

**City Council Building
Chattanooga, Tennessee
April 13, 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, City Attorney McMahan gave invocation.

MINUTE APPROVAL

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

SPECIAL RECOGNITION OF RYAN MARTIN

Councilman Rico asked Joe and Andy Smith to come forth along with Ryan Martin.

Joe Smith stated they are honored to be present and introduced Andy Smith, Ryan Martin's personal coach, noting that they are so proud of what Ryan has accomplished through the YCAP and "Jabbing for Jesus" Program. He stated when all the kids across the city seem to be struggling there are some good things happening and is glad the Council is taking time to talk about some of the good things.

Andy Smith stated Ryan Martin is a 17 year old sophomore at Central High School and has been in the Program since he was eight years old and noted that he is an A, B student. He stated when he first came in the Program he was struggling academically and behaviorally; that his boxing career has carried him and he is the national champion.

SPECIAL RECOGNITION OF RYAN MARTIN
(Continued)

Mr. Smith stated Ryan is leaving Saturday for Russia and will be there three weeks boxing in the world championship; that not only will he be representing Chattanooga and Tennessee but the USA at 131 pounds. He congratulated him at this time and Mr. Martin received applause by all in attendance.

At this point Councilman Rico read the proclamation proclaiming Mr. Martin as an Ambassador of Goodwill in recognition of his outstanding athletic abilities and service to Central High School; the proclamation was signed by Mayor Littlefield.

Ryan Martin expressed thanks to all in Chattanooga for supporting him, as well as the Council. He stated it has been real good to get this far in his career and hopes to go farther with it.

Joe Smith stated Ryan brought a gift for each Council member, noting that sometimes Council members have to "duke it out" and presented each Council member with a set of autographed boxing gloves. All on the Council expressed congratulations to Ryan.

Councilman Gilbert expressed personal thanks noting that Ryan is an example for others to follow. He stated there are so many things in the neighborhoods that are negative but this is a positive and expressed appreciation to Ryan for showing leadership and noted that Central is very proud of him also.

ELECTION OF COUNCIL CHAIRMAN

Councilwoman Berz stated that she asked the Chair if she could say something because she does not think the audience knows what a terrific Council we have. She stated this year we are having elections right now for Chair and Vice Chair noting they are administrative positions; that any one of the Council people could hold this position and do it really well. She stated that there is something new for this year as this process was totally transparent; that she has heard criticisms of her colleagues that they are renegade when they stand up for what they believe in or that everything is a close "done deal" by the "powers that be". She stated that she wanted to say this year she has been very proud of the fact everything that has been done on this Council has been transparent and these elections are a perfect example of that.

ELECTION OF COUNCIL CHAIRMAN (Continued)

Councilwoman Berz stated Councilman Rico did not have opposition; that he “threw in his hat” for Chair of the Council, something that is well deserved noting he is the only person that has been on the Council for a while that has not held that position and congratulated him. She stated for Vice Chair three on the Council “threw their hat in”, not to vie and contend with one another, but to show any one on the Council could do it and that it is a transparent process. She stated thanks to Councilman McGary all talked about what they could “bring to the table” in a 3 p.m. meeting and frankly every one of these people could bring very good things “to the table”. She stated Councilwomen Robinson, Ladd and she indicated they would be happy to be considered for this job and she could work with any one of them. She stated unfortunately, Councilwoman Robinson decided she was not going to do it and Councilwoman Ladd last week decided she was and probably did one of the most honorable things she has ever seen; that she (Ladd) came to her office before the meeting and told her she had decided to “throw her hat in the ring” too. She stated she and Councilwoman Ladd have been friends for a long time and indicated to her that was great; that she has to do what she believes is right for her.

Councilwoman Berz stated that her guess is that she has learned from this whole process that it is not about who gets a title, it is about a group working together so that whether people are voting from conscience or conviction or politics or “flipping coins” or whatever, the point is there is respect among this Council, not only for the diversity among us but respect for the way people cast their votes and support one another. She stated for that reason she is very proud to be part of this group and want them to know never once has there been a battle about any of this on the Council; that there has been mutual respect and there are no losers whatsoever, no matter what happens. She expressed thanks to the Council for being the outstanding group they are, for being the colleagues they are; that she is proud to serve with whatever the outcome of this is. She stated Councilwoman Robinson said she would continue working with the Housing committee; that she (Berz) would continue doing the hard job of Budget, Finance and Personnel as she is getting ready to go into that and will support whatever the Council’s decision is and be proud to do so. She expressed thanks to Councilwomen Robinson and Ladd noting they are good friends and outstanding people.

ELECTION OF COUNCIL CHAIRMAN (Continued)

Councilman Gilbert thanked Chairman Benson for being the leader for this past year; that he has been a person of wisdom as far as guidance during difficult times. He stated when Councilman Rico gets voted in he has "big shoes to fill" and will lead the Council in the direction they need to go.

Councilwoman Scott stated that she would also like to express thanks to Chairman Benson; that she did not think that any on the Council looked like cats, but it is her thought he felt it has been a little bit like herding cats and thanked him.

Chairman Benson quickly interjected "feral cats" and thanked Council members for their comments.

Councilwoman Scott again thanked Chairman Benson for his service.

Councilman Murphy thanked Chairman Benson noting he made the introduction to the Council for almost half on the Council a wonderful one and had great guidance. He stated he should be grateful even though he is herding feral cats and that was before they knew what they were doing and how to do it; that whoever is Chair next probably has double the duty!

Chairman Benson stated if he was not so happy to get out of the job as Chairman he would cry! He again expressed appreciation for their comments.

Councilman Murphy nominated Councilman Rico as Council Chair.

Chairman Benson asked if there are other nominations; there were none. He asked if there is motion is to make Councilman Rico Council Chairman by acclamation.

Councilwoman Robinson made the motion to elect Councilman Rico by acclamation; Councilwoman Berz seconded the motion; the motion carried with Councilman McGary voting "no".

Chairman Elect Rico thanked his colleagues for the vote and reminded them that he is not a dictator, king or whatever! He noted there are still nine on the Council working together; that he just presides over meetings and will try to herd the cats!

ELECTION OF COUNCIL VICE CHAIRMAN

Councilman Gilbert nominated Councilwoman Berz as Vice Chair; the nomination was seconded by Councilman McGary.

Chairman Rico asked if there are other nominations.

Councilwoman Robinson nominated Councilwoman Ladd; Councilman Murphy seconded the nomination.

On roll call vote:

SCOTT	LADD
ROBINSON	LADD
LADD	LADD
BENSON	LADD
GILBERT	BERZ
BERZ	BERZ
MCGARY	BERZ
MURPHY	LADD

On a vote of 5-3, Councilwoman Ladd was confirmed as Council Vice Chairman.

AMEND CITY CODE: ZONING ORDINANCE

On motion of Councilman McGary, seconded by Councilwoman Berz,
**AN ORDINANCE TO AMEND CAHTTANOOGA CITY CODE, PART II,
CHAPTER 2, BY ADDING A NEW ARTICLE XV TO ESTABLISH A "WHISTLE
BLOWER" PROTECTION**

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

AMEND CITY CODE: ZONING ORDINANCE

On motion of Councilwoman Ladd, seconded by Councilwoman Berz,
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,
CHAPTER 38, ZONING ORDINANCE, RELATIVE TO ARTICLE V, SECTION
38-302 AND ARTICLE VIII, SECTION 38-568(12) IN ORDER TO PROVIDE
A SPECIAL PERMIT PROCESS FOR KENNELS/SMALL ANIMAL FACILITIES**
Passed first reading.

AMEND CITY CODE: ZONING ORDINANCE

On motion of Councilman McGary, seconded by Councilwoman Ladd,
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,
CHAPTER 38, ZONING ORDINANCE, ARTICLE II, SECTION 38-2,
DEFINITIONS OF DWELLING**
Passed first reading.

AMEND CITY CODE: ZONING ORDINANCE

On motion of Councilman McGary, seconded by Councilwoman Scott,
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,
CHAPTER 38, ZONING ORDINANCE, ARTICLE IV, SECTION 38-33,
GENERAL REGULATIONS RELATIVE TO EXTERIOR LIGHTING**
Passed first reading.

AMEND CITY CODE: ZONING ORDINANCE

On motion of Councilman Murphy, seconded by Councilwoman Ladd,
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,
CHAPTER 38, ZONING ORDINANCE, ARTICLE V, SECTION 38-171(2), O-
1 OFFICE ZONE, RELATIVE TO DETACHED DWELLINGS**
Passed first reading.

AMEND CITY CODE: ZONING ORDINANCE

Councilwoman Scott stated that she wanted to make sure that the change got incorporated that was discussed in Committee.

City Attorney McMahan stated he was absent when the change was discussed and inquired of Greg Haynes as to the change.

Greg Haynes, Director of Deveopment Services with RPA, stated he would read it and leave a copy of the change with the Clerk of Council and asked Councilwoman Scott to correct him if he it does not sound right. He stated the change is in reference to parking, the section states: *"The Urban General Commercial Zone supports urban design principles that direct the location of parking to the rear of buildings or the side if necessary. If such placement is impractical or unsafe due to the use of the building or land, then other parking options should be considered"*. He stated there is a small wording correction, instead of saying "General Restrictions' it should say "*General Regulations*".

On motion of Councilwoman Ladd, seconded by Councilman Murphy,
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,
CHAPTER 38, ZONING ORDINANCE, DIVISION 14, UGC URBAN
GENERAL COMMERCIAL ZONE FOR AUTO-ORIENTED USES**

Passed first reading.

AMEND CITY CODE: VEHICLES FOR HIRE

On motion of Councilman Benson, seconded by Councilwoman Robinson,
**AN ORDINANCE TO AMEND PART II, CHATTNOOGA CITY CODE,
CHAPTER 35, ARTICLE IV, RELATIVE TO VEHICLES FOR HIRE**

Was deferred 30 days (May 18, 2010).

PLAN OF SERVICES AND ANNEXATION

Chairman Rico stated two people, three minutes each could speak on this issue.

Mike Wilson of 5323 Hunter Road stated he has been a resident of the address for 60 years. He stated he is a strong supporter of the Ooltewah community and Hunter Road area and would have liked to have had more time to go over this as they had a short notice of the hearing coming up.

PLAN OF SERVICES AND ANNEXATION
(Continued)

Mr. Wilson personally asked each Council person before this is over to personally come out and look at this area with what is planning to be done with it. He stated it would show the community a lot of respect with the Council doing that; that annexation is probably going to happen but it is still a residential community with what is planning to be done in the future.

Roger Duckworth of 6839 Villa Terrace Drive, Ooltewah, Tennessee stated that he wanted to give a quick background of what the Council is looking at. He stated basically there are several pieces of land that have been collaged together; that one set is down a flat land behind the Krystal and BP in Ooltewah, running by it is the Wolftever Creek and Greenway and up a very steep hill on top is a plateau which is really the parcel of land they have opposition to. He stated the Florida developer's intent in trying to rezone this land to put apartments there comes from facts at the January 11 Regional Planning Commission meeting; that at the meeting the Commission unanimously voted to deny the rezoning request for multiple reasons as shown on page 2 of the chart distributed to include, as one of the members said, an obvious case of spot zoning. He stated spot zoning was a new term to him and he looked it up, noting on page 3 of the Tennessee Training Handbook courts have defined spot zoning as "*a process of singling out a small parcel of land for use classification totally different from that of surrounding areas for the benefit of the owner of such property and to the detriment of other owners*". He stated in reference to what the law states is summarized in the documents distributed that "*it is invalid as it does not bear substantial relationship to the public health, safety, morale and general welfare of the community*" and below that are two recent court cases on spot zoning which found them invalid. He stated the plan of services did not mention this spot zoning because there is no real detail on that, but the plan did not indicate this land is outside the interlocal agreement, the urban growth boundary, which lies along Hunter Road; that the Wolftever Creek land and Hunter Road on that side is within the interlocal agreement boundary and out on the side this is on is outside that. He stated the next page distributed is in regard to the gross policy annexation corporation of Public Charter 1101 of 1988, annexation by a city outside can only be done in one of two ways: by attaining approval of the authority who gave the first agreement, and that would be the County Commission, or by referendum.

PLAN OF SERVICES AND ANNEXATION
(Continued)

Mr. Duckworth stated it is really a brilliant plan by the Florida developers; that they have put this in and they stepped back after their huge defeat in January and now they want the city to carry the load of trying to go through all these hurdles of getting approval to annex and rezone any legal challenge of that at no risk or cost to them.

Councilman McGary asked for a point of clarification that the Council is voting in regard to annexing the said property, not voting in regard to rezoning. He stated he wanted to make sure as he does not see any zoning language in regard to this ordinance and only sees language in regard to annexation.

Mr. Haynes stated this is the plan of services.

City Attorney McMahan explained the process for the benefit of the audience noting that the plan of services is all that was before the Planning Commission yesterday for this proposed area; that the City Council has scheduled next week the required public hearing where members of the audience will generally be allowed to speak to the merits of the annexation. He stated if the property is annexed into the city the city has an ordinance that says it will be assigned the nearest zone in the city that existed in the county and it is his thought he heard yesterday this is an agricultural zone; that the most restrictive zone in Chattanooga is an R-1 residential zone. He stated the temporary zone, if it is annexed for this property, will be R-1 residential which is basically single family residences with a few exceptions. He stated if the city should annex next week after the public hearing the Planning Commission would make another recommendation to the Council regarding the correct zone for this property; that the zoning is a separate vote entirely from the vote to annex which comes after the fact. He stated the Council could not vote tonight on the zoning if they wanted to; that they have to wait until the property is annexed and for the Planning Commission to make a recommendation. He stated the recommendation would come back to this body and this body would determine the appropriate zone for the property and the concerns of the neighbors would be the appropriate time for them to bring all those forward.

Councilwoman Scott stated the last gentleman made mention of the proposed annexation as being outside of the boundary of the interlocal agreement and asked the City Attorney to speak to the legal authority.

PLAN OF SERVICES AND ANNEXATION
(Continued)

City Attorney McMahan stated this is petitioned annexation and somebody brought up at the Planning Commission yesterday what about the people in Windhaven immediately adjacent to this. He stated he said at that time they could not annex Windhaven as they are not in our urban growth boundary and no one has petitioned to be annexed. He stated petitioned annexations are separate from the referendum annexation and other annexations.

Councilman Gilbert asked those in attendance who were against this annexation to raise their hands; the majority of them raised their hands. He stated that he knows that zoning is not being discussed and inquired as to the number against the zoning of apartments coming in; again the majority raised their hands.

Councilwoman Berz stated the Council is approving an ordinance adopting a plan of services and extending the corporate limits and asked if the Council has seen the plan of services.

City Attorney McMahan responded that the plan of services are attached to the ordinance.

Councilwoman Berz asked if it is the usual plan of services.

City Attorney McMahan stated it is the usual plan of services with one major difference. He stated this area, which is Exit 11 of the interstate, is presently served by the Tri-Community Fire Department and because the city has already annexed property in that area, we have other annexations which are pending in litigation all in that area. He stated at some time the magnitude of the city residents out there will no doubt demand that a fire hall be built; that Section C of the proposed plan of services covers the possibility of having to build a fire hall in that area and provides that if an agreement for automatic aid could not be reached within six months the city will undertake steps to construct a new fire station to assure continued compliance with standards in this annexation area which are comparable to existing fire ratings in other areas of the city. He stated that is the special concern for this particular area.

Councilwoman Berz stated that she heard some people say the real issue is something to do with apartments that Councilman Gilbert just brought up and asked to hear more about what is the issue.

PLAN OF SERVICES AND ANNEXATION
(Continued)

Mr. Haynes summarized the issue by stating the property was requested to be rezoned in January and is currently in the county; that it was requested to be rezoned from its current A-1 (similar to the city's R-1) to R-3 for apartments and at that time the proposal was for 252 apartment units. He stated the matter went to Planning and Planning recommended denial of the request and there was a large number in opposition; that many of the residents here tonight were there. He stated after that it went to the County Commission level and was deferred once or possibly twice and during that time the property owners made a petition to the city to be annexed and part of that annexation process is the plan of services which is what the Council is looking at tonight. He stated as City Attorney McMahan stated what follows that, if annexed, is a zoning plan which converts the county's zone of A-1 to a temporary R-1 and then a permanent one. He stated after that if this request to rezone is for apartments if they still want to follow through with that would have to go back to the Planning Commission as a city request from R-1 to R-3 which will then come to the Council.

Councilman Benson stated we are definitely out of sync explaining this is just an annexation hearing and has absolutely nothing to do legally on this agenda with any kind of zoning and knows that is their problem. He assured them if the Council annexed this it does not guarantee any kind of change in zoning; that they should not "burn themselves out" talking about zoning as this is an annexation issue. He stated the owners of the property have asked their land be taken over by the city and it is that simple. He stated Councilman Gilbert asked a good question but it needs a follow up about how many were opposed to this annexation and by law by holding our public hearing next week only the people in the city are supposed to speak in that district that will be annexed. He asked how many that stood up previously and indicated they were against annexation live in the city and if they are to stand; no one stood at this point. He expressed appreciation for their honesty and straight forwardness noting that he has sympathy on the zoning which is a different situation. He stated he wanted those in attendance to have sympathy for the landowner who says he wants to come into the city; that the city needs every bit of the revenue they will bring in because they will pay two taxes, city and the county. He stated the landowner can be adjudicated as incompetent but the Council has to do what is best for the city and the city's residents.

PLAN OF SERVICES AND ANNEXATION
(Continued)

Councilman McGary asked if we have heard from the actual owner of the property. City Attorney stated that would be next week.

Councilman McGary stated he wanted to be clear as the language is confusing; that tonight is the first vote for annexation and then a second vote next week because the language reflects adopting a plan of services and extending corporate limits of the city of Chattanooga, Tennessee by annexing certain territory. He stated according to this language this is the first hearing for annexation to which there will be a second vote next week.

City Attorney McMahan stated the owner of the land filed a written petition to be annexed.

Councilman McGary stated if that is the case and if this indeed is a vote for annexation and adoption of a plan of services how can we have a first vote having not heard from the actual land owner or any other qualifications around that issue; how can we have a first vote and now we are told he will not come up until the second vote.

Councilman Benson stated he received a letter as Council Chairman from the owner of the land and the Mayor received the letter also. He stated he does not know if he is permitted to give the person's name now; that he has asked to be annexed and that is just simple. He stated he is not down here tonight and indicated he is an M.D.

Councilman Gilbert stated the reason he asked to see who was against even though they might not belong to the city currently still shows they have to live there currently and obviously it is going to go beyond this next week. He stated he is always against annexation because it is his belief we cannot afford it; that we will receive taxes and knows we will get into zoning again; that we look at the people surrounding the area who have said what they want to see in their particular area. He stated he has been on that particular road and that road is not that wide, it is narrow; that the traffic flow is narrow and he has been down the street several times. He stated he knows apartments would cause more traffic problems; that he knows it is not dealing with rezoning but is bringing that point out.

PLAN OF SERVICES AND ANNEXATION
(Continued)

Councilwoman Berz stated this is dealing strictly with annexation and guesses she is dealing with process here and that is whenever we have done annexation hearings for the first time we have heard from people who obviously by definition did not live in the city and is wondering why we are having a “first anything” before the public hearing; that it is a process thing.

Chairman Rico stated usually it involves people who live in the area we are annexing and there is nobody living there; that it is a vacant lot. He stated they live around it but not on it.

Councilman McGary stated the Council is voting on an annexation ordinance and we have not heard from the gentleman who actually owns it; that he has requested but has not made any formal presentation and, that being the case, we are saying we will have opportunity to hear from him at the second vote. He stated the second vote is only designed to ratify the first vote and asked why we would vote to pass it without having heard from him only to hear from him on the second vote.

Councilman Murphy stated presumably the person who has asked to bring their property into the city is going to come forward and tell us he wants to be in the city. He stated looking in at the map it is his understanding some of the land has been cleared; that we are talking about chipmunks and squirrels here as nobody lives there. He stated it seems a little redundant to write a letter asking to come into the city and then come here and tell us he wants to come into the city! He stated that is what he would say otherwise he would withdraw his request.

At this point Councilman Murphy called for the question; Councilwoman Robinson seconded.

On motion of Councilman Benson, seconded by Councilwoman Robinson,
**AN ORDINANCE ADOPTING A PLAN OF SERVICES AND EXTENDING
THE CORPORATE LIMITS OF THE CITY OF CHATTANOOGA, TENNESSE,
BY ANNEXING CERTAIN TERRITORY CONTIGUOUS TO THE PRESENT
CORPORATE LIMITS OF SAID CITY, BEING TAX PARCEL NO. 131-075 IN
HAMILTON COUNTY, TENNESSEE, OWNED BY LIGHTHOUSE
ENTERPRISES, LLC, BEING MORE FULLY DESCRIBED HEREIN**

Passed first reading, **on roll call vote:**

PLAN OF SERVICES AND ANNEXATION
(Continued)

ROBINSON	YES
LADD	YES
BENSON	YES
GILBERT	NO
BERZ	NO
MCGARY	YES
MURPHY	YES
SCOTT	YES
RICO	YES

REZONING

2010-024: William A. Johnson, III

Pursuant to notice of public hearing, the request of William A. Johnson, III to rezone tracts of land located at 167 and 195 Willie Way came on to be heard.

The applicant was present; there was no opposition.

Greg Haynes stated this is a request for rezoning to R-5 for the purpose of a single wide mobile home in the Lookout Valley area, noting there is a mixture of zones. He stated there are several mobile homes on this property and is consistent with the land use plan for the area which is for low density. He stated the proposed use is compatible with adjacent development and within the city's R-5 zone only one single wide is allowed per lot; that the applicant's intent is maybe to have two, the point being if they need more than one mobile home they will have to subdivide this property in order to have one per lot. He stated Planning recommends approval.

REZONING (Continued)

Councilwoman Scott stated this particular request is in her district and one of the things she wanted to inform the Council of is that she received absolutely no opposition from any of the residents in the surrounding areas shown by PowerPoint. She stated typically for rezoning issues many times we will have some opposition or a lot of opposition to a particular thing; that in this particular situation because she did not hear any opposition she wondered whether things were posted properly. She stated she went to the location and it was posted properly along the street and does not think there is any where there would have been anyone on the street that would not have seen the sign and had the opportunity to make their voices known. She stated this area was annexed into the city and that is why there are so many varied types of housing dwellings out there; that many of the dwellings that the Council saw on the PowerPoint actually look like non-standard trailers have actually been trailers added to. She wanted the Council to know there was no public comment that has been brought to her attention and this has been well known to the neighborhood for quite some time.

On motion of Councilwoman Scott, seconded by Councilwoman Robinson
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,
CHAPTER 38, ZONING ORDINANCE, SO AS TO REZONE TRACTS OF
LAND LOCATED AT 167 AND 195 WILLIE WAY, MORE PARTICULARLY
DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO R-5 RESIDENTIAL
ZONE**

passed first reading; **Councilman Murphy voted "no"**.

REZONING

**2010-028: United House of Prayer for all People/
Bishop C.M. Bailey, Trustee**

Pursuant to notice of public hearing, the request of the United House of Prayer for all People/Bishop C. M. Bailey, Trustee to rezone a tract of land located at 3214 12th Avenue came on to be heard.

The applicant was present; there was no opposition.

Chairman Rico stated he knows in the neighborhood association in East Lake there was no opposition and they strongly recommend this.

REZONING (Continued)

On motion of Councilwoman Ladd, seconded by Councilman Murphy,
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,
CHAPTER 38, ZONING ORDINANCE, SO AS TO REZONE A TRACT OF
LAND LOCATED AT 3214 12TH AVENUE, MORE PARTICULARLY
DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO R-3 RESIDENTIAL
ZONE, SUBJECT TO CERTAIN CONDITIONS**

Passed first reading.

REZONING

2010-030: City of Chattanooga – RPA

Pursuant to public hearing, the request of the City of Chattanooga – RPA to rezone tracts of land located in the 500 block of Hunter Road came on to be heard.

There was no opposition in attendance.

On motion of Councilman Benson, seconded by Councilman Murphy,
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,
CHAPTER 38, ZONING ORDINANCE, SO AS TO REZONE TRACTS OF
LAND LOCATED IN THE 5000 BLOCK OF HUNTER ROAD, MORE
PARTICULARLY DESCRIBED HEREIN, FROM TEMPORARY C-2
CONVENIENCE COMMERCIAL ZONE TO PERMANENT C-2
CONVENIENCE COMMERCIAL ZONE**

Passed first reading; **Councilman Gilbert voted “no”.**

REZONING

2010-031: City of Chattanooga – RPA

Pursuant to notice of public hearing, the request of the City of Chattanooga – RPA to rezone a tract of land located in an unnumbered portion of Aetna Mountain Road came on to be heard.

There was no opposition in attendance.

REZONING (Continued)

On motion of Councilwoman Scott, seconded by Councilwoman Robinson,
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,
CHAPTER 38, ZONING ORDINANCE, SO AS TO REZONE A TRACT OF
LAND LOCATED IN AN UNNUMBERED PORTION OF AETNA MOUNTAIN
ROAD, MORE PARTICULARLY DESCRIBED HEREIN, FROM TEMPORARY
R-1 RESIDENTIAL ZONE TO PERMANENT R-1 RESIDENTIAL ZONE**

Passed first reading; Councilman Gilbert voted "no".

REZONING

2010-033: Daniel Rose

Pursuant to notice of public hearing, the request of Daniel Rose to rezone tracts of land located at 14, 17 and 29 Johnson Street and the 100 block of East 14th Street came on to be heard.

The applicant was present; there was no opposition.

On motion of Councilman McGary, seconded by Councilwoman Robinson,
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,
CHAPTER 38, ZONING ORDINANCE, SO AS TO REZONE TRACTS OF
LAND LOCATED AT 15, 17, AND 29 JOHNSON STREET AND THE 100
BLOCK OF EAST 14TH STREET, MORE PARTICULARLY DESCRIBED HEREIN,
FROM M-1 MANUFACTURING ZONE TO C-3 CENTRAL BUSINESS ZONE,
SUBJECT TO CERTAIN CONDITIONS**

Passed first reading.

REZONING

2010-034: Jason Geraci

Pursuant to notice of public hearing, the request of Jason Geraci to rezone tracts of land located at 816 and 818 Palmetto Street came on to be heard.

REZONING (Continued)

The applicant was present; there was no opposition.

AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 38, ZONING ORDINANCE, SO AS TO REZONE TRACTS OF LAND LOCATED AT 816 AND 818 PALMETTO STREET, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO R-T/Z RESIDENTIAL TOWNHOUSE/ZERO LOT LINE ZONE, SUBJECT TO CERTAIN CONDITIONS

Passed first reading.

AGREEMENT

On motion of Councilwoman Robinson, seconded by Councilman Gilbert,
A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO ENTER INTO AN AGREEMENT WITH CSX TRANSPORTATION, INC. RELATIVE TO CONTRACT NO. R-09-001, SOUTH CHICKAMAUGA CREEK GREENWAY, FOR THE TRAIL CONSTRUCTION UNDER CSXT BRIDGES IN VICINITY OF MILEPOSTS OWA-129.13 AND OWA-129.31, CSXT OP NUMBER TN0284, IN AN AMOUNT NOT TO EXCEED NINETY-FIVE THOUSAND THREE HUNDRED FOUR DOLLARS (\$95,304.00), AND TO REDUCE THE CONTINGENCY AMOUNT FOR RESOLUTION NO. 26201 BY AN AMOUNT OF SIXTY-THREE THOUSAND DOLLARS (\$63,000.00), FOR A REVISED AMOUNT OF CONTINGENCY OF SIXTY-SEVEN THOUSAND DOLLARS (\$67,000.00)

Was adopted.

CONTRACT

On motion of Councilwoman Berz, seconded by Councilman Gilbert,
A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF PUBLIC WORKS TO AWARD CONTRACT NO. W-09-008-201, EASTGATE PUMP STATION AND FORCE MAIN, TO EAST TENNESSEE GRADING, INC., IN THE AMOUNT OF SIX HUNDRED TEN THOUSAND FIVE HUNDRED FORTY-THREE AND 20/100 DOLLARS (\$610,543.20), WITH A CONTINGENCY AMOUNT OF FIFTY-NINE THOUSAND FOUR HUNDRED FIFTY-SIX AND 80/100 DOLLARS (\$59,456.80), FOR AN AMOUNT NOT TO EXCEED SIX HUNDRED SEVENTY THOUSAND DOLLARS (\$670,000.00)

Was adopted.

EXTEND A PARTIAL AMNESTY PERIOD

On motion of Councilman Murphy, seconded by Councilwoman Berz,
A RESOLUTION AUTHORIZING THE CITY FINANCE OFFICER AND THE CITY COURT CLERK TO EXTEND A PARTIAL AMNESTY PERIOD FOR OUTSTANDING FINES AND COSTS THAT ARE OWED TO THE CITY BY REDUCING THE AMOUNT OWED BY TWENTY-FIVE PERCENT (25%) FROM APRIL 19, 2010, UNTIL MAY 28, 2010

Was adopted.

SPECIAL EXCEPTIONS PERMIT

2010-029: Jeffrey Timothy Johnson, Sr.

The applicant was not present.

On motion of Councilman Benson, seconded by Councilwoman Ladd,
A RESOLUTION APPROVING A SPECIAL EXCEPTIONS PERMIT FOR A RESIDENTIAL HOME FOR HANDICAPPED AND/OR AGED ON A COMMERCIAL BASIS, ON A TRACT OF LAND LOCATED AT 601 EAST 52ND STREET, MORE PARTICULARLY DESCRIBED HEREIN

Was denied.

RATIFICATION OF ADVERTISEMENT

On motion of Councilman Murphy, seconded by Councilwoman Ladd,
A RESOLUTION RATIFYING AND CONFIRMING THE CLERK OF THE COUNCIL ADVERTISED FOR PUBLIC HEARING ON APRIL 20, 2010, THE ANNEXATION OF AN AREA OF HUNTER ROAD, HAMILTON COUNTY, TENNESSEE, CONTIGUOUS TO THE CITY LIMITS, THE PROPERT OWNER OF WHICH AREA, LIGHTHOUSE ENTERPRISES, LLC, HAS PETITIONED THE CITY OF CHATTANOOGA TO BE ANNEXED

Was adopted.

EXPRESSION TO AMEND STATE LAW

Councilman McGary expressed thanks to the Tennessee Delegation for their actions this morning in regard to moving the Bill forward as to the sale of alcohol at the Tivoli and Memorial Auditorium; that there has been much work by the Council in regard to this issue and is pleased to see this come to a vote before the floor and expressed hope to have the opportunity to make a decision in the future.

EXPRESSION TO AMEND STATE LAW (Continued)

Councilman Benson stated that he intends to vote for this noting that the body of this Resolution does not automatically approve the sale of alcoholic beverages at the Tivoli and Memorial Auditorium. He stated he wanted to check with the City Attorney to make certain because when he votes he is voting that the State no longer deny us the opportunity to make a local decision on that; that it is his thought as much local autonomy we can have we should try to exercise it in making the best judgment on whether we permit it or not permit it. He stated without this being passed we could not permit it even if we wanted to; that this does not automatically provide for the sale of alcohol.

City Attorney McMahan stated assuming the Legislature amends the law the city would have to apply through the Alcoholic Beverage Commission for a permit to allow it to sell alcoholic beverages in these facilities; that the city would have to apply.

Councilman Benson stated it would take another decision from us if we have this enabling legislation passed by the State.

City Attorney McMahan responded "that is right, enabling legislation".

Councilman McGary called for the question.

On motion of Councilman McGary, seconded by Councilman Murphy,
**A RESOLUTION EXPRESSING THE DESIRE OF THE CHATTANOOGA CITY
COUNCIL THAT THE TENNESSEE GENERAL ASSEMBLY AMEND STATE
LAW TO PERMIT THE SALE OF ALCOHOLIC BEVERAGES AT THE TIVOLI
THEATRE AND THE MEMORIAL AUDITORIUM**

Was adopted.

OVERTIME

Overtime for the week ending April 8, 2010 totaled \$39,097.17.

PERSONNEL

The following personnel matters were reported for the various departments:

PERSONNEL (Continued)

PUBLIC WORKS DEPARTMENT:

- **ANTHONY J. JONES** – Termination, Crew Worker 1 (City Wide Services), effective March 30, 2010.
- **RANDALL S. JORDAN** – Hire, Crew Worker 1, City Wide Services, Range 2, \$22,050.00 annually, effective March 19, 2010.
- **TIMOTHY S. BECKETT** – Hire, Crew Worker 1, City Wide Services, Range 2, \$22,050.00 annually, effective March 26, 2010.
- **TOMMY L. BILLUPS** – Retirement, Crew Worker 1, City Wide Services, effective March 31, 2010.

CHATTANOOGA FIRE DEPARTMENT:

- **CAROLYN TOWNSON** – Retirement, Personnel Assistant, effective April 8, 2010.

NEIGHBORHOOD SERVICES DEPARTMENT:

- **ZACHARY WILEY** – Hire, Code Enforcement Inspector 1, Range 12, \$31,021.00 annually, effective April 12, 2010.

INVITATION TO COUNCIL

Admin. Crutchfield invited Council members to a candidates' forum focusing on the school board; that it is a county election but a way to get schools and students involved in government and the citizen awareness process. She stated this is one way the department of Education, Arts and Culture could be more involved in schools and education outside of the classroom and after school. **She stated the event is scheduled for Monday, April 19 at 6 p.m. at the Chattanooga Center for Creative Arts (CCA).** She stated there would be a special guest appearance celebrating the success of T-Ran Gilbert, son of Councilman Gilbert, a former student at CCA who has a pretty successful career in music and has a CD that is being played in Florida.

INVITATION TO COUNCIL (Continued)

Admin. Crutchfield stated they are very proud of T-Ran noting that he performed at the Department's "Sister Speak Out" at the Girls Leadership Academy and at the Community Kitchen this past weekend and both were very successful events.

PASSING OF CHIEF MCARTHUR EVERETT

Chief Rawlston brought to the Council's attention that law enforcement in Hamilton County lost a tremendous friend and asset in the passing of Chief Douglas McArthur Everett; that Chief Everett was on two occasions the Chief of Police for the City of Soddy Daisy spending five years in that position total and had the amazing foresight to hire him as a patrolman at the age of 20. He stated Chief Larry Sneed of the Red Bank Police Department, Chief Alan Brown of the Hamilton County Sheriff's Department, Chief Mike Williams of the Chattanooga Police Department and he came through the Soddy Daisy Police Department and will miss their friend and ally.

Councilman Murphy stated that the Police Department managed to achieve a very large arrest and seizure over the last week and if people were not looking for it in the paper it might have been missed. He stated officers, through very hard work and perseverance and a little bit of good luck, were able to arrest a couple drug dealers or alleged drug dealers with four kilos of cocaine and \$400,000 of cash.

Chief Rawlston stated that was accurate except for the "luck" part; that it was a lot of work!

Councilman Murphy stated to get them with both the money and drugs at the same time is excellent; that the Department is to be commended and they should have gotten the front page of the Metro Section, in his opinion. (Applause by those in attendance was given at this time.)

REFUNDS

On motion of Councilwoman Robinson, seconded by Councilwoman Berz, the Administrator of Finance was authorized to issue the following refunds of water quality overpayments:

CARD MONROE CORP.

\$ 7,163.34

REFUNDS (Continued)

CARD MONROE CORP.	7,163.34
CARD MONROE CORP.	11,520.00
PIPE PROPERTIES, LLC	12,360.23
PIPE PROPERTIES, LLC	12,360.23
BROMID, LLC	1,439.56
PERIMETER PROPERTIES, LLC	1,439.56

REFUNDS

On motion of Councilwoman Berz, seconded by Councilman McGary, the Administrator of Finance was authorized to issue the following refunds of property tax refunds:

ED'S SUPPLY CO. OF CHATTANOOGA, INC.	\$ 2,174.69
M & M INDUSTRIES, INC.	16,155.65
THE TRAIL AT SIGNAL MOUNTAIN	2,562.39

PURCHASES

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

PUBLIC WORKS DEPARTMENT:

RADARSIGN, LLC (Lowest and best bid)
24686/300225

Radar Speed Displays

\$13,738.00

PURCHASES (Continued)

NATIONAL TURBINE CORP. (Lowest and best bid)
24767/300232

Centrifugal Blower

\$25,983.00

TEST AMERICA (Lowest and best bid)
24335/B0006257

Water Analysis

\$20,403.00

ACHESON FOUNDRY (Best complete bid)
25528/300251

Manhole Components

\$45,000.00 approximately

CHATTANOOGA HUMAN SERVICES DEPARTMENT:

DIXIE PRODUCE COMPANY (Award based upon unit prices bid)
R21233/B300099

Blanket Contract for Fresh Produce

\$33,000.00 approximately

Councilwoman Scott clarified that the purchase is related to the Head Start Program, noting that the city is not buying groceries!

Purchase Continued)

CHATTANOOGA FIRE DEPARTMENT:

NAFECO
22846/50234

Rescue Rope & Equipment (*Cancellation of current contract with MES. Nafeco confirmed their commitment to honor their original prices and the ability to perform immediately without delay; contract with MES approved by Council on February 23, 2010 in the amount of \$14,470.72.*)

\$17,553.48

CHATTANOOGA POLICE DEPARTMENT:

MOUNTAIN CITY SERVICE
25371/B0006530

Furnish and Install Carrier Units

\$12,000.00

MAYOR'S OFFICE:

HEWLETT PACKARD (Best evaluated overall proposal)
R20198

Digital and Hewlett Package Hardware Maintenance

\$45,000.00 annually

PRESENTATION OF GAVEL

City Attorney McMahan stated approximately 20 years ago the first Chair of this Council was duly elected and as he recalled it was Chairman Littlefield; that he does not know if this is an ominous sign for Chairman Rico or not, but knowing he sometimes has to gather feral cats to "hammer them to order", he presented him with his own gavel to appropriately do that!

Chairman Rico expressed his thanks.

HEARING: WILLIAM A. MORGAN

City Attorney McMahan reminded Council members of the hearing scheduled for William A. Morgan on Monday, April 19, 2010 beginning at 4 p.m. with Councilman McGary (Chair), Benson and Scott.

COMMITTEES

Councilwoman Scott reminded Council members of the meeting of the **Economic Development Committee** scheduled for **Tuesday, April 20** to discuss the Moccasin Bend Gateway Plan.

Councilwoman Robinson scheduled a meeting of the **Health, Human Services and Housing Opportunities Committee** for **Tuesday, April 27 beginning at 2 p.m.** to receive information from Admin. Beverly Johnson concerning federal and local funds and how they will be administered by her department.

Councilman Murphy scheduled a meeting of the **Legal and Legislative Committee** for **Tuesday, April 20** to discuss matters of concern to the Committee.

Councilman McGary stated the Education, Arts and Culture Committee met today to take up the issue of passing on the Bill by the Tennessee Delegation and expressed his thanks to them.

Councilwoman Ladd stated the **Safety Committee would meet on Tuesday, April 20** for a discussion on traffic cameras as assigned to the Committee by former Chairman Benson and there would be an opportunity to hear from Interim Chief Rawlston regarding the police department. She stated there would be a sub-committee of Public Safety at 10:30 a.m. in the Conference Room on Thursday in regard to the Beer Ordinance.

Councilwoman Berz stated on **April 27 the Budget, Finance and Personnel Committee** will have a meeting to present for approval amendments to the Personnel Ordinance.

JIM GANOE

Jim Ganoe of 7502 Bonny Drive was present on behalf of the closure on Noah Reid Road noting this came up quickly; that the signs were misleading in that it was going to be temporarily closed for repairs and he happened to be reading the Chattanooga East Brainerd Weekly and found a short article of TDOT road projects. He stated buried in the article was that Noah Reid Road was going to be closed; that it is his understanding there are some 1600 – 1700 cars per day that travel that road; that it is not a problem on the south end of the road but for the area he lives in, which is immediately north of the railroad tracks, there are four streets that go into Bonny Oaks. He stated there are about 400 homes and each one would have probably at least two cars and it is his belief the Public Works Department figures each home has about ten trips per day which is a tremendous amount of traffic on Bonny Oaks. He expressed thanks to the Public Works Department for the traffic light at Bonny Oaks and Noah Reid Road, however, in order to get to his mail a trip that is normally one mile is now going to incorporate and be into an area where he will have about five-to-seven miles to travel around and a lot of heavy traffic. He stated another point is that he has been advised the railroad track would be raised eight feet, noting for the topography to put an underpass for cars to go under would be a tremendous asset for people in that area. He stated property in the area will be devalued if they do not keep the road up in that vicinity and asked the Council to either assist them in keeping the road open or the underpass.

LAUREN SNYDER

Lauren Snyder of 909 Signal Road on Signal Mountain stated she is a senior at CSAS and wanted to share insight to Councilmen McGary and Murphy as to her feelings about gang violence that has been occurring in Chattanooga. She stated that she did her senior project on the structure and value systems of fraternal organizations and according to Allen Axelford the initial makeup of most gangs is exactly the same as most fraternal organizations having two out of three of the qualities. She stated the organization must not be open to the general public and must make a conscious effort to join, must have some rider over initiation as merely paying is not enough and a declaration to transfer some great teaching, behave benevolently or fraternally, and support another against others.

LAUREN SNYDER (Continued)

Miss Snyder stated it is her thought it would be wise to have this insight when going into making any kind of progress against or combating gang violence because we have to understand why they are joining gangs in order to stop it; that she has felt her safety and the safety of the community she spends most of her time in, as well as her peers, has been threatened by the gangs and wishes to "stomp them out". She stated at the same time she would wish to add a productive alternative to these things; that fraternal organizations should be encouraged, such as the Masons, Eastern Star, Benevolent Protective Order of the Elks, as well as the Fraternal Order of the Eagles should be asked to go into the community. She stated that she knows District 8 and other communities are being hit hard with these issues to provide a sense of belonging to these people who are joining into gangs because that is exactly why they are joining them -- to be part of something greater than themselves and if this being part of something greater than themselves can be something productive, it is her thought it will benefit everyone very much.

Councilman Murphy acknowledged that Miss Snyder was hired! Councilwoman Robinson joined in by complimenting Miss Snyder noting that her comments were beautifully said.

Councilman McGary thanked Ms. Snyder for her research and comments; that she mentioned one of the goals is to learn more as to why people join gang as and it is his belief that is exactly the right sense of it. He stated that the police ride alongs have been put out as a challenge to encourage people to be proactive and get to know individuals on a face-to-face name basis and that is a part that any of us can play. He expressed thanks for encouraged the Council by her research to continue to do just that.

ADJOURNMENT

Chairman Rico adjourned the meeting of the Chattanooga Council until Tuesday, April 20, 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)