

**City Council Building
Chattanooga, Tennessee
November 11, 2008
6:00 p.m.**

Chairman Bennett called the meeting of the Chattanooga Council to order with Councilmen Benson, Berz, Gaines, Page, Pierce, Rico, Robinson and Shockley present. City Attorney Randall Nelson, Management Analyst Randy Burns and Council Clerk Carol O'Neal were also present.

PLEDGE OF ALLEGIANCE/INVOCATION

Following the Pledge of Allegiance, Councilman Shockley gave invocation.

MINUTE APPROVAL

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

RIGHT-OF-WAY HONORARY NAME

2008-PW-005: City of Chattanooga c/o Bill Payne, City Engineer

Councilman Rico made the motion to move Resolution (e) forward on the agenda; Councilwoman Gaines seconded the motion.

Councilman Rico asked Ina Ruth Ingram to join him at the podium to accept a replica of the honorary sign that would be placed in the 1300 block of West 43rd Street in her mother's honor, Fidesah Ingram. He stated the honorary naming would serve as a memorial to Mrs. Ingram who spent her life as a teacher and community leader in the St. Elmo area.

Ms. Ingram expressed appreciation for the right-of-way honorary designation as well as the street sign. She displayed a framed photograph of her mother, again expressing thanks.

RIGHT-OF-WAY HONORARY NAME (Continued)

On motion of Councilman Page, seconded by Councilwoman Gaines,
A RESOLUTION AUTHORIZING THE DEDICATION OF THE RIGHT-OF-WAY FOR THE 1300 BLOCK OF WEST 43RD STREET BETWEEN TENNESSEE AVENUE AND SENECA AVENUE, AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, TO HONOR FIDESAH INGRAM, AND AUTHORIZING THE PLACEMENT OF SIGNAGE READING "IN HONOR OF FIDESAH INGRAM" ALONG SAID RIGHT-OF-WAY, THE OFFICIAL NAME OF THE RIGHT-OF-WAY SHALL REMAIN WEST 43RD STREET ON CITY RECORDS

was adopted.

FRANCHISE

Councilman Pierce stated he would like for Ordinance (b) to be moved forward on the agenda.

Councilwoman Gaines made the motion to move Ordinance (b) forward on the agenda; Councilwoman Robinson seconded the motion; the motion carried.

On motion of Councilman Rico, seconded by Councilman Pierce,
AN ORDINANCE GRANTING A FRANCHISE TO THE ELECTRIC POWER BOARD OF CHATTANOOGA, AN INDEPENDENT BOARD OF THE CITY OF CHATTANOOGA, TENNESSEE, TO CONSTRUCT, OPERATE AND MAINTAIN A CABLE SYSTEM IN THE CITY OF CHATTANOOGA, TENNESSEE, FOR THE PURPOSE OF PROVIDING CABLE SERVICE, SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT OF THE FRANCHISE; PROVIDING FOR REGULATION AND USE OF THE SYSTEM AND THE PUBLIC RIGHTS-OF-WAY IN CONJUNCTION WITH THE CITY'S RIGHT-OF-WAY ORDINANCE, IF ANY; AND PRESCRIBING PENALTIES FOR THE VIOLATIONS OF THE PROVISIONS HEREIN

passed first reading.

REZONING

Councilman Benson made the motion to move Ordinance (h) forward on the agenda; Councilwoman Robinson seconded the motion; the motion carried.

2008-179: Flournoy Development Company, LLC

Pursuant to notice of public hearing, the request of Flournoy Development Company, LLC to rezone tracts of land located in the 7200 block of East Brainerd Road and the 1200 block of Panorama Drive came on to be heard.

REZONING (Continued)

The applicant was present; opposition was in attendance.

Greg Haynes, Director of Development Services with the Regional Planning Agency (RPA), stated that this site has been the subject of a lot of attention for the past few months and a proposal has finally been made that may meet some measure of support in the community. He stated the request is for rezoning to R-3 and the Planning Commission recommends approval subject to a long list of conditions; that Planning has seventeen conditions and the applicant has worked with the community and has tweaked/added conditions that the applicant will address. An aerial view of the site was shown by PowerPoint; also shown was the site plan that was submitted when the application was made and presented at Planning, as well as the new site plan that was submitted last week. He stated there are subtle changes between the first and second site plans as most changes were done to address the conditions listed in the packet.

Ellsworth Gallimore of 557 North Wymore Road, Suite 102 Macon, Florida, owner of the property, stated that he purchased this property some years ago and has been trying to work with the residents to satisfy the requirements and has had several meetings with them. He stated last month when the first plan was submitted there were some concerns; that they wanted a couple retention ponds with a fountain, which was added, as well as several requirements that have been met. He stated he also had a meeting with them a few days ago to show what they are doing with the new plan and immediately the residents liked what they saw. He reminded everyone that this property is on a five lane road with some commercial close by, wherein they indicated they did not want commercial; that they wanted a community feel and wanted to make sure if there were apartments it would be well kept. He stated they looked at Flournoy Development and were very pleased with what they saw. He introduced Ryan Foster with Flournoy Development Company and Mike Price, Engineer, who were willing to answer questions.

Ryan Foster of Columbus, Georgia representing Flournoy Development Company explained the changes to the drawing that were made from the previous day. He stated that he does not have a list of the all the conditions and would go over the major ones affecting the property most significantly. He stated (1) in relation to entrances into the property, originally there were two entrances in the plan for the property as it relates to making the project work where there are buildings, one (1) through five, the portion of property 100 feet higher in elevation to East Brainerd Road, bringing the whole top of the property down is the idea.

REZONING (Continued)

Mr. Foster stated in order to bring it down significantly enough they had to eliminate the road at the King Road entrance; that he spoke to the Fire Marshall and he has no problem with it as the plan is to widen both lanes to 16 feet to accommodate emergency vehicles. He stated (2) the other main entrance, building ten (10) facing the pond in front of East Brainerd Road, was deleted. He stated the building was deleted and replaced with several other smaller buildings that will have a carriage house unit, two story townhouse type units with six units each and six attached garages across the front. He stated they will be smaller in scale and have two stores rather than three. He stated to get the units back and make the project feasible, buildings six (6) and seven (7) will be turned into a $\frac{3}{4}$ split with three stories on the uphill side and three stories on the back with a basement and from the backside it will appear to be a four-story building. He stated originally there was part of a condition to have two eight foot walls along East Brainerd Road and in looking at the studies it was felt the two eight foot walls were not going to be attractive.

Mr. Foster concluded his comments by stating that a berm was originally proposed along Panorama Drive; that the berms will be removed and landscaping will still take place in that area along Panorama. He stated the estimated lowering for buildings one (1) through (5) and the clubhouse is roughly 15 feet and they are still tweaking that; that those buildings will be down about two stories and one story above Panorama Drive. He stated the final thing is a technicality as a wrought iron fence is listed in the last condition and like other projects in East Brainerd it will actually be a wrought iron-type style fence that is aluminum and looks like wrought iron.

At this point Councilman Benson asked those in accord to raise their hands and several in attendance complied. He then asked those in opposition to identify themselves by raising their hands and only one person responded. He stated this started in 2001 when a fellow bought the property and promised to make it commercial but did not; Mr. Gallimore came along and bought it from him and paid twice what was originally paid. He stated Mr. Gallimore and the developers began meeting with the community and they have been working for four years to get to this point and they have done a good job of communicating. He stated there were several meeting on this one subject with the community in the last six months -- four at Heritage House and three at Flournoy apartments, including one last Thursday. He stated someone called today indicating they did not know about the rezoning and he informed the person the rezoning sign has been up for months and meetings have been announced in newsletters.

REZONING (Continued)

Councilman Benson stated that it has come to the point now it seems people around it and those in proximity are in agreement; that those on Panorama, King Arthur and Camelot are the ones impacted. He stated they have come to the realization that this property is not going to go for R-1 or any type R-1 and are doing what is best to use this land.

Lanis Sutton stated that she lives behind this project at 7203 Sylvia Trail; that she would have to deal with triple the amount of people living there, triple the density and deal with the unbelievable commuting times which is already unbelievable. She stated the main thing she wanted to talk about is that she did not know about this; that the only sign has its back to her when she comes in on East Brainerd Road and did not know about the zoning request. She stated that she figured even though she had heard there had been zoning requests she discounted them completely and asked that this be deferred as there was not proper signage. She displayed photos of the sight coming in east bound on East Brainerd Road and noted what is visible is the back of the sign; that going west the sign can not be seen as people are traveling through going fast; that she never saw the sign and travels the road every day. She stated that she personally took a sign she heard about in a crevasse and placed it where people could see it. She reiterated that she knew nothing about it and travels back and forth each day and does not think this is proper signage; that people who actually live in the 7200 block are worried something worse will come along. She expressed hope that the R-1 zoning would be maintained which is what she bought her property for; that she bought her house so she could sell for more than it is worth or have a family and live there forever. She stated that she owns two parcels which is how much she believes in this R-1 zoning; that it is her thought Mr. Flournoy and the owners felt they were not going to get as much for R-1 as they can for R-3. She stated she is not here to line their pocketbooks; that she is here trying to keep her home value and wants to be able to maintain what she bought into, reiterating that she found out about this today; that people who live on Elaine Circle never saw it nor heard about it.

Chairman Bennett inquired as to the guidelines for posting signs.

Ms. Sutton stated that she never saw them; that they were folded. She stated she caught a glimpse of one that was folded in half but could not read it and is not visible to the public. She expressed hope that the matter would be deferred so all could have an opportunity to hear about this.

REZONING (Continued)

Mr. Haynes stated that the sign issue is hard to explain as there is no requirement for public notice. He stated RPA does not send out mail notification and what his office does do is require the applicant to put up signs when they apply for zoning; that they usually try to give them the number of signs needed in reference to how big the property is; that they may have three or four signs posted in three or four locations. He stated they go out and review and one of the things he checks for is to see if the yellow signs are up so people will know; that in the beginning he did see the yellow signs however in the course of two months he is sure signs can be blown away or fall down as in this case. He stated even though there were enough people that knew about the meetings it does not mean every single person got notified and it does not mean everyone who passed by saw them; that an attempt was made. He stated the signs are put up by the applicant; that they are given signs at the RPA office when they apply, reiterating that the signs are the responsibility of the applicant.

Chairman Bennett asked if the RPA office checks to make sure the signs are posted.

Mr. Haynes responded "we do"; that he drives by this site every day, himself, and the thing he saw most was one posted at the corner of Panorama and East Brainerd Road; that it may have been folded when it was blown causing it to open and close; that this is not a perfect system but an attempt.

Lois Kiselik of 7321 Kenmore Drive stated that her property backs up to this and that she is for it. She stated the meetings have been going on for seven-or-eight years and everyone has known about them; that hundreds of people have come and she is sorry the other resident was unaware but they have been aware. She stated her property backs up to the large retention pond which is right behind her home and they are willing to have it as Flournoy will take care of it and maintain it with a fountain. She stated she and her husband have been in their home for 40 years and it is home to them, too, and plan for it to be their home for the rest of their lives. She stated they are for it and think it is the best use of the land as they have been through everything else; that it will be nice and in keeping with the neighborhood. She stated she saw several conditions at the meeting on November 5 and they approve it as long as two conditions are included: a traffic light installed at the beginning of construction and in reference to the retention pond a drainage system and landscape berm shall be maintained and in good condition and repair. She stated as long as these two conditions are included they are for it; that she is certain they are in the conditions or will be.

Chairman Bennett asked if the conditions are included.

REZONING (Continued)

Mr. Haynes responded "yes"; that the applicant sent a list this morning.

Chairman Bennett inquired as to who will install the traffic light.

Paul Pelletier of 1302 Panorama Drive stated that he lives directly across from building seven (7) in reference to the drawing; that they have been going round-and-round for seven years and have met numerous times. He stated they have worked in great detail with Mr. Gallimore and the developer and thinks all the engineering and communication concerns have been addressed time and time again with notification from Audubon Acres and the neighborhood association. He stated fliers were placed on mailboxes when meetings were held and where and gave kudos to those who did that. He stated he is impacted the greatest as the entrance is directly across from him; that Mr. Gallimore worked with him on landscaping even on his property to reduce the lights coming from the development into his living room window, which says a lot for the developer and Mr. Gallimore. He stated he does not know of any other developer with this many conditions that have been worked out with the community; that all are in favor of this project going ahead – truly all.

At this point Chairman Bennett declared the public hearing closed.

Councilman Benson stated that he wanted to piggyback on what has been said so well; that in his years on the Council we have never had a developer work as hard to bring about something; that he knows he refused to sell to some people who would not meet the criteria the neighborhood asked for. He expressed appreciation and expressed hope that this sets an example for all developers to follow; that he does know the lady who spoke against it does live down on Sylvia which comes through the back yard over there. He stated that he had to listen to the people on Panorama Drive as this goes into their back yard; that he really looked long and hard to make a decision. He stated there are no others in objection and inquired as to how many in attendance live close in the neighborhood. Several in attendance raised their hands.

Councilman Pierce expressed concern about the last minute conditions and inquired who will install the light.

Councilman Benson stated that the light has been the main condition; that they want the light as soon as construction starts as they do not want construction trucks coming down Camelot and King Arthur. He stated it is hard to get a developer to spend \$135,000 on a traffic light.

Ryan Foster of Flournoy Development responded "yes", that they agree to put up a traffic light.

REZONING (Continued)

Councilman Benson stated if it is not approved by TDOT and the city everything is off; the response was "right".

Councilman Benson reiterated there would be no apartment traffic light unless TDOT approves; that he thinks that would help at the top of the hill as a light is needed.

On motion of Councilman Rico, seconded by Councilman Benson,
AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE TRACTS OF LAND LOCATED IN THE 7200 BLOCK OF EAST BRAINERD ROAD AND THE 1200 BLOCK OF PANORAMA DRIVE, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP AND DRAWING ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, FROM R-1 RESIDENTIAL ZONE TO R-3 RESIDENTIAL ZONE, SUBJECT TO CERTAIN CONDITIONS

passed first reading.

AMEND CITY CODE

On motion of Councilwoman Rico, seconded by Councilman Pierce,
AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 35, ARTICLE VII, RELATIVE TO PEDAL CARRIAGES AND RICKSHAWS, TO PROVIDE FOR THE PURPOSE OF THE ARTICLE, DEFINITIONS, AND JURISDICTION

passed first reading.

REZONING

2008-168: William Eric Lee

Pursuant to notice of public hearing, the request of William Eric Lee to rezone a tract of land located at 9124 Amos Road came on to be heard.

The applicant was present; there was no opposition.

Mr. Haynes stated the request for R-4 is to have an animal clinic or hospital; that the Staff looked at this and Planning reviewed it with Planning recommending approval subject to three conditions.

REZONING (Continued)

An aerial view of the site was displayed by Power Point where it was noted that it is in proximity to the Ooltewah High School and a church is located across the Street. He stated the Wolftever Creek Plan supports this request and Planning recommends approval.

Councilmen Rico and Shockley made the motion and second to approve this request.

William Lee of 9124 Amos Road stated that his intention is to have the animal hospital and the conditions ask that the existing structure be kept. He stated he would ask that the opposition speak and he would respond afterward.

Chester Bankston of 8509 Water Tower Road spoke stating that he is a member of the Hamilton County School Board as the representative for District 9. He stated this property sets on the campus of Ooltewah High School and all around the site are the football practice field, girls' softball, track and baseball fields, and the ban practice field, as well. He stated it is felt this would create a huge safety concern for them to be using this facility with animals coming and going.

Dr. Brian Dickinson spoke from a prepared statement, indicating that he is a small animal veterinarian and owns and operates Animal Medical Professionals, a full service veterinary clinic/hospital on Main Street in Ooltewah. He stated the current owner of the property is seeking rezoning to sell the property to a personal friend who wants to open a veterinary hospital at that location, which concerns him. He stated in researching veterinary demographics, greater than 90% of clients typically travel no more than eight miles with their pet to visit a veterinary hospital and there are eight veterinary clinics within that radius of the Amos Road location. He stated there are 18 veterinary hospitals within a thirteen mile radius of this property; that Ooltewah is an already crowded and competitive small animal veterinary community with a sufficient number of hospitals to serve the needs of the area. He stated many of the existing clinics are struggling and their business would be hurt further by sharing the client pool with a new hospital and rezoning this plot for the sole purpose of creating another veterinary hospital would only hurt existing veterinary businesses. He suggested that perhaps the Council could see other positive potential uses for this plot. *(A copy of Dr. Dickinson's statement is filed with minute material of this date.)*

Mr. Lee responded by stating as far as the site surrounding the School it is indeed true; that there is constantly something going on around the site. He stated as far as it being a hazard to any children, John Mullins who would have the hospital can address that; that the plan is to have a fence around it.

REZONING (Continued)

Mr. Lee stated as far as other veterinarians, he is sorry this will hurt their business; that someone should have said something.

John Mullins of 402 Shawnee Trail in Chattanooga stated as far as the animals are concerned he is not real clear on what Mr. Bankston meant; that it is his thought that the objection was potentially the animals might be a hazard to the children and his answer would be he is planning on a premier fence that would be animal proof. He stated the potential of people coming onto us would be a greater danger than his hospital would pose to anyone else. He stated maximally if we are talking about traffic, we are probably talking about 45 extra vehicles per day which he does not think would be a very great percent change in the existing traffic; that he does not know what the traffic is currently but would think 30-45 or 50 people will not make a whole lot of difference there.

Virginia Lee, wife of William Lee, stated in the past the School had an opportunity to purchase our property at least three times and never had an agreement with them. She stated that she wanted to say that they did not feel the School Board had an interest in the property anymore.

Councilman Benson stated to Dr. Dickinson that if he wanted to go into another community he would not want the Council to hold zoning against him (Dickinson) if it was thought the market would earn his investment; that if anyone could show zoning would do financial harm to adjacent property owners or harm their way of life he does not think he could vote for it. He stated he needs to hear how it will harm anyone's way of life or value of property. He stated he does not need to hear about competition as we do not regulate competition in zoning. He stated something was said by the prospective owner that a fence would be built around it; that he is a little worried and asked if there would be dog runs.

Dr. Mullins stated he is not planning on having anything outdoors, reiterating there is no plan to have anything out of doors; that one of the conditions is to use the existing footprint and that is the current plan. He stated the exterior will not be appreciably changed; that the whole plan is to keep the trees that are there now with the exception of cutting down the hedge that is listed as invasive in the city; that he knows there is a program to do away with that species now. He stated that would be the only thing he would want to get rid of again stating there is no plan to house anything out of doors.

Chairman Bennett stated that is in the conditions and stated to Mr. Bankston that she has been besieged by calls from soccer moms and e-mails in reference to purchasing the soccer field.

REZONING (Continued)

Mr. Bankston stated there is some concern regarding purchasing the soccer field which is not his main concern; that his main concern is the safety of kids on those fields all around the property.

Councilman Benson inquired as to why they would not be safe.

Mr. Bankston stated when the band gets on the field and a racket is made, what does it do to animals.

Councilman Benson stated that it does not do much at all to his Black Lab and does not know about other animals; that he lives next to Grace Baptist and their football fields.

Mr. Bankston stated that the noise disturbs dogs and his main concern is the safety of children in our schools.

Councilman Benson responded that that is the Council's concern, too, and asked if the School Board would buy it.

Mr. Bankston stated he is only one School Board member; that four more votes would be needed.

Gina Lee with Crye-Leike stated that she is Mr. Lee's mother and is handling this transaction. She stated that she talked with Mr. Hullender several times in the past and has it all documented. She stated in 2002 we talked about a buying price and was told it was too high; that in 2003 they called again and was told it was for sale but again said the price was too high; that the appraiser would come in lower than the asking price and she told him they were willing to sell but they never proceeded.

At this point Councilman Rico called for the question.

On motion of Councilman Rico, seconded by Councilman Shockley,
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF
LAND LOCATED AT 9124 AMOS ROAD, MORE PARTICULARLY
DESCRIBED HEREIN AND AS SHOWN ON THE MAP AND DRAWING
ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, FROM
R-1 RESIDENTIAL ZONE TO R-4 SPECIAL ZONE, SUBJECT TO CERTAIN
CONDITIONS**

passed first reading.

REZONING

2008-172: DWH Architects – Memorial Hospital

Pursuant to notice of public hearing, the request of DWH Architects – Memorial Hospital to rezone tracts of land located in the 2400 block of Citico Avenue, the 800 block of Wheeler Avenue, and the 800 block of North Chamberlain Avenue came on to be heard.

The applicant was present; there was no opposition.

Bill Wilkerson was present representing the applicant and stated that they received approval from Planning last month but this is a large and very complex project with a total investment of \$250 million and things keep changes. He stated that he would like to have the matter deferred to be sure of what we are asking for and have community support. He asked for deferral for one month but would like to reserve the right for longer than that.

Councilman Pierce stated if changes are being made it would have to go back to Planning.

City Attorney Nelson stated that it depends on the changes.

Mr. Wilkerson confirmed if there are no changes it will be back before this body, but if there are changes it will go back to Planning.

On motion of Councilwoman Gaines, seconded by Councilman Rico,

AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE TRACTS OF LAND LOCATED IN THE 2400 BLOCK OF CITICO AVENUE, THE 800 BLOCK OF WHEELER AVENUE, AND THE 800 BLOCK OF NORTH CHAMBERLAIN AVENUE, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP AND DRAWING ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, FROM R-1 RESIDENTIAL ZONE TO R-4 SPECIAL ZONE, SUBJECT TO CERTAIN CONDITIONS

was tabled 4 weeks at the request of the applicant (December 9, 2008).

REZONING

2008-175: Jerry Hagan

Pursuant to notice of public hearing, the request of Jerry Hagan to rezone a tract of land located at 7374 Applegate Lane came on to be heard.

REZONING (Continued)

The applicant was present; there was no opposition.

Mr. Haynes stated that the request is to rezone to R-4 mainly to allow residential and limited businesses within the same structure. He stated the present zoning, O-1, only allows office with no residential unless the residential use has been grandfathered, which is the case for a number of structures on the street. He stated Mr. Hagan is requesting rezoning to allow that flexibility to lease the property whether residential, business or both. He stated Planning recommends approval subject to a list of conditions.

Councilman Benson stated no one was in objection at Planning. He stated six years ago there was a covenant made in trying to work these Dutch Colonial homes into something that could be used as offices and the residents continue to live upstairs and everyone agreed. He stated there are eight-or-nine houses on the street; that a petition was signed by everyone on the street in objection to this rezoning except Mike Price who rents from Mr. Hagan. He stated that he could not support this request unless it goes back to the people and try to explain what is being done. He stated all are upset except one; that he can make the motion to defeat or defer.

Jerry Hagan stated that he was unaware of the opposition; that no one contacted him about having opposition and would prefer to defer and leave it at that.

On motion of Councilman Benson, seconded by Councilman Rico,
AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED AT 7374 APPLGATE LANE, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP AND DRAWING ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, FROM O-1 OFFICE ZONE TO R-4 SPECIAL ZONE, SUBJECT TO CERTAIN CONDITIONS
was tabled four weeks (December 9, 2008).

REZONING

2008-176: Eddie Adams – Central Baptist Church

Pursuant to notice of public hearing, the request of Eddie Adams – Central Baptist Church to rezone a tract of land located at 5202 Hixson Pike came on to be heard.

REZONING (Continued)

The applicant was present; there was no opposition.

Mr. Haynes stated there was no opposition to this request; that the request for R-4 is to build a senior life and assisted living facility. He stated the site is north of the Northgate Mall area and is recommended for approval from Planning.

Councilman Page stated he has met with Rev. Adams at Central Baptist Church and a facility of this type is needed in the area.

On motion of Councilman Page, 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 5202 HIXSON PIKE, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP AND DRAWING ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, FROM C-2 CONVENIENCE COMMERCIAL ZONE AND M-3 WAREHOUSE AND WHOLESALE ZONE TO R-4 SPECIAL ZONE

passed first reading.

REZONING

2008-178: David M. & Janie R. Benton

Pursuant to notice of public hearing, the request of David M. and Janie R. Benton to rezone a tract of land located at 2701 Walker Road came on to be heard.

The applicant was present; there was no opposition.

Mr. Haynes stated this request is for mini-warehouses and indicated that a new site plan has been submitted different from the one presented at Planning. He stated the land use plan for the area supports the request and the Planning Commission recommends approval subject to a list of conditions; that two additional conditions have been added for additional buffering. He stated the Staff's main concern was in reference to the residential area to the west on Sonia Lane. He stated Planning recommended denial of the M-3 but approval of C-2 subject to conditions.

It was clarified that the second alternative recommended by Planning for approval was the one the Council is voting on and the caption the Clerk of Council read.

REZONING (Continued)

On motion of Councilwoman Robinson, 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 2701 WALKER ROAD, MORE PARTICULARLY
DESCRIBED HEREIN AND AS SHOWN ON THE MAP AND DRAWING
ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, FROM
R-2 RESIDENTIAL ZONE TO C-2 CONVENIENCE COMMERCIAL ZONE,
SUBJECT TO CERTAIN CONDITIONS**

passed first reading.

LIFT CONDITIONS

2008-182: Corrie Eldred – Betts Engineering Associates, Inc.

Pursuant to notice of public hearing, the request of Corrie Eldred – Betts Engineering Associates, Inc. to lift conditions imposed in Ordinance No. 10011 (Case No. 1993-234) on tract of land located at 1005 Glenwood Drive and 950 North Chamberlain Avenue came on to be heard.

Adm. Leach stated that he did not know if the Council wants to delay this for a month based on what was heard in one of the zoning cases; that he has not heard anything to the contrary. He stated if the Council delays to let the zoning catch up there will be a tradeoff of utilities to move utilities over and allows Memorial to expand their campus. He recommended going ahead with this if it is the will of the Council.

Councilwoman Gaines stated that she just spoke with one of the architects on the issue that was just deferred; that she knows we are looking at totally different ends of the street and asked if this could be a time sensitive issue as opposed to the item the Council just deferred.

Adm. Leach stated that it could be; that there may be some other specific uses here in relocating sewers; that time is of the essence.

On motion of Councilwoman Gaines, seconded by Councilman Benson,
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO LIFT ALL CONDITIONS
IMPOSED IN ORDINANCE NO. 10011 (CASE NO. 1993-234) ON TRACTS
OF LAND LOCATED AT 1005 GLENWOOD DRIVE AND 950 NORTH
CHAMBERLAIN AVENUE, MORE PARTICULARLY DESCRIBED HEREIN
AND AS SHOWN ON THE MAP AND DRAWING ATTACHED HERETO
AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN
CONDITIONS**

passed first reading.

AD VALOREM TAXES

On motion of Councilman Page, seconded by Councilwoman Gaines,
A RESOLUTION TO MAKE CERTAIN FINDINGS RELATING TO THE SCENIC INDUSTRIES, LLC PROJECT TO DELEGATE CERTAIN AUTHORITY TO THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF CHATTANOOGA AND TO AUTHORIZE THE MAYOR TO ENTER INTO AN AGREEMENT FOR PAYMENTS IN LIEU OF AD VALOREM TAXES
was adopted.

INSTITUTE A CAUSE OF ACTION

On motion of Councilman Rico, seconded by Councilwoman Robinson,
A RESOLUTION AUTHORIZING THE OFFICE OF THE CITY ATTORNEY TO INSTITUTE A CAUSE OF ACTION AGAINST DEMENT CONSTRUCTION COMPANY FOR DAMAGE TO PROPERTY LOCATED ON WILLIAMS STREET RELATIVE TO WASTE RESOURCES MANAGEMENT
was adopted.

AGREEMENT

Councilman Page inquired as to the condition on getting a legal opinion as to whether we have not run past the statute of limitations.

City Attorney Nelson confirmed that it has run out.

Councilman Page stated if it has not run out it is his thought there needs to be a formal report from the City Attorney would and like to have that when he gets back next week.

On motion of Councilman Rico, seconded by Councilwoman Gaines,
A RESOLUTION AUTHORIZING THE DIRECTOR OF GENERAL SERVICES TO ENTER INTO AN AGREEMENT WITH JAKE MARSHALL, LLC FOR MODIFICATIONS AND CORRECTIONS TO THE DEVELOPMENT RESOURCE CENTER (DRC) HEATING, COOLING AND VENTILATION SYSTEMS IN THE AMOUNT OF ONE MILLION ONE HUNDRED THOUSAND DOLLARS (\$1,100,000.00), PLUS A CONTINGENCY IN THE AMOUNT OF FIFTY-FIVE THOUSAND DOLLARS (\$55,000.00) FOR A TOTAL CONTRACT AMOUNT NOT TO EXCEED ONE MILLION ONE HUNDRED FIFTY-FIVE THOUSAND DOLLARS (\$1,155,000.00)
was adopted.

PERMANENT CONSERVATION EASEMENT

On motion of Councilman Rico, seconded by Councilman Page,
A RESOLUTION AUTHORIZING THE ACCEPTANCE OF A PERMANENT CONSERVATION EASEMENT FROM DEAN CONSTRUCTION, LLC ON PROPERTY DESCRIBED ON THE LEGAL DESCRIPTION AND MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, TO BE USED AS PART OF THE SOUTH CHICKAMAUGA GREENWAY AND AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PARKS AND RECREATION TO EXECUTE THE DEED OF CONSERVATION EASEMENT RELATIVE TO THIS DONATION
was adopted.

OVERTIME

Overtime for the week ending November 6, 2008 totaled \$77,925.31.

PERSONNEL

The following personnel matters were reported for the various departments:

PARKS AND RECREATION DEPARTMENT:

- **ELAINE ROBINSON** – Resignation, Zookeeper 1, effective October 26, 2008.

CHATTANOOGA POLICE DEPARTMENT:

- **AMY WILLIAMS** – Return from Medical Leave, Administrative Support Assistant 2, effective November 3, 2008.
- **TERRANCE GRAVES** – Termination, Police Cadet, effective November 3, 2008.
- **SARAH MOODY** – Family Medical Leave, Police Officer, effective October 30, 2008 – January 30, 2009.
- **CHARLA JOHNSTON** – Return to Duty from Medical Leave/Voluntary Demotion, Police Records Tech, G5.05, \$25,000.00 annually, effective November 7, 2008.

PERSONNEL (Continued)

- **JEFFREY L. GADD** – Resignation, Police Officer, effective November 6, 2008.

PUBLIC WORKS DEPARTMENT:

- **LEE STARNES** – Resignation, Site Development Chief, effective November 6, 2008.
- **JOEL THOMAS BAGGETT** – Resignation, Construction Inspector 1, effective November 6, 2008.
- **CHRIS WALKER** – Family Medical Leave, Plant Operator, effective August 15 – November 7, 2008.
- **JASMINIUS A. TAYLOR** – Suspension without pay (12 days), Crew Worker 1, effective November 6 – November 21, 2008.

DONATIONS

Adm. Zehnder reported the following donations to the Parks and Recreation Department:

- \$250 worth of items for the skate party at the Chattown Skate Park on October 31 from Flamingo Skate Shop, LLC – three (3) sets skate hardware, six (6) tee shirts, two (2) sets skate bearings, and three (3) gift certificates.
- Sixty (60) boxes of books for ReadFest to the city's recreation centers from Speculative Fiction Fans Inc. The donation includes children's books, mysteries, travel and educational books and science fiction. He stated he does not have a monetary value however it is a nice donation.

GAZEBO FOR HERITAGE PARK

Councilman Benson asked if approval has been given the Association of General Contractors to donate the construction equipment for the gazebo for Heritage Park by using East Ridge vocational arts students. He stated he talked with them today and they are ready to move on it.

GAZEBO FOR HERITAGE PARK (Continued)

Adm. Zehnder responded that he had not seen the plans and does not know any of the details. He stated he would be happy to talk with them.

HOTEL PERMITS

On motion of Councilman Pierce, seconded by Councilwoman Robinson, the following hotel permits were approved:

GLENDALE COURT – 930 Signal Mountain Road, Chattanooga, TN

KNIGHTS INN – 3655 Cummings Highway, Chattanooga, TN

COUNTY INN & SUITES BY CARLSON – TIFTONIA – 3725 Modern Industries Parkway, Chattanooga, TN

HOLIDAY INN EXPRESS HOTEL & SUITES – 3710 Modern Industries Parkway, Chattanooga, TN

CHILI COOK-OFF

Chief Parker invited Council members to the Chili Cook-off this weekend at the First Tennessee Pavilion on Sunday from noon until 5:00 p.m. He stated that fliers were distributed at this afternoon's committee meeting.

CHALLENGE COIN

Chief Williams was present to present the latest Challenge Coin awards to officers for outstanding work. The Coins for this period were presented to **Officers James Dave, Michael Terry, Daniel Frances, Charles Bryson, Rusty Morgan and Jayevan Montgomery.**

Chief Williams continued by stating that the department has been in the process of having a "big feather" in their caps for the department and the city. He displayed a poster that was created by Matt Lea regarding the International Breachers Symposium that is SWAT related. He stated the event has drawn over 500 people from all over the United States, Israel, Norway, Sweden, the United Kingdom, the Netherlands, Canada and South Africa. He stated the department hosted them during November 11-13 at the Convention Center; that they demonstrated SWAT and hostage rescue at the range today.

CHALLENGE COIN (Continued)

Chief Williams stated that the scenario was a federal judge had been kidnapped; that the Tennessee Highway Patrol helicopter landed, loaded the victim and exited and an armed rescue vehicle picked up the remainder. He stated they were very pleased with the outcome and had a large number of officers from out-of-town, as well as special operations people from the military commenting on how clean and pretty our city is, noting that they have gone on-and-on about it all week.

Councilman Page complimented the present Council Chairman for having Chief Williams bring in the information about the Challenge Coin; that it makes him feel good and warm inside! He expressed thanks for the work the department does and bringing the information to the Council.

Chief Williams expressed appreciation for the opportunity; that the Council does not always get to hear about the good things and is glad he has a forum to bring his information and brag!

CANCELLATION OF COUNCIL MEETINGS FOR HOLIDAYS

City Attorney Nelson reminded Council members that they might want to set the Christmas schedule as he has noticed that we are getting into deferring some of the zonings and want to assure it will not interfere with the Christmas holidays.

On motion of Councilman Pierce seconded by Councilman Rico, Council meetings scheduled for December 23 and 30 were cancelled with a unanimous vote.

VOLKSWAGEN AGREEMENTS

City Attorney Nelson stated that we have a little bit of work to do on the Volkswagen agreements as they have a PILOT that needs to come before Council to complete the lease agreement. He stated they have not quite agreed on all the terms, but should be done with that by tomorrow or Thursday; that an Economic Development Committee meeting is needed or some other committee on next Tuesday as they are trying to get this done by Thanksgiving. He stated unless the Council acts on next Tuesday we will not be able to accomplish that; that the Industrial Development Board always waits for the Council to approve before it will do the PILOT agreements.

VOLKSWAGEN AGREEMENTS (Continued)

Councilman Page stated that he spoke with the Clerk of Council about this prior to tonight's meeting; that other PILOT projects will be coming forth and suggested that the matter be piggybacked onto the Legal and Legislative Committee next week. He stated that he knows the Volkswagen PILOT will be coming forth unless there are other agreements that need to be discussed. He stated he will not be present next week.

Councilman Pierce asked when the Bond Board will meet.

City Attorney Nelson stated that the Bond Board meets at noon on Tuesday, so if the Council acts next Tuesday night the Bond Board could meet and have this done by Thanksgiving.

Councilman Pierce asked if they are meeting each Tuesday through the end of the year. He asked why the meeting was postponed on yesterday.

City Attorney Nelson stated there was no business this week, no contracts; that it is his belief there are some for next week.

Adm. Leach responded "yes", there are contracts for next week; that a tour of the facility is planned for one of the weeks.

COUNCILMAN SHOCKLEY

Councilman Pierce inquired as to the status of Councilman Shockley for next week's meeting.

City Attorney Nelson stated that the Election Commission was originally scheduled to meet on tomorrow, however, it is his understanding the meeting has been postponed until Friday morning. He stated the Council should be ready for a new member next week and expressed thanks to Councilman Shockley for his service.

Councilman Pierce stated if Mr. Gilbert is sworn in next Tuesday does Councilman Shockley need to show up.

City Attorney Nelson stated that he is welcome to come but he does not anticipate a necessity. He stated the only purpose he can think of is that the swearing-in is the first thing that we always do as a special presentation where a new member is sworn-in; that when there is the question of a quorum then we would need him.

COUNCILMAN SHOCKLEY (Continued)

Councilman Pierce acknowledged that he has enjoyed serving with Councilman Shockley and looks forward to seeing him the next time!

Councilman Page echoed that it has been his pleasure, as well.

COMMITTEES

Councilman Benson stated **Legal and Legislative is scheduled to meet on next Tuesday, November 18 immediately following discussion of agenda items** for a discussion the Volkswagen PILOT, signage regulations, brake noise and we might be ready for a discussion on subdivision regulations as it relates to the *Fire Code*.

ADJOURNMENT

Chairman Bennett adjourned the meeting of the Chattanooga Council until Tuesday, November 18, 2008 at 6:00 p.m.

CHAIRMAN

CLERK OF COUNCIL

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