

**Council Minutes
City Council Building
May 15, 2012
6:00 p.m.**

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

PLEDGE OF ALLEGIANCE

Chairman Ladd led the audience in the Pledge of Allegiance.

MINUTE APPROVAL

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

AMEND CITY CODE

On motion of Councilman Murphy, seconded by Councilman Murphy,
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, CHAPTER
38, ZONING ORDINANCE, SECTION 38-2 DEFINITIONS; SECTION 38-
203 UGC URBAN GENERAL COMMERCIAL ZONE; AND SECTION 38-222
C-3 CENTRAL BUSINESS ZONE TO ALLOW MOBILE FOOD UNITS AS A
PRINCIPAL PERMITTED USE**
passed second and final reading and was signed in open meeting.

REZONING

2012-042: Jay M. Simpson

Councilman Murphy made the initial motion to approve on final reading however a second did not come forth.

Councilman Benson stated he planned to ask that this matter be deferred until a later date when Mr. Downer can present a site plan as well as the intended use plan; that it is his thought it would pass knowing where it is located. He stated the Council has pretty well institutionalized the policy that a site plan needs to be presented and it was made clear at the Planning Commission meeting four weeks ago that a site plan was needed. He stated the request was for classic cars and we need to know what we are voting on as we do not have any idea now and it is like a "pig in a poke". He asked Mr. Downer to bring the site plan back noting he would not like to put a time limit on it as it will take him (Downer) a while and he will not have to file a new application. He stated he would have to have this done within a year at which time it will expire.

Mr. Downer stated he is not the original applicant; that he is the property owner; that the applicant that originally brought this up was going to put a classic car dealership there and since then he decided to back out of the deal. He stated it is his desire to get it zoned C-2 to make this property more interesting to someone wanting to purchase.

Councilman Benson stated it is his understanding wanting to get it rezoned; that a site plan is needed to tell us how he plans to use the property.

Mr. Downer asked if a site plan is needed if it is going to be used as single family dwelling. Councilman Benson stated the zone would not need to be changed as it is in R-1 now; that he (Downer) is trying to change it to commercial use. Mr. Downer stated he has no idea what might come down the road.

Councilman Benson stated Mr. Downer might want to put up a sign saying "suitable property for commercial" and advertise it that way and let them know he does not have a commercial zone yet but it looks good to get a commercial zone; that we need to have a site plan and intended use plan. He stated he cannot personally vote to give him carte blanche.

Mr. Downer asked if it would be better if he withdrew the request to which Councilman Benson advised he would have to pay more money for another application.

REZONING (Continued)

Mr. Downer stated he would defer until later. Councilman Benson stated it should be deferred until Mr. Downer can follow the process.

Chairman Ladd advised it is in Mr. Downer's best interest to allow the Council to defer the matter.

Councilwoman Berz stated she would like for the matter to reflect Mr. Downer's real name and not Jay M. Simpson.

On motion of Councilman Rico, seconded by Councilman Gilbert,

AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 38, ZONING ORDINANCE, SO AS TO REZONE PROPERTY LOCATED AT 5461 HIXSON PIKE, MORE PARTICULARLY DESCRIBED HEREIN, FROM O-1 OFFICE ZONE TO C-2 CONVENIENCE COMMERCIAL ZONE, SUBJECT TO CERTAIN CONDITIONS

was deferred indefinitely up to one year; Councilman Murphy voted "no".

CLOSE AND ABANDON

MR-2012-017: Tony Coco/Santek Waste Services

On motion of Councilman Rico, seconded by Councilman Murphy,

AN ORDINANCE CLOSING AND ABANDONING A PORTION OF THE 3300 BLOCK OF WOOD AVENUE FROM THE CORNER OF WISDOM STREET GOING IN A NORTHWESTERLY DIRECTION APPROXIMATELY ONE HUNDRED FORTY (140) FEET BY FIFTY (50) FEET WIDE WITH EPB AND CHATTANOOGA GAS TO MAINTAIN THE EASEMENT IN THE FULL WIDTH, MORE PARTICULARLY DESCRIBED HEREIN, SUBJECT TO CERTAIN CONDITIONS

passed second and final reading and was signed in open meeting Councilwoman Scott voted "no".

AMEND ORDINANCE 12292

There was no opposition in attendance.

Chairman Ladd asked if there were persons in attendance wanting to address this matter; being none the meeting continued.

AMEND ORDINANCE 12292 (Continued)

On motion of Councilman Murphy, seconded by Councilman Rico,
AN ORDINANCE AMENDING ORDINANCE NO. 12292 EXTENDING THE CORPORATE LIMITS OF THE CITY OF CHATTANOOGA, TENNESSEE, TO ANNEX CERTAIN TERRITORY CONTIGUOUS TO THE PRESENT CORPORATE LIMITS OF THE CITY OF CHATTANOOGA KNOWN AS AREA 4A, BEING CERTAIN PARCELS ADJACENT TO THE CURRENT CITY LIMITS BETWEEN HIXSON PIKE AND MIDDLE VALLEY ROAD WITHIN THE URBAN GROWTH BOUNDARY OF THE CITY OF CHATTANOOGA, IN HAAMILTON COUNTY, TENNESSEE, AS SHOWN BY THE ATTACHED MAP
passed first reading; **Councilman Gilbert voted "no"**.

AMEND ORDINANCE 12293

There was no opposition in attendance.

Chairman Ladd asked if there were persons in attendance wanting to address this matter; being none the meeting continued.

Councilwoman Berz stated this does not "talk" about a time limit or time frame.

Assistant City Attorney Noblett explained that the ordinance itself has a provision as to the effective date of the annexation which is December 31, 2013.

Councilwoman Berz stated that needed to be put on record for each one of these.

Assistant City Attorney Noblett sated these ordinances are also involved in a settlement agreement between the parties to these annexations; that all of the annexations have now been approved by Chancellor Atherton, in this case, and that is following an agreed order that was entered, the agreement of the parties to actually come into the city effective December 31, 2013.

Councilwoman Berz stated she did not want folks to think we were just doing this off hand; that it is the result of a settlement.

Councilman Murphy stated that was the point he was going to make; that these folks have agreed to come into the city at this time ad could have chosen not to agree, but they agreed to come into the city.

AMEND ORDINANCE 12293 (Continued)

On motion of Councilman Murphy, seconded by Councilman Rico,
AN ORDINANCE AMENDING ORDINANCE NO. 12293 EXTENDING THE CORPORATE LIMITS OF THE CITY OF CHATTANOOGA, TENNESSEE, TO ANNEX CERTAIN TERRITORY CONTIGUOUS TO THE PRESENT CORPORATE LIMITS OF THE CITY OF CHATTANOOGA KNOWN AS AREA 4C, BEING CERTAIN PARCELS ADJACENT TO THE CURRENT CITY LIMITS OF HIXSON MARINA ROAD, BIG RIDGE ROAD, AND FAIRVIEW ROAD WITHIN THE URBAN GROWTH BOUNDARY OF THE CITY OF CHATTANOOGA, IN HAMILTON COUNTY, TENNESSEE, AS SHOWN BY THE ATTACHED MAP
passed first reading; Councilman Gilbert voted "no".

AMEND CITY CODE

On motion of Councilman McGary, seconded by Councilman Murphy,
AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, ARTICLE XIV, CHAPTER 24, SECTION 504, SCHEDULE IV, ONE-WAY STREETS, FOR THE LIMITS TO BE CHANGED FROM BALDWIN STREET TO PASSENGER STREET
passed first reading.

LEASE AGREEMENT

On motion of Councilman McGary, seconded by Councilman Gilbert,
A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PARKS AND RECREATION TO ENTER INTO A LEASE AGREEMENT WITH SCULPTURE FIELDS AT MONTAGUE PARK FOR THE CONSTRUCTION AND OPERATION OF A PUBLIC SCULPTURE PARK ON A PORTION OF MONTAGUE PARK
was adopted.

ACCEPT DONATIONS

On motion of Councilwoman Scott, seconded by Councilman Murphy,
A RESOLUTION TO ACCEPT DONATIONS FROM THE COMMUNITY FOUNDATION'S "TAKE ROOT" ACCOUNT IN THE FORM OF TREES, TREE PLANTING SUPPLIES AND EDUCATIONAL MATERIALS FOR THE ENHANCEMENT OF THE CITY OF CHATTANOOGA'S URBAN FORESTRY PROGRAM
was adopted.

SPECIAL EXCEPTIONS PERMIT

2012-049: Paisa, Inc.

Bryan Shults, Senior Planner with the Regional Planning Agency (RPA) stated that it is his thought the applicant would like to defer the matter one week.

Attorney Wes Kliner, Attorney for Paisa, Inc. expressed thanks to one residents of the community, Ben Brychta, who previously had been a complainant on the noise, who has graciously agreed to come tonight and who has subsequently observed the property and is very pleased with the installation that the client has placed to eliminate the noise from getting to his trailer, which was one of the areas of concern. He stated he has spoken with his clients and Mr. Massey who are pursuing an agreement to install a sprinkler system and would like additional time to be able to pursue and finalize an agreement to make sure they have everything in place to protect the occupants that come in and patrons using the club. He stated secondly they would like an additional week to be able to work with the city attorney and Mr. Hutsell on zoning; that they may be able to present some additional information for the Council to review, as well.

Councilman Rico asked if Mr. Kliner is asking for two weeks. Mr. Kliner stated his client would like it to only be one week; that they want their attorney to work hard! He stated they would like to get this done before Memorial Day and believes he can get with Mr. Noblett and Mr. Hutsell within the next week to resolve everything so next Tuesday they will be prepared to do this.

On motion of Councilman Rico, seconded by Councilman Murphy,
A RESOLUTION APPROVING A SPECIAL EXCEPTIONS PERMIT FOR USE OF A LATE NIGHT ENTERTAINMENT CENTER LOCATED AT 6175 AIRWAYS BOULEVARD, AS MORE PARTICULARLY DESCRIBED IN THE ATTACHED REPORT AND MAPS, SUBJECT TO CERTAIN CONDITIONS
was deferred one week.

GRANT CONTRACT

On motion of Councilwoman Scott, seconded by Councilwoman Robinson,
A RESOLUTION AUTHORIZIGN THE EXECUTIVE DIRECTOR OF THE CHATTANOOGA-HAMILTON COUNTY REGIONAL PLANNING AGENCY TO ENTER INTO A GRANT CONTRACT WITH THE TENNESSEE DEPARTMENT OF TRANSPORTATION FOR THE UNDERTAKING OF TRANSPORTATION, PLANNING AND COORDINATION OF ACTIVITIES AS

GRANT CONTRACT (Continued)

ASSIGNED IN THE UNIFIED PLANNING WORK PROGRAM FOR FEDERAL FISCAL YEARS 2012-2013, WITH AN INITIAL GRANT CONTRACT AMOUNT OF ONE MILLION ONE HUNDRED NINETY-THREE THOUSAND SEVEN HUNDRED RHITRY-THREE DOLLARS (\$1,193,733.00)

was adopted.

OVERTIME

Overtime for the week ending May 10, 2012 totaled \$3,567.33.

PERSONNEL

The following personnel matters were reported for the various departments:

PUBLIC WORKS:

- **SARAH KURTZ** – Hire, Historic Preservation Planner, Land Development, Range 14, \$34,201.00 annually, effective May 14, 2012.
- **LEROY GAUNT, JR.** – Suspension (2 days without pay), Equipment Operator 4, City Wide Services, effective May 2-3, 2012.

CHATTANOOGA FIRE DEPARTMENT:

- **PATRICK O'BRIEN** – Suspension (1 day without pay), Firefighter Senior, effective May 7, 2012.

INFORMATION SYSTEMS:

- **DANIEL JUSTIS** – Suspension (3 days without pay), Telecommunications Coordinator, effective May 1-3, 2012.

TREASURER'S OFFICE:

- **DEBRA MCDOUGAL** – Hire, Tax Specialist, Range 7, \$24,306.00 annually, effective May 4, 2012.

FIRE ACADEMY GRADUATION

Chief Parker reminded Council members of the Fire Academy graduation scheduled for Thursday at 6 p.m. at Clear Creek Church of Christ (5612 Hixson Pike); that they will have an excellent commencement speaker, Chairman Pam Ladd!

PURCHASES

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

PUBLIC WORKS:

ENVIRONMENTAL SYSTEMS RESEARCH INSTITUTE, INC. (Lowest bid) **R58093**

Purchase of Geographical Information System Software

\$142,636.42

PARKS AND RECREATION:

3M COMPANY (Lower bid) **R56302**

Purchase of Shared Lane Pavement Markings

\$40,962.60

JOHN DEERE COMPANY, INC. (State contract; single source) **R69026**

Purchase of Three (3) HPX 4x4 John Deer Utility Vehicles per State Wide Contract SWC-248, TCA 6-56-304.6

\$22,663.98

PURCHASES (Continued)

ACTION ALARMS (Lower and better bid)

R55433

Alarm Monitoring, Repairs, Maintenance and Supplies

\$10,000.00 – Annual approximation

ANNEXATION SETTLEMENTS

Assistant City Attorney Noblett reported at this point in time with the settlement of annexation areas 4A and 4C all of the annexation cases filed against the city have been resolved; that all the properties have scheduled dates to come into the city and there is no more pending annexation litigation.

TVA'S TREE CUTTING POLICY

Councilman Murphy stated most have probably received communication which affects dramatically residents in Councilwoman Scott's district with regard to TVA and their tree cutting policy that may or may not be actually required from what he has seen; that they are essentially going in and not telling folks within their easement they are coming and cutting down everything that might get taller than 50 feet. He stated this is the case when the line is 80 feet in the air above the house and knows Knoxville as a city and Council has passed a resolution essentially pointing out they are a tree city as we are, that there are a lot of economic and stormwater benefits to the trees and asked TVA to reconsider their position and to think again. He stated he knows particularly in the Mountain Creek area we are also talking about the removal of trees very low and a watershed and that could potentially have some deleterious impacts on our city's residents by way of flooding. He wondered if anyone had any interest in taking this up as a potential resolution and obviously it is not going to be binding on TVA as they are a federal agency; that he believes they are likely to be sued by some of the property owners involved and environmental groups, as well. He stated we have spent lots and lots of money in this city to try and plant trees and does not know if we should sit by and do nothing especially if it is not a necessary process that is being undertaken.

TVA'S TREE CUTTING POLICY (Continued)

Councilwoman Scott stated several weeks ago she met with a group of people that met with TVA about the issue noting her district is very much affected because it is a long ruler shaped district and TVA lines run through many neighborhoods she has. She stated the issue is TVA has been under some federal guidelines but they do not say how far they have to go in removing the danger of trees falling either onto the power lines or on the uprights that carry the power line, and in trying to investigate further the property easements that the owners have, have those written in the description of where the boundaries are and where the outside boundaries area and it is actually any tree over 15 feet instead of 50 feet. She stated it actually is pretty much a clear cut and some of the houses have already been affected, trees have been taken down in the neighborhoods for several days now and they have gone all the way up to front porches because that is where those easements are on the deeds. She stated she had conversation with TVA about how the individuals would be notified of that issue and TVA has assured us they would notify property owners ahead of time; that as far as she knows in the neighborhoods of constituents she has they have done that. She stated she is not aware of any legal issue other than knowing some individuals say birds with nests are in the trees and there might be some legal prohibition to cutting down a tree with animals in it, but so far as she knows she is not aware whether it be Knoxville or here where any of the opposition to that on the part of the homeowner has been successful. She stated it is her thought while the resolution would be a vote of support in objection to what TVA is doing she is not sure if it would be any more successful; that she would be happy to vote for a resolution in support of not doing it, but it would not be legally binding.

Councilman Benson stated it sounds good at this point, but did not think we are at the point of a resolution until we have questioned our City Forester, Gene Hyde; that Gene loves and knows trees and is not the only one we need to follow due diligence before this is done as we need to also contact our Electric Power Board (EPB) to see what their response is to this as they have a counter part to Gene Hyde there and get both of their opinions. He stated he is not in a position well enough to vote on it now.

Councilwoman Scott stated Mr. Hyde was there at the meeting with us, as was Bo Watson and several other legislative representatives.

Councilman Benson asked about EPB. Councilwoman Scott stated the Power Board is well aware of it and is not sure if they were there; that there were several layers of TVA present and does not believe this has gone past EPB without their notice.

TVA'S TREE CUTTING POLICY (Continued)

Councilwoman Scott stated with TVA being a supplier to them and power lines coming together where they do and part of them attached to them. She stated she is happy to vote in support if we want to do that, it is just she is not sure we have anything other than good will to add to this.

Councilman Murphy stated that is essentially what the citizen request was, essentially to stand with them. He stated he was glad Councilwoman Scott recalled the correct height is 15 feet which does not let a person keep a Dogwood tree and basically not keep much of anything! He stated basically if the tree is not within the fall distance of a tower that hugs the lines and cannot ever grow taller than the lines this is, in his humble opinion, insane and a little bit lazy because it is a way of saying we do not want to think so hard so for the whole distance we will take everything down. He stated it is very aggravating, particularly in those watersheds that run through the district that the city is now going to have more issues because the trees will not exist to suck up the water before it hits the Creek.

COMMITTEES

Councilwoman Scott reminded Council members of the meeting of the **Personnel, Performance and Audit Review Committee scheduled for Tuesday, May 22 at 2 p.m.** for an educational session involving employee safety and the entire time, with the exception of the last nine minutes, will be devoted to the Personnel Department's presentation. She stated because we are allowing the presentation to run the entire hour on May 22, the Council will have an opportunity to have a full discussion, ask questions, get clarification at the **subsequent meeting on Tuesday, May 29 at 10 a.m.** She stated **the Committee is also scheduled to meet following Legal and Legislative Committee on Tuesday, May 29** to hear the quarterly report from the Fire and Police Pension by Mr. Ryan.

Councilman Rico stated the **Public Works Committee is scheduled to meet on Tuesday, May 22 following the Agenda Session.**

Councilman Murphy stated he will forward the Knoxville resolution to the City Attorney as a model and maybe make it part of the Public Works Committee next week.

COMMITTEES (continued)

Councilwoman Berz stated the **Budget and Finance Committee will have a second budget session on Tuesday, May 22 from 10 a.m. – Noon** and will have reports on the matters that the Council requested more information on. She stated **on Tuesday, May 29 from 1 p.m. – 3 p.m.** we will be doing the same thing all having to do with the operating budget; that these are open meetings and held in the Conference Room.

Councilman Benson stated the **Economic Development Committee will meet on Tuesday, May 22** following Public Works regarding website inquiries. He asked Mr. Johnson to have resource persons available to answer questions at the meeting.

NEXT WEEK'S AGENDA: MAY 22, 2012

Chairman Ladd asked if there were any questions regarding next week's agenda; being none the meeting continued.

RANDY VAN HOOSER

Randy Van Hooser, owner of All American Taxi, commended the Transportation Board as they are behind this noting there are things the Council needs to know. He stated he provided the Council members and Inspector Topping of the Police Department of illegal taxi drivers and illegal companies; that he has two police reports where consumers or citizens of Chattanooga have been picked up and overcharged, called the police and the police officers made them pay -- one was a \$70 fare for a \$12.60 run. He stated we have cab drivers that are illegal, do not have taxi permits and are overcharging our citizens; that there are illegal companies picking up at hotels downtown and charging \$13 more than they should to go to the airport. He stated we all know tourism is a big industry in Chattanooga and if that had been a scout for a convention with 10,000-12,000 people and they find out they are getting overcharged they will take that convention somewhere else. He stated he wanted the Council to know there is a problem and the Transportation Board knows about it, Inspector Topping knows about it and (he) thought the Council needed to know there is a problem with the transportation department.

Councilwoman Ladd expressed appreciation to hear and know about this.

ADJOURNMENT

Chairman Ladd adjourned the meeting of the Chattanooga Council until Tuesday, May 22, 2012 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)**