

Council Building
Chattanooga, Tennessee
January 8, 2013
6:00 p.m.

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

PLEDGE OF ALLEGIANCE/INVOCATION

Following the Pledge of Allegiance Councilman McGary gave the invocation for the evening.

MINUTE APPROVAL

On motion of Councilwoman Robinson, 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 McGary, seconded by Councilman Gilbert,
AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE SECTION 10-33, WHICH ADOPTED THE 2009 EDITION OF THE INTERNATIONAL ENERGY CONSERVATION CODE, SECTION 402.4.2, REGARDING AIR SEALING AND INSULATION
passed first reading.

AMEND CITY CODE

On motion of Councilman Gilbert, seconded by Councilman McGary,
AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 38, ZONING ORDINANCE, DIVISION 5, SECTION 38-84, R-T/Z RESIDENTIAL TOWNHOUSE /ZERO LOT LINE ZONE TO PROVIDE CLARITY TO SETBACK REQUIREMENTS OUTSIDE AND WITHIN THE URBAN OVERLAY ZONE
passed first reading.

REZONING

2012-156: City of Chattanooga/Regional Planning Agency

Pursuant to notice of public hearing, the request of City of Chattanooga/Regional Planning Agency to rezone property located in the 9300 block of Lee Highway came on to be heard.

There was no opposition in attendance.

On motion of Councilman Benson, seconded by Councilman Rico,

AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 38, ZONING ORDINANCE, SO AS TO REZONE PROPERTY LOCATED IN THE 9300 BLOCK OF LEE HIGHWAY, MORE PARTICULARLY DESCRIBED HEREIN, FROM M-1 MANUFACTURING ZONE (TEMPORARY ZONE) TO URBAN GENERAL COMMERCIAL ZONE (PERMANENT ZONE), SUBJECT TO CERTAIN CONDITIONS

passed first reading.

REZONING

2012-157: Scenic Land Company, LLC/Jack and Carolyn Lonas and Robert Brown

Pursuant to notice of public hearing, the request of Scenic Land Company, LLC/Jack and Carolyn Lonas and Robert Brown to rezone properties located in the 100 block of Dodson Road and the 6400 block of Highway 153 came on to be heard.

The applicant was present; considerable opposition was in attendance.

Greg Haynes, Director of Development with the Regional Planning Agency (RPA), gave an overview of this request through PowerPoint and stated that the request is for rezoning to R-3, C-2 and R-4; that a rezoning request was submitted in October 2011 and was withdrawn at City Council in April 2012. He stated the new request reflects a revised zoning request and site plan for a proposed development of 190 acres with 74 acres for retail, 74 acres for office and 42 for multi-family development. He stated the multi-family development consists of 280 units with a density of 6.7 units per acre; that the site plan reflects two access points, one from Highway 153 and the other from Stone Ridge Drive.

REZONING (Continued)

Mr. Haynes stated the site plan submitted at Planning reflects buffers to the multi-family, office and commercial areas. He stated the Planning Commission recommended approval of 25 conditions and are contained within the request noting five of the conditions were modifications suggested by the applicant regarding water quality management, in the R-4 regarding maximum building footprint size, in the C-2 portion regarding maximum building for footage, in the C-2 area regarding a maximum building footprint size and the last modification in regard to stormwater management. He stated the Planning Commission voted to approve the request for all three zones with the 25 conditions suggested by Staff, plus the five modifications submitted by the applicant.

Mr. Haynes stated opposition was present at the Planning meeting and on Friday of last week the opposition's representative submitted their suggestions for modifying the language but did not have an opportunity to review; that there are quite a few conditions they suggested for modification. He stated last month Staff recommended deferral on the case until feedback on the traffic study was obtained from TDOT and/or the City's traffic engineer; that the final recommendation hinges on addressing the transportation components of the project. He stated the City Traffic Engineer has reviewed the traffic study since last month and is present to comment on that. He stated the revised site plan and proposal with appropriate conditions and transportation improvements could be in keeping with the Hixson Community Plan's vision and given the site's prominent location and size will play a critical role in the next 20-30 years of the Hixson community. He stated the Staff recommended the 25 conditions for managing the land use elements of the site which help to establish a land use/site design framework to promote a development forum that complements the site's natural features while managing potential water quality impacts. He stated the recommendation from the Planning Commission is to approve this request subject to the 25 conditions in the resolution.

Councilwoman Berz stated Mr. Haynes mentioned that the opposition had come back with their suggestions and asked if anyone has had a chance to see those or review them.

Mr. Haynes stated he and the Executive Directors saw them on Friday but have not had a chance to look at them one-by-one or review them in any way at all.

Councilwoman Berz asked if the proponents have seen them. Mr. Haynes stated he did not know.

REZONING (Continued)

Councilwoman Berz stated she would be interested in knowing so people can sit down and work things out.

Councilman Benson inquired as to the five modifications. Mr. Haynes stated out of the 25 the first addresses water quality management noting the Staff recommended "1.6 inches" and with modifications now mentions "one inch". He stated the second is in regard to the R-4 requested noting the Staff noted "no single building footprint can exceed 30,000 square feet" and the applicant suggested "40,000 square feet".

Councilwoman Berz clarified that the modification requests are from the proponent and not the opposition. Mr. Haynes responded "yes, the applicant".

Mr. Benson clarified his question was for the difference from the Staff's recommendation and what the applicant came back saying they found unacceptable and wanted changes wanting to know the change comparisons.

Mr. Haynes stated that is what he is covering; that the third was for the C-2 wherein Staff recommended "area limited to two anchor stores with each anchor store having a range from 65,000 – 90,000 square feet" and the applicant suggested changing it to "the maximum permitted use shall not be more than 250,000 square feet". He stated the fourth is in regard to the C-2 area which is quite lengthy regarding a maximum building footprint guide wherein Staff suggested "45,000 as the maximum footprint" and the applicant suggested "49,999". He stated the last is in regard to stormwater management noting the Staff recommended "a minimum ten foot wide bio-swell strip shall be provided along the center line of all parking lots" and the change suggested by applicant indicated "a complete stormwater management system shall be installed for the parking lots and retail pedestrian area which shall consist of a variety of systems for stormwater management, retention and sediment control, including bio-swells, porous pavers and surface and low grade storage and recharge systems."

Councilman Benson stated they are changing it from 50,000 to 250,000 for the big boxes. Mr. Haynes stated when it went to 250,000 it was recommended to be "up to 90,000".

Councilman Benson stated going from 90,000 – 250,000 would be twice as large as the WalMart off Gunbarrel! Mr. Haynes stated he does not know how large WalMart is but it would be a pretty big box.

REZONING (Continued)

Councilman McGary stated the Planning Commission recommended approval and Staff recommended deferral for 30 days contingent upon the traffic study indicating that the study has been completed and asked if Staff has a recommendation, presuming RPA has had an opportunity to review the traffic study.

John Bridger, Executive Director of the RPA, stated they do not get into the operational aspects but the traffic engineer has reviewed it in detail and they are relying on his judgment as far as the adequacy of what is being proposed to meet the demand provided by the development.

Councilman McGary stated if Mr. Van Winkle has a favorable result Planning would concur. Mr. Bridger responded "that is correct".

John Van Winkle, Traffic Engineer, stated when they received the final traffic study was the day before the Planning Commission meeting; that they got it on Friday afternoon before the Monday meeting and he had opportunity to review it but did not have opportunity to go over it with the consultant and work out questions they had as they had some about some of the assumptions on their study. He stated they requested it be approved subject to working out those things, however during the interim between the Planning Commission meeting and this meeting they have met and worked out the questions and are satisfied with the study results.

Councilman McGary asked if Mr. Van Winkle would recommend the study to this body. Mr. Van Winkle responded they recommend that the conditions stated and offered by the traffic consultant for the developer be a part of the approval and are satisfied with the conclusions of the study and recommend approval subject to those conditions.

City Attorney McMahan pointed out that the agenda reflects an alternate version which is the one that includes the additional information concerning the traffic study.

Councilwoman Robinson stated there was another version noting the third one does not have the concluding phrase "subject to certain conditions" and wondered why. City Attorney McMahan stated that was the original applicant's version even though the conditions were added during Planning Commission, they originally applied for this rezoning.

REZONING (Continued)

Councilwoman Robinson clarified we are talking now about the alternate version.

City Attorney McMahan stated it is his thought the Council would want to consider the alternate version as it is the one that says the developer will provide a turning lane on Boy Scout Road or alternatively will pay up to \$300,000 if the city should elected to make different improvements to Boy Scout Road they will contribute up to \$300,000 to those roadway improvements. He read the following from the item D(7) of the conditions listed on page six (6) within the Alternate Version of this ordinance:

Prior to issuance of the Certificate of Occupancy for any use included as proposed in Phase III, an additional left turn lane 300 linear feet in length at Boy Scout Road turning left onto Highway 153 South shall be funded by the land owners. At the option of the City of Chattanooga and in lieu of and prior to the implementation of the previous improvement option, the City may require the land owner to fund other improvements which may be determined to provide a greater benefit in the sole discretion of the City or up to 15% of the City's cost in reworking or modifying the existing intersection and approach of Highway 153 and Boy Scout Road. In any case the City shall solely be responsible for providing required right of ways to perform any improvement. Costs shall include design, engineering, permitting and construction costs. The land owner's cost in regard to these options shall be limited to a maximum of \$300,000.00.

Councilwoman Robinson stated the alternate provides for an additional turning lane which would travel along Boy Scout to 153 and then for a left turn onto 153 south.

Mr. Bridger stated the alternate version does not reflect all the recommendations of the traffic study, so the Council might want to add that notation if the Council decides to take this one; that he would refer to the entire traffic study as it talks about Phase III and there are Phases I and II and for the Council to keep that in mind however they deliberate.

Councilwoman Robinson stated her question deals with the fact there will be an additional lane added and asked if that is in the City's right-of-way currently or if we will have to acquire it, and if so what length of eminent domain would that require. She inquired as to whether the turn lane is 150 or 300 feet.

City Attorney McMahan responded 300 feet.

REZONING (Continued)

Admin. Leach stated we obviously have a right-of-way in there and depends upon drainage and curbing along there and it is probably ditch-to-ditch now and we would probably enhance the drainage and have to acquire some right-of-way but that is yet to be determined. He stated the state could possibly go in and do improvement to 153 in the whole intersection at some point in time; that at this point we feel the city has that responsibility at the time of Phase III based on the proposal. He stated we might have to take some right-of-way, not much, and the length would be 300 as he understands and would work with the developer since they are willing to put in so much money and look at funding through a capital project.

Councilwoman Ladd asked if we were to have a project in this area would we be able to excel the time line to work on Boy Scout Road; whether he knows what the time line is now to do additional improvements to Boy Scout Road.

Admin. Leach stated he does not know of any proposed improvements at this point for Boy Scout Road from a capital standpoint; that we likely will do it from the operational budget if there are problems with drainage, a particular cross section we are not happy with or deteriorating pavement; that we do not have anything in the capital budget at this point.

Councilwoman Ladd stated there is extensive deterioration currently. Admin. Leach responded that he understood.

Roland Aberg of Hart Howerton in Minneapolis stated they have submitted a well conceived comprehensive framework plan that embodies sound principles of planning and responsive to the land; that they are also supporting a vibrant mixed use development. He stated the plan consists of 280 Class A apartments on the north side of the site, located to the south of the apartments is 250,000 square feet of corporate offices and, in addition, 500,000 feet of shops, dining and entertainment are planned for the south side of the property. He stated the retail has been primarily located in a pedestrian focused village center and five outparcels. He stated there are three key features of the plan: (1) the hill top will remain as the resulting adjustment is minimal and will be practically imperceptible within and outside of the project site; (2) this is a low density development noting it is not accurate to compare it to Hamilton Place as it is less than half of the retail square footages; (3) of undeveloped land, 34 percent of the site representing 67 acres will not be developed. He stated less than ten percent of the entire site will be occupied by ground floor uses.

REZONING (Continued)

Mr. Aberg continued by stating the third feature relates to stormwater retention noting that the master plan was created in a manner that will achieve the highest standards in water management; that condition of the rezoning is the commitment to a standard that retains one inch of stormwater per 72 hours on site. He stated it has been suggested that the property should be rezoned in phases, noting the property cannot be rezoned in phases as phase rezoning contradicts the community plan which strongly encourages clustered, organized planned developed as opposed to piecemeal development. He stated the agreed upon conditions are based upon an entire site plan that has been designed to protect the slopes and the hilltop and the development incorporates best planning practices by mixing uses that are interdependent on each other.

Rick Hall, President of J. Richard Hill in Georgetown, Kentucky, conducted the retail market study for this development and stated there was sufficient market demand for this project to support the proposed square footage and to support the rents to generate the sales to make this an economically viable project. He stated the research was used to create the retail strategy for a pedestrian focused village; that the retail center has been designed as a traditional village with up to 500,000 square feet of space including shops, cafes, entertainment facing wide sidewalks and streets. He stated parking is evenly distributed along the blocks beside the shops and behind the shops; that the project features a major public green and town square. He stated the retail component of the development will provide many benefits including reduced vehicular trips and the need to travel outside of Hixson for retail, dining and entertainment will be reduced and the development provides new choices in new dining and shopping opportunity for the community. He stated the plan creates an easy five-to-ten minute walk within the development noting it is a great project! He stated it is the type of village plan that is thoughtful and respectful of the community and implements a time tested traditional village plan that has been a lasting foundation of communities for hundreds of years. He stated it would be a "breath of fresh air" for a great community that lacks this type of sustainable development.

Duane Horton, President of Scenic Land Company, addressed two points of the plan noting it is the most consistent of any planned development to-date based on the community plans. He stated the community plan states Highway 153 is a major commercial corridor, yet this is the only large tract of land on 153 not zoned for commercial use.

REZONING (Continued)

Mr. Horton stated the site is located in the outer suburban growth sector which encourages both infill and outward growth; that the site is identified specifically in the plan as a site that should be considered for development as a commercial node. He stated the plan goes on to indicate one of the main goals of the community plan is to develop commercial nodes which provide for long term economic sustainability and will feed "new life" into suburban strips. He stated the second point is this plan has been developed and evolved as an outgrowth from extensive input from the community and RPA Staff.

Mr. Horton stated there have been extensive concessions, agreed upon conditions and benefits (they have) offered to obtain full rezoning of this site as the property is currently zoned for development which currently does not provide for these protections. He stated regarding stormwater mitigation, they have agreed to standards beyond the city's highest standards of stormwater management for this site; that the city has a permitting process to insure compliance. He stated regarding traffic, the report proves the traffic and proposed entrances will remain within the city's and TDOT's guidelines; in regard to site restrictions they have made five major modifications in the plan incorporating over 30 community and Staff driven changes. He stated they have agreed to a highly restrictive set of conditions that govern slope and hilltop protection and preservation, total project size, size of buildings, height of buildings, number of units, size of retail spaces, amount of green space and size of pedestrian plaza areas to name a few. He stated regarding wildlife the proposed plan with extensive non-disturbance areas in open spaces allow for the free migration of wildlife, provides for water resources for the wildlife and large areas for natural habitat.

Mr. Horton stated in reference to undeveloped areas, the project provides for undisturbed areas, buffer zones and recreational open space resulting in minimized grading on the site plan. He stated the site plan also provides that major site disturbances apart from the comprehensive stormwater management system and basic infrastructure improvements will only occur when each use is built. He stated in reference to community benefits this project upon full development will provide 2,000 jobs, provide product types that do not exist in the Hixson market and will not be a burden on the roads, infrastructure or school systems as it requires no public dollars, yet, it will contribute over \$2 million in new real estate taxes. He stated the city has already invested in the roads and related infrastructure to accommodate this project and now is the time to generate a return on this existing investment.

REZONING (Continued)

Ellie Wallis of 441 Titanium Drive in Hixson spoke in opposition by stating for over a year she has been following this issue closely as it directly impacts her home; that she has gone to the handful of public meetings the developer has held and listened closely. She stated her community has raised questions during the meetings that have gone unanswered by the developer and the community has had very little actual input in the meetings; that the lack of information from the developer is the only thing that has been consistent throughout the process. She stated the body of experts at the RPA had questions and they recommended denial the first time, deferral the second and if Chattanooga is going to be a 21st Century city why are we not listening to experts who raised “red flags” about these developments. She stated the RPC “kicked the can down the road” to the Council to deal with this issue and she is present to remind the Council of the grave responsibility before them tonight; that the conceptual plan looks beautiful but she has seen many developments that look good on paper but fail, even worse some of them take so long to get built, if they get built at all; that without a comprehensive list of restrictions and standards the public agrees to the public forgets the verbal promises the developer has made and what ends up being built does not resemble the original plan at all. She stated she understands the process is not over when the Council votes and they are being asked to trust in an enforcement system to clean up messes rather than preventing the issue in the first place. She stated in speaking with Councilwoman Ladd, she (Ladd) reiterated her (Wallis) thought that the existing process is flawed. She (Wallis) stated she is afraid once the property is rezoned the developer will not have any incentive to continue the process of community input and does not believe they will respect the integrity of the plan unless they are forced to abide by standards approved by the community that need to be put in place prior to rezoning. She stated Chattanooga is a wonderful and trusting town that wants to believe people will follow through on promises made, but naiveté and short memory have gotten us into bad situations that cannot be undone and she does not want this to be one of those situations. She stated she is not against development or growth but is against growth simply for the sake of growth and short sighted approval of development that asks us to trust a developer and later contractors who are used to being “slapped on the wrists” for violations.

Atty. Joe Conner of Baker Donaldson spoke next and had a PowerPoint presentation to illustrate his comments. He noted he had submitted to the Council from the community conditions referenced earlier, which were provided to RPA the same way the conditions and all the information from the developer was provided to RPA, not to them.

REZONING (Continued)

Atty. Conner asked what is missing; that Mr. Hill indicated a feasibility study has been done however he (Conner) asked for it in Ms. Ladd's meeting and they refused to produce it; that it is a speculative development and "if they zone it they will come"! He stated there are no financial commitments for this project and projections for infrastructure or otherwise, no commercial tenants or retail commitments, no signed leases, purchase agreements, letters of intent, no time line for construction or phasing of zones. He stated if the Council passes the conditions as they are they can build whatever phase they want to, whatever part they want to; that he learned last night that the great pedestrian framework in the commercial zone will not be built in the first phase; that they will build a big box first then if it becomes financially feasible they will do the pedestrian as they sold this on the pedestrian zone.

Atty. Conner stated there is no time line for construction of public places, no grading plan, no hydrology report and no performance bond for stormwater; that they have indicated they will do the stormwater as each box is built; that the stormwater for the entire site should be done originally however they have no plan for that. He inquired as to who will pay for the traffic infrastructure and when, who will be around when the developer is gone, where is the performance bond as it is not there. He stated they indicated they will form a master association which includes the homeowners and inquired as to why they are forming it now as it has been suggested as a condition and have the homeowners involved in implementing the conditions, however it is not there. He stated the lighting, landscaping, screening, building façade conditions are insufficient as there is nothing to prohibit them from putting dumpsters in the back without screening; that the site plan referenced in the conditions is not included in the conditions so when they refer to the site plan in the conditions the residents do not know what the site plan is five or ten years from now as a new developer can come in and say they changed it. He stated there is no requirement on the 2,000 jobs and \$2 million taxes which is based on the amount of investment that may come in based on charts in books; that there is no verification of the state wildlife plan or compliance with it; that a conservation easement has been suggested for the 67 acres is not there; no performance bond to protect North Chickamauga Creek in the event there is an impact. He stated market feasibility is a part of the North Hixson Plan and it is needed as there are over 600,000 square feet of available space now which is part of the reason for a market study. He referenced availability of property acreage in Oak Park and The Fountains.

REZONING (Continued)

Atty. Conner referenced the developer's track record and provided information from the Chattanooga Times-Free Press and other records with the state, as well as lawsuits currently filed. In providing the information he stated he is not suggesting that as a reason for the Council to never pass something as he does not believe in that; however the Council needs to know the people who are asking for this.

Councilman Benson stated the matter is perplexing in reference to what Ms. Wallis stated noting he is not against growth, however he is against bad growth; that he is not satisfied that is the way to perpetuate good growth and is worried about what will happen in completion of it as there is no time line for the phasing-in of the various zones. He referenced a development in his district that did follow the time line as the residential and offices still have not been developed. He stated he is ready to make a motion to segment it so that there are some time lines in it and would be willing to make a motion for the R-3 right now. He **formally made the motion to approve the R-3 section** and if they want to come back when they know the proper amount of commercial or office they can do that; **the motion failed for lack of a second.**

Mr. Horton stated in reference to his track record the primary reason the current land owners asked him to serve them in this request is due to this track record, not despite it; that he personally worked with others in the community to accomplish much in the Chattanooga area and gave an accounting of his involvements/developments/accomplishments. He stated zoning prior to leases on large tracts of property are typically not pre-leased or sold prior to rezoning; that the conditions submitted by Joe Conner representing the North Chickamauga Creek Conservancy are more to restrain trade than protect the environment.

Councilwoman Scott expressed concern about the development noting she had had experience with some of the sloped developments that have occurred in Chattanooga and that we have chirp, clay and other sites that may have elevation changes that are not normally conducive to easy development and asked why there has not been some specific investigation of the performance bond with regard to this site. She stated she knows it is a site that has significant elevation and it appears when there are sites with a challenge they have to be leveled/graded and there is no way to know when it will rain, what the condition of the land might be in and there are things the developer and property owners do not anticipate as the "perfect storm" can happen and the people living at a lower elevation can wind up getting more water than they ever imagined.

REZONING (Continued)

Councilwoman Scott continued by stating to try to alleviate some of the fear of what could happen as there has been some talk about a performance bond why has it not already come to fruition, what is holding it up or could we not have a performance bond; that since it is known ahead of time there is a plan to not develop portions of this land are they willing to put it in writing that there are a certain number of acres that will not be developed.

Mr. Horton stated they have put in writing part of the conditions to protect the slope that they call recreational open space that cannot be disturbed beyond easements and utility crossings. A graph was shown by PowerPoint identifying the undisturbed buffer area and another slide reflecting screening and edge conditions between every home; a portion was shown of areas where no building can take place noting they are limited to only ten percent of the space that could be used for utility easements, stormwater management and were misquoted earlier as they are putting in the master stormwater control for the whole site which would be the only disturbance beyond what they are doing in each phase by putting that in up front.

Councilwoman Scott asked if Mr. Horton is guaranteeing the areas reflected in "green" on the PowerPoint slides would not be developed.

Mr. Horton responded "yes"; that RPA can confirm that.

At this point Councilwoman Rico made the motion to deny; Councilman Benson seconded the motion.

Mr. Horton continued by stating it is possible to provide a performance bond as the preferred method discussed noting he had a meeting lined up with the North Chickamauga Creek group and the City however the North Chickamauga Creek group did not attend and the city can confirm that. He stated their preferred way of handling this is to purchase an insurance policy that would take care of any disturbance which would be something someone could file a claim against that would cover any sediment issues, any phosphorous issues, any stormwater management issues as it has been discussed with the insurance company and there is a large market of numerous providers they can provide that through and will be happy to make that condition to the rezoning request.

Councilwoman Scott asked that it be added as a condition at the end of the vote.

REZONING (Continued)

Councilman McGary stated having heard the arguments for and against, some of the issues introduced tonight are superfluous to the issue as this is not a court of law therefore Mr. Horton's character is not on trial here; whether or not there was sufficient capital for his building project it is not our job as a Council to determine that nor criticize if they are not in place. He stated what does concern this body is whether or not this particularly property fits the use of the zoning that is being requested which seems to be the totality of the Council's concern as a legislative body. He stated if that is true there is only a "yes" or "no" answer to that; that whether Mr. Horton is the best or worst business man and whether he has sufficient capital for his building project is not the Council's concern; that what is a concern to this body is a traffic study. He stated we have professional staff in RPA to help us have as much information as possible; an objective, qualified and expert opinion on the issue; that as RPA has debated this issue it is his understanding that at first there was a reason to deny and asked that Mr. Haynes briefly comment why there was reason to deny and then backed up to a deferral.

Mr. Haynes responded there was a different site plan and different zoning area request which was 75 percent for C-2 and the remainder R-3; that the site plan took a traditional commercial strip development, "plopped" it down directly on top of that and there were a lot of questions about how much of the topography would be removed. He stated it was more about how the site would be developed and what it would look like and was the large amount of C-2 appropriate for the area, did it meet the intent of the land use plan for the area and it was decided at that time it did not and denial was recommended. He stated the reason for Staff's recommendation to defer on this when the applicant initially applied was because it was essentially the exact same site plan submitted; that the only thing that changed at the time of the request were the areas being requested - no longer were they asking for 75 percent of the site to be C-2 as they cut it back to about 40 percent which changed the request a little but they were still bothered by the site plan as it would still be developed the way it was previously submitted. He stated a week-to-two weeks prior to the Planning Commission meeting in December the applicant submitted a different site plan and there were subsequent public meetings in between and a site plan was distributed that was different which got everyone's attention that maybe the site could be developed to work with the topography, retain buffers and they looked at it. He stated 25 conditions is a good start and there may be room for additional conditions as raised in Mr. Conner's comments.

REZONING (Continued)

Councilman McGary asked if the zoning request in question will fit the land use plan as currently written for Hixson, and asked that his response be on behalf of RPA. Mr. Haynes responded that he knows Councilman McGary wants a "yes" or "no" answer and stated "yes" but there is room for detail.

Councilman McGary stated when Staff recommended deferral for 30 days was it primarily for the traffic or were there other reasons. Mr. Haynes responded that it was primarily for the traffic.

Councilman McGary stated Mr. Van Winkle has given his recommendation that the traffic study will not impede and there will be growth. Mr. Haynes responded "yes".

Councilwoman Berz stated that it is her thought there is time for orderly growth in the north end of the county and this is a very good beginning of something that could be terrific out there. She stated she does not like being forced to vote "all of it" or "none of it" as that is "throwing the baby out with the bath water"; that there is room for a little more consideration; that she is not interested in some of the things Mr. Conner brought up as she is not interested in character issues, however that we do have some fiduciary responsibility that goes beyond whether it follows the plan. She stated Councilwoman Ladd indicated our planning still needs more massaging in general and does not know if we have the zoning rules in place, yet we should not hold development hostage. She stated Mr. Conner made some very good points and one of them is "what's missing"; that we should forget the character comments as that is probably inappropriate, however, if there is a feasibility study has anyone seen it. She stated if there is a time line she would be interested in that as some growth is going to happen and this is the beginning of a very good plan that could be fabulous if it is done right; that there is some information missing. She stated she would like not to be forced to vote it up or down and asked for clarification that the hill will not be chopped down.

Mr. Horton responded "correct" that the hill will not be chopped; that 100 percent of the slope in the top of the hill will remain from 153 and over 90 percent of the slope and hilltop will remain on Boy Scour Road; that it is just at the very top the apartments will be put at the end but the highest point on the property will not be touched.

Councilwoman Berz stated where the apartments will be built something will have to be flattened. Mr. Horton stated it is a lower area and about eight feet will be disturbed.

REZONING (Continued)

Councilwoman Berz asked if that is in the conditions in writing.

Mr. Horton stated with the slope protection and the area identified the slopes are protected per the conditions.

Councilwoman Berz inquired as to the feasibility study. Mr. Horton stated the expert who performed the study is present tonight.

Councilwoman Berz again asked if it is in writing. Mr. Horton responded "yes"; that when they asked what information is needed for the rezoning as required by the city that was not a requirement that was required of them; that they have taken upon themselves to perform it but has never had one submitted for a rezoning request.

Mr. Horton stated there is some confidential information in the market study and would be happy to review that with Staff and the Council members but it is not a public document; that it is a proprietary document with their marketing strategies included and what they will be performing; that it would be opening their books and doors to any competitor and anyone in the business, but it is something they would be happy to share.

Councilwoman Berz stated the issue is it is feasible to do this and a need; that she is not asking who will come in and commit on the dotted line. She stated she heard a lot of "stuff" tossed around and have learned if it is not in writing it does not exist. She stated she hears Mr. Horton but he might want to think about without hedging comments how he might be able to get some of that information to the Council. She stated there are no financial commitments and asked what that means; if it means "build it and maybe we will get money for it". Atty. Conner responded "yes".

Councilwoman Berz stated there is some disagreement with the slopes and she is interested in time line for construction, for public spaces, grading plans, hydrology reports – all of that. She asked if Mr. Conner is saying none of that was required in order for RPA to give approval.

Atty. Conner stated the conditions the Council is voting on tonight have no specifications in regard to time lines or phasing; that with respect to the time lines and construction most of those conditions are tied to the master site plan which is not incorporated into the conditions.

REZONING (Continued)

Councilwoman Berz asked if the master site plan were incorporated into the conditions would that take care of that. Atty. Conner stated he is not saying it would take care of it as he does not think it would; that they had suggested to have a survey made of the open space area they are proposing to never be touched and also suggested that a conservation easement be placed on the property so it would not be touched and held by a third party, not us.

Councilwoman Berz stated this project is terrific and if done correctly could probably benefit the area; that what she does not want to do is “throw out the baby with the bath water” and thinks these issues that have been brought condition wise can be addressed. She stated she is unready to dump the thing right now or vote in total as there are some missing pieces.

At this point, Councilman McGary made the motion to defer the matter two weeks; Councilwoman Ladd seconded the motion.

Councilman Gilbert stated Ms. Wallis spoke against the project and it is his understanding there is a plan; that the developer spoke with the community and based on some of the suggestions he did go back and change some of the plan asking that he elaborate.

Mr. Horton stated they have made five major iterations of the plan based on community feedback and have had numerous public meetings; that they had a meeting set up with Ms. Ellie at her home that she invited one of the professionals to meet with other professionals who came into town to meet with her and others and stayed an extra night to meet with her and a group but received an e-mail stating the meeting was cancelled. He stated they had a meeting last night to answer additional questions to make sure everything was addressed but until these new conditions came out from the North Chickamauga Creek group two business days ago they have addressed every concern, issue, question, modified the plan to address every concern that has been asked of them and have over three times the buffer areas. He stated if anyone feels the conditions do not protect the hill top they will agree today the hill top will not be disturbed and can be added as a condition; that if that needs to be added they would be happy to say the hill top will not be touched.

Councilman Gilbert stated one of the concerns was the time line and asked if there is an issue to look at that.

REZONING (Continued)

Mr. Horton responded John Van Winkle could speak to this; that the traffic plan is a phased traffic plan that shows when each development is going to go in and has the time frame associated with the amount of square footage, the amount of development that goes into each of those. He stated it is his thought it is inaccurate to say there is not a time line and that is not included in the conditions.

Mr. Van Winkle responded there are actually four phases of development, the first phase is residential and relatively small as far as traffic impact; that as each phase is added there are more impacts and more traffic generated. He stated the consultant had recommended road improvements adding lanes on 153 as well as double left turns in-and-out of the development on the main entrance on the north entrance. He stated when they get to the final phase the road improvement should be done and suggested in a meeting last week to consider doing some of the improvements prior to when they actually needed so they can benefit from the additional traffic capacity earlier than later which would also show commitment to making the improvements in advance. He stated as far as the timing they have specific time frames and based on that the consultant was able to generate future traffic volumes during those years, specifically 2015 and 2018; that he is satisfied with the conclusions and recommendations that came from them.

Councilman Gilbert asked if it could be possible to address the concerns so that any doubts will be answered.

Mr. Horton stated the major concern he has heard was the insurance or the bond and not touching the hill top; that he can agree to both of those tonight. He stated he does not know if there is another item that has been requested tonight that they have not addressed.

Councilwoman Ladd stated there is a motion on the floor and a second to defer and some of the remarks she was going to make she will hold to see if the deferral is approved or not. She stated this has been a very convoluted issue where we have a good attempt to making a credible investment and we have a lot of concerns from residents that live nearby. She stated she has been hearing from all sides and a lot from residents recently that helped her quite a bit noting she appreciates the calls and e-mails that have come in, as well as the demeanor in which they have communicated with us as there has been good information, reasonable information and have been nice in the way it was presented.

REZONING (Continued)

Councilwoman Ladd stated this has gone on for a very long time and is causing a lot of stress in this district and there is a lot of passion about this issue and anxiety. She stated she will vote to defer only because there have been a lot of good questions raised this evening that she would like her colleagues to have complete information on to take a vote because she wants to get this right. She stated she will vote to support the deferral and give those folks an opportunity to go ahead and gather the information they feel they need to make an informed decision.

Councilwoman Robinson asked if the two week deferral is sufficient time.

Atty. Conner responded the developer has pushed this from the date it was filed on November 9; that they asked for a deferral at Planning and the developer said "no"; that at every meeting the developer has been asked for a deferral and he said "no". He stated they raised the issue in regard to Thanksgiving, Christmas and New Year's and the ability to have some time with their families to get some conditions proposed; that they submitted what they prepared at his client's request a list of conditions and they went to RPA as they had to go to RPA to get information from the developer which is the process they followed. He stated he honestly does not think the developer will agree to the conditions that they have submitted and they did not submit them because they anticipated they would not be accepted; that they submitted them because the conditions reflect what they represented they were going to do. He stated the Council will hear these are not financially feasible and the problem is they do not have anything to judge that against as no budget has been presented for this whatsoever. He stated honestly he is not sure and is not optimistic.

At this point, Councilman Mc Gary called for the question.

Councilwoman Scott stated it appears there is a lot of concern on the part of the City Council and if the matter has to be voted up or down tonight the matter might be voted down totally for the entire project; that initially the comment was made this cannot be segmentally rezoned but asked if the Council approved an R-3 zoning for the area that is marked off as R-3 and R-4 Mr. Horton would not be able to do the drainage to the retention ponds in the C-2 area if that were left R-1.

REZONING (Continued)

Mr. Horton stated it is a matter of discussing it with the property owners who are present, but the issue is the overall conditions for the whole site that go along with that; that the property is already zoned for development and could be graded and trees removed from the site; that the owner of the property is giving up a lot of rights to protect this hill which is not protected now for current zoning and regulations which has not been discussed with his client for him to answer at this time. He stated if a deferral is what the Council would like to do they are not against it and spending time to address any issues anyone feels they need.

Councilwoman Scott asked if he and the owner of the property would consider doing a segmental, modifying the request for zoning of C-2 in the area of C-2 for now and doing R-3 and R-4.

Mr. Horton stated he will have that discussion with the owner as he cannot answer that.

Councilwoman Scott then called for the question.

Councilman Benson followed up with Councilwoman Scott's comments noting he could vote tonight on the R-3 which is presently R-1; however Mr. Horton does not want that.

Mr. Horton stated it is not his decision; that he works for a land owner . . .

Councilman Benson stated he could move with that tonight which would show some good faith and we could get that started and see what that will look like, what the water situation will be and whether it will be terraced with evergreens. He expressed hope for a completion and meaningful timeline if we are going to defer it for the apartments, offices, the water amenities and road improvements; that as far as he is concerned tonight he could vote for R-3 or deferral with purpose in the deferral and ask that they come back with a meaningful time line for the other segments.

(At this point a roll call vote was taken on the motion to defer by Councilmen McGary and Ladd.)

At the end of the discussion, Vice Chairman Murphy asked those in attendance in support of the request to stand, approximately half of those present stood. He then asked those in opposition to the request to stand, the remaining half of persons present stood at this time.

REZONING (Continued)

Later in the meeting City Attorney McMahan indicated that the parties have agreed to meet with John Bridger within the next weeks to discuss the issues.

On motion of Councilman McGary, seconded by Councilwoman Ladd,
AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 38, ZONING ORDINANCE, SO AS TO REZONE PROPERTIES LOCATED IN THE 100 BLOCK OF DODSON ROAD AND THE 6400 BLOCK OF HIGHWAY 153, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO R-3 RESIDENTIAL ZONE, R-4 SPECIAL ZONE, AND C-2 CONVENIENCE COMMERCIAL ZONE
was deferred two weeks (January 22); on roll call vote:

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

CLOSE AND ABANDON

MR-2012-150: J. R. Realty, LLC, c/o James E. Vincent, Sr.

On motion of Councilman Rico, seconded by Councilwoman Scott,
AN ORDINANCE CLOSING AND ABANDONING TWO UNUSED RIGHTS-OF-WAY LOCATED IN THE 6400 BLOCK OF OLD HIXSON PIKE FOR THE PURPOSES OF COMBINING EXISTING LOTS AS PART OF AN OVERALL RE-SUBDIVISION OF PROPERTY, MORE PARTICULARLY DESCRIBED HEREIN

passed first reading.

EMINENT DOMAIN

Councilman Rico made the motion to take Resolutions (a) – (c) with one motion; Councilwoman Robinson seconded the motion; the motion carried.

On motion of Councilman Gilbert, seconded by Councilman Rico,
A RESOLUTION AUTHORIZING THE OFFICE OF THE CITY ATTORNEY TO INSTITUTE EMINENT DOMAIN PROCEEDINGS AGAINST DR. DAVID BOULER AND SUE BOULER ON THE PROPERTY LOCATED AT 314 NORTH CREST ROAD, CHATTANOOGA, TN 37404
was adopted.

EMINENT DOMAIN

On motion of Councilman Gilbert, seconded by Councilman Rico,
A RESOLUTION AUTHORIZING THE OFFICE OF THE CITY ATTORNEY TO INSTITUTE EMINENT DOMAIN PROCEEDINGS AGAINST ROBERT GRAHAM AND SANDY GRAHAM ON THE PROPERTY LOCATED AT 316 NORTH CREST ROAD, CHATTANOOGA, TN 37404
was adopted.

EMINENT DOMAIN

On motion of Councilman Gilbert, seconded by Councilman Rico,
A RESOLUTION AUTHORIZING THE OFFICE OF THE CITY ATTORNEY TO INSTITUTE EMINENT DOMAIN PROCEEDINGS AGAINST MARILYN HUMPERT ON THE PROPERTY LOCATED AT 312 NORTH CREST ROAD, CHATTANOOGA, TN 37404
was adopted.

AGREEMENT

On motion of Councilwoman Berz, seconded by Councilman Gilbert,
A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PARKS AND RECREATION TO ENTER INTO AN AGREEMENT WITH PASSPOINTE ENGINEERING FOR PLAYGROUND RESURFACING AND AN AGREEMENT FOR SITE AND STORMWATER DESIGN OF A WATER Spray PARK FEATURE AT SHEPHERD COMMUNITY CENTER, IN THE AMOUNT OF SEVEN THOUSAND SEVEN HUNDRED

AGREEMENT (Continued)

TWENTY-ONE AND 67/100 DOLLARS (\$7,721.67), WITH A CONTINGENCY AMOUNT OF ONE THOUSAND ONE HUNDRED SIXTY-FIVE DOLLARS (\$1,165.00), FOR AN AMOUNT NOT TO EXCEED EIGHT THOUSAND EIGHT HUNDRED EIGHTY-SIX AND 67/100 DOLLARS (\$8,886.67)

was adopted.

TEMPORARY USE

Councilman Rico made the motion to take Resolutions (e) – (g) with one motion; Councilman Gilbert seconded the motion; the motion carried.

On motion of Councilwoman Robinson, seconded by Councilman Gilbert,
A RESOLUTION AUTHORIZING STONE FORT INN C/O MARK OLDHAM TO USE TEMPORARILY A PORTION OF A RIGHT-OF-WAY LOCATED AT 120 EAST 10TH STREET FOR THE INSTALLATION OF AN AWNING WITH SIGNAGE, AS SHOWN ON THE MAPS AND DRAWINGS ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS

was adopted.

TEMPORARY USE

On motion of Councilwoman Robinson, seconded by Councilman Gilbert,
A RESOLUTION AUTHORIZING SPORTS BARN C/O DAVID BROCK TO USE TEMPORARILY A PORTION OF THE RIGHT-OF-WAY LOCATED AT 301 BROAD STREET FOR INSTALLATION OF FOUR AWNINGS WITH SIGNAGE, AS SHOWN IN THE ATTACHED DRAWINGS, SUBJECT TO CERTAIN CONDITIONS

was adopted.

TEMPORARY USE

On motion of Councilwoman Robinson, seconded by Councilman Gilbert,
A RESOLUTION AUTHORIZING CHATTANOOGA BILLIARDS C/O PHIL WYNDHAM TO USE TEMPORARILY A PORTION OF THE RIGHT-OF-WAY LOCATED AT 723 CHERRY STREET FOR INSTALLATION OF AN AWNING WITH SIGNAGE, AS SHOWN IN THE ATTACHED DRAWING

was adopted.

CONTRACT

On motion of Councilwoman Robinson, seconded by Councilwoman Berz,
A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO AWARD CONTRACT NO. T-12-006-201, REAL TIME TRAFFIC MONITORING SYSTEM, FEDERAL PROJECT NO. CM-3300 (51), PIN 114321.01, CHATTANOOGA REGIONAL ITS TO DIGIWEST, LLC, IN THE AMOUNT OF TWENTY-FOUR THOUSAND SIX HUNDRED DOLLARS (\$24,600.00), WITH A CONTINGENCY AMOUNT OF TWO THOUSAND FOUR HUNDRED DOLLARS (\$2,400.00), FOR AN AMOUNT NOT TO EXCEED TWENTY-SEVEN THOUSAND DOLLARS (\$27,000.00)

was adopted.

FINANCIAL PROVISION

Councilman Rico made the motion to take Resolutions (i) – (v) with one motion; Councilman Gilbert seconded the motion; the motion carried.

On motion of Councilman Rico, seconded by Councilman Gilbert,
A RESOLUTION AUTHORIZING AND PROVIDING FOR THE FINANCING OF THE CONSTRUCTION OF CAPITAL PROJECTS FOR THE INTERCEPTOR SEWER SYSTEM (ISS) AND AUTHORIZING THE CITY FINANCE OFFICER TO EXECUTE A LOAN AGREEMENT WITH THE STATE OF TENNESSEE DEPARTMENT OF THE ENVIRONMENT AND CONSERVATION, NO. SRF #2012-307, IN THE AMOUNT OF THIRTY-THREE MILLION ONE HUNDRED THOUSAND DOLLARS (\$33,100,000.00), AND ANY AMENDMENTS, SUPPLEMENTS OR OTHER NECESSARY DOCUMENTS IN THE NAME AND ON BEHALF OF THE CITY OF CHATTANOOGA IN CONNECTION WITH SAME

was adopted.

AGREEMENT

On motion of Councilman Rico, seconded by Councilman Gilbert,
A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO ENTER INTO AN AGREEMENT WITH ARCADIS U.S., INC. FOR PROFESSIONAL SERVICES RELATIVE TO CONTRACT NO. W-09-011-101, ORCHARD KNOB SANITARY PUMP STATION IMPROVEMENTS, FOR AN AMOUNT NOT TO EXCEED SIX HUNDRED FIFTY-TWO THOUSAND FIVE HUNDRED SEVENTEEN DOLLARS (\$652,517.00)

was adopted.

AGREEMENT

On motion of Councilman Rico, seconded by Councilman Gilbert,

A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO ENTER INTO AN AGREEMENT WITH BARGE, WAGGONER, SUMNER AND CANNON, INC. FOR PROFESSIONAL SERVICES RELATIVE TO CONTRACT NO. W-09-013-102, COLLEGEDALE SEWER BASIN PUMP STATION IMPROVEMENTS, FOR AN AMOUNT NOT TO EXCEED NINE HUNDRED SIXTY-SEVEN THOUSAND ONE HUNDRED DOLLARS (\$967,100.00)

was adopted.

AGREEMENT

Councilmen Rico and Gilbert made the initial motion to adopt this resolution.

Councilwoman Scott asked if there is a mistake in Task 2 (b) Plant System in the agreement where it references a lot of different things which are largely telemetry and monitoring, however *[v]* under **(b)** references "gas scrubbers" wanting to know how that fits in with telemetry.

Alice Canella indicated her thought that it is it is a "typo".

Michael Moreno of Jacobs Engineering also indicated his thought that it is a "typo" and can be stricken. Councilwoman Scott expressed satisfaction that it can be deleted and noted gas scrubbers are expensive.

Councilwoman Scott made the motion to strike "Task 2, b. [v] install gas scrubber on page 22" from the agreement; Councilman Rico seconded the motion; the motion passed.

Councilman Rico made the motion to accept the amended version; Councilman McGary seconded the motion.

On motion of Councilman Rico, seconded by Councilman Gilbert,

A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO ENTER INTO AN AGREEMENT WITH VOLKERT, INC. FOR PROFESSIONAL SERVICES RELATIVE TO CONTRACT NO. W-10-012-101, TELEMETRY AND SCADA UPGRADES TO THE MOCCASIN BEND WASTEWATER TREATMENT PLANT AND REMOTE FACILITIES, FOR AN AMOUNT NOT TO EXCEED FOUR HUNDRED THIRTY-SIX THOUSAND DOLLARS (\$436,000.00)

was adopted.

AGREEMENT

On motion of Councilman Rico, seconded by Councilman Gilbert,

A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO ENTER INTO AN AGREEMENT WITH BARGE, WAGGONER, SUMNER AND CANNON, INC. FOR PROFESSIONAL SERVICES RELATIVE TO CONTRACT NO. W-11-007-102, EFFLUENT DISINFECTION SYSTEM UPGRADE FOR THE MOCCASIN BEND WASTEWATER TREATMENT PLANT, FOR AN AMOUNT NOT TO EXCEED SEVEN HUNDRED THIRTY-TWO THOUSAND DOLLARS (\$732,000.00)

was adopted.

AGREEMENT

Councilwoman Scott stated in the Scope of Services in number eight (8) it says the *“contractor will rework due to erroneous information supplied to CIT by the city”* on page 10 of the contract. She asked why the city is giving erroneous information to CIT, where do we get the information, why was it erroneous, did we get that from some other company and have they made amendments based on the errors.

Mr. Moreno stated this falls under Supplemental Services and if there is any rework due to erroneous information supplied by the city, if there is some information that has been given and has been moved forward on and found the information was wrong and has to go back and rework, the contractor would want to be paid for it.

Councilwoman Scott stated no erroneous information has been received. Mr. Moreno responded ‘no’.

Councilwoman Scott stated that is uncommon but that happens. Mr. Moreno stated it is the qualification saying they are trying to qualify their work.

On motion of Councilman Rico, seconded by Councilman Gilbert,

A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO ENTER INTO AN AGREEMENT WITH CONSOLIDATED TECHNOLOGIES, INC. FOR PROFESSIONAL SERVICES RELATIVE TO CONTRACT NO. W-12-010-101, 201 FACILITY PLAN UPDATE, FOR AN AMOUNT NOT TO EXCEED TWO HUNDRED FIFTEEN THOUSAND DOLLARS (\$215,000.00)

was adopted.

AGREEMENT

On motion of Councilman Rico, seconded by Councilman Gilbert,

A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PBULCI WORKS TO ENTER INTO AN AGREEMENT WITH LITTLEJOHN ENGINEERING ASSOCIATES, INC. FOR PROFESSIONAL SERVICES RELATIVE TO CONTRACT NO. W-12-011-101, CMOM-GRAVITY LINE PREVENTATIVE MAINTENANCE PLAN, FOR AN AMOUNT NOT TO EXCEED EIGHTY-NINE THOUSAND NINE HUNDRED FIFTY DOLLARS (\$89,950.00)

was adopted.

AGREEMENT

On motion of Councilman Rico, seconded by Councilman Gilbert,

A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO ENTER INTO AN AGREEMENT WITH CDM SMITH, INC. FOR PROFESSIONAL SERVICES RELATIVE TO CONTRACT NO. W-12-012-101, MOCCASIN BEND WASTEWATER TREATMENT PLANT PROCESS CONTROL PROGRAM, FOR AN AMOUNT NOT TO EXCEED TWO HUNDRED EIGHTY-THREE THOUSAND THREE HUNDRED TEN DOLLARS (\$283,310.00)

was adopted.

AGREEMENT

On motion of Councilman Rico, seconded by Councilman Gilbert,

A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO ENTER INTO AN AGREEMENT WITH CH2M HILL ENGINEERS, INC. FOR PROFESSIONAL SERVICES RELATIVE TO CONTRACT NO. W-12-013-101, CMOM-EMERGENCY RESPONSE PLAN, FOR AN AMOUNT NOT TO EXCEED ONE HUNDRED FIFTY THOUSAND DOLLARS (\$150,000.00)

was adopted.

AGREEMENT

On motion of Councilman Rico, seconded by Councilman Gilbert,

A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO ENTER INTO AN AGREEMENT WITH BROWN AND CALDWELL FOR PROFESSIONAL SERVICES RELATIVE TO CONTRACT NO. W-12-014-101, CMOM-PUMP STATION OPERATIONS AND PREVENTATIVE MAINTENANCE PLAN, FOR AN AMOUNT NOT TO EXCEED TWO HUNDRED EIGHTEEN THOUSAND ONE HUNDRED TWENTY-FIVE DOLLARS (\$218,125.00)

was adopted.

AGREEMENT

On motion of Councilman Rico, seconded by Councilman Gilbert,

A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO ENTER INTO AN AGREEMENT WITH LAMAR DUNN AND ASSOCIATES, INC. FOR PROFESSIONAL SERVICES RELATIVE TO CONTRACT NO. W-12-015-101, GREEN INFRASTRUCTURE MASTER PLAN FOR CSO BASINS, FOR AN AMOUNT NOT TO EXCEED THREE HUNDRED THREE THOUSAND THREE HUNDRED EIGHTY DOLLARS (\$303,380.00)

was adopted.

AGREEMENT

On motion of Councilman Rico, seconded by Councilman Gilbert,

A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO ENTER INTO AN AGREEMENT WITH BURNS AND MCDONNELL ENGINEERING COMPANY FOR PROFESSIONAL SERVICES RELATIVE TO CONTRACT NO. W-12-016-101, CITICO CSOTF PUMP STATION IMPROVEMENT STUDY, FOR AN AMOUNT NOT TO EXCEED ONE HUNDRED SIXTY THOUSAND DOLLARS (\$160,000.00)

was adopted.

AGREEMENT

On motion of Councilman Rico, seconded by Councilman Gilbert,

A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO ENTER INTO AN AGREEMENT WITH HAZEN AND SAWYER, P.C. FOR PROFESSIONAL SERVICES RELATIVE TO CONTRACT NO. W-12-017-101, HYDRAULIC AND PUMP STATION IMPROVEMENTS AT THE MOCCASIN BEND WASTEWATER TREATMENT PLANT, FOR AN AMOUNT NOT TO EXCEED SIX HUNDRED SEVEN THOUSAND NINE HUNDRED THIRTY DOLLARS (\$607,930.00)

was adopted.

AGREEMENT

On motion of Councilman Rico, seconded by Councilman Gilbert,

A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO ENTER INTO AN AGREEMENT WITH HDR ENGINEERING, INC. FOR PROFESSIONAL SERVICES RELATIVE TO CONTRACT NO. W-12-018-101, SUPPLEMENTAL ENVIRONMENTAL PROJECT-AGAWELA DRIVE STREAM RESTORATION, FOR AN AMOUNT NOT TO EXCEED ONE HUNDRED FIFTY-NINE THOUSAND DOLLARS (\$159,000.00)

was adopted.

OVERTIME

Overtime for the week ending December 27, 2012 totaled \$37,660.56 and for the week of January 3, 2013 totaled \$2,259.36, for a total of \$39,919.86 for the two weeks.

PERSONNEL

The following personnel matters were reported for the various departments:

CHATTANOOGA POLICE DEPARTMENT:

- **JAMES APPUGLIESE, JR., LINDON ATKINS, JR., JAMES MASSENGALE, JR.** – Retirement, Police Sergeant, effective December 27, 2012.
- **SUSAN BLAINE** – Retirement, Police Captain, effective December 27, 2012.

PERSONNEL (Continued)

- **DANNY HILL** – Retirement, Police Sergeant, effective December 20, 2012.
- **BOBBY PAMPLIN** – Retirement, Master Police Officer, effective December 27, 2012.
- **DAVIS STONE** – Retirement, Police Lieutenant, effective December 27, 2012.
- **SANDRA COSBY** – Retirement, Police Records Analyst, effective January 1, 2013.
- **BELINDA SANFORD** – Retirement, Police Records Technician, effective January 1, 2013.
- **HARRISON SANTIAGO** – Retirement, Police Officer 1, effective January 4, 2013.

CHATTANOOGA FIRE DEPARTMENT:

- **MARVIN HUDGINS** – Retirement, Fire Captain, effective December 12, 2012.
- **CHARLES MCMILLIAN** – Retirement, Fire Battalion Chief, effective December 13, 2012.
- **DAVID WRIGHT** – Retirement, Fire Lieutenant, effective December 13, 2012.
- **JERRY LEE, JR.** – Suspension (2 days without pay), Fire Lieutenant, effective December 16, 2012 and January 5, 2013.
- **EDWARD DAVIS** – Retirement, Fire Captain, effective December 27, 2012.
- **BEN BIGGS** – Retirement, Fire Battalion Chief, effective December 28, 2012.
- **JOHNNY MILLSAPS** – Retirement, Fire Captain, effective December 28, 2012.

PERSONNEL (Continued)

- **CHARLES BAILEY, JUSTIN BAKKE, PRESTON BINEGAR, BRADLEY BRITT, DANIEL CHOLOTA, PIERCE FRANKLIN, BRANDON FRYAR, JOSEF FULLER, STEPHANIE GEORGE, ALLEN GREEN, JESSE MANONI, MAGDALENA NOVAK, BRANDON O'DELL, JAMES PALMER, RICHARD PERSHEY, MATTHEW RANDALL, STEVEN RATLEDGE, PARTICIO REPETTO, JON RILEY, MAXWELL SIDES, MICHAEL TAYLOR, THOMAS WILLIAMS** – Hire, Fire Cadet, Range F0C, \$32,077.00 annually, effective December 14, 2012.

CHATTANOOGA HUMAN SERVICES DEPARTMENT:

- **SHELBA CHISM** – Retirement, Family Services Assistant, Head Start, effective December 31, 2012.
- **SHERRY BLACK** – Retirement, Director Foster Grandparent Program, effective December 31, 2012.

PUBLIC WORKS DEPARTMENT:

- **GINNIFER COFEY** – Promotion, Chief Plant Operator, Waste Resources, Range 15, \$18,012.00 annually, effective December 14, 2012.
- **RANDAL THEBO** – Promotion, Chief Plant Operator, Waste Resources, Range 15, \$41,917.00 annually, effective December 14, 2012.
- **JAMES SPENCE** – Promotion, Waste Resources Maintenance Manger, Range 24, \$65,500.00 annually, effective December 14, 2012.
- **DAVID TAYLOR** – Hire, Plant Operator 1, Waste Resources, Range 9, \$26,798.00 annually, effective December 14, 2012.
- **ROBERT MCGEE** – Retirement, Fiscal Analyst, Administration, effective December 31, 2012.
- **JIDONG YANG** – Resignation, Traffic Signal Systems Engineer, Traffic Engineering, effective January 1, 2013.

PERSONNEL (Continued)

- **JOYCE SNYDER** – Lateral Transfer, Administrative Support Assistant 2, City Wide Services, Range 7, \$25,786.25 annually, effective December 14, 2012.

REFUNDS

On motion of Councilman Rico, seconded by Councilwoman Berz, the Administrator of Finance was authorized to issue the following refunds of property tax due to State Board of Equalization Change for 2011:

| | |
|---------------------------------------|------------|
| GATOR DEVELOPMENT CORPORATION | \$7,385.62 |
| GRAYBAR ELECTRIC COMPANY, INC. | \$5,053.57 |

REFUNDS

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

| | |
|---------------------------------------|------------|
| SHIRLEY S. DAVIS | \$1,897.75 |
| SARAH G. GLENN | \$1,772.48 |
| CRAIG/PATTY HOWENSTINE | \$1,165.22 |
| DAVID QUEEN | \$1,038.22 |
| CHARLENE/JEREMY SCREWS | \$1,644.34 |
| KENNY/MELANIE FERGUSON | \$1,394.96 |
| RICHARD/CHRISTIN ROSE | \$2,950.07 |
| ALBERTO RUIZ | \$1,113.27 |
| BRANCH BANKING & TRUST CO. | \$1,272.01 |

REFUNDS (Continued)

| | |
|-------------------------|------------|
| DONALD LATTIMER | \$1,408.24 |
| THOMAS/WYNNE DEMAS | \$1,357.44 |
| JASON ASHLEY | \$1,024.93 |
| JAMES/ANNIE KINCAID | \$1,303.76 |
| MEHUL/TANVIKABEN PATEL | \$2,692.04 |
| TOBY/JONI BROWNE | \$1,408.24 |
| DOUGLAS/SHARON ANDERSON | \$1,080.36 |
| ROBERT/LORI COOK | \$1,668.58 |
| HAROLD/OPAL SMITH | \$1,284.71 |
| KATHRYN/MARY LUTES | \$1,344.74 |
| TERRY POWER | \$1,118.11 |
| CRAIG/NATALIE RICHARD | \$1,072.28 |
| MICHAEL/SANDRA WALKER | \$1,343.01 |
| STEPHEN/GLORIA ADAMS | \$2,225.05 |
| CRISTINA GORDON | \$1,428.44 |
| DEAN/SANDRA POI | \$3,985.08 |
| DONALD HETZEL | \$1,091.00 |
| RYAN RODEWALD | \$1,152.52 |
| WIZARD INVESTMENTS LLC | \$1,652.99 |
| LOGAN/ALEXANDER POWERS | \$1,252.38 |

REZONING (Continued)

| | |
|---|-------------|
| WILLIAM WATSON | \$1,009.03 |
| SHILOH HEDGCOXE GENERAL PARTNERSHIP | \$6,096.25 |
| DANNY/MARIA KEY | \$3,578.70 |
| GREGSBY/KATHRYN GIBBS | \$1,489.06 |
| ROBERT/JONNIE DICKERSON | \$1,068.82 |
| LONNIE/BETTY FARMER | \$2,558.70 |
| HERBERT SPENCER, JR. | \$1,308.95 |
| RENE/MONIQUE VANDENABEELE | \$1,226.98 |
| BRENDA BRICKHOUSE | \$1,356.86 |
| STERLING DEVELOPMENTS LLC | \$19,319.44 |
| US BANK NATIONAL ASSOC. | \$1,109.22 |
| FRANK/MEGAN BELL | \$1,221.21 |
| SECRETARY OF HOUSING AND URBAN DEVELOPMENT | \$1,111.53 |
| JOSEPHINE/CHRISTOPHE MCGEE | \$1,181.38 |
| STEPHEN BLACKSHEAR | \$1,285.86 |
| FEDERAL NATIONAL MORTGAGE ASSOC. | \$1,928.92 |
| MICHAEL/HEATHER HUGHES | \$2,536.76 |
| BENJAMIN/CHRISTINA COOPER | \$1,089.60 |

PURCHASES:

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

CHATTANOOGA FIRE DEPARTMENT:

ENVIRONMENTAL SYSTEMS RESEARCH INSTITUTE (ESRI) (Single Source)
R70713

Service Agreement for annual Software Maintenance and Support per State Wide Contract 308, Number 4031012 (TCA 6-56-304.2)

\$13,328.50

PUBLIC WORKS DEPARTMENT:

ALDIS, INC. (Lowest bid)
R68754

Purchase of one (1) Video Vehicle Detection System

\$10,196.70

TT WILSON COMPANY (Lowest complete bid)
R68909

Blanket Contract for Masonry Materials

\$16,000.00 – Annual estimation

ROGERS-TURNER & ASSOCIATES, INC. (Lowest bid)
R69128/303517

Blanket Contract for Mixer Gear Reducer Repair Services

\$100,000.00 – Annual estimation

PURCHASES (Continued)

CERTIFIED DOOR & DOCK SERVICES, LLC (Lowest bid)

R66903/302277

Blanket Contract for Overhead Door Maintenance & Repair Services

\$20,000.00 – Annual estimation

CF SALES (Lowest bid)

R69128/303517

Blanket Contract for PAM Manhole covers and Frames

\$50,000.00 – Annual estimation

INFORMATION SERVICES:

TIMECLOCK PLUS (Single source)

R70847

TimeClock Plus System Premium Technical Support Contract Renewal per TCA 6-56-304.2

\$11,257.47

GENERAL SERVICES:

CHATTANOOGA ELEVATOR, INC. (Best complete bid)

R68314/302318

Blanket Contract for Elevator, Escalator, & Lift Maintenance

\$150,000.00 – Annual estimation

PURCHASES (Continued)

CHATTANOOGA POLICE DEPARTMENT:

P B ELECTRONICS

R68483, R68488, R68595, R68510

Ratify Purchase of Radar Re-Certification and Calibration

\$10,458.07

JOINT BOARD RE-APPOINTMENT

On motion of Councilman Rico, seconded by Councilwoman Robinson, the following joint County/City re-appointment was approved:

CHATTANOOGA-HAMILTON COUNTY AIR POLLUTION CONTROL BOARD:

- Joint re-appointment of *JOHN TUCKER* for a four year term expiring December 19, 2016.

BUDGET SESSIONS

Councilwoman Berz stated Council members were e-mailed a schedule for the remainder of the year including major budget items and others that need to be on the schedule, noting January 7 was the deadline for submission by non-profits; that Council members will have access to them to review by Monday. She stated on February 5 United Way will be the first of the educational sessions from 1 p.m. – 3 p.m. on Tuesdays. She stated today an agency that forgot or did not know did not get their submission in on time and inquired as to the Council's pleasure on that.

Councilwoman Robinson suggested putting them on the list and mark "received late".

Councilwoman Berz asked if they want to hold to the deadline as it will open it up for other agencies.

Councilman Rico stated there was a deadline and they knew about it.

BUDGET SESSIONS (Continued)

Councilwoman Ladd stated "no allowance".

Councilwoman Scott stated "a deadline is a deadline".

Councilwoman Robinson suggested the Council be reasonable!

Councilman McGary also reiterated "a deadline is a deadline".

Councilman Rico made the motion to adhere to the deadline; Councilwoman Ladd seconded the motion; the motion carried with Councilmen Robinson and Murphy voting "no".

Councilman Benson stated there are extenuating circumstances.

Councilwoman Ladd stated she needed help in understanding how we may want to look at the budget given the final vote will be taken by a different Council. She stated she does not know if we want to put in a lot of work that we normally start at this time when a new Council may have to rehear some of this information and meetings rescheduled for their consideration. She stated she is at a quandary as she has not been at the end of a term before where we are changing an administration and Council; that she is open for ideas but has concerns of repetitive work if we start too early although she understands it is good to keep a timeline.

Councilwoman Berz stated if Council members remember when they came into office it was in the middle of a session and we cannot stop the progress of the city as we must go forward. She stated the schedule will be on the web not only for the Council but candidates are welcome to all the meetings as they are all public meetings. She stated we do not make any decisions at the educational meetings, however, the candidates and those of us in office will all have the same information so that no one will be left out of the information to make whatever decision they need to make when it is time to do so. She stated there probably will not be anything repetitive. She stated if candidates choose not to show up that is their will; however they will have the same notice and information we have as we cannot stop the city's progression.

COMMITTEES

Councilman Rico scheduled a meeting of the **Public Works Committee for Tuesday, January 15** immediately following the Agenda session.

RULES OF PROCEDURE

City Attorney McMahan read from the Council's Rules of Procedure regarding persons wanting to address the Council during non-agenda time.

RAMSEY FULBRIGHT

Ramsey Fulbright of 5408 Beulah Avenue spoke to the Council in reference to the condition of St. Elmo Avenue, noting that he is aware it is a state road and not a city road and may not be anything the city can do. He stated it has been in severe disrepair as the last time it was paved was 2005; that it is the northbound lane between Ochs Highway and the Georgia state line. He stated he e-mailed Councilman Rico a while ago and per their conversation the state has agreed to do patch resurfacing but will not resurface the entire roadway citing the utilities in the road as the reason why and the cause of most of the damage. He stated there has been no patch resurfacing or otherwise done on St. Elmo Avenue and it would be nice to see something done and seems if the utilities people are the people tearing up the roadway the onus should be on them to repair it.

Councilwoman Rico suggested that Mr. Fulbright speak with Mr. Leach following the meeting.

SAMANTHA TAYLOR

Samantha Taylor of 4008 Denham Road deferred her three minutes to Tamila Taylor. Vice Mayor Murphy informed Ms. Taylor that could not be done.

TAMILA TAYLOR

Tamila Taylor of 4008 Denham Road stated she is a former employee of the City Court from May 6, 2011 until October 11, 2012 during which time Tim Brooks sexually harassed her, management did nothing and she feels she was wrongfully terminated.

TAMILA TAYLOR (Continued)

Ms. Taylor stated she was verbally accosted by another employee, Jackie Moore, and nothing was done. She stated she e-mailed the Council about her wrongful termination, the sexual harassment and Jacqueline Moore and no one responded to her and wanted to know why.

City Attorney McMahan asked the date of discharge. Ms. Taylor responded October 11 of last year.

City Attorney McMahan asked if a request for hearing was filed with City Council. Ms. Taylor responded "yes".

City Attorney asked if the request was filed with Mrs. O'Neal. Ms. Taylor hesitantly responded "yes".

Vice Chairman Murphy advised Ms. Taylor that it is not in her or the city's best interest to talk about this in this forum; that the City Attorney will talk with her to see if it can be determined what became of the appeal because at first blush it is news that an appeal was filed and we would need to look at documentation she may have that it was received. He stated this Council takes the issues she brought up highly seriously and have made actual strides in positive directions in this term of office. He asked Mrs. Dubose and Mrs. Madison to meet with her; that regardless of whether she has current appeal rights legally we do not want this type of thing to not go investigated.

City Attorney McMahan asked that Ms. Taylor meet with him and Mrs. Dubose after the meeting.

ADJOURNMENT

Vice Chairman Murphy adjourned the meeting of the Chattanooga Council until Tuesday, January 15, 2013 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)