

**City Council Building  
Chattanooga, Tennessee  
July 10, 2001  
6:00 p.m.**

Chairman Hakeem called the meeting of the Chattanooga Council to order with Councilmen Benson, Franklin, Littlefield, Lively, Page, Pierce, Robinson and Taylor present. City Attorney Randall Nelson, Management Analyst Randy Burns and Council Clerk Carol O'Neal, CMC, were also present.

**PLEDGE OF ALLEGIANCE/INVOCATION**

Following the Pledge of Allegiance, Phillip Lynn gave invocation.

**MINUTE APPROVAL**

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

**SPECIAL PRESENTATION: ANITA P. CONLEY**

Anita Conley was present representing the homeowners in the M. L. King neighborhood. She stated that her presence is in regard to asking for a public information process to look into the possibility and viability of M. L. King and McCallie Avenue becoming two-way. She stated the request comes not only from her, but from various other neighborhood associations bordering M. L. King and McCallie Avenue; that it is also a request that was made in the final report of the M. L. King Task Force given this year. She stated there are two reasons why it is believed this report is important, the first being the economic viability of M. L. King and McCallie and the second is the safety issue. She stated for a number of years both streets were two-way prior to becoming one way and there are many businesses on those streets. She stated for persons living within the borders of M. L. King and McCallie, it is difficult to trespass those streets; that it is difficult for children who live in Highland Park to take advantage of Parks and Recreation activities at Warner Park because they are running across the street in an effort to dodge the speeding traffic.

**SPECIAL PRESENTATION: ANITA P. CONLEY**  
**(Continued)**

Ms. Conley continued by stating persons traveling McCallie Avenue early in the morning notice students trying to cross into the University and it looks as if they are trying to get out of the way of a "speeding bullet". She stated it is her belief it is the time and the right opportunity to take a good look and open the matter to the professional experts in transportation and those who live with it everyday. She asked that the matter be brought to a public forum to have a good discussion about what is viable and the impact it will have for the business district and the community. She stated it is her hope the Council would look at this positively. She stated others present represent the various neighborhoods and community organizations, both public and private, in support of the effort. She stated they want to make a big impact and revitalize these efforts bordering downtown, reiterating that this is the right time to do that.

Chancellor Stacey expressed appreciation for the opportunity to join in this public process. He made reference to the way Chattanooga succeeds as a community better than any place he has been. He made reference to the Charrette held two years ago when the possibility of a new engineering building in the M. L. King district was discussed, and asked that the issue of the two-way pairing of M. L. King and McCallie be revisited. He stated that Ms. Conley was correct in regard to there being safety issues and the need for commercial viability as it is hard to stop at the businesses along that way and expressed concern for faculty and students negotiating McCallie Avenue. He stated that he would like to see the two streets made two-way pairs and would appreciate the Council's help in letting Chattanooga get together.

Chairman Hakeem commended both speakers stating that the opinions presented are compelling in regard to the public process; that the economic and safety issues are items that truly must be looked into. He stated unless there are other thoughts the matter can be placed into Committee and then moved to a broader forum.

Councilman Pierce stated this request comes to all Council members as part of each member's district. He stated it is almost mandatory that this be done in the interest of the University as many have noticed the housing development going on in the area. He stated it will be difficult for students crossing McCallie and we need to work together. He stated he spoke with the Mayor's Office and was informed the Mayor is supportive. He expressed that it is his thinking that the matter does not need to go to Committee; that he would like to try to have some negotiating with the community taking the leadership. He stated it is his hope the Council could endorse the concept and work with the public and University to see if this could be made a reality.

**SPECIAL PRESENTATION: ANITA P. CONLEY**  
**(Continued)**

Councilman Littlefield stated this matter was talked about eight years ago when he left the Council and it is still being talked about. He stated that he is a great believer in public process that goes back to Chattanooga Venture, and as a result quite a few projects are underway now, with the largest one in Councilman Benson's district with the reconsideration of the land use in the Hamilton Place area. He expressed agreement with Councilman Pierce's comments in encouraging whatever "powers that be" in neighborhoods, the Planning Agency, RiverCity and whoever to come up with some type of proposal.

Councilwoman Robinson joined her colleagues in encouraging this study, stating that the subject goes back many years when a lot of thought and consideration was given to turning both into two-way pairs. She stated in addition to businesses that need to grow, dormitories are being built housing several hundred students, as well as faculty, several churches and a new elementary school under construction that will soon be open. She stated it is very important to make it safe for many pedestrians and residents in years to come.

Councilman Benson echoed the sentiments of those speaking before him, stating that the pairing is not only due, but also overdue! He suggested that the Regional Planning Agency (RPA) use the study in his district as a prototype, adding that the matter should be left up to RPA as they have the expertise and charge them to get into it right away!

Chairman Hakeem stated that it is the consensus of the Council to ask the Regional Planning Agency to bring the various "players" together and out of that develop strategy as to who will take what role and at some point ask that the completed process be brought back to the Public Works Committee.

Councilman Pierce asked Dr. Stacy where we stand now as far as what the community, University, County Executive and Mayor needs to do now?

Dr. Stacy stated that it is his thinking they are in a good position with most of those constituents who think it is time to address the issue and see if we can resolve it.

Councilman Pierce asked if the Council is going to make the request of the RPA? City Attorney Nelson stated that would be most appropriate.

Councilman Benson suggested that Jerry Pace be the Chairperson from RPA; that he found that it is most satisfactory for one person to carry this.

**SPECIAL PRESENTATION: ANITA P. CONLEY**  
**(Continued)**

On motion of Councilwoman Robinson, seconded by Councilman Littlefield, the Council officially requested that the Regional Planning Agency initiate the process to work with the different elements of the community interested in this and try to bring together a strategy or plan that could be worked on and, hopefully, bring the product back to the Council; the motion passed.

(Other citizens present in support of this effort stood at this point.)

**AMEND CITY CODE**

On motion of Councilman Lively, seconded by Councilman Benson,  
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,  
SECTION 2-175, PROVIDING FOR HOSPITALIZATION AND OTHER  
BENEFITS AFTER RETIREMENT**

passed second reading; **Councilman Pierce voted "no"**. On motion of Councilman Littlefield, seconded by Councilwoman Robinson, the Ordinance passed third and final reading and was signed in open meeting; **Councilman Pierce voted "no"**.

**REZONING**

**2001-075: James L. Stubbs**

Pursuant to notice of public hearing, the request of James L. Stubbs to rezone a tract of land located at 1314 Chamberlain Avenue came on to be heard.

The applicant was present; considerable opposition was in attendance.

Jerry Pace, Senior Planner of the Regional Planning Agency, stated this case is located in the Highland Park neighborhood at the intersection of Chamberlain and Greenwood Avenue. He stated the request is for R-4 to comply with the 1993 American Family Institute program. He stated the Staff and Planning Commission recommend denial as the R-4 zone is in violation of the newly adopted Highland Park Neighborhood Plan adopted in 1999 and is located in an area that has low density, single family residential uses.

**REZONING (Continued)**

James Stubbs stated that he has worked in the area of social services for 31 years and is the founder of the American Family Institute, a licensed, non-profit child placement agency for children who are not able to go back to their homes. He stated the reason for the request is that he has a "heart" for the work he does and has spent \$50,000 on the home and it would be very difficult at this time to put up the money to relocate. He stated he has been involved in the Highland Park Neighborhood Association and introduced Cathy McIntyre, the founder of the Association, to give a better history regarding the area.

Cathy McIntyre stated she has been excluded from any conversation in the community; that she has worked as a volunteer for 30 years. She stated her position during the policy development process for the neighborhood was that downzoning was illegal and imminent domain needed to be declared. She stated as a result of her position regarding the downzoning she has been "visited" with problems of discrimination and prejudice in the neighborhood. She stated Mr. Stubbs contacted her because he had heard she was involved or tried to be involved in the last downzoning issue and it is a "fight" she will have to take on at some point. She stated the only positive thing she could bring tonight is the thought there might be some way to work with them; that their business is anchored in this neighborhood and helped to bring it where it is. She stated a lot of problems are generated in this crack-infested neighborhood; that she is a peacemaker and willing to work with anyone to get things done.

Councilman Page stated that he has known Mr. Stubbs for years and that he is a quality person with a good program. He asked if there has been any attempt to resolve the matter with the neighborhood association?

Ms. McIntyre stated that she was excluded; that she started it and was excluded during the process.

Councilman Page stated that his question is if Ms. McIntyre is willing to sit down with the neighborhood association and let them understand more about the program you have and enter into dialogue?

Ms. McIntyre stated that she is a peacemaker and willing to work with everyone; that she has been shut out from this community and hugely discriminated against; that "tons of lies" have been told against her. She stated that she is willing and informed the Council that her experience from this downzoning has not been positive; that up until then it was favorable.

**REZONING (Continued)**

Mr. Stubbs stated for the past eight years he has participated in several of the home tours and discussions with a couple key members of the association; that he is open for any type of discussion.

Councilman Benson stated that this request was presented at the Planning Commission; that it would be better if the Council listened to the opposition and then asked questions.

Uneva Shaw stated that she lives at 1412 Chamberlain Avenue and is the current President of the Highland Park Neighborhood Association. She stated she has been President for three years and has been a member of the Association since moving in the neighborhood in 1993. She stated the Association's opposition in changing the zoning is what they have built their neighborhood on; that they have opposed anything that has gone against their current neighborhood plan. She stated a neighborhood plan was adopted in 1994 and was revised twice since then which protected their single family housing; that they have a lot of housing being subdivided and turned into multi-dwellings. She stated their opposition is that they want to protect what they have put into policy and stand steadfast on using the plan they have adopted to protect their neighborhood. She stated they have "turned the neighborhood around" in the way of crime statistics and revitalization and that housing costs have gone up, all of which has been fundamental to the neighborhood plan.

Charles Shaw, Past President of the Association, stated that they know Mr. Stubbs and know that he does quality work, which is not the issue. He stated that the request goes against their neighborhood plan and they do not want it changing and torn-up piece-by-piece.

Councilman Taylor asked Mr. Stubbs if he presently lives in the home? Mr. Stubbs responded "no"; that he lived there from 1993-95 when he started the program. He stated his program operates in ten counties and currently has 55 kids in the program. He stated his issue is that he has not changed anything as far as downzoning; that it is a home and he has provided tours. He stated several people from out-of-town have looked at the house as a model for use in different cities. He stated the fact is he has put so much money in upgrading the property and will still have to spend more; that he wants to work with the association in support of their efforts and is not opposed to any of it. He stated he wants to do whatever he needs to do to be in compliance; that this does not have to change the community. He stated that he has a grounds person to take care of the yard.

**REZONING (Continued)**

Councilman Taylor inquired as to the number of employees? Mr. Stubbs stated that his wife is the Director, his sister-in-law is the Administrative Assistant and there are four caseworkers that work in-and-out of the office "in the field". He stated he has a total of seven full-time persons and two people in Knoxville that are full-time, as well.

Councilman Franklin stated to his knowledge it seems there has been another similar type business related to what Mr. Stubbs is doing now that operated out of the same location. He asked if this is correct?

Mr. Stubbs stated that the location has been the same all the time; that he is the founder and Executive Director and no other business has been there whatsoever.

Councilman Franklin asked if there was an associated business similar to Mr. Stubbs' at the location? Mr. Stubbs responded "no"; that the home was built by a person who owned a lumber business and is on the national register in terms of its history; that he personally does not know who was there before him.

Councilman Franklin stated there were some concerns from Planning as it relates to disturbances from some of the kids where the police had been called. He asked what that was about and how it was handled?

Councilman Franklin stated there were some concerns when the matter was heard at the Planning Commission as it relates to disturbances from some of the kids where the police had to be called. He inquired as to what that was about?

Mr. Stubbs stated that the location on Chamberlain is the administrative office; that he has a foster home on Curtis Street where four boys are housed. He stated in terms of the issue we are dealing with, 1314 Chamberlain is not a group home and there is no overnight living because it is an office with normal hours from 8 a.m. until 5 p.m. He stated the Association knows he has homes in Highland Park.

Councilman Franklin asked if this location basically handles the management and administration of the Institute? Mr. Stubbs responded, "That is correct".

Councilman Littlefield stated that it is possible that he missed something with this issue and asked if this property was ever a legal use? Mr. Stubbs stated in terms of a residence, it met the criteria of legal use from 1993-95 and the Institute has been operating at the location for the last eight years; that he remarried and moved out.

**REZONING (Continued)**

Councilman Littlefield clarified that the property changed from a home occupation to an office, thereby becoming illegal use in a residential zone.

Councilman Page stated that the question he has is that the Council has a hard time voting for a change in zoning based upon the recommendation of Staff and the Planning Agency. He asked if there is a grandfather clause in reference to this property and if there is a way that the location can be operated for a few months to a year to make any denial of this request easier for Mr. Stubbs, something that the Association may negotiate with him about?

Mr. Stubbs responded "yes, absolutely". He stated he has spoken with Councilman Pierce and, hopefully, will have time allowed to do that. He stated it will take anywhere from six months to a year and he would be able to negotiate a place to relocate and put the location up for sale. He stated the current crisis right now is that he does not have the financial ability to do that and is willing to do it if he has time to make the necessary arrangements. He stated that he supports the Association and is a part of it; that he was a home resident once and is now a successful businessperson.

City Attorney Nelson stated that the problem is that a grandfather clause is for a legal nonconforming use and this property is not a legal conforming use as it was discontinued for more than one hundred days during Mr. Stubbs' moving off.

Councilman Page stated with the help of the City Attorney he would like to formulate a motion that will allow for use of the premises for a period of time up to one year as it is.

Prior to taking any action on Councilman Page's suggestion, Chairman Hakeem indicated that several Council members' speaker lights were on. He stated that he has a great problem with this request.

Councilman Benson stated Highland Park has done a lot of work and there is a lot of pride out there. He stated he would be very reluctant about breaking this neighborhood plan that came up from the neighborhood with citizens giving input at that time. He stated the Planning Commission listened for 45 minutes and a lot of other persons spoke and other things came out. (He asked all those in opposition to stand and a large delegation of residents of the Highland Park area stood.) He stated the only way he would vote for rezoning this is to take the matter back to the people who made the plan and see if they are willing to amend it.

**REZONING (Continued)**

Councilman Benson stated there was a lot of "rhyme and reason" as to why this plan should be R-1 and only R-1 is around this request. He stated to ask for any R-4 special zone conflicts with the zoning plan for that area, reiterating that he would not vote for R-4 and suggested that the matter be taken back to the community.

Councilman Taylor asked Mr. Stubbs if he received notice to cease operation? Mr. Stubbs stated that the zoning inspector responded to a complaint made by the Association; that he looked at several options and looked at special zoning for an administrative office. He again stated that he is not in opposition to what the Association is trying to do and continues to be in support of them.

Councilman Taylor asked if he was hearing Mr. Stubbs indicate that he is in favor of the neighborhood plan and needs additional time to make the transition? Mr. Stubbs responded, "That is correct".

Councilman Taylor stated that is all Mr. Stubbs is asking; that he has no problem with the R-1 zoning and only needs time to make the transition. He stated that he would like to go back to Councilman Page's request.

Again Chairman Hakeem injected that he has a problem with this request; that he would prefer there not be a motion on the floor before he had an opportunity to say something. Councilman Taylor clarified that he was addressing the neighborhood association.

Chairman Hakeem indicated that he did not want Councilman Taylor putting the neighborhood into a "corner"; that they either accept this or go ahead and let Mr. Stubbs have this. He stated there is more information he wants to share that has not been discussed that may make a difference. Councilman Taylor asked to hear the information.

Chairman Hakeem stated that Mr. Stubbs has indicated that the office at 1314 Chamberlain has had no problems; that he (Hakeem) has a copy of a police report that has a list of calls to that address that deals with young people running away and burglary calls. He asked Mr. Stubbs to tell him about what has happened there.

Mr. Stubbs stated Chairman Hakeem is correct that there have been many calls due to the burglary alarm system being faulty; that he has been cited for a faulty alarm and police have responded to the office a number of times in the middle of the night and he has had the ADT people out our different times.

**REZONING (Continued)**

Mr. Stubbs stated there was never a violent situation whatsoever at that office; that he has to report if a child has left without any authorization; that that is his only protection and liability that he has to call and report that to the police just in the event something might have happened. He stated the answer to the question is "yes" that the police have come numerous times, but it was never an issue of violence of anything else, only the faulty alarm system.

At this point, Chairman Hakeem asked Officer Woughter to come forward.

Officer Woughter stated he has copies of police reports to 1314 Chamberlain Avenue in February 1999 for an assault in progress at the address; September 1999, missing person; January 2000, missing person; March 2000, missing persons, May 2000, juvenile arrested; June and July 2000, missing person report. He continued by stating reports reflect November 2000, missing person; November 2000, the day after the previous call, another missing person; December 2000 another missing person and an unknown 911 in December 2000. He stated in March, 2001 another 911 call and April 2001, another 911 call.

Mr. Stubbs stated Officer Woughter's comments back up what he previously stated; that he is not aware of any violence. He stated his office has to report the matter and have to make the call from that office; that several of the calls reported are for missing persons and that is the process, that is the system.

Chairman Hakeem asked if Mr. Stubbs is saying the assault did not take place? Mr. Stubbs stated that he was not aware of any assault whatsoever and stands by that.

Councilman Pierce asked if any of the charges are felonies or misdemeanors? Officer Woughter stated to his knowledge they are misdemeanors; that he has not seen the incident reports.

Councilman Pierce stated Officer Woughter did not make the initial report on the assault and is not aware of the matter. Officer Woughter responded "right".

City Attorney Nelson stated for the matter to go back to a home occupation, the business would not qualify as a home occupation; that the requirements for a home occupation is that no one other members of the family residing on the premises shall be engaged in such occupation. He stated if four of the employees were not family members, it was never legal.

**REZONING (Continued)**

**Councilman Lively** stated his comments are no reflection on Mr. Stubbs' occupation; that a lot of work and planning went into the Highland Park Plan and there might come a time when we might have to deviate from it, however, the time is not now. He **made the motion to deny the request, Councilman Littlefield seconded the motion.**

Councilman Taylor stated that he would like to go back to a time frame for Mr. Stubbs to move out and cease operation.

City Attorney Nelson stated Mr. Stubbs is illegal now and there is nothing the Council can do other than grant the rezoning to make it legal.

Councilman Taylor asked Mr. Stubbs if his business is one where people are constantly coming in-and-out?

Mr. Stubbs stated it depends on whether he needs to have a group meeting, staff meeting or foster parent training session. He stated for the most part, he only has three people on a consistent basis, and all others are in-school sites or "in the field". He stated he has monthly meetings to deal with issues, which are held at the office.

Councilman Page stated there is no support for him to grant zoning for Mr. Stubbs to continue his operation and speaks for Councilman Lively's motion. He stated Mr. Stubbs is an individual who has tried to help children and having business interruption some consideration should be given to having enough time to find other premises. He stated his previous question is still "on the table" as to what would be the possibility that the matter could be revisited after sixty or ninety days?

Councilman Pierce asked if the Council could delay the hearing sixty or ninety days? City Attorney Nelson stated the problem is that the use is an illegal use, now, and the zoning inspector has issued a citation for illegal use. He stated the only thing is to let him continue to make it a legal use and that would have to be done by granting the rezoning.

Councilman Pierce stated the citation was given to the applicant for rezoning and until we act on the application he does not see the inspection department doing anything.

**REZONING (Continued)**

City Attorney Nelson stated as a practical matter he does not know if the inspector will or not; that as a legal matter the only way to make this use legal is to go ahead and adopt the rezoning or come back and revisit the matter.

Councilman Pierce stated Mr. Stubbs is not trying to make it a legal use; that he is only asking for time to relocate. He stated if the Council acts on this tonight Mr. Stubbs should be out by sunrise tomorrow. He asked if there is any "grace" time?

City Attorney Nelson stated there is nothing in the law for "grace" time. He stated "grace" time has been granted for zoning to bring the petition; that it will not be any more illegal tomorrow than this morning if the rezoning is not granted.

Councilman Pierce stated that he does not approve of the Planning Commission recommending rezoning and pending that outcome allow him to continue to operate. He stated it looks bad that the Council, in this and several other cases, does not have the power to give a reasonable time to clear out. He stated the Council knows Mr. Stubbs is in violation and indicated his support for the motion to deny.

City Attorney Nelson stated the Council might want to put that in the zoning ordinance at some point in the future if they want that power. Councilman Pierce stated that the Council is dealing with this case tonight.

Mr. Pace recommended that the motion be made to approve the zoning on first reading and post pone second and third reading for a number of days; that the matter could be denied on second and third reading.

City Attorney Nelson stated that the point is that it is an illegal use right now and all the Council can do to make it legal would be to adopt an ordinance which would make it legal.

Councilman Taylor asked if the Council can put a time frame within the ordinance and put it into effect for a small period of time, after which it would revert back to the original use?

City Attorney Nelson stated that he does not know of any provision in the zoning ordinance authorizing that.

### **REZONING (Continued)**

Councilman Taylor asked Mr. Stubbs the minimum number of days he would need to move out? Mr. Stubbs responded that he would have to have the license from the State; that he would have to call and tell them he needs to relocate. He stated the license would be pending upon his finding a place appropriate for a business; that it would take ninety days to six months to make application for a license; that it can be done within that time.

Councilman Taylor asked Mr. Stubbs what happens to his business if he leaves this location and cannot find another?

Mr. Stubbs stated that he has contracts and received support from the leadership in this community in order to conduct a needs assessment and perform an array of services; that the City Attorney actually set up the corporation and supported it. He stated he has a Board of Directors that can help in support of the changes.

Councilman Taylor clarified that he is definitely in support of neighborhood plans because the community works hard to put neighborhood plans together. He stated also in the process is support of human beings and the Council needs to come up with something that expresses willingness to work with a situation wherein additional time is needed to comply.

Chairman Hakeem stated this matter involves an office; that we are not talking about where young people are. He stated if the Council looks in District 9, particularly Highland Park, there are more group homes than in any other area in the City. He asked that it not be implied or inferred that this community is not interested and concerned in its young people because it does more than any other community in the City, reiterating there are more group homes in Highland Park than any other area in the City.

**Councilman Pierce made the motion to table the matter two weeks and discuss the matter in Committee as there are a lot of questions being raised; Councilman Taylor seconded the motion.**

Councilman Benson reminded the Council that this is not a "shot in the dark" for Mr. Stubbs; that he appeared before Planning a month ago and the matter was soundly rejected then and there was more dialogue, also. He stated that he has mercy for the people who worked on this plan; that Mr. Stubbs knew for a while he was out of zone. He stated as far as mercy is concerned, Admin. McDonald is present and represents enforcement of this zone, indicating that his department has never come in on anyone in 24 or 48 hours. He stated Mr. Stubbs knew a month ago that he was out of zone and continued to express his support for the people who have developed this plan.

**REZONING (Continued)**

Chairman Hakeem clarified that the motion to deny and the motion to table are both "on the floor"; that the motion to table takes precedence over the motion to deny.

Councilman Littlefield stated in a situation like this his heart "goes out" to Mr. Stubbs, as well as the community; that this is probably an innocent situation that started out as a home occupation and became illegal when employment went beyond the family and Mr. Stubbs moved out and it became a "true" office. He stated this has been an illegal use for some time and it cannot be grandfathered-in. He asked if any sort of a plea arrangement could be entered into City Court; that he assumes the matter would be cited to City Court wherein leniency in time to move out could be asked.

City Attorney Nelson stated there is such a thing a prosecutorial discretion that a police officer exercises from time-to-time when a warning ticket is given and sometimes the prosecutor can withhold prosecution for a reasonable period of time.

Councilman Littlefield stated that he knows this is an inconvenience and knows other offices are available; that he hates to see Mr. Stubbs penalized beyond reason.

Councilman Pierce expressed agreement with Councilman Littlefield's comments, and asked if the Council denies the request, does Mr. Stubbs have to appeal the decision through Chancery Court? City Attorney Nelson responded "yes".

Councilman Pierce asked if Mr. Stubbs could operate his business during the time of appeal? City Attorney Nelson stated that he could if he gets an injunction in front.

Councilwoman Robinson stated if the Council denies Mr. Stubbs, for whom she has a great deal of sympathy, he still has recourse; that he has been out of compliance for a long time. She stated that she knows there is office space available all over this City and there are realtors that could help. She stated if we vote to deny she feels certain, based on what Councilman Benson said, that no one would show up and arrest this man in the morning.

Councilman Taylor asked for a point of clarification by stating there is no problem with relocating, however, the process to get a place approved where Mr. Stubbs would be going would take time.

**REZONING (Continued)**

Mr. Stubbs responded "correct"; that after the State is notified he would need to relocate his office and they would put him on whatever schedule they have. He stated he would have to get the office operational for them to inspect and say he is within compliance. He stated the comment has been made that he knew he would have to move all along and indicated that he did not know what was going on through the process; that had he known he would have done so. He stated that he has other people employed who will lose their jobs and it is important to him to provide the security they need for their families. He stated he is not arguing against the legality of the situation; that he needs time to do it.

**On roll call vote to table:**

Benson	"No"
Franklin	"Yes"
Littlefield	"Yes"
Lively	"No"
Page	"Yes"
Pierce	"Yes"
Robinson	"Yes"
Taylor	"Yes"
Hakeem	"No"

**The motion passed.**

Councilman Page stated that he has dealt with the State before and they are location specific. He stated it takes time to get another license; that there is no question in his mind or the Council's that they wholeheartedly support the community plan. He explained that the effort is to try to give Mr. Stubbs' business a chance to move. He stated the matter will come before the Council again, and if he votes for the motion again, it will be denied at a later date.

On motion of Councilman Pierce, seconded by Councilman Taylor,

**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED AT 1314 CHAMBERLAIN AVENUE, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO R-4 SPECIAL ZONE**

**was tabled two weeks** and is scheduled for further discussion in the Legal and Legislative Committee scheduled for Tuesday, July 17 at 3 p.m.

## REZONING

### **2001-077: Janis Blanc Odom**

Pursuant to notice of public hearing, the request of Janis Blanc Odom to rezone a tract of land located at 6040 East Brainerd Road came on to be heard.

The applicant was present; opposition was in attendance.

Mr. Pace stated that this location involves a mixture of single family and office use on the south side with O-1 and R-4 uses on the north. He stated the request is for R-4 for an office; that Planning and Staff recommend denial of the R-4 and approval of O-1 with conditions.

Councilman Lively stated that it is strange to make a recommendation to approve O-1 in the middle of R-1. He asked if this is where a business has been operating?

Mr. Pace stated they have moved into the house, yes. He stated a policy was adopted several years ago for this area for the stretch between Lee Highway and Chickamauga as a mixed use of residential and office. He stated there is O-1 at the other end of the block and existing structures between R-1 uses.

Atty. Glenn Stophel was present representing the applicant. He stated the map shows more clearly that there are "book ends" to this triangle; that there is C-2 behind the property and as Mr. Pace indicated this is a mixed-use neighborhood. He stated directly across the street is an office located in a structure that gives the appearance of being residential, yet has been an office for some time. He stated there is no intent to go out past this intersection where Bass Road and Chickamauga comes into East Brainerd; that that should remain residential as much as possible. He stated there is some substantial business on both sides of the street; that the applicant plans to use this, and has spent a great deal of money. He stated the house has not always been maintained as a house as it has the "appearance" of one. He stated "good money" has been spent to straighten it up; that it will continue to look like a residence and the best and highest use is as an office.

Atty. Stophel stated the neighborhood association asked that the zoning be changed from R-4 to O-1 so that it could be limited as an office and the applicant agrees with that. He stated it is thought Planning used proper judgment and agrees, also, with the restriction that the front lawn would not be used for parking. He stated parking is now on the side presently used as an office for the Knife Museum at the corner of Shallowford and the Interstate and feels this is an appropriate use.

**REZONING (Continued)**

Atty. Stophel stated one problem the applicant has with the restriction recommended by Planning has to do with if the building is destroyed. He stated they looked at other ordinances that make reference to property "giving the appearance" of residential; that it would be inappropriate to say the property should be put back as residential as it is not going to happen. He expressed agreement that it should be rebuilt with the "appearance" of residential just as it is; that there is no intention to change the character of the neighborhood.

Atty. Stophel continued by stating that one of the homes has a sign out front displaying their business and the applicant would also like to have a small sign in the front to identify the type of activity there, if they have a tenant who would like to make themselves known. He stated there is no retail in this neighborhood and it is C-2 all the way around; that this block would continue to be used for mixed use. He stated in regard to the lots in the block, he visited with the owners and tenants, there is no opposition to the rezoning and the applicant agrees with the recommendation of O-1. He stated there is not an issue of traffic as East Brainerd at this point is two-lane and is not located within the high use area of East Brainerd. He concluded his comments by requesting that the matter be approved as recommended by Planning.

Carol Berz was present representing the Brainerd Hills Neighborhood Association and stated that she has lived in Brainerd Hills for a long time. She indicated that she has been working with the City a long time in rehabilitating the area along East Brainerd Road because Brainerd Hills has such a rich history from 30 years ago and residents are trying to "bring the neighborhood back". She stated that Atty. Stophel's comments were somewhat misleading in that there are "bookends" at the end of the block, however, the house that has the sign in front of it is at the end of the block which was the result of spot zoning about 30 years ago and residents have worked hard to see that that does not happen again on the other end. She stated the first property was approved with special conditions a year or so ago and the lady who has it uses it as an office and all the conditions have been met and agreed upon with no additional signage. She stated that they welcome the Knife Museum people and are not concerned about them; that they are concerned about future use of the property. She expressed agreement with the Planning Commission's recommendation of the O-1 zone; that they would like to have added a condition as previously placed on other property that there be no signage and should it ever be used as anything other than offices of the Knife Museum they would like to take another look at that. She stated the neighborhood is trying to save themselves and do not want the "domino theory" to take effect.

**REZONING (Continued)**

Ms. Berz stated the neighborhood plan indicates that East Brainerd Road from Lee Highway to Wesley Memorial Church would maintain its residential character; that they inherited the spot zoning. She stated they are not really opposed; that they would like to add the provision as previously done that there not be any signage.

Atty. Stophel referred again to the language in the ordinance and indicated that their preference would be for the language to read that the structure “*maintain a single family residential appearance*”. He stated with regard to signage, directly across the street are three buildings that are used as offices, that they plan to use discreet signage appropriate for an office district. He stated it would be appropriate to use signage using the same character of signage presently used across the street.

Councilman Littlefield stated if this Council were to rezone this central lot in the middle of this R-1 road to offices, we are essentially saying “yes” to all the rest of them.

Ms. Berz expressed understanding with Councilman Littlefield’s statement and indicated that they do not agree with “block busting”; that their preference is to leave it R-1. She stated they want to work closely with Planning and asked that the request be denied and left R-1 as they are trying to save the neighborhood.

Councilman Page inquired as to the issue Ms. Berz would like to include in the change if the property is zoned O-1?

Ms. Berz responded that the primary issue to add is that there would be no signage; that their preference is not to have it rezoned at all, which is their first choice.

Atty. Stophel stated it would be a little bit ingenuous to say this is “block busting”; that out of six lots two are O-1 and across the street four are O-1. He stated the whole neighborhood association is away from this triangle and to say this is spot zoning or “block busting” is arbitrary and he does not like the characterization.

Councilman Littlefield stated that he agonized over this; that he went back today and drove down the street in both directions and looked at all the houses; that there is a row of intact single-family residences. He stated there are “bookends” of O-1 on either end, and as for the sign in front of the property on the other side shown on Atty. Stophel’s illustration, a person would not know C-1 is behind it as it is rather well buffered by nature.

**REZONING (Continued)**

**Councilman Littlefield** stated the houses protect the street and the street looks residential, even the O-1 properties look predominantly residential. He stated the reason he asked the question about prosecutorial discretion earlier is that he sees no way to deal with this other than denial. He stated this is another case where they innocently got into an office situation out-of-zone and the owner has been cited to court. At this point he **made the motion to deny this request** and included in the motion that the owner be told whoever is cited to Court he would go with them and beg indulgence to allow them to exit this neighborhood in an orderly fashion with minimal charges to be placed against them; **Councilman Franklin seconded the motion.**

Councilman Benson asked Atty. Stophel if he would still want the zoning if the provision of no signs were added? Atty. Stophel responded that he would accept, as it is typical for what has been done with others.

Councilman Benson stated Dr. Berz used the term "block busting"; that it concerns him when this goes on and does not know if it will happen again. He expressed understanding with Atty. Stophel's legal de jour opinion that this is not "block busting", but in fact it is. Atty. Stophel responded that that is arbitrary.

Councilman Taylor inquired as to Planning's recommendation for O-1. Atty. Stophel stated that the original application made to Planning was for R-4; that it was discussed as to whether O-1 might be more appropriate and the applicant agreed, therefore, O-1 was recommended for approval with conditions from both the Staff and Planning Commission.

Mr. Pace stated the building inspector has a hard time distinguishing residential appearances; that they have tried to craft language to indicate a single-family structure or house to maintain the same residential "feel" it now has. He stated with the conditions, plus adding no signs, would be acceptable to the Planning Staff.

Atty. Stophel stated he would not quibble over language, as he is not a builder; that it is his hope the building is not ever destroyed. He indicated his acceptance that there would be no signage.

**REZONING (Continued)**

**On roll call vote on Councilmen Littlefield and Franklin’s motion and second to deny:**

Benson	“No”
Franklin	“Yes”
Littlefield	“Yes”
Lively	“Yes”
Page	“Yes”
Pierce	“No”
Robinson	“No”
Taylor	“No”
Hakeem	“Yes”

**The motion passed.**

On motion of Councilman Littlefield, seconded by Councilman Franklin,  
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS ATHE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED AT 6040 EAST BRAINERD ROAD, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO O-1 OFFICE ZONE, SUBJECT TO CERTAIN CONDITIONS**  
was denied.

**REZONING**

**2001-079: Joe E. Proctor**

Pursuant to notice of public hearing, the request of Joe E. Proctor, to rezone a tract of land located at 1010 North King Street, came on to be heard.

The applicant was present; opposition was in attendance.

Jerry Pace explained that this request is located in the East Brainerd area and there is a small strip of R-2 property that is being requested to be zoned M-3; that the area is surrounded by M-3. He stated the old Elbert Long School is to the east, to the south is commercial, and to the west across the unopened right-of-way is R-2 along North King Street, with R-4 at the end. He stated the recommendation from Planning and Staff is to approve the rezoning request with conditions.

**REZONING (Continued)**

Jim Fitzpatrick was present representing Joe Proctor. He stated the property has been owned by the CSX Railway since 1893 and has been rezoned M-3 industrial since the early eighties; that it was industrial prior to 1960 when the zoning ordinance was reconfigured. He stated the reason for the strip closure is to allow the applicant to better design the property so the entrance to North King Street may be used properly. He stated that the applicant has agreed to the 30-foot buffer zone and to screen it from the view of Elbert Long.

Carol Berz stated that residents in the area agree with Planning; that what is missing is the site plan. She asked that the Council defer the matter until the site plan can be presented. She stated Mr. Proctor is planning to build mini-warehouses, which is okay as long as it is hidden because there is commercial on the other side. She reiterated that no one has seen the site plan and feels it is a fair request to defer the matter until the site plan is presented.

Mr. Fitzpatrick stated this matter was discussed at Planning and it was agreed a site plan would be done and that screening would be in accordance with the landscape ordinance. He stated the applicant has agreed and Planning has approved the request.

Chairman Hakeem asked if the site plan was part of Planning's recommendation?

Mr. Pace stated part of the recommendation did not deal with the site plan that it had to do with the landscape ordinance requirements. He stated the opposition has asked to see a site plan; that Planning and Staff have not seen it and does not know if there is one developed or prepared. He stated the site plan was not part of the recommendation.

Ms. Berz stated that another item coming before the Council is a road closure, which is not before the Council tonight. She stated all that is being requested is that the residents would like to see a total site plan including berms and shrubbery or whatever the applicant is asking for. She stated they do not want to see something developed that would destroy the neighborhood village of the area. She reiterated they are not opposed, but would only like to see a site plan; that the Planning Commission stated it would probably be a good idea.

Councilman Taylor expressed agreement with Ms. Berz's comments; that this project could change and without seeing a site plan, and having prior experience with warehouses, it is strongly recommended that the matter be delayed until a site plan or proposal is presented.

### REZONING (Continued)

**Councilman Littlefield** stated that he has discussed this matter with the neighborhood association and they are amenable to a solution to move the matter along; that a site plan does not have to be terribly elaborate; that it should show what is going where. He suggested that the applicant start with the map Planning has provided and draw in features and attach it to the ordinance. At this point he made the motion to approve the matter on first reading and allow it to be brought to the meeting of the Legal and Legislative Committee next week, if possible, and then second and third reading.

Councilman Taylor stated sometimes when the actual building is presented, it could be a major "monster"! He stated there is a need to go further than to place a "block here" and a "berm there". He asked that the plan reflect a schematic drawing.

Mr. Fitzpatrick stated that the applicant could certainly do that. He stated before Mr. Proctor bought this property it was covered with pine trees and was lovely; that pine beetles destroyed them all. He stated this project is an improvement with the landscaping that will be done.

Councilman Littlefield stated if the matter has to be delayed to let him know; that second and third reading will not be approved until a site plan is presented.

On motion of Councilman Littlefield, seconded by Councilman Benson,  
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,  
 KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF  
 LAND LOCATED AT 1010 NORTH KING STREET, MORE PARTICULARLY  
 DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO M-3 WAREHOUSE  
 AND WHOLESALE ZONE, SUBJECT TO CERTAIN CONDITIONS**

passed first reading; the applicant was asked to present a schematic site plan before the Legal and Legislative Committee scheduled for Tuesday, July 17 at 3 p.m.

### REZONING

#### **2001-082: Herman Walldorf & Company, Inc. (Jennie Brockman)**

Pursuant to notice of public hearing, the request of Herman Walldorf & Company, Inc. (Jennie Brockman) to rezone a tract of land located at 150 Browns Ferry Road came on to be heard.

The applicant was present; opposition was in attendance.

**REZONING (Continued)**

Jerry Pace stated that this property is located around I-24 within a mixture of C-1 and C-2; that there is R-1 on Browns Ferry Road and a church. He stated the request for C-1 is for a motel having 30-35 units. He stated the Planning Commission and Staff recommend approval since this is of the commercial node and "fits in" with the other uses.

Rudy Walldorf distributed copies of the proposed site plan and stated the request is for a Sleep-In Motel. He stated power lines are between the proposed motel site and the church and anything built will have to be adjacent to the McDonald's Restaurant as nothing can be built under a power line. He stated there was no opposition to the request at the Planning hearing; that he spoke with a couple people from the church who are not in opposed.

Jerry Wall, a member of the Lookout Valley Neighborhood Association, stated the Association does not have any opposition; that petitions were circulated for people to sign because when hotels are mentioned there are fifteen within a half-mile radius in the area and people get "shaky" because they do not want any more hotels. He stated the Association's main concern is similar to the previous case, in that they have not seen the site plan. He stated there are a couple of motels in the community that are not up to standard and one, in particular, is an eyesore. He stated the area in question is right on a main street where all the residents in the valley will be passing; that the motel will not be situated on I-24. He stated their main concern is that whatever goes there will have to "fit in" and since the Association was organized four months ago, people have become more particular and interested in what goes on in the valley. He invited the applicant to come to the Association's next meeting to make a presentation in an effort to work together.

Councilwoman Robinson asked if there are any plans for landscaping along the Browns Ferry Road frontage? Mr. Walldorf responded that requirements of the landscape ordinance will have to be met; that the property is small and the potential purchaser plans to get a Sleep-In franchise, which is considered a choice hotel group.

Councilman Lively stated his concern was similar to Mr. Walls' when he first heard the request was for a motel; that there are some good hotels in the area and some that border on the lines of a prostitution house! He stated that he spoke with a representative from the church next door to the property and their main concern was that they did not know what was being requested; that the biggest thing he has heard from the opposition is that it is their wish a nice restaurant was going to "go in" as opposed to another motel.

### REZONING (Continued)

**Councilman Lively made the motion to approve the request on first reading and allow two weeks for Mr. Walldorf to meet with the Association.** He asked Mr. Wall to schedule a meeting for the purpose of giving the applicant an opportunity to explain the site plan.

Mr. Walldorf stated that he would prefer that the franchisee meet with the Association.

Chairman Hakeem asked if the matter should be delayed two weeks or thirty days to allow time for the franchisee to come to Chattanooga?

**Councilman Lively amended his motion to reflect a three week time period.**

Councilman Page inquired as to the capital expenditure for the project and the number of rooms? Mr. Walldorf responded that the motel would have 46 rooms and would generate over \$1 million dollars.

On motion of Councilman Lively, seconded by Councilwoman Robinson,  
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,  
 KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF  
 LAND LOCATED AT 150 BROWNS FERRY ROAD, MORE PARTICULARLY  
 DESCRIBED HEREIN, FROM C-2 CONVENIENCE COMMERCIAL ZONE  
 TO C-1 HIGHWAY COMMERCIAL ZONE**

passed first reading; **second and third reading was delayed three weeks** (July 31) for an opportunity for the franchisee to meet with the members of the neighborhood association.

### REZONING

#### **2001-088: City of Chattanooga**

Pursuant to notice of public hearing, the request of the City of Chattanooga to rezone a tract of land located at 1080 East 23<sup>rd</sup> Street came on to be heard.

The applicant was present; there was no opposition.

Councilman Pierce stated that the conditions listed in this Ordinance are acceptable by the applicant.

**REZONING (Continued)**

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 1080 EAST 23<sup>RD</sup> STREET, MORE PARTICULARLY DESCRIBED HEREIN, FROM M-1 MANUFACTURING ZONE TO M-1 MANUFACTURING ZONE, SUBJECT TO CERTAIN CONDITIONS**

passed first reading.

**AGREEMENT: HAMILTON COUNTY, TENNESSEE**

On motion of Councilman Franklin, seconded by Councilman Pierce,

**A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AND EXECUTE AN AGREEMENT WITH HAMILTON COUNTY, TENNESSEE, RELATIVE TO LITTER COLLECTION ALONG THE CITY RIGHT-OF-WAY THROUGH THE COURTS COMMUNITY SERVICE PROGRAM, FOR A CONSIDERATION OF THREE THOUSAND, FORTY-TWO DOLLARS (\$3,042.00) PER MONTH, OR THIRTY-SIX THOUSAND, FIVE HUNDRED DOLLARS (\$36,500.00) ANNUALLY**

was adopted.

**SEWER EASEMENT: DONALD G. SHERPERT AND NANCY G. SHERPERT**

Councilman Taylor stated Resolutions 7(b) – (n) were discussed in last week's Public Works Committee and approval is recommended.

On motion of Councilman Franklin, seconded by Councilman Taylor,

**A RESOLUTION AUTHORIZING THE PURCHASE OF A SEWER EASEMENT FROM DONALD G. SHERPERT AND NANCY G. SHERPERT, RELATIVE TO CONTRACT NO. 73B-3, HIXSON MARINA COLLECTION SYSTEM, TRACT NO. 012, FOR A TOTAL CONSIDERATION OF NINE HUNDRED FIFTY-FIVE DOLLARS (\$955.00)**

was adopted.

**SEWER EASEMENT: J. RON STEGALL, JR. AND  
STEPHANIE A. STEGALL**

On motion of Councilman Lively, seconded by Councilman Franklin,  
**A RESOLUTION AUTHORIZING THE PURCHASE OF A SEWER EASEMENT  
FROM J. RON STEGALL, JR. AND STEPHANIE A. STEGALL, RELATIVE TO  
CONTRACT NO. 73B-3, HIXSON MARINA COLLECTION SYSTEM, TRACT  
NO. 012.3, FOR A TOTAL CONSIDERATION OF TWENTY-NINE  
THOUSAND, EIGHT HUNDRED SVENTY-FIVE DOLLARS (\$29,875.00)**  
was adopted.

**SEWER EASEMENT: DEAN A. NEBBEN AND  
MECHAELE K. NEBBEN**

On motion of Councilman Franklin, seconded by Councilwoman Robinson,  
**A RESOLUTION AUTHORIZING THE PURCHASE OF A SEWER EASEMENT  
FROM DEAN A. NEBBEN AND MECHAELE K. NEBBEN, RELATIVE TO  
CONTRACT NO. 73B-3, HIXSON MARINA COLLECTION SYSTEM, TRACT  
NO. 038, FOR A TOTAL CONSIDERATION OF TWO THOUSAND DOLLARS  
(\$2,000.00)**  
was adopted.

**SEWER EASEMENT: KENNETH E. HUDGINS AND JAN  
F. HUDGINS**

On motion of Councilman Franklin, seconded by Councilwoman Robinson,  
**A RESOLUTION AUTHORIZING THE PURCHASE OF A SEWER EASEMENT  
FROM KENNETH E. HUDGINS AND JAN F. HUDGINS, RELATIVE TO  
CONTRACT NO. 73B-3, HIXSON MARINA COLLECTION SYSTEM, TRACT  
NO. 039, FOR A TOTAL CONSIDERATION OF ONE HUNDRED SIXTY-FIVE  
DOLLARS (\$165.00)**  
was adopted.

**SEWER EASEMENT: SALLY L. WENCEL AND JOHN R.  
TURGESON**

On motion of Councilman Franklin, seconded by Councilman Littlefield,  
**A RESOLUTION AUTHORIZING THE PURCHASE OF A SEWER EASEMENT  
FROM SALLY L. WENCEL AND JOHN R. TURGESON, RELATIVE TO  
CONTRACT NO. 73B-3, HIXSON MARINA COLLECTION SYSTEM, TRACT  
NO. 049, FOR A TOTAL CONSIDERATION OF FOUR HUNDRED EIGHTY-  
FIVE DOLLARS (\$485.00)**  
was adopted.

**SEWER EASEMENT: JOHN JONES AND ALICIA JONES**

On motion of Councilman Lively, seconded by Councilman Franklin,  
**A RESOLUTION AUTHORIZING THE PURCHASE OF A SEWER EASEMENT FROM JOHN JONES AND ALICIA JONES, RELATIVE TO CONTRACT NO. 73B-3, HIXSON MARINA COLLECTION SYSTEM, TRACT NO. 072.1, FOR A TOTAL CONSIDERATION OF SEVEN HUNDRED FIFTY DOLLARS (\$750.00)**  
was adopted.

**SEWER EASEMENT: LARRY G. STONE AND KAREN STONE**

On motion of Councilman Franklin, seconded by Councilman Littlefield,  
**A RESOLUTION AUTHORIZING THE PURCHASE OF A SEWER EASEMENT FROM LARRY G. STONE AND KAREN STONE, RELATIVE TO CONTRACT NO. 73B-3, HIXSON MARINA COLLECTION SYSTEM, TRACT NO. 83, FOR A TOTAL CONSIDERATION OF ONE THOUSAND, ONE HUNDRED FIFTY-NINE DOLLARS (\$1,159.00)**  
was adopted.

**SEWER EASEMENT: SHENG YIN JIANG AND PING HU JIANG**

On motion of Councilman Lively, seconded by Councilman Littlefield,  
**A RESOLUTION AUTHORIZING THE PURCHASE OF A SEWER EASEMENT FROM SHENG YIN JIANG AND PING HU JIANG, RELATIVE TO CONTRACT NO. 73B-3, HIXSON MARINA COLLECTION SYSTEM, TRACT NO. 87, FOR A TOTAL CONSIDERATION OF ONE THOUSAND, ONE HUNDRED FIFTY-NINE DOLLARS (\$1,159.00)**  
was adopted.

**SEWER EASEMENT: PEDRO SALAS**

On motion of Councilman Littlefield, seconded by Councilman Franklin,  
**A RESOLUTION AUTHORIZING THE PURCHASE OF A SEWER EASEMENT FROM PEDRO SALAS, RELATIVE TO CONTRACT NO. 73B-3, HIXSON MARINA COLLECTION SYSTEM, TRACT NO. 089, FOR A TOTAL CONSIDERATION OF ONE HUNDRED FORTY DOLLARS (\$140.00)**  
was adopted.

**GENERAL SLOPE EASEMENT: FRED C. WILLIAMS**

Councilman Benson expressed support for this Resolution and stated that his approval is contingent upon the exercise of due diligence in doing something about the bridge as quickly as possible. He stated Admin. McDonald assured him he would work with due diligence to find money for the bridge.

Admin. McDonald acknowledged that he pledges to do his very best.

On motion of Councilman Littlefield, seconded by Councilman Benson,  
**A RESOLUTION AUTHORIZING THE PURCHASE OF A GENERAL SLOPE EASEMENT FROM FRED C. WILLIAMS, RELATIVE TO CONTRACT NO. RW-3-00, SHALLOWFORD ROAD IMPROVEMENTS, TRACT NO. 27, FOR A TOTAL CONSIDERATION OF TWO HUNDRED FIFTY DOLLARS (\$250.00)**  
was adopted.

**SEWER EASEMENT: FRED C. WILLIAMS**

On motion of Councilman Franklin, seconded by Councilwoman Robinson,  
**A RESOLUTION AUTHORIZING THE PURCHASE OF A SEWER EASEMENT FROM FRED C. WILLIAMS, RELATIVE TO CONTRACT NO. RW-3-00, SHALLOWFORD ROAD IMPROVEMENTS, TRACT NO. 27-S, FOR A TOTAL CONSIDERATION OF FOUR HUNDRED DOLLARS (\$400.00)**  
was adopted.

**GENERAL SLOPE EASEMENT: JAMES C. SWEARINGIN AND SHAWNAN D. SWEARINGIN**

On motion of Councilman Lively, seconded by Councilman Franklin,  
**A RESOLUTION AUTHORIZING THE PURCHASE OF A GENERAL SLOPE EASEMENT FROM JAMES C. SWEARINGIN AND SHAWNAN D. SWEARINGIN, RELATIVE TO CONTRACT NO. RW-3-00, SHALLOWFORD ROAD IMPROVEMENTS, TRACT NO. 30, FOR A TOTAL CONSIDERATION OF THREE HUNDRED FIFTY DOLLARS (\$350.00)**  
was adopted.

**SEWER ESAEMENT: JAMES C. SWEARINGIN AND SHAWNAN D. SWEARINGIN**

On motion of Councilman Littlefield, seconded by Councilman Pierce,  
**A RESOLUTION AUTHORIZING THE PURCHASE OF A SEWER EASEMENT FROM JAMES C. SWEARINGIN AND SHAWNAN D. SWEARINGIN, RELATIVE TO CONTRACT NO. RW-3-00, SHALLOWFORD ROAD IMPROVEMENTS, TRACT NO. 30-S, FOR A TOTAL CONSIDERATION OF ONE HUNDRED TWENTY DOLLARS (\$120.00)**  
was adopted.

**TEMPORARY USE: CNE, INC.**

Councilman Franklin stated that this matter was included in last weeks' Public Works Committee and is recommended for approval.

On motion of Councilman Lively, seconded by Councilman Franklin,  
**A RESOLUTION AUTHORIZING CHATTAHOOGA NEIGHBORHOOD ENTERPRISE, INC. TO USE TEMPORARILY THE CITY'S RIGHTS-OF-WAY ON FIRST STREET AND MARKET STREET, MORE PARTICULARLY DESCRIBED HEREIN, SUBJECT TO CERTAIN CONDITIONS**  
was adopted.

**AD VALOREM TAXES**

Councilwoman Robinson made the initial motion to adopt this Resolution remarking that this is one the most exciting projects for the downtown area.

City Attorney Nelson stated that this Resolution should be tabled one week as the name reflects "Hamilton County, Tennessee" and should reflect the "City of Chattanooga", that there is no agreement attached and several other reasons to table it.

At this point, Councilwoman Robinson withdrew her motion for adoption.

On motion of Councilman Taylor, seconded by Councilwoman Robinson,  
**A RESOLUTION TO MAKE CERTAIN FINDINGS RELATING TO THE CENTRAL BLOCK LIMITED PARTNERSHIP PROJECT AT MARKET AND 7<sup>TH</sup> STREETS, TO DELEGATE CERTAIN AUTHORITY TO THE INDUSTRIAL DEVELOPMENT BOARD OF The COUNTY OF HAMILTON, TENNESSEE, AND TO AUTHORIZE THE MAYOR TO ENTER INTO AND EXECUTE AN AGREEMENT FOR PAYMENTS IN LIEU OF AD VALOREM TAXES**  
was tabled one week.

**OVERTIME**

Overtime for the week ending July 6, 2001 totaled \$14,285.65.

**PERSONNEL**

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

**ALBERT MOORE** – Suspension (8 days without pay), Equipment Operator, Citywide Services, effective July 9 – 20, 2001.

**WILLIAM DEVILLE** – Dismissal, Crew Worker, Citywide Services, effective July 11, 2001.

**JOHNNY L. SMITH** – Resignation, Equipment Operator, Citywide Services, effective July, 5, 2001.

**PERSONNEL**

The following personnel matters were reported for the Chattanooga Fire Department:

**GLENN E. FUNDERBURK** – Retirement (25+ years of dedicated service), Captain, effective July 16, 2001.

**DANNY L. IRWIN** – Retirement (25+ years of dedicated service), Captain, effective July 19, 2001.

**WILLIAM ANDREWS, ROBERT D. BATES, CLINTON CAMERON, BRIAN C. DAVIS, BUDDY A. GARNER, JOYCE A. HAYNIE, IVAN I. HICKS, JONATHAN L. HIGGINS, CLEOPHUS HOWELL, JR., HAROLD A. MANNING, II, EUGENE A. MOORIS, TRACI C. MUHAMMAD, JOHN B. PEMBERTON, FRANK WE. ROZZELL, JR., TRACY L. SMITH, CHARLES A. ST. CLAIR, CHARLES K. THOMPSON, GABRIEL H. THRASH** – Hire, Firefighter, Pay Grade F1/Step 1, \$24,504.00 annually, effective July 13, 2001.

### HOTEL PERMITS

On motion of Councilman Lively, seconded by Councilman Franklin, the following hotel permits were approved:

**CASA GRANDE DEL RIO** – 1410 O’Grady Drive, Chattanooga, Tennessee

**BRIDGE VIEW INN** – 117 Forest Avenue, Chattanooga, Tennessee

Councilman Littlefield inquired as to whether the hotels are actually being inspected by the Fire Marshall, referencing a situation years ago where it was found the hotel had not been inspected and several violations were noted.

Chief Coppinger stated that the hotels are inspected and approved by the Fire Marshall; that in all likelihood the hotels have been inspected and re-inspected to assure that violations have been corrected.

### PERSONNEL

The following personnel matters were reported for the Chattanooga Police Department:

**STEVEN M. PARKS** – Promotion, Deputy Chief, Pay Grade P5/Step 3, \$60,475.00 annually, effective July 13, 2001.

**STEPHEN T. COLEMAN** – Suspension (15 days without pay), Police Officer, effective July 6, 2001.

**ANTHONY W. CHATMAN** – Suspension (15 days without pay), Police Officer, effective July 4, 2001.

**LARRY J. LYDA** – Retirement (29 years of dedicated service), Deputy Chief, effective July 12, 2001.

**DAVID RUSSELL** – Retirement (28 years of dedicated service), Captain, effective July 12, 2001.

**STEVE KARAS, STEVE COWLEY** – Retirement (29 and 28 years of dedicated service respectively), Lieutenant, effective July 12, 2001.

**FRED FELCI** – Resignation, Animal Services Officer, effective July 6, 2001.

**ROGER DODSON** – Resignation, Animal Services Officer, effective July 12, 2001.

**PURCHASE**

On motion of Councilman Franklin, seconded by Councilman Taylor, the following purchase was approved for use by the Office of Community Development:

**WOODLEE APPLIANCE, INC. (Best bid)**  
**Requisition R0054185/B0000617**

Token Drop Washers and Gas Dryers

\$33,461.00

**HEARING: JUDIE JOHNSON**

City Attorney Nelson announced that the personnel hearing scheduled for Monday, July 16 for Judie Johnson of the Chattanooga Police Department has been **cancelled**.

**COMMITTEES**

Councilman Page announced that a meeting of the **Economic Development Committee is scheduled for Tuesday, July 24 immediately following the meeting of the Parks and Recreation Committee** to address budgetary concerns regarding The Chattanooga. Chairman Hakeem asked that Councilman Page's meeting also involve the Budget Committee since the primary issue will deal with budget.

Councilman Lively reported that the Safety Committee met earlier in the day to hear complaints regarding fireworks displays after hours. He stated in attendance were representatives who put on fireworks displays, and as a result the Committee authorized the City Attorney to draw up an Ordinance to deal with late night fireworks displays in the downtown area. He stated the committee felt the time to deal with cessation of all fireworks operations should not go beyond 11:30 p.m., except for New Year's. He stated the City Attorney would bring the Ordinance before the Council as soon as he is able to prepare it. He stated in another item, Councilman Benson brought forward a complaint from a constituent in his district about the anti-noise Ordinance and the desire for the City to have an Ordinance similar to Huntsville's.

### **COMMITTEES (Continueud)**

Councilman Lively stated the City Attorney has been asked to get information regarding Huntsville's anti-noise Ordinance, which is more stringent than Chattanooga's.

Councilman Franklin stated that the **Public Works Committee will meet on next Tuesday, July 17 at 4 p.m.**

### **DISTRICT 4 COMMUNITY-WIDE MEETING**

Councilman Benson stated that the next community-wide meeting for his district is scheduled for Tuesday, July 24 at 6:30 p.m. He stated that he would like to encourage the Council to attend, however it is scheduled on a Council meeting night. He indicated at this point that he would not be present for the Council meeting that evening.

### **SISTER BEY**

Sister Bey expressed disgust for the way she felt Mr. Stubbs was treated and continued voicing her displeasure of the placement of the Room In The Inn in her neighborhood.

### **MIKE BARONAVSKI**

Mike Baronavski, President of the Local Firefighter's Union, asked to meet with the Budget Committee to bring up the issue of asking for a ten percent raise across-the-board. He stated last year the newspaper reported a six per cent increase across-the-board for employees, which was not true. He stated insurance is going up and there is the probability of a property tax increase; that as salaries go up so do contributions to the pension. He stated ten percent would be justifiable across the board as the family coverage of \$72.00 will be \$117.00 per year and another \$500 has been added; that the increases proposed do not include prescriptions or deductibles and everyone employed with the City does not make the same salary but pay the same premium. He stated his department is the only department where employees have to re-qualify for their jobs every year. He asked that the City of Chattanooga "move into the Twenty-First Century" and be the city we want to be rather than what we do not want to become; that he is tired of being "force fed" issues and benefits without being approached. He asked to be placed on the agenda of the Budget Committee to present his concerns further.

**MIKE BARONAVSKI (Continued)**

Chairman Hakeem asked Mr. Baronavski if he has discussed this information with Administration? Mr. Baronavski responded "yes".

Chairman Hakeem asked Admin. Boney is there is a recommendation the City would bring to the Council if a committee meeting were held on this subject? Admin. Boney expressed that he was not aware of Mr. Baronavski's concern as he was not involved in the meeting.

Chairman Hakeem stated before proceeding, he would like for Administration to be involved in this process; that the matter should go before Administration before coming to the Council. He stated before a Budget Committee meeting is scheduled he would be more comfortable talking with Administration, first. He stated next week a response would be given to Mr. Baronavski as to the desire for Council to address the issue.

Mr. Baronavski expressed his thanks to the Council.

**ADJOURNMENT**

Chairman Hakeem adjourned the meeting until Tuesday, July 17, 2001 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)