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**City Council Building
Chattanooga, Tennessee
February 17, 2009
6:00 p.m.**

Chairman Bennett called the meeting of the Chattanooga Council to order with Councilmen Benson, Berz, Gilbert, Page, Pierce, Rico and Robinson present; Councilwoman Gaines was absent due to personal commitment. City Attorney Michael McMahan, Management Analyst Randy Burns and Council Clerk Carol O'Neal were also present.

PLEDGE OF ALLEGIANCE/INVOCATION

Following the Pledge of Allegiance, Rev. Dr. Donald Fishburne, Rector of St. Paul Episcopal Church, gave invocation.

MINUTE APPROVAL

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

SOUTHERN ADVENTIST COLLEGE STUDENTS

Chairman Bennett recognized the presence of students of the Social Work Department at Southern Adventist.

AMEND CITY CODE

On motion of Councilman Rico, seconded by Councilwoman Robinson,
AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE SECTION 2-424 TO CLARIFY THE EFFECTIVE DATE OF ADDITIONAL PAYMENTS FOR THE DEFERRED RETIREMENT OPTION PLAN ELECTION
passed second and final reading and was signed in open meeting.

REZONING

2009-006: Jim Williamson

On motion of Councilman Rico, seconded by Councilwoman Berz,
AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED ON PART OF A PROPERTY LOCATED AT 7420 BONNY OAKS DRIVE AND ALL OF THE PROPERTY LOCATED AT 7635 LEE HIGHWAY, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP AND DRAWING ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, FROM R-3 RESIDENTIAL ZONE TO C-2 CONVENIENCE COMMERCIAL ZONE, SUBJECT TO CERTAIN CONDITIONS

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

REZONING

2009-013: Vasco Jones

Councilmen Robinson and Rico made the motion and second to substitute the amendment this Ordinance; the motion carried.

On motion of Councilwoman Robinson, seconded by Councilman Rico,
AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED AT 2841 AND 2845 HARRISON PIKE, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP AND DRAWING ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, FROM R-5 RESIDENTIAL ZONE AND R-1 RESIDENTIAL ZONE TO R-T/Z RESIDENTIAL TOWNHOUSE/ZERO LOT LINE ZONE, SUBJECT TO CERTAIN CONDITIONS

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

AMEND ZONING ORDINANCE

On motion of Councilwoman Robinson, seconded by Councilwoman Berz,
AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, BY AMENDING ARTICLE II BY REVISING THE DEFINITION OF "TOWNHOUSE" AND AMENDING ARTICLE V BY INCLUDING SUCH REVISIONS WITHIN SECTION 122(1) OF THE RT-1 RESIDENTIAL TOWNHOUSE ZONE AND SECTION 162(2) OF THE R-T/Z RESIDENTIAL TOWNHOUSE/ZERO LOT LINE ZONE

passed first reading.

REZONING

2009-016: Colman S. Hochman

The applicant was present; there was no opposition in attendance.

Councilwoman Berz stated that this matter was deferred from last week; that what was missing was a landscape plan and the conditions that were offered were approved subject to landscaping and screening as shown on the landscape plan submitted to the City Council. She asked if that is what is going on, now.

Greg Haynes, Director of Development Services with the Regional Planning Agency (RPA), stated that the site plan was submitted since last Tuesday's Council meeting. He stated Councilwoman Berz was concerned about landscaping and the original site plan did not show that; that the site plan that has been submitted shows more landscaping not only as a buffer to East Brainerd Road but also the existing residential neighborhood. He stated the applicant was advised to talk to Jerry Jeansonne, the city's landscape coordinator, to get approval and advice, which he did.

Councilwoman Berz stated the landscaping plan is fine and would like it attached as a condition so that we can check and make sure that everyone is acting in good faith.

Mr. Haynes stated that the conditions should take care of that; that it is enforceable.

Councilman Benson stated that this is more of a Type A landscape plan; that what worries him is that we require landscaping but do not require it be watered so it could grow and live. He asked if there is any way to put in the conditions that a plan be in place and viable for a certain period of time, at least.

Mr. Haynes stated that it seems we have added very detailed conditions on projects that are larger than this; that there is some language that addresses maintenance and replacement of trees if they die. He stated he could not begin to word it as he is not a landscape architect and can not decide what to do with this; that the City Attorney might have language. He stated usually that is inferred on a condition which does not guarantee they will stay alive.

Councilman Benson asked that the matter be studied prior to second reading to put some type of assurance the owner/developer will see that what is planted will be carried forth until growth takes over on its own.

REZONING (Continued)

Colman Hochman of 8306 Water Bend Lane (Ooltewah) stated that he can not assure that neither people nor plants will ever survive in any type of climate however one can do their best by caring for it during the early stages and follow-up care. He expressed hope that after a period of time the residents who move in will take care of them; that it is relatively unfair to assure every plant will live. He stated there is probably planned somewhere in the neighborhood of 20-30 trees and somewhere in the neighborhood of 200 plants for six dwellings which seems to be far over-abundant. He stated if fifty percent were lost there will still be three times as many as most plantings he has ever seen go into the city with enough pride and forethought and maintenance in the early stage. He stated as far as the landscape ordinance goes, he is certain the plan for loss over a period of time would be expected and yet inspection could be made after one year to see what bulk of the plantings remained in place. He stated that he expects to work with the city's building official; that he would go very hesitantly into a plan that requires absolutely every single plant live as he can not assure that with people or with plants! He stated more plants are lost through over-watering than under-watering in this neighborhood.

Councilwoman Berz asked if the applicant is looking to sell the property as condos.

Mr. Hochman responded "yes"; that they will be fee simple townhouses similar to condos.

Councilwoman Berz asked if it would be reasonable to request that until the owner takes over their own properties Mr. Hochman would keep the landscaping maintained.

Mr. Hochman stated he has done that for years.

Councilman Benson asked if that could be added as a condition.

Mr. Haynes stated that would be an additional condition.

Councilwoman Berz restated the condition – **until the units are sold as fee simple and taken over by the new owners, which will be at separate times, Mr. Hochman will not only plant but maintain them and he has agreed to do so.**

REZONING (Continued)

On motion of Councilwoman Berz, seconded by Councilman Rico,
AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED AT 6203 EAST BRAINERD ROAD, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP AND DRAWING ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, FROM R-4 SPECIAL ZONE TO RT-1 RESIDENTIAL TOWNHOUSE ZONE, SUBJECT TO CERTAIN CONDITIONS
passed first reading.

TEMPORARY USE

On motion of Councilman Rico, seconded by Councilwoman Robinson,
A RESOLUTION AUTHORIZING BARRETT TAYLOR OF BDOT PROPERTIES TO USE TEMPORARILY THE RIGHT-OF-WAY AT 3914 ST. ELMO AVENUE TO INSTALL A CANOPY AND A FENCE, AS SHOWN ON THE MAP AND DRAWING ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS
was adopted.

TEMPORARY USE

On motion of Councilman Gilbert, seconded by Councilman Pierce,
A RESOLUTION AUTHORIZING GREGORY A. ROSS TO USE TEMPORARILY A PORTION OF THE RIGHT-OF-WAY AT 63 EAST MAIN STREET TO INSTALL A CANOPY, PLANTER, AND SIGN, AS SHOWN ON THE MAP AND DRAWINGS ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS
was adopted.

OVERTIME

Overtime for the week ending February 12, 2009 totaled \$61,882.42.

PERSONNEL

The following personnel matters were reported for the various departments:

PARKS AND RECREATION:

- **RONNY A. SUITS** – Termination, Pro Shop Clerk-Golf, effective February 12, 2009.

CHATTANOOGA FIRE DEPARTMENT:

- **ADAM CANNON, KENNETH RIDGE** – Promotion, Senior Firefighter, Range F2A, \$36,004.00 annually, effective February 13, 2009.
- **CHARLES WADDELL** – Return to Duty (from Military Leave), Senior Firefighter, effective February 10, 2009.

HUMAN SERVICES DEPARTMENT:

- **CHARLENE CHERRY** – Retirement, Cook II, Child Care, effective February 13, 2009.

PUBLIC WORKS DEPARTMENT:

- **ERIC L. THREAT, JERRY A. POTTS** – Suspension (5 days without pay), Electrician 1, Traffic Operations, effective February 11-17, 2009.

EMERGENCY PURCHASE

The emergency Purchase of Liquid Oxygen System Repairs for the Public Works Department on R0116914 to Mixing & Mass Transfer Technologies, LLC in the amount of \$148,473.00 was duly reported and signed in open meeting.

DONATION

Adm. Missy Crutchfield reported that the Department of Education, Arts and Culture received a check from the Community Foundation in the amount of \$8,000 for use in underwriting the publication *“Think & Draw and Talk About It!”*

PURCHASES

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

CHATTANOOGA POLICE DEPARTMENT:

MOTOROLA, INC. (Single source)
R0119375

Software Maintenance Agreement per TCA 6-56-304.2

\$25,290.00

INFORMATION SERVICES:

EXCALIBUR INTEGRATED SYSTEMS (Change order)
R0118536

Professional Consulting Services for the Implementation of Wireless System *(Originally purchased last year off Tennessee State Wide contract 4031901 to Excalibur Integrated Systems. IS prepared to renew the contract for this year and found that the State Wide Contract had not been renewed in January due to overall low usage.)*

Not to exceed \$150,000.00

PUBLIC WORKS DEPARTMENT:

ROAD KARE INTERNATIONAL LP (Best bid)
R0118391/B0005773

Traffic Speed Cushions *(Although TAG International's bid was the lowest, the product they offered was speed bumps which are much smaller than speed cushions and did not meet the bid specifications.)*

\$66,420.00

PURCHASES (Continued)

CHATTANOOGA FIRE DEPARTMENT:

MICHAELS ELECTRIC (Lowest and best bid)
RO118557/B0005757

Furnishing and Installation of Diesel Generators

\$67,160.00

SAFETY TODAY (Lowest and best bid)
R0118557/B0005777

Breathing Apparatus Masks and Voice Amplifications

\$13,914.34

NOTE OF THANKS

Councilwoman Berz commended Dan Johnson noting that everything the Council has requested for backup as to purchase bids and comparisons for the 3:00 p.m. session has been provided for full discussion. She assured those in attendance that no one on the Council is approving things brought forward without full discussion. She expressed thanks to him for providing the information.

HEARING: MAURICE SMITH, JR.

City Attorney McMahan reported the request for hearing from Maurice Smith, Jr. regarding his termination from the Public Works Department. He noted that the only available dates would be March 30 or April 6, which would be the last week this Council will meet.

Councilman Benson stated that he would like to get the *Code* changed for those of us who might not want to sit, serve and judge our peers; that as Council members they should be able to pick someone in the community with judicial experience to represent us. He stated that he knows half of the Council members want to be on hearings and volunteer all the time, but this proposal means they can still do it and if they do not want to they could identify someone – that it gives them an option. He stated it is getting more and more difficult to get people to serve due to experiences we have had on some appeals; that he used to volunteer but now is very reluctant to do so.

HEARING: MAURICE SMITH, JR. (Continued)

Councilman Benson continued by stating if a Council member is chairman of a committee that has oversight over the department that is recommending the termination he is not certain that makes it more difficult to be very objective.

Councilman Rico stated if a Council member can not be objective they should not be on the Council.

Councilman Benson stated that the objective when elected is that the person can make decisions when they are conflicted.

A hearing for Mr. Smith was scheduled for Monday, March 30 beginning at 9 a.m. with Councilmen Berz, Bennett and Rico as the panel; Councilwoman Robinson volunteered as alternate.

SETTLEMENT OF CASE

City Attorney McMahan stated in regard to settlement of the case that was discussed with the Council he would talk with the other attorney to see if it could be settled and will report back to the Council accordingly.

MAYOR'S GREEN COMMITTEE

Councilwoman Robinson stated that the Mayor's Green Committee met for the better part of a year under the leadership of the City's Urban Forester, Gene Hyde. She stated the Committee was made up of about 18 people and a report has been brought forth that talks about how the city can reduce its carbon footprint and promote best practices and lead construction to create a footprint for the kind of environmental impact the city is experiencing at this time. She stated they will not make recommendations but show ways of working together with citizens and our industries to be able to be better stewards of our environment. She stated that we were told by the Volkswagen officials that the main reason Chattanooga was chosen was because of the intangibles, specifically with respect to our environment, beautiful lakes and mountains; that the environment is one of the intangibles and one of our greatest assets. She stated Mr. Hyde will tell specifically what this year of work has brought forth and it will be very informative and serve as a blueprint for being good stewards of our environment in the future.

COMMITTEES

Councilman Page reminded Council members of the **Economic Development Committee meeting scheduled for next Tuesday, February 24.**

Councilwoman Berz stated that the **Budget, Finance and Personnel Committee will meet on next Tuesday, February 24,** and expressed thanks to the Fire and Police Pension Board for the presentation of the first quarterly report and noted that the report was very well done. She stated next week the Committee will be issuing its auditor's report in full for the Council to make a decision about which form they want the issue of the auditor to take. She stated it should be very interesting and Council members will have a report before time in order to study it. She stated there will also be a Resolution added to next week's agenda relative to the personnel aspect and the use of personal leave for the 911 employees because of personal circumstances. **She reminded Council members of the planning session scheduled for Thursday morning, from 9 a.m. – 1 p.m. relative to the budget,** noting that she is excited about all of their pulling together and working to come up with good plans to take charge of the budget and their responsibilities there.

Councilman Benson stated that the **Legal and Legislative Committee is scheduled to meet next Tuesday, February 24** and added that the meeting would be brief to give plenty of time to the Budget Committee for review of the auditor position.

NEXT WEEK'S AGENDA: February 24, 2009

Chairman Bennett stated the ordinances approved on first reading this evening would be scheduled for second and final reading next week. She read through the remainder of the agenda which has been spread upon the minutes:

Ordinances - Final Reading:

- a) An ordinance to amend Ordinance No. 6958, as amended, known as the Zoning Ordinance, by amending Article II by revising the definition of "Townhouse" and amending Article V by including such revisions within Sections 122(1) of the RT-1 Residential Townhouse Zone and Section 162(2) of the R-T/Z Residential Townhouse/Zero Lot Line Zone.
- b) 2009-016 Colman S. Hochman (From R-4 to RT-1). An ordinance to amend Ordinance No. 6958, as amended, known as the Zoning Ordinance, so as to rezone a tract of land located at 6203 East Brainerd Road, more particularly described herein and as shown on the map and drawing attached hereto and made

NEXT WEEK'S AGENDA: FEBRUARY 24, 2009
(Continued)

a part hereof by reference, from R-4 Special Zone to RT-1 Residential Townhouse Zone, subject to certain conditions. **(Deferred from 2/10/09. Recommended for approval by Planning. Not recommended for approval by Staff.)**

Ordinances – First Reading:

Resolutions:

- a) A resolution adopting the Chattanooga Climate Action Plan submitted by the Mayor's Chattanooga Green Committee dated January 2009, attached hereto and made a part hereof by reference.
- b) A resolution approving the acceptance and distribution of Fiscal Year 2009-2010 Community Development Grant, Home Investment Partnership Act, and Emergency Shelter Grant funding and program income totaling \$3,093,000.00 as shown more fully herein.
- c) A resolution authorizing the General Services Division to apply for and, if awarded, accept a grant from the United States Department of Homeland Security through the Emergency Management Agency, Fiscal Year 2008 Interoperable Emergency Communications Grant Program, in the amount of \$89,354.00.
- d) A resolution authorizing the City of Chattanooga Personnel Administrator to execute a Personal Services Agreement with Fire and Police Selection, Inc. to supply the testing material and services needed to process Firefighter applicants for a term of one (1) year, with an option to renew for two (2) additional years, in an amount not to exceed \$18,000.00 per year.
- e) A resolution authorizing the Department of Parks and Recreation, Therapeutic Recreation Division, to hold the "C.H.I.P.S. for Charity Golf Classic" each year to raise funds to provide scholarships and needed equipment for its USGA Adaptive Golf Program.
- f) A resolution rescinding Resolution No. 25633, which authorized the award of Contract No. S-08-004-201, Private Sanitary Sewer Service Line (SLAP), to Roto Rooter, for failure to execute the Contract, and further authorizing the award of said Contract to C&C Construction Services in the amount of \$11,200.00, plus a contingency amount of \$3,500.00, for a total amount not to exceed \$14,700.00.
- g) A resolution authorizing the execution of Change Order No. 1 (Final) relative to Contract No. E-04-002-201, Mountain Creek Road Improvements – North of Stonebrook Drive, with Stein Construction Company, Inc., which Change Order

NEXT WEEK'S AGENDA: FEBRUARY 24, 2009
(Continued)

increases the contract amount by \$41,645.46, for a revised total contract amount not to exceed \$252,327.46.

- h) A resolution authorizing the execution of Change Order No. 1 relative to Contract No. E-08-010-101, Shallowford Road at Jenkins Road Intersection Improvements, with Volkert & Associates, Inc., which Change Order increases the contract amount by \$32,800.00, for a revised total contract amount not to exceed \$98,800.00.

- i) A resolution authorizing Cindy Hixson to use temporarily the right-of-way at the entrance of Spring Valley Subdivision on Valley Bridge Road to improve the safety and appearance of the island area, as shown on the drawing attached hereto and made a part hereof by reference, subject to certain conditions.

TOBIAS TOMLIN

Tobias Tomlin of 6989 South Sawtooth Drive (Ooltewah) stated that he is part of the homeless community in Chattanooga and spent four years in a political organization and the Democratic Party and knows much about politics. He stated that he was present in reference to the invitation to the Mayor and Council members extended by Brother Ron Fender for an opportunity to join on Ash Wednesday for 24 hours of homelessness. He stated this is a great idea and part of their ministry and asked Council members to join in the spirit and sleep outside, noting that it is not that hard! He stated homeless people want what everyone else wants -- to be respected. He urged them to come out on Ash Wednesday and get connected with everyone; that they are expected to know their community, not just those who can afford a voice, but those who can not. He stated that they care about Council members and respect them as leaders and want the same respect and care in return. He stated all the money Council members can give to different organizations would not make a darn bit of difference to some of the homeless; that they need to see and know that the Council members care. He stated a lot of the homeless don't know Council members' names as all might not watch the news or hear what they are trying to do; that one little bit of connection is that day and again invited them to come out and learn who the homeless are and show they care about that population because if they do not then, really, it is all the blue collar people who get them elected and the homeless will not have respect for them. He asked them to show they are there for the people and to be there on Ash Wednesday.

TOBIAS TOMLIN (Continued)

Chairman Bennett stated that she was looking at the fact sheet that has been distributed and asked if there is a particular time for the event; that there is a lot of information but she does not see any specifics in regard to the time the Council has been invited.

Mr. Tomlin stated that the time is 6 a.m. on Ash Wednesday, February 25 to join in the urban plunge beginning with breakfast at the Community Kitchen. He noted that the breakfast is pretty decent and they will not be disappointed; that the event goes through to the next morning at 6 a.m. He stated he is certain those participating will be taken care of and will be given a bed to sleep on.

Chairman Bennett expressed appreciation for the invitation.

ADJOURNMENT

Chairman Bennett adjourned the meeting of the Chattanooga Council until Tuesday, February 24, 2009 at 6:00 p.m.

CHAIRMAN

CLERK OF COUNCIL

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