

City Council Building
Chattanooga, Tennessee
April 21, 2009
6:00 p.m.

Vice Chairman Benson called the meeting of the Chattanooga Council to order with Councilmen Berz, Gilbert, Ladd, McGary, Murphy, Rico, Robinson and Scott. City Attorney Michael McMahan, Management Analyst Randy Burns and Council Clerk Carol O'Neal were also present.

PLEDGE OF ALLEGIANCE/INVOCATION

Following the Pledge of Allegiance, City Attorney McMahan gave invocation.

ELECTION OF COUNCIL CHAIRMAN

Vice Chairman Benson declared the floor open for nominations for the office of Council Chairman. Councilman Rico nominated Councilman Jack Benson, with Councilwoman Robinson seconding the nomination.

At this point, Vice Chairman Benson asked City Attorney McMahan to conduct the meeting without objection since his name had been placed in nomination for Chairman.

By unanimous vote, Councilman Jack Benson was elected Chairman of the Chattanooga Council.

Chairman Benson continued conducting the meeting at this point.

ELECTION OF COUNCIL VICE CHAIRMAN

Chairman Benson declared the floor open for nominations for the office of Council Vice Chairman. Councilwoman Robinson nominated Councilman Rico with Councilman Gilbert seconding the motion.

By unanimous vote, Councilman Manuel Rico was elected Vice Chairman of the Chattanooga Council.

MINUTE APPROVAL

On motion of Councilman Rico, seconded by Councilwoman Robinson, the minutes of the previous meeting were approved as published and 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 II TO REVISE THE DEFINITIONS OF "BED AND BREAKFAST" AND "BOARDING HOUSE" AND AMENDING ARTICLE V, SECTIONS 304(2) AND 404(2) TO PROVIDE FOR LOT AREA REQUIREMENTS FOR BED AND BREAKFAST ESTABLISHMENTS IN R-3 RESIDENTIAL ZONE AND R-4 SPECIAL ZONE
passed second and final reading and was signed in open meeting.

AMEND ZONING ORDINANCE

On motion of Councilwoman Robinson, seconded by Councilman Rico,
AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, BY AMENDING ARTICLE II BY DELETING THE DEFINITIONS OF "GUEST HOUSE," "MOTOR CAMP," AND "TOURIST HOME" AND ADDING A DEFINITION FOR "SHORT-TERM VACATION RENTAL," AND AMENDING ARTICLE V, SECTIONS 301 AND 401, TO INCLUDE SHORT-TERM VACATION RENTAL AS A PERMITTED USE
passed second and final reading and was signed in open meeting.

AMEND ZONING ORDINANCE

On motion of Councilman Rico, seconded by Councilwoman Robinson,
AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, BY AMENDING ARTICLE V AND ARTICLE VI BY PROVIDING FOR A REVOCABLE SPECIAL EXCEPTIONS PERMIT FOR NON-PROFIT HERITAGE EDUCATIONAL FACILITIES AND TO ALLOW SAID USE IN CERTAIN ZONES
passed second and final reading and was signed in open meeting.

REZONING

2009-020: A. C. Properties, Inc.

On motion of Councilman Rico, seconded by Councilman Murphy,
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF
LAND LOCATED AT 1908 COWART STREET, MORE PARTICULARLY
DESCRIBED HEREIN AND AS SHOWN ON THE MAP 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 second and final reading and was signed in open meeting.

REZONING

2009-026: Ray A. Smith

On motion of Councilman Rico, seconded by Councilman Gilbert,
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF
LAND LOCATED AT 328 BROWNS FERRY ROAD, MORE PARTICULARLY
DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO
AND MADE A PART HEREOF BY REFERENCE, FROM R-4 SPECIAL ZONE
TO R-2 RESIDENTIAL ZONE**
passed second and final reading and was signed in open meeting.

REZONING

2009-029: W. C. Helton

On motion of Councilman Rico, seconded by Councilman Murphy,
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF
LAND LOCATED AT 200 EAST 37TH STREET, MORE PARTICULARLY
DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO
AND MADE A PART HEREOF BY REFERENCE, FROM R-3 RESIDENTIAL
ZONE TO R-4 SPECIAL ZONE, SUBJECT TO CERTAIN CONDITIONS**
passed second and final reading and was signed in open meeting.

AMEND CONDITIONS

2009-035: Flournoy Development Company

Chairman Benson stated that substitutions have been made to this request; that he wanted to assure the language captures the discussion from last week's meeting as new conditions have been added, as well as changes to the landscaping which mostly addresses landscaping along Panorama Drive.

Mike Price of MAP Engineers stated that the changes essentially reflect the conditions as they relate to Panorama Drive. He stated it involves the construction of landscaped berms and tree plantings and a leveling of ten (10) feet in width before being cut into sections on the slopes. He stated all are reflected on a drawing that has been made of the conditions and provided to the neighborhoods in support or adjacent to Panorama. He stated other changes include the addition of 80 trees inside the development property and two other conditions discussed last week and made a part of the conditions before the Council tonight.

Councilmen Rico and Robinson made the motion and second the substitute the amendments to this ordinance.

Prior to voting on the motion and second to substitute, Chairman Benson stated a three minute timeline would be given to persons in support and those opposed who wished to speak, clarifying that three minutes would be given to each side, not each speaker.

Lana Sutton of 7203 Sylvia Trail stated that the neighborhood did not hear about this at all; that they were not included at all and did not get letters. She stated they were not invited and she does live in the same block as this is right behind her. She stated that she would like for the Council to deny this as it will be on the highest ridge in East Brainerd, 50 feet and another 50 feet of four story apartments. She stated this will be a monster overshadowing all of East Brainerd, will change the skyline and is spot zoning; that this places an R-3 structure in a neighborhood of homes on acre lots, noting that her home is on an acre lot. She stated the area's Councilman called them and told them the developer had taken this "off the table"; that it had been withdrawn and not to worry about it as the threat was over. She stated they stood back from this meeting and it got to Planning in October and they had to fight this ridiculous thing of over 25 acres and a 316 unit apartment complex on one of the highest ridges in Chattanooga. She stated this is not supported by the land use plan and there was not adequate signage, noting that there were no yellow signs. She stated this was snuck in and was part of "good old boyism".

AMEND CONDITIONS (Continued)

Ms. Sutton continued by stating that it is her hope it will be made sure County Commissioner Hullender is not allowed to vote at Planning as there should be an ethics code; that it should be mandatory for Planning signs to be put up before development, especially 25 acre ones. She stated Councilman Benson talked to some neighbors who sold property to Mr. Hullender indicating this is not appropriate zoning; that her property value is going down and it could happen anywhere in Chattanooga. She expressed hope that the Council would look at her and realize she worked hard to build equity, has worked hard in her neighborhood and now this is what she gets! She stated this will lower property values; that the light being put in at Panorama and East Brainerd is on a blind curve on an incline and they do not need a longer commute. She asked that this be stopped and revert back to R-1.

City Attorney McMahan explained that the matter came up and the property has been zoned R-3 for a long period of time. He stated the property has been conditioned; that the only question tonight is not whether it should be apartments or should or should not be R-3; that the only question is whether the change in conditions with respect to landscaping and berms discussed earlier are appropriate or inappropriate. He stated most of the conditions are essentially the same; that they did move some buildings from the front to the back, which is another issue and if more information is needed Greg Haynes of RPA can explain. He clarified that the issue before the Council is strictly voting on the conditions.

Councilwoman Scott asked for clarification of the notification process.

Chairman Benson stated Mr. Haynes will answer that after everyone has had an opportunity to speak.

Jeanette Wilkerson stated that she lives in the Audubon Acres neighborhood which has an Association with 500 homes represented and lots of families. She stated she has supported this all the time and indicated that she wanted to say something about Councilman Jack Benson on his behalf. She stated that she was very embarrassed last week and wanted to say something on his behalf at that time but did not feel it was the proper time. She stated that she has known him for 35 years and have always found him to be honest and (he) has never misrepresented the truth to her. She stated she is glad he will be the Council Chairman again and thinks he will represent Chattanooga and her district so well, noting that they really appreciate him.

Chairman Benson expressed appreciation for Mrs. Wilkerson's comments and jokingly noted that she was not his wife, nor his sister or mother!

AMEND CONDITIONS (Continued)

Ms. Wilkerson stated that Jack Benson is a good friend and she wanted to make sure it was mentioned in today's meeting. She stated the she wanted to also mention the conditions also reflect that the retention ponds, active fountains and the stormwater drainage system shall be maintained by the developer as being in good condition and repair. She stated that was included in the discussion last week but nothing was said today and wanted to be sure it is included. Clarification was given that the conditions are included.

Lois Kiselik of 7321 Kenmoor Drive stated she and her husband support this development and the last changes added last week, which is why they are present tonight to talk about the condition changes, not about whether it should be R-1. She stated their property backs up to the Flournoy development and retention pond is in their back yard. She stated the 23 conditions were carefully worked out over many years and she just wanted to voice their support for this developer and welcome Flournoy to their neighborhood.

Greg Haynes, Director of Development Services with the Regional Planning Agency (RPA), responded to Councilwoman Scott's question regarding signage. He stated for every zoning request when application is made the applicant is required to put up the yellow signs explaining the zoning change with RPA's telephone number and that is the only notification from the City. He stated they send out notices to any organized neighborhood association they have on file which is provided by Neighborhood Services and other than that there is no other notification. He stated that they have found in the past that RPA did mail out notification to specific property owners, however that became too expensive and they do not do that any longer; that they have found the yellow signs are more effective as people see them and call the number on the sign if there are questions. He stated there is no state law requiring any notification; that they do this as a courtesy to the neighborhood and community.

Chairman Benson stated that they have had three meetings at the Heritage House, two at Concord, one at Erlanger and three at Flournoy to look at their apartments. He stated they had a bunch of people there and is sorry if anyone was left off.

Councilman McGary asked if this proposal and plan have any connection to the proposed building on that spot, as suggested by Ms. Sutton.

City Attorney McMahan responded "no"; that it deals with more screening and lighting language, which was asked for by the neighborhood along Panorama.

AMEND CONDITIONS (Continued)

At this point a gentleman in the audience attempted to speak out, however Chairman Benson gaveled him as being out of order.

Councilman Rico “called for the question” on the motion and second to substitute the amendments; the motion carried.

On motion of Councilman Rico, seconded by Councilwoman Ladd,
AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO AMEND THE CONDITIONS IMPOSED IN ORDINANCE NO. 12184 (CASE NO. 2008-179) ON 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 DRAWINGS ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS
passed second and final reading and was signed in open meeting.

REZONING

2009-036: Thomas A. Austin

On motion of Councilman Rico, 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 2123 HAMILL 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 O-1 OFFICE ZONE
passed second and final reading and was signed in open meeting.

REZONING

2009-034: Robert Hall

The applicant was present; there was no opposition.

REZONING (Continued)

Mr. Haynes stated this request was deferred from last week and was originally requested for R-4 for office use. He stated at the time of application the sight plan reflected office use and as it was reviewed it became apparent that the desire was for office use, specifically for a tree removal service. He stated the land use plan supports office use and R-4, however, the only problem Staff had was that for a tree removal service it would require parked trucks and related equipment storage. He stated R-4 and O-1 does not allow parking of large trucks; that the only zone that would accommodate that would be C-2. He stated that was discussed at Planning and Staff recommended denial as the Plan denies R-4, period. He stated Planning recommended denial of the R-4 outright, however Staff recommended approval of O-1 with conditions.

Mr. Haynes stated since then, part of the reason for deferral last week was for the applicant to meet with Staff and Councilman Benson and they now want to request C-2 which would allow not only the use but parking of the trucks which is limited to 20 percent of the site. He stated should the Council decide to approve the C-2 to allow that use to park trucks, Staff recommends conditions be placed on the C-2 to keep it restricted.

City Attorney McMahan asked if the applicant ever submitted a request to Planning for C-2.

Mr. Haynes responded "no".

City Attorney McMahan stated it is inappropriate for this body to consider C-2.

Mr. Haynes stated in the past it has been if it had been discussed at Planning or sent back to Planning for the change if it had not discussed.

Chairman Benson stated that he was told it would be deferred for four weeks to get the trucks out of the front facing the street and they are not going to do that if it goes to C-2.

Gil Milton was present representing Mr. Pratt of Chattanooga Tree Service as this is the property he (Pratt) is interested in buying. He stated they have spoken to Mr. Shellabarger who stated he is not opposed to this property being zoned C-2; that he has spoken to Mrs. Dyer who lives behind the property who wrote a letter to them today saying she is not opposed to C-2 provided it will be office use only and there would be a buffer on the back line.

REZONING (Continued)

Chairman Benson asked where the trucks would be parked.

Mr. Milton responded they would be parked by the side of the house.

At this point, Chairman Benson transferred the gavel to Vice Chairman Rico so he could address the issue.

Chairman Benson stated this request is in his district and addressed Mr. Shellabarger by saying he was the one trying to have the property rezoned two years ago.

Mr. Shellabarger responded that he gave up on it.

Chairman Benson stated if this is rezoned the zone would continue.

Mr. Shellabarger stated that would be fine with them.

Chairman Benson inquired as to the other neighbor.

Mr. Shellabarger responded that the person is Mrs. Dyer who could not make it tonight and noted that she wrote a letter.

Chairman Benson acknowledged that he knows the situation and indicated there is a land use plan going to commercial right where there is residential.

Mr. Haynes stated the corner would not be consistent with the land use plan; that the land use plan recommends office use and that is the request, not retail. He stated he is not advocating for the applicant but is trying to help to sift through the different recommendations. He stated the Staff approved O-1 with conditions.

Mr. Milton stated that he understands and hears what is being said; that this is a solid tree business since 1974.

Chairman Benson stated that he understands and indicated he could not support it.

Councilwoman Robinson expressed concern that the notice given to the neighborhood with the rezoning signs does not reflect what we are deliberating here tonight; that she can not support it as part of the neighborhood and adjoining property owners were not given notice.

REZONING (Continued)

Councilman Murphy spoke in reference to the illustration before him and asked if the front of East Brainerd Road is where the vehicles will be parked.

Mr. Milton responded that is where employee vehicles will be parked; that the trucks will be parked on the side of the house.

Councilman Gilbert expressed agreement with Councilwoman Robinson's comments and stated if the community was not notified of the correct zoning it is not fair to the community as a whole that the Council pass anything.

Chairman Benson stated that is not exactly the way he first heard it; that they first wanted the trucks in front so the sides (of the trucks) could advertise the tree service, which was one of his objections in using the corridor for more signs than we normally would have. He expressed his wish that the applicant would have worked that out first.

Mr. Milton stated if the O-1 is approved and they are allowed to park on the side the yellow signs do state what they want to do.

Chairman Benson stated the applicant is talking about parking all trucks on the side and making it O-1.

Mr. Haynes stated "no" as the trucks are the whole issue and the only reason for the change to C-2; that O-1 fits in the plan; that C-2 is the only zone that would allow parking of large trucks.

Councilman McGary asked for clarification as to what the Council is deliberating on. He asked if the Council denies R-4 or O-1, can the candidate come back and apply for C-2 or if the Council denying all three.

Mr. Haynes responded if the request is denied, no other application for this property can be made until nine months have passed.

City Attorney McMahan stated in reference to the whole process C-2 has never been considered by Planning and was not applied for at the beginning and there is no recommendation concerning C-2. He stated it is not like C-2 is a lesser zone; that it would be in the applicant's interest to withdraw and go back to Planning with that request.

REZONING (Continued)

Councilwoman Berz stated the simple fact of the matter is the Council needs to approve what we have proper notice of; that it makes her nervous when we tell people nothing can happen for nine months since we know that is really not true, either, as the Council can make special exceptions and she does not want to mislead people. She stated if the applicant goes back and works out what they want this is not any different than the case the Council talked about in Committee. She stated there is no reason why we can not get it right and get it right with the applicant; that, obviously, no one wants trucks in front. She stated if there is miscommunication between the applicant and the neighborhood and the Council that can be fixed, so, it is a winning situation for everyone. She stated there is no way she can vote for it the way it is which has nothing to do with the proposal; that it has to do with voting for something people have not had proper notice on.

Mr. Milton stated that he understood; that the neighborhood most affected had been notified of the changes.

Councilman Berz stated perhaps she did not make it clear; that the ordinance as it is stated here is different from the one the applicant is talking about now, which is what Councilwoman Robinson was saying from the beginning.

Mr. Milton responded that he heard Councilwoman Berz; that he is also saying if it works to approve O-1 because R-4 is denied to allow Mr. Pratt to park trucks there with the neighbors not being opposed, he would be willing to do that, also.

Chairman Benson stated that his involves more than just the neighborhood immediately around it; that it is his belief the right-of-way has been purchased by the state which is why a letter from the state of Tennessee has been received asking the Council to be very careful about any rezoning where land might be made more valuable. He stated he has worked with the applicant for a long time but can not vote for something not advertised, plus it is more than just the neighbors. He stated it is the land use plan as to what is best for the whole corridor and we have to be very careful. He stated if the applicant is willing to go back and work with Mr. Haynes he can tell what the Council can approve; that if it is brought back in thirty days the applicant may be approved.

Mr. Haynes stated "no"; that if the applicant withdraws he will be allowed to reapply and apply for the C-2; that the fee would be waived and he would not be charged. He clarified the nine month waiting period is part of the zoning ordinance; that Councilwoman Berz was saying the Council can bring up something that has been denied.

REZONING (Continued)

Mr. Haynes stated if it were denied tonight and then come back next week the Council could not take the case as the nine months had not passed. He stated if the applicant withdraws, then he can apply for C-2 and it would be sent to Planning for review and no fee.

Chairman Benson stated the applicant has two choices: to withdraw or have the Council vote on it tonight.

Mr. Milton stated if a vote is taken apparently no one will approve it and there is no reason to do that as it would delay everything for nine months. He stated he is smart enough to know he does not want to do that! He stated for now he would withdraw it and work it out.

On motion of Councilman Benson, 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 1101 GREENS 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 O-1 OFFICE ZONE, SUBJECT TO CERTAIN CONDITIONS

was withdrawn by the applicant.

At this point, the gavel was returned to Chairman Benson to continue conducting the meeting.

AGREEMENT

On motion of Councilman Rico, seconded by Councilwoman Berz,
A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PARKS AND RECREATION TO ENTER INTO AN AGREEMENT WITH BARGE WAGGONER SUMNER AND CANNON TO PROVIDE PROFESSIONAL DESIGN SERVICES FOR EXPANSION OF THE EXISTING HERITAGE PARK AT 1428 JENKINS ROAD IN THE AMOUNT OF TWENTY-FOUR THOUSAND FIVE HUNDRED FIFTY DOLLARS (\$24,550.00), PLUS A CONTINGENCY AMOUNT OF TWO THOUSAND DOLLARS (\$2,000.00), FOR A TOTAL CONTRACT AMOUNT NOT TO EXCEED TWENTY-SIX THOUSAND FIVE HUNDRED FIFTY DOLLARS (\$26,550.00)

was removed from the agenda.

SPECIAL POLICEMAN

On motion of Councilman Rico, seconded by Councilman Murphy,
A RESOLUTION AUTHORIZING THE APPOINTMENT OF SCOTT SARGRAVES AS SPECIAL POLICEMAN (UNARMED) FOR THE CITY OF CHATTANOOGA LAND DEVELOPMENT OFFICE TO DO SPECIAL DUTY AS PRESCRIBED HEREIN, SUBJECT TO CERTAIN CONDITIONS
was adopted.

LEASE AGREEMENT

On motion of Councilwoman Berz, seconded by Councilman Gilbert,
A RESOLUTION AUTHORIZING THE DIRECTOR OF GENERAL SERVICES TO EXECUTE A TOWER SITE LEASE AGREEMENT WITH THE BOARD OF PUBLIC UTILITIES OF THE CITY OF CLEVELAND, TENNESSEE FOR USE OF A PORTION OF THE CANDIES CREEK RIDGE WATER STORAGE TANK SITE IN CONNECTION WITH THE PUBLIC SAFETY INTEROPERABLE COMMUNICATIONS SYSTEM, WITH NECESSARY EASEMENTS FOR ACCESS AND UTILITIES IN LIEU OF RENT AND FOR A TERM OF FIVE (5) YEARS, WITH AN OPTION TO RENEW
was adopted.

LICENSE AGREEMENT

On motion of Councilman Gilbert, seconded by Councilwoman Berz,
A RESOLUTION AUTHORIZING THE DIRECTOR OF GENERAL SERVICES TO EXECUTE AN ANTENNA SITE LICENSE AGREEMENT WITH PREMIER TOWERS, LLC FOR USE OF A LARGE ANTENNA SITE ON BEAN MOUNTAIN IN POLK COUNTY FOR AN ANNUAL RENT AMOUNT NOT TO EXCEED ONE HUNDRED FIFTY THOUSAND DOLLARS (\$150,000.00) AND A TERM OF TWENTY-ONE (21) MONTHS AS PART OF THE TENNESSEE VALLEY REGIONAL COMMUNICATIONS SYSTEM
was adopted.

INTERLOCAL AGREEMENT

On motion of Councilman Rico, seconded by Councilman Gilbert,
A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO ENTER INTO AN INTERLOCAL AGREEMENT WITH HAMILTON COUNTY RELATIVE TO THE PLANAMETRIC PHOTOGRAPHY MAPPING PROJECT FOR THE HAMILTON COUNTY GIS

INTERLOCAL AGREEMENT (Continued)

FOR FIFTY PERCENT (50%) OF THE SHARED COST IN AN AMOUNT NOT TO EXCEED NINETY-FIVE THOUSAND ONE HUNDRED TWENTY-SIX DOLLARS (\$95,126.00)

was adopted.

ADOPT LEGISLATION REQUEST

On motion of Councilman Rico, seconded by Councilwoman Robinson,
A RESOLUTION REQUESTING AND ENCOURAGING THE LEGISLATURE OF THE STATE OF TENNESSEE TO ADOPT LEGISLATION PROMOTED BY THE TENNESSEE PUBLIC SAFETY COALITION WHICH WOULD ENHANCE THE PENALTIES FOR CERTAIN VIOLENT CRIMES AND PROVIDE FOR AN INCREASED NUMBER OF PROSECUTORS TO ENFORCE THESE LAWS

was adopted.

CONTRACT

On motion of Councilman Rico, seconded by Councilwoman Ladd,
A RESOLUTION AUTHORIZING THE AWARD OF CONTRACT NO. W-09-004-201, MISCELLANEOUS SANITARY SEWER MANHOLE ADJUSTMENT CONTRACT, TO CK MASONRY COMPANY, INC. IN THE AMOUNT OF ONE HUNDRED FIFTY-THREE THOUSAND SEVEN HUNDRED DOLLARS (\$153,700.00), PLUS A CONTINGENCY AMOUNT OF SIX THOUSAND THREE HUNDRED DOLLARS (\$6,300.00), FOR A TOTAL AMOUNT NOT TO EXCEED ONE HUNDRED SIXTY THOUSAND DOLLARS (\$160,000.00)

was adopted.

CONTRACT

On motion of Councilman Rico, seconded by Councilman Gilbert,
A RESOLUTION AUTHORIZING THE AWARD OF CONTRACT NO. W-09-004-202, MISCELLANEOUS SANITARY SEWER MANHOLE ADJUSTMENT CONTRACT, TO PROFESSIONAL CONCRETE FINISHING COMPANY, INC. IN AN AMOUNT NOT TO EXCEED FIFTY THOUSAND DOLLARS (\$50,000.00)

was adopted.

TEMPORARY USE

On motion of Councilman Murphy, seconded by Councilman Rico,
A RESOLUTION AUTHORIZING LAMONTE P. VAUGHN, SR., ON BEHALF OF THE ORCHARD KNOB NEIGHBORHOOD ASSOCIATION, TO USE TEMPORARILY THE RIGHTS-OF-WAY THROUGHOUT THE ORCHARD KNOB NEIGHBORHOOD TO INSTALL COMMUNITY SIGN MARKERS, AS SHOWN ON THE LIST OF SITES AND DRAWINGS ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS

was adopted.

CHANGE RIGHT-OF-WAY NAME

2009-PW-002: City of Chattanooga c/o Bill Payne, City Engineer

On motion of Councilwoman Ladd, seconded by Councilman Rico,
A RESOLUTION TO CHANGE THE RIGHT-OF-WAY NAME OF THE 200 BLOCK OF GODSEY DRIVE TO THE 2800 BLOCK OF NORTHPOINT BOULEVARD, AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE

was adopted.

CHANGE RIGHT-OF-WAY NAME

2009-PW-003: City of Chattanooga c/o Bill Payne, City Engineer

On motion of Councilwoman Ladd, seconded by Councilwoman Robinson,
A RESOLUTION TO CHANGE THE RIGHT-OF-WAY NAME OF THE 5100 BLOCK OF ADAMS ROAD TO THE 5200 BLOCK OF WILBANKS ROAD, AS SHOWN ON THE MAPS ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE

was adopted.

CHANGE RIGHT-OF-WAY NAME

2009-PW-004: City of Chattanooga c/o Bill Payne, City Engineer

On motion of Councilman Rico, seconded by Councilwoman Robinson,
A RESOLUTION TO CHANGE THE RIGHT-OF-WAY NAME OF THE 900 BLOCK OF FRAZIER CIRCLE TO THE 3900 BLOCK OF MCDOWELL STREET, AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE

was adopted.

CHANGE RIGHT-OF-WAY NAME

2009-PW-005: City of Chattanooga c/o Bill Payne, City Engineer

On motion of Councilman McGary, seconded by Councilwoman Robinson,
**A RESOLUTION TO CHANGE THE RIGHT-OF-WAY NAME OF THE 400
BLOCK OF EAST 2ND STREET TO THE 400 BLOCK OF BLUFF VIEW, AS
SHOWN ON THE MAP ATTACHED HERTO AND MADE A PART HEREOF
BY REFERENCE**

was adopted.

RIGHT-OF-WAY NAME CHANGE

2009-PW-006: City of Chattanooga c/o Bill Payne, City Engineer

On motion of Councilman Rico, seconded by Councilman Gilbert,
**A RESOLUTION TO CHANGE THE RIGHT-OF-WAY NAME OF THE 100
BLOCK OF SPRING STREET TO THE 100 BLOCK OF BURKE LANE, AS
SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF
BY REFERENCE**

was adopted.

RIGHT-OF-WAY NAME CHANGE

2009-PW-007: City of Chattanooga c/o Bill Payne, City Engineer

On motion of Councilwoman Berz, seconded by Councilman Rico,
**A RESOLUTION TO CHANGE THE RIGHT-OF-WAY NAME OF 7311
THROUGH 7337 STANDIFER GAP ROAD TO 7314 THROUGH 7319
COURAGE WAY, AS SHOWN ON THE MAP ATTACHED HERETO AND
MADE A PART HEREOF BY REFERENCE**

was adopted.

PROFESSIONAL SERVICES AGREEMENT

On motion of Councilman Rico, seconded by Councilwoman Berz,
**A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE
DEPARTMENT OF PUBLIC WORKS TO ENTER INTO A PROFESSIONAL
SERVICES AGREEMENT WITH U. S. TENNESSEE VALLEY AUTHORITY,
RELATIVE TO CONTRACT NO. E-09-007-101, EXPLORATORY
UNDERWATER INVESTIGATION OF THE HARD EDGE FOR THE 21ST
CENTURY WATERFRONT, IN AN AMOUNT NOT TO EXCEED THIRTY
THOUSAND DOLLARS (\$30,000.00)**

was adopted.

OVERTIME

Overtime for the week ending April 16, 2009 totaled \$7,991.43.

PERSONNEL

The following personnel matters were reported for the various departments:

PUBLIC WORKS DEPARTMENT:

- **JOAN SLOAN** – Promotion, Plant Operator 3, Waste Resources, Pay Range 13, \$36,312.03 annually, effective April 10, 2009.
- **CHRISTOPHER S. WHITE** – Promotion, Plant Operator 3, Waste Resources, Range 13, \$33,370.66 annually, effective April 10, 2009.
- **MARTY KNIGHT** – Promotion, Plant Operator 3, Waste Resources, Range 13, \$34,929.78 annually, effective April 10, 2009.
- **DAVID L. MASSENGALE** – Demotion (Voluntary), Equipment Operator 2, City Wide Services, Range 10, \$28,746.00 annually, effective April 10, 2009.
- **SALEM K. TEMPLIN** – Suspension (10 days without pay), Crew Supervisor 2, City Wide Services, effective April 9-27, 2009.

EDUCATION, ARTS AND CULTURE DEPARTMENT:

- **ROBERT WLLS** – Hire, Civic Facilities Operations Supervisor, Range 18, \$41,572.00 annually, effective April 24, 2009.

CHATTANOOGA FIRE DEPARTMENT:

- **TRACI DOSSETT** – Suspension (2 days without pay), Firefighter Senior, April 12, 2009 and May 13, 2009: **correction of dates from last week's report.**
- **ANTHONY CARGLE, JERRY COPENY, LARRY GANN, CHRISTOPHER O'KELLEY, TIMOTHY WATERS** – Promotion, Firefighter Senior, Range F2A, \$36,004.00 annually, effective April 10, 2009.

PERSONNEL (Continued)

- **BOBBY MCDONALD** – Retirement, Vehicle Servicer, 12th Street Garage, effective March 31, 2009.

HOTEL PERMITS

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

QUALITY INN – 5505 Brainerd Road, Chattanooga, TN

THE CHATTANOOGAN HOTEL – 1201 South Broad Street, Chattanooga, TN

BOARD APPOINTMENT

On motion of Councilman Rico, seconded by Councilwoman Berz, the following board appointment was approved:

TRANSPORTATION BOARD:

- Appointment of **JOHN SERTEL** for a two year term expiring April 21, 2011, filling the expired term of Bruce Rollins.

DONATIONS

Admin. Zehnder presented a list of donations to the Department of Parks and Recreation from donors for the CHIPS Charity Golf Classic. He stated over \$7,500 was raised involving cash, in-kind services and giveaways solicited and returned to the Department. (A list of donors and items is included with minute material of this date.)

On motion of Councilwoman Robinson, seconded by Councilman Gilbert, the report was duly accepted.

FIRST TEE GOLF PROGRAM BROCHURE

Admin. Zehnder distributed brochures regarding the First Tee Golf Program noting that at some future point in time there is a request to discuss the Program in more detail.

"WILLS FOR HEROES" PROGRAM

Chief Mike Williams stated that the Command Staff of the Chattanooga Police Department has been briefed by the State Bar Association of Young Lawyers about a program entitled "Wills for Heroes". He stated the Association has offered to prepare wills for free on Saturday, May 30 at the Sheriff's Annex to any First Responder, noting that so many First Responders died on 911 who did not have wills. He stated the Young Lawyers Association is offering to do this and (he) wanted to report that to the Council.

Chairman Benson commended the Association for their altruistic support.

RECENT ARRESTS

Chairman Benson asked Chief Williams to report on the recent arrests with reference to burglaries.

Chief Williams reported that the Department made arrests a couple-or-three weeks ago and have been "keeping it under wraps" until everything clears. He stated two individuals have been arrested on residential and business burglaries in the Brainerd, East Brainerd and Ooltewah areas that total up to 50 burglaries and will probably end up to be more. He stated there are several other burglaries and they are trying to match reports; that those in custody are known house burglars and have been arrested previously. He stated there would be more detail and will be released later; that they are charged with eight burglaries right now and there will be many more. He stated this comes "on the heels" of the vehicle break-ins in Ooltewah, East Brainerd, Hamilton Place, the downtown parking garage and the north shore where over 100 break-ins were committed. He stated this was a mother and son crew and it is not their first time and was one of the Department's number one problems as there were vehicle break-ins all over town. He stated the Crest area is where some of the calls came in as there were 50 break-ins and there was the arrest of a person last week who had been prowling the area.

Councilman Murphy acknowledged familiarity with this and expressed thanks.

Chairman Benson stated that he was trying to make the point that most burglaries are done by very few people.

Chief Williams stated that they "got on a roll" and everything tracks back to drugs; that burglaries were done to buy drugs; that there is a relatively small number of people who do a ton of crime!

RECENT ARRESTS (Continued)

Chief Williams stated there were 150 felonies between these two groups; that they had people in Brainerd a few weeks ago who were stealing cars and it was a mother, daughter and two sons doing this! He stated they could not put it together at first as they were stealing cars one day and one of them were driving the car the next day and they could not connect it until they finally caught on and put it all together. He stated they were responsible for several stolen vehicles and car break-ins, as well; that they have caught three groups within the last month that they really needed to take off the street.

CHALLENGE COIN

Chief Williams explained that the Challenge Coin award began within the last year-and-a-half for service above and beyond; that it is recognition for a job well done. A PowerPoint was shown of the honorees and the Chief noted that he has another situation to inform the Council about but can not tell them about it until the next time as it keeps getting bigger and bigger, noting that he really wants to tell them badly!

Challenge Coins were presented to Detectives James Hostetter, Tim Tomisek and Jacques Weary; Officers, Christian Lorenzen and William Pucker, as well as Sergeant Steve Baker.

Coins were also presented to Officers Kyle Moses, Josh Wright, Jonathan Hartwig, Shelia Jetton and Officers Patterson and McCall.

Chairman Benson asked Chief Williams to explain the symbols of the Challenge Coin,

Chief Williams stated that it stems from a military background; that specialty units have a coin the size of a silver dollar and the Department's has a badge on it with writing on the back. He stated the coin is awarded to military or special units as an exchange of honor and comes with a little "bragging rights". He stated this has really been a morale booster for the Department as the officers really look forward to getting the Challenge Coin. He stated he cannot get the officers to come before the Council for recognition as they do not want to take the time away from their jobs, which speaks to the type of people they are.

Chairman Benson asked if the presentation of the Coin is noted in their personnel record.

CHALLENGE COIN (Continued)

Chief Williams responded "yes" noting that some have received three or four Coins and will be able to play dominoes with them before long!

PUBLIC WORKS COMPLAINT

City Attorney McMahan stated about two weeks ago Mahmood Abdullah came before the Council to complain about the Department of Public Works in reference to his business on 38th Street and the permits he said he was not able to get. He stated that he (McMahan) asked Ken Fritz to investigate and found there is a problem in Mr. Abdullah's electrical permit as repair work had not been for months. He stated his report is a good thumbnail sketch of the problem; however, he has a written report that goes into more detail.

VOLKSWAGEN PROJECT

City Attorney McMahan notified new Council members that the Volkswagen project is administered pursuant to an Interlocal Agreement with the city, county, Industrial Development Board (IDB) and the Health, Education and Facilities Board. City Attorney McMahan stated the reason the two Boards are involved is that they have the power by law to convey property to Volkswagen whether in the city or county; that today the IDB, pursuant to the Interlocal Agreement, signed an application agreement for a \$70 million grant from the State of Tennessee to IDB for the second phase; that they had \$80 million already and this \$70 million totals \$150 million altogether coming our way as soon as they can issue the bonds, which will be right away.

COMMITTEES

Councilwoman Berz stated the **Budget and Finance Committee is scheduled to meet at 2 p.m. next Tuesday, April 28**. She stated on next week's agenda is the Mission Statement and by that date Council members were supposed to have gotten names of people they would like to appoint to a five member audit committee relative to implementing the city auditor position for the Council. She stated because we have so many new Council members it has been suggested we postpone those dates and instead have a meeting in two-to-three weeks to have their input as to what final outcome is to come from that meeting and then set a date.

COMMITTEES (Continued)

Councilwoman Robinson stated that she would like to restate for the record that the Administrator of the Department of Education, Arts and Culture gave a comprehensive overview of the programs and activities for adults and children in the Department. She complimented everyone in the Department for the creative and wonderful programs for everyone.

REFER BACK TO PLANNING

City Attorney McMahan stated it was discussed in Committee if the Council desires the matter in reference to Ziegler Road could be referred back to Planning.

Chairman Benson stated the matter should be sent back to go through the regular process for voting up or down as it is substantially a different portion of the property.

On motion and second of Councilmen Rico and Gilbert, the matter was referred back to Planning pursuant to discussion previously held in Committee.

Councilman Murphy stated that he wanted to make the point that this is not going to be something regularly conducted and clarified for all to know so the Council would not get badgered by people who get turned down.

Chairman Benson again clarified that this request involves a substantially less amount of the property.

NEXT WEEK'S AGENDA: APRIL 28, 2009

Dan Johnson stated ordinances on first reading tonight will be on final reading next week. He stated on first reading there will be a franchise request from Provident in reference to their pedestrian bridge. He noted that the first resolution regarding the Council's Mission Statement has been deferred and will come off the agenda and the second resolution involves a payment of \$1,617.00 to the consultants of the Mayor's Library Task Force, explaining that the amount exceeds the \$10,000 allowable amount and, thus, needs approval from the Council. He stated the last item was covered in today's Public Works Committee meeting regarding the flood plain easement program.

NEXT WEEK'S AGENDA (Continued)

Next week's agenda as referenced by Mr. Johnson has been spread upon the minutes:

Ordinances – First Reading:

- a) 2009-012 Provident Life and Accident Insurance Company (Franchise). An ordinance granting unto Provident Life & Accident Insurance Company a franchise to construct and maintain a pedestrian bridge over the 100 block of East Fifth Street in the City of Chattanooga and any below grade foundations as shown on the map attached hereto and made a part hereof by reference, subject to certain conditions. **(Recommended for approval by Planning and Public Works.)**

Resolutions:

- a) A resolution authorizing payment to the consultant team of June Garcia and Susan Kent relative to the Mayor's Library Task Force in the amount of \$1,617.00 for additional travel expenses incurred when invited to present their final report to the Task Force and the Library Board.
- b) A resolution authorizing the Mayor to submit an application to enroll certain City floodplain properties in the Floodplain Easement Program, which is funded by the American Recovery and Reinvestment Act, by signing up for the USDA Natural Resources Conservation Service (NRCS) Emergency Watershed Protection Program (EWPP).

NO CURB CUTS FOR WHEEL CHAIRS

A gentleman in attendance introduced his special assistance dog, "Rocky", noting that his longtime former dog, "Cowboy", passed away in September. He stated he was before the Council to ask that the Traffic Engineer look into the matter at Sixth Street where it connects with First Baptist Church and starts up road to Cameron Hill Circle. He stated when a person gets to the end of Cameron Hill Circle the curb is not cut for wheel chairs and persons have to go up the other side to navigate the area.

Chairman Benson thanked the speaker for bringing the matter before the Council and asked Admin. Steve Leach to address the issue.

NO CURB CUTS FOR WHEEL CHAIRS (Continued)

Admin. Leach expressed welcome to the new Council members and confirmed there are a number of elderly gentlemen in wheelchairs and on canes at Boynton Terrace, M. C. Towers, Dogwood Manor and the Boynton and Gateway Apartments. He indicated he would speak with the gentleman following the meeting.

ROBERT THOMAS

Robert Thomas of 6121 Caleb Place stated he was not present in reference to his primary residence but in reference to a piece of rental property downtown. He stated last week he spoke with the guys that do the investigation of homes for rental properties and was told the city does not come by and pick up debris emptied from the homes; that they (city) would not pick up the trash because it was a piece of rental property and he has a problem with that. He stated he pays taxes for the city and county on that property and for someone to tell him they are not going to pick up this trash or debris because it is rental property as the owner he needs clarification on why!

Admin. Leach responded if the property is a commercial enterprise the city does not pick up commercial refuse like that; that they do pick up debris from a personal individual who sometimes has to make arrangements for a sway car depending upon the amount of debris and the material as some of it could be hazardous, like paint, and we will not pick it up. He stated it is really specific to the situation and he could not address this one, clarifying if it is rental or commercial property the city does not respond to those.

Mr. Thomas inquired as to the reason why the city does not pick it up.

Chairman Benson asked Admin. Leach to meet with Mr. Thomas following the meeting.

Councilman Murphy stated if there is a rental house and a tenant cleans and leaves trash, basically they can call Trash Flash the same as a property owner.

Admin. Leach responded "that is correct"; that in a lot of situations where rental property is being remodeled a salvage company responds for some of the landlords and that is not what we do.

Chairman Benson stated there is a fine line with reference to rental property; that tenants move out and leave furniture and the landlord is stuck with it and it is very difficult. He again requested that Mr. Thomas speak with Admin. Leach following the meeting to try to understand the problem we have.

ADJOURNMENT

Chairman Benson adjourned the meeting of the Chattanooga Council until Tuesday, April 28, 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)**