

City Council Building
Chattanooga, Tennessee
January 12, 2010
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, Councilman Murphy gave invocation.

MINUTE APPROVAL

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

CLOSE AND ABANDON

MR-2009-109: George L. Byars

On motion of Councilman Rico, seconded by Councilwoman Robinson,
**AN ORDINANCE CLOSING AND ABANDONING AN UNOPENED ALLEY
LOCATED IN THE WEST LINE OF 3600 BLOCK OF DORRIS STREET, MORE
PARTICULARLY DESCRIBED HEREIN**

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

CLOSE AND ABANDON

Mr-2009-134: Mario Forte

The applicant was present; opposition was in attendance.

Councilman Rico and McGary made the initial motion to approve this request; however it was learned there was someone present in opposition wishing to speak.

Jack Coppinger stated that he owns the property this easement deadheads into and has plans for the property; that he owns 17 acres and this easement is the entrance to his farm. He stated if this is closed it simply devalues his property and the plans he has for the property.

CLOSE AND ABANDON (Continued)

Mr. Coppinger stated he is retiring in December and plans to build a smaller house by the lake on the property; that he has two children, one of which married in September and a son in college and does not think it is fair. He stated he bought the property ten years ago knowing the easement was there and he is very much opposed to closing the easement. He stated he was not notified of this and talked to Councilman Benson who will verify he was not notified and was not aware until last Wednesday. He stated he is aware Councilwoman Scott on multiple occasions asked someone representing the city if he had been notified; that he had not been notified and whoever informed her he had been was in error. He stated that is why he is here for the final hearing; that it devalues his property and does not know who is trying to close it. He stated for him to use the land he would have to get an easement or bring utilities from nearly 1,200 feet away as opposed to what is there now.

Councilwoman Ladd asked Mr. Coppinger to share what his plans and vision were for the property when he bought it and how long ago was it bought.

Mr. Coppinger stated he bought the property ten years ago and his children were in the third and sixth grades; that his family owns other property in that area that his brother and mother own. He stated it is an area that is dear to them and when he found out it was for sale he bought it with the idea of building a house in the front and having the rest of the property so his children at some point could build and still have an open area to live. He stated this is a huge asset knowing he could come into the back of the farm off an access road; that it is very important now that his daughter got married in September and his son in college and the time is just now coming for him to act upon whatever they may do in the next few years with it. He stated his first decision is whether they will have the larger house and he would build a smaller house as there is a two acre lake in the back.

Councilwoman Ladd reminded the Council that we did not have opposition last week and the reason was Mr. Coppinger did not receive the notice. She stated we voted last week and this is new information. She asked that the Council be open to his comments on opposition.

Councilman Murphy stated that he did not recall what the reported purpose of closure was in the first place at this time and does not believe the proponent is present. He stated the Council voted last week and this is new information; that he would be open to his comments on opposition.

Mario Forte of 4101 Tuxedo Circle in Chattanooga was present representing the owner of the property that straddles both sides of the proposed closure. He stated he is the surveyor.

CLOSE AND ABANDON (Continued)

Councilman Murphy stated he now remembers that it is a proposal to merge two parcels into a much larger parcel; that the Council was concerned about the possibility of land locking the 17 acre parcel; that if it was responded to as truthful it would not land lock Mr. Coppinger but would obviously diminish the utility of his property greatly. He stated Mr. Forte has someone who will not build if this does not happen.

Mr. Forte stated there are currently six lots, three lots on each side of the right-of-way and the owner is proposing to abandon all the interior lots. He stated there is a newly married couple that wants to buy one part of it; half of it will be purchased and the other half lot would be sold so there would be two houses on the entire three acres.

Councilman Murphy stated that he does not claim to be Solomon; that Mr. Coppinger is interested in access to the back part of the property, and what the owner is interested in is merger for production of a much larger lot. He wondered if the easement could be shifted at his client's expense so as not to bisect the larger property and give Mr. Coppinger access. He stated this would enable an easement to give Mr. Coppinger what he desires and would give Mr. Forte's client a much larger parcel upon which to build. He stated that he recalls it bisects two reasonable size lots, but the goal is to make a much more handsome size lot.

Chairman Benson stated this is second reading and if the Council acts tonight it is final unless it is deferred.

Councilman McGary made the motion to defer the matter one week and for both parties to come together; Councilwoman Robinson seconded the motion.

On motion of Councilman McGary, seconded by Councilwoman Robinson,
**AN ORDINANCE CLOSING AND ABANDONING THE RIGHT-OF-WAY OF AN
ALLEY WHICH INTERSECTS WITH THE 2700 BLOCK OF BRYANT ROAD AND THE
4600 BLOCK OF CHARLOTTE DRIVE, MORE PARTICULARLY DESCRIBED HEREIN,
SUBJECT TO CERTAIN CONDITIONS**

Was deferred one week.

REZONING

2009-158: City of Chattanooga

Pursuant to notice of public hearing the request of the City of Chattanooga to rezone a tract of land located at 6059 Relocation Way and within the boundaries of Area 8B as listed by Ordinance No. 12297 came on to be heard.

There was no opposition in attendance.

REZONING (Continued)

Greg Haynes, Director of Development with the Regional Planning Agency (RPA), stated this basically takes an annexed area from a temporary zone that is automatic at annexation and makes it permanent, going from M-2 to an M-2.

Chairman Benson asked if there were any citizens wanting to speak in reference to this matter; being none the public hearing was duly closed.

On motion of Councilman Murphy, 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 6059 RELOCATION WAY AND WITHIN THE BOUNDARIES OF AREA 8B AS LISTED BY ORDINANCE NO. 12297, MORE PARTICULARLY DESCRIBED HEREIN, FROM TEMPORARY M-2 LIGHT INDUSTRIAL ZONE TO PERMANENT M-2 LIGHT INDUSTRIAL ZONE

Passed first reading.

REZONING

2009-159: City of Chattanooga

Pursuant to notice of public hearing, the request of the City of Chattanooga rezone tracts of land located in the 7800 block of Interstate Highway 75 and within the boundaries of Area 9A as listed by Ordinance No. 12298 came on to be heard.

There was no opposition in attendance. Chairman Benson asked if there were any citizens wanting to speak in reference to this matter; being none the public hearing was duly closed.

On motion of Councilwoman Ladd, seconded b Councilman McGary,

AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 38, ZONING ORDINANCE, SO AS TO REZONE TRACTS OF LAND LOCATED IN THE 7800 BLOCK OF INTERSTATE HIGHWAY 75 AND WITHIN THE BOUNDARIES OF AREA 9A AS LISTED BY ORDINANCE NO. 12298, MORE PARTICULARLY DESCRIBED HEREIN, FROM TEMPORARY M-1 MANUFACTURING ZONE TO PERMANENT M-1 MANUFACTURING ZONE

Passed first reading.

REZONING

2009-175: Yi Zhang

Pursuant to notice of public hearing the request of Yi Zhang to rezone a tract of land located at 4317 Norcross Road came on to be heard.

The applicant was present; opposition was in attendance.

REZONING (Continued)

Mr. Haynes stated the request is to rezone property to R-3 for the purpose of bringing an existing triplex into compliance with zoning. He stated the site is currently zoned R-1 and the site plan that was shown at Planning. He stated there are a number of issues related to this property and the existing residence was shown by PowerPoint as well as nearby single family properties. He stated in 1965 the property was in Hamilton County and a duplex was built and zoned urban residential which permitted this use, but it is not clear when the third unit was added. He stated in 1972 it was annexed into the city and use was grand-parented in; that somewhere within the last year it lost its grand-parenting status due to a recent foreclosure process. He stated that the owner was informed he would have to rezone it if he wanted to keep it as a duplex or triplex and there is a question as to whether the property is owner occupied. He stated Staff recommended denial but approve R-3MD subject to a three family dwelling only; that Staff recommended that because R-3MD has a maximum density of four units within the structure, but held it to three units instead of four. He stated it went to the Planning Commission and there was the benefit of hearing opposition which Staff did not have prior to the recommendation. He stated the opposition pointed out a few things as the triplex had become problematic since the owner does not live at the residence and there are nuisance issues. He stated Planning recommended denial -- not only denial of the R-3 but denial of R-3MD, as well, and keeping it R-1.

Yi Zhang Oliver stated that he lives at this address and is the owner of the property. He presented a utility bill to show a female that was with him is living there; that she does not live there all day every day, but she does live there. He stated this triplex has been constructed as a triplex since 1965 and they do not have any plan to downgrade or upgrade to do something. He stated at the time they bought the property it was a triplex and do not plan to change anything. He stated it is an R-1 zone but across the street is a duplex and another duplex about 100 feet or less from them. He stated it is not all single family dwelling. He stated currently this house has three apartments, three electric meters, three water meters, three gas meters and three air conditioning units. He stated generally it is five bedrooms that have been made into three units and if he connected all three to R-1 there would not be a master bedroom, only two bedrooms left and it is just not possible to do. He stated there are three mailboxes and if it is converted into one house there would be a lot of confusion. He stated in checking with the insurance company it would cost \$297 just to rebuild the same to operate a flag house and another cost to remove the old house. He stated he does not think it is possible and nothing can change the fact it has been a triplex since 1965; that in the last two years the surrounding area's housing value actually went up, except their value and their neighbor's value slightly dropped and that is because this house was foreclosed. He stated if the R-1 zone is granted it is not going to change the fact it is a triplex and expressed hope the Council would approve his request for R-3.

Councilwoman Ladd stated Mr. Zhang indicated as the owner he would not be living there all the time and asked if she understood that correctly.

Mr. Zhang stated that the female with him is there four days and out three days.

REZONING (Continued)

Chairman Benson stated that the young lady works as a nurse in Birmingham, noting that he has met with both of them.

Councilman McGary stated one of the concerns he has, if he read the information correctly, is the property was problematic; a nuisance has occurred since the owner does not live there and asked Mr. Zhang to speak briefly to the notice of the nuisance.

Mr. Zhang stated that he had a few complaints but they actually did not complain to him; that there were three major complaints. He stated the first was the complaint of a barking dog from one of the tenants; that it was a little Chihuahua and after the complaint they told the tenant to restrict the dog from barking and not harass the neighbors. He stated the second complaint indicated the tenant was drinking alcohol or smoking pot; that he did not actually see it but that is what he heard. He stated that he wrote a notice to the tenant and told him whatever he does he has to obey the law or he would "kick him out" and to stay away from the liquor and illegal substance. He stated the third complaint had to do with cars where there was a 1963 car that sat with no registration and they addressed the problem to the tenant and they have the registration form and the tag, noting that he has copies to show. He stated those were the three major complaints; that the dog has been restricted 24 hours a day inside the room, there is no tagged car and no more drinking or smoking, so there are no such problems.

David Pass stated that he lives next door and the Planning Commission noted this as spot zoning and that is a matter of record. He stated that they gave \$90,000 for something that will appraise for \$130,000 and noted there has to be a way out of this. He stated they are having an awful time with the renters when the owners are not on the site and monitoring it, it just gets out of hand. He stated we have heard about junk cars and they have put an antique tag on it and he guesses that makes it legal, but it is still a \$100 car that does not run that is parked in the neighborhood and guesses it is really valuable, probably as the old 1980 Cadillac with the flat tire that was there before this was! He stated they did address the Chihuahua; that the neighbors have a pit bull that has not been addressed. He displayed photos of the abandoned car, the pit bull and the trash from today and stated they have tried and it just has not worked; that they have a couple more neighbors that will not get involved in petitions and he and Sabina have lived there for 12 years. He stated it is to the point they are going to have to move as it is untenable; that you cannot raise kids in an environment like that. He stated Mr. Hutsell was really fair and helpful and wanted to thank him.

Sabina Crewdson of 4321 Norcross Road backed up everything Mr. Pass stated; that his daughter Nola is there and the neighborhood has called her before. She stated that she has an eight year old daughter and the pit bull scares her as she cannot let her daughter outside to play in the front yard. She stated besides the property value, everything in the neighborhood is R-1 and finds it unnecessary to have something

rezoned R-3 in the middle of a family residential area; that it detracts from the neighborhood and takes away from their dream when they moved there.

REZONING (Continued)

Ms. Crewdson stated as Mr. Pass indicated she has been there 12 years and moved there within three months of each other; that they have been there a long time and the problems have been fairly recent in the last two years with the prior owner and the property owner now. She stated another thing is they do not know if they are husband and wife or brother and sister and they have never seen her around the property at all and does not believe she lives there. She stated she has not seen either one of them and knows they said they would produce whatever document is necessary, but they do not know if he has a Tennessee driver's license as they were under the impression she works in Birmingham.

Chairman Benson asked if the pit bull is on a leash. Ms. Crewdson responded "no".

Councilman Rico asked if Ms. Crewdson said there were problems even before Mr. Zhang bought this. Ms. Crewdson responded one owner was fine because she lived there and when she started having problems the next owner went into foreclosure and then Mr. Zhang bought the property.

Councilwoman Robinson stated that she would give more information that has come from her conversation with the people involved in this. She stated this was a situation that was as the applicant stated, it was a home that had permitted several apartments before the area was down zoned to R-1, so what has happened is this home and several other structures in the neighborhood which were duplexes and are located nearby were grandfathered-in so they all have been a legal, non-conforming use. She stated this home, as they all stated, went into foreclosure recently and during the time the foreclosure was taking place, more than 100 days passed and it is her understanding when the 100 day window passed this home, which had been a triplex for many, many years, maybe even decades, lost its legal non-conforming use and is now in the neighborhood as R-1, which means the triplex is there now. She stated that is the history of how this all happened, noting that she would like to hear the applicant respond to the comments made by the neighbors who oppose this.

Mr. Zhang stated the first time Mr. Pass filed a complaint they cutting trees and grass; that both of them went to his house to apologize for any inconvenience and told him in the future she is living there four days and off three days. He stated he lives there all day, every day; that if there is a problem he does not see it because he works a lot. He stated he lives in one of the triplex units 100 percent and can take care of problems.

Councilwoman Berz inquired as to who lives in the three units. Mr. Zhang responded both of them live there and the two others they rent out.

Councilwoman Berz asked when he purchased the triplex. Mr. Zhang responded that he bought it in May of last year.

REZONING (Continued)

Councilwoman Berz then asked if it had been empty for 100 days. Mr. Zhang stated at the time he had no knowledge.

Councilwoman Berz asked what Mr. Zhang's understanding is, now. Mr. Zhang stated that they later understood the zoning problem; that at the time they bought it nobody ever told them; that they had absolutely no knowledge about this.

Councilwoman Berz asked if Mr. Zhang understood whenever property is purchased it is the buyers responsibility to do due diligence to see if it is in the correct zone, noting that would have been his responsibility.

Mr. Zhang stated this is their first time buying a house; that their real estate agent told them there was a triplex available and maybe they could live in one apartment and rent the others.

Councilwoman Berz asked if the real estate agent informed them there might be a problem with zoning. Mr. Zhang responded "absolutely not".

Councilwoman Berz asked if they had any warranty deeds or anything or any insurance in case something went wrong with the deal. Mr. Zhang stated they have insurance.

Councilwoman Berz stated that she heard there were two approaches -- that one is all single family dwellings and then she heard there were duplexes all in the area and asked if that is true.

Mr. Haynes stated across the street is a duplex and the only one he spotted when he visited the area. He stated if there is another one he asked that it be pointed out. He stated Randy Burns is familiar with the area and indicated there is only one in that block; that everything else is single family.

Councilwoman Berz stated Mr. Zhang seems like a highly educated man and asked what he does. Mr. Zhang stated that he works in a restaurant. Councilwoman Berz asked if he owns it, to which Mr. Zhang responded "no".

Councilman McGary stated with all respect cases like these are difficult for him because he is sympathetic to individuals like Mr. Zhang who spend and invest their money in property with the goal to make a return only to find out that due to a city ordinance where a piece of property has been grandfathered in and lost its status that now he will be out of an investment. He stated he is very aware and sensitive to his concern, however, he is bound by the laws of the city of Chattanooga that once a property loses its grandfather status upholding that law is the right thing to do as opposed to making exceptions. He stated in order to make exceptions we then set a

precedence that would allow others to come in and do the same thing.

REZONING (Continued)

Councilman McGary stated by the same token he thinks it should be fairly stated this case is about and only about the loss of the grandfather status; that it is his thinking barking dogs or flat tires or any of the like only distract from this issue and would have to consider a housing case simply because a dog is barking or because someone's flat tire is a nuisance. He stated if a vehicle receives a license from the city that says they have gone and made due diligence to do what is legal and anything outside of that is not the concern. He stated on this particular issue he would have to vote against it but wanted to say publicly he is sympathetic to Mr. Zhang's situation and bound by Chattanooga's laws.

Councilwoman Ladd addressed her question to Ms. Crewdson and stated the pictures that came through appear that the pit bull was outside the fence.

Ms. Crewdson stated it is not an enclosed fence; that her neighbor put up the one fence to try to keep things out, but it did not enclose the whole front yard.

Councilwoman Ladd asked if the pit bull is loose and can come onto her property or get out in the road, which is a very dangerous road as people pass through at very high rates of speed. Ms. Crewdson responded "yes" to Councilwoman Ladd's questions.

Councilwoman Robinson stated that she wanted to make a couple suggestions and asked the applicants to come to the podium. She stated they mentioned this was the first time they purchased a home and it occurred to her that a good thing, since this has become troublesome, would be for them to take a couple weeks and defer this case and give them a chance to talk to their neighbors. She stated they have specific issues she would like for them to address and the applicants certainly seem willing to be responsive in that regard if they have already taken the initiative about the dog and the car; that they have other concerns, as well, as some of the photos show there was trash that needed to be off loaded and perhaps after the holidays things got piled up. She stated it seems to her that it might be a good thing for us to give them and the neighbors a chance to talk about this and then come back in two weeks and see if perhaps they are able to address some of the concerns they have, maybe they might feel differently. She stated she does not know who the dog belongs to that they are afraid of and to try to make an effort to be a good neighbor and responsive to the questions they are raising. She stated if they are willing to do that she **made the motion to defer the matter two weeks** to give them a chance to communicate with their neighbors.

Councilman Murphy stated the entire reason for special exception permits is to keep a prior zone that people did not want from coming back and then spreading. He stated the other reason is economics and if they could determine what the cost of conversion of this dwelling would be through a contractor that would be helpful because it either is economically viable and feasible to do that or it is not.

REZONING (Continued)

Councilman Murphy stated property values in that neighborhood is normal and from what was presented they got a great bargain here; that there may be some room so that they or a future buyer could economically convert this to single family and have it be a logical proposition. He stated that is really the purpose of this exceptions permit to keep the R-2 zoning from creeping back in where people did not want it and to avoid the situation we have in some parts of town where structures when they lose their status as rentable duplexes or triplexes become boarded and bring with them boarded and vacant property problems and remain vacant and boarded for more than a quarter century because there is no incentive to take the structure down. He stated if they would do that research it would be helpful; that they made a representation it is not feasible but it is his understanding that Mr. Zhang works in the restaurant business and not construction and perhaps someone in construction could give them a different outlook.

Mr. Haynes reminded the Council that what is before them is an R-3 request and not a special permit which is easily confused as we have had so many of those.

Chairman Benson stated in fact there will not be any more special exceptions permits if Planning has their way as they are recommending doing away with it.

Mr. Haynes stated that was brought before Planning yesterday to remove that from the zoning regulations even though we have three on the agenda for later tonight.

Mr. McGary stated from his perspective this case is not about loose dogs, if so they need to call McKamey; it is not about flat tires as the person has already gotten a license; this is not about trash and if so call 311 – that this is about zoning and to tell this gentleman to go away and talk over with neighbors about the other issue and then come back knowing it is a zoning issue is a disservice to this gentleman and he would say it would be far more respectful of his time to say either we will vote it up or down.

Councilwoman Berz expressed agreement with Councilman McGary; that this is spot zoning and unfortunately these situations happen, however it puts us in the position of correcting not an area but lack of due diligence. She stated although she feels bad for people that get themselves in this situation, she feels very strongly we have worked long and hard to start straightening our neighborhoods out and it is incumbent upon the buyer to do the research and due diligence and it is not our responsibility to fix things after the negligence.

On roll call vote on Councilmen Robinson and Murphy’s motion and second to defer the matter two weeks:

SCOTT

“No”

ROBINSON

“Yes”

LADD

"No"

REZONING (Continued)

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

The motion failed.

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 4317 NORCROSS ROAD, MORE PARTICULARLY DESCRIBED HERIEN, FROM R-1 RESIDENTIAL ZONE TO R-3 RESIDENTIAL ZONE
Was denied; Councilwoman Robinson voted "no".

After the vote was taken, Chairman Benson stated as a matter of record that it is against the city's ordinance not to have a dog on a leash or in a fence.

APPROPRIATION

Councilmen Rico and Robinson made the motion to approve this request.

Councilwoman Scott stated this was discussed in Committee earlier today and Councilman McGary asked a question about whether this would set a precedent and expressed her thought it does and for that reason she cannot support this. She stated that she does support the library and wondered if we do not "open up a can of worms" for renegotiating our budget at the "drop of the hat" which we spent a lot of time on initially and we voted to agree on. She stated that it is her belief the money comes out of the contingency fund which we voted to approve in the first place as an emergency fund to be able to enable us to meet emergency needs throughout our budget. She asked the Council to take that into consideration as we are not at the end of the budget year.

Councilman McGary expressed agreement with Councilwoman Scott's comments; that we, as a Council, are under a sales tax agreement to fund the library 50/50 so whatever the city funds the county is expected to do so.

APPROPRIATION (Continued)

Councilman McGary stated in the past there have been some inequities which is not the issue; that the issue at hand is that the Council has chosen to appropriate a certain amount and our "sister body", the County Commission, some of the individual Commissioners have chosen to give out of their own discretionary funds amounts to the library. He stated the Council does not have discretionary funds at their disposal; that in keeping with the agreement is where our funds should go. He stated to honor outside money is not in holding with our agreement and unnecessary and sets a precedent he does not feel is in the best interest of this body.

At this point Chairman Benson handed the gavel to Vice Chairman Rico.

Councilman Murphy stated we are all for the library and there is no question about that; that the issue is we as a body have agreed to match the funding provided by the body of the County Commission. He stated what this is doing is essentially saying any individual Commissioner because they have access to a discretionary fund that they do not require a vote of any other County Commissioner to expend that money on, they decided after their budget was done to individually give the library a bit more money which is a wonderful thing. He stated the issue becomes are we going to be reacting to individual Commissioners' decisions when that is not what our agreement is, not the intent of our agreement. He stated he is going to vote "no" because this sets a bad precedent; that Councilwoman Scott made a valuable point in that the contingency fund is there for emergencies and this is not an emergency, this is not an opportunity that has been presented we could not have foreseen during budget negotiations. He stated this is just a late appropriation and for that reason he cannot put this \$19,000 ahead of any of the other tremendous pressing needs; that the reality is we should not as a body be able to be dictated to by one or two Commissioners and for that reason he will vote "no".

Chairman Benson spoke at this point and stated the history of this situation has to be known. He expressed agreement this is a precedent; that it is a good precedent to correct a wrong with a right. He stated the wrong happened about several years ago when the county reneged on their obligation to equally fund the library with the city. He stated at that time prior to the time the city and county matched to fulfill the agreement made years ago in joint funding we sent down a certain amount of money that year and the county sent \$50,000 less. He stated the library got behind on the budgeting and buying of books; that the next year we again showed good faith and the county still sent less and the library got about \$85,000 behind on their inventory/books they could circulate. He stated we begged the county to match it and this year the Mayor recommended a certain figure for the library and we found out the county was not going to match it again. He stated it was his guess some thought there was another way to "skin this cat"; that the County Commissioners get \$100,000 to do as they want and if the County Commissioners would advocate matching their

personal discretionary money he would match it to bring it up.

APPROPRIATION (Continued)

Chairman Benson stated then he heard Commissioner Brooks was going to give \$15,000 of county tax money we need to get back as we are paying those county taxes and this is one way to get it back. He stated he received a call from the library to see if we would match it and he told him he would be an advocate which is what he is doing now. He stated he then got word Commissioner Coppinger would give \$4,000 of his money; that the library wrote a letter to the Mayor stating they have \$19,000 and asked if the city would match it. He stated they put in \$19,000 more this year in the library than we put in right now and he is embarrassed! He stated the county, which has always let the library down, has given more money; that he sees it as another way to get the county to start matching the city in a good faith effort because as individuals that is two Commissioners that next year probably will vote to match it and then they will not have to give it out of their pocket. He stated that is why he is supporting this.

Councilwoman Ladd stated she is a great supporter of the library and wishes we could do more for them, however, doing it this way using this process after we have set a budget, the money that is a discretionary fund the Commissioners have they can spend at their discretion is budgeted money. She stated the County budgeted for it and knew the funds would be spent; that we set our budget based on what we believe we could do for operation and general funds and for agencies we would give money to in support. She stated we set the budget and it is her belief we need to stick on budget as this is not the year she feels we can let things come up that we change our mind about; that there are already things that have come up we will have to come out of pocket with that were not in the budget. She stated to add this item on with those others is just too much; that we have tax payers upset now about water quality fees and other things that are going on and she does not think it is the thing to do to add \$10,000 more onto our responsibility. She stated not this year and probably not next year; that there is a reason we went through the budget process and we need to stick to our budget.

Councilwoman Robinson stated as Chairman Benson indicated we struggled with trying to provide equal funding for what the city and county consider their jointly funded agencies and the library has received less money from the county for a number of years and we have held true to the course and funded at the full amount. She expressed support for what Chairman Benson wants to do because this is a special circumstance, it is the first time it has ever happened, and she does not think it is something that will turn into some kind of trend. She stated the two generous Hamilton County Commissioners have heard the plea and are "stepping up to the bat" to do the right thing; that if this is defeated all she can say to the two Commissioners is thanks a lot on behalf of her as a Hamilton Countian and a resident of the City of Chattanooga and please do not withhold your pledge of \$19,000 even if we cannot match it.

Councilwoman Berz stated her comments are different; that she is so grateful and appreciative to the Commissioners who gave of their funds to the library; that it is very

important and is precedent setting. She stated that she wished that energy would have gone into the Commission's budget sessions.

APPROPRIATION (Continued)

Councilwoman Berz expressed thanks for trying to make it right, however, as Chair of the Budget, Finance and Personnel Committee there is another concern and that is that she knows this year our contingency funds are dangerously low; that they are low because income is low, expenses are higher and we cut our budget "to the bone". She asked Adm. Madison to come to the podium at this time and asked her to share this information with the Council as to whether our contingency funds for this budget are how much.

Adm. Madison responded \$235,000.00.

Councilwoman Berz stated this is very low for a city our size. She asked how the funds are derived at; that they are not reserves which is something totally different.

Adm. Madison stated as we do a budget process, ideally if funds were plentiful or reasonable we would try to put in a contingency account something between, in a budget our size, a one percent and a half percent contingency, which in our case would probably be around \$1.6 million or \$800,000. She stated that is because as we go through the budget year there are things that will come up we did not anticipate but will have to happen; that there is also the possibility revenues may not happen in the manner we think they will and we will have to adjust our expenditure by a line item called contingency, which we would not have to spend anyway. She stated this year is a very difficult year; that revenues were very limited and even slightly less than we bargained last year. She stated we essentially "squeezed" the budget with the help of the departments, came up with a budget within the estimated revenues we had and in order to do that departments had to essentially cut back to the extent they could and still operate. She stated once those decisions were made by the Council and the Mayor with the help of the departments, any difference between the absolute essentials for the departments was put in contingency and that amount this year was about \$235,000.

Councilwoman Berz asked if Adm. Madison thinks the contingency funds we have this year will meet the contingency needs we have this year.

Adm. Madison responded actually if she was not hopeful that the budget would work as it was put together she would have told the Council at the time; that at this point she is not where she would say we are not able to operate within our budget as it is passed including that money for contingencies.

Councilwoman Berz stated the library is one of her pet projects and asked how much money did we allocate to the library this year. Adm. Madison stated she could not remember off hand; that it is the same amount we allocated last year; that it was in the millions, more like \$1.8 million.

Councilwoman Berz stated the County was to match that and did they. Adm. Madison

responded "yes.

APPROPRIATION (Continued)

Councilwoman Berz stated she is grateful for the Commissioners and is glad they are becoming enlightened about the library and expressed her wish that energy could have gone toward the whole Commission to meet the obligation. She stated because she has a fiduciary responsibility because of the Committee she chairs she has to vote against this.

On motion of Councilman Rico, seconded by Councilwoman Robinson,

AN ORDINANCE APPROPRIATING NINETEEN THOUSAND DOLLARS (\$19,000.00) FROM THE GENERAL FUND CONTINGENCY ACCOUNT TO THE CHATTANOOGA-HAMILTON COUNTY BICENTENNIAL LIBRARY AS A MATCH OF HAMILTON COUNTY FUNDS RECEIVED

Failed; on roll call vote:

ROBINSON	"Yes"
LADD	"No"
GILBERT	"No"
BERZ	"No"
RICO	"Yes:"
MCGARY	"No"
MURPHY	"No"
SCOTT	"No"
Benson	"Yes"

The gavel was returned to Chairman Benson at this point.

APPROPRIATION

Councilman McGary stated this is a federal mandate that we have to do; that it is an unfunded mandate and the \$72,000 is something we are told if we do not do we can lose a lot more federal funding and we are pretty much caught in a position.

Councilwoman Berz stated this is one of the contingencies we talked about earlier we have to use the contingency for; that we really do not have a lot of choice because of all other federal monies coming into town. She stated this would be appropriate use in her understanding.

APPROPRIATION (Continued)

On motion of Councilman Rico, seconded by Councilwoman Ladd,
AN ORDINANCE APPROPRIATING FROM THE GENERAL FUND CONTINGENCY TO THE CHATTANOOGA-HAMILTON COUNTY REGIONAL PLANNING AGENCY THE ADDITIONAL AMOUNT OF SEVENTY-TWO THOUSAND EIGHT HUNDRED SEVENTY-TWO DOLLARS (\$72,872.00) IN ORDER TO COMPLETE THE "LONG-RANGE TRANSPORTATION PLAN DATA COLLECTION AND ANALYSIS" AS FEDERALLY MANDATED

Passed first reading.

RIGHT-OF-WAY PURCHASE

On motion of Councilwoman Robinson, seconded by Councilman Rico,
A RESOLUTION AUTHORIZING THE PURCHASE OF A RIGHT-OF-WAY AND PERMANENT DRAINAGE EASEMENT FROM DEWEY C. AND TERESA A. ROBERSON, AT 1802 HAMILL ROAD, PARCEL NO. 1101-J-016, TRACT NO. J-016, RELATIVE TO CONTRACT NO. E-03-028, HAMILL ROAD WIDENING (HIXSON PIKE TO HIGHWAY 153), FOR AN AMOUNT NOT TO EXCEED FOUR THOUSAND EIGHT HUNDRED FORTY-NINE AND 50/10 DOLLARS (\$4,849.50)

Was adopted.

EMINENT DOMAIN

On motion of Councilwoman Ladd, seconded by Councilwoman Robinson,
A RESOLUTION AUTHORIZING THE OFFICE OF THE CITY ATTORNEY TO INSTITUTE EMINENT DOMAIN PROCEEDINGS AGAINST CHARLES W. LIND, JR. AND DEBI S. DISHEROON, 1625 HAMILL ROAD, CHATTANOOGA, TN 37343, TAX MAP NO. 110P-A-033, TRACT NO. A-033, RELATIVE TO CONTRACT NO. E-03-028-203, HAMILL ROAD (HIGHWAY 153 TO HIXSON PIKE) ROADWAY IMPROVEMENTS PHASE 3, IN AN AMOUNT NOT TO EXCEED FOUR THOUSAND DOLLARS (\$4,000.00)

Was adopted.

SPECIAL EXCEPTIONS PERMIT

2009-168: Nevco Properties, LLC (William R. Neville)

The applicant was present; opposition was in attendance.

Councilmen McGary and Murphy made the motion and second to deny this request.

Rob Neville of P. O. Box Two, Lookout Mountain, Tennessee stated that the Council will probably deny this; that the Planning Review Board did their study and recommended

he get the permit on these units and when the opposition showed up it was denied.

SPECIAL EXCEPTIONS PERMIT (Continued)

Mr. Neville stated the recommendation was not carried through; that the reason was that duplexes were bad, owned by slum lords and people who live in them are bad. He stated he bought the units last summer and did not know about the zoning change and was relatively new to the area and had come up from Florida. He stated his goal was to completely redo them from top to bottom as duplexes; that he owns 22 rental units in two states, no single family houses, only duplexes and condos because that is what works. He stated when he bought these his realtor did not catch it or know anything about the down zoning; that he has done a lot of business with her and she just missed it as she "knows her stuff". He stated he never would have touched them knowing anything about the down zoning; that the two units were built as duplexes 42 years ago, they are brick on a slab and will outlast most of the houses in the neighborhood that are 100 years old. He stated the only reason they were vacant is because they went into foreclosure by the previous owner who apparently was a slum lord by the look of the places and the banks in their infinite wisdom made the tenants vacate. He stated December was the last time the tenants moved out; that they were vandalized and stole the AC units, appliances. He stated after that the grass was growing and things started coming back to the property in the form of trash; that it is a dumping ground which happens to vacant properties. He stated that he bought them in August 2007 in two separate transactions; that his intentions were to clean them up and the first thing he did was haul off all the debris that was there and had been paying a neighbor to keep the grass down until he could get things going. He stated he planned to redo them inside and out from top to bottom and that is when he found out about the down zoning. He stated his roofer went to pull the permit and it was denied and consequently the power was shut off and the meters removed. He stated he planned to put architectural shingles on the roof; that he is not a slum lord and would do the units inside and out first class more than he should especially considering the neighborhood it is in.

Mr. Neville stated the neighborhood can support duplexes as they are all over the place and most of them are abandoned and boarded up right now; that this neighborhood is probably the worst looking neighborhood in all of Chattanooga as there are boarded up, derelict duplexes and single family homes and commercial properties all over the place; that he is looking at spending \$15,000 per building to make them nice. He stated he owns four duplexes on North Hawthorne Street, another "lovely area", and has since put a bunch of money into those, made them nice and got the rents higher. He stated he had problems recently with one of the tenants; that the good tenant moved out and family members moved in and were causing problems and they had to be evicted and they moved down the street into a single family house. He stated the people are not going to go away, they will move into a different property; that investors have avoided this neighborhood like the plague and rightfully so and it shows. He stated duplex tenants have lived in some of the units for 20

and 30 years; that there are single family houses with undesirables. He stated the duplexes can be done away with but the people are not going to go away.

SPECIAL EXCEPTIONS PERMIT (Continued)

Councilman Murphy stated he would not address some of the characterizations of the neighborhood Mr. Neville made because he wants to keep his blood pressure down! He stated this may be Mr. Neville's lucky day because he happened to have bought duplexes in an area where he would ask him after this is done -- assuming this does not pass and he seconded the motion to deny -- to get with Beverly Johnson as there is a great deal of programmatic money coming down to help investors do conversion of duplexes into single family dwellings. He stated Mr. Neville, pursuant to his testimony, is ready to put a substantial investment into the properties; that the additional cost for conversion may be able to be picked up entirely by somebody else's money he would not have an obligation to repay. He stated the idea is to renew this community and part of it is to use funds with private investors such as Mr. Neville to leverage the investment to take this property, but it is entirely from the interior and do a great conversion and have the additional expense essentially picked up by somebody else. He informed Mr. Neville if he is denied not to leave without getting with Beverly Johnson.

Mr. Neville stated he did not know and it is interesting; that this whole deal with down zoning is a classic case and a good orientation to alternative consequences; that there are other ways to improve this neighborhood as there is so much debris. He stated he would like to organize a community cleanup and could get with the city to provide dumpsters; that he will help as the place is a mess! He expressed appreciation for the information.

James Moreland distributed information which showed good examples of what they are trying to do with duplexes in the area in turning them into single family housing. He stated this is actually going on now; that some of the duplexes were removed and new affordable nice family homes have been constructed. He stated that is the plan they are working on and feels that is what is needed to bring this neighborhood back to a viable neighborhood. He stated those on the Council from a few years ago will remember this neighborhood was on the news every week with shootings and all kinds of crime. He stated they had a land use down zoning study done to give time to stabilize the community and now single family homes have been converted from duplexes and made this a viable source. He stated if we open one up it "shoots them out the door".

Chairman Benson stated Mr. Moreland's group is doing a good job in that community.

On motion of Councilman McGary, seconded by Councilman Murphy,

**A RESOLUTION APPROVING A SPECIAL EXCEPTIONS PERMIT FOR A DUPLEX
IN R-1 RESIDENTIAL ZONE ON A TRACT OF LAND LOCATED AT 2010 CAMDEN
STREET, MORE PARTICULARLY DESCRIBED HEREIN**

Was denied.

SPECIAL EXCEPTIONS PERMIT

2009-169: Nevco Properties, LLC (William R. Neville)

The applicant was present; opposition was in attendance.

On motion of Councilman Murphy, seconded by Councilman Rico,

**A RESOLUTION APPROVING A SPECIAL EXCEPTIONS PERMIT FOR A DUPLEX
IN R-1 RESIDENTIAL ZONE ON A TRACT OF LAND LOCATED AT 2012 CAMDEN
STREET, MORE PARTICULARLY DESCRIBED HEREIN**

Was denied.

SPECIAL EXCEPTIONS PERMIT

2009-177: Beth Fogo

The applicant was present; no opposition was in attendance.

Chairman Benson asked Ms. Fogo if she has been able to check with the homeowners in the neighborhood.

Beth Fogo, applicant, stated she has been unable to get that completed with the holidays and other situations. She stated it is not looking good from the previous applicant before her; that her arguments from the Planning Commission still stand. She stated she is the owner of this property and has been since 1986; that she has owned it for these decades without any problems other than the fact it remained empty for over 100 days and due to her not realizing that would be an issue as she had tenants who moved out and is in the process of making repairs and updating the property, it fell out of zoning. She stated at the previous meeting she mentioned that she had e-mailed both the Council person for this area and the president of the homeowners association and there has been no response from either. She stated she did not fulfill the request of actually speaking to homeowners; that it was her understanding after owning the property for all these years that it is a mixed use in that area. She stated at the end of the street there is a structure that may have been apartments or condos; that it is multiple housing for a lot of people. She stated that she knew at one point the owner of the property right next door was using it as a rental house; that it is all mixed property.

Councilwoman Berz stated a little bit of incorrect information was given by Ms. Fogo; that she did say that we consider that spot zoning and noted that she has the e-mails. She stated the Council was pretty much looking at down zoning property and not doing spot zoning very much like they said tonight. She stated that she suggested to Ms. Fogo that she get a petition and it is her understanding the Planning Commission followed up and said the same thing to her (Fogo); that she told her they would be asking for one. She stated that she gave her the names of all of the heads of the neighborhood associations to contact and get that petition; that under rare circumstances people have changed their mind.

SPECIAL EXCEPTIONS PERMIT (Continued)

Councilwoman Berz stated with all due respect with what we are trying to do she would love for Ms. Fogo to talk with someone about bringing that to a single family residence for all kinds of reasons where we are trying to upgrade the entire area. She stated she is going to have to vote "no" on this.

Councilwoman Robinson stated she would like for the applicant to take the photos distributed by the gentleman previously; that there are some fantastic examples of what has been done with conversions; that it is "food for thought".

Ms. Fogo stated her understanding was when this all took place initially for the rezoning was that her property was included in the initial study.

Chairman Benson stated "yes it was and it was grandfathered".

Mr. Haynes responded that it is his belief it was in the 1989 zoning study that rezoned the area from R-2 to R-1. Chairman Benson stated the down zoning is generally helpful in many parts of Ms. Fogo's community.

Councilman Murphy stated he is actually sympathetic to Ms. Fogo's situation; that it is difficult to get people at the holiday time and then we had below freezing temperatures. He stated there was no opposition at Planning and no opposition tonight; that part of him wonders whether the better course would be to defer this and let Ms. Fogo come back in two weeks and let people be contacted. He stated for all he knows people who live around there have no problem with this existence and would not prefer the alternative if the alternative is "moth balling" of this property. He stated we would tend to assume people would oppose it, but that is an assumption so far; that he has not seen evidence in the record and certainly not here tonight that anybody cares.

Ms. Fogo stated her property is the only duplex on the street and has owned it since 1986 with no problems heretofore.

Chairman Benson stated Ms. Fogo has had four weeks to get someone to support her; that she was asked to do so at the Planning Commission.

At this point Councilman McGary called for the question; however, Chairman Benson noted Councilman Gilbert's light came on at the time the question was called. At this point Councilman McGary withdrew his call for the question.

Councilman Gilbert stated Ms. Fogo had four weeks and asked how long ago this was. Chairman Benson responded it was four weeks ago when Ms. Fogo was asked. Ms. Fogo stated it was December 14.

Councilman Gilbert asked if Ms. Fogo went out to try to solicit, "yea or nay".

SPECIAL EXCEPTIONS PERMIT (Continued)

Ms. Fogo responded "no".

Councilman Gilbert stated Councilman Murphy indicated it was due to the weather, but four weeks ago it was not that cold.

Ms. Fogo stated it was before the holidays and with family coming in situations got in the way and she thought after Christmas she would take care of it and it is clearly her fault for not having it tonight. She apologized to the Council for not having it.

Councilman Gilbert stated if this were him and he had some property he knew he might have to change, personally he would have taken a day or so to get some signatures to say "yea or nay" they wanted that to happen in the area. He stated that would have been more important to him; that he knows there are holidays, but still he would have had some kind of signatures.

Ms. Fogo stated with all due respect to the Council she did not mean to minimize or anything; that maybe it is arrogance on her part; that she assumed having this property for this many years with no problems in the past and the fact she is trying to upgrade the property, she again expressed apologies. She stated she should have had the information and apologized for not having it; that she did not anticipate this being a problem and thought it was just more a matter of getting to this point and having it reversed. She stated she was clearly mistaken about that. She stated she would be more than happy to get the information to see if any property owners object; that she has been a responsible property owner for all these years taking care of the property, it is the only duplex on the street and never had any issues about it before.

Councilman Murphy made the motion to defer the matter two weeks. He stated the Council constantly presumes the lack of opposition to alley closures, right-of-way abandonments means nobody has a problem and we do that all the time and now we are going to take a 180 degree position to the fact no opposition means there is opposition and that is bizarre. He reiterated his motion to defer and indicated to Ms. Fogo to not show up next time if this is approved without something! He stated the next door neighbor surely cares one way or another. **Councilman Rico seconded the motion.**

Councilwoman Berz stated it is her thought the problem with the former properties were spot zoning and it is her thought we have to be real careful about this. She stated her problem is it looks like we are handling different properties for different people different ways and it is her thought that can become very problematic later on as we have seen in other situations. She stated the reason she suggested that Ms. Fogo talk with the other people is there is a gully behind her street that goes up into Monte Vista behind Provence. It was clarified at this point that Don Walker wanted to develop the gully and the woods behind that property.

SPECIAL EXCEPTIONS PERMIT (Continued)

Councilwoman Berz stated they looked at all of that and what they came upon was a lot of opposition on the other side because apparently people were coming from Provence and they were robbed going through the property; that robberies were occurring up on Monte Vista which has nothing to do with Ms. Fogo's tenants, but when she first came into office there was a lot of talk about really sticking to upgrading that whole area, meaning the down zoning to R-1. She stated unfortunately Ms. Fogo falls into this and what happens is there are other areas that some people think are privileged and we waive the restriction and it is her thought what we have to do is be very even handed. She stated she is not coming in opposition to anything Ms. Fogo is saying; that it was more than four weeks before Ms. Fogo went before the Planning Commission and it is has been maybe two months when Ms. Fogo first contacted her. She stated she then suggested that Ms. Fogo please go and talk to all the people that could be affected as there have been problems. She stated that it is her thought we are unwise to show any preferential or lack of preferential treatment in this decision making.

Councilman Murphy stated that he wanted to make the point the special exceptions permit exists to prevent R-2 zoning from coming back into an area; that the property does not get rezoned but gets the "blessing" to use it the way it was originally constructed. He stated "yes" we reach different decisions on different requests for special exceptions permits because as Councilwoman Robinson can tell us every piece of real estate is different; that there are different economic situations. He stated the reason he moved to deny at least one of Mr. Neville's we had previously is that we had a meeting today and Mr. Neville is going to have available to him substantial resources through stimulus funds to do a conversion. He stated this property is not in that area; that if this woman does not get her special exceptions permit this property is "done" and will be boarded in all likelihood. He stated we should not ignore the law of economics which is that private parties cannot lavish money on things that have no chance of producing the return; that "yes" we do treat different applicants differently because they are each in unique situations and that is how it should be. He stated the Planning Commission has tried to take this "tool" out of the "tool box" for professional staff for good reason, and this may or may not be one of those properties that make sense; that we still have no idea what the community position is. He stated part of that falls on Ms. Fogo's head and she is not blameless. He asked the Council to not take the position that lack of opposition means we should presume opposition – that is nuts!

Councilman McGary stated he is very sympathetic to Ms. Fogo's situation however he considers the decisions the Council makes in a very serious light as they have been charged to uphold the laws of Chattanooga. He stated for the Council to allow an extension after being asked not only once but twice to get public feedback and she said she has neglected to do so simply because of neglect, for the Council to allow an extension due to her neglect sets a bad precedence for all the others that have come before. He expressed agreement with Councilwoman Berz it is in the Council's beset

interest

to

uphold.

SPECIAL EXCEPTIONS PERMIT (Continued)

Councilwoman Berz stated in response to Councilman Murphy it is her thought this was more about spot zoning and more about the fact that the Planning Commission ...

Mr. Haynes stated this is not spot zoning it is for a special permit and the reason for the whole creation of the special permit so these uses can be brought back on line without rezoning. He stated this would not be a zoning or spot zoning.

Chairman Benson stated it needs to be corrected; that the Planning recommended removal of the special exception application process and go back to the old rezoning which is tantamount to a more open legitimate way. Mr. Haynes stated the request came from the City Council.

Councilman Gilbert addressed Councilman Murphy's comments about the property being boarded up and money being available in the future and asked if the houses were by funded money or private people.

Councilman Murphy stated that he suspected many of those are in the Legislative CDC and several are in the Community Impact areas. He stated the area Ms. Fogo is in is not an area of greatest need and Ms. Johnson visible nodded her head in agreement. He stated the last applicant would have that resource available and this applicant does not; that she is on her own if she is going to do a conversion. He stated Community Impact does not operate in this area and she is in trouble. He expressed agreement with everyone that Ms. Fogo should have gotten somebody to come forward but she did not; that we presume with no one showing up at either meeting that people do not want this woman continuing to do what she has been doing for 20 something years.

On roll call vote of Councilmen Murphy and Rico's made the motion and second to defer this matter two weeks:

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

BENSON

"No"

SPECIAL EXCEPTIONS PERMIT (Continued)

The motion failed.

Councilwoman Scott asked Mr. Haynes to inform the Council the way the public gets notified of a special exemption.

Mr. Haynes responded the same as any other request like zoning, the yellow signs are posted.

Councilwoman Berz stated when people cannot get special exceptions but they do want rezoning, will they get notice of this.

Mr. Haynes stated it would still be the same process as any other zoning; the signs will be required by the applicant to be posted.

Councilman Gilbert stated the applicant must put the signs up. Mr. Haynes responded "yes"; that they cannot force them; that when they (RPA) go out to check that is the first thing they notice and they will call them and tell them they need to do that.

On motion of Councilman McGary, seconded by Councilwoman Scott,

**A RESOLUTION APPROVING A SPECIAL EXCEPTIONS PERMIT FOR A DUPLEX
IN R-1 RESIDENTIAL ZONE ON A TRACT OF LAND LOCATED AT 3706
PROVENCE STREET, MORE PARTICULARLY DESCRIBED HEREIN**

Was denied; Councilmen Robinson, Murphy and Rico voted "no".

SPECIAL EXCEPTIONS PERMIT

2009-178: Steve Storey

The applicant was present; opposition as in attendance.

Mr. Haynes stated the request is for a special permit for a residential home for the handicapped and/or aged persons operated on a commercial basis at 806 South Watkins Street in the Ridgedale neighborhood. The site was shown by PowerPoint, reflecting single family properties and a warehouse in the M-3 zone. He stated the State *Code* as classified takes precedence over local zoning ordinances except when operated on a commercial basis, which is what is being requested here. He stated Staff recommends approval subject to a parking plan to be approved by the Traffic Engineer; that Planning agreed and added an additional condition "subject to issuance of state licensing" for this use to the applicant, Steve Storey. He stated they wanted to try to protect that this would be held to him and not go to someone else should he decide to sell this property.

Chairman Benson stated that is with the condition that Mr. Story gets his state license.

SPECIAL EXCEPTIONS PERMIT (Continued)

Steve Storey stated he is not able to get the licensing until he finalizes everything in the city. He stated he does have the application from the State and a letter from Cynthia Headrick saying if everything is approved in the city they would have no problem issuing a license.

Councilman McGary asked Mr. Storey to speak more about the group home permit and the business. Mr. Storey stated he could house anywhere from six-to-eight clients, would provide meals, transportation to doctor appointments and recreational activities; that they will need 24 hour assistance.

Councilman McGary asked if they would be youth or persons with disabilities.

Mr. Storey responded they would be persons with disabilities and all would be adults.

Councilwoman Scott asked if the home is originally a single family dwelling. Mr. Story responded that he was "not sure".

Councilwoman Scott asked how many square feet are in the house. Mr. Story stated that he did not have the square footage and noted there are five bedrooms and two full baths.

Councilwoman Scott asked if the eight persons include the caregivers. Mr. Story responded "no"; that there would be two workers at all times.

Councilwoman Scott asked Mr. Haynes if there is a maximum occupancy. Mr. Haynes responded "eight for this use".

Gary Ball spoke in opposition and stated he was present representing his business at 2528 East Main. He stated he talked with Ms. Headrick today and there is no application with the State of Tennessee in Knoxville. He stated Ms. Headrick said she talked with Mr. Story several times and nothing was forthcoming; that there seems to be a lot misinformation from Mr. Haynes' office and Planning about how this works. He stated he has done research and will be happy after this is over to meet with Mr. Haynes and begin to figure out how this can be more conducive to respecting neighborhoods. He stated there was no respect at the Planning Commission for the neighborhood trying to have input whatsoever. He stated the issue is there are all kinds of "hoops" Mr. Storey should have already gone through and he has done none just as the Council chastised the lady awhile ago for not doing. He stated Mr. Storey does not have to have the Council's rezoning to have applied to the State already, to have the 45 days for them to come inspect the house, to have made the recommendations for him to hire a contractor, for him to have shown what he is going to have to do to make the life and safety changes noting he has done it on a scribbled piece of paper. He stated in reference to his site plan the Council would chastise most people for doing that but that is acceptable and then Mr. Haynes, without any meeting with the

community, says this is compatible with surrounding zones.

SPECIAL EXCEPTIONS PERMIT (Continued)

Mr. Ball asked what is compatible – eight people in a single family dwelling. He stated there are R-2's in the area and one of the few he has said many times they did not downzone; that they left the R-2 and tried to respect some of the other people's properties, yet to say that is compatible with the surrounding makes no sense. He stated the bottom line in this is once it is rezoned there is no way from here on out to supervise and see Mr. Storey gets his rezoning and at that point that stipulation cannot be put on there it is state licensed, he does not believe, and he cannot apply for property he does not own. He stated Mr. Storey was asked if he has the owner's permission to act as the owner's agency and he said "yes". He stated that he asked if the Planning Commission asked for any documentation – no! He stated it just does not make sense to let people put applications down that have all kinds of misinformation and then just ramrod it through.

Teresa Ivy of 1214 Peachtree Street stated she has definite information; that the square footage of the house is 1,662 square feet and was built in 1966. She stated that she knows there are supposed to be two care givers and Mr. Storey wants up to eight people, noting that she wants to see eight people in a house that size. She stated that she tried to contact Mr. Storey and the phone number listed on his application is not active anymore. She stated she could not get him to ask questions; that she looked up the address at 2213 Peterson Street and there is no such address; that there is a 2213 Peterson Drive in the 37421 zip code. She stated she could not mail a letter as there was no number on the application to call the property owner in Ft. Oglethorpe to verify if he has permission. She stated she called the main office for the State and found he did not have an application, either; that he says either a home for aged and/or handicapped persons and noted she would like a little more clarification if it is one or the other as there are different procedures you go through with the state. She stated there are a lot of cloudy issues here; that the meeting was over a month ago and he has the application that says the procedures you go through and it does not say anything about getting signatures; that she pulled information from the website with reference to homes for the aged. She stated a month ago he was talking about a home for the aged; that she does not know where he got eight people or fewer; that if he has three persons or less he is not required to get a license. She stated if he has an existing building to be licensed for six or fewer beds he does not have to submit architectural plans but he does have to submit one set of schematic drawings which he has scribbled on a piece of paper. She stated when she talked with Linda at the State who said he would have to supply the schematic at the time of application and the first thing they do is submit that to the plans review section; that they have someone come out and schedule it in advance.

Councilman McGary stated if he understands correctly the concern is Mr. Story is correct he has to get approval by City Council before applying for a license. He stated that he asked the City Attorney via the letter Mr. Storey supplied if this is correct.

City Attorney McMahan read from a particular paragraph in the letter which states:
"Submission of complete application packet including all required supporting documents, evidence of

compliance with statutory requirements, payment of the application fee, confirmation of local code

SPECIAL EXCEPTIONS PERMIT (Continued)

compliance, fire inspection approval and demonstration compliance of onsite licensure initial inspection are required before a license can be issued". He stated if Mr. Storey submits an application and meets all the requirements a license will be issued. He stated of importance to that paragraph is the phrase "*confirmation of local code compliance, fire inspection approval*" and as he understands it Mr. Storey has to show zoning approval, then he has to show that the building is constructed appropriately, if it is handicapped accessible and he will have to show that he has appropriate fire walls. He stated that he strongly suspected he will have to do major renovation to the structure to comply with any licensing requirements. He stated it is his thought this is one of the steps he would have to take to get a State license.

Barry Bennett, Executive Director of the RPA, stated that Mike is correct and related a situation in Highland Park many years ago which involved over 30 group home facilities opening illegally. He stated they were not illegal in the sense they did have a business license from the State, but at that time the State issued a license without requiring any proof of application having met the local zoning and permitting requirements. He stated they were able to work closely with the building department to get most of them shut down, but because of that issue there was a meeting with Ms. Headrick and other members of the State Health Department and Department of Mental Health and Retardation and the result of that meeting and at our request was for them to help solve that problem by not granting a business license until they had proof from the local jurisdiction that they had met all local zoning and permitting requirements. He stated it is his understanding those are the requirements to this date as Mike indicated; that it may be a matter of written record that procedures have been followed. He stated many on the Council may not be aware that if Mr. Storey decided to get a non-profit charter instead of operating on a commercial basis, he would not be here; he would be completely exempt under State law from any local permitting or zoning requirements under TCA; that those uses are the uses that are typically operated by Orange Grove or the Joe Johnson Mental Health Center and others in the Chattanooga area. He stated others operated by individuals who do have a non-profit charter have the same restrictions in that they can only be persons staying there have to be mentally retarded/handicapped or physically handicapped, not mentally ill as defined under State law; not a drug or alcohol rehabilitation center or a correctional facility halfway house, which comes under a different process altogether. He stated this was considered when the Staff was making its recommendation that this facility could go in without any public hearing whatsoever; that under State law it would be considered the same as a standard single family residence with regard to zoning. He stated all Mr. Storey has to do to do that is get a non-profit Charter instead of taking the commercial route and going through this process.

Mr. Storey stated some of information is not correct; that this is not a rezoning it is just an application for a special permit to use the facility on a commercial basis. He stated that he did talk to Cynthia Headrick who said it would be pretty much unnecessary to file an application with them because there is a non-refundable fee that he would not

get back if the city was to deny him.

SPECIAL EXCEPTIONS PERMIT (Continued)

Mr. Storey stated there is no purpose in his filing the application for his license if he is not going to pass the process here, which is why the application was not submitted. He stated he does have it with him and as soon as he finds out something he will send in the application.

Chairman Benson asked Mr. Storey if he is requesting the matter be voted up or down or wait until he gets a permit and then come. Mr. Storey responded that he is requesting a vote "yea or nay".

Councilman McGary stated that it is his understanding from the City Attorney's opinion that Mr. Storey cannot get a permit if his request does not receive our vote. He stated in looking at the surrounding area he sees residences on one side and a business behind this property that factors into some of his thoughts. He stated having had some limited experience working with the mentally handicapped he knows if properly supervised they do not pose any threat to a community; that as a matter of fact it is a service for a business that seeks to uphold its responsibility to actually aid this population. He **made the motion to approve** with the understanding approving this zoning still does not mean Mr. Storey is home free; he would still have to do the due diligence to make sure the property is in order and as he has already heard some extensive renovations, but he thinks seeking a service to this population is admirable.

Chairman Benson clarified the motion is to approve the special exceptions permit.

Councilman McGary stated it is not a rezoning because it is looked at from a commercial standpoint not from a residential, therefore we are "talking apples and oranges" here and it is his thought we are in proper stead if the Planning Commission has solved this.

The motion failed for lack of a second.

Councilman Rico stated that he talked to the applicant about this and told him he needed to get with the neighborhood to make sure there was no opposition. He stated it is his understanding there is opposition and **made the motion to deny; Councilwoman Robinson seconded the motion.**

Councilman McGary stated it is one thing to deny an applicant because they are seeking to rezone and it is another thing to deny an applicant because they are seeking to house a population that has disabilities; that this puts us very, very close to discrimination. He stated he does not think in this instance we can say the applicant did not go to the neighborhood to ask, if indeed, they wanted persons with disabilities living in their neighborhood if this is something he should be responsible for.

Councilman Rico immediately responded to Councilman McGary by stating in all due respect this is his district and he (McGary) does not have to live there like those people.

He stated he would appreciate it if he would back off on this.

SPECIAL EXCEPTIONS PERMIT (Continued)

Councilman Rico stated he has had trouble with other (facilities) in his district like this and it is only right that the neighborhood where these people live have consideration as he (McGary) does not live around there.

Councilman McGary expressed appreciation for Councilman Rico's comments and stated with all due respect he lives a couple blocks away and would simply state that in regard to seeking to have opportunities for those with disabilities to be housed, this is something we should take very seriously.

During the roll call vote, Councilwoman Berz stated she will abstain; that we have said across the board we want petitions. She stated she has heard two people who are against it and really respects what Councilman Rico is saying as she does not see this as discriminating against the people if it is denied; that she does not know what the full neighborhood wants.

On motion of Councilman Rico, seconded by Councilwoman Robinson,

A RESOLUTION APPROVING A SPECIAL EXCEPTIONS PERMIT FOR A GROUP HOME FOR TH HANDICAPPED ON A TRACT OF LAND LOCATED AT 806 SOUTH WATKINS STREET, MORE PARTICULARLY DESCRIBED HEREIN

Was denied: on roll call vote:

BERZ	Abstained
RICO	"Yes"
MCGARY	"No"
MURPHY	"Yes"
SCOTT	"No"
ROBINSON	"Yes"
LADD	"Yes"
GILBERT	<i>(Was away from the dais when the roll call vote was taken)</i>
Benson	"Yes"

DELINQUENT FEES

On motion of Councilwoman Ladd, seconded by Councilman McGary,

A RESOLUTION AUTHORIZING THE CITY ATTORNEY OR HIS DESIGNEE TO AGGRESSIVELY PURSUE DELINQUENT STORMWATER FEES IN AN AMOUNT OF TWENTY-TWO MILLION DOLLARS (\$22,000,000.00) TO THE EXTENT ALLOWED BY LAW AND TO INCUR REASONABLE AND NECESSARY EXPENSES ASSOCIATED THERETO AND AUTHORIZING THE MAYOR OR HIS DESIGNEE TO APPROACH THE GENERAL ASSEMBLY TO REQUEST THAT TENNESSEE CODE ANNOTATED SECTIONS 68-221-1112 AND 68-221-1107(A) RELATIVE TO STORM WATER FEES BE AMENDED

Was adopted.

OVERTIME

Overtime for the week ending January 7, 2010 totaled \$16,130.01.

PERSONNEL

The following personnel matters were reported for the various departments:

CHATTANOOGA POLICE DEPARTMENT:

- **NICHOLAS ALLEN, TOBY HEWITT, BRIAN, MOSELEY** – Promotion, Police Sergeant, Range P6, \$43,692.00 annually, effective January 1, 2010.
- **JENNIFER DAVIS** -- Promotion, Police Sergeant, Range P6, \$49,349.00 annually, effective January 1, 2010.
- **ROBERT EVANS, DOUG STONE** – Promotion, Police Sergeant, Range P6, \$46,556.00 annually, effective January 1, 2010.
- **JAMES HOLLOWAY** – Promotion, Police Sergeant, Range P6, \$47,408.00 annually, effective January 1, 2010.

PUBLIC WORKS DEPARTMENT:

- **FRED BROWN** – Retirement, Equipment Operator 4, effective December 31, 2009.

CHATTTANOOGA FIRE DEPARTMENT:

SHAQUITA FORTSON – Termination, Fire Cadet #875, effective January 5, 2010.

PERSONNEL (Continued)

- **STEVEN JENKINS** – Voluntary Demotion, Building Maintenance Mechanic 1, Range 9, \$26,798.00 annually, effective January 11, 2010.

DONATION

Adm. Zehnder reported the donation of \$1,600 from the Wal-Mart in Lookout Valley to the John A. Patten Recreation Center to purchase four permanent benches to be placed around the walking tract at the Center.

HOTEL PERMITS

On motion of Councilman Rico, seconded by Councilwoman Berz, the following hotel permits were approved:

COMFORT INN – 7620 Hamilton Park Drive, Chattanooga, TN

CHATTANOOGA TN LODGING, LLC d/b/a/ COUNTRY SUITES BY CARLSON-CHATTANOOGA – 7051 McCutcheon Road, Chattanooga, TN

RECESSED COUNCIL MEETING

Adm. Madison reminded Council members of the need for a recessed Council meeting on Wednesday, January 20 for a competitive bond sale. She stated the time has not been established, however, it should be around 10 a.m.

LIQUOR LICENSE

Adm. Madison reported the request for liquor license for a location in District 3 for Robert L. Treadway, Jr. for the Vine and Barrel at 5506 Hixson Pike, Suite 100, Chattanooga, Tennessee. She stated the request is to purchase 56 percent of the share of an existing package store and five Council member signatures are needed.

REFUNDS

On motion of Councilwoman Berz, seconded by Councilman McGary, the Administrator of Finance was authorized to issue the follow refunds for water quality fees and/or property tax overpayments for the year 2009:

DEBORAH F. BOSTIC

\$1,012.96

STEVEN STUBBLEFIELD

3,187.06

REFUNDS (CONTINUED)

ROGER W. HOLLOWAY	1,001.81
C. HOLT WESTBROOK, SR.	1,125.03
JUDITH P. NEMBHARD	1,010.05
PHILLIP BRANNEN	1,570.42
STEVEN NICOLA	1,444.38
PHILLIP BROWN	1,418.69
HARRY STITT	1,483.65
STEVEN PERRY	1,784.19
KEVIN RISLEY	1,182.62
JAMES BOWEN	1,167.11
PETER POGGI	3,262.68
BETTY PASSONS	1,894.23
TAYLOR CHAFIN	1,201.52
RON CAMPBELL	2,726.06
GARY GODIN	1,080.34
WILLIAM BANKSTON	1,327.08
MAYADA DHANANI	2,158.91
NORTHWEST GEORGIA BANK	1,350.34
FIRSTBANK	1,371.67
DEAN CONSTRUCTION LLC	1,071.30
DAVID ARONT	1,915.08
SALLY ORDWAY	1,118.63

MUSEUM BLUFFS CONDO LLC

1,159.84

REFUNDS (Continued)

JENEANNE LEWIS	1,489.64
CHRISTOPHER POOLE	1,232.06
28 TH LEGISLATIVE DISTRICT	1,080.51
NANCY BANKS	2,933.54
MICHAEL INSLER	1,175.83
KISAN PATEL	1,496.25
TRACY MORROW	3,219.05
DOROTHY GRISHAM	1,498.68
ZONGXIA LI	1,128.33
PRAVIN PATEL	3,256.86
THOMAS GUERRA	1,311.08
MICHAEL J. COOK	2,347.47
SUSAN AUTUSTINE	1,872.42
JOHN T. KELLY, III	1,704.70
THOMAS HOPKINS	1,707.60
ANIL BABU	1,021.20
MICHELLE MARIE ARMSTRONG	1,046.40

PURCHASES

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

CHATTANOOGA POLICE DEPARTMENT:

KIESLER POLICE SUPPLY (ITEMS 1, 3, and 4) (Lowest and best bids)
GT DISTRIBUTORS (Item 2) (Lowest and best bid)

R215531B0006495

PURCHASES (Continued)

Purchase Contract for Simunition Conversion Kits

\$13,261.00 – Kiesler Police Supply
\$15,218.40 – GT Distributors

PUBLIC WORKS DEPARTMENT:

**HERTZ EQUIPMENT RENTAL (US COMMUNITIES), SWOPE EQUIPMENT & SUPPLY CO.,
STOWERS RENTAL & SUPPLY AND MID-SOUTH EQUIPMENT CO. – Best Bids
R20272/300035**

Rental Equipment Blanket Contract

\$120,000.00 – Approximate Annual Amount

GENERAL SERVICES:

**J. MARK BOWERY INSURANCE, INC. (Only proposal)
R2062**

Insurance for Tennessee Valley Regional Communications Systems

\$68,223.00

MAYOR'S OFFICE:

**COLEMAN TECHNOLOGIES INC. OF ORLANDO, FLORIDA (Single source)
R22599**

Port Security Network Equipment per TCA 6-56-304.6

\$12,713.44

**INTEGRATED NETWORKING TECHNOLOGIES (INTEC)
R22599**

Cabling Contract at the Network Operation Center

\$34,171.27

PURCHASES (Continued)

CHATTANOOGA FIRE DEPARTMENT:

CENTRAL STATES FIRE APPARATUS (Best bid)
R20983/B0006494

Purchase of Fire Apparatus

\$1,436,617.00

HEARING: JASIMINUS TAYLOR

City Attorney McMahan reported that a hearing was held for Jasiminus Taylor with Councilmen McGary, Rico and Berz serving as the panel. He stated the panel voted two-to-one to uphold Administration's recommendation of termination. He also apologized as there was an apparent mix-up as to the Chair for the hearing which, he explained, was probably his fault.

HEARING: SHAWN CUNNINGHAM

City Attorney McMahan stated the **termination hearing for Shawn Cunningham is scheduled for Monday and Tuesday, January 25 and 26 with Councilman McGary as Chair and Councilmen Ladd and Scott at the remaining panel members.** He stated Councilman Gilbert had volunteered as Alternate, however he has found he cannot serve on those dates. **Councilman Murphy volunteered to serve as Alternate for the hearing.**

NEIGHBORHOOD STABILIZATION FUNDS

Councilwoman Robinson stated the city is receiving funds for the Neighborhood Stabilization Program and it is her thought at the appropriate time she would like give a report to everyone on the Council and would be scheduled at a convenient time.

COMMITTEES

Councilman Murphy scheduled a meeting of the **Legal and Legislative Committee for Tuesday, January 19** to discuss matters within the Committee's jurisdiction.

Councilman Rico scheduled a meeting of the **Public Works Committee for Tuesday, January 19 immediately following the agenda session.**

Councilwoman Berz stated the **Budget, Finance and Personnel Committee will meet on Tuesday, January 19 to discuss insurance matters.**

ELIZABETH MCCRIGHT

Elizabeth McCright, Executive Director of the Chattanooga Housing Authority (CHA) located at 801 North Holtzclaw, addressed the Council regarding the action taken last week in rezoning their property on Fairmount. She stated CHA was disappointed with the action taken, especially the fact that they were not notified that the item was on the agenda. She stated she sat through the meeting this evening and gleaned from comments that is not typical and in this case it severely hurt them as they were unable to present their situation. She stated that she wanted to make comments because after review of the audio transcript it is her belief the Council had incomplete information when the decision was made; that CHA wishes it could have presented information last week had they known about the agenda item. She stated first, with respect to the time line, it seems to be the impression CHA has the ability to redesign the project or utilize the money for different sites, which is not true. She stated secondly, it seems to be the impression the action taken by the Council and to be taken by the Planning agency will not seriously affect their ability to utilize this funding to benefit the city and its public housing and this is not true. She stated the funding for this grant is part of the stimulus grant; that 100 percent of the money must be obligated and in our world obligation means construction contracts executed by September 23, 2010. She stated in advance of that, all uncertainties regarding the project must be removed, architectural design must be completed and the project must be put out to bid. She stated the time frame is already extremely tight.

Ms. McCright stated although CHA petitioned HUD to consider a reduction in density as a result of the neighborhood comments and comments from elected officials, this grant in general is for a particular activity, site, number of units and dollar amount. She stated their request for project modification had to be structured and approval and was only granted by HUD based on the finding that the project, as revised, would still score the same on the grant criteria as the application originally submitted in July. She stated our ability to modify the grant is very limited and they do not believe they have time left to undertake another project modification with HUD. She stated in reference to project planning some think CHA has undertaken this project without planning or it is ill conceived or represents a drastic change in their intention with respect to the site. She stated CHA's intention to redevelop this site has been consistent and has been included in CHA's agency plan for the past several years. She stated as for HUD's review there may be the impression the HUD staff has not fully reviewed the site and assessed the conditions for themselves. She stated HUD has extensively revised this project from the grant award in September through the approval of the revised project in mid-December. She stated in fact before approving the modified plan, HUD in Washington, DC at headquarters, the decision maker, dispatched two regional HUD officials to Chattanooga to review the site firsthand and offered their assessments to HUD Washington.

At this point Chairman Benson advised Ms. McCright that she had exceeded the three minute time limitation. He asked the Council to allow her to complete her statement without objection; the request was duly granted.

ELIZABETH MCCRIGHT (Continued)

Ms. McCright continued by stating HUD in Washington, DC, the decision-maker in their application to reduce the density of the project, dispatched two Tennessee HUD officials to Chattanooga in mid-December. She stated they reviewed the site and offered their recommendations based on the concerns raised by some to HUD headquarters. She stated shortly after those HUD officials were in Chattanooga, she received a call from Jeff Revell at HUD headquarters approving the project go forward with the modifications. She stated in furtherance of CHA's and HUD's missions to better serve their residents, the site location in the North Chattanooga area puts residents in a very vibrant neighborhood, close to jobs, excellent schools, grocery retail and many other opportunities and amenities. She stated their families are just like the other families who reside on Fairmount Avenue; that people want to live on Fairmount because it is a good place to live. She stated HUD gives these considerations weight and urged the Council to think about this and offer the same weight.

Ms. McCright stated with reference to density and traffic, there may be the impression left after the meeting last week that the density on this site will increase as a result of their proposed project and this is not true. She stated although the number of units at the proposed site is increasing from 28 to 36 the number of bedrooms in the new project and the expected resident population will actually be less; that it will go from 64 bedrooms to 57 bedrooms, which represents a decrease in density of up to 14 people. She stated some Council members may be unaware that a professional traffic study had been conducted on the proposed project and the study found the project would not result in Fairmount Avenue being in unsafe or over utilized conditions; that in addition, no mention was made at last Tuesday's meeting about their suggestion that the unopened city right-of-way on Winter Street could be paved and made available for use which could significantly improve access to the entire neighborhood.

In making final comments, Ms. McCright stated she does not understand what opponents to the project hope to accomplish through their persistent efforts. She stated CHA believes this site by virtue of its location is an important asset they have in carrying out their mission to serve and uplift their clients in every neighborhood in this city. She stated they will not agree that that opportunity should be taken from them. She stated that she would like to offer the opportunity to each Council member to come to their office or they will come to the Council office for a compete presentation of their position on this project. She stated she would be happy to do it in a joint session, individually or in small groups at the date and time the Council would like.

Chairman Benson stated he was lukewarm on any support one way or another until he went over there. He suggested the meeting be held up on that hill; that when he came off the hill he could not believe that the CHA would even consider that. He stated he would not want any loved one of his, no matter how hard off they were, to live up there where their safety was in jeopardy; that a fire engine could not get in with the cars parked on the side of the street. He expressed that the meeting should be held up there, not in the CHA office.

Ms. McCright stated she would be happy to hold the matter wherever.

ELIZABETH MCCRIGHT (Continued)

Chairman Benson stated that would be a great idea to hold the meeting there and would be the first to attend.

Ms. McCright asked that the meeting be held before consideration by the Regional Planning Agency.

Chairman Benson stated every Councilman should go see the site; that going to Ms. McCright's office will not help one bit.

Councilwoman Robinson asked if there is anyone on the dais who has not visited the site noting that would be the group that should go.

Councilman Murphy stated he visited the site on foot.

Chairman Benson inquired as to which Council members had visited the site. Councilwoman Berz noted that she had not visited the site.

Councilwoman Berz stated she would like to go to the site on her own and ride around.

Councilwoman Scott stated some individuals on the Council members have had multiple meetings, met individually, met in a group, walked up on more than one occasion, driven up

Councilwoman Berz expressed respect for the input she received from her colleagues who have been up there, however Ms. McCright has requested a meeting and it is her thought she is the only one who has not been up there and would like the opportunity to drive up there this weekend and then we can have a meeting here at the Council office as she is the only one who has not eyeballed the place. She asked to have the opportunity to view the site and then have a meeting where it is comfortable and convenient here and the CHA can address fully the issues that have been brought up.

Ms. McCright stated they were under the impression the zoning issue will be considered by the RPA on February 8; that she "heard through the grapevine" that the meeting has been moved to next Tuesday.

Chairman Benson clarified that the meeting would be held on February 8.

Ms. McCright stated any time before February 8 from CHA's perspective would welcome that opportunity.

Chairman Benson stated it is good Council members go on their own rather than going with the Mayor or Ms. McCright. She stated he was visualizing it the way it used to be before CNE built those houses there.

ELIZABETH MCCRIGHT (Continued)

Chairman Benson stated he was not too much against it when he first heard about it because he was visualizing it the way it was 25 years ago; that he did not realize what had happened up there. At this point it was determined Councilman Gilbert had not visited the site.

Councilwoman Robinson scheduled a meeting of the **Health, Education and Housing Opportunities Committee for Tuesday, January 26 at 2:30 p.m.** for Ms. McCright's presentation.

ADJOURNMENT

Chairman Benson adjourned the meeting of the Chattanooga Council until Tuesday, January 19, 2010 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)**