we were accused at one point of being discriminatory with some we had approved for some reason and others we did not. She expressed regret she would have to vote against this.

Councilwoman Scott stated her thoughts echo those she just heard and could not have said it any more eloquently that Council members have.

Councilman Murphy stated he would like to point out we already have this special exception process for duplexes and it has been used very, very sparingly. He addressed Mr. Haynes and stated the alternative to special exceptions permits is construction as to three-or-four unit dwellings, originally, then went through downzoning in the area and lost its grandfather status. He stated the possible outcome of that structure as he sees it, is for the owner to leave it boarded and vacant and continue to depreciate it for 27½ years off of their taxes, to bulldoze it, in which case they would lose the tax advantage, so that is unlikely to happen, or to renovate it into a single family dwelling which may be economically viable in some areas, while in others the cost of renovation would exceed the value of the end product. He asked Mr. Haynes if this is his estimation as a Planner.

AMEND CITY CODE (Continued)

Mr. Haynes responded "it is"; that those options are correct, and maybe an additional option depending upon the size of the lot; that if they wanted to, if there is enough lot area, they may re-subdivide into two-or-three or how many it could accommodate and sell it off that way as a fourth option.

Councilman Murphy stated the purpose of the special exceptions permit is to protect neighborhoods that have been downzoned because if we are presented with someone that can convince this Council that the alternative to allow them to reopen the use should apply, the only alternative we have would be to return it to compliant zoning and asked if that were correct. Mr. Haynes responded "correct".

Councilman Murphy continued by stating zoning spreads organically, one zone touches another zone and before we know it the adjacent property owner also wants the same zoning as is next door. Mr. Haynes again responded "correct".

Councilman Murphy stated in fact by denying this, if that is what we do, we could be defeating in the end the purpose of downzoning in the first place.

Mr. Haynes stated that he would like to point out that is the reason for the special permit which is to try to avoid spot zoning. He stated the neighborhood where this was first used was Highland Park, and the purpose for the creation was the neighborhood supported the special permit approach for a duplex, so they would not have to rezone a spot zone on the street whether an R-1 or R-2 mixture. He stated what this does is allow the same consideration for triplexes and quadriplexes.

Councilman Murphy asked Mr. Haynes in his experience has the already existent special permit for R-2 received broad application across the community; whether there has been many approved.

Mr. Haynes responded "no"; that one was approved in Highland Park and it is his thought there have been upward of five requests and some five-or-six at one time. He stated out of the five-or-six requests there has only been one approval for the duplex special permit.

Chairman Benson asked how long the special exceptions permit has been in existence. Mr. Haynes responded close to a year-a-a-half or two.

AMEND CITY CODE (Continued)

Chairman Benson stated as s point of information as he looks upon that and this one too, is it a de facto spot zone; whether it could be challenged as a de facto spot zone.

City Attorney McMahan stated he is sure; that an attorney would make that argument.

Councilman McGary stated that he wanted to respond to Councilman Murphy in regard to the notion it places the Council in a very tenuous position as to being the final determinant as to whether these units seeking special permits should, in fact, receive that. He stated in that one instance where this has been successful it was a community that come out in full force and was able to be of great aid to determining whether or not the structure should receive the special exceptions permit. He stated if any number of people come inside this chamber, 15-20 people, it is difficult for the Council to know if it is truly a cross section of the community or just 10-15 people who are really upset or truly supportive. He stated without some sort of normative guide or standard we are able to know what truly is the neighborhood's opinion or will, we do run the risk of being accused of being arbitrary or approving some for one reason and disapproving others for another. He stated he does not believe that is a position he would like to be in or one the Council would be interested in being in, as well.

Councilwoman Berz expressed that she would have to disagree, as well, noting that she did not like being held hostage if "you don't agree to do it my way I can bulldoze or take the 27 year tax deduction" or all these other sorts of things. She stated what she is really into is protecting neighborhoods; that there are a number of neighborhoods that have been downzoned for good reason to R-1 and to try -- as the Chair says a de facto spot zone because that is pretty much what it is -- to do that and use that as an argument that if we do not do that as something else will happen and holding her hostage, there is no way she can vote for that.

Councilman Murphy stated he wanted to be clear those are not his points of argument, those are the legal facts the tax law allows real property to be depreciated in 27½ years and if the structure is destroyed they lose that tax advantage, so it is unlikely these buildings will be taken down and also unlikely they are going to have ownership transfer. He stated in many parts of our city it is unlikely they will be renovated to single family homes; that there is not any body putting a gun to anybody's head as it is what we are seeing play out on the ground in some of the neighborhoods including some he represents. He stated he is not trying to intimidate anybody and wanted to be clear on that.

AMEND CITY CODE (Continued)

Councilman Murphy stated the other point that he wanted to share is Councilman McGary made a very, very good point in Committee when this came up last week and that is he was absolutely right when we come here and have a room full of people who may have five folks say they live near it and it would be the best thing since sliced bread, and maybe two people speak against it. He stated somebody made the point that folks who may want to undertake these kinds of projects may own other rental property and just ask their tenants to come on down here and tell us they are for it. He expressed agreement that what we really need for some of these special exceptions permits is across the board, not just as it deals with this one we should pass tonight, but across the board there ought to be a standardized polling method by which we actually gauge what the on-the-ground opinion is. He stated that is a far more useful gauge and useful input to us as a body about what the real feeling on the street is, so to speak. He recommended allowing this in addition to the R-2 special exception and as a body visit the Housing Committee Chairperson. He asked what should someone have to show to get a special exceptions permit for anything, not just for these two items as special exception permits can be uniformly commercial, reiterating that Councilman McGary made a very valid point.

Councilwoman Scott stated as a point of clarification she knows the impetus for this is to look at property that actually operated in a three-to-four dwelling capacity and lost its status and then now wonders how to use it. She asked if this ordinance also applies to the ability to put a three-to-four unit dwelling in an R-1 that would not be at all.

Mr. Haynes responded "no"; this is not introducing a new one, just addresses existing ones that lost their grandfather status.

On motion Councilman McGary, seconded by Councilman Rico,

**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,
CHAPTER 38, ZONING ORDINANCE, BY AMENDING SECTIONS 38-
43(4) AND 38-524(1) THROUGH(4)(a) TO INCLUDE THREE AND FOUR
UNIT DWELLINGS BY SPECIAL EXCEPTIONS PERMIT IN R-1 RESIDENTIAL
ZONE**

was denied.

AMEND CITY CODE

On motion of Councilman McGary, seconded by Councilwoman Berz,
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,
CHAPTER 5, SECTION 5-75(b), RELATIVE TO THE SALE OF BEER IN THE
UGC URBAN GENERAL COMMERCIAL ZONE**
passed first reading.

REZONING

208-194: Trudy Mott

Pursuant to notice of public hearing the request of Trudy Mott to rezone a tract of land located at 1203 Rockway Drive came on to be heard.

The applicant was present; there was no opposition.

Mr. Haynes stated this request is what triggered consideration for the special exceptions permit for a triplex and quadriplex and since the amendment failed the original request is under consideration for R-3MD. He stated the original request came to this body once before several months ago and was referred back to Planning; that the recommendation is back before the Council and is located at 1203 Rockway. He stated the property is surrounded by R-1 and the request is to bring the structure into compliance as a three unit structure. Photos of the property were shown with two doors on the front and three meters on the front, as well. He stated he does not know the size of the lot, however, one of the things mentioned earlier by Councilman Murphy were the options; that somebody could subdivide and put infill lots and develop it that way if R-3MD is denied. He stated that would be an option or may not be. He stated that Neighborhood Services notified the resident associations and leaders in the area and Adm. Beverly Johnson sat on the Planning Board when the matter was reviewed and noted in the minutes she would contact the neighborhood persons. He stated she sent a message today indicating that "*the consensus of the nearby residents, Ms. Lane and the Foxwood Neighborhood Association is that they would prefer that the property be rezoned to a triplex rather than have it remain vacant*". He stated he wanted to make sure her comments were brought to the Council's attention.

Chairman Benson asked for clarification that the special permit is not part of this request. Mr. Haynes responded "not any more".

Chairman Benson stated the Council is just voting to change from R-1 to R-3MD.

REZONING (Continued)

At this point, Mr. Haynes read Adm. Johnson's message in its entirety for clarification to the Council as to the neighborhood's wishes:

"On tonight's agenda, ordinance on first reading VI(d) 2008-194 Trudy Mott will be acted upon by the City Council. This is a request to rezone 1203 Rockway Drive from R-1 Residential Zone to R-3MD Moderate Density Zone. You will recall that at last month's Planning Commission meeting, I indicated that I would contact appropriate persons in the neighborhood to ascertain their comments regarding this proposed rezoning. I contacted Ms. Isabella Lane, president of Foxwood Heights Neighborhood Association; Cynthia Stanley-Cash, president of the North Brainerd Neighborhood Association and Dan Thomas III, a resident of the area. Today, Ms. Lane contacted me to indicate that because of a schedule conflict (her neighborhood association meets tonight) she can not attend tonight's council meeting. Ms. Lane further stated that not too long ago she personally contacted residents who live near the subject property to see if they objected to the rezoning. Ms. Lane said none did. In fact, the consensus of the nearby residents, Ms. Lane and the Foxwood Neighborhood Association is that they would prefer that the property be rezoned to a triplex rather than have it remain vacant. I have not received comments from Ms. Stanley-Cash or Mr. Thomas."

Councilman Gilbert stated the community wants this to pass based on Adm. Johnson's letter. Mr. Haynes responded "yes, based on this letter".

Thomas Mott stated it has been a tedious road for them and clarified for the Council that they did not request a zoning change; that an electrical inspector came up and said the property was zoned improperly, reiterating they did not request any changes as they wanted it to stay as it was. He stated the only thing he has to say is they gave Councilman Murphy 32 names and a letter from Quenston Coleman, Ms. Lane and another letter today in support of their zoning change. He stated they were precise in letting them know what was going on and were not trying to deceive anyone. He stated this is in the interest of the community; that he was one of the people who did not want a lot of duplexes literally popping up on empty lots.

Chairman Benson asked if there is any opposition in attendance and there was no one. Mr. Mott noted that there were neighborhood meetings tonight.

REZONING (Continued)

Councilman Murphy expressed thanks to the Motts and noted that Mrs. Lane talked to him about this as hers is the closest neighborhood association. He stated he preferred to do this as a special exception because now, as it has been pointed out, there is a large parcel of property and his concern now, although he plans to vote with his constituents who have contacted him, is whether Mr. Mott has any intention of subdividing this property if the zoning moves to R-3MD.

Mr. Mott stated that he and his wife have no plans to do anything with the property; that the property is large enough for about five-to-six houses but that is not their intent now or in the future. He stated they did not request anything to be changed and they have no intent whatsoever, no more than what is the intended purpose and use already there.

Councilman Murphy expressed appreciation for Mr. Mott's input, noting a subdivision of the property could be done for two-to-three additional single family structures on the lot. Mr. Mott stated he is not in that financial loop to be doing something like that.

Trudy Mott stated this has been a financial burden to them and they have invested money in this property; that it is being vandalized and this is really a burden. She stated she talked to people and was asked why they had stopped working on it and now they are at a standstill. She stated they are ready to put something nice in this place and bring it up for people to have some place to live.

Councilman Murphy expressed appreciation for the Mott's investment in the neighborhood and **made the motion to approve the request.**

On motion of Councilman McGary, seconded by Councilman Gilbert,
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,
CHAPTER 38, ZONING ORDINANCE, SO AS TO REZONE A TRACT OF
LAND LOCATED AT 1203 ROCKWAY DRIVE, MORE PARTICULARLY
DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO R-3MD
MODERATE DENSITY ZONE**

passed first reading; **on roll call vote:**

ROBINSON	"No"
LADD	"Yes"
GILBERT	"Yes"

REZONING (Continued)

BERZ	"Yes"
RICO	"No"
MCGARY	"Yes"
MURPHY	"Yes"
SCOTT	"No"
BENSON	"No"

REZONING

2009-111: Sean Daniels

Pursuant to notice of public hearing, the request of Sean Daniels to rezone a tract of land located at 3630 Ridgside Road came on to be heard.

The applicant was present; opposition was in attendance.

Mr. Haynes stated this case has been before the Council and was discussed at length when the request was for the C-2 zone. He stated the surrounding zones are R-1 with two duplexes in the area. He stated Planning recommends approval of C-5 with seven conditions. He stated the applicant has asked for consideration if not removal of the condition for the hours of operation and would let him (Daniels) explain the reasons why.

Sean Daniels stated he is asking to remove the R-1 zone for C-5; that one of the concerns he has is the 7 a.m. – 7 p.m. hours of operation and expressed that he feels that he is being "sent to war without a weapon" without being able to sell beer; that the hours of operation are like he is being "sent to war with a knife"! He expressed hope that the hours of operation could be either 9 a.m. – 9 p.m. or 10 a.m. – 10 p.m. to at least compete and make a profit in the neighborhood. He stated normally people get home around 5 p.m. and take a little time to get settled and then think about what they would eat; that he is hopeful he can get some consideration for the change in hours as he would not be able to do anything with the hours of operation as they are as they will limit him.

REZONING (Continued)

James Mapp spoke in opposition to any change in the zoning; that this is a spot zone; that the beer license was allowed to lapse and would like to continue the R-1 status all the way through. He stated it is his feeling there are other things needed, like sidewalks, as they desperately need sidewalks out there. He reiterated that he would like to see it stay R-1; that it does appear this will be an excellent spot for the city to buy for passive recreation as there are so many older people there this would be a good thing and an investment in this community.

Chairman Benson informed Mr. Mapp that he did not think he could count on that. Mr. Mapp stated the community will be requesting the city do something.

Chairman Benson stated that the Council hears that request constantly.

Mr. Mapp quickly countered that they have "never hear it from us"! He stated that they feel this is only fair for this long standing community. He stated while the Daniels family is a wonderful family if they decide to sell he does not know who would be there and what would be the outcome. He stated they have had problems on that corner, a murder, kidnapping and drugs; that it has been a bad corner.

Saunya Goss stated that she lives on Phoenix, in walking distance from the Sears Grocery noting that she has lived on Phoenix 28 of her 35 years. She stated she works long hours as an educator and volunteer and finds peace of mind and tranquility when she drives home from a work day as she has precious childhood memories. She stated she is concerned about the grocery store opening for several reasons due to increased traffic, the possibility of what has occurred before such as a shooting at this grocery store years ago. She stated she would prefer that the store not open as she does not want unnecessary people in her neighborhood; that she wants to protect her financial investment in her home. She asked the Council take into consideration as to how they feel; that they have peace of mind in their homes and community. She stated it is a good, older community; that her parents are deceased and they entrusted her with this and would like to pass it on to her child. She stated if this type of facility is allowed to open it is her thought she would lose that and does not need one more thing in her community to decrease property values and asked the Council to deny the opening of the store.

REZONING (Continued)

Crystal Smith of 617 Midland Pike spoke next in opposition and stated that she was present representing the surrounding communities close to the proximity of the store including Gillespie Road, Midland Pike, Phoenix Avenue, Ridgeside Road and Wood Drive. She stated this would be a big impact on their property if this community store is allowed to open; that she was present representing the community and others not able to come in opposition. She stated this is a quiet community comprised of senior citizens; that this business is two blocks from the Children's Home and Tranquility Learning Day Care and would attract undesirable patrons. She stated with the increase in traffic would be a significant safety hazard to the community; that their biggest concern also would be the loss of value of their property. She stated this is very important to look at as Tunnel Boulevard and Wilcox Boulevard is a war zone and they are just a block away and if this store is allowed to open they would get this mess as they are close to a war zone. She stated they are not renters and have been there all their lives; that she is not a person against the Daniels family as this is all they have. She asked the Council to have the consideration they had when the Signal Mountain Space House was before them, Missionary Ridge and the Deep Blue Night Club; that their property means something to them, too. She stated they are in the process of starting a neighborhood association and bring positive things into the community. She asked the Council to deny the store.

At this point Chairman Benson asked for a show of hand of those present in opposition; four persons raised their hands. He then asked for a show of hands of those in support; three persons raised their hands.

Councilman Murphy stated that he was confused because when Mr. Daniels brought this forward in the first place many, many months ago he (Daniels) was working with the neighborhood as far as he could tell and he was not a Councilman at the time as it goes back that far. He stated it was his understanding Mr. Daniels stated he could not make a go of it without selling beer, to which Mr. Daniels responded "right". He stated Planning has recommended C-5 with conditions and Mr. Daniels indicated the hours of operation may not be adequate and today he is now saying he hopes he would not lose money if he runs it without beer and with the change in hours he could make a go of it.

Mr. Daniels stated that he spoke with Councilman Gilbert about the idea of selling fresh produce which would supplement the income for the beer; that he would like to try his idea and hopefully with the change in hours of operation it could work, as 7 a.m. – 7 p.m. would not work for him. He stated he is hopeful it would work if the hours were changed to 9 a.m. – 9 p.m. or 10 a.m. – 10 p.m.

REZONING (Continued)

Councilman Murphy asked if he is correct in his recollection that he went all around the neighborhood with a petition to reopen the Sears Store and Ms. Smith and Mr. Mapp names were on that petition and each wrote "no beer".

Ms. Smith stated she was never, ever for the store.

Mr. Murphy stated that he was just asking; that he was confused and that is what he wanted clarified. He stated there was a "moving bar" and the problem was the beer, and now the problem is any store period. Ms. Smith responded "right"; that he is right about the opening of the store as he did talk to them about that and they did say they wanted the store and did not want the beer.

Councilman Murphy stated so a lot of the people supported opening the store without beer; that maybe there is some misunderstanding as all people signed the petition and maybe they did not understand he meant beer. He asked what has happened now.

Ms. Smith stated the people she talked to do not want the store open.

Pastor Whiteside stated that he has property across the street that his son lives in and another house behind it and has been there over 30 years. He stated too many bad things have happened on that corner; that he is not against Mr. Daniels because he has not been there. He stated there is a young man in prison for killing a man right at that corner.

Councilman Murphy asked if the shooting was done when it was vacant.

Pastor Whiteside stated it was when the store was open; that beer was sold when it was open and that is where the traffic was coming from. He stated there is not a lot of territory to park cars; that with open fresh vegetables that is a good thing but where is it going to be stored. He stated all his children were raised in that community; that he has five grown children who are married and this is what is happening right now.

Councilman McGary stated he wanted to address concerns he had and thanked Mr. Daniels for his willingness to step out and seek to establish the entrepreneurial spirit noting that he admires and respects him and appreciates this leap of faith embarking on this endeavor seeking to sell fresh fruit.

REZONING (Continued)

Councilman McGary stated in his community he has to walk to the nearest Bi-Lo; that he went out and viewed the property, went up to the window and saw several window signs -- Michelob and other beer signs -- indicating beer was sold in the past so with the concern about increased traffic he could not help but wonder if the shooting is attributed to that and not to the store in and of itself. He expressed if there is a way to separate the store from the past with the alcohol sales versus the sales this young man wants to put forth to the community. He stated the store is a very small space and (he) does not see how this would generate an overload of increased traffic as only so many people at one time can be in the store and does not see how this will lead to numbers of people apart from those that live in the neighborhood, plus the fact he is not selling beer. He stated that he wonders about the label "we don't want undesirables"; that this property rests right on the corner of a particular neighborhood asking if the undesirables are the neighbors -- who are the undesirables. He stated he has concerns about a store that sell fruits attracting undesirables; that hopefully it will attract foot traffic trying to get hold of this particular product. He stated it is a small store space with limited parking and the majority of traffic, as he would understand, would be via foot from that immediate radius and it is his understanding without the sale of beer the people would come for fresh fruits and other sources of products. He stated it would be a store that would add value to the property and not take it away; that the actual people coming for the products being sold would actually benefit the community and not every community has the opportunity to have fresh fruits and other items.

Councilman Gilbert stated when Mr. Daniels approached him it was brought to his attention the neighborhood did not want it and he was presented a petition with a lot of names for no beer sales, but at the same time there was another petition saying they did not want beer sales which was basically the same people. He stated when there is talk of "continuing a war zone" it is not as if it is being cleaned up more and more each month; that there is usually a lot of activity of people selling things on the corner and that is not happening anymore. He stated this young man is trying to open a business to benefit the community and has already said he would not make it as much as if he were selling beer but is willing to do the other thing as far as fresh produce so people would not have to walk or drive somewhere else to get them. He stated to him this is a "plus", in his opinion; that most of the community were for a store but not for beer sales. He expressed belief that in the past Mr. Daniels had quite a few people here to speak on his behalf for the store; that there was one lady who was always here and does not know if she is sick tonight or not. He expressed agreement with Councilman McGary noting this is a good idea.

REZONING (Continued)

Councilman McGary made the motion to approve the request and allow Mr. Daniels to be open from 9 a.m. – 9 p.m.; Councilman Gilbert seconded the motion.

In casting her vote, Councilwoman Berz stated that she would abstain; that she has two petitions in her possession: one very much for and one very much against and all on the Council received those. She stated the “against” was not against the store but selling beer and she is uncertain what the community wants. She stated if we vote tonight she would abstain.

On motion of Councilman McGary, seconded by Councilman Gilbert,
AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 38, ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED AT 3630 RIDGESIDE ROAD, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO C-5 NEIGHBORHOOD COMMERCIAL ZONE, SUBJECT TO CERTAIN CONDITIONS

passed first reading; **on roll call vote:**

LADD	“Yes”
GILBERT	“Yes”
BERZ	Abstain
RICO	“Yes”
MCGARY	“Yes”
MURPHY	“Yes”
SCOTT	“No”
ROBINSON	“No”
BENSON	“No”

CLOSE AND ABANDON

MR-2009-112: Chestnut Properties, LLC

The applicant was present; there was no opposition.

On motion of Councilwoman Robinson, seconded by Councilman Murphy,
AN ORDINANCE CLOSING AND ABANDONING THE 900 BLOCK OF EAST 23RD STREET, A PORTION OF THE UNOPENED 2000 BLOCK OF EAST END AVENUE, AND A PORTION OF AN UNOPENED ALLEY LOCATED ON THE WEST LINE OF THE 2000 BLOCK OF CENTRAL AVENUE, MORE PARTICULARLY DESCRIBED HEREIN, AND SUBJECT TO CERTAIN CONDITIONS
was deferred two weeks (November 24, 2009).

REZONING

2009-123: Structure Group, Inc.

Pursuant to notice of public hearing the request of Structure Group, Inc. to rezone a tract of land located at 1200 East Main Street came on to be heard.

The applicant was present; there was no opposition.

Tom Bartoo stated he was present representing this request and the following one (Metropolitan Main) noting that they are continuing to develop the area. He stated the interest is to bring in a restaurant to the area under the current zone and they need to rezone to UGC; that they were originally going for the C-3 zone but because of the lines drawn for the C-3 zone they had to "back up" and go with the Staff's recommendation to UGC.

On motion of Councilman McGary, seconded by Councilwoman Robinson,
AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 38, ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED AT 1200 EAST MAIN STREET, MORE PARTICULARLY DESCRIBED HEREIN, FROM M-1 MANUFACTURING ZONE TO UGC URBAN GENERAL COMMERCIAL ZONE
passed first reading.

REZONING

2009-124: Metropolitan Main, LLC

Pursuant to notice of public hearing, the request of Metropolitan Main, LLC to rezone a tract of land located at 1601 Gulf Street came on to be heard.

The applicant was present; there was no opposition.

Mr. Haynes stated approval is recommended from Planning and Staff.

Councilwoman Robinson stated that Pamela and John Henry have shown a lot of foresight when they moved into our community and located his fabulous studio there and since then the whole area has really come on strong! She stated this is a great project and an investment that reminds her a little bit of the investment made in the Bluff View Art District by a very forward thinking physician and his wife, Charles and Mary Portera. She stated they took the area and wrapped the district around it and created a wonderful creative node, which is the same thing the Henry's are doing and applauded them for that.

Councilman Murphy thanked the Henry's for their investment in that part of the city and wanted to make sure it does not interfere with the great work done with the crane and industrial equipment as it is beautiful monumental art. Mr. Bartoo responded "no" it would not interfere.

Councilman McGary expressed thanks to the Council for voting the UGC into place with all the districts affected outside the footprint, such as North Chattanooga and sections of Highland Parks where many of other businesses ventures are coming into the area. He stated he is very excited about the Henry's project on this portion of East Main as it is closer to where he lives and is happy about that, reiterating his excitement!

On motion of Councilman McGary, seconded by Councilwoman Ladd,
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,
CHAPTER 38, ZONING ORDINANCE, SO AS TO REZONE A TRACT OF
LAND LOCATED AT 1601 GULF STREET, MORE PARTICULARLY
DESCRIBED HEREIN, FROM C-2 CONVENIENCE COMMERCIAL ZONE
AND M-1 MANUFACTURING ZONE TO UGC URBAN GENERAL
COMMERCIAL ZONE**

passed first reading.

REZONING

2009-143: Linda J. Murphy

Pursuant to notice of public hearing, the request of Linda J. Murphy to rezone a tract of land located at 28 South Germantown Road came on to be heard.

The applicant was not present.

Mr. Haynes stated the applicant desires to lease out the single family home on a short term basis. The floor plan of the home was shown by PowerPoint. He stated anyone can rent or lease their home or property but the line was drawn for short term rental to 30 days or less with a special permit. He stated Planning and Staff recommend denial as it will threaten the integrity of the single residential character of the neighborhood.

On motion of Councilwoman Robinson, seconded by Councilwoman Berz,
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,
CHAPTER 38, ZONING ORDINANCE, SO AS TO REZONE A TRACT OF
LAND LOCATED AT 28 SOUTH GERMANTOWN ROAD, MORE
PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO R-
3 RESIDENTIAL ZONE**
was denied.

REZONING

2009-145: Alan Haniszewski

Pursuant to notice of public hearing the request of Alan Haniszewski to rezone a tract of land located at 907 Avon Place came on to be heard.

The applicant was present; there was no opposition.

Mr. Haynes stated the surrounding property is predominantly single family residential and the purpose for the R-T/Z is to convert to townhouses to subdivide each of the two units on individual lots and resell the property. He stated Planning recommends approval subject to use of the existing structure with two units and the Land Development Office suggested two recommendations: *"Use of existing structure with 2 units only; Owner shall meet all of the requirements of the City Code and the adopted building codes at the time of the issuance of a building permit for the conversion of the structure from a two-family dwelling to two single-family attached dwellings"*

REZONING (Continued)

Alan Haniszewski of 1320 Baggett Trail, Signal Mountain, stated that he is the surveyor of the property and is present representing his client.

Paul Wilson, of 907 Avon Place was present and stated he was the owner of the residence in question.

Chairman Benson stated Mr. Wilson told the Planning Commission he plans to live in one part.

Mr. Wilson responded "yes"; that he still lives at 907 Avon Place; that 909 is the other half of the duplex.

Councilwoman Robinson asked Mr. Haynes when it is mentioned a conversion from a two-family to two single family attached dwellings she does not understand.

Mr. Haynes stated right now there is one structure with two units and the whole structure is on one lot. He stated Mr. Wilson wants to have each unit on its own individual lot. A drawing of the proposed request was shown by PowerPoint reflecting the lot line proposed through the middle of the building. He stated most townhouses are platted on their own lot which is the difference between a duplex and townhouse, basically.

Councilwoman Robinson stated the thing that concerns her is that is fine as long as that building is there; that if the building were to be torn down it could be subdivided.

Mr. Haynes responded theoretically, yes, it could be subdivided if torn down.

Councilwoman Scott stated that her question "spins off" Councilwoman Robinson's and asked how many properties could this actually turn out to be, four-or-five.

Mr. Haynes responded "not with the conditions, which is for two".

Councilwoman Scott stated if the building was town down the R-T/Z zoning would not accommodate brining it back in with a fourplex.

Mr. Haynes responded "not if it is approved with the conditions for two".

Chairman Benson stated the applicant needs to let the Council know if he accepts the Land Development Office's condition recommendations.

REZONING (Continued)

Mr. Wilson stated that is fine; that he wants to take what exists and remodel and update it as new. He stated it is not currently big enough like it is; that he has a single car garage which is not big enough for a modern day vehicle. He stated he plans to close off the actual garage and make it a little bigger in the existing structure and change the façade so it looks more congruent with the rest of the neighborhood in an effort to raise the property values. He stated he is trying to make two individual family dwellings with the R-T/Z zoning. He stated the front of the yard is the sewer and right-of-way and he can not put anything else on it because the city owns half of it.

Chairman Benson stated it was his thought there was someone in opposition at Planning.

Mr. Wilson stated there was; that she did not understand what it was and she is fine with it now.

Councilwoman Berz stated for a point of clarification she is not sure if Councilwoman Robinson's question was answered if indeed this is rezoned; that, in fact, it becomes two lots and two houses and the lot line down the middle, then if the structure is torn down there would be two individual lots that folks could do "stuff" on, asking if they could build more townhouses there or what.

Mr. Haynes stated the conditions maintaining two units does not allow any more units; that if it is subdivided into two lots and torn down a person can only put two more units up and the conditions can only be used on the existing structure if it is torn down.

Councilwoman Berz asked if it reverts back.

Mr. Haynes stated it would make the zone invalid and the person would have to come back and ask for an amendment.

Councilwoman Berz stated she is not sure that is what the conditions say.

Mr. Haynes stated the person would have to come back and amend the conditions; that it says "existing structure" and the conditions would have to be amended if it is a townhouse. He stated if it is a single family house that condition has to be lifted or changed; that the conditions are the purpose for control as to what is built and how many units are built.

Chairman Benson stated if this passes with these conditions, if it burns down the person can not do anything.

REZONING (Continued)

Mr. Haynes stated the conditions are the strength of the request.

Councilman McGary stated if it were to burn and is sold could someone find out about the conditions so a person could not say they did not know.

Mr. Haynes stated information could be requested of the permitting office or the RPA office.

Councilwoman Scott inquired as to the one driveway to this property.

Mr. Wilson stated that currently there is and the purpose of the request is so that everything will be on its own. He stated that right now it is a duplex with two meters on the side of the house; that there is a WalMart parking lot in front of the house. He stated when this project is done it will look like two separate entities and it will be improved; that there will actually be a driveway and landscaped.

Councilwoman Scott asked how many such houses exist in this neighborhood.

Mr. Wilson responded "that is it"; that his duplex is in the middle of houses and across the street is a single family home and they hate the duplex! He stated there was a neighborhood meeting and he met a few of the people; that his sign went up a week prior and he fielded a lot of questions at that time. He stated the lady who came to Planning was not able to approach me at that time and they talked at the neighborhood meeting and her concerns were subsided. He stated right now he can hear when his neighbor shuts her cabinets through the wall that separates the two units; that when it is finished he will have a firewall on the interior separating the two; that if there were a fire now he would lose it all.

City Attorney McMahan stated the condition from the Land Development Office is not part of the current printed matter and based upon what he understands it will be added for next week.

On motion of Councilman McGary, seconded by Councilman Rico,

AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 38, ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED AT 907 AVON PLACE, MORE PARTICULARLY DESCRIBED EHREIN, FROM R-1 RESIDENTIAL ZONE TO R-T/Z RESIDENTIAL TOWNHOUSE/ZERO LOT LINE ZONE, SUBJECT TO CERTAIN CONDITIONS

passed first reading.

REZONING

2009-146: D &G Development, LLC

Pursuant to notice of public hearing, the request of D & G Development, LLC to rezone a tract of land located at 3421 St. Elmo Avenue came on to be heard.

The applicant was present; there was no opposition.

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 3421 ST. ELMO AVENUE, MORE PARTICULARLY DESCRIBED HEREIN, FROM M-2 LIGHT INDUSTRIAL ZONE TO R-3 RESIDENTIAL ZONE

passed first reading.

CAPITAL IMPROVEMENTS BUDGET, FY 2009/2010

Councilwoman Berz stated there would be more detailed discussion next week at 2 p.m. during the Budget Committee meeting. She stated this would be the only matter on the agenda and **made the motion to defer until next week.**

On motion of Councilwoman Berz, seconded by Councilman McGary,
AN ORDINANCE APPROPRIATING, AUTHORIZING OR ALLOCATING FUNDS TO THE CAPITAL IMPROVEMENTS BUDGET FOR THE FISCAL YEAR 2009/2010 AND TO AMEND THE FISCAL YEAR 2009/2010 BUDGET ORDINANCE NO. 12288 AND TO AMEND THE 2008/2009 CAPITAL BUDGET NO. 12161

was tabled one week.

CONTRACT

Councilman McGary stated for those not present in Committee discrepancies were found with the sub-contractor and the Council felt it is best to put the item out for quick re-bid. He stated this is a time sensitive issue and they want to have the fire station open by next summer and every moment counts. He stated once the discrepancy was found, as opposed to keeping the current bidder who was awarded the contract and possibly undergoing some sort of legal action with the Council, it is better to reopen the bid.

CONTRACT (Continued)

On motion of Councilman Rico, seconded by Councilwoman Robinson,
A RESOLUTION AUTHORIZING THE CHIEF OF THE CHATTANOOGA FIRE DEPARTMENT TO ENTER INTO A CONTRACT WITH BRADANNA, INC. TO CONSTRUCT FIRE STATION NO. 7 AT ENTERPRISE SOUTH IN THE AMOUNT OF ONE MILLION EIGHT HUNDRED SEVENTY-NINE THOUSAND DOLLARS (\$1,879,000.00), WITH A CONTINGENCY IN THE AMOUNT OF ONE HUNDRED EIGHTY-SEVEN THOUSAND NINE HUNDRED DOLLARS (\$187,900.00), FOR A TOTAL COST NOT TO EXCEED TWO MILLION SIXTY-SIX THOUSAND NINE HUNDRED DOLLARS (\$2,066,900.00)
all bids were rejected; bids will be reopened.

PAYMENT AUTHORIZATION

On motion of Councilwoman Robinson, seconded by Councilwoman Ladd,
A RESOLUTION AUTHORIZING PAYMENT OF 2010 MEMBERSHIP DUES FOR NATIONAL LEAGUE OF CITIES IN AN AMOUNT NOT TO EXCEED TEN THOUSAND SIX HUNDRED TEN DOLLARS (\$10,610.00)
was adopted.

CONTRACT

On motion of Councilman Murphy, seconded by Councilwoman Scott,
A RESOLUTION AUTHORIZING THE AWARD OF CONTRACT NO. W-05-007-201, NORTH WARNER PARK STORMWATER DETENTION BASIN, TO THOMAS BROTHERS CONSTRUCTION COMPANY, INC. IN THE AMOUNT OF ONE MILLION SEVEN HUNDRED THREE THOUSAND NINE HUNDRED NINETY-NINE DOLLARS (\$1,703,999.00), PLUS A CONTINGENCY AMOUNT OF ONE HUNDRED SEVENTY THOUSAND DOLLARS (\$170,000.00), FOR A TOTAL AMOUNT NOT TO EXCEED ONE MILLION EIGHT HUNDRED SEVENTY-THREE THOUSAND NINE HUNDRED NINETY-NINE DOLLARS (\$1,873,999.00), SUBJECT TO APPROPRIATION OF FUNDS
was adopted.

SPECIAL EXCEPTIONS PERMIT

2009-144: Nate Durham

The applicant was not present; there was no opposition.

SPECIAL EXCEPTIONS PERMIT (Continued)

Councilwoman Robinson asked if this involves the special permit the Council failed to adopt.

Mr. Haynes stated this request is for a special exceptions permit in zoning to allow a duplex in the R-1 zone at 2036 Ruby Street in Avondale. He stated this is one of the situations where the duplex lost its zoning as part of downzoning; that it is vacant and has lost its grandfather status. He stated it was built as a duplex and met all the criteria for a special exceptions permit for a duplex. He stated the surrounding property is single family and Planning recommends approval; that the 2004 Plan for the area indicates single family should dominate with the exception of a townhouse; that there is an option for a two family dwelling with a special permit if granted by the City Council after a recommendation by Planning. He stated the RPA recommends denial as it is not clear if the neighborhood association is supportive and there was no indication one way or the other; that Planning felt this is an appropriate request.

Councilman McGary inquired as to the district this request is located; it was clarified that it is in District 8. At this point he **made the motion to deny the request.**

Councilman Murphy stated this is clearly Councilman McGary's district and is close to his, noting he has not heard anything from anyone about this. He stated that he did see the yellow sign and is not clear whether we actually know whether the neighborhood would rather have it occupied or unoccupied.

Councilman McGary stated the case is similar to Ordinance (j) regarding Linda Murphy; that she was denied by the Planning and Staff. He stated it is his understanding the application would give the honor of appearing before the Council and he is not here and for that reason made the motion to deny the special permit.

Chairman Benson stated that Mr. Durham did appear before Planning and made a good presentation and asked Mr. Haynes if he understood this was coming before the Council tonight.

Mr. Haynes responded "yes"; that a letter reminding him of the recommendation and date of this meeting was sent.

Councilman McGary stated if the Council denies this Mr. Durham can reapply after a nine month period.

SPECIAL EXCEPTIONS PERMIT (Continued)

Councilwoman Berz stated that the ordinance says by special permission by the Council and it does not have to be nine months. She stated that she is a bit concerned and made the comment that the Council has spent a lot of time downzoning areas to R-1 and now one-by-one we seem to be making special exceptions here and there to get things back the way they were. She stated Greg came up with the plan for duplexes so they could be refurbished and be single family dwellings; that she is concerned about this whole evening talking about the work the Council previous to us did relative to downzoning and we are slowly but surely eroding that. She stated we have to think carefully about that; that we are beginning to grow and change; that it is a spot zone and if it "looks like a duck and walks like a duck" it is a spot zone! She stated in this case she favors what Councilman McGary said; that the whole evening has been uncomfortable for her. She stated we have to be very serious about maintaining the integrity of R-1 neighborhoods.

Mr. Haynes responded "right"; that there has been a lot of discussion and we will see more requests for this special permit. He stated the request for the special permit did come from the Council; that oftentimes the Council asks RPA to look at tools that are in place and to provide a variety of tools that may be chosen in any special situation like this. He stated requests are made and looked at on a case-by-case basis; that there may be one in a million that makes sense, particularly if there is a neighborhood that supports that. He stated that is the reason for the three and four unit proposals tonight as that they were asked by the Council to see if there is a way to add more tools to the toolbox.

Chairman Benson stated that request came from the City Council and Councilwoman Robinson remembers it was a very unusual case on Kirby Street where the owner lived across the street and he had a house there and the entire neighborhood came down and asked us to please let him take the house and put it back in good shape. He stated we have not had a better example of why we should give special exceptions since then.

Councilwoman Scott directed her comments to Mr. Haynes and stated that she needed to say that she appreciates everything RPA does to try and mediate the complex issues and try to find ways to make this work. She stated it is a very difficult job he has in trying to make the zones, keep the neighborhood and everyone happy; that she really appreciates the work!

Mr. Haynes expressed appreciation for Councilwoman Scott's comment.

Councilwoman Robinson "seconded" the comment!

SPECIAL EXCEPTIONS PERMIT (Continued)

Councilman McGary stated that he knows the Avondale Neighborhood Association under the leadership of James Moreland is very strong against rezoning any particular property that has a preponderance of duplexes in that area; that they have been very vocal against that sort of downzoning and that is the thought in his mind. At this point he upheld the motion to deny.

On motion of Councilman McGary, seconded by Councilman Gilbert,
A RESOLUTION APPROVING A SPECIAL EXCEPTIONS PERMIT FOR A TWO-FAMILY DWELLING IN R-1 RESIDENTIAL ZONE ON A TRACT OF LAND LOCATED AT 2036 RUBY STREET, MORE PARTICULARLY DESCRIBED HEREIN
was denied; Councilmen Murphy and Rico voted "no".

CONTRACT

On motion of Councilman Gilbert, seconded by Councilwoman Berz,
A RESOLUTION AUTHORIZING A CONTRACT WITH HAMAN'S NEW DRIVERS TO PROVIDE DRIVER TRAINING SERVICES FOR THE CITY'S DRIVER'S EDUCATION PROGRAM IN AN AMOUNT NOT TO EXCEED SEVENTY THOUSAND DOLLARS (\$70,000.00) THROUGH FEBRUARY 2010
was adopted.

FIVE YEAR CAPITAL IMPROVEMENT PLAN

On motion of Councilwoman Berz, seconded by Councilman Rico,
A RESOLUTION ADOPTING A FIVE-YEAR CAPITAL IMPROVEMENT PLAN, SUBJECT TO FUTURE REVISION, A COPY OF WHICH IS ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE
was tabled one week.

OVERTIME

Overtime for the week ending November 5, 2009 totaled \$50,897.28.

PERSONNEL

The following personnel matters were reported for the various departments:

PERSONNEL (Continued)

PUBLIC WORKS DEPARTMENT:

- **KENNETH C. ECKSTEIN** – Resignation, Equipment Operator 5, City Wide Services, effective November 3, 2009.
- **WILLIAM H. GIBSON** – Hire, Inventory Technician, Waste Resources, Range 8, \$31,791.60 annually, effective November 6, 2009.
- **HENRY M. HAWLEY** – Hire, Electrician 2, Waste Resources, Range 14, \$34,201.00 annually, effective October 26, 2009.

CHATTANOOGA POLICE DEPARTMENT:

- **SCOTT L. NEUBAUER** – Resignation, Police Officer, effective October 31, 2009.
- **CHAD E. BRADLEY** – Termination, Police Officer, effective November 2, 2009.

CHATTANOOGA FIRE DEPARTMENT:

- **JAMIE EVERS, CHADD NICHOLS** – Promotion, Firefighter Senior, Range F2A, \$36,004.00 annually, effective November 6, 2009.
- **MICHAEL BATTLE, DAVID BISHOP, TERRELL BRADSHAW, TIMOTHY BRYANT, JOSHUA CLARK, MARKUS COFFMAN, JASON DILL, SHAQUITA FORTSON, JAKOB GANN, DEREK GARCIA, DANNY GILBERT, JAMES GUERRIERI, CARLUS HAMMONDS, CHRISTINA HENSLEY, STEVEN JENKINS, CURTIS JORDAN, BRYAN KEENE, LIBERTY MUSE, LARRY OLIVER, VINCENT PARHAM, EDGAR PATTON, RYAN ROARK, MICHAEL RUSH, DANIEL SMITH, JAMIE SUMMITT, TYLER SWINDELL, TERRENCE TURNER, KYLE VRADENBURGH, HARRIS WALKER, SEAN WALLIN, JEREMY WILLIAMS, KEVIN YOUNG** – Hire, Fire Cadet, Range FOC, \$31,577.00 annually, effective November 6, 2009.
- **JOEL NIX** – Leave without pay (1 day), Firefighter, effective November 8, 2009.

PURCHASES

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

GENERAL SERVICES:

BATTERIES PLUS (Best evaluated complete bid)
R0128333/B0006438

Purchase of Radio Batteries

\$17,301.50

CHATTANOOGA POLICE DEPARTMENT:

PRECISION DELTA, CRAIG'S FIREARM, GULF STATES DISTRIBUTORS (Multiple contracts based upon unit bid price as the lowest and best bids)
R0123869/B0006309

Purchase of Blanket Contract for Ammunition

\$169,547.39 approximately annually

PUBLIC WORKS DEPARTMENT:

MINTEK RESOURCES, INC. (Best bid)
R0128085/B0006427

Purchase of Bulk Lime Kiln Dust

\$169,547.38 approximately annually (\$35.90/ton)

COMMITTEES

Councilwoman Scott stated the Economic Development Committee met today to discuss the Gestamp PILOT which will be before the Council next week.

COMMITTEES (Continued)

Councilwoman Robinson invited suggestions from Council members to the Housing Committee with reference to issues that keep coming up again and again that need to be dealt with. She stated she would appreciate any input.

Councilman Rico stated **Public Works is scheduled to meet on Tuesday, November 17 immediately following the agenda session.**

Councilman Murphy stated the **Legal and Legislative Committee is scheduled to meet on Tuesday, November 17** to discuss a potential amendment to the street re-naming ordinance as well as other matters under the jurisdiction of the Committee.

Councilwoman Scott asked if street addressing is on for next week or if it has been deferred.

Councilman Murphy stated it is dealt with in the proposed amendments and Council members will receive a copy; that there was a communication problem and the copies did not go out. He stated addressing is dealt with in context of facts that come out in our hearings.

Councilman McGary expressed thanks to his two colleagues, Councilwoman Ladd and Robinson, for their service during the ten hour appeal on yesterday. He reminded Council members of the **Education, Arts and Culture Committee scheduled for Tuesday, November 17 following Public Works.**

Councilwoman Berz scheduled a meeting of **the Budget, Finance and Personnel Committee for Tuesday, November 17 beginning at 2 p.m.** to continue discussion of the Capital Budget and the Five Year Plan.

NEXT WEEK'S AGENDA; NOVEMBER 17, 2009

Chairman Benson stated the agenda for next week was discussed during the agenda session earlier this afternoon.

TORAN GILBERT

Toran Gilbert greeted the Council and stated he was present on behalf of "Mission: Mongolia" and stated he is part of a mission worldwide with the Church of God headquartered in Cleveland, Tennessee.

TORAN GILBERT (Continued)

Mr. Gilbert distributed a flyer announcing a benefit concert on Friday, November 20 at the North Cleveland Church of God beginning at 6:30 p.m. He stated that he is Marketing Director and they are trying to raise money for Mongolia as there are children there who have never had a kid's crusade, noting that they do not know anything about Christianity and basically all that is there are negative things. He stated they are asking for people to come over there and at this point he introduced Jennifer Wolverton.

Jennifer Wolverton stated she was not present to ask for anything; that they are on a mission to help Mongolia, but not only Mongolia even here in Cleveland and Chattanooga as the "big picture" really is to give youth and adults a focus bigger than them. She stated if we believe in ourselves we are being proactive and having a focus on something else and that is what they want to do with the youth of Chattanooga and Cleveland. She stated not everyone can go to the other side of the word to outer-Mongolia; that they get to go but some people are senders and some people are helpers and that is what they want to give opportunity for youth to be involved in that. She stated as part of the concert they can buy t-shirts and go to the concert which would be a productive thing for them to do and a way they would be able to help. She asked the Council to think about a sister city and does know if that is anything that can ever happen but something she would hope the Council would look at as a benefit for Chattanooga and Mongolia; that it is not just the city's giving but a way we can give something back.

Mr. Gilbert expressed thanks for allowing them to share their hearts noting they would come back in the future about what they are trying to do.

Chairman Benson stated it is people like Mr. Gilbert and Ms. Wolverton that give hope for the future!

Mr. Gilbert expressed thanks to his father (Councilman Gilbert) for allowing them to come before the Council!

ADJOURNMENT

Chairman Benson adjourned the meeting of the Council until Tuesday, November 17, 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)**