

City Council Building
Chattanooga, Tennessee
December 9, 2008
6:00 p.m.

Chairman Bennett called the meeting of the Chattanooga Council to order with Councilmen Benson, Berz, Gaines, Gilbert, Page, Rico, and Robinson present; Councilman Pierce joined the meeting later. 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, Chairman Bennett gave invocation.

MINUTE APPROVAL

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

AMEND CITY CODE

Councilmen Rico and Gaines made the motion and second to substitute the amendments to this ordinance; the motion carried.

On motion of Councilman Rico, seconded by Councilwoman Gaines,
AN ORDINANCE AMENDING CHATTANOOGA CITY CODE SECTION 3-19, TO INCLUDE ADVERTISING SIGN REQUIREMENTS FOR SIGNS CONTAINING LIGHT EMITTING DIODE (LEDS) WITHIN SIGNAGE NEAR STREETS AND ROADWAYS WITHIN THE CITY OF CHATTANOOGA
passed second and final reading and was signed in open meeting.

AMEND ORDINANCE NOS. 12024 AND 12161

Councilman Gilbert stated he has not been on the Council that long and noted that he has a concern about the Volkswagen investment for Chattanooga and Hamilton County. He stated that he read in the newspaper that Volkswagen is going to Mexico for concrete material to bring back to Chattanooga. He stated we have raw material like concrete available here and feels Volkswagen should look at the city and county as a whole for their workers and raw materials since this is an investment between us and them.

Steve Leach responded in reference to site preparation and material that is part of our memorandum of understanding and stated there has been local involvement with local contractors. He stated when Volkswagen goes out they will go out for bids and he has not been privy to them and is not privy to the report Councilman Gilbert referenced about concrete. He stated that they do know this is a major project for them and encouraged them to “shop” locally; that they will look for the best bid and he is not sure how they will bring concrete in as it does not make any sense financially to truck it in for a very long distance. He reiterated that he is not sure about what was read as they are looking locally and has a whole office of buyers out soliciting; that he has not seen anything about construction material, steel, concrete or anything in the paper and must have missed it. He stated he is not privy to that and it would be a private decision based on cost.

On motion of Councilwoman Gaines, seconded by Councilman Benson,
**AN ORDINANCE OT AMEND ORDINANCE NOS. 12024 AND 12161 AS
AMENDED ENTITLED “AN ORDINANCE APPROPRIATING, AUTHORIZING
OR ALLOCATING FUNDS TO THE CAPITAL IMPROVEMENTS BUDGET FOR
THE FISCAL YEARS 2007/2008 AND 2008/2009” TO PROVIDE FOR
ADDITIONAL FUNDING FROM GENERAL OBLIGATION BONDS AND
ALLOCATE ADDITIONAL FUNDS TO VOLKSWAGEN SITE IMPROVEMENTS
AND FIREHALL CONSTRUCTION AND EQUIPMENT IN THE AMOUNT OF
\$5,985,000.00 FOR FY08 AND \$10,702,473.00 FOR FY 09**

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

AMEND ZONING ORDINANCE

On motion of Councilman Rico, seconded by Councilwoman Berz,
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, BY AMENDING ARTICLE VI,
HEIGHT AND AREA EXCEPTIONS, TO CREATE UNIFORMITY IN THE LISTED
REQUIREMENTS AND TO INCLUDE GUIDELINES FOR MOVEMENT OF
SINGLE-FAMILY RESIDENCES AS SET OUT BY RECENT CHANGES IN
TENNESSEE LAW**
passed first reading.

AMEND ZONING ORDINANCE

On motion of Councilman Benson, seconded by Councilwoman Berz,
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, BY AMENDING ARTICLE VI,
HEIGHT AND AREA EXCEPTIONS, SECTION 106, TO CLARIFY THE LOT OF
RECORD REQUIREMENTS FOR DUPLEX DEVELOPMENT IN THE R-3MD
MODERATE DENSITY ZONE**
passed first reading.

CLOSE AND ABANDON

MR-2008-130: C & L Rentals, LLC

The applicant was present; there was no opposition.

On motion of Councilman Rico, seconded by Councilman Page,
**AN ORDINANCE CLOSING AND ABANDONING A PORTION OF THE
2400 BLOCK OF 10TH AVENUE, THE 2500 BLOCK OF EAST 24TH STREET,
AND PORTIONS OF AN UNOPENED ALLEY LOCATED OFF OF SAID
BLOCK OF EAST 24TH STREET, MORE PARTICULARLY DESCRIBED HEREIN
AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART
HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS**
passed first reading.

(Councilman Pierce joined the meeting at this point.)

REZONING: HIGHLAND PARK ZONING STUDY

2008-161: City of Chattanooga/RPA

Pursuant to notice of public hearing, the request of the City of Chattanooga/RPA to rezone specific properties within the Highland Park Neighborhood came on to be heard.

Karen Rennich stated this matter was presented in Committee this afternoon and noted that the RPA was requested by City Council to conduct a study of zoning in Highland Park as part of the Tennessee Temple PUD. She stated three neighborhood meetings were held and they are recommending three general categories for properties that are interior to the neighborhood and smaller lots; that they looked at everything from land use plan recommendations, lot size requirements and determined a majority of the lots were most suitable for single family development based on lot sizes. She stated that they recommend R-1, noting that there is institutional property related to Tennessee Temple, Highland Park and St. Andrews and the recommendation for those uses for institutional have required parking and auditorium and gym facilities for R-4 with conditions. She stated there are two dormitories that are being removed from the Tennessee Temple PUD with a recommendation for R-3 with conditions. She stated the matter was presented to the Planning Commission last month and approval is recommended.

Jay Crane asked those in support of the study to raise their hands; several in attendance raised their hands in support. He stated the zoning study approved in 1992 did not coincide with some people and there is the need for uniformity in the neighborhood as there are some bad multi-family units in the area. He stated this study is invaluable to the neighborhood.

Henry Ash of 1402 Chamberlain and 1512 Union stated the PUD aspect of this study does fully support the recommendations made by Staff; that there was a concern about what the use of the dormitories would be. He stated that it is his thought the neighborhood and University would love to see the buildings filled with students, however, in these times that is not the case. He stated that it is his thought this plan does protect the neighborhood, as well as the University, but putting R-3 with special conditions is a concern; however, everyone is in support of the plan.

Rocky Chambers stated that he is part owner of a company on Kirby Avenue and they totally support the Highland Park Neighborhood Association. He when they bought the property they spoke with Karen Rennich and others about the zoning study.

REZONING: HIGHLAND PARK ZONING STUDY
(Continued)

Mr. Chambers stated all share the same vision for where they would like Highland Park to go; that his concerns are about the individual lot he purchased; that he and his partners bought it as an R-2 zone and it has a large main structure and a garage that was not real desirable at the time. He stated they bought with the intent to restore both the structure of the house and the garage in back; that he has been speaking with people from the City who noted it was grandfathered-in. He stated they plan to restore both the large house and the mother-in-law apartment in the rear and have been told it is grandfathered-in and would like to keep it R-2 as it would be more marketable.

Councilman Benson stated that he spoke with Mr. Chambers today and told him he would still be able to accomplish that if it is built as a duplex and sells it; that the only thing is if it is interrupted, in 100 days it would revert to R-1. Mr. Chambers acknowledged that they did speak about that.

Councilman Benson stated that he tried to explain that the value of the property in the long run will go up with R-1 if the entire neighborhood is R-1.

Mr. Chambers stated that he was not sure, yet, as to whether the value of that particularly property would go up.

Councilman Page stated this is a question that has haunted the Council before; that he wants to make sure all are aware what they are getting into. In addressing the City Attorney he referenced bank financing if a property is not actually zoned R-2; that there has been a problem with getting secured mortgage financing arrangements as several have come before the Council over the past year or longer with that difficulty and sees it as a problem we have struggled with before.

City Attorney Nelson acknowledged that he was not sure exactly what Councilman Page's question was.

Councilman Page stated we deal with problems like this when someone has property downzoned and operating as a duplex when they want to sell it but could not sell it because it was non-conforming in zoning.

City Attorney Nelson stated if the property is zoned R-2 and generally the whole zones in the neighborhood is R-1 the object of the zoning is to make the neighborhood conform with the whole; that it is not the purpose of neighborhood zoning to encourage higher uses next to a lower use.

REZONING: HIGHLAND PARK ZONING STUDY
(Continued)

City Attorney Nelson stated that he did not know how to go about permitting R-2 property to have special conditions; that it is his thought if they can not get a loan they can come back to the Council and ask to be rezoned and look at it in terms of whether it is spot zoning or another similar zoning in the neighborhood. He stated the Council would look at the individual circumstances of the property; that generally the idea is to have a uniform neighborhood and not mix different types of housing.

Councilwoman Robinson asked Barry Bennett to address this.

Barry Bennett, Executive Director of RPA, stated in the past there has always been the concern about taking someone's property rights away by downzoning. He stated in this particular case that is not the situation; that there actually is a single family residence on the property and a detached garage which creates separate units, so it is not really a duplex, per se, on the property, there are two separate dwelling units and we can not have that as we can only have one single family structure per lot. He stated in order to do what Mr. Chambers wants to do it would have to be subdivided into two separate single family lots or an existing residence converted into two units within the same building and not have a garage apartment. He stated the problem is that is under R-2 zoning which he will not be able to do; that 7500 feet is needed for single family and for a duplex, if there is construction, a variance from the Board of Appeals is needed for a minimum lot of 9,500, noting that the Board of Appeals more than likely would not grant a variance if it is considered a self-imposed hardship. He stated maintaining an R-2 zone does not help as this is really a non-conforming use no matter what zone; that the only way to do what he wants to do is apply for an R-3 zone which would be very difficult to get. He stated what he has now is grandfathered-in; that as far as two separate units under the City's zoning subdivisions laws it can not be done because there is no room to subdivide as there is no minimum lot size. He stated that is the issue, downzoning to R-1 to bring zoning into conformity with the rest of the neighborhood and letting him maintain it as R-2 does not help in any way; that it creates a problem for the zoning study.

Mr. Chamber responded that he "respectfully disagrees with that"; that they are separate structures. He stated his future plan is to restore the property and understands it will be grandfathered-in and he can still use.

Mr. Bennett stated that the question is whether the two separate units on the property were a legal use at any point in time; that he does not think that has ever been permitted within the City of Chattanooga.

REZONING: HIGHLAND PARK ZONING STUDY
(Continued)

Mr. Bennett stated if both structures were there prior to adoption of the zoning laws and codes that control it, then it would be considered; that if they were constructed or converted into units while the zoning laws were in existence it is simply something that would not have been permitted; it would not have legal non-conforming status.

Councilwoman Robinson stated that the whole plan is before us because of one glitch; that it seems what we have is a plan that is going to work in this instance and what he has is not going to go away. She stated as far as any future restoration it is her thought that is always up to the owner who should understand what the restrictions were or should have understood. She stated we take it for what it is today as it seems most of the neighborhood is in favor of the Plan.

Mr. Bennett we are not trying to take anything away from him; that he understands he bought it in good faith as an investment and anything he can legally do there we have no problem with; that if it is determined it is grandfathered-in that is fine and the neighborhood does not have a problem. He stated all he is saying from the question of zoning retaining R-2 does not help this situation increase his legality in any way whatsoever and does not help him.

On motion of Councilwoman Robinson, seconded by Councilman Rico,
AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE SPECIFIC PROPERTIES WITHIN THE HIGHLAND PARK NEIGHBORHOOD, MORE PARTICULARLY DESCRIBED HEREIN AND IN THE ZONING STUDY ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, FROM R-2 RESIDENTIAL ZONE, R-3MD MODERATE DENSITY ZONE AND R-4 SPECIAL ZONE TO R-1 RESIDENTIAL ZONE, R-3 RESIDENTIAL ZONE WITH CONDITIONS AND R-4 SPECIAL ZONE WITH CONDITIONS, SUBJECT TO SAID ZONING STUDY

passed first reading.

REZONING

2008-162: Ernest C. Noll

Pursuant to notice of public hearing, the request of Ernest C. Noll to rezone a tract of land located at 222 Oliver Street came on to be heard.

REZONING (Continued)

The applicant was present; there was no opposition.

Councilwoman Robinson stated that the recommendation is for deferral.

Mr. Haynes stated this is recommended for approval by Planning and Staff recommended deferral.

Chairman Bennett asked if this was brought back to the neighborhood. Councilwoman Robinson responded that she did not know.

Chairman Bennett stated that she has not heard from that community.

Mr. Haynes stated that Staff is working on some different standards for property in the urban overlay area and once the standard is approved it would allow for this use. He stated the only use for this rezoning is RT-1 and it might have to go to the Board of Zoning Appeals for a setback variance.

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 A TRACT OF LAND LOCATED AT 222 OLIVER STREET, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP AND DRAWING ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, FROM R-3 RESIDENTIAL ZONE TO RT-1 RESIDENTIAL TOWNHOUSE ZONE

passed first reading.

REZONING

2008-194: Trudy Mott

Councilwoman Gaines made the motion to move this item forward on the agenda; Councilman Pierce seconded the motion; the motion carried.

Pursuant to notice of public hearing the request of Trudy Mott to rezone a tract of land located at 1203 Rockway Drive came on the be heard.

The applicant was present; there was no opposition.

Councilman Rico made the motion to deny the request; however the motion failed for lack of a second.

REZONING (Continued)

Greg Haynes, Director of Development Services with the Regional Planning Agency (RPA), stated this property has been recorded as an existing duplex and the applicant wants to rezone it to R-3MD to bring it up to four dwelling units. He stated Staff and Planning recommend denial of this and it would not be an extension of the existing zone, which is predominantly single family. He stated the property is surrounded by R-1 and approval of this would set a precedent for future requests and is not consistent with the Eastdale Neighborhood Plan. Photos were shown of the site wherein it was noted there are three electric boxes on the property. He reiterated that Planning recommends denial.

Councilman Benson stated Planning turned it down for another reason as it is essentially spot zoning.

Mr. Haynes responded "yes" it would be spot zoning; that Planning deliberated on it and expressed appreciation to the applicants for trying to make something better, but it is still a single family neighborhood and is out of context for what they would like to have.

Trudy and Thomas Mott of 3208 Curtis Street in East Chattanooga stated in contrast to what Councilman Benson stated this property has been in existence at that location since 1961; that it is a triplex and what has happened is they bought the property in good faith through a realty company in Chattanooga and bought it as a triplex, not single family. He stated it has been said the whole area is R-1 and it is not. He distributed photos of other multiple units and duplexes on Moss Street directly behind the property noting that the map RPA showed are all R-1 and they are not. He stated that they talked to the people on Moss Street, Hoyt Street and in the immediate area and displayed a petition of those in support of this property. He stated they had to evict people who had been living there for over a year rent free with no lights and who were using kerosene heaters. He stated this is a pre-existing unit that has been there; that they plan to fix one unit and the other two would stay boarded up. He stated there are duplexes within .1 mile of this property. He stated it was mentioned at the Planning meeting by one of the zoning people at RPA about issues regarding Tennessee Temple and houses having similar uses and consideration that is given when there are good faith efforts; however, ten applicants later, Planning members said they did not want to take that into consideration. He asked the Council to consider all of that as they are not trying to "get over" as they bought from a realtor.

Councilwoman Gaines asked Mr. Mott if they had met with members of the neighborhood association in Eastdale.

REZONING (Continued)

Mr. Mott responded "no"; that they have talked to several of them about other issues and everyone says they want them to fix the property.

Councilwoman Gaines stated that Mr. Mott's request is not consistent with the Eastdale Neighborhood Plan; that this is one of the things in the Plan we actually worked to restrict three-to-four unit buildings. She suggested that Mr. Mott call the President of the Association and schedule to go before them noting that she can not support this. She stated that this area is infested with gang activity.

Mr. Mott stated that this property is a pre-existing building, has been there since 1961 and has been improperly used.

Councilwoman Gaines stated that all have worked hard with the Eastdale Plan and are trying to protect the community. She stated she can not support this request at this time and expressed her wish that he would visit with the neighborhood association and share with them; that she would be happy to give him the names of individuals he should speak with. She reiterated that she could not support this as it is the opposite of what they are trying to do; that this is in resistance to the Plan.

At this point Councilwoman Gaines made the motion to defer the matter until January 6, 2009; Councilman Benson seconded the motion.

Mr. Mott asked if it could be brought back sooner. Councilwoman Gaines explained that the Council had only one more meeting prior to the end of the year.

Councilwoman Berz inquired as to the pre-existing, non-conforming use of the building that has mentioned.

Mr. Haynes stated that is something he tried to clarify, which is why he mentioned the three (electric) meters; that it looked as if it had been a triplex. He also clarified that it has been stated the request is for four units and they are only requesting three; that now there exists two units. He stated what may have happened is that they lost their legal non-conforming use and there are still two units and Mr. Mott wants have it as three units. He stated the bigger deal is that the zone is not consistent with the ones around it; that to consider R-3MD could be conditioned to three units only.

Councilwoman Berz stated the area is downzoned and has persistent non-conforming use and if it has not been that way for 100 days or much longer, do they lose the non-conforming use. Mr. Haynes responded "yes".

REZONING (Continued)

Councilwoman Berz stated effectively what he bought for reasons outside of his control was an R-1 that looks like a duplex.

Mr. Haynes responded "correct", unless it can be proven it is a duplex; that tax records show it as a duplex.

Councilwoman Berz asked if it was lost over 100 days. Mr. Haynes stated the inspection department did not tell them it was out of compliance; that it was assumed R-2.

At this point, Councilman Pierce called for a point of order, noting that a motion and second to defer does not allow for further discussion.

Councilwoman Gaines quickly shared the name of Isabella Lane as the President of the Eastdale Association and noted to Mr. Mott that he could call her at home if he can not find Ms. Lane's number; that he had been trying to reach her on her cellular phone and thinks he knows how to make contact with her.

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 REZONE A TRACT OF
LAND LOCATED AT 1203 ROCKWAY DRIVE, MORE PARTICULARLY
DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO
AND MADE A PART HEREOF BY REFERENCE, FROM R-1 RESIDENTIAL
ZONE TO R-3MD MODERATE DENSITY ZONE**
was deferred until January 6, 2009.

REZONING

2008-163: Tennessee Temple University

Pursuant to notice of public hearing, the request of Tennessee Temple University to rezone tracts of land located at 910 South Beech Street and 2003 Anderson Avenue came on to be heard.

REZONING (Continued)

On motion of Councilman Rico, seconded by Councilwoman Gaines,
AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE TRACTS OF LAND LOCATED AT 910 SOUTH BEECH STREET AND 2003 ANDERSON AVENUE, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP 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: DHW Architects – Memorial Hospital

On motion of Councilwoman Robinson, seconded by Councilwoman Gaines,
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 withdrawn at the request of the applicant.

REZONING

2008-175: Jerry Hagan

Mr. Haynes stated Mr. Hagan stopped by his office last week to request deferral of this case.

Jerry Hagan came forward and requested deferral for at least thirty days.

Councilman Benson reminded Mr. Hagan that the matter was deferred once already when he (Hagan) was asked to contact the neighborhood, noting that he still had not contacted them. He stated he is not going to vote to defer if he is not going to get with the neighborhood; that they are changing the covenant we made with them if this is rezoned; that certain conditions were “carved” in that little one street out next to Gunbarrel and all agreed to this land use plan. He stated that he told them he would vote it down unless Mr. Hagan talks to them.

REZONING (Continued)

Mr. Hagan expressed that he understood and noted that he contacted one of the neighbors today.

Councilman Benson asked "which one", to which Mr. Hagan replied "June McGill". Councilman Benson noted that Ms. McGill is one of the two leaders in that area.

Mr. Hagan stated that he was going to attempt to talk to all of them to see if he could get some consensus; that what he is asking for will improve things.

Councilman Benson stated with this type situation it would take more than consensus, more than the simple majority. He stated Mr. Hagan needs to work with them as there are only nine homeowners.

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 deferred until January 6, 2009.

REZONING

2008-187: Kimberly A. Wolf

Pursuant to notice of public hearing, the request of Kimberly A. Wolf to rezone a tract of land located at 21 West 28th Street came on to be heard.

Mr. Haynes stated Planning recommends denial of this request noting there is medium to high density residential recommended for this site. He stated the intent of the Plan keeps industrial uses across street.

On motion of Councilwoman Robinson, seconded by Councilman Pierce,
AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED AT 21 WEST 28TH STREET, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP AND DRAWING

REZONING (Continued)

**ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, FROM
M-2 LIGHT INDUSTRIAL ZONE TO M-1 MANUFACTURING ZONE**
was denied.

REZONING

2008-190: Margaret Weinzettel

Pursuant to notice of public hearing, the request of Margaret Weinzettel to rezone a tract of land located at 907 Altamont Road came on to be heard.

The applicant was not present; there was no opposition.

Councilwoman Robinson stated that she has received several calls in opposition to this request. Chairman Bennett acknowledged that she had received calls, as well, and encouraged the applicant to get back with the neighborhood. She stated engineering has requested deferral.

Councilman Page asked to hear from the Council person who represents this district. Chairman Bennett indicated that she and Councilwoman Robinson share this area.

Councilwoman Robinson stated that she received phone calls from a number of residents in the area who do not want this to be rezoned; that it is an area that she and Councilwoman Bennett share and she (Bennett) apparently has received a call from the engineers who have requested deferral; that the engineers did not contact her.

Councilwoman Bennett stated that is what happened; that there has been different communication with different Council members. She stated she did not have a chance to sit down and go over the plan to understand the implications of the change in zoning and as a courtesy from the engineer and applicant they said they had not contacted the neighborhood, which she thinks is critical. She stated that it sounds like both parties need to get together.

On motion of Councilman Rico, seconded by Councilwoman Gaines,
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF
LAND LOCATED AT 907 ALTAMONT ROAD, MORE PARTICULARLY
DESCRIBED HEREIN AND AS SHOW ON THE MAP AND DRAWING
ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, FROM
R-2 RESIDENTIAL ZONE TO R-3MD MODERATE DENSITY ZONE**
was deferred until January 6, 2009.

REZONING

2008-195: Horvah Associates c/o John Combs

Pursuant to notice of public hearing, the request of Horvah Associates c/o John Combs to rezone a tract of land located in the 300 blocks of Chestnut and Broad Streets came on to be heard.

The applicant was present; there was no opposition.

Chairman Bennett stated this matter was discussed during today's work session.

On motion of Councilman Rico, seconded by Councilwoman Gaines,
AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED IN THE 300 BLOCKS OF CHESTNUT AND BROAD STREETS, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP AND DRAWING ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, FROM M-1 MANUFACTURING ZONE TO C-3 CENTRAL BUSINESS ZONE, SUBJECT TO CERTAIN CONDITIONS
passed first reading.

REZONING

2008-196: John Anderson

Pursuant to notice of public hearing, the request of John Anderson to rezone tracts of land located at 2906 Silverdale Road and 2809 and 2815 Walker Road came on to be heard.

The applicant was present; there was no opposition.

On motion of Councilman Rico, seconded by Councilwoman Berz,
AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE TRACTS OF LAND LOCATED AT 2906 SILVERDALE ROAD AND 2809 AND 2815 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 AND R-4 SPECIAL ZONE TO O-1 OFFICE ZONE
passed first reading.

REZONING

2008-199: Jeff Cannon

Pursuant to notice of public hearing, the request of Jeff Cannon to rezone a tract of land located at 26 East Main Street came on to be heard.

The applicant was not present; there was no opposition.

On motion of Councilwoman Robinson, seconded by Councilman Pierce,
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF
LAND LOCATED AT 26 EAST MAIN STREET, MORE PARTICULARLY
DESCRIBED HEREIN AND AS SHOWN ON THE MAP AND DRAWING
ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, FROM
M-1 MANUFACTURING ZONE TO C-3 CENTRAL BUSINESS ZONE,
SUBJECT TO CERTAIN CONDITIONS**

passed first reading.

REZONING

2008-201: Marlene and Thomas Cain

Pursuant to notice of public hearing, the request of Marlene and Thomas Cain to rezone a tract of land located at 1308 Hanover Street came on to be heard.

The applicant was present; there was no opposition.

Mr. Haynes stated this request for C-2 was very specific on the application regarding the use for a craft shop and retail use. He stated it has been conditioned for that purpose and Staff is okay with the request. He stated it is recommended for approval from Planning and Staff subject to three conditions: use of the existing structure, use as a craft store and/or residence only and parking is to be approved by the traffic engineer.

On motion of Councilman Rico, seconded by Councilwoman Gaines,
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF
LAND LOCATED AT 1308 HANOVER STREET, 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.

PAYMENT AUTHORIZATION

On motion of Councilman Rico, seconded by Councilman Gilbert,
A RESOLUTION AUTHORIZING PAYMENT OF THE CHATTANOOGA AREA REGIONAL TRANSPORTATION AUTHORITY (CARTA) IN THE AMOUNT OF THREE MILLION NINE HUNDRED FIFTY EIGHT THOUSAND FIVE HUNDRED NINETY TWO DOLLARS (\$3,958,592.00) FOR THE NORTH SHORE GARAGE AS APPROVED IN THE FY09 CAPITAL BUDGET PER ORDINANCE NO. 12161 DATED SEPTEMBER 16, 2008, AS AMENDED
was adopted.

CONTRACT

Councilwoman Robinson stated that the Urban League’s annual program was attended by most on the Council this morning and noted that it was a very great occasion with a great speaker from the Volkswagen Company. She added that the Urban League has enjoyed a number of great successes this past year.

On motion of Councilman Rico, seconded by Councilman Gilbert,
A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF NEIGHBORHOOD SERVICES AND COMMUNITY DEVELOPMENT TO EXECUTE A CONTRACT WITH THE URBAN LEAGUE OF GREATER CHATTANOOGA RELATIVE TO THE 2009 EARNED INCOME TAX CREDITS CAMPAIGN IN AN AMOUNT NOT TO EXCEED THIRTY THOUSAND DOLLARS (\$30,000.00)
was adopted.

CONTRACT

Councilman Page stated this site plan has changed several times and there has been some land originally that did not change. He stated that he wanted to make sure everything is coordinated together and would like for approval of this resolution to be contingent by review by public works, RPA and the traffic engineer for appropriate codes and traffic flow as a new red light is needed on 153. He stated the matter was discussed in committee and he wants the plan reviewed again to make sure the changes in the site plan truly reflect what is being done as he is not comfortable with it right now. He reiterated that he would like for the approval of the resolution to be subject to those conditions.

Councilman Page made the motion to add the conditions to the resolution; Councilwoman Robinson seconded the motion; the motion carried.

CONTRACT (Continued)

In open meeting, City Attorney Nelson changed the caption of the resolution to reflect “. . . *subject to certain conditions*”, and the body of the resolution to reflect “. . . *Such authorization is subject to the further review by Public Works, the Traffic Engineer and the Planning Agency*”.

Councilman Page stated that he wanted to make sure this does not need to be sent back to Planning as significant changes have been made.

On motion of Councilman Rico, seconded by Councilwoman Robinson,
A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH THE TENNESSEE DEPARTMENT OF TRANSPORTATION TO AUTHORIZE THE INSTALLATION OF A MULTI-PURPOSE TRAFFIC SIGNAL AT THE INTERSECTION OF SR 153 AT THE MIDDLE DRIVEWAY TO THE FOUNTAINS OF CHATTANOOGA, SUBJECT TO CERTAIN CONDITIONS
was adopted.

TEMPORARY USE

On motion of Councilman Rico, seconded by Councilwoman Gaines,
A RESOLUTION AUTHORIZING TAMARA DILLARD TO USE TEMPORARILY THE RIGHTS-OF-WAY OF 401 MARKET STREET, SUITES A, B, AND C, TO INSTALL PERPENDICULAR SIGNS, AS SHOWN ON THE DRAWING ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS
was adopted.

CHANGE RIGHTS-OF-WAY NAMES

2008-PW-007: City of Chattanooga c/o Bill Payne, City Engineer

On motion of Councilman Rico, seconded by Councilman Gilbert,
A RESOLUTION TO CHANGE THE RIGHTS-OF-WAY NAMES OF THE 500 TO 599 BLOCK OF WYANDOT TO THE 500 TO 599 BLOCK OF HEALTHY STREET, AND THE 2750 TO 2899 BLOCK OF WYANDOT TO THE 600 BLOCK OF LATIMORE STREET, AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, DUE TO DUPLICATE STREET NAME-911 ISSUE
was adopted.

**PRELIMINARY AND FINAL PUD SPECIAL
EXCEPTIONS PERMIT**

2008-160: Tennessee Temple University

On motion of Councilman Rico, seconded by Councilwoman Gaines,
A RESOLUTION APPROVING A PROPOSED PRELIMINARY AND FINAL INSTITUTIONAL PLANNED UNIT DEVELOPMENT SPECIAL EXCEPTIONS PERMIT FOR A PLANNED UNIT DEVELOPMENT KNOWN AS THE TENNESSEE TEMPLE UNIVERSITY INSTITUTIONAL PLANNED UNIT DEVELOPMENT ON TRACTS OF LAND BEING GENERALLY BOUNDED ON THE NORTH BY BAILEY AVENUE, ON THE SOUTH BY BENNETT AVENUE, ON THE EAST BY SOUTH WILLOW STREET, AND ON THE WEST BY SOUTH HICKORY STREET, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS

was adopted.

ABANDONMENT OF INSTITUTIONAL PUD

2008-164: City of Chattanooga, c/o RPA

On motion of Councilman Rico, seconded by Councilwoman Gaines,
A RESOLUTION APPROVING ABANDONMENT OF AN INSTITUTIONAL FINAL PLANNED UNIT DEVELOPMENT PLAN OF TENNESSEE TEMPLE UNIVERSITY – HIGHLAND PARK BAPTIST CHURCH AS RECORDED IN PLAT BOOK 26, PAGE 197-1 THRU 197-5 AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS, TO CORRECT THE CURRENT LAYOUT OF AREA CONSIDERED TO BE IN THE INSTITUTIONAL PLANNED UNIT DEVELOPMENT

was adopted.

LEASE AGREEMENT

MR-2008-185: City of Chattanooga c/o Dan Thornton

On motion of Councilwoman Gaines, seconded by Councilman Rico,
A RESOLUTION AUTHORIZING A LEASE AGREEMENT BY AND BETWEEN THE CITY AND NORFOLK SOUTHERN-ALABAMA GREAT SOUTHERN RAILROAD FOR 17,912 SQ. FT. OF PROPERTY LOCATED IN THE 1100 BLOCK OF EAST 3RD STREET FOR LIGHTS, WALL ON EAST SIDE OF ENGEL STADIUM, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE

was adopted.

SPECIAL EXCEPTIONS PERMIT

2008-192: Mattie Watson & Joyce Edmonds

On motion of Councilman Rico, seconded by Councilwoman Robinson,
A RESOLUTION APPROVING A SPECIAL EXCEPTIONS PERMIT FOR A RESIDENTIAL HOME FOR THE HANDICAPPED OR AGED ON TRACTS OF LAND LOCATED AT 2005 AND 2009 DAISY STREET, 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

was adopted.

PRELIMINARY RESIDENTIAL PUD

2008-202: Winward Properties (Bernard H. Brown, III)

Councilman Benson stated that he received a letter from a man who said if this matter came before Planning a lot of conditions should be placed on it; that conditions are ignored and the city never enforces them.

Councilman Page stated what Councilman Benson is referring to may be a different project; that this one has to do with fire truck entrance into this development and is not the project Councilman Benson is talking about.

Councilman Benson stated that this one has been worked out; that the one he referenced had to do with trees that were cut.

Mr. Haynes stated there are two different issues; that in this case the Council approved Phase I of this project maybe a year ago; that there was a problem with the design of the curb and the width of the street. He stated the fire department had a number of issues and rather than to keep dealing with the applicant the entire property was redesigned with a different design to the satisfaction of public works, the fire department and RPA which is the reason it is being recommended for approval by Planning with a few conditions added.

On motion of Councilman Rico, seconded by Councilman Pierce,
A RESOLUTION APPROVING A PRELIMINARY RESIDENTIAL PLANNED UNIT DEVELOPMENT SPECIAL EXCEPTIONS PERMIT FOR A PROPOSED PLANNED UNIT DEVELOPMENT ON TRACTS OF LAND LOCATED IN THE 4500 BLOCK OF WEBB ROAD, 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

was adopted.

LEASE AGREEMENT

MR-2008-203: City of Chattanooga c/o Dan Thornton

Chairman Bennett recognized the presence of Clare Sawyer of the Chattanooga Food Bank.

On motion of Councilwoman Berz, seconded by Councilman Rico,

A RESOLUTION AUTHORIZING A LEASE AGREEMENT BY AND BETWEEN THE CITY OF CHATTANOOGA FOOD BANK FOR A PORTION OF PROPERTY LOCATED IN THE 2000 BLOCK OF CURTAIN POLE ROAD, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, TO BE USED AS A GARDENING CENTER AND A GREENHOUSE

was adopted.

CONTRACT

Councilwoman Berz reminded Council members the following three resolutions were thoroughly discussed in Budget Committee.

Councilwoman Robinson stated that she had to leave Committee during the discussion and asked for a quick explanation.

Jeff Claxton, Director of Risk Management and Insurance, stated right now the company we are using is not going to be writing checks after January 1; that this company replaces that and also provides the services needed; that the RFP was sent out and they were selected.

On motion of Councilman Rico, seconded by Councilman Page,

A RESOLUTION AUTHORIZING THE PERSONNEL DIRECTOR TO ENTER INTO A CONTRACT WITH HEWITT COLEMAN TO PROVIDE OJI CLAIMS RE-PRICING AND ADJUSTING, CHECK PROCESSING, AND OTHER OJI SERVICES IN AN AMOUNT NOT TO EXCEED SIX THOUSAND DOLLARS (\$6,000.00) PER MONTH FOR A TERM OF THREE (3) YEARS WITH AN OPTION TO RENEW FOR TWO (2) ADDITIONAL YEARS

was adopted.

CONTRACT

On motion of Councilwoman Berz, seconded by Councilman Benson,

A RESOLUTION AUTHORIZING THE PERSONNEL DIRECTOR TO ENTER INTO A CONTRACT WITH MERCURY PAYMENT SERVICES TO PROCESS CREDIT, DEBIT, AND MEDICAL REIMBURSEMENT CARD TRANSACTIONS FOR A TERM OF THREE (3) YEARS

was adopted.

CONTRACT

On motion of Councilwoman Berz, seconded by Councilman Rico,

A RESOLUTION AUTHORIZING THE PERSONNEL DIRECTOR TO ENTER INTO A CONTRACT WITH PHP COMPANIES, INC. d/b/a/ CARITEN TPA SERVICES TO ADMINISTER AND PROCESS CLAIMS FOR A SELECT GROUP OF RETIREES AT A COST OF THIRTY-TWO AND 41/100 DOLLARS (\$32.41) PER MEMBER, WITH THE TOTAL ANNUAL AMOUNT NOT TO EXCEED THIRTY-FIVE THOUSAND DOLLARS (\$35,000.00)

was adopted.

SPECIAL POLICEMAN (ARMED)

Councilman Pierce questioned whether the person is already a police officer and inquired as to training received.

Chief Maffett explained that Ms. Haney is assigned to the property section of the Police Department and has been trained with fire arms and has qualified. He stated she has had special training by the firing division and is qualified.

Chairman Bennett stated it was explained during the work session this afternoon that there was an unexpected opening and it had to be filled.

Chief Maffett confirmed that the department was short of personnel and they had to speed up Personnel to fill the slot.

Jeff Claxton explained that he has the qualification information when Ms. Haney became qualified.

On motion of Councilwoman Berz, seconded by Councilman Rico,

A RESOLUTION AUTHORIZING THE APPOINTMENT OF KELLI H. HANEY AS SPECIAL POLICEMAN (ARMED) FOR THE CHATTANOOGA POLICE DEPARTMENT, TO DO SPECIAL DUTY AS PRESCRIBED HEREIN, SUBJECT TO CERTAIN CONDITIONS

was adopted.

AD VALOREM TAXES

Councilman Page stated this matter was discussed in Economic Development Committee today and expressed his belief this is a strong project for Chattanooga. He stated he was happy the City could oblige them with this PILOT agreement.

AD VALOREM TAXES (Continued)

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

OVERTIME

Overtime for the week ending December 4, 2008 totaled \$66,886.36.

PERSONNEL

The following personnel matters were reported for the various departments:

CHATTANOOGA POLICE DEPARTMENT:

- **MICHAEL NEWTON** – Return to Duty, Police Cadet, effective November 20, 2008.
- **CHRIS CIESIAK** – Resignation, Police Cadet, effective November 22, 2008.
- **AARON J. SAWYER** – Resignation, Police Cadet, effective December 1, 2008.
- **JAY MONTGOMERY** – Family Medical Leave, Police Officer, effective November 28, 2008 – January 2, 2009.
- **JOSHUA D. CURTIS** – Military Leave, Police Officer, effective December 1, 2008 – January 4, 2010.
- **TIMOTHY MORGAN** – Termination, Police Cadet, effective December 1, 2008.

PUBLIC WORKS DEPARTMENT:

- **STEVE PACK** – Termination, Equipment Mechanic 3, Traffic operations, effective December 2, 2008.

PERSONNEL (Continued)

- **ALONZO C. LEWIS** – Termination, Equipment Operator 3, City Wide Services, effective December 3, 2008.
- **ANTONIO D. SANDS** – Suspension (2 days without pay), Equipment Operator 4, City Wide Services, effective December 3-4, 2008.
- **JOANN STEVENSON** – Retirement, Crew Worker 1, City Wide Services, effective November 25, 2008.

CHATTANOOGA FIRE DEPARTMENT:

- **JACK THOMPSON** – Military Leave (not to exceed 365 days), Firefighter Senior, effective December 5, 2008.

PARKS AND RECREATION DEPARTMENT:

- **CLARENCE HILT** – Retirement, Crew Worker 1, effective November 30, 2008.
- **MAURICE HORTON** – Termination, Crew Worker 1, effective December 2, 2008.
- **RODNEY CARTWRIGHT** – Hire, Crew Worker 1, Range 2, \$21,200.00 annually, effective December 5, 2008.

PERSONNEL DEPARTMENT:

- **LINDA MANNING** – Retirement, Executive Assistant, effective December 1, 2008.
- **EMILY SEWELL** – Appointment, Executive Assistant, Range 14, \$34,201.00 annually, effective December 2, 2008.

GENERAL SERVICES DIVISION:

- **GAIL HART** – Appointment, Administrative Support Asst. 2, Range 7, \$28,000.00 annually, effective November 17, 2008.

PARKS AND RECREATION NEWSLETTER

Councilman Benson commended Larry Zehnder for the vital information distributed in his newsletter stating that it had information about programs and issues and was done in a very economical way during very hard times. He stated everyone knows his pet peeve about "slick Madison Avenue" costly publications, noting that we have hard times facing us; that the money on costly publications can be used in some other ways. He asked if the publication was by accident or design.

Larry Zehnder responded "by design" and thanked Councilman Benson for his comment. He stated that the comment has been known before and they tried to do what was best in this particular situation.

Councilman Benson stated he is not the only one as there are others; that it will help when the Council looks at the Parks budget and knows it is not going to be filtered into something real "Madison Avenue".

Councilman Page expressed thanks to Councilman Benson for mentioning this.

(Councilman Rico excused himself from the meeting at this point.)

REFUNDS:

On motion of Councilwoman Berz, seconded by Councilwoman Gaines, the Administrator of Finance was authorized to issue the following refund of gross receipts tax and water quality fees and/or property taxes, respectfully:

T U PARKS CO. INC., License No. 9931-35, \$7,231.31

INSIGHT HEALTH CORP., Map Number 148G-C-011, \$15,070.78

INSIGHT HEALTH CORP., Map Number 146G-C-010, \$1,503.63

PURCHASE

On motion of Councilwoman Berz, seconded by Councilman Page, the following purchase was approved for use by the Public Works Department:

PURCHASE (Continued)

JAKE MARSHALL, LLC
R0087499/P0024003

Mechanical Services (Change Order #1)

\$250,000 – Original Contract, 2/14/06
220,000 – Change Order #1
\$470,000 – New Contract Total

RESCIND ALL BIDS

On motion of Councilwoman Berz, seconded by Councilman Page all proposals received on R0110422 for a Computerized Time Clock System were rescinded since they exceeded the cost estimate budgeted for this project.

HEARING: ALONZO P. LEWIS

City Attorney Nelson stated that he has three requests for hearings. He stated the first is a request from Alonzo P. Lewis regarding his termination from Public Works.

Adm. Leach stated that he wanted to discuss this with Council, noting that this person was dismissed for drug use; that he was properly screened and holds a commercial drivers license (CDL) and was given due process of two different screenings. He stated he was not sure how far to go in speaking before the Council on this matter as the City has a policy against employees using drugs. He stated this case is very sensitive as the person was a heavy equipment operator and is not sure where the Council wants to go on this.

City Attorney Nelson stated that the Council has to give a hearing and if Mr. Lewis wants to attack the validity of the drug test or if he wants to say that he did not take drugs or something of that nature we at least have to hear it.

Councilwoman Robinson stated that most Council members know her feelings about the personnel hearings; that it is not our function to second guess what administration has done as they can document due process. She stated their responsibility is to see that employees are read rights and once given due process and a decision is made she does not think it is the Council's function to second guess. She stated if it is necessary to have someone come forth, then just as Counsel stated to refute that she guesses that is something the Council has to do but does not think it an efficient way to run a work force.

HEARING: ALONZO P. LEWIS (Continued)

Councilman Pierce stated he does not know if this has been a process that has been in place over the years and feels the employees do have a right to request a hearing before the Council.

City Attorney Nelson responded "right, the Charter grants such a right".

Councilman Pierce stated that we can not assume administration is right as there is a system of checks and balances. He stated any employee can come forth and request a hearing; that we may not know much about public works but feels this Council will do the right thing.

Councilwoman Gaines stated that she understands Mr. Leach is in an awkward position and asked where the employee would be placed at this point until a hearing is held.

Adm. Leach clarified that the employee has been terminated. He stated that a procedure of drug testing has been set up for CDL folks to go in and have a test and if they fail it they are given a second test; that if they fail the second they do not have any option other than to terminate, noting that this is a very sensitive position. He stated he would certainly yield to the Council and if a hearing is held, so be it. He stated if the Council chooses to have a hearing, fine; that the case will be presented, evidence will be presented and they would be here with the Council.

City Attorney Nelson stated they don't have a choice; that we have to give him the hearing and let him raise issues he can raise.

Adm. Leach responded that he understood.

Councilman Benson stated when he took the Oath of Office it was to follow the *Code*. He stated he would not want to serve on a Council that did not follow the *Code*. He asked if the person signed a last chance agreement.

Adm. Leach responded "no", to which Councilman Benson responded "we have no choice".

A hearing for Mr. Lewis was scheduled for Monday, January 12, 2009 beginning at 9 a.m. with Councilmen Page, Berz and Pierce serving as the panel; Councilwoman Bennett volunteered as Alternate.

HEARING: MAURICE HORTON, SR.

City Attorney Nelson reported the request for hearing from Maurice Horton, Sr. regarding his termination from Parks and Recreation.

A hearing for Mr. Horton was scheduled for Monday, January 26, 2009 beginning at 9 a.m. with Councilmen Gaines (serving as Chair), Gilbert and Benson serving as the panel; Councilwoman Robinson volunteered as Alternate.

HEARING: CHRIS WALKER

City Attorney Nelson reported the request for hearing from Chris Walker regarding her termination from Public Works relating to a claim for fitness for duty.

Lee Norris acknowledged that Ms. Walker would not return phone calls and did not show up for work.

City Attorney Nelson stated that the communication from her attorney indicates she had been ill and had an operation.

A hearing for Ms. Walker was scheduled for Monday, February 2, 2009 beginning at 9 a.m. with Councilmen Robinson, Bennett and Pierce serving as the panel; Councilwoman Gaines volunteered as Alternate.

COMMITTEES

Councilwoman Robinson scheduled a meeting of the **Health, Human Services and Housing Opportunities Committee for Tuesday, December 16 immediately following the Safety Committee** to hear a report from David Eichenhal of the Ochs Center regarding the newly released Chattanooga Report on housing. She stated she and Councilwoman Bennett heard the report on yesterday and the reason it is important for the Council to hear is it really shows there is a part of our city – the “heart” of our city – needing a lot of help, a lot of attention and support that is suffering from many ills and needs. She stated it is something so important she invited Mr. Eichenhal to bring the report and is certain the Council will find it very interesting. She stated that she has also requested that a representative from the Police Department, Neighborhood Services Codes Enforcement and Parks and Recreation to be present, as well. She stated it is something we may want to tackle with a combined effort to bring as much resources into the area as we can; that it is very compelling.

COMMITTEES (Continued)

Chairman Bennett suggested that representatives from the Court system participate also.

Councilwoman Gaines scheduled a **Safety Committee meeting for Tuesday, December 16 immediately following Legal and Legislative** and noted that the CEO of Chattanooga Endeavors would be present, as well as "Chip" Baker and David Johnson to discuss the curfew and noise ordinances.

Councilman Benson stated the **Legal and Legislative Committee would meet on Tuesday, December 16 immediately following discussion of agenda items** for a report on the Fire Code in reference to subdivisions and to discuss payment to MTAS for ongoing supervisory training.

PRE-BUDGET MEETING

Chairman Bennett stated that the Council has talked about scheduling a pre-budget meeting which will provide a chance to have a lot of data and facts and figures of the budget. She stated that she asked Councilwoman Berz to schedule that for Thursday, January 22 for a half day session. She stated if there is the need from Council members for particular data they would like to see presented to please let her know; that it will help lay the ground work for further discussion and help as we talk further about a strategic plan.

BOARD APPOINTMENT

Councilwoman Gaines stated that she talked with the City Attorney regarding the appointment of Lamont Vaughn as the District 9 appointee to the OMA Board following the resignation of Mr. Hashmi. She stated she does not have the expiration date for the term.

City Attorney Nelson stated Mr. Vaughn's appointment would be for the remainder of Mr. Hashmi's term. Councilwoman Gaines noted that she has a copy of Mr. Vaughn's vita.

Councilman Benson stated that Mr. Vaughn is a wonderful person and taught at East Side; that he is a great man and glad he is willing to serve.

On motion of Councilwoman Gaines, seconded by Councilman Benson, LAMONT VAUGHN was appointed to the OMA Board to fill the unexpired term of Mr. Hasmi representing District 9.

NEXT WEEK'S AGENDA

Chairman Bennett stated ordinances that passed first reading tonight would be under second and final reading next week. She stated resolutions on the agenda include the following:

- a) A resolution authorizing the Department of Public Works to apply for and, if awarded, accept a grant from the Lyndhurst Foundation relative to Contract No. E-07-009, Jefferson Park Project, for the revitalization of Jefferson Heights Park in the amount of \$100,000.00.
- b) A resolution authorizing the award of Contract No. E-07-018-201, to P&C Construction, Inc. relative to The Passage Repair Contract, in the amount of \$1,165,000.00, plus a contingency amount of \$116,500.00, for a total contract amount not to exceed \$1,281,500.00.
- c) A resolution authorizing the Administrator of the Department of Public Works to enter into an agreement with Volkert & Associates, Inc. relative to Contract No. E-08-024-101, for Traffic Engineering Services to conduct a Traffic Impact Study for thirty six intersections and three rail crossings near the Volkswagen facility at Enterprise South Industrial Park in an amount not to exceed \$166,300.00 and to accept funds in the amount of \$25,000.00 from Hamilton County Government for their participation of the contract.
- d) A resolution authorizing the Chief of Police to execute a contract for Architect Services to Billingsley Architecture for the following projects A. Re-roofing Police Annex Building and Service Center Penthouse B. HVAC modifications for Service Center, Second Floor, C. Office Build-Out for Service Center, Second Floor.

After the Resolutions were read, Adm. Leach approached Chairman Bennett to remind her that there would be the addition to next week's agenda for a temporary use for C & L Rental.

Councilwoman Berz stated she has had a number of requests for discussion to bring the noise ordinance and deal with issues of noise. She stated that she asked that the police attend and the Mayor will be present, noting that she would like to add the matter to the agenda.

Chairman Bennett stated that the matter would be discussed under Councilwoman Gaines' committee.

Councilwoman Berz stated that Councilwoman Gaines would be present to give a report of discussion from Committee and then the matter would be open for discussion.

NEXT WEEK'S AGENDA (Continued)

Councilwoman Gaines stated the matter would be discussed in committee.

Councilwoman Berz stated that it would be in committee; however, a larger number promises to be present at the 6 p.m. meeting to discuss further.

Councilwoman Gaines stated if there is a large delegation the Safety Committee could move into the Assembly Room.

Councilwoman Berz stated that it depends upon the time scheduled; that she is trying to accommodate people who have a very big concern.

ADJOURNMENT

Chairman Bennett adjourned the meeting of the Chattanooga Council until Tuesday, December 16, 2009 at 6:00 p.m.

CHAIRMAN

CLERK OF COUNCIL

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