

Municipal Building  
Chattanooga, Tennessee  
April 22, 1997

The meeting of the Chattanooga City Council was called to order by Chairman Swafford, with Councilmen Crockett, Eaves, Hakeem, Hurley, Lively, Pierce, Rutherford, and Taylor being present. City Attorney Randall Nelson, Management Analyst Randy Burns, and Assistant Council Clerk Shirley Crownover were also present.

INVOCATION

Invocation was given by Attorney Nelson.

MINUTE APPROVAL

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

OUTGOING CHAIRMAN

Chairman Swafford took this opportunity to recognize the Council's past Chairman for his dedicated and loyal service over the last year and presented Councilman Hakeem with the gavel that he had been using.

SPECIAL PRESENTATION

Chairman Swafford recognized Gene Hyde, Sharon Mills (Chairman of the Tree Commission), Larry Zehnder, Cliff Betts, and Greather Tinker who were all present in recognition of the Chattanooga Tree Advisory Commission for receiving the "1996 Tree Board Award" presented by the Tennessee Urban Forestry Council. He congratulated the Tree Advisory Commission on receiving this very special award, noting that Chattanooga had the best Tree Board in Tennessee and recognized Sharon Mills as Chairman of the Commission. He stated that this award was made on behalf of the Tennessee Urban Forestry Council and offered a special thanks to Gene Hyde who is our staff member with the City.

Ms. Mills recognized other members of the Tree Commission who were not present tonight: Allen Miller, Leroy Parks, David Hopkins, and Marianne Ozmer. She also mentioned Carl Absher of the Electric Power Board who sits in on the meetings.

SPECIAL PRESENTATION (CONT'D.)

Mr. Zehnder stated that the Chattanooga Tree Advisory Commission was established in 1990 and in these few short years had received recognition for their outstanding contributions. On behalf of the City Council and the Parks and Recreation Dept. he thanked the Commission for this distinguished work.

Chairman Swafford also thanked the Commission for their outstanding work being done in the City and expressed the Council's appreciation for all the hard work they do. He then offered Mr. Gene Hyde an opportunity to speak.

Mr. Hyde thanked Chairman Swafford for allowing him a few minutes to speak, expressing his appreciation to the City Council and the citizens of the City for their support and stated he was looking forward to continued support for many years in the future. He mentioned a brochure which was available on planting trees in Chattanooga, which is for sale in our local nurseries, noting that this is one of the best brochures in the United States. He had one of the brochures available to give to Councilman Taylor, noting that it had his business card and telephone number attached and urged Councilman Taylor to please give him a call if he had any problems or questions, adding that the Council members knew his number by heart, particularly Councilwoman Rutherford.

AMEND ZONING ORDINANCE  
REMOVE CONDITIONS

#1997-023 (ROGER H. AND JOANN COE)

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 REMOVE CONDITIONS FROM ORDINANCE NOS. 9871 AND 9844 ON A TRACT OF LAND LOCATED AT 1915 HAMILL ROAD, BEING ON THE NORTHWEST LINE OF HAMILL ROAD NORTHEAST OF DUPONT STREET, SUBJECT TO CERTAIN CONDITIONS passed second reading. On motion of Councilman Crockett, seconded by Councilwoman Hurley, the ordinance passed third and final reading and was signed in open meeting.

REZONING

#1997-048 (Janice E. Torbett)

On motion of Councilman Crockett, 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 3922 WEBB ROAD, BEING ON THE SOUTH-EAST LINE OF WEBB ROAD SOUTHWEST OF OAKWOOD DRIVE, FROM R-3 RESIDENTIAL ZONE TO R-4 SPECIAL ZONE passed second reading. On motion of Councilman Pierce, seconded by Councilman Crockett, the ordinance passed third and final reading and was signed in open meeting.

REZONING

#1997-054 (Ernie Simpson)

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 113 CROSS STREET, BEING ON THE NORTHEAST LINE OF CROSS STREET NORTHWEST OF MOUNTAIN CREEK ROAD, FROM R-2 RESIDENTIAL ZONE TO C-5 NEIGHBORHOOD COMMERCIAL ZONE passed second reading. On motion of Councilwoman Hurley, seconded by Councilman Hakeem, the ordinance passed third and final reading and was signed in open meeting.

REZONING

#1997-059 (Richard Davidson)

On motion of Councilman Eaves, 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 7210 NOAH REID ROAD, BEING ON THE SOUTHEAST LINE OF NOAH REID ROAD AT SHALLOWFORD ROAD, FROM R-1 RESIDENTIAL ZONE AND R-2 RESIDENTIAL ZONE TO 0-1 OFFICE ZONE, SUBJECT TO CERTAIN CONDITIONS **was tabled for one week** as Councilman Eaves was not present at last week's meeting and wanted to check the location.

Councilman Hakeem stated it had been brought to his attention that other family members were present tonight and tabling this issue satisfied his concerns.

REZONING

#1997-068 (BBD HOLDINGS, LLC)

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 AT 7407 ZIEGLER ROAD, BEING ON THE NORTHEAST LINE OF ZIEGLER ROAD SOUTHEAST OF GUNBARREL ROAD, FROM R-1 RESIDENTIAL ZONE TO O-1 OFFICE ZONE, SUBJECT TO CERTAIN CONDITIONS

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

REZONING

On motion of Councilwoman Hurley, seconded by Councilman Crockett, AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED AT 224 FRAZIER AVENUE, BEING ON THE SOUTHWEST LINE OF FRAZIER AVENUE SOUTHEAST OF THE WALNUT STREET BRIDGE, FROM C-2 CONVENIENCE COMMERCIAL ZONE TO C-3 CENTRAL BUSINESS ZONE, SUBJECT TO CERTAIN CONDITIONS

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

AMEND ZONING ORDINANCE

On motion of Councilman Lively, seconded by Councilwoman Hurley, AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO AMEND THE RZ-1 ZERO LOT LINE RESIDENTIAL ZONE AND R-T/Z RESIDENTIAL TOWNHOUSE/ZERO LOT LINE ZONE, RELATIVE TO SETBACK REQUIREMENTS

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

REZONING

#1997-061 (Michael Johnson)

Councilman Crockett stated that he had talked to the applicant, and the applicant wished to withdraw this request.

On motion of Councilman Crockett, 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 5870 HIGHWAY 153, BEING ON THE SOUTHEAST LINE OF HIGHWAY 153 NORTHEAST OF GRUBB ROAD, FROM R-4 SPECIAL ZONE TO C-2 CONVENIENCE COMMERCIAL ZONE **was withdrawn.**

Later in the meeting Councilman Crockett returned to this item of business stating that the applicant, Michael Johnson, had just arrived at the meeting; that he had tried to call the Council Office, and had not been able to reach anyone, and now wished that this case be deferred for a period of time and not withdrawn. Councilman Crockett asked if the previous action could be reversed and the case could be deferred for a period of time and not actually withdrawn.

Attorney Nelson stated this was possible as long as it was the same meeting but that the applicant would have to be responsible for paying to have this re-advertised for those who might have been here earlier or who might have been here had they not thought this was being withdrawn; that without re-advertisement no one would know to show up when this was heard on first reading.

Councilman Crockett asked what the cost would be, and Attorney Nelson responded from \$75.00 to \$100.00, which Councilman Crockett noted was about the same as going through the whole process again.

Mr. Johnson stated the problem was his--that Councilman Crockett had been very helpful to him; that he had had a tough time getting what he had in mind; that it was his understanding that if he started the whole process again that it would be about the same cost. Chairman Swafford explained it would be the same cost, but the applicant would not have to go through the same process with Planning again. Mr. Johnson indicated that he understood this cost would basically be for advertisement, and it would not have to go through Planning again.

**On motion of Councilman Crockett, seconded by Councilman Lively, the previous action to withdraw is to be rescinded and this case is to be tabled for 60 days.**

REZONING

#1997-070 (Armstrong Realty Corporation)

Councilman Pierce noted that this request came up last week and was postponed for a week for him to go out and take a look at it. He stated he did go out and noted that the applicant had made several attempts to contact him. Councilman Pierce stated he talked to some of the residents; that there was a question as to the number of houses in the area; that some of the residents were not in support; that he had not spoken to anyone from the Boys' Club. He noted that there were nice residential houses in the area, and he thought the Council should take the recommendation of the Planning Staff and deny the request.

Attorney Bill Shull was present representing the applicant. He stated that Mr. Baldwin was in favor of this, and he owned the houses and the houses would be gone and this would be a vacant lot; that no residents had indicated any opposition in the past, and the residents were tenants of Mr. Baldwin and the houses would be gone in a month.

Councilman Pierce stated the young lady he talked to was a renter and had been there a year. He reiterated that the houses in the next block were nice and that he felt this would be an intrusion and the beginning of nonresidential expansion.

On motion of Councilman Pierce, 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 2102 AND 2106 EAST 25TH STREET PLACE,  
BEING ON THE SOUTHWEST LINE OF EAST 25TH STREET PLACE,  
NORTHWEST OF 4TH AVENUE, FROM R-2 RESIDENTIAL ZONE AND  
O-1 OFFICE ZONE TO M-3 WAREHOUSE AND WHOLESALE ZONE

**was denied.**

AMEND CITY CODE  
LICENSES AND PERMITS

Chairman Swafford asked if this matter had been in committee. Councilwoman Rutherford stated she did not remember. Attorney Nelson explained that this was something that was requested by Mr. Levi, City Treasurer, and has to do with "Going Out of Business" permits; that permits are being transferred within the family, and they are advertising "Going Out of Business" and coming back the next week with a Grand Opening Sale. Councilwoman Hurley stated she thought the Council had discussed this before.

AMEND CITY CODE (CONT'D.)

On motion of Councilman Pierce, seconded by Councilman Eaves, AN ORDINANCE AMENDING CHATTANOOGA CITY CODE, PART II, SECTION 2-109, SO AS TO AMEND THE SECTION DEALING WITH LICENSES AND PERMITS passed first reading.

AMEND CITY CODE  
GREENWAYS ADVISORY BOARD

On motion of Councilwoman Hurley, seconded by Councilwoman Rutherford, AN ORDINANCE AMENDING THE CHATTANOOGA CITY CODE, PART II, CHAPTER 26, SO AS TO CREATE A NEW ARTICLE VII, RELATIVE TO ESTABLISHMENT OF A GREENWAYS ADVISORY BOARD **was tabled one week.**

AMEND BUDGET ORDINANCE

Councilwoman Hurley stated this matter had been discussed in committee earlier today; that it was largely a housekeeping matter, and the funds were already approved.

On motion of Councilwoman Rutherford, seconded by Councilman Pierce, AN ORDINANCE TO AMEND ORDINANCE NO. 10465, AS AMENDED, ENTITLED "AN ORDINANCE TO PROVIDE REVENUE FOR THE FISCAL YEAR BEGINNING JULY 1, 1996, AND ENDING JUNE 30, 1997, AND APPROPRIATING SAME TO THE PAYMENT OF EXPENSES OF THE MUNICIPAL GOVERNMENT; FIXING THE RATE OF TAXATION ON ALL TAXABLE PROPERTY IN THE CITY, AND THE TIME TAXES AND PRIVILEGES ARE DUE, HOW THEY SHALL BE PAID, WHEN THEY SHALL BECOME DELINQUENT; AND PROVIDE FOR INTEREST AND PENALTY ON DELINQUENT TAXES AND PRIVILEGES.", SO AS TO PROVIDE FOR CERTAIN CHANGES IN ESTIMATED REVENUES AND APPROPRIATIONS SET OUT IN SECTION 5; SO AS TO PROVIDE FOR CERTAIN CHANGES IN BUDGETS FOR SPECIAL FUNDS SET OUT IN SECTION 6; AND TO PROVIDE FOR CERTAIN CHANGES IN PERSONNEL SET OUT IN SECTION 7 (c) passed first reading.

Adm. Boney noted that there was a typographical error in the Electrical Sign Inspector grade; that it should go up a grade. **Attorney Nelson changed this in open meeting and on motion of Councilwoman Hurley, seconded by Councilman Pierce, the amendment was approved.**

Councilman Pierce asked Councilman Hakeem if he wanted to address a question about the inspectors. Councilman Hakeem indicated he would do this before 2nd and 3rd readings.

SPECIAL POLICE COMMISSIONS

On motion of Councilwoman Rutherford, seconded by Councilman Lively, A RESOLUTION TO REVOKE THE SPECIAL COMMISSIONS OF DAVID NATION, DARREL GILBERT, HAROLD HOLIDAY, JAMES PRECISE, DEBRA STEPHENS AND VIRGINIA NEWBERRY was adopted.

Councilman Pierce asked the reason for these revocations. Adm. Dinsmore explained they no longer worked for Erlanger.

SURPLUS AND SALE OF PROPERTY

Adm. Traughber stated they had been working on this sale for a year; that the problem was that the building was actually in the ownership of Hamilton County; that Mr. and Mrs. Lee were developing a Day Care Center, and there was a condition that it must be used as a Child Care facility; that it would cost \$200,000+ to renovate; that they had obtained a Letter of Credit from Mr. Lee; that the zoning would be changed from R-3 to R-4, which would set the stage to conclude the sale. Councilman Lively asked if there was only one remaining school, and Adm. Traughber stated the Charles A. Bell School was the last one.

On motion of Councilman Pierce, seconded by Councilman Lively, A RESOLUTION DECLARING CERTAIN PROPERTY KNOWN AS THE OAK GROVE SCHOOL PROPERTY AS SURPLUS AND AUTHORIZING THE SALE OF SAID SURPLUS PROPERTY TO MR. AND MRS. HORATIO LEE FOR THE SUM OF THIRTY-FIVE THOUSAND DOLLARS (\$35,000.00), SAID PROPERTY TO BE USED AS A CHILD CARE AND EDUCATION FACILITY was adopted.

AGREEMENT

On motion of Councilwoman Hurley, seconded by Councilman Hakeem, A RESOLUTION AUTHORIZING THE EXECUTION OF AN AGREEMENT WITH MIKE LITTLE & ASSOCIATES, ARCHITECTS & TOWN PLANNERS, FOR SITE IMPROVEMENTS AT THE ALTON PARK, COLVILLE STREET, AND EAST CHATTANOOGA RECREATION FACILITIES, FOR AN AMOUNT NOT TO EXCEED FIVE THOUSAND DOLLARS (\$5,000.00) was adopted.



AGREEMENT

On motion of Councilman Hakeem, seconded by Councilman Lively, A RESOLUTION AUTHORIZING THE EXECUTION OF AN AGREEMENT WITH PIEDMONT OLSEN HENSLEY FOR ENGINEERING SERVICES ON SEWER CONTRACT NO. 73D, LAKESHORE AREA SEWERS, FOR AN AMOUNT NOT TO EXCEED SIXTY-SEVEN THOUSAND DOLLARS (\$67,000.00) was adopted.

AGREEMENT

On motion of Councilman Lively, seconded by Councilwoman Rutherford, A RESOLUTION AUTHORIZING THE EXECUTION OF AN AGREEMENT WITH CONSOLIDATED TECHNOLOGIES, INC. FOR ENGINEERING SERVICES RELATIVE TO THE DESIGN OF THE 19TH STREET COMBINED SEWER OVERFLOW CONTROL FACILITY, FOR AN AMOUNT NOT TO EXCEED ONE HUNDRED THIRTY THOUSAND, TWO HUNDRED TWENTY-TWO DOLLARS (\$130,222.00) was adopted.

AGREEMENT

On motion of Councilman Lively, seconded by Councilwoman Rutherford, A RESOLUTION AUTHORIZING THE EXECUTION OF AN AGREEMENT WITH CONSOLIDATED TECHNOLOGIES, INC. FOR ENGINEERING SERVICES RELATIVE TO THE DESIGN OF THE CARTER STREET COMBINED SEWER OVERFLOW CONTROL FACILITY, FOR AN AMOUNT NOT TO EXCEED ONE HUNDRED TWENTY-EIGHT THOUSAND, SIXTEEN DOLLARS (\$128,016.00) was adopted.

TEMPORARY USAGE

On motion of Councilwoman Rutherford, seconded by Councilman Lively, A RESOLUTION AUTHORIZING AMERI-KING, INC. D/B/A BURGER KING, TO USE TEMPORARILY A PORTION OF THE CITY'S UTILITY EASEMENT AT 2217 HAMILTON PLACE BOULEVARD ON THE NORTH SIDE FOR PLACEMENT OF A FOUR FEET (4') BY FOUR FEET (4') BY FIVE FEET (5') HIGH DOUBLE-FACED INTERNALLY ILLUMINATED PLEXIGLAS SIGN, MORE PARTICULARLY DESCRIBED HEREIN, SUBJECT TO CERTAIN CONDITIONS was adopted.

TEMPORARY USAGE

On motion of Councilman Lively, seconded by Councilman Pierce,  
A RESOLUTION AUTHORIZING CHATTANOOGA GOODWILL  
INDUSTRIES TO USE TEMPORARILY THE EASTERN  
SIDEWALK AT 3500 DODDS AVENUE FOR INSTALLATION  
OF A STANDARD AWNING OVER THE ENTRANCE TO THE  
BUILDING, MORE PARTICULARLY DESCRIBED HEREIN,  
SUBJECT TO CERTAIN CONDITIONS  
was adopted.

TEMPORARY USAGE

On motion of Councilwoman Hurley, seconded by Councilwoman Rutherford,  
A RESOLUTION AUTHORIZING LUPI'S PIZZA TO USE  
TEMPORARILY THE WESTERN SIDEWALK AT 406-A BROAD  
STREET FOR PLACING A FEW TABLES AND CHAIRS  
THEREON, MORE PARTICULARLY DESCRIBED HEREIN,  
SUBJECT TO CERTAIN CONDITIONS  
was adopted.

EMINENT DOMAIN PROCEEDINGS

On motion of Councilwoman Rutherford, seconded by Councilman Lively,  
A RESOLUTION AUTHORIZING THE OFFICE OF THE CITY  
ATTORNEY TO FILE EMINENT DOMAIN PROCEEDINGS  
AGAINST FREEMAN PETTIGREW AND HEIRS FOR PROPERTY  
ADJACENT TO SUMMIT LANDFILL  
was adopted.

PURCHASE OF PROPERTY

On motion of Councilman Crockett, seconded by Councilman Hakeem,  
A RESOLUTION AUTHORIZING THE PURCHASE OF PROPERTY  
ADJACENT TO THE SUMMIT LANDFILL FROM NEWCOMB SPRINGS  
OF TENNESSEE FOR A TOTAL CONSIDERATION OF TWENTY-TWO  
THOUSAND, FIVE HUNDRED TWENTY-FIVE DOLLARS (\$22,525.00)  
was adopted.

OVERTIME

Overtime for the week ending April 18, 1997 totaled \$31,146.03.

PERSONNEL

The following personnel matter was reported for the Parks and Recreation Department:

GLENN R. SIMMONS -- Resignation of Equipment Operator, effective 4/16/97.

PURCHASE

On motion of Councilman Hakeem, seconded by Councilman Pierce, the following Change Order was approved:

MOUNTAIN CITY LANDSCAPE (Approved 10/15/96--Contract #A-1144230):  
P.O. #1144230

Change Order No. 1 for additional top soil

\$13,725.00 (Original Contract)  
1,200.00 (Change Order)  
\$14,925.00 (New Total)

PERSONNEL

The following personnel matters were reported for the Public Works Dept.:

RICHARD G. LOWERY -- Employed as Equipment Operator II, Pay Grade 8/1, \$19,127.00 annually, effective 4/9/97.

CHRISTOPHER L. JOHNSON -- Employed as Laborer II, Pay Grade 4/1, \$14,868.00 annually, effective 4/16/97.

MARTIN A. FIELDS -- Resignation of Laborer II, effective 3/21/97.

STEVEN R. KUIVENHOVEN -- Return from Family Medical Leave without pay, effective 4/18/97.

LARRY G. FRIZZELL -- Voluntary demotion from Foreman in Sewer Construction to Equipment Operator II in Street Construction, Pay Grade 8/4, \$20,920.00 annually, effective 4/23/97.

Councilman Pierce inquired about the voluntary demotion and Adm. Marcellis explained that he was promoted two months ago, and he did not like his new job and asked to be rolled back.

PURCHASES

On motion of Councilman Lively, seconded by Councilwoman Rutherford, the following purchases were approved for use by the Public Works Dept.:

FURROW-JUSTICE MACHINERY CORP. (Lower and better bid):  
Requisition No. 138831

Bulldozer/Crawler Tractor

\$49,500.00

HAMILTON PLACE MALL (Only bid received):  
Requisition No. 137437

Twelve (12) Month Contract to Supply Gift Certificates  
(Various Prices)

DILLARD SMITH CONSTRUCTION COMPANY (Overall Low bid):  
Requisition No. 137853

Contract for Pole Installation

(Various Prices)

NEWTON CHEVROLET (Only bid received):  
Requisition No. 137418

4-Wheel Drive Utility Truck

\$30,950.00

PERSONNEL

The following personnel matters were reported to the Council for the Safety Department:

SHAWN HICKEY -- Report the 7-day suspension without pay, effective April 21, 1997.

LARRY D. CHANDLER and BYRON HENDERSON -- Retirement of Police Officers, effective 5/1/97.

PERSONNEL

The following personnel matter was reported for the Department of Finance and Administration:

CHRISTOPHER FRYAR -- Transfer to City Court as Records and Collection Officer, Pay Grade 7/6, \$20,765.00 annually, effective May 5, 1997.

PURCHASE

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

DIGITAL EQUIPMENT CORPORATION (Only complete bid received):  
Requisition No. 137228

Contract for Maintenance on Computer Equipment

(Various Costs)

CITY ATTORNEY

Attorney Nelson reminded Council members of a short hearing, which would be the last item of business tonight.

COMMITTEES

Councilwoman Hurley stated that there had been a Budget Committee Meeting earlier today.

Chairman Swafford scheduled a meeting of the **Parks and Recreation Committee for Tuesday, April 29 beginning at 5:00 P.M.**

SHARON CANNON & KELLEY SANDERS

**Ms. Cannon** was present to address the Council, along with her daughter **Kelley Sanders**. She stated that on April 12th her daughter's car was hit in the rear by a Chattanooga Police Officer; that when she called Mr. Loren Sheldon of the City Attorney's office about the matter he was derogatory to her and when she added that it was fortunate her daughter's baby was not in the car, he told her that he did not care about who was in the car--that he cared about the officer. She stated there was \$3,000+ damages, and the City would not do anything about it.

SHARON CANNON (CONT'D.)

Attorney Nelson stated this had been talked about some time ago; that the facts were that the Police Officer was on an emergency run and Ms. Sanders was in the inside lane and she cut into the center lane and cut the Officer off, and he had no place to go; that this was not negligence on the part of the Police Officer, and the City denied the claim.

Councilman Pierce asked which lane each was in. Attorney Nelson responded there were five lanes, and Ms. Sanders was in the second lane from the right, and the Police Officer was in the same lane with his siren and blue lights going. Councilman Pierce asked if it were not true that he approached her from the rear, and she attempted to move over. Attorney Nelson responded that she moved to the left, and the Officer had no place to go. Councilman Pierce asked if those blue lights permit the officers to drive in a reckless manner; that obviously she could not pull to the right, and she moved to the left. Attorney Nelson stated if she could not pull to the right, then she should stay where she was. Councilwoman Rutherford noted that this same thing had happened to her last week.

Attorney Nelson mentioned an incident where a vehicle was on the way to a fire and this same thing happened, and the case went to the Tennessee Court of Appeals, and it was ruled there was no reason for the City to pay.

Councilman Pierce asked if both cars were in the same lane. Attorney Nelson responded yes, and the Police Officer moved over and Ms. Sanders moved over at the same time.

Councilman Hakeem stated he did talk with the City Attorney about this and asked that he talk to Mr. Sheldon about his attitude in dealing with people, and Attorney Nelson had assured him he would talk to him about that. He asked if speeding was involved when Ms. Sanders could not move to the right lane, and she moved to the left. Attorney Nelson responded there was no excessive speed--that the Police Officer was going faster than she was and when she pulled to the left, he had no place to go. Councilman Hakeem asked if the Officer was already there, and she pulled over in front of him.

Ms. Cannon stated that the Police Department had the Police Report of what the Officer said, and the Council needed to read this report; that it stated she tried to move to the right and could not, and she went to the left. She stated the Report indicated it was wet and the Officer slid.

SHARON CANNON (CONT'D.)

Councilwoman Rutherford asked Ms. Sanders if there were any cars in front of her in the original lane, and Ms. Sanders responded--none.

Councilman Hakeem asked about the wet pavement, and the Officer sliding into her.

Attorney Nelson stated that the Police car was going faster than Ms. Sanders; that he tried to pull to the right, and he was left with no choice but to go to the left.

Chairman Swafford requested that Attorney Nelson review this matter and make sure it was looked into to get a response.

Councilman Pierce indicated that he would like to get a copy of the Police Report.

GLADYS MORGAN

**Mrs. Gladys Morgan** of Sale Creek next addressed the Council. She stated she had never done this before and would not tell her age because she did not think it was anyone's business. She stated she had prayed about this and had asked her son to type it in large print so she could read it to the Council and not leave anything out. (A copy of her statement is filed with the minute material). She went into the background of her home and family in Sale Creek. She stated she could not understand how anyone elected to serve the people could come to Sale Creek and ruin everything they had spent their life time making, nor could she understand how the City Attorney could tell her son that he could not speak out to protect those things she had worked so hard for and held so dear.

SISTER BEY

**Sister Bey** addressed the Council without giving a clear idea of whom she was referring to, stating that the individual was not fit to sit here--that she knew all of his/her tricks and would get the person moved out of his/her seat.

HEARING: STANLEY CHAMBERLAIN

Attorney Phil Noblett was present for the hearing and stated this should be a pretty simple factual meeting; that Mr. Chamberlain had filed an application for an Adult-Oriented Establishment License with the City Treasurer's Office in February and when the location was investigated it was found that it did not meet the 500 ft. restriction, and the applicant was denied the Permit and one-half of his fee was returned to him; that the applicant had to pay \$500.00 up front, and if the license is denied, the law states that one-half of this amount is to be returned to the applicant. He stated Mr. Chamberlain wants all of his money returned; that he maintains if he had been provided a copy of the Zoning Ordinance on the front end that he would not have applied. He noted there had been a full investigation by the Police Department.

Mr. Chamberlain stated he was told he would get all of his money back; that the people in the Treasurer's Office did not tell him anything about the Zoning Ordinance; if they had, he stated he would not have applied.

Councilman Pierce questioned why Mr. Chamberlain would not have applied, stating that he must not have had a question in mind but that the application would pass--that ignorance of the law did not excuse Mr. Chamberlain.

Chairman Swafford inquired if when people applied for these licenses if they were not advised of the Zoning Ordinance.

Attorney Noblett explained that the Zoning Ordinance was handled in a different location from the Treasurer's Office, and if the Ordinance had been given to him, it would have told him that only one-half of the fee would be returned. He stated the Treasurer's Office did not have a copy of the Zoning Ordinance which stated 500 ft.--that they had now been given a copy of the Zoning Ordinance.

Councilman Crockett questioned the applicants not being told about the 500 ft. requirement right on the spot, stating this should be dealt with. He stated this was a matter that was the business of Administration.

Councilwoman Hurley noted that she had run into situations where the Treasurer's Office was issuing business licenses for pieces of property which were out of zone; that there seemed to be no connection between the Licensing Department and the Zoning Office--that there was a disconnection between Licenses and Zoning.



HEARING: STANLEY CHAMBERLAIN  
(CONT'D.)

Councilman Pierce stated there were many things we needed to correct in Licenses, including whether properties were in zone or out of zone and issuing permits; that if we returned this entire fee, then we should go back in the books and refund them all.

Councilman Crockett stated he was hearing what Councilwoman Hurley was saying but here we were not dealing with business licenses but the sale of alcohol and adult establishments; that the Zoning Ordinance says 500 ft. period; that this does not have a lot to do with proper zones. He stated this 500 ft. requirement should be clear to people--that they should understand if they are within 500 ft., they will not get the permit.

Councilman Hakeem stated he did not think this was part of the function of the people giving permits.

**Councilman Lively stated, using Councilwoman Hurley's word, that there did seem to be a disconnection between the two departments; that the Ordinance states they will only get one-half of the money back and this was all the Council needed to look at and should uphold the City's ruling, and he moved that this action be taken. This was seconded by Councilman Pierce.**

Councilwoman Rutherford asked Mr. Chamberlain if he had talked to an attorney about this. Mr. Chamberlain responded he had just talked to the people across the hall (Treasurer's Office), and they had told him nothing about this requirement. Councilwoman Rutherford asked him how he knew to get a business license and did not know about the zoning. Mr. Chamberlain stated the people in the Treasurer's Office did not say anything about it, and he did not know about the Zoning requirements.

Attorney Nelson stated Adult-Oriented Licenses were different from business licenses, explaining that the Treasurer's Office cannot deny to issue a business license even if it is out of zone--that this is a State law.

**A vote was taken regarding the motion made by Councilman Lively and seconded by Councilman Pierce. The Council unanimously upheld Administration's decision to refund only one-half of the fee as outlined in the Zoning Ordinance.**

DISPLAYING AMERICAN FLAG

Councilman Pierce asked when displaying the American Flag with another flag, which one is to be above the other when they are not on the same pole. Attorney Nelson stated the American Flag was supposed to be higher than the other. It was noted that this was not the case in the flags being displayed in the Council Assembly Room. Councilman Pierce suggested that the Management Analyst, Randy Burns, take care of this.

ADJOURNMENT

Chairman Swafford adjourned the meeting until Tuesday, April 29, 1997, at 6:00 p.m.

  
CLERK OF COUNCIL

  
CHAIRMAN

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