

City Council Building
Chattanooga, Tennessee
December 8, 2009
6:00 p.m.

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

PLEDGE OF ALLEGIANCE/INVOCATION

Following the Pledge of Allegiance, Councilwoman Berz 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.

SPECIAL RECOGNITION: JAQUEZ MCKINZE AND OFFICER JOSH WRIGHT

Chairman Benson announced that the honorees for the evening are a bit delayed due to the weather and would be present shortly. He stated that the special recognition would begin once they arrive later in the meeting.

AD VALOREM TAXES

Chairman Benson stated that a Resolution was unintentionally omitted from the agenda and asked for a motion to add it to the agenda at this time. **Councilmen Robinson and Rico made the motion to add the Resolution to the agenda.**

On motion of Councilman Rico, seconded by Councilwoman Berz,
A RESOLUTION TO MAKE CERTAIN FINDINGS RELATING TO THE SIAG AERISYN LLC PROJECT, TO DELEGATE CERTAIN AUTHORITY TO THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF CHATTANOOGA, AND TO AUTHORIZE THE MAYOR TO ENTER INTO AND EXECUTE AN AGREEMENT FOR PAYMENTS IN LIEU OF AD VALOREM TAXES
was adopted; **Councilman Murphy abstained.**

AMEND CITY CODE

Councilmen Robinson and Ladd made the motion and second to substitute the amendments to this ordinance; the motion carried.

On motion of Councilman McGary seconded by Councilman Murphy,
AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 32, SECTION 32-178 RELATIVE TO THE STANDARD STREET NUMBERING AND ADDRESSING POLICY FOR THE CITY OF CHATTANOOGA, AND TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 32, ARTICLE IX, RELATIVE TO STREET NAMES
passed second and final reading and was signed in open meeting.

CLOSE AND ABANDON

MR-2009-152: City of Chattanooga c/o Bill Payne

On motion of Councilman Rico, seconded by Councilwoman Robinson,
AN ORDINANCE CLOSING AND ABANDONING A PORTION OF THE SEWER LINE AS REFERENCED BY M. F. 100337 AND REPLACE WITH A NEWLY CONSTRUCTED SEWER LINE LOCATED AT THE 6700 BLOCK OF BONNY OAKS DRIVE, MORE PARTICULARLY DESCRIBED HEREIN
passed second and final reading and was signed in open meeting.

CLOSE AND ABANDON

MR-2009-161: City of Chattanooga c/o Eric Cummings

On motion of Councilman McGary, seconded by Councilwoman Robinson,
AN ORDINANCE CLOSING AND ABANDONING A PORTION OF A SEWER EASEMENT REFERENCE NO. M.F. 10436 LOCATED IN THE 1500 BLOCK OF LONG STREET, MORE PARTICULARLY DESCRIBED HEREIN
passed second and final reading and was signed in open meeting.

REZONING

2009-149: Mike Doss

Pursuant to notice of public hearing, the request of Mike Doss to rezone a tract of land located at 2406 East 19th Street came on to be heard.

REZONING (Continued)

The applicant was present; there was no opposition.

Greg Haynes, Director of Development Services with the Regional Planning Agency (RPA), stated the purpose of this request is to construct single family residences at the corner of 19th and Long Streets. He stated Planning and Staff recommend approval to help stabilize the residential nature of the neighborhood and block.

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 2406 EAST 19TH STREET, MORE PARTICULARLY
DESCRIBED HEREIN, FROM M-2 LIGHT INDUSTRIAL ZONE AND R-2
RESIDENTIAL ZONE TO R-1 RESIDENTIAL ZONE**

passed first reading.

REZONING

2009-162: Michael J. Stewart

Pursuant to notice of public notice the request of Michael J. Stewart to rezone a tract of land located at 5532 Highway 153 came on to be heard.

The applicant was present; there was no opposition.

Mr. Haynes stated a majority of properties in the area are zoned C-2 and is located across from Target on 153. He stated there is a need to rezone a small strip for the purpose of a carwash. He stated Planning and Staff recommend approval subject to two conditions: the site plan and adequate landscaping and vegetation as determined by the City Landscape Official.

Councilman McGary stated it is his understanding the property has been an eyesore for some time and the condition is to provide some shrubbery to beautify the lot.

Mr. Haynes responded "correct" noting that is one advantage of this request; that it will be a positive approach to this property that has been somewhat of an eyesore in the past.

REZONING (Continued)

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 5532 HIGHWAY 153, MORE PARTICULARLY
DESCRIBED HEREIN, FROM R-4 SPECIAL ZONE TO C-2 CONVENIENCE
COMMERCIAL ZONE, SUBJECT TO CERTAIN CONDITIONS**
passed first reading.

REZONING

2009-163: Larry Kuka

Pursuant to notice of public hearing, the request of Larry Kuka to rezone a tract of land located at 4012 Webb Road came on to be heard.

The applicant was present; opposition was in attendance.

Mr. Haynes directed the attention of the Council to various slides of the site by PowerPoint. He stated the request is to rezone an existing single family structure to R-3MD for the purpose of bringing it into compliance with zoning as the current structure has been converted to a four unit rental structure. He stated the site is surrounded by all R-1 single family and the site plan submitted by the applicant at the time of application was also shown reflecting parking to the rear and a driveway entering on both sides. He made reference to the front door which used to be a garage, noting the applicant can explain how the conversion was made and possibly when. He stated surrounding properties to the right on the same side and across the street and other side is all single family residential. He stated a brief history related by zoning enforcement of their investigation indicates the house was built in 1965 as single family residential and was zoned A-1, as it was part of Hamilton County, and did not come into the city until 1974 when it was annexed and became the R-1 zone, noting that multi-family is not allowed in R-1. He stated in 1993 the Tax Assessor assessed the multi-family dwelling with four units as it had been operating up until that time; that there is some confusion as to when it was converted, whether in the late 70's, mid-70's or early 80's; that it was picked up in 1993 by the Assessor's Office as multi-family. He stated zoning enforcement received complaints this year on the structure, did an investigation and found it did contain four units. He stated they went out a couple of times and did not see evidence the first time, however the last time they did find four units.

REZONING (Continued)

Mr. Haynes stated the area is predominantly single family within an R-1 area and the community plan recommends low density residential; that the lot contains four units and sits on half an acre. He stated the applicant also requested deferral of this, however RPA Staff and Planning reviewed the matter and recommend denial as this would be a spot zone and incompatible with surrounding adjacent properties.

Larry Kuka, owner of the property at 4012 Webb Road, stated that he lives at 480 Canyon Road 758, Rossville, Tennessee. He stated he is not able to advise exactly when this property was converted to apartments. He stated he purchased the property in August 2001 and the seller advised him the property had been apartments for approximately 30 years. He stated when he purchased the property there were two apartments being rented to tenants; that he went to Chattanooga Title and talked with Glenn McColpin, attorney for Chattanooga Title, and advised him the property was zoned R-1 but taxed as commercial property and that the seller advised him she paid commercial property taxes for a long period of time. He stated Mr. McColpin researched the property and did the title work and advised as long as the property was taxed as commercial and assessed as commercial property he could rent apartments there. He stated he purchased the property and from that day in August of 2001 until the present he has continued to rent apartments there. He stated he has never discontinued the practice and has continued over the last eight years. He stated in September of this year he was advised by the city he must rezone the property and made application to rezone.

Mr. Kuka stated the city has no legal rights to prohibit renting apartments and agreed to the lease of the apartments by their silence since 1993 and, therefore, stoppage by acquiescence prevents the city from denying him the right to lease the property as it has been taxed as commercial since 1993 and the city and county accepted property tax payments totaling close to \$40,000. He stated he can not be harmed by the city's action when the present claim is in opposition to prior actions of accepting commercial tax payments and permitting leasing of apartments. He stated this was upheld by the Tennessee Court of Appeals in Nashville in the case of James Bramblett vs. Coffee County Planning Commission where Mr. Bramblett was permitted to continue to rent a duplex though not permitted to construct an additional duplex. He stated he has not added any additional apartments and continues to operate as a four unit apartment dwelling since purchasing the property. He stated he is within the law and doing business in good faith and abides by the city and county laws and regulations and asked the city to do the same.

REZONING (Continued)

Councilman Murphy asked if this property is a non-conforming use; that from what Mr. Kuka said going back 30 years could be before being in the city. He asked if he (Kuka) has a non-conforming use grandfathered here.

Mr. Haynes stated as mentioned previously, before the property was annexed it was in the A-1 zone and the A-1 zone does not allow anything other than single family; that when it was annexed into the city it was zoned R-1 which also does not allow anything more than single family and was actually illegal in either zone. He stated in order for it to be grandfathered it had to be legal at some point.

Councilman McGary asked City Attorney McMahan about the concern Mr. Kuka has with reference to the claim the property was taxed as commercial property and asked if we know how this came about as opposed to receiving a residential property tax.

City Attorney McMahan responded that it is his thought the Assessor reviews property from time-to-time to determine how it is used and assesses accordingly. He stated he does not believe we are bound by any mistake the Assessor may have made although it does not appear he made a mistake, if the property was used for commercial uses it should have been taxed as commercial. He expressed disagreement with the applicant's position by accepting taxes we somehow should be stopped from enforcing the ordinance; that the question really is is this a lawful non-conforming use and was this use ever legal.

Councilman Murphy stated Mr. Kuka has indicated he would like additional time before we vote on this matter and asked if he could tell the Council why he feels he would like additional time.

Mr. Kuka stated that he needs to do additional legal research; that he is about to come to the conclusion this would have to be handled in a court of law.

Councilman Murphy asked Mr. Kuka if he wants additional time to seek representation or if this is self help research.

Mr. Kuka stated that he would be doing self help research. He stated according to law the city cannot treat him one way to allow rent for eight years and suddenly treat him another way and not allow it as it is a violation of law upheld by the Tennessee Court of Appeals.

REZONING (Continued)

Councilwoman Ladd stated that Mr. Kuka said he had operated in good faith and followed legal procedure with his property; she asked if he ever obtained a city permit for work done on the structure.

Mr. Kuka stated that he has not done any work, just repairs.

Councilwoman Ladd asked if he has ever gotten a permit to have repairs done.

Mr. Kuka stated it was not required as they were just minor repairs.

Councilwoman Ladd stated Richard Hutsell with zoning is present and has background information regarding this structure. She asked him to make the Council aware if there have ever been permits for this structure.

Richard Hutsell stated records indicate no permits were issued. He stated as presented at Planning when this came up his office received the first initial complaint about this use in May of this year. He stated Inspector Jack Love went out to the site and from photos taken there was one mail box, one power meter, one heating/air unit and had all the appearance of being a single family residence. He stated he did not observe anything from the exterior this was being used as a multi-family as there were no multiple cars based on the report. He stated Mr. Love and another inspector were injured in an automobile accident on city time in June and subsequently another complaint was received and he (Hutsell) investigated the matter himself on July 17 and basically was almost to the same conclusion by his visual review of the property and just happened to drive to the rear of the property and found a male and female on the back porch. He stated he identified himself and told them he had received complaints; that Ms. Day, a tenant, stated that the Fire Marshall's office had been there the previous week on a complaint and they were complying. He stated that he asked if the structure was multi-family and whether there were multiple apartments in the structure and the response was "yes, four". He stated that is when he initiated an investigation of the site and contacted Mr. Kuka in July to inquire about the property. He stated that he explained what his investigation was about and what he was doing; that he (Kuka) advised him about the assessment and the assessment rate. He stated part of the investigation included going through title history and research as far as when it was built in 1965 as a single family dwelling and assessed as a single family dwelling structure up until 1993.

REZONING (Continued)

Mr. Hutsell stated that he went to the Assessor's office and spoke with Mr. Rumsfeld and inquired as to how they initiated their reports when they changed the classification of a use for property. Mr. Rumsfeld explained they would research the records on the address, but usually it was either by outward appearance, change of mailboxes and that sort of thing that typically would trigger them. He advised Mr. Rumsfeld that was not the case that took place. Mr. Rumsfeld was able to provide an inspection report which indicated the property was inspected in 1987 which was the last one done that kept the property rated and assessed as single family; that the next assessment by the County Assessor's Office was done in 1993 and the report simply indicated a four unit apartment commercial and went to the commercial rate. He stated this was the first time in years he has run into a situation like this; that one of the things he asked was as they assess each property and things change if there is something that could trigger them to let us know. He stated they are currently working on that with the Assessor's Office and found it is something that has probably gone on for years and their goal, rules and code, from what Mr. Rumsfeld explained to me, was basically to see the property and assess the tax rate based on that.

Mr. Hutsell stated there were four property owners prior to Mr. Kuka -- Mrs. Frances McNabb, who later become Stifle, was the owner/occupant of the house and an attempt was made to contact all previous owners, all of which are either deceased or out-of-town. He stated that he did speak with Mrs. Stifle's ex-husband, Mark McNabb, who was unaware of the property at the time; that he does believe she resided there until her death and her estate sold the property to Kuka in 2001. He stated one of the things his office does to remind the Council is issue zoning verification letters which are issued almost daily to investors, mortgage companies, Insurance companies and appraisers for compliance. He stated his office has never been contacted nor have they written a letter on any file he has been able to find verifying use of this building as a legal or legal non-conforming use.

Councilwoman Robinson stated this goes to a discussion this Council has had during the past year which is to try to figure a way that people who purchase property get the correct information when they purchase; that if there is a zoning change or some change of property we do not have people buy property believing they are in one zone only to discover when they apply for a permit to renovate an apartment or structure it is zoned something else.

REZONING (Continued)

Councilwoman Robinson stated that we need to get an update on that and believes Barry Bennett will be the person who will be able to guide us through this with reference to another situation that came up. She stated what she can not figure out is this house seems like it is designed to look like a single family but have four families living there; that it is kind of odd when you have one mailbox and one air conditioner and one hearing unit; that it looks like someone is trying to hide four units in there.

Mr. Kuka stated the public knows there are four units there; that the public knows it has been taxed as commercial since 1993 and there is nothing to hide! He stated it has operated as commercial since that time and operating as commercial since he has owned it beginning in 2001; that the former owner said it was apartments for years, for 30 years is what she told him.

Councilwoman Robinson asked Mr. Kuka when he purchased the property he said he consulted with a title attorney.

Mr. Kuka stated he consulted Glenn McColpin.

Councilwoman Robinson asked if Mr. McColpin told him it was zoned R-1.

Mr. Kuka responded "yes"; that it was assessed as commercial and could rent apartments.

Ed Markett of 4025 Harbor Hills Road spoke in opposition and stated he owns the back and side property line of this subject property and has been there since 1966; that when he moved there this house had been built and a family was living there. He stated the family added a wing for their mother and later an apartment in the basement for a daughter but continued to be occupied as R-1. He stated the property was annexed in 1973 or 1974 and was sold three times between 1976 and 1978, and then in late 1978 or early 1979 a new owner began to divide that and put in six units to start off with and changed it back to four and that is when the problems started as the neighborhood has been weary for a long time! He stated in 1979 a committee wrote a letter and met with Jack Wilkerson, then Chief Building official, but did not get any action. He stated in 1983 they tried again, a committee was formed and they met with Don Young, Acting Chief at the time. He stated each one gave a lot of explanations why it was difficult for the city to enforce when the owner would say a family was living there, even if it was not true; that nothing was done at the time and they continued to protest it.

REZONING (Continued)

Mr. Markett stated all this time they have been plagued with trespassing and noise; that in 2001 it was sold to the present owner and now the owner does not live in the house as it is all rented which was confirmed by recent city inspection that it is rental property and there is no doubt about how it is operated. He stated all these years it has been R-1 and still is and knows the owner knows it was R-1; that he regrets he was misled at the time, however it is still illegal and has been the whole time. He quoted from RPA's position paper referencing spot zoning which is sufficient justification to deny this application. He asked the Council to uphold the R-1 zoning and settle the problem at last!

Pam Bonine directed Council members to the printed document she and others in opposition prepared and stated they have complained over the years to various people and when Councilwoman Ladd came into office they had an opportunity to have a new face to deal with. She stated the main thing is she wanted to speak for the neighborhood in reference to devaluation of their property as no one wants to live in a neighborhood with rental property in close vicinity. She stated the second thing is the precedence it sets; thirdly, all of the disturbing complaints are detailed in the document distributed to the Council as they have called the police and fire departments and at one point she and her husband had to take off from work to testify against one of the tenants who beat a mentally challenged person with a baseball bat, noting that she has copies of the police reports as this is not hearsay. She stated one time a lady pulled a tree from the back yard and tried to start a bon fire and the fire department came. She stated the renters change continually and Mr. Kuka says he does background searches; however there has been at one time a sex offender that lived there and expressed concern with reference to the type of tenants that seem to be coming into the property. She stated that she heard hammering when Mr. Kuka first moved in and at Planning he mentioned that he keeps the maintenance up, noting that she took a photo of one of the shutters on the home that is totally falling off. She stated for years this structure has been against the law and echoed Mr. Markett's comments that it is an opportunity for the Council to make the situation right as Mr. Kuka is renting and breaking the law.

City Attorney McMahan stated Mr. Kuka cited the case of Bramblett vs. Coffee County Planning Commission in a 2007 decision which he looked up on his Blackberry. He stated according to the decision Coffee County recently enacted a zoning ordinance and many counties do not have zoning ordinances, so the question in the case was whether or not a person that had already started building one duplex and wanted to build a second duplex on a second lot.

REZONING (Continued)

City Attorney McMahan stated the Court held that in light of the new zoning regulations he could not expand the area except as provided for by the Coffee County Zoning Resolution. Mr. Kuka may not be legally trained and misread the opinion he cited to the Council; that he really does not think it gives him any comfort he needs to see a lawyer about this matter would be his recommendation.

William Madison came forward in opposition and stated that he lives on the back side of the property. He stated when he moved to the area it was zoned R-1 and would like to keep it that way; that he heard in the report that the fire and police departments had to come out noting that he loves for the police to come in and survey the area, however he does not want them coming under the circumstances mentioned. He stated as the Council votes, he asked that they keep this area R-1 single family.

Mr. Kuka stated in the Coffee County case Mr. Bramblett was permitted to continue leasing the duplex; he was not permitted to expand but permitted to continue leasing. He stated the situation he is asking is to continue to lease as the four apartments have been there for some period of time. He stated he does keep the property in good repair and it is not a maintenance problem; that it is an attractive opportunity for the neighborhood. He stated the surrounding properties are R-1 however a few hundred feet away is R-2 and within three blocks are multi-family apartments, so this is not out of context for that property to be multi-family.

Councilwoman Ladd made the motion to deny both the request for deferral for four weeks and deny the application, as well; Councilman Murphy seconded the motion.

Councilwoman Berz inquired as to the four families living on the property with one mail box, one meter outside and one air/heating unit and asked if that means at least several families are living in less than optimal conditions.

Mr. Kuka responded "no"; that they are living in very good living conditions with one central unit furnishing heat and air for all the apartments; that heat, air and electricity is furnished to the tenants.

Councilwoman Berz asked if they are not able to control their own thermostats.

Mr. Kuka stated there is one thermostat that is set on 72 degrees.

REZONING (Continued)

Councilman McGary expressed sympathy for Mr. Kuka’s plight as his property has been assessed as commercial and had the opinion he could continue this commercial venture. He expressed sympathy, as well, to the families currently living on the property, and explained that the goal of this body as an entity is to make ordinances in the best interest of the city and they are no good if they do not enforce them. He stated he would have to vote in favor of denying both the deferral and rezoning.

At this point, Councilman Rico called for the question.

On motion of Councilwoman Ladd, 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 4012 WEBB ROAD, MORE PARTICULARLY
DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO R-3MD
MODERATE DENSITY ZONE**
was denied.

**SPECIAL RECOGNITION: JAQUEZ MCKINZE AND
OFFICER JOSH WRIGHT**

Alan Presley stated John Schulman and the “Mocs” won the So-Con Conference Championship and he (Presley) had a large shadow box put together for Jimmy Fallon in the hope he could come to Chattanooga to visit as Mr. Fallon was very supportive of the Mocs during the championship. He stated Officer Josh Wright suggested that the box be given to Jaquez and it was decided that John Schulman could get another box for Mr. Fallon.

Brian Carter, Supervisor of Officer Wright, stated that it was brought to his attention a couple months ago about the bad accident where Jaquez was injured badly and had to go to the hospital. He stated Officer Josh Wright was at the accident scene with Jaquez and promised that he could ride in his police car with him when he recovered; that Officer Wright has made contact with the family and has tried to help them along. He stated Jaquez is doing much better and he is going to a game this Saturday where he will be honored.

Mr. Presley stated John Schulman has personally invited them as his guest to sit on the bench with him when they play Mississippi Valley State on Saturday at 2 p.m., noting that the invitation includes family, as well. He stated when he talked to Mr. Schulman about this he became very humble.

**SPECIAL RECOGNITION: JAQUEZ MCKINZE AND
OFFICER JOSH WRIGHT (Continued)**

Chief Mike Williams stated that everyone knows how he is about kids and those who work for us and this is just one example of something that has come to light as many of them do. He stated unfortunately, they have come in contact with victims like this on a daily basis; that officers are there not only on the scene but they follow-up and form bonds for life, especially with the kids. He stated he is proud of this officer and it is another example of the officers who work for us as they really do care.

Officer Josh Wright stated that the 26th of June is when this happened; that Jaquez and his family wanted to go across the street to the candy lady to get ice cream and his mother said she would go and for him to “stay put”. He stated Jaquez, being the child he is, decided he wanted across the street anyway and followed his family and cousins. He stated the accident occurred; that a lady was driving in the southbound lane of 300 North Willow and does not know if she was driving the speed limit as there have been different witness accounts. He stated Jaquez is a tough kid and hit on the side of the truck. He stated he was still conscious when he got there and later went into a coma. He stated his mother, who barely weights 100 pounds, lifts this kid into his chair and does a lot for him; that it has been a long road and she is in the process of trying to find a place to live. He reiterated that it has been a long road for Jaquez and every time he sees him there is something new! He stated that he told him today that he had a gift and asked if he wanted it and he said yes! He stated the accident was unfortunate but things happen for a reason; that God put him in this place and in that spot at the time to meet him and his family. He stated Jaquez keeps the doctor’s baffled!

Chairman Benson expressed that the Council is proud of the police department; that Chief Williams speaks well for the men on the staff and their emotional dedication, as well as the law.

Jaquez’ mother spoke at this time and expressed thanks for everything that has been done, especially to Officer Wright who has “been there”; that without his help she does not know where they would be!

At this point, the shadow box was presented to Jaquez and he was given a warm, heartfelt standing ovation by all in attendance.

REZONING

2009-165: Metier Company, LLC

Pursuant to notice of public hearing, the request of Metier Company, LLC to rezone tracts of land located at 406, 408, 410 and 412 Harper Street came on to be heard.

The applicant was present; there was no opposition.

City Attorney McMahan stated that he received a message from Councilwoman Scott regarding this request who asked that her message be read into the record: *"Mr. Collier and his architect presented his proposal at the Hill City Neighborhoods Association a few weeks ago. There was discussion and the Neighborhood Association voted **not to oppose** the rezoning since it was on the transitional edge of the R-1 community. Had I been in attendance tonight at 6 p.m., I would have recognized Mr. Collier for reaching out to the community (in advance) for their feedback. He sets a good example for others."*

Mr. Haynes stated Planning recommends approval subject to three conditions: re-platting of all affected properties depicted on the site plan as submitted to RPA, off-street parking shall be provided and accessed from the alley as depicted on the site plan and back out parking onto Harper Street is prohibited.

Chairman Benson asked Mr. Collier if he agrees with the conditions. Mr. Collier responded "yes".

On motion of Councilwoman Berz, seconded by Councilman McGary,
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,
CHAPTER 38, ZONING ORDINANCE, SO AS TO REZONE TRACTS OF
LAND LOCATED AT 405, 408, 410 AND 412 HARPER STREET, MORE
PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO R-
T/Z RESIDENTIAL TOWNHOUSE/ZERO LOT LINE ZONE, SUBJECT TO
CERTAIN CONDITIONS**

passed first reading.

AMEND CITY CODE

On motion of Councilman Murphy, seconded by Councilwoman Robinson,
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,
CHAPTER 31, SECTION 31-355(a) TO EXTEND THE TIME IN WHICH TO
FILE A NOTICE OF PROTEST CONCERNING THE ACCURACY OF WATER
QUALITY FEES IMPOSED IN 2009 FROM DECEMBER 31, 2009 TO MARCH
1, 2010**

passed first reading.

AGREEMENT

On motion of Councilman McGary, seconded by Councilwoman Robinson,
A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO ENTER INTO AN AGREEMENT WITH VOLKERT & ASSOCIATES, INC. RELATIVE TO CONTRACT NO. 3-07-007-401, WALNUT SREET BRIDGE NORTH VIADUCT IMPROVEMENTS, IN AN AMOUNT NOT TO EXCEED EIGHTY-NINE THOUSAND EIGHT HUNDRED NINETY DOLLARS (\$89,890.00)

was adopted.

AGREEMENT

On motion of Councilman McGary, seconded by Councilwoman Robinson,
A RESOLUTION AUTHORIZING THE DIRECTOR OF GENERAL SERVICES TO EXECUTE A RIGHT-OF-ENTRY AGREEMENT WITH THE UNIVERSITY OF TENNESSEE AT KNOXVILLE RELATIVE TO 4800 CENTRAL AVENUE FOR THE PURPOSE OF SOIL TESTING ON SAID PROPERTY FOR A TOTAL OF THREE (3) DAYS, SUBJECT TO APPROVAL BY HAMILTON COUNTY

was adopted.

AWARD OF FUNDS AND AGREEMENTS

On motion of Councilman Rico, seconded by Councilman Murphy,
A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF NEIGHBORHOOD SERVICES AND COMMUNITY DEVELOPMENT TO AWARD FIVE HUNDRED TWENTY-SEVEN THOUSAND EIGHT HUNDRED TWENTY-EIGHT DOLLARS (\$527,828.00) OF HOME INVESTMENT PARTNERSHIP ACT FUNDS AND PROGRAM INCOME DERIVED FROM TENNESSEE HOUSING DEVELOPMENT AGENCY (THDA) FUNDED PROJECTS TO ORGANIZATIONS FOR THE PURPOSE OF CREATING AFFORDABLE, PERMANENT, SUPPORTIVE HOUSING, A LIST OF WHICH IS INCLUDED, AND AUTHORIZING AGREEMENTS WITH THE ORGANIZATIONS FOR SAME

was adopted.

PURCHASE OF USED EXCAVATOR

On motion of Councilman Rico, seconded by Councilwoman Ladd,
A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO SPEND AN AMOUNT NOT TO EXCEED ONE HUNDRED EIGHT THOUSAND NINE HUNDRED DOLLARS (\$108,900.00) TO PURCHASE A USED PC2000-LC8 EXCAVATOR FROM POWER EQUIPMENT

was adopted.

OVERTIME

Overtime for the week ending December 3, 2009 totaled \$41, 067.24.

PERSONNEL

The following personnel matters were reported for the various departments:

CHATTANOOGA FIRE DEPARTMENT:

- **THOMAS BLACKBURN** – Military Leave for one year, Firefighter Senior, effective December 5, 2009.
- **JOEL NIX** – Military Leave for one year, Firefighter, effective December 5, 2009.
- **PERRY STEPHENS** – Military Leave for one year, Fire Lieutenant, effective December 5, 2009.
- **CRAIG MITCHELL** – Termination, Firefighter, effective December 4, 2009.
- **ROBERT W. HENLEY** – Hire, Building Maintenance Mechanic 1, Range 9, \$26,798.00 annually, effective December 4, 2009.

PUBLIC WORKS DEPARTMENT:

- **PHILLIP DAVID MARTIN** – Promotion, Chief Electrical Inspector, Land Development, Range 19, \$52,459.41 annually, effective December 4, 2009.
- **KEITH SMITHINGELL** – Hire, Plant Operator 1, Waste Resources, Range 9, \$26,798.00 annually, effective November 20, 2009.
- **GENEAL LEWIS** – Termination, Equipment Operator 4, City Wide Services, effective November 30, 2009.
- **ARTHUR SANDS** – Family Medical Leave, Equipment Operator 4, City Wide Services, effective November 23, 2009 – February 19, 2010.

PERSONNEL (Continued)

- **ROGERS MOORE** – Retirement, Crew Worker 1, City Wide Services, effective November 30, 2009.

CHATTANOOGA POLICE DEPARTMENT:

- **CLARA COUSIN** – Voluntary Demotion, Police Service Technician 2, Range 6, \$35,000.00 annually, effective December 4, 2009.
- **ROBERT E. DILLINGHAM** – Military Leave for 400 days, Police Officer 1, effective December 1, 2009.
- **JOSHUA TURNER** – Military Leave, Police Officer, effective November 21, 2009 – February 21, 2011.
- **TAMMY L. COOK** – Military Leave, Police Sergeant, effective December 1, 2009 – September 30, 2010.

PURCHASES

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

GENERAL SERVICES:

CUMMINS POWER SOUTH, LLC (Lowest and best bid)
R20202

Purchase of a Generator

\$43,685.00

UNITED STATES POSTAL SERVICE/PITNEY BOWES, INC. (Single source)

Purchase Mail Machine Postage per TCA 6-56-304.2

\$150,000.00

PURCHASES (Continued)

CHATTANOOGA FIRE DEPARTMENT:

CODE RED (Lowest and best bid)

R0127506/B0006426

Purchase of Powerheart Automatic External Defibrillators and Accessories

\$78,990.00 - Unit price bid estimated annual

WESTERN SHELTER SYSTEMS OF EUGENE, OR (Single source)

R20981

Purchase of Western Shelter HVAC Units and Air Plenums per TCA 6-56-304.2

\$16,598.00

CHATTANOOGA HUMAN SERVICES:

KEY'S CARPET CENTER (Best bid)

R20965

Re-Tile Designated Areas at North Chattanooga Head Start Center
R20965

\$13,766.00

AIR POLLUTION CONTROL BUREAU:

BROOKER FORD (Best proposal)

R20984

Purchase a 2010 Ford XLT Transit Connect Cargo Van

\$20,471.00

BOARD APPOINTMENTS

On motion of Councilwoman Robinson, seconded by Councilwoman Berz, the following Board Appointments were approved:

MULTICLUTURAL AFFAIRS ADVISORY BOARD:

Mayoral appointments:

- *CELESTE BRADLEY, JAMES H. MCKISSIC, SHERRIE GILCHRIST*, for terms expiring June 30, 2011
- *TAMMERA D. HICKS, MARCOS A. DIAZ, FRANCES MCNEILL, DR. ROGER THOMPSON*, for terms expiring December 30, 2010
- *DR. BARBARA C. MEDLEY, JOHN TAYLOR, SR.*, for terms expiring June 30, 2012

Council District appointments:

- *KAIHAN STRAIN*, representing District 2, for a term expiring June 30, 2012
- *ARMELIA WILLIAMS*, representing District 6, for a term expiring June 30, 2012
- *SHEILA BOYINGTON*, representing District 7, for a term expiring June 30, 2012
- *OLGA de KLEIN*, representing District 9, for a term expiring June 30, 2012

HEARING: STEVE HARGIS

City Attorney McMahan reminded panel members Councilmen Robinson, McGary, and Scott of the hearing scheduled for Steve Hargis on Monday, December 14, beginning at 9:30 a.m. Councilwoman Ladd is to serve as Alternate.

COMMUNITY IMPACT

Councilwoman Robinson acknowledged the recognition/honor of Community Impact during this morning's Urban League Equal Opportunity Day Breakfast, noting that it was a lovely occasion; that the speaker was Roland Martin from CNN. She stated she wanted everyone to know what a good job Community Impact is doing.

COMMITTEES

Councilman Rico stated the **Public Works Committee is scheduled to meet on Tuesday, December 15 following the agenda session.**

COMMITTEES (Continued)

Councilman Rico reported for Councilman Murphy that the **Legal and Legislative Committee is scheduled to meet on Tuesday, December 15** to discuss matters within the Committee's jurisdiction.

Chairman Benson stated Councilwoman Scott asked that he announce that the **Economic Development Committee will meet on Tuesday, December 15 following Public Works Committee** to discuss PILOT policies and procedures.

Councilman Gilbert scheduled a meeting of the **Parks and Recreation Committee on Tuesday, December 15 immediately following Economic Development** to discuss a grant application with the County Health Department, property issues and Tatum and Heritage.

NEXT WEEK'S AGENDA

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

ADJOURNMENT

Chairman Benson adjourned the meeting of the Chattanooga Council until Tuesday, December 15, 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)**