

City Council Building  
Chattanooga, Tennessee  
May 12, 2009  
6:00 p.m.

Chairman Benson called the meeting of the Chattanooga Council to order with Councilmen Berz, Gilbert, Ladd, McGary, Murphy, Rico, Robinson and Scott present. 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, Councilwoman Ladd gave the invocation for the evening.

**MINUTE APPROVAL**

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

**AMEND CITY CODE**

On motion of Councilman Rico, seconded by Councilwoman Berz,  
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,  
CHAPTER 35, VEHICLES FOR HIRE, SECTION 35-17, TO RECONSTITUTE  
THE TRANSPORTATION BOARD, AND SECTION 35-55 RELATIVE TO  
DRIVER'S PERMITS**  
passed second and final reading and was signed in open meeting.

**CLOSE AND ABANDON**

**MR-2009-028: Jimar Sanders (Miller & Martin, Attorneys)**

On motion of Councilman Rico, seconded by Councilman Gilbert,  
**AN ORDINANCE CLOSING AND ABANDONING A PORTION OF THE  
UNOPENED 4400 BLOCK OF CALHOUN AVENUE, MORE PARTICULARLY  
DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO  
AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN  
CONDITIONS**  
passed second and final reading and was signed in open meeting.

**SPECIAL POLICEMEN (UNARMED)**

Chairman Benson acknowledged the presence of Judge Russell Bean explaining that he was present to give the oath of office to two McKamey Animal Care Center employees as unarmed special policemen. He asked that Resolution (f) be moved forward on the agenda without objection; the Resolution was so moved.

**Judge Bean** stated that this was the first time he has seen the new Council in session and remarked that they looked good!

On motion of Councilwoman Berz, seconded by Councilman Gilbert,  
**A RESOLUTION AUTHORIZING THE APPOINTMENT OF ROBERT CHRISTOPHER CLARK AND KIRI KRUPP AS SPECIAL POLICE OFFICERS (UNARMED) FOR ANIMAL CARE TRUST D/B/A/ MCKAMEY ANIMAL CARE AND ADOPTION CENTER, INC., TO DO SPECIAL DUTY AS PRESCRIBED HEREIN, SUBJECT TO CERTAIN CONDITIONS**  
was adopted.

**SPECIAL EXCEPTIONS PERMIT/PUD**

**2008-216: Don Walker**

Councilman Gilbert asked that Resolution (g) be moved forward on the agenda without objection due to the presence of the large delegation from the community; the Resolution was so moved.

The applicant was present; there was opposition in attendance.

Greg Haynes, Director of Development Services with the Regional Planning Agency (RPA) stated the original request was for RT-1 for 34 town homes in December of 2008 at a density of eight units per acre. He stated the Staff looked at it and recommended denial. He stated the development would have been accessed through an existing single family neighborhood on a small local street which the Highway 58 Plan does not support as it recommends light density and whatever is to be built has to be compatible with the existing neighborhood. He stated in March the applicant revised the request for an R-1 PUD which was brought before Planning. He stated the site plan reflects an existing preliminary subdivision plan that was approved last year for thirteen (13) lots; that an R-1 PUD basically allows him to put six (6) additional lots for a total of nineteen (19) which is proposed to have less frontage. He stated the overall density would be 3.4 units per acre, noting the area to the north would not have any development and would be an open space area. He stated houses in the area now have a density of 4.3 with a range of 3.4 to 4.3 units per acre and the neighborhood association RPA knew about was contacted.

### SPECIAL EXCEPTIONS PERMIT/PUD (Continued)

Mr. Haynes stated Staff recommends denial due to reasons previously mentioned; that the 13 units would be compatible with the developmental character, however Planning recommends approval of the R-1 PUD as they felt 16 lots would be appropriate, also, which is the difference in the two recommendations. He stated the caption read by the Council Clerk is the one recommended for approval from Planning.

**Don Walker**, applicant, spoke at this time and stated that he owns the 6.1 acres at the end of the hill and has been working on the project for the last sixteen months. He distributed a site plan of the project reflecting the two choices he has which would be to take Peckinpaugh and Heiskell and tie the two together and make one subdivision with approximately 26-28 lots without any approval from anybody except Planning which allows a density factor of about 4.3 lots per acre in the R-1 zone. He stated he has a proposal and has been approved for 13 lots, and with the cost of building today it is impossible to build a lot in the area and build a home for less than \$135,000 - \$150,000 and pay more than \$30,000 for the lot. He stated if he does 13 lots, with the amount of street, sewer, paving, clearing and allowance for detention ponds, the cost exceeds that figure. He stated he has come back with a proposal he feels would be adequate to the neighborhood and there would be an area of 1.5 acres that would be completely undisturbed. He stated if he ties Peckinpaugh and Heiskell together, 98 percent of all the trees would be cut down; that if he can do a small area of building and a larger area leaving the trees, making it a green subdivision, there will be an acre-and-a-half that can not be touched unless all the homeowners decide what to do with that 1.5 acre, explaining it would be a community lot owned by each individual lot owner and maintained by the lot owners in its natural state. He stated right now he has a proposal for 19 houses on the one street extension of Heiskell and the lots will be more narrowly built than if he built 13 lots. He stated the addition of six more lots would be a plus for the neighborhood and for the future subdivision if the Council deems so.

**John Ballinger** spoke in opposition and noted that he has been a resident of Peckinpaugh Drive for nine years and is a business owner in the Highway 58 area. He stated he loves growth but loves growth when it is handled properly. He stated living in the area he does not feel the growth that is being planned in this subdivision is adequate for the neighborhood; that two vehicles can not pass on Peckinpaugh as one has to stop to let the other through. He stated that he went through the 1.5 acre area mentioned and there is a lot of marsh and rock and a hill that will need a repelling rope to climb and was trying to figure out if that is the "green" area that was referenced.

## SPECIAL EXCEPTIONS PERMIT/PUD (Continued)

Mr. Ballinger stated from his point of view as a homeowner and business owner with a profession in insurance as he insures every house on the block, the homes are in danger, not only just the residents currently but if there are residents backing up to it something should be done. He stated if kids move in there could be an issue to be dealt with as it is currently a hazard. He stated it is his thought if the original 13 houses Mr. Walker said Planning granted would sell, if he can guarantee they would sell and not be rental property, which is normal with his other properties, would be a help to the area. He expressed his preference at seeing what happens with the original 13 and nothing more, purely because of traffic off Hancock as traffic gets very congested at the caution light and with the traffic off Peckinpaugh any increase would be a hazard to the community and children, as well.

**Maude Hambright** stated that she lives at 4527 Tomben Lane, which dead ends off Heiskell Drive. She stated a petition was presented at Planning with 34 names of people opposed to the 19 homes. She stated 13 homes is really going to add to the traffic congestion in-and-out of Hancock as sometimes traffic is backed up to Heiskell and Bonny Oaks across from the entrance and there is the school bus stop; that there is really a bottle neck from time-to-time and there are children in the area. She stated Mr. Walker continues to throw up he could build 38 houses with no other approval except from Planning, and if he does not get what he wants he will build something else, which is not professional. She stated he does not seem interested in working with the community – he just wants what he wants. She stated he is not taking into consideration their safety -- it is just what Don Walker wants! She stated with the surrounding property, Booker T. backs up to this and she wants to be sure he does not start building on that because it is zoned for expansion for children in recreation. She stated her community does not want to see 19 houses go in there and if they have to have the 13 they do not want to be another neighborhood like in the East Brainerd-Graysville Road area where houses were developed that are not rented after he swore they were sold, noting they are not sold even today! She stated they do not want this in their neighborhood; that all the houses are properly owned and they would like to keep it that way as it is a nice, quiet area.

**Mary Baker** of 4623 Heiskell asked persons from the community to stand at this time. She stated she has lived on Heiskell for the last four years and in the area for about ten years at different times. She expressed concern for the children who catch the bus as some are in elementary school; that she has observed them in the morning and watches out for them since she is now retired to assure they are safe. She stated with the increased number of cars coming off Heiskell if Mr. Walker continues to build or is allowed to build 19 homes, would definitely cause a problem for their safety.

### SPECIAL EXCEPTIONS PERMIT/PUD (Continued)

Mary Baker with continued by stating at the turnoff from Hancock onto Heiskell, children out in the morning not paying attention could cause a death, reiterating her primary concern is for safety of the children. She stated she worked with Human Services and if the children are not protected there will be no tomorrow for us. She stated Mr. Walker is okay but he has not taken time to stop to talk with the community to work things out. She stated there are mediations that could be done, however he has not taken an opportunity to do that; that with Mr. Walker being a professional person, with mediation he could have gotten with the community to discuss what he would like to do and get the community's concerns and maybe they would not be here tonight. She stated Mr. Walker has not presented himself to the neighborhood and has not knocked on one door to inquire of the community. She stated they do not want 19 homes as they are concerned about the safety of the children and asked that the Council take that under consideration.

In rebutting previous statements, Don Walker stated developers are not popular; that development no matter where you are is never popular. He stated that he wanted to address each and every comment made noting that he did not want to see Peckinpaugh built on and expressed agreement with previous statements that it will not be used; that he is only going to extend Heiskell Drive, which is the reason the design is as it is due to the size of Peckinpaugh. He stated the fact that he can build 19 houses versus 13 is there would be six more houses, approximately eight more cars coming and going. He stated it is unpopular but if he goes back and redesigns it he could build more houses and have more traffic with more going through and coming out on Peckinpaugh; that he is asking to keep it a dead end street. He stated the lady stated he has not made any effort to meet with the community, however, he sat down with Councilman Gilbert about a month ago and presented what he wanted to do and asked him to talk to the neighborhood, noting he informed him he would like to sit down with them and would be happy to meet with anybody at any time at any place, however, he never received a call back from Councilman Gilbert to set up anything to take to the neighborhood. He stated there would be 19 houses versus 13 and if he does that it would keep them from having 28 houses. He stated he can not build a street of 13 houses in today's market with today's cost and sell it. He stated they talked of having rental property and confirmed that has (had rental property) for over 60 years as he started young; that this is not being built for rental as all are to sell and (he) has no intention of building for rental. He stated he has sold over 70 units in the last year and looking forward to cutting back a little and would like to develop this into a quality subdivision with a green area and not cut all the trees down as he would not be clear cutting the property.

**SPECIAL EXCEPTIONS PERMIT/PUD (Continued)**

Chairman Benson stated something was implied about Planning and for the record he wanted to clarify that Planning, according to this recommendation for denial by Staff and approval by Planning, was through a tie vote of the Chairman reiterating that he wanted to make that a part of the record.

**Councilman Gilbert** stated that he did meet with Mr. Walker and told him he would take information to the community, which he did. He stated that he advised them to get a petition saying they are for or against the developer of 19 homes, which he did, and they all said they were against. He stated Mr. Walker has partners -- a son and Will Smith -- whom he told the community did not want this, confirming that it was communicated. At this point he **made the motion to deny the request for 19 homes for the PUD; Councilman McGary seconded the motion.**

Councilman Murphy inquired as to the matter regarding the green space and asked if Mr. Walker had a topographical depiction of that available to the Council.

Mr. Walker responded "no".

Councilman Murphy advised in the future when developers reserve green space it would be good to have it presented as one witness was essentially saying it is not in fact useable as a recommended green space. He stated the proposal shows a one plus acre area to be maintained by the homeowners association that was held out as a reserved green space. He stated the witness basically indicated to the Council that the property is very steep and may not be suitable for recreation; that it is fine for nature but not for recreation or actual use. He asked Mr. Haynes if he has a topographical depiction of that.

Mr. Haynes responded "no".

Mr. Murphy reiterated in the future when this is suggested it would be helpful for the Council to see that.

On motion of Councilman Gilbert, seconded by Councilman McGary,  
**A RESOLUTION APPROVING A SPECIAL EXCEPTIONS PERMIT FOR A PRELIMINARY PLANNED UNIT DEVELOPMENT ON TRACTS OF LAND LOCATED IN THE 4600 BLOCK OF HEISKELL DRIVE, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS**  
was denied.

**AMEND CITY CODE, ZONING ORDINANCE**

**Councilwoman Berz made the motion to table Ordinances (a) and (d) until next week** explaining that the proper folks to speak on the two are not available tonight; **Councilman Rico seconded the motion.**

Councilman Murphy requested that the matter be put off until there is discussion in Legal and Legislative Committee.

Councilwoman Berz asked that the matter be discussed next week in Public Works Committee as her suggestion is for next week.

Councilman Murphy clarified that the Legal and Legislative Committee is not scheduled to meet next week and the ordinances need to come through that Committee.

Councilwoman Berz clarified that she wants it for next week as it is her thought the Council should go forward with it; however, if that messes up the schedule she can wait two weeks. She stated that she wants to know the feeling from the Council as she would have to get people here.

Councilman Murphy expressed preference for the matter to come before the next Legal and Legislative Committee in two weeks as that should give any and everyone ample time to be heard.

Councilwoman Berz responded that is fine and would make that part of the motion.

On motion of Councilwoman Berz, seconded by Councilman Rico,  
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,  
CHAPTER 38, ZONING ORDINANCE, SECTION 38-2, SECTION 38-185,  
AND SECTION 38-527, RELATIVE TO THE REGULATION OF NIGHTCLUBS**  
was deferred two weeks for discussion in Legal and Legislative Committee.

**AMEND CITY CODE, ZONING ORDINANCE**

On motion of Councilman Rico, seconded by Councilwoman Ladd,  
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,  
CHAPTER 38, ZONING ORDINANCE, BY AMENDING ARTICLE II,  
ARTICLE V, AND ARTICLE VIII DEFINITIONS, TO CLARIFY USE  
REGULATIONS FOR CEMETERY, CREMATION, CREMATORY,  
COLUMBARIUM, FUNERAL HOME, MAUSOLEUM, MORTUARY, AND  
UNDERTAKING**  
passed first reading.

AMEND CITY CODE, ZONING ORDINANCE

On motion of Councilman Murphy, seconded by Councilman Rico,  
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,  
CHAPTER 38, ZONING ORDINANCE, SECTION 38-171, TO INCLUDE  
"SINGLE-FAMILY DETACHED DWELLINGS" AS A PERMITTED USE IN THE  
O-1 OFFICE ZONE**  
passed first reading.

AMEND CITY CODE

On motion of Councilwoman Berz, seconded by Councilman Rico,  
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, CHAPTER 5,  
BY ADDING A NEW ARTICLE VI, SECTIONS 5-189 THROUGH 5-194,  
RELATIVE TO SPECIAL GATHERING PERMITS**  
was deferred two weeks for discussion in Legal and Legislative Committee.

AMEND CITY CODE

On motion of Councilman Rico, seconded by Councilwoman Ladd,  
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,  
CHAPTER 22, SECTION 2-713 RELATIVE TO THE ADVISORY BOARD OF  
MULTICULTURAL AFFAIRS**  
passed first reading.

REZONING

**2008-116: William W. Wise c/o Ronald Feldman**

Pursuant to notice of public hearing, the request of William W. Wise to rezone a tract of land located at 120 Market Street came on to be heard.

On motion of Councilman McGary, seconded by Councilman Murphy,  
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,  
SECTION 38, ZONING ORDINANCE, SO AS TO REZONE A TRACT OF  
LAND LOCATED AT 120 MARKET 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 AND R-4 SPECIAL ZONE TO C-3 CENTRAL  
BUSINESS ZONE, SUBJECT TO CERTAIN CONDITIONS**  
passed first reading.

CHURCHVILLE ORCHARD KNOB ZONING STUDY

**2009-059: City of Chattanooga c/o City Council**

Pursuant to notice of public hearing, the request of the City of Chattanooga c/o City Council to rezone tracts of land referenced in the Churchville Orchard Knob Zoning Study came on to be heard.

**Councilman Murphy made the motion to approve this ordinance on first reading**, noting that the downzoning had been requested by the neighborhood and expressed his best wishes of the progress this will bring to the neighborhood; **Councilwoman Robinson seconded the motion.**

On motion of Councilman Murphy, seconded by Councilwoman Robinson,  
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 38, ZONING ORDINANCE, SO AS TO REZONE TRACTS OF LAND BOUNDED ON THE NORTH BY THE 1900 THRU 2100 BLOCKS OF CITICO AVENUE, ON THE SOUTH BY THE 1900 THRU 2200 BLOCKS OF MCCALLIE AVENUE, ON THE EAST BY THE 100 THRU 300 BLOCKS OF NORTH LYERLY STREET AND THE 400 THRU 700 BLOCKS OF DODSON AVENUE, AND ON THE WEST BY THE 100 THRU 700 BLOCKS OF NORTH ORCHARD KNOB AVENUE, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAPS ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, FROM R-3 RESIDENTIAL ZONE TO R-1 RESIDENTIAL ZONE AND FROM R-3 RESIDENTIAL ZONE AND C-2 CONVENIENCE COMMERCIAL ZONE TO R-1 RESIDENTIAL ZONE**  
passed first reading.

GRANT

On motion of Councilwoman Ladd, seconded by Councilman Rico,  
**A RESOLUTION AUTHORIZING THE CHIEF OF POLICE TO APPLY FOR AND, IF AWARDED, ACCEPT A GRANT FROM THE EDWARD BYRNE MEMORIAL COMPETITIVE GRANT PROGRAM FOR ONE MILLION ONE HUNDRED TWENTY-NINE THOUSAND EIGHT HUNDRED SIXTY-NINE DOLLARS (\$1,129,869.00), WHICH WILL BE USED TO HIRE AND BUY UNIFORMS FOR TWENTY (20) PART-TIME POLICE SERVICE TECHNICIANS WHO WILL BE ASSIGNED IN POSITIONS THAT WILL SUPPLEMENT SWORN POLICE OFFICERS**  
was adopted.

AMEND RESOLUTION 25876

On motion of Councilman Rico, seconded by Councilwoman Ladd,  
**A RESOLUTION RESCINDING RESOLUTION NO. 25876 AND AUTHORIZING THE MAYOR TO EXECUTE ALL DOCUMENTS NECESSARY RELATIVE TO A U.S. ECONOMIC DEVELOPMENT ADMINISTRATION GRANT IN AN AMOUNT OF THREE MILLION DOLLARS (\$3,000,000.00) FOR ENTERPRISE SOUTH INDUSTRIAL PARK RAIL IMPROVEMENTS WITH THE CHATTANOOGA MATCH NOT TO EXCEED ONE MILLION FIVE HUNDRED THOUSAND DOLLARS (\$1,500,000.00)**  
was adopted.

TEMPORARY USE

On motion of Councilman Rico, seconded by Councilwoman Ladd,  
**A RESOLUTION AUTHORIZING JERRY GROSS TO USE TEMPORARILY 225 EAST 8<sup>TH</sup> STREET TO INSTALL AN AWNING, AS SHOWN ON THE DRAWING ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS**  
was adopted.

CONTRACT

On motion of Councilman Rico, seconded by Councilwoman Ladd,  
**A RESOLUTION AUTHORIZING THE AWARD OF CONTRACT NO. E-08-027-201, TRAFFIC OPERATIONS RE-ROOFING PROJECT TO JDH COMPANY, INC., IN THE AMOUNT OF SEVENTY-SEVEN THOUSAND SEVEN HUNDRED NINETY-NINE AND 11/100 DOLLARS (\$77,799.11), PLUS A CONTINGENCY AMOUNT OF SEVEN THOUSAND SEVEN HUNDRED EIGHTY AND 89/100 (\$7,780.89), FOR A TOTAL AMOUNT NOT TO EXCEED EIGHTY-FIVE THOUSAND FIVE HUNDRED EIGHTY DOLLARS (\$85,580.00)**  
was adopted.

EASEMENT AND LICENSE AGREEMENT

**Councilman McGary** stated that he wanted to publicly acknowledge Mr. Schimpf for his investment in the Marina, as well as his generosity and making a donation to the city on behalf of the slips. He stated it is wonderful investment; that it will prove to be beneficial to many of us in the days to come. At this point he **made the motion to approve the Resolution; Councilman Rico seconded the motion.**

## EASEMENT AND LICENSE AGREEMENT (Continued)

Councilwoman Robinson added her congratulations to Mr. Schimpf, as well, and stated many have been on the Council long enough to know about out of town developers coming in with grandiose plans on how to develop the Riverfront who have left and we never see them again. She stated today we have a young man "stepping up to the bat" for his home town and we all wish him well! She stated it is a great step and a great project for continuing the revitalization of our downtown and Riverfront development.

On motion of Councilman Murphy, seconded by Councilman Rico,

**A RESOLUTION AUTHORIZING THE DIRECTOR OF GENERAL SERVICES  
TO ENTER INTO AN EASEMENT AND LICENSE AGREEMENT WITH  
CAMERON HARBOR, LLC AND HARBOR LODGING FOR MARINA SLIPS  
1-37 IN REFERENCE TO THE MARINA EXPANSION IN FRONT OF  
PARCELS 135N-A-6.01 AND 135N-A-005**

was adopted.

## SPECIAL EXCEPTIONS PERMIT

**2009-049: Jonathan Griffin**

The applicant was present; there was opposition in attendance.

Mr. Haynes stated the request is for a special exceptions permit for a duplex in an R-1 zone. He stated this permit was approved a couple years ago for neighborhoods who would like to support someone wanting to renovate an abandoned duplex that has lost its legal nonconforming status. He stated the neighborhood is supportive of the renovation but not of the rezoning. He stated the special permit was created to help do that if there is support from the neighborhood and this particular request is located in the Avondale neighborhood. He stated the property did lose its grandfather status and the 2004 Avondale Plan recommends low density residential for this area. He stated after the land use plan was created a zoning study followed rezoning property from R-2 to R-1 and this request is not consistent with the land use plan that was created, nor consistent with the zoning study. He stated it is not clear how this request will be of benefit to the neighborhood; that the real key element of a special permit is that it must have a level of support from the neighborhood and the Avondale neighborhood has not expressed support of this request, at least not to RPA. He stated Planning and Staff recommend denial.

## SPECIAL EXCEPTIONS PERMIT (Continued)

**Jonathan Griffin**, applicant, stated that he purchased the property with the intention of renovating it, which he has done. He stated he did not know anything about the zoning issue; that when he paid the taxes it was listed as R-2 as he had a title search done. He stated he went in and refurbished it and only had the intention of renting it to someone who could afford it; that he was not trying breaking a law or anything like that; that he proceeded based on what he read; that it was built as a duplex and formed as a duplex. He stated he fixed it up with the intent to better the neighborhood, as well, and make it affordable to some people who are ready to rent it, now. He stated he is only asking that he be held accountable as to whom he rents to; that as far as buying the property he invested his money as it was not money he borrowed but was out of his pocket. He asked that he be allowed to use the property as R-2.

**Lucille Wright** of 912 North Orchard Knob spoke in opposition. She stated that she is President of the Avondale Neighborhood Association and related to the Council that they fought hard and long for the zoning change because duplexes have become a curse to their neighborhood. She stated if police reports are checked it can be found most of the drug deals were by those renting duplexes, noting that she was not saying everyone who lives in a duplex deals drugs, but somehow it has become that. She stated they are trying to beautify their neighborhood and there are a lot of children and they do not want any more duplexes rented as duplexes as before. She stated they are trying hard to make their community lovable and livable, noting that she has lived there 40 years and has seen the down turn. She stated they are trying now to beautify their neighborhood and implored the Council to please not allow any more duplexes, nothing else in their neighborhood!

**Councilman McGary** acknowledged that Mr. Griffin contacted him and expressed concern. He asked if there is any way a realtor is not required to explain zoning upon selling or showing property; that individuals should be informed of the property's status they are purchasing. He expressed disappointment for the situation Mr. Griffin finds himself and noted that people have fought hard to make movement in the direction of cleaning up the neighborhood. He stated that he has a meeting tomorrow and expressed hope Mr. Griffin would attend in an effort to talk with him further to make this situation better. At this time he **made the motion for denial; Councilman Rico seconded the motion.**

Chairman Benson inquired as to whether a realtor is obligated to disclose zoning.

### **SPECIAL EXCEPTIONS PERMIT (Continued)**

Councilwoman Robinson enthusiastically responded, "Yes, they are" as that is part of due diligence. She stated realtors have to furnish information for property listed in MLS, however if property is purchased in a foreclosure or for sale by owner a person may not get all they need to ascertain free title, proper zoning and encumbrances/leans on the property.

Chairman Benson asked if the Legal and Legislative Committee could figure something out as far as an ordinance is concerned.

Councilwoman Robinson agreed that is warranted and asked to hear from Councilman Murphy on this.

Chairman Benson asked Mr. Griffin if he purchased the property through a real estate agent.

Mr. Griffin responded "no"; that he purchased the property from an individual.

Councilman Murphy stated that Avondale was downzoned and the vote was done to downzone Orchard Knob, which is something the community was looking for. He stated our uniform real estate disclosure is one that is obligated to have a notice that explains if a person is buying property that is built as a duplex and zoned R-2 and if vacant at the time of sale they should be told how many days it has been vacant; that it should be pointed out the grandfather period consists of 100 days. He stated a property or properties in a community boarded up for 25 years or more are not an asset to the community, so we need to address the proper problem happening with people being stuck or feeling stuck with property they believe one way, then when bought and they try to get power hooked up find something else on their hands. He stated there is a motion on the table and encouraged anyone looking at buying boarded up duplexes if they apply for a special exceptions permit start with the community/neighborhood; that the neighborhood knows boarded up structures are not desirable, either. He stated this is a problem we will have to look at and work with the state to have a state change in real estate disclosure that has not happened.

For the benefit of the Council Mr. Haynes displayed photos of positive outcomes of property that was formerly boarded up, zoned for duplex and converted into R-1 structures that are now contributing to the well-being of the neighborhood.

Chairman Benson expressed hope that this would help Mr. Griffin.

**SPECIAL EXCEPTIONS PERMIT (Continued)**

Mr. Griffin stated the duplexes shown were not like that when they were purchased; that they were probably purchased for no more than \$4,500 or \$5,000 and the purchaser could afford to go in and renovate them. He stated he paid \$15,000 for his property, hard earned cash; that if they paid \$5,000 for it they could afford to tear off the face of it and do whatever is needed with the money they did not have to spend as he did.

On motion of Councilman McGary, seconded by Councilwoman Berz,  
**A RESOLUTION APPROVING A SPECIAL EXCEPTIONS PERMIT FOR A DUPLEX IN AN R-1 RESIDENTIAL ZONE ON A TRACT OF LAND LOCATED AT 1740 OCOEE STREET, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE**

was denied.

**SPECIAL EXCEPTIOSN PERMIT/PUD**

**2009-056: Atlas Developers, LLC**

The applicant was present; there was no opposition.

Councilman Gilbert inquired as to the location for this request.

Mr. Haynes explained that it is located at the end of Graham off Jenkins Road in East Brainerd. He stated that the property has changed hands; that it was a very small design element of open space that requires garages be set back eight feet from the front face of the house; that the developer needs flexibility to build houses and a PUD will allow that.

Chairman Benson stated that the applicant is not adding density; that Graham is a dead end.

Mr. Haynes clarified that the PUD will allow for more flexibility.

Chairman Benson stated that this would provide for a better aesthetic situation out there.

## SPECIAL EXCEPTIOSN PERMIT/PUD (Continued)

On motion of Councilman Rico, seconded by Councilwoman Ladd,

**A RESOLUTION APPROVING A SPECIAL EXCEPTIONS PERMIT FOR A PRELIMINARY AND FINAL PLANNED UNIT DEVELOPMENT, KNOWN AS THE ANDOVER PLACE PLANNED UNIT DEVELOPMENT, LOTS 1 THROUGH 33, ON TRACTS OF LAND LOCATED IN THE 1600 THRU 1800 BLOCKS OF ANDOVER PLACE, 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.

## AGREEMENT

Councilwoman Scott commented that this is a good project but wondered if this is the time to do this. She stated that she heard a presentation today by Parks and Recreation explaining how stretched their budget was; that in fact they are out of money except for salaries and there are two more months in this budget year left. She stated last week she and Councilwoman Robinson were approached by a group of residents in their district requesting funding and support of a park boarding our two districts. She stated that she told the group she could not support funding at this time; that all city departments have been asked to submit budgets for 2010 at five percent less this year. She stated the economy is down and expenses in personnel costs are up; that some departmental budgets, such as fire and police, are almost exclusively personnel and if departments are cut five or ten percent it could result in a loss of wages. She stated that she understands funding for this proposal comes from the capital fund, but budget source matters are little when funds are tight everywhere. She stated we have been in a recession for over a year and wonders if we should prioritize spending for essential projects and delay nonessential projects until the economic situation improves.

*At this point Chairman Benson passed the gavel to Vice Chairman Rico to conduct the meeting so Chairman Benson could address the issue.*

Councilman Benson stated that he had to come out of the Chairman's seat to address this issue as this request is in the district he represents. He stated the Hub Fest was held last Saturday; that it rained and they continued with it. He asked Adm. Zehnder to talk about the mud that was created as a result of the rain, noting that this should have been done ages ago and is way past due. He stated that there was money for this.

**AGREEMENT (Continued)**

Adm. Zehnder stated they do not have the proper amount of parking available at Heritage House; that parking is very minimal. He stated most of this plan involves drainage that will accommodate more parking availability. He stated this Park generates a tremendous amount of interest in this area and at this point they are trying to put their plans into motion so when more money becomes available they can move quickly on it.

Councilman Benson stated that money has been made available for them; that they got the park donated free with new land and last Saturday in all that mud people's cars got stuck. He stated he would hate to go back to the citizens and try to explain that \$15,000 is holding us up; that citizens of East Brainerd feel this is needed.

Adm. Zehnder stated that this project is a real citizens' effort; that there have been two-to-three fundraisers to help build some of the facility.

Councilman Benson stated this is the only park making a profit for the city of Chattanooga according to Missy Crutchfield. At this point he asked Adm. Crutchfield if she did not say the House is producing well.

Adm. Crutchfield responded that the facility has come close to breaking even or making a profit, "yes sir".

Councilwoman Scott stated that she guesses she would say the design services agreement passing tonight will not make parking any better tomorrow, noting that will not happen until there is additional funding for the project itself. Also, not passing this would not alter the fact the House that is doing well will still continue; that it can do what it does tomorrow the same it is doing now!

On motion of Councilman Rico, seconded by Councilwoman Robinson,  
**A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PARKS AND RECREATION TO ENTER INTO AN AGREEMENT WITH LOSE & ASSOCIATES, INC. TO PROVIDE PROFESSIONAL DESIGN SERVICES FOR EXPANSION OF HERITAGE PARK AT 1428 JENKINS ROAD IN EAST BRAINERD IN AN AMOUNT NOT TO EXCEED FIFTEEN THOUSAND DOLLARS (\$15,000.00)**

was adopted; Councilwomen Scott and Berz voted "no".

*Vice Chairman Rico returned the gavel to Chairman Benson to continue conducting the meeting.*

## APPLICATION AND AGREEMENT

On motion of Councilman Rico, seconded by Councilman Murphy,  
**A RESOLUTION AUTHORIZING THE CITY FINANCE OFFICER TO EXECUTE  
AN APPLICATION AND AGREEMENT TO PARTICIPATE IN THE STATE OF  
TENNESSEE LOCAL GOVERNMENT INVESTMENT POOL (LGIP) AS AN  
ALTERNATE INVESTMENT OPTION**  
was adopted.

## OVERTIME

Overtime for the week ending May 7, 2009 totaled \$65,689.13.

## PERSONNEL

The following personnel matters were reported for the various departments:

### CHATTANOOGA POLICE DEPARTMENT:

- **HEATH WHEELER** – Suspension (20 working days without pay), Police Officer, effective May 6-June 2, 2009.
- **MICHAEL ADAMS** – Resignation, Police Officer, effective May 5, 2009.
- **DEAN HAGEN** – Hire, Police Property Technician, Range 7, \$24,306.00 annually, effective May 8, 2009.

### PUBLIC WORKS DEPARTMENT:

- **JESSE THORNTON** – Suspension (7 days without pay), Equipment Operator 4, City Wide Services, effective May 1-13, 2009.

### CHATTANOOGA FIRE DEPARTMENT:

- **MATTHEW MCELHANEY** – Return to Duty from FMLA, Firefighter Senior, effective May 7, 2009.
- **EDGAR MONTGOMERY** – Rescind FMLA, Fire Lieutenant, effective April 29, 2009.

**PERSONNEL (Continued)**

- **DAVID MCBURNETT** – Suspension (2 days without pay) effective May 7, 2009 and May 12, 2009.

PARKS AND RECREATION DEPARTMENT:

- **DERYL NELSON** – Suspension, (10 days without pay), Park Ranger, effective May 2-15, 2009.

**EMERGENCY PURCHASE**

The emergency purchase of one new and unused Carrier 25 ton heat/air conditioning unit for the Public Works Department, R0122207, in the amount of \$23,368.00 to Malone Heating and Air as the lowest and best bid was duly reported and signed in open meeting.

**PURCHASES**

On motion of Council, the following purchases were approved for use by the various departments:

INFORMATION SERVICES:

**COLEMAN TECHNOLOGIES, INC. OF ORLANDO, FLORIDA (Single source)**  
**R0122209**

Network Equipment per TCA 6-56-304.6

\$88,854.58

PARKS AND RECREATION DEPARTMENT;

**GRASSHOPPER MOWER OF MORIDGE KANSAS (Single source)**  
**R0122071**

Zero Turn Mower per TCA 6-56-304.6

\$22,614.00

**PURCHASES (Continued)**

**GREENVILLE TURF AND TRACTOR (Best bid)**

**R0120530/B0005927**

Field Finishers (*While Smith Turf and Irrigation placed a lower bid their equipment does not have a belt driven converter as described in the specifications; in addition, Parks and Recreation has a supply of repair parts for this machine making the bid more cost effective.*)

\$21,512.00

**SMITH TURF AND IRRIGATION (Best bid)**

**R0120509/B0005928**

Five Gang Rotary Mower (*While Ladd's and Greenville Turf placed lower bids neither met the requirements of the specifications in three key areas: horse power, fuel tank size and cutting width.*)

\$47,189.52

**ALL STAR SPORTS, LLC (Lowest and best bid)**

**R0119944/B0005903**

Athletic Marking Paint

\$11,000.00 Estimated Annual Amount

CHATTANOOGA POLICE DEPARTMENT:

**MOTOROLA, INC. OF KNOXVILLE (Single source)**

**R0121747/B0006022**

Motorola Radios & Accessories per TCA 6-56-304.6

\$253,615.80

**PURCHASES (Continued)**

GENERAL SERVICES DEPARTMENT:

**CALLAHAN SERVICE CO., CARRIER INTERNATIONAL, JAKE MARSHALL SERVICE AND MOUNTAIN CITY SERVICE (Multiple awards)**  
**R0115395/B0005926**

Cit Wide HVAC Maintenance

\$267,716.00 Estimated Annual Cost

PUBLIC WORKS DEPARTMENT:

**PORT O TOILET LLC (Only bidder)**  
**R0210835/B0005953**

Portable Toilet Rental

\$10,000.00 Estimated Annual Cost

**BRADLEY TANK & PIPE (Lower and better bid)**  
**R0121149/B0005970**

Corrugated Metal Pipe

\$10,000.00 Estimated Annual Cost

**BENTLEY SYSTEMS, INC. (Single source)**  
**R0122129**

Water Quality Software per TCA 6-56-304.2

\$13,510.00

## **INVITATION TO FILM COMMISSION MEETING**

Adm. Crutchfield invited the Council to the Chattanooga Southeast Tennessee Film Commission's "Meet and Greet" scheduled for Thursday, May 14 from 5 p.m. – 7 p.m. at the North Shore Grill. She stated the Mayor founded the Commission in 2006 for an opportunity to share and great things have happened with certification classes at Chattanooga State.

## **ARREST IN EAST BRAINERD**

Chairman Benson asked Chief Williams to comment on the arrest made in East Brainerd on Monday afternoon.

Chief Mike Williams stated that the Police Department was called to Ace Hardware on East Brainerd Road as a man was trying to kidnap a young girl and had begun to drag her into his vehicle. He stated the grandfather was there with his two grandchildren and tried to intervene with the man attempting to get the little girl in the car. He stated a witness called 911 and officers were there in a minute-or-so; that the guy took off running and the police officers chased him. He stated the person tried to hide and the officers found him and took him into custody and the little girl was returned to her parents. He stated he could not go into detail about this matter but the officers saved her life and there is no question about it and he is very proud of that!

Chairman Benson stated that the entire community appreciates the Department, noting that he heard a statement of what the man intended to do.

Councilwoman Robinson stated that it is her hope despite the fact that he was interrupted he will still be charged with kidnapping.

Chief Williams responded, "Oh, yes!" he would be charged with aggravated kidnapping of an under aged child even though he was not able to get away, he was in the process.

Chairman Benson stated there is something to be learned by that; that the citizen that called 911 did it correctly and a lot of people started calling him at 3 and 4 p.m. talking about how the police were quick to respond. He stated that people think the police are always busy handling car wrecks and other things.

Chief Williams stated that is something folks do not understand about prioritization of calls. He stated any time something like this goes on, whether it is kidnapping or something against another person, other calls are dropped, especially if a child is involved.

### ARREST IN EAST BRAINERD (Continued)

He stated everyone drops what they are doing and gets there as quickly as possible; that anytime a life is in danger or crime against a person, officers will stop and get there as quickly as possible!

### CHALLENGE COIN AWARDS

Chief Williams displayed by PowerPoint the Challenge Coin award to **Officer Michael Bolton**. A photo of the presentation also showed others at the presentation as Captain Dunn, Lt. Tommy Wood and Sgt. Whitfield. He stated Officer Bolton went above and beyond the call of duty to help a young man, noting that he drove upon a traffic crash while off duty and just jumped in to assist the young man and stayed with him all the way. He stated the Department is very proud of his actions and the officer had no idea the young man he helped was the son of another fellow officer, Sgt. Whitfield. He stated Sgt. Whitfield is the one who submitted the request for the Coin award to Officer Bolton.

Chief Williams also reported the award of the Coin to **Officer Rusty Morrison** for seizing 47 grams of crack during a routine traffic stop after becoming suspicious of the driver's actions. He stated Officer Morrison called for the assistance of Officer Nick Allen and his dog "Copper" to do a sweep of the car and the dog alerted on the car and the cocaine was seized from inside the glove box. A photo of Officer Morrison was shown with Lt. Ed McPherson, Sgt. Royval and Captain Neblette during the presentation.

Chief Williams stated Lt. McPherson, Sgt. Royal and Captain Neblette are all part of the gang unit and wanted to brag on them! He stated they have been working closely with the patrol officers developing intelligence information on the recent rash of gang shootings; that some officers pick up information and pass it on to McPherson and Royval, who have done incredible work rounding them up prior to another shooting occurring. He stated Lt. McPherson is incredible and knows things before it happens! He stated Royval does gang validation and has a list of questions, knows the tattoos, and things suspects say and can validate whether a person is a gang member, what gang and put what will be accessed by officers on his laptop and bring it up to see who the validated gang members are. He stated there have been several shootings and several have been averted with these three officers, including Morrison picking them up before the shootings!

Chairman Benson expressed appreciation to Chief Williams for what the entire force is doing.

## COMMITTEES

Councilman Rico scheduled a meeting of the **Public Works Committee for Tuesday, May 19 immediately following the agenda session.**

Councilwoman Berz stated that the **Budget, Finance and Personnel Committee is scheduled to meet on Thursday, May 13, from 10 a.m. – 12 p.m.** for a budget session with Daisy Madison as the Council requested. She stated briefly **on Tuesday, May 19 following Public Works** the Committee would meet to review the ordinance defined today relative to the City Auditor, **as well as 2 p.m.** with reference to the Council's Mission Statement. She continued by stating the Committee would meet on **Tuesday, May 26 immediately following Legal and Legislative Committee** for a quarterly report from representatives of the Fire and Police Pension Board.

## NEXT WEEK'S AGENDA: MAY 19, 2009

Dan Johnson stated all ordinances passed on first reading this evening would be considered on final reading next week. He read through the remainder of the agenda which has been spread upon the minutes:

### Ordinances – First Reading:

- a) MR-2008-106 Bennie Parker (Close & Abandon). An ordinance closing and abandoning the 1600 block of Brown Street, more particularly described herein and as shown on the map attached hereto and made a part hereof by reference. **(Not recommended for approval by Planning – see alternate version. Recommended for denial by Staff.)**

MR-2008-106 Bennie Parker (Close & Abandon). An ordinance closing and abandoning the 1600 block of Brown Street, more particularly described herein and as shown on the map attached hereto and made a part hereof by reference, subject to certain conditions. **(Recommended for approval by Planning.)**

- b) MR-2009-002 Ben Parker (Close & Abandon). An ordinance closing and abandoning an unopened alley located on the south line of the 1600 block of East 28<sup>th</sup> Street, more particularly described herein and as shown on the map attached hereto and made a part hereof by reference. **(Not recommended for approval by Planning – see alternate version.)**

MR-2009-002 Ben Parker (Close & Abandon). An ordinance closing and abandoning an unopened alley located on the south line of the 1600 block of East 28<sup>th</sup> Street, more particularly described herein and as shown on the map attached hereto and made a part hereof by reference, subject to certain conditions. **(Recommended for approval by Planning.)**

NEXT WEEK'S AGENDA: MAY 19, 2009 (Continued)

Resolutions:

- a) **A resolution amending Resolution No. 25834 by changing the amount of Fiscal Year 2009-2010 Community Development Block Grant and Home Investment Partnership Act funds to be awarded by the U.S. Department of Housing and Urban Development (HUD) and program income from a total of \$3,008,000.00 to a total of \$3,529,529.00; changing the amount of Emergency Shelter Grant funds to be awarded by the Tennessee Housing Development Agency (THDA) from \$85,000.00 to \$84,000.00; and changing the distribution of the funds as shown more fully herein below. (Added by permission of Council Chair Benson.)**
  
- b) **A resolution authorizing the Department of Neighborhood Services and Community Development to submit an application in response to the Department of Housing and Urban Development's (HUD's) Notice of Fund Availability (NOFA) for the Neighborhood Stabilization Program (NSP2) under the American Recovery and Reinvestment Act of 2009 in an amount not less than \$5,000,000.00 and, if awarded, to accept and manage the grant funds. (Added by permission of Council Chair Benson.)**

ADJOURNMENT

Chairman Benson adjourned the meeting of the Chattanooga Council until Tuesday, May 19, 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)