

Municipal Building  
Chattanooga, Tennessee  
May 12, 1998

The meeting of the Chattanooga Council was called to order by Chairman Crockett with Councilmen Hakeem, Hurley, Lively, Pierce, Swafford, Rutherford and Taylor present; Councilman Eaves was out of the city on business. City Attorney Randall Nelson, Management Analyst Randy Burns and Council Clerk Carol O'Neal were also present.

INVOCATION

Invocation was given by Chairman Crockett.

MINUTE APPROVAL

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

REZONING

1998-065: City of Chattanooga

On motion of Councilwoman Hurley, seconded by Councilman Lively, AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE CERTAIN PROPERTIES IDENTIFIED AS BEING WITHIN THE NORTH SHORE COMMERCIAL MIXED-USE AREA OF NORTH CHATTANOOGA, AS MORE PARTICULARLY DESCRIBED HEREIN, FROM ANY CURRENT ZONES INCLUDING R-1, RT-1, R-2, R-3, R-4, C-2, C-3, C-5, AND M-1 TO C-7, NORTH SHORE COMMERCIAL MIXED-USE ZONE passed second reading. On motion of Councilwoman Hurley, seconded by Councilman Taylor, the ordinance passed third and final reading and was signed in open meeting.

AMEND ZONING ORDINANCE: PERMITS  
AND STANDARDS FOR COMMERCIAL  
TOWERS

Councilwoman Rutherford stated an unfortunate thing happened on Brainerd Road today which was the addition of a cellular tower. She stated before moving on second and third reading for this ordinance she would like for the Council to go see this tower. She stated this falls under the old ordinance and it is legal and does not involve anything they (Gearon Communications) should not have done. She handed a letter from Gearon to the Clerk of the Council and requested that the letter be entered into the minutes. She stated prior to second and third reading she would like to have the matter go back to the Legal and Legislative committee next week indicating that she would hate for the Council to make a mistake that would put another horror like this adjacent to R-1.

Councilman Pierce, Chairman of Legal and Legislative Committee, scheduled a meeting for Tuesday, May 19 at 4:30 p.m.

Chairman Crockett stated all interested carriers, or anyone else who has an interest in this issue, should be invited.

Councilman Pierce asked that the carriers be notified. The Clerk of the Council stated she would get with Beverly Pasley to secure a list of persons to be notified.

The communication Councilwoman Rutherford referred to is spread below:

Dear Marti:

**RE: CELL TOWER ON BRAINERD ROAD**

As we discussed over the telephone a few minutes ago, my client Gearon Communications has offered and agreed to comply with the landscaping provisions of the proposed Cell Tower Ordinance at the Brainerd Road location. The problem we may have is that a portion of the tower site abuts an Electric Power Board easement. You said that you would work with me to get permission from the Electric Power Board in order to place the appropriate landscaping on that side of the site. I agree with you that it should not be a problem.

AMEND ZONING ORDINANCE: PERMITS  
AND STANDARDS FOR COMMERCIAL  
TOWERS

I also have suggested and my client fully agrees that whenever we submit an application for a new tower location, the Council member of the district where the tower is to be placed will receive notice of the application directly from the applicant. This will insure that the Council is promptly advised where new locations for cell towers are proposed. I look forward to seeing you tonight.

Very truly yours,

/s/ Joe A. Conner  
Baker, Donelson, Bearman &  
Caldwell  
1800 Republic Center  
633 Chestnut Street  
Chattanooga, TN 37450

On motion of Councilwoman Hurley, seconded by Councilman Pierce,  
AN ORDINANCE TO AMEND ORDINANCE NO. 6958, KNOWN AS THE  
CHATTANOOGA ZONING ORDINANCE, AS AMENDED, BY ADDING  
THERETO REGULATIONS REGARDING ISSUANCE OF SPECIAL  
EXCEPTIONS PERMITS AND STANDARDS FOR COMMERCIAL TOWERS  
was tabled one week for discussion in Legal and Legislative  
Committee.

CLOSE AND ABANDON

1998-054: Erlanger Hospital Credit Union

On motion of Councilman Lively, seconded by Councilman Taylor,  
AN ORDINANCE CLOSING AND ABANDONING A TEN (10) FOOT  
ALLEY LOCATED IN THE CITICO CITY ADDITION SUBDIVISION,  
MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON PLAT  
ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE  
passed second reading. On motion of Councilman Lively, seconded by  
Councilman Swafford, the ordinance passed third and final reading  
and was signed in open meeting.

CLOSE AND ABANDON

1998-058: J. D. Wilkinson, Jr., City Engineer

On motion of Councilman Lively, seconded by Councilman Pierce,  
AN ORDINANCE CLOSING AND ABANDONING A PORTION OF A  
STREET RIGHT-OF-WAY ALONG THE WEST SIDE OF HOUSTON  
STREET, MORE PARTICULARLY DESCRIBED HEREIN AND AS  
SHOWN ON PLAT ATTACHED HERETO AND MADE A PART HEREOF BY  
REFERENCE

passed second reading. On motion of Councilman Lively, seconded by  
Councilwoman Hurley, the ordinance passed third and final reading  
and was signed in open meeting.

REZONING

Councilman Taylor made the motion to move Ordinances 6(d) and (g) up  
on the agenda; Councilman Pierce seconded the motion; the motion  
carried.

1998-075: Conoco, Inc. (Mr. R. W. Carroll)

Pursuant to notice of public hearing, the request of Conoco, Inc.  
(Mr. R. W. Carroll) to rezone a tract of land located at 8214 East  
Brainerd Road and 1068 Grays Drive came on to be heard.

The applicant was present; opposition was in attendance.

Barry Bennett stated the request for rezoning is from R-1 to C-2 for  
a gas station, car wash and convenience store on a site area of over  
one-and-a-half acres. He stated the surrounding zoning includes  
R-1, R-2 and C-2 on all frontage along East Brainerd Road; that the  
land use in the area is almost entirely single family residential.  
He stated adjacent to the property to the north and south on Grays  
Road there is a small amount of commercial zoning and development  
further east; that most of the commercial development in the area  
fronts on both sides of East Brainerd Road and extends the length of  
East Brainerd Road and stops west of Grays Road. He stated the Staff  
recommended denial of C-2 and approval of C-5 subject to certain  
conditions; that the Planning Commission Board recommended approval  
of C-2 subject to conditions. He stated it is his understanding a  
revised site plan has been approved by Traffic Engineering.

Councilman Hakeem asked in regard to the request the applicant is  
making, would he be able to the things he desires to do on the  
property with a C-5?

REZONING (Cont'd.)

Mr. Bennett responded that there was a question whether the car wash would fit in, but in checking with the building department it was their interpretation the car wash will be an accessory use to the convenience store as the gas pumps. He stated C-5 or C-2 would accommodate what they want to do.

Grant Dobson, attorney with Miller and Martin, was present representing the applicant. He stated they would like to come forward on the C-2 request and clarified that the Clerk read the ordinance for C-5 rather than C-2.

Councilman Swafford stated the Planning Commission recommended the C-5 designation.

Mr. Bennett stated the C-5 zone would accommodate the accessory use; that C-2 would serve the same purpose as C-5 and would be no more objectionable.

Councilwoman Rutherford asked what can be done in C-2 that cannot be done in C-5. Mr. Bennett stated the C-2 zone is for low traffic generating uses; that the convenience store use is more of a C-2 type use. He stated C-5 only permits barber shops, laundromats, etc. which are high generating uses; that the Planning Commission Board's rationale was that they said it would be a conditioned for that specific use only; that the C-2 would not permit any more than the C-5 with the same conditions.

Councilwoman Rutherford stated now they can have the car wash in C-5 and we can do C-5 with the conditions as stated in the proposed ordinance. Mr. Bennett stated it would allow them to do the things they want to do in a C-2.

Councilman Pierce stated in looking at the request in terms of C-5 as opposed to C-2, basically, we are talking about putting zoning in R-1 and does not see why the question would be raised to the extent of whether it will be C-2 or C-5; that the main objective is to accomplish what they set out to do as both zones will allow that. He stated C-5 will be a less restrictive zone and he will go with the C-5. He stated after Conoco leaves it could revert back to R-1; that the C-1 would give other businesses coming in a chance to continue intrusion more into the neighborhood.

REZONING (Cont'd.)

Councilman Taylor asked if there was a problem with the C-5; that as Councilman Pierce stated we are looking at the surrounding area and the C-5 does give some cohesiveness to the neighborhood.

Mr. Dobson stated the reason for the C-2 is for the store they want to put in called the Breakplace Store, which is a new type of store which houses a Krystal, pizza store and/or yogurt-type businesses and allows for a greater size sign for advertising purposes. He stated the sign is a low sign but allows for additional areas to put up the name of the additional breakplace elements. He stated Conoco has addressed all the other conditions listed in the request. He stated Dick Carroll of Conoco will display the landscaping and sight plan for the request.

Dick Carroll distributed brochures highlighting the Breakplace concept and stated there are only four in the United States, with two in the Chattanooga area on 2A and Rossville Boulevard; that the store on Rossville Boulevard was the first in the United States which has somewhat of a deli-type store (such as Blimpie); that there could be a TCBY yogurt store. He stated if C-5 is granted they might not be able to have the design element for the Breakplace; that they will spend 60-70% more on a Breakplace if granted the C-2. He stated most convenience stores are garish; that they want to try to establish a shopping experience; that if they went to C-5 they could just have nothing else in there. He stated the deli would be very limited; that the size of the sign would be much smaller than other competitors, and they will not be able to advertise the additional businesses. He stated they will be able to advertise several other businesses in C-2; that they hope to put in a Krystal or something else rather than just a deli; that they are still experimenting with it.

Councilman Taylor stated in reading the application the request is for a gas pump, car wash and convenience store. Mr. Carroll stated inside the convenience store they always have a deli in the Breakplace; that the "live" deli seems more consumer friendly.

Councilman Taylor stated a restaurant is not allowed in C-5 and asked how the Breakplace can be placed in C-5. Mr. Bennett stated a free standing restaurant such as a Taco Bell or McDonald's would not be permitted in C-5, but as an accessory use to a convenience store, not a restaurant per se, would be permitted.

Councilman Taylor asked if a Breakplace-type business can go into this location. Mr. Bennett responded "yes".

REZONING (Cont'd.)

Chairman Crockett inquired about the advertisement of the businesses on the sign. Mr. Bennett stated the sign will come under the control of the Sign Ordinance rather than zoning.

Councilman Hakeem asked when this matter came before the Planning and Staff was the Breakplace and the potential for a Krystal or other businesses presented. Mr. Bennett stated the Staff understood the nature of the application and that it would include a number of food service uses.

Councilman Hakeem asked if the things they desire to do as ancillary can be done under C-5. Mr. Bennett responded, "that is correct".

Councilman Hakeem asked if the only question is with the sign. Mr. Bennett responded, "yes".

Nancy Crowe stated she is a resident of East Brainerd and lives two streets up. She stated she is opposed to the zoning change because it is a bad place for a business and no one has ever done well in business there because it is hard to pull in and out of the road and there is a bottleneck in this area. She made reference to the rise in the road and the traffic that will be pulling in-and-out which creates traffic problems and wrecks and will worsen the bottleneck. She stated several businesses in the area have ben abandoned and thought the present administration was leaning toward putting in businesses in areas that have been developed. She stated this would call for the removal of two homes, and taking homes out to put in a business sends a bad message to the neighborhood. She made reference to a C-5 business that is going out of business, and is concerned about the negative impact it will have on the neighborhood.

Chairman Crockett inquired as to plans for a traffic light at the intersection. Admin. Marcellis stated he did not know if a traffic signal will be warranted; that one of the conditions will extend the fourth lane past the location, and they will be required to put in curbs and gutters.

Councilman Swafford stated that was what we suggested at the Planning Commission; that the Planning Commission recommended C-2 with conditions. He stated after looking through the Planning minutes, the Board recommended C-2 rather than C-5.

Councilman Lively made the motion to approve C-2 zone after looking at the conditions; that if there is a 40 foot right-of-way it is better than the C-5. Councilman Swafford seconded the motion.

REZONING (Cont'd.)

Councilman Hakeem stated the request the Council has before them is for C-5 and asked if the C-5 has the 40 foot right-of-way.

Chairman Crockett confirmed that the 40 foot right-of-way is conditioned in both the C-5 and C-2 ordinance versions.

City Attorney Nelson stated the C-2 zone can be substituted for the C-5 (since the C-5 zone was read).

Councilman Lively then made the motion to substitute the C-2 zone designation rather than C-5 zone; Councilman Swafford seconded the motion.

City Attorney Nelson stated the C-5 designation was read; that Councilman Lively has made the appropriate motion to substitute C-2. Chairman Crockett asked if that is appropriate. City Attorney Nelson responded "yes"; that the C-2 request is what is before the Council, now.

Councilman Hakeem stated it will be more intrusive to make it C-2; that the Council should bear in mind these people do have options available to them rather than giving them C-2; that he supports C-5.

On roll call vote (on the motion to approve C-2):

Taylor	"No"
Swafford	"Yes"
Rutherford	"No"
Pierce	"No"
Lively	"Yes"
Hurley	"Yes"
Hakeem	"No"
Crockett	"Yes"

**The motion failed.**

On motion of Councilman Hakeem, seconded by Councilman Pierce,  
AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,  
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT  
OF LAND LOCATED AT 8214 EAST BRAINERD ROAD AND 1068  
GRAYS DRIVE, MORE PARTICULARLY DESCRIBED HEREIN, FROM  
R-1 RESIDENTIAL ZONE AND R-2 RESIDENTIAL ZONE TO C-5  
NEIGHBORHOOD COMMERCIAL ZONE, SUBJECT TO CERTAIN  
CONDITIONS

passed first reading on roll call vote:

REZONING (Cont'd.)

Hakeem	"Yes"
Hurley	"Yes"
Lively	"Yes"
Pierce	"Yes"
Rutherford	"Yes"
Swafford	"Yes"
Taylor	"Yes"
Crockett	"Yes"

REZONING

1998-081: Jesse Houston

Pursuant to notice of public hearing the request of Jesse Houston to rezone a tract of land located at 1605 Tunnel Boulevard came on to be heard.

The applicant was present; there was no opposition.

Mr. Bennett stated the Planning Commission Board did have a number of concerns about this request; that the Staff initially had recommended against the zoning change but is willing to look at the revised plan that has now been submitted. He stated there are a number of concerns the Staff had that have been appropriately addressed; that the other specific concerns Planning had, and the Staff was requested to have them addressed at this meeting. He stated he would like to address the questions to the applicant and have them respond as to the site plan.

Dick Carroll of Conoco stated the existing store at Tunnel and Wilcox will be torn down; that they plan to buy the house in the back and build a new Conoco store. He stated they will move the existing store from Gadd Road that will look like a brand new store when they complete it; that it will be physically attractive and will have ten parking spots; that the existing facility is extremely congested. He stated the new design will give persons a chance to park.

Robert Burton of the North Brainerd and Eastdale Residents Association stated both organizations support what Conoco is doing. He stated he went to the location today to get a couple of gallons of gas and took his life in his hands just getting across Wilcox because there was so much traffic and the store was crowded. He stated the new design will fit in; that the location is adjacent to the funeral home and other commercial businesses on the corner.

REZONING (Cont'd.)

Oliver Davis stated he lives in District 5 and corroborated that the location is a congested place. He stated there are times when it takes eight-to-ten minutes just to get up to the area to pay because it is so narrow. He stated the new store will make everything easier.

At this point Councilman Lively "called for the question".

Councilwoman Rutherford made reference to the recommendation for denial by staff and the concept not following the Eastdale Community Plan.

Mr. Bennett stated the denial was subject to the amount of land use; that the Eastdale Plan is still intact and complies with it.

Councilwoman Rutherford stated since the store is on a higher elevation has anyone discussed stormwater problems. Mr. Bennett stated when they apply for a building permit the engineer's office will address that as all of that has to be taken care of on site by the developer.

Councilwoman Rutherford verified that what is attached is no longer a concern of the Staff. Mr. Bennett stated their concerns only relate to the specific concerns he wants to address regarding the site plan.

Councilman Taylor asked if this development will be another Breakplace. Mr. Carroll responded "no"; that it will be a traditional Conoco store because of the lot size. He stated they would love to do one in the downtown area as they need about eighteen places on the front for parking.

Councilman Taylor inquired about a buffer for the location. Mr. Carroll stated the buffer will go all the way around the location.

Councilman Swafford stated Mr. Bennett's points will cover what questions he has.

Mr. Bennett stated in looking at the site plan the concerns the Staff had have been addressed: (1) With regard to moving the building rather than constructing it; that the building will look new; (2) Any site should blend with the neighborhood and encourage pedestrian/automobile usage; (3) No fences or concrete walls along Milton Street; and (4) Curb cuts should be landscape islands.

REZONING (Cont'd.)

Grant Dobson stated there will be a retaining wall; that Planning will have to decide whether they want a fence or not; that it is best to have a fence for safety purposes.

Mr. Bennett stated he thinks there were some mixed feelings about that; that if there is going to be a fence it should not be a chain link fence.

Councilman Swafford stated that was the concern regarding the retaining wall; that after talking with people who live around there there would need to be some type of decorative fence, since Councilman Taylor's business adjoins this location. He stated Milton Street will always serve as a natural cut-off; that he hopes we will never expect anything to come past Milton; that he would not support anything that will go against the Eastdale Plan. He made reference to the respect he has for Ann Coulter and the Planning Staff; that he thinks this will definitely be a benefit to the community and wanted to make sure this will work with future planning for the area. He stated he appreciated the comments that were made with regard to safety.

Councilwoman Rutherford stated the fence is not mentioned in the conditions of the ordinance.

Councilman Swafford stated it would probably be a lot safer if that was added and make sure it is not a chain link fence.

Chairman Swafford stated that can be added prior to second and third reading.

On motion of Councilman Pierce, seconded by Councilman Hakeem,  
AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,  
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT  
OF LAND LOCATED AT 1605 TUNNEL BOULEVARD, MORE  
PARTICULARLY DESCRIBED HEREIN, FROM R-4 SPECIAL ZONE TO  
C-5 NEIGHBORHOOD COMMERCIAL ZONE, SUBJECT TO CERTAIN  
CONDITIONS  
passed first reading.

(Councilman Swafford excused himself from the meeting at this time.)

REZONING

1998-067: Witt, Gaither & Whitaker, PC

Pursuant to public notice the request of Witt, Gaither & Whitaker, PC to rezone a tract of land located at 1429 Vance Road came on to be heard.

REZONING (Cont'd.)

The applicant was present; there was no opposition.

Councilwoman Rutherford stated the sign was not posted for this rezoning; that she looked for the house and sign and there wasn't one, which might explain why there is no opposition present. The person representing the applicant indicated she was not aware the sign was not posted.

Mr. Bennett stated this is for rezoning from R-1 to O-1; that the property is located at 1429 Vance Road and the proposed use is for a billing office. He stated the surrounding zoning includes R-4, some R-3, C-4, and R-2; that the land use is entirely single family residential abutting the site, and the development to the rear is single family. He stated the Staff recommends against the zoning change and the Planning Commission Board recommends denial of the R-1 and approval of R-4 subject to conditions.

Lisa Pate, Counsel for the applicant, stated Dr. Calhoun intends to use this as a billing office; that there will be no patients nor a sign; that the property would appear residential. She stated the lawn maintenance will be kept up and the area is blocked from the road for employee vehicles. She stated there will be three full-time employees, and the office will be open from 8:30 a.m. - 5 p.m. Monday through Friday. She reiterated there would be no patients; that next door are two R-4 offices and an attorney's office; that on the other side are two homes that appear to be vacant. She stated the property owners around the area approve of the zoning change and that this is not a change in the zoning just an extension of the R-4 that is there. She concluded her remarks by stating the property would remain residential-looking.

Councilman Hakeem stated if he is to understand correctly the property will look like a home. He stated if there will only be three people there why is there the the need for the change.

Mr. Bennett stated the only way to be able to have an office of that type is to do it as a home occupation; that the person residing on the premises will be able to do 25% of his business.

City Attorney Nelson interjected that it is limited to the number of employees, also.

REZONING (Cont'd.)

Councilwoman Rutherford stated she is concerned about this request; that Dr. Calhoun opened this business in Brainerd Hills in an R-1 neighborhood and then had to go to Judge Williams' Court and Dr. Calhoun was given three weeks to vacate the premises; that Dr. Calhoun requested 90-100 days to move. She stated now here we go again moving from R-1 to R-4; that there was no sign on this property as she has been down Vance Road a number of times. At this point she made the motion to deny the request; Councilman Hakeem seconded the motion.

Councilman Taylor inquired about the sign not being posted; that he thinks the neighbors need an opportunity to see the sign posted.

Councilwoman Rutherford stated Dr. Calhoun and Ms. Pate need to learn to respect residential neighborhoods; that Dr. Calhoun's track record show her nothing but disrespect when it comes to residential zones.

Ms. Pate stated regarding the first incident in Brainerd Hills, Dr. Calhoun was not aware he did anything wrong until he was cited; that he found this property and thinks it is appropriate next to R-4 which will not invade the residential area. She stated Dr. Calhoun wants the house to go to and relax and do some of his paper work. She apologized for the sign and stated before the Planning meeting the sign was up; that the wind had blown it down. She stated if it is down it is a mistake; that she nor Dr. Calhoun mean any disrespect to the Council or (Planning) Commission. She stated in no way is she in favor of invading R-1 and neither is Dr. Calhoun.

On motion of Councilwoman Rutherford, seconded by Councilman Hakeem,  
AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,  
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT  
OF LAND LOCATED AT 1429 VANCE ROAD, MORE PARTICULARLY  
DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO R-4  
SPECIAL ZONE, SUBJECT TO CERTAIN CONDITIONS  
**was denied; Councilman Taylor voted "no".**

REZONING

1998-069: Darrell Hill

Pursuant to notice of public hearing the request of Darrell Hill to rezone a tract of land located at 5205 Old Hixson Pike came on to be heard.

The applicant was present; there was no opposition.

REZONING (Cont'd.)

Mr. Bennett stated this request is north of Helena Drive; that the site area is less than two acres, and the applicant is requesting rezoning to R-4 for a recording studio; that the surrounding zoning includes R-2, R-3, C-2 and C-1; that the land use in the area is predominantly residential. He stated there are various density residential uses within this area. He stated the Staff recommended R-4 for the area to be more consistent with the character of the residential development, and the Planning Commission recommended approval of R-4 with conditions. He stated it was his understanding in talking with the applicant that they are wanting to amend their request to have conditions amended to also include a professional dental or medical office.

Ed Fisher, a Commercial Realtor with the Realty Center, was present representing Darrell Hill. He distributed a colored map of the site and stated the area surrounding this property is C-2 on two sides and R-2 and R-3 to the north; that Helena Drive is better known as Austin Drive, however, it is his understanding in the future it is going to be opened and widened for the commercial shopping area where Wal-Mart is and Old Hixson Pike will be closed, which is part of the reason for the office request. He stated he does not think they can be accused of spot zoning; that no one objected in writing or in person at the Planning hearing, and the sign has been up the whole time. He stated Planning unanimously approved R-4 subject to conditions; that since that time Mr. Hill has received a request from a dentist to rent some space, and there is now another doctor who is interested.

Councilman Lively apologized to Mr. Fisher and asked that the matter be tabled one week; that he did not get a chance to go by and look at the the property as to whether it should be R-3 or R-4.

Chairman Crockett agreed with Councilman Lively and stated he would like to look at the property, also.

On motion of Councilman Lively, seconded by Councilwoman Rutherford,  
AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,  
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT  
OF LAND LOCATED AT 5205 OLD HIXSON PIKE, MORE  
PARTICULARLY DESCRIBED HEREIN, FROM R-2 RESIDENTIAL  
ZONE TO R-3 RESIDENTIAL ZONE, SUBJECT TO CERTAIN  
CONDITIONS  
was tabled one week.

REZONING

1998-073: Strada Development Company, LLC

Pursuant to notice of public hearing, the request of Strada Development Company, LLC to rezone a tract of land located at 1426 Williams Street came on to be heard.

The applicant was present; there was no opposition.

Councilman Hakeem inquired as to whether this would be down-zoning. City Attorney Nelson responded "yes".

On motion of Councilman Hakeem, seconded by Councilman Lively,  
AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,  
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT  
OF LAND LOCATED AT 1426 WILLIAMS STREET, MORE  
PARTICULARLY DESCRIBED HEREIN, FROM M-1 MANUFACTURING  
ZONE TO C-3 CENTRAL BUSINESS ZONE, SUBJECT TO CERTAIN  
CONDITIONS  
passed first reading.

REZONING

1998-077: Donald B. Skiles

Pursuant to notice of public hearing the request of Donald B. Skiles to rezone a tract of land located in the 4900 block of Jenkins Road came on to be heard.

The applicant was not present.

On motion of Councilwoman Hurley, seconded by Councilwoman Rutherford,  
AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,  
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT  
OF LAND LOCATED IN THE 4900 BLOCK OF JENKINS ROAD, MORE  
PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL  
ZONE TO R-3 RESIDENTIAL ZONE  
**was denied.**

REZONING

1998-080: David Coffey

Pursuant to notice of public hearing the request of David Coffey to rezone a tract of land located at 1510 Gunbarrel Road came on to be heard.

REZONING (Cont'd.)

The applicant was present; there was no opposition.

Councilwoman Hurley asked the applicant if the conditions were okay with him. The applicant responded "yes".

On motion of Councilman Lively, seconded by Councilwoman Rutherford, AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED AT 1510 GUNBARREL ROAD, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO R-4 SPECIAL ZONE, SUBJECT TO CERTAIN CONDITIONS passed first reading.

AMEND CITY CODE: RELATIVE TO HUMAN RIGHTS AND HUMAN RELATIONS COMMISSION

Janice Miller of the Mayor's Office stated the ordinance before the council is to change the accountability of the Office of Human Rights and Human Relations and some of the structure of the Board is changing to have two consecutive term limits; that the ordinance will provide for nine representatives from the Council districts and ten members appointed by the Mayor.

City Attorney Nelson stated there is also an additional provision that makes the personnel of the Office responsible to the Mayor.

On motion of Councilman Hakeem, seconded by Councilman Pierce, AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, ARTICLE XII, SECTION 2-513, RELATIVE TO THE CHATTANOOGA HUMAN RIGHTS AND HUMAN RELATIONS COMMISSION passed first reading.

PUD SPECIAL EXCEPTIONS PERMIT

1997-096: Rosebrook Townhomes, State II

On motion of Councilman Lively, seconded by Councilman Hakeem, A RESOLUTION GRANTING A SPECIAL EXCEPTIONS PERMIT FOR A FINAL PLANNED UNIT DEVELOPMENT KNOWN AS ROSEBROOK TOWNHOMES, STAGE II, ON TRACTS OF LAND LOCATED IN THE 1900 BLOCK OF ROSEBROOK AND THE 7500 BLOCK OF GOODWIN ROAD, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON PLAT ATTACHED HERETO, AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS was adopted.

LEASE AGREEMENT: EASTGATE MALL,  
LLC

Councilwoman Rutherford made the motion to approve this Resolution; however, there was no second to the motion.

Councilman Pierce stated he was under the impression this Resolution was to be withdrawn for discussion in Safety Committee.

Councilwoman Rutherford stated she would like to have this Resolution approved tonight as it has dragged on for months on end. She stated it is hoped there could be a grand opening in a couple of weeks; that it would be good to approve it.

Chairman Crockett stated the matter came up without having been through Committee.

Councilman Pierce stated he would rather the discussion regarding this matter be done in Committee rather than in open meeting; that the council was not aware this was happening, and it needs to be discussed.

Councilwoman Rutherford stated no one mentioned this going to Committee; that she thinks it is an administrative issue and has been worked on for months; that she would like to see it approved tonight.

Councilman Pierce made the motion to table the matter one week for discussion in Safety Committee; Councilman Lively seconded the motion.

On motion of Councilman Pierce, seconded by Councilman Lively,  
A RESOLUTION AUTHORIZING THE CHIEF OF THE CHATTANOOGA  
POLICE DEPARTMENT TO ENTER INTO A LEASE AGREEMENT WITH  
EASTGATE MALL, LLC, RELATIVE TO THE LEASE OF CERTAIN  
SPACE IN EASTGATE MALL TO BE USED AS A PRECINCT  
STATION, FOR A CONSIDERATION OF NINE HUNDRED  
NINETY-NINE DOLLARS (\$999.00) PER MONTH  
**was tabled one week for discussion in Safety Committee.**

CONTRACT: BELL OAKES COMPANY

Councilman Taylor stated all Public Works matters were discussed in Committee and come with the Committee's recommendation for approval.

CONTRACT: BELL OAKES COMPANY  
(Cont'd.)

On motion of Councilman Lively, seconded by Councilwoman Hurley,  
A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF PUBLIC  
WORKS TO ENTER INTO A CONTRACT WITH BELL OAKES COMPANY  
TO CONDUCT A SEARCH FOR A NEW CITY ENGINEER AT A COST  
NOT TO EXCEED THIRTY THOUSAND DOLLARS (\$30,000.00)  
was adopted.

AGREEMENT: TENNESSEE DEPARTMENT  
OF TRANSPORTATION

On motion of Councilwoman Hurley, seconded by Councilman Lively,  
A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN  
AGREEMENT WITH THE TENNESSEE DEPARTMENT OF  
TRANSPORTATION (TDOT), RELATIVE TO THE MPO STREETScape  
PROJECT, BROAD STREET BETWEEN 5TH STREET AND 6TH  
STREET, FOR A FEE NOT TO EXCEED FOUR HUNDRED FORTY  
THOUSAND DOLLARS (\$440,000.00) WITH EIGHTY PERCENT  
(80%) OF THE PROJECT COST TO BE REIMBURSED BY TDOT,  
SUBJECT TO A MAXIMUM REIMBURSEMENT OF THREE HUNDRED  
FIFTY-TWO THOUSAND DOLLARS (\$352,000.00)  
was adopted.

CHANGE ORDER

Councilman Hakeem inquired as to the increase for this change order.  
Admin. Marcellis stated the change order dealt with some utilities;  
that the telephone company could not get around to removing and  
replacing their telephone lines, which held up the contract.

On motion of Councilwoman Hurley, seconded by Councilman Lively,  
A RESOLUTION AUTHORIZING THE EXECUTION OF CHANGE ORDER  
NO. 1, CONTRACT NO. SS-2-97, SHALLOWFORD ROAD AT TUNNEL  
BOULEVARD STREETScape, WITH RIVERBEND CONSTRUCTION  
CORPORATION, WHICH CHANGE ORDER INCREASES THE CONTRACT  
AMOUNT BY FOUR THOUSAND, THREE HUNDRED NINETY-THREE  
DOLLARS (\$4,393.00) FOR A REVISED CONTRACT AMOUNT OF  
THREE THOUSAND FORTY-TWO THOUSAND, NINETY-THREE DOLLARS  
(\$342,093.00), AND INCREASES CONTRACT TIME BY NINETY  
(90) DAYS  
was adopted.

CONTRACT: SOUTHERN MARINE  
CONSTRUCTION COMPANY

On motion of Councilwoman Hurley, seconded by Councilman Lively,  
A RESOLUTION AUTHORIZING THE AWARD OF CONTRACT NO. 28h,  
SUBMERGED OUTFALL DIFFUSER, TO SOUTHERN MARINE  
CONSTRUCTION COMPANY FOR THEIR LOW BID IN THE AMOUNT OF  
ONE MILLION, NINETY THOUSAND DOLLARS (\$1,090,000.00)  
(BASE BID PLUS ADDITIVE ALTERNATE I)

was adopted.

CONTRACT: EAST TENNESSEE GRADING,  
INC.

Councilwoman Rutherford asked if this contract involves the road the  
County is building. Admin. Marcellis responded that this involves  
the interceptor sewer line; that the County is building a road, but  
this is not the project.

On motion of Councilman Lively, seconded by Councilwoman Hurley,  
A RESOLUTION AUTHORIZING THE AWARD OF CONTRACT NO. 45A,  
VAAP CONNECTOR, TO EAST TENNESSEE GRADING, INC. FOR  
THEIR LOW BID IN THE AMOUNT OF ONE HUNDRED FIFTY-TWO  
THOUSAND, FOUR HUNDRED FIFTY-FOUR DOLLARS (\$152,454.00)

was adopted.

TEMPORARY USE: BIG RIVER  
BREWRIES, INC.

On motion of Councilman Pierce, seconded by Councilman Taylor,  
A RESOLUTION AUTHORIZING BIG RIVER BREWERIES, INC. TO  
USE TEMPORARILY THE SIDEWALK AT 222 BROAD STREET FOR  
PLACING A FEW TABLES AND CHAIRS THEREON WITHOUT CAUSING  
INCONVENIENCE TO SIDEWALK PEDESTRIANS, SUBJECT TO  
CERTAIN CONDITIONS

was adopted.

OVERTIME

Overtime for the week ending May 8, 1998 totaled \$97,802.41.

PURCHASE

On motion of councilwoman Hurley, seconded by Councilman Lively, the following purchase was approved for use by the Parks and Recreation Department:

TOWER CONSTRUCTION (Lower and better bid)  
Requisition No. R0027654

Purchase of ADA Toilet Partitions

\$17,000.00

PERSONNEL

The following personnel matters were reported for the Public Works Department:

BRUCE D. VAN HOOSER -- Employment, Laborer II, Traffic Engineering, Pay Grade 4/Step 1, \$15,165.00 annually, effective May 6, 1998.

HENRY L. HAMMONDS -- Resignation, Foreman, City-wide Services, Pay Grade 8/Step 3, \$20,728.00 annually, effective April 30, 1998.

WALTER F. BANTHER, JR. -- Employment, Equipment Operator II, City-wide Services, Pay Grade 8/Step 1, \$19,510.00 annually, effective May 14, 1998.

ROBBIE D. GARREN -- Employment, Equipment Operator II, City-wide Services, Pay Grade 8/Step 1, \$19,510.00 annually, effective May 14, 1998.

PURCHASES

On motion of Councilman Pierce, seconded by Councilwoman Hurley, the following purchases were approved for use by the Public Works Department:

U.S. FILTER/DAVIS PROCESS (Lower and better bid)  
Requisition No. 0032627

Purchase of Odor Control Chemical Feed and Storage System

\$23,439.54

PURCHASES (Cont'd.)

DIVERSIFIED SUPPLY (Lower and better bid)  
Requisition No. 0027269

Purchase of Steel Strain Pole

\$10,141.20

STANSELL ELECTRIC CO. (Lower and better bid)  
Purchase Order No. P0006703

Purchase of Steel Strain Pole

\$16,500.00

DILLARD SMITH CONSTRUCTION CO. (Lower and better bid)  
Bid No. P0006703

Purchase of Twelve Months Requirements Contract for Installation  
and/or Removal of Traffic Signal Poles

**(PRICE INFORMATION AVAILABLE AND FILED WITH MINUTE MATERIAL)**

SHELBY DODGE (State Contract)  
Requisition No. R0034605

Purchase of One 1/2 ton Long Wheel Base Pick-Up Truck per TCA  
6-56-301

\$14,019.77

PERSONNEL

The following personnel matters were reported for the Police  
Department:

TAMMY DAVENPORT -- Return from Family & Medical Leave, Police  
Officer, effective May 8, 1998.

DAMON DAVIDSON -- Resignation, Police Officer, effective May 21,  
1998.

Councilwoman Rutherford inquired as to the number of years of  
service Officer Davidson had put in. Deputy Chief Lyda indicated  
that he wasn't sure; that it was approximately 10 - 12 years.

PURCHASE

On motion of Councilman Pierce, seconded by Councilman Hakeem, the following purchase was approved for use by the Finance Department:

CERTIFIED MAINTENANCE SERVICES

Requisition No. R0028560

Purchase of Janitorial Service

\$15,967.80

REFUNDS

Councilmen Pierce and Hurley made the initial motion to approve the refunds for Stormwater fees; the motion passed. Admin. Boney indicated that the refunds total \$87,357.66, which does not include the refunds made under \$1,000 that does not have to be approved by the Council; that total refunds amount to \$123,000.

In perusing the list of refunds, Councilman Taylor stated he saw a refund dating back to 1993; that he was under the impression the refunds were only to go back two years.

Admin. Marcellis stated they came to us in 1995 and we corrected it for 1995, 1996, and 1997; that it depends upon when we corrected the error; that some go back to 1993 and some to 1997, only two years.

Councilman Taylor stated the Council was not under that impression; that when the matter came before the Council we were only to go back two years; that he is afraid that would go back too far.

Admin. Marcellis explained that we paid up to only two years back for fees we owed them; that some we corrected in 1995 and 1996.

Councilman Hakeem asked why Admin. Marcellis would go back. Admin. Marcellis stated when the ordinance was passed we were allowed to back up to two years of fees; that some might have been in 1993.

Councilman Hakeem stated that is not the understanding he had on the process; that he understood we would go back two years, but we are going back four and five years!

Admin. Marcellis clarified that we are only paying two years back.

REFUNDS (Cont'd.)

Councilman Hakeem stated for 1993 and 1995 that is three-to-five years. Admin. Marcellis stated that is what was charged; that he is not sure it was understood.

Councilman Hakeem stated that is not the direction that was given. Admin. Marcellis stated that is what he believes they got from "you folks"; that at different times through the last four years the stormwater fees have been corrected early sometime last year; that some got all the years paid back and some for a couple of years. He stated some got fees all the way back to 1993; that he thought we got authority to pay back only two years depending upon when we corrected it for two additional years.

Councilman Hakeem asked the City Attorney to clarify the matter; that the way he understood what we did at that time with this item was that we would go back two years. He stated he did not understand that to mean if people had been corrected, we would go back from that.

City Attorney Nelson stated he thinks what Admin. Marcellis said is he has gone back two years and corrected from that, which might have included some previous corrections.

Councilman Hakeem stated if we start with 1995 - 1997 that is three years of correction, and if we go to 1993 and 1994 that is four years.

Councilman Taylor stated he would like to have the matter discussed in Public Works Committee to visually see what has taken place.

**Councilman Pierce made the motion to rescind the previous motion to approve so the matter can be discussed further in next week's Public Works Committee; Councilman Hakeem seconded the motion; the motion passed.**

Councilman Lively stated he knows of instances where people have been appealing, and we did not get around to reassessing them until last year. Admin. Marcellis stated they can just go two years; that if it was corrected in 1997, we went back to 1995 and 1996, not 1994 or 1993.

Councilman Lively stated one in 1993 was corrected in 1995. Admin. Marcellis responded "that is correct".

PURCHASE

On motion of Councilwoman Hurley, seconded by Councilman Lively, the following purchase was approved for use by the Personnel Department:

SIGMA IV DATA SYSTEMS (Only bid received)  
Requisition No. R0028359

Purchase of Sigma IV Applicant Management System and Test Management (Software) per TCA 6-56-301

\$42,530.00

PERSONNEL

The following personnel matters were reported for the Neighborhood Services Department:

DORIS C. PARHAM -- New Hire, Inspector, Better Housing, Pay Grade 9/Step 1, \$20,777.00 annually, effective May, 1998.

SHEILA R. MILLER -- New Hire, Inspector, Better Housing, Pay Grade 9/Step 1, \$20,777.00 annually, effective May, 1998.

ABSENCE OF DEPARTMENTAL  
ADMINISTRATORS

Councilman Hakeem questioned why Admin. Freeman presented the departmental matters for the Parks and Recreation Department when there are two department heads in the department. He asked why Admin. McDonald or Larry Zehnder could not be present.

Admin. Freeman stated he did not know why they could not come; that it is a courtesy the Administrators extend to one another. He stated he was present to present a departmental matter from his department (Neighborhood Services) and was asked to present Parks and Recreation's purchases which deal with ADA requirements. He stated adherence to the ADA policies "flow" through his office and if questions were asked, he would be in a position to answer them.

COMMITTEES

Councilman Taylor reminded Council members of the **Public Works Committee meeting scheduled for Tuesday, May 19, at 4 p.m.**

Councilman Pierce stated a meeting of the **Legal and Legislative Committee will be held on Tuesday, May 19, at 4:30 p.m.** to further discuss the Cellular Tower Ordinance.

In the absence of Councilman Eaves, a meeting of the **Safety Committee was scheduled for Tuesday, May 19 immediately following the Legal and Legislative Committee.**

SISTER BEY

Sister Bey read excerpts of letters from State Commissioner Bruce Saltsman, Sr. and U.S. Senator Fred Thompson regarding the proposal to relocate State Route 17 that would cross through Piney Woods and Alton Park. Both letters made reference to the ". . . project being put on hold pending evaluation". The communication from Commissioner Saltsman stated ". . . re-evaluation of the project is a result of the concern expressed at the public meeting held in mid 1996 and a corridor and design hearing held in February of this year." (Copies of the letters are filed with minute material of this date.)

OLIVER DAVIS

Oliver Davis addressed the Council regarding a letter he received from the Better Housing Commission on one day and a registered letter from the Commission the next day and indicated how ridiculous he thought it was to have received the same letter in such a way which referred to certain "abandoned or disregarded vehicles" in his yard. He stated he cannot "abandon" anything on his property! He stated when he was in prison his wife at the time came to him and told him that it had been advised that a fence should be built around the cars; that he allowed brush to grow up so as to not be able to see them.

Mr. Davis stated his neighbors cannot see his cars so they are not a nuisance to them and asked how something on his property becomes a nuisance to someone else. He stated the letter threatened that if they are are not removed within ten days, he will be fined \$50 per day and an amount not to exceed \$500.

OLIVER DAVIS (Cont'd.)

Mr. Davis stated the cars in the yard are in need of repair but (he) does not have any money to fix them; that he stated he was in prison nine years and during that time he managed to pay taxes on his property. He expressed that he feels this is a form of harassment. He stated a red car listed in the letter as "abandoned" is parked outside tonight; that he does not have any money to have the cars moved and if he did he would not because he intends to keep them!

Councilman Pierce referred the matter to the City Attorney and inquired as to whether there is a question about cars being "abandoned" on a person's property.

City Attorney Nelson stated there is a legal definition as to "abandoned" which has to do with a number of ordinances in relation to one's property and "disabled conditions"; that there are a number of reasons for that type of ordinance which make reference to lowering of property values of all houses around an area. He stated this is a very real matter for the City Council to be concerned about; that the communication Mr. Davis received makes reference to an ordinance passed by the former City Commission many, many years ago.

Councilman Pierce asked if Mr. Davis' situation could be deemed a nuisance rather than "abandoned". City Attorney Nelson stated either way it is the same thing.

Mr. Davis stated "abandoned" means "abandoned"; that a nuisance is another classification. He stated the Better Housing Commission's communication insulted him.

Admin. Freeman stated he will be glad to work with Mr. Davis as he feels he can answer his concern. He stated the inspectors did not have to go on Mr. Davis' personal property to inspect the vehicles; that the City Attorney was right in regard to this being a legal definition of "abandonment". He stated other reasons could have been cited for his having received the letter which could have been due to stormwater problems where oil is leaking. He reiterated his willingness to work with Mr. Davis; that if there is anything he can do for him he will.

ADJOURNMENT

Chairman Crockett adjourned the meeting until Tuesday, May 19, 1998  
at 6 p.m.

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CHAIRMAN

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CLERK OF COUNCIL

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