

**City Council Building
Chattanooga, Tennessee
November 27, 2012
6:00 P.M.**

Chairman Ladd called the meeting of the Chattanooga City Council to order with Councilmen Benson, Berz, Gilbert, McGary, Murphy, Rico, Robinson and Scott present. City Attorney Michael McMahan; Management Analyst Randy Burns; and Shirley Crownover, Assistant Clerk to the Council, were also present.

**PLEDGE OF ALLEGIANCE/
MOMENT OF SILENCE**

The Pledge of Allegiance was led by Councilman Benson, followed by a moment of silence to remember Council Clerk Carol O'Neal in the death of her mother, Leslie Kilgore, who passed away earlier in the day.

MINUTE APPROVAL

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

**SPECIAL PRESENTATION
"CREATIVE DISCOVERY MUSEUM"**

Mr. Henry Schulson, Director of the Creative Discovery Museum, addressed the Council to tell a little about their program. He mentioned "Helping Hands", which teaches children the importance of giving and in conjunction with this was their "Kindness Journal Project", where they were circulating hand-made books and asking people to write about a kindness they had done or a kindness that they had received. He stated 100 journals had been sent all over the city; that if one wished, rather than writing something, they could draw to illustrate a kindness. He presented one of the journals to the City Council, stating that he would like each of the Councilmembers to contribute and participate in this endeavor; that the Mayor had already participated and when the Council's journal is complete, it could be given to Kathie Fulgham in the Mayor's Office. This will be done again next year, and he thanked the Council in advance for their participation and the services that they provided.

Chairman Ladd thanked Mr. Schulson for the kind things that are done at the Discovery Museum.

RECOGNITION

At this point, Chairman Ladd recognized the presence of Commissioner Warren Mackey.

AMEND CITY CODE/OVERTIME PAY

On motion of Councilman Rico, seconded by Councilwoman Robinson,
**AN ORDINANCE AMENDING CHATTANOOGA CITY CODE, ARTICLE III, DIVISION
5, SECTION 2-155, RELATING TO OVERTIME PAY FOR HOLIDAYS**
passed first reading.

REZONING

2012-117 (Ericka Stearns)

The request of Ericka Stearns to rezone property located at 906 East 10th Street from R-1 to R-3 was again brought before the Council. The applicant was present and opposition was in the audience.

Councilman McGary moved that this matter be deferred for one week. This was seconded by Councilman Gilbert.

Councilman McGary asked that Ms. Stearns approach the podium. He noted that the information the Council received from RPA indicated that this should be denied because of inadequate parking; that since this was heard two weeks ago that Ms. Stearns had looked into off-site parking, which was to be taken into consideration by Traffic Engineering; that because of the holidays, wires had been crossed and there had not been the opportunity to look at Ms. Stearns' plans. The plans were to have been reviewed by the City Attorney, and he had not yet had this opportunity. This was the reasoning for the delay asked for by Councilman McGary, and he suggested that all arguments be heard next week.

Councilman Benson stated that he was not concerned about the parking issue—that parking could not be satisfied; that his concern was that this would be breaking the Land Use Plan; that the Council had turned down a request by the Thomas' on MLK—that we voted against it because we did not want to destroy the Land Use Plan—that the issue was not just parking; that the people in this neighborhood had worked hard for this, spearheaded by Anita Polk Conley. He stated that Ms. Stearns was a fine lady, and he enjoyed talking to her, but parking was not his issue and deferring this would not help.

REZONING (CONT'D)

At this point, Chairman Ladd went over the regular process of allowing the applicant 9 minutes and the opposition 9 minutes, with as many as three speakers, and two minutes for rebuttal. She noted that this same process had been gone through two weeks ago and that there were even more people here to speak out tonight; that if the people are allowed to speak tonight, and this is deferred another week, then the Council will have heard this issue three times. She wanted to know what the desire of the Council was concerning this?

Councilman Rico stated that he wanted to vote on this tonight.

Councilman McGary stated that Councilman Benson had brought up the MLK Plan and that he had gone over this plan thoroughly and felt that this issue should be deferred and the motion had been made.

A roll call vote was taken on the motion to defer for one week:

COUNCILMAN MURPHY	"YES"
COUNCILWOMAN SCOTT	"NO"
COUNCILWOMAN ROBINSON	"NO"
COUNCILMAN BENSON	"NO"
COUNCILMAN GILBERT	"YES"
COUNCILWOMAN BERZ	"NO"
COUNCILMAN RICO	"NO"
COUNCILMAN MCGARY	"YES"
CHAIRMAN LADD	"NO"

The motion for deferral failed.

Councilman Rico made the motion that this be denied. This was seconded by Councilman Benson.

REZONING (CONT'D)

At this point, Councilman McGary read from the MLK Neighborhood Plan, in order for this to be placed in the minutes. *“Larger lots on the edges of the residential MLK Community should be zoned to accommodate multi-family developments, such as for-sale townhomes, condos, or small apartment buildings with 8-20 units. Smaller buildings, with only 2 to 4 units, could be developed on larger corner lots throughout the community. These buildings can be designed to “fit in” with the existing single-family character of the area-----This diversity of housing provides opportunities for people of varying incomes to buy into the area.*

“Design guidelines should be adopted as part of the zoning regulations to ensure the compatibility of any multi-unit residential development with the existing single-family homes.

During public meetings, it was stated that maintaining diversity was a prime goal for this area as it develops. This means including a range of housing sizes with prices that are attractive to many types of people—of differing backgrounds, ages and professions. The MLK area features small-scale apartments, quadraplexes and condominiums that sit among single family houses and provide an effective mix of units.

Councilman Gilbert noted that his problem was that this contradicts itself—that they downzoned to R-1, yet the plan says “this is good, too”. He noted confusion—that it should be one way or the other. He asked Mr. Bridger to explain, with the explanation being specific conditions and corner lots being the key—multi-family structures already exists.

Councilwoman Scott presented her views, noting that this was a large house on a small lot and the futility of adequate parking—that this was not appropriate for apartments and just because it was used once for apartments does not make it right today; that this neighborhood had gone through a down-zoning, and she did not think this Council could ignore the wishes of a neighborhood that had worked so hard for R-1—that the zoning will not go away and will not change. As for a lease agreement for parking, she noted that this was a home and not a business; that this neighborhood has a lot of positive things going for them, and this would not be beneficial to them.

Councilwoman Robinson was concerned about parking in an R-1 Zone, feeling that once the door was opened, that you could just take the Plan and “shelve” it. She asked those in attendance who opposed this to stand, and a large number stood.

Councilman McGary felt he should respond to comments by Councilwoman Scott—that he was not going against the neighborhood but was trying to make this an open process by looking at the Plan and understanding it—that he had listened to the neighborhood, Ms. Stearns, and RPA and was trying “to do unto others as he would have done to him” and “vet” this out. He asked

REZONING (CONT'D)

Mr. Bridger to recount why RPA was recommending denial, to which Mr. Bridger responded that it was lack of off-street parking—that the key element was parking. Councilman McGary asked him if this was spot zoning. Mr. Bridger responded that spot zoning is when there is no policy basis—that it seemed this could be appropriate for multi-family, and it is on a corner. Based on what he had read, Mr. Bridger did not feel this was going against the Plan and that the biggest problem was parking.

Councilman Benson stated that he did not believe Mr. Bridger was here when this Plan was developed—that Anita Polk Conley worked very hard to get this down-zoned and urged to take a look at the property values before this Plan and look at the property values now.

Mr. Bridger responded that everything has to be considered on a case-by-case basis, and this was based on a review of the document.

Councilman Benson asked if approving this would make it easier to have others like the Thomas case approved? Mr. Bridger was not familiar with the details of this case, again mentioning this being on a corner lot.

At this point, Ericka Stearns was allowed to speak. She read from the RPA Staff Report to substantiate her position, noting significant changes on MLK and the importance of increasing density. She maintained that this goes with the Plan—that it is a large lot on the edge; that when this was downzoned to R-1 in 2003, R-1 was the only zone available to stabilize the neighborhood; however she did not feel that this zone allowed for healthy diverse housing, and this area needs this type of housing because of its proximity to UTC. She felt she could meet the parking required by Traffic Engineering with a shared lease, which she had pursued through the Greater Friendship Baptist Church. She mentioned the differentiation between an urban place and a suburban place, noting that this is an urban area and had never been suburban and felt that R-1 was not necessarily the appropriate zone for this neighborhood; that households are declining and there is preference for smaller homes with low maintenance—that the new trend is smaller homes and also renters, and this speaks to this need.

Councilman McGary noted that a copy of the parking lease agreement had been given to the City Attorney and that he was reviewing it.

Councilwoman Berz wanted to know if Ms. Stearns knew this was zoned R-1 when she bought the property, with Ms. Stearns stating that it was R-1 by default, but she did understand it was R-1.

REZONING (CONT'D)

Anita Polk Conley of 1020 E. 10th St. spoke in opposition, stating that she worked at Chattanooga State. She showed appreciation for Councilman Benson's remarks and stated that City Hall was part of their neighborhood. She noted that they were an integral part of downtown and had wanted to change the way people thought about their neighborhood—that the thoughts had been very negative and people wanted to get through their neighborhood as fast as possible—they made a change to make it appealing to people to move there; there had been a lot of rentals and a myriad of problems and new structures were built when it was changed to R-1; that this was the only choice they had and R-1 may still be the only zone; that homeowners are more concerned about what happens to their neighborhood and want a safe environment.

Councilman Gilbert asked her if she thought the Plan was contradictory. She did not, noting that it is surrounded by R-1 and this would be spot zoning; that R-4 could be supported to the edge—that lots are available and townhouses are being built.

Councilman McGary asked if she had participated in the development of the Plan, and the answer was "yes". He wanted to know if she was well-versed in the language of the Plan, and the answer was "yes". He asked her about diversity, and she felt there was quite a bit of diversity. He wanted to know if she felt it could only fit in if it were zoned R-1? She mentioned a three-apartment house that was now a single home, noting that this was not on the edge of the neighborhood. He questioned her if she felt the only option was to convert to R-1 with no other paths to take, with her response being that he was trying to "pigeon-hole" what was going on, and she was not able to give a good reason under this circumstance. Councilman McGary maintained that he was trying to be completely objective and was using what has been written as his basis. He stated that he understood the concerns of the neighborhood and asked for help in what the neighborhood was wanting. Ms. Conley asked the Council to look at the neighborhood—that in totality the amount of R-1 Zoning is relatively small, and she was aware of the need for density housing, but there were lots for this purpose.

Moses Freeman of 807 E. 10th St. was the next speaker in opposition. He reminded the Council that they passed the Ordinance establishing the R-1 Zone and the Land Use Plan and 80 people responded and moved into the area and spent \$7 million dollars in investments—that they took distressed property and put it back on the tax rolls. He urged the Council to keep faith with what they did—that this is a large neighborhood with lots of room for multi-family dwellings—that they have the Homeless Shelter and also commercial—that diversity does exist, but they wanted to keep their area R-1.

Tony Bage of 912 MLK Blvd. and the current president of the neighborhood association spoke next. He stated he and his wife participated in the process and passed out information, which is made a part of this minute material; that the Plan refers to large corner lots on major streets-

REZONING (CONT'D)

that major streets are defined as MLK Blvd., Central Ave. and McCallie Ave.—not 10th St., and this is not a large lot but a small lot; there is not additional parking, and we need to keep the Land Use Plan and the existing zone—that this property is not on the edge of the community. He stated that he asked Greg Haynes to define spot zoning and the definition was “an isolated zone that fits one property owner”—that Mr. Haynes felt this was spot zoning. He asked Mr. Haynes if this would set a precedent, and he responded “absolutely”.

Councilman Murphy stated that this was one of the best Land Use Plans in the city—that he abhorred economic waste; that the parking agreement was not that legal and was terminal. On the other hand, he noted that if this is denied, it would be hard to find someone who wanted to live in this neighborhood as a single-family home with 3500 sq. ft.—that it would be exceptionally expensive to turn this into a single-family home, and it probably won’t happen, and this neighborhood will have to live with a deteriorated, vacant situation, which is not good for the neighborhood.

Ms. Stearns took this opportunity for rebuttal; that contrary to what Ms. Conley said about zoning that “yes” there are townhouses and condos being built, which does not fit the plan, with agreement that this property will sit there and deteriorate and will bring down the neighborhood—that this is an urban area. She mentioned the signatures in opposition, inferring that false information had been going on.

Councilman McGary stated that we had heard both sides, and he appreciated the dialog about the issue; that there were passionate feelings, and he did not underestimate the hard work of this community; however, in regards to the Plan, he had a different interpretation; that Councilman Murphy had spoke his mind. He agreed there had to be a parking plan in place and stated that he could not support this rezoning because the parking plan could be broken or terminated.

On motion of Councilman Rico, seconded by Councilman Benson,

**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 38,
ZONING ORDINANCE, SO AS TO REZONE PROPERTY LOCAED AT 906 EAST 10TH
STREET, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL
ZONE TO R-3 RESIDENTIAL ZONE**

was denied.

PARKS & REC. DONATIONS

On motion of Councilwoman Berz, seconded by Councilman Gilbert,

A RESOLUTION AUTHORIZING THE DEPARTMENT OF PARKS AND RECREATION TO SOLICIT AND ACCEPT DONATIONS FROM BUSINESSES AND OTHER ORGANIZATIONS IN SUPPORT OF THE TENNESSEE RECREATION AND PARKS ANNUAL CONFERENCE TO BE HELD IN CHATTANOOGA FROM NOVEMBER 17, 2013 THROUGH NOVEMBER 21, 2013

was adopted with Councilwoman Scott voting "no".

PERSONAL SERVICES CONTRACT

On motion of Councilwoman Robinson, seconded by Councilwoman Berz,

A RESOLUTION AUTHORIZING THE GANG TASK FORCE COORDINATOR TO EXECUTE A PERSONAL SERVICES CONTRACT WITH JOHN HAYES, PH.D., NOT TO EXCEED TEN THOUSAND DOLLARS (\$10,000.00) FOR VARIOUS SERVICES TO BE ASSIGNED ON AN AS-NEEDED BASIS FOR GRANT WRITING, PROGRAM MONITORING, RESEARCH, AND EVALUATION, WITH A CONTRACT TERM UNTIL JUNE 30, 2013, SUBJECT TO A REPORT FROM STAFF TO CITY COUNCIL AT THE END OF THE CONTRACT

was adopted.

This Resolution was amended at the request of Councilwoman Scott for a report from staff to Council at the end of the contract.

DIRECTOR OF GENERAL SERVICES

On motion of Councilwoman Robinson, seconded by Councilman Rico,

A RESOLUTION TO CONFIRM DAN L. THORNTON AS THE DIRECTOR OF GENERAL SERVICES FOR THE CITY OF CHATTANOOGA, TENNESSEE

was adopted.

CONTRACT CHANGE ORDER

On motion of Councilwoman Robinson, seconded by Councilman Benson,

A RESOLUTION AUTHORIZING CHANGE ORDER NO. 1 FOR YERBEY CONCRETE CONSTRUCTION, RELATIVE TO CONTRACT NO. R-11-001-201, MAIN TERRAIN ART PARK, FOR AN INCREASED AMOUNT OF FIFTY THOUSAND DOLLARS (\$50,000.00), FOR A REVISED CONTRACT AMOUNT NOT TO EXCEED ONE MILLION TWENTY-NINE THOUSAND ONE HUNDRED TWENTY-FIVE AND 75/100 DOLLARS (\$1,029,125.75), AND TO RETAIN THE CONTINGENCY AT TWENTY-THREE THOUSAND FOUR HUNDRED DOLLARS (\$23,400.00)

was adopted.

Councilwoman Scott acknowledged that **Resolutions (d), (e), (f), and (g)** are all funded through private grants.

At this point, since the next three Resolutions were all of the same nature, **Councilman McGary moved that they be voted on with one reading. This was seconded by Councilman Murphy.**

MAIN TERRAIN CONT. & AGREEMENTS

On motion of Councilman McGary, seconded by Councilman Gilbert, the following three Resolutions were adopted.

A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO AWARD CONTRACT NO. R-12-001-201, MAIN TERRAIN BIKE SHELTER, TO YERBEY CONCRETE CONSTRUCTION, IN THE AMOUNT OF TWENTY-SEVEN THOUSAND NINE HUNDRED DOLLARS (\$27,900.00), WITH A CONTINGENCY AMOUNT OF THREE THOUSAND DOLLARS (\$3,000.00), FOR AN AMOUNT NOT TO EXCEED THIRTY THOUSAND NINE HUNDRED DOLLARS (\$30,900.00)

was adopted.

A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO ENTER INTO AN AGREEMENT WITH GAMETIME A PLAY CORE COMPANY FOR PROFESSIONAL SERVICES RELATIVE TO MAIN TERRAIN ART PARK, PARTNERSHIP AGREEMENT NO. R-11-001-805, IN AN AMOUNT NOT TO EXCEED THIRTEEN THOUSAND SEVENTY-THREE AND 95/100 DOLLARS (\$13,073.95)

was adopted.

A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO ENTER INTO AN AGREEMENT WITH LYNDHURST FOUNDATION RELATIVE TO MAIN TERRAIN ART PARK, PARTNERSHIP AGREEMENT NO. R-11-001-802, TO INCREASE THE TOTAL AMOUNT TO FIFTY-TWO THOUSAND DOLLARS (\$52,000.00), AN INCREASE OF TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00) FOR LANDSCAPING ELEMENTS

was adopted.

UTC TWO PROJECT

On motion of Councilman Murphy, seconded by Councilwoman Robinson,
**A RESOLUTION TO MAKE CERTAIN FINDINGS RELATING TO THE UTC TWO, LLC
PROJECT TO DELEGATE CERTAIN AUTHORITY TO THE HEALTH, EDUCATIONAL
AND HOUSING FACILITY BOARD OF THE CITY OF CHATTANOOGA, TENNESSEE,
AND TO AUTHORIZE THE MAYOR TO ENTER INTO AND EXECUTE AN
AGREEMENT FOR PAYMENTS IN LIEU OF AD VALOREM TAXES**
was deferred one week.

UTC THREE PROJECT

On motion of Councilman Murphy, seconded by Councilman Rico,
**A RESOLUTION TO MAKE CERTAIN FINDINGS RELATING TO THE UTC THREE, LLC
PROJECT TO DELEGATE CERTAIN AUTHORITY TO THE HEALTH, EDUCATIONAL
AND HOUSING FACILITY BOARD OF THE CITY OF CHATTANOOGA, TENNESSEE,
AND TO AUTHORIZE THE MAYOR TO ENTER INTO AND EXECUTE AN
AGREEMENT FOR PAYMENTS IN LIEU OF AD VALOREM TAXES**
was deferred one week.

OVERTIME

Overtime for the week ending November 21, 2012, totaled \$3,315.94.

PERSONNEL

The following personnel matters were reported for the various departments:

CHATTANOOGA POLICE DEPT.:

- ✓ **HARRY HORTON**—Up to 29 days of Military Leave for Police Cadet, effective 11/1/12.
- ✓ **JAMES HOGWOOD**—Medical Leave of Absence up to 12 weeks for Police Sergeant, effective 11/6/12.

PERSONNEL (CONT'D)

- ✓ **AMY WILLIAMS**—Voluntary demotion of Adm. Support Asst., Range 7, \$29,813.85, effective 11/12/12.
- ✓ **MARCIE HUBBARD**—Appointment of Executive Assistant, Range 14, \$42,000 annually, effective 11/12/12.
- ✓ **CHARLES RIGGS**—Termination of Police Service Tech., effective 11/16/12.

PUBLIC WORKS DEPARTMENT:

- ✓ **GARY ROBKin**—Hire as Zoning Inspector, Range 12, \$31,021 annually, effective 11/16/12.
- ✓ **ROBBY ROBERSON**—Hire as Soil Engineering Specialist, Range 19, \$43,560 annually, effective 11/30/12.

**LIQUOR LICENSE/
CHANGE OF OCCUPANCY**

Ms. Madison reported that Devin Cho and his wife, Christi Cho, were taking over ownership of Liquor License from his father, Ho S Cho at 2001 S. Market St.

ATTORNEY MCMAHAN

Attorney McMahan advised the Council concerning an Ordinance to amend the Fire and Police Pension Plan in order to respond to the Federal Law, HEART. He stated that we may have to add something similar to the General Pension Fund if it is required; that they were still working on this. Councilwoman Berz asked if there had been discussions and were the Fire and Police Pension Board knowledgeable? Attorney McMahan responded in the affirmative. Councilwoman Berz indicated that she would vote only if they had been educated.

FORGOTTEN CHILD FUND

Chairman Ladd announced that there would be a collection box in the lobby for the Forgotten Child Fund. She also mentioned the major drive for this event in which Councilwoman Berz and Councilman Gilbert had been involved, stating that it was very successful.

Councilman Gilbert added that on December 24th there would be a time to share with the children receiving these toys and that it was a wonderful event.

COMMITTEES

Councilwoman Scott announced that there would be a **Personnel, Performance and Audit Review Committee meeting on Tuesday, December 4th immediately following the Public Works Committee meeting.**

Councilwoman Robinson announced that she was not exactly sure about the next Housing Committee but that one would be scheduled later in December. She shared that RPA had a meeting on November 19th at the Battle Academy, which was very well attended and well done; that RPA had been working on this since early last Spring and that John Bridger would be giving a report to the City Council in January.

Councilwoman Robinson also brought up another concern that she would like the Council to give some thought to—a way to figure out what to do about coyotes; that she has a concern in her district, and the people need help and the Wildlife Service does not offer the help needed; that one of her constituents in Stuart Heights had the good sense to say she would not kill them. She stated that this was serious, and they needed help and questioned what committee this would fall under. (Legal and Legislative was suggested!!) Councilman Murphy offered that coyotes move around. Councilwoman Scott mentioned small animals, such as dogs, that roam at night and could become a food source for the coyotes—that if the food supply goes away, they go away.

Councilman Rico reminded everyone of the **Public Works Committee to be held on December 4, 2012, immediately following the Agenda Session.**

Councilwoman Berz announced that on **December 11th there would be a 2:00 P.M. Educational Session** for United Way to give a report on the accountability of the money we gave to the agencies. This will be held in the Conference Room. She added that all the applications are on the City's website and future funding will be there. Chairman Ladd suggested that the Editorial Person for the right side of the newspaper be asked to attend this meeting to obtain information that he does not presently have. Councilwoman Scott stated that both sides of the Editorial page writers should be invited.

COMMITTEES (CONT'D)

Councilman Benson scheduled an **Economic Development Committee meeting for December 4th to immediately follow the** Personnel, Performance and Audit Review Committee to take a new look at the PILOT procedure. Mr. Johnson reminded him that there might be another issue.

NEXT WEEK'S AGENDA:
December 4, 2012

Chairman Ladd referred Councilmembers to next week's agenda and inquired as to whether there were questions; there were none.

ADJOURNMENT

Chairman Ladd adjourned the meeting of the Chattanooga City Council until Tuesday, December 4, 2012 at 6:00 P.M.

CHAIRMAN

CLERK OF COUNCIL

(A full digital audio of the Council Meeting of this date is filed in the Clerk of Council's Office)

(A LIST OF NAMES OF PERSONS IN ATTENDANCE IS FILED WITH MINUTE MATERIAL OF THIS DATE)