

City Council Building
Chattanooga, Tennessee
September 8, 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. Special Counsel Phil Noblett, Management Analyst Randy Burns and Council Clerk Carol O'Neal were also present.

PLEDGE OF ALLEGIANCE/INVOCATION

Following the Pledge of Allegiance, Councilwoman Robinson gave invocation.

MINUTE APPROVAL

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

AMEND CITY CODE/ZONING ORDINANCE

On motion of Councilman Rico, seconded by Councilman Murphy,
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,
CHAPTER 38, ZONING ORDINANCE, SECTION 38-84, REGARDING THE
USE OF THE URBAN OVERLAY ZONE WITHIN R-TZ RESIDENTIAL
TOWNHOUSE/ZERO LOT LINE ZONE**
passed first reading.

AMEND CITY CODE/ZONING ORDINANCE

On motion of Councilman McGary, seconded by Councilman Gilbert,
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,
CHAPTER 38, ZONING ORDINANCE, SECTION 38-402(3)(c) TO
CHANGE A CONDITION FOR RESIDENTIAL PLANNED UNIT
DEVELOPMENTS**
passed first reading.

AMEND CITY CODE/ZONING ORDINANCE

Councilman McGary stated in the interest of a better definition for neighborhood grocery stores to enable the Council to know exactly what sort of businesses would be moving into these neighborhoods **made the motion to defer the matter for two weeks to work further on this; Councilman Rico seconded the motion.**

Councilman Gilbert asked if the deferral could be for one week rather than two. The motioner and seconder amended the motion to reflect a one week deferral.

On motion of Councilman Rico, seconded by Councilman Gilbert,
AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 38, ZONING ORDINANCE, SECTIONS 38-264 AND 38-266, AND BY ADDING SECTION 38-527 RELATIVE TO A SPECIAL EXCEPTIONS PERMIT FOR BEER SALES IN NEIGHBORHOOD GROCERY STORES
was deferred one week.

AMEND CITY CODE

On motion of Councilman Rico, seconded by Councilman Gilbert,
AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 25, SECTIONS 26-22, 26-23, 26-24, 26-25 AND 26-134 AND BY ADDING NEW SECTIONS 26-26, 26-27, 26-28, 26-29, 26-30, 26-31, 26-32, 26-33 AND 26-34, ESTABLISHING EVENT FEES FOR USAGE OF VARIOUS CHATTANOOGA PARKS AND RECREATION ACTIVITIES
passed first reading.

REZONING

2009-037: Chattanooga Metropolitan Church c/o Pamela Ammons

Pursuant to notice of public hearing, the request of Chattanooga Metropolitan Church c/o Pamela Ammons to rezone a tract of land located at 1063 Shallowford road came on to be heard.

The applicant was not present; there was no opposition.

REZONING (Continued)

Greg Haynes, Director of Development Services with the Regional Planning Agency (RPA), stated that this request is located at 1063 Shallowford Road for a request for C-2. He stated the question at Planning was with reference to the exact use as the Church and School is permitted in the existing R-1 zone; that the applicant wanted to build and have places to rent out for office and retail. He stated Planning and Staff reviewed the neighborhood plan for the area which does not support the request as it would definitely be a spot zone. He stated Planning felt it was an inappropriate use.

Joe Ramsey of 3829 Pin Oak Terrace stated that this property includes nine acres and it would be spot zoning. He stated the community is definitely against it and want to keep the community as it is.

On motion of Councilman Rico, seconded by Councilman Murphy,
AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 38, ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED AT 1063 SHALLOWFORD ROAD, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO C-2 CONVENIENCE COMMERCIAL ZONE
was denied.

REZONING

2009-090: Gurdeep K. Madan, Broker

Pursuant to notice of public hearing, the request of Gurdeep K. Madan to rezone a tract of land located at 3467 Wilcox Boulevard came on to be heard.

On motion of Councilman Gilbert, seconded by Councilman Murphy,
AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 38, ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED AT 3467 WILCOX BOULEVARD, MORE PARTICULARLY DESCRIBED HEREIN, FROM C-5 NEIGHBORHOOD COMMERCIAL ZONE TO C-2 CONVENIENCE COMMERCIAL ZONE, SUBJECT TO CERTAIN CONDITIONS
was deferred until September 29, 2009.

REZONING

2009-108: James Farris

Pursuant to notice of public hearing, the request of James Farris to rezone a tract of land located at 1408 Palisades Road came on to be heard.

The applicant was present; opposition was in attendance.

Mr. Haynes stated the request is for R-3 in the city to have short term vacation rental. He displayed photos of the surrounding area and noted that the location is historically known as the Space House. In referring to the zoning map, it was noted this location is in the middle of an R-1 zone of single family residential structures and R-3 would not be compatible. He stated a short term vacation home may be appropriate at the end of the street however the Staff felt rather than drive through the residential area to reach the street certain conditions and restrictions could be appropriate and with that thinking Staff initially recommend denial of the R-3 but explored the use of a special permit to allow short term vacation rental houses within R-1 and Planning was opposed. He stated Planning felt a permit of that nature was not appropriate and would weaken the R-1 zone itself and the resolution for a special permit was withdrawn. He stated the matter was left with the original request for R-3 and Planning recommends denial.

James Farris of 1104 Signal Road, Signal Mountain, Tennessee asked the Council to reconsider Planning's recommendation and grant the R-1 special exceptions permit or try to come up with a definition for a permit. He stated after reading the minutes of the Planning Commission the matter was denied not based on any facts or data but on speculation. He stated there have not been any accidents or robberies that could be directly linked to this property and the Town of Signal Mountain did not see any reason for concern. He stated the space house is in high demand and he still gets daily requests by phone and e-mail. He stated his number one priority is preserving the space house and wants visitors to share in that history; that as a benefit to renting in short time increments he has generated \$4,000 in hotel/motel tax. He stated fear is a powerful motivator; that the neighborhood sent out letters stating that it could be opened as a bar or gas station and was also told he should explore the option of moving the house and it has gone downhill from there. He stated the opposition seems to speak for the entire neighborhood, including a neighbor whose property adjoins his who is here tonight in support, as well as anyone who has an interest in the house. He stated it also seems to include the 22,576 visits to the website that have been hit since he had to go month-to-month. He stated to open the house for short term rent would help preserve its rich history; that he has supporters that have been negatively impacted by this.

REZONING (Continued)

Mr. Farris stated he is not the only one that lost a portion of income and would like for their opinions to be heard. He stated he would be willing to table the request to work something out with Councilwoman Scott, Planning and the neighborhood. He stated he would like to be given a chance to prove this can work in harmony with the neighborhood and benefit Chattanooga's economy.

Deborah Mynatt of 1458 Palisades Road stated while she is opposed to the rezoning of the property in question to R-3, she is for the concept of R-1 short term vacation rental as it could apply to the space house. She stated a special permit could be tied to the hotel/motel tax and would benefit the city; that Hamilton County has zoning for short-term vacation rental that applies to a single family dwelling. She stated while there is no A-1 zone in the city the R-1 would be a comparable group and would limit the special permit to only single family homes. She referenced an electronic message sent to Council members that listed her reasons for supporting short term rental noting most of the issues raised by those opposing any short term rental were not space house specific, but were issues that could be addressed either through city agencies or neighborhood input for possible restrictions on a special permit. She stated inflammatory rhetoric and scenarios do not solve issues; that discussion and solutions specifically offered to controlling an issue could be beneficial for all. She stated she has lived on Palisades Road since 1970, prior to the space house being built, and has seen it in all the possible forms of good and bad that can be imaged and feels the proposal for a special permit would be appropriate and offer the city an opportunity to "try out" the concept. She suggested that a motion be made in some way to address the concept of short term vacation rental and how it could apply to Chattanooga, tourism and specifically the Space House. She concluded her comments by stating we all dream of a vacation in that cabin in the mountains but only Chattanooga can offer a night in a space house prior to lift off!

Kyle Edwards of 1424 Palisades Road stated that he strongly agrees with Mr. Farris' vision for R-1 short term vacation rental. He stated before Mr. Farris bought the house it was on a "slippery slope" of destruction for almost three years and no one wanted to take on the challenges. He thanked Mr. Farris for taking on the challenge and noted the space house is one of the most talked about homes in Chattanooga; that it is a special structure that should have a special permit.

Amy Bell expressed support for the space house stating that she started a business with her best friend, Eve Sims, as of August 8 with a couple residential accounts and businesses and one commercial business (space house).

REZONING (Continued)

Ms. Bell stated since then they have picked up other accounts due to the space house being a landmark. She stated that she moved here three years ago from California and what she hears it is somewhat of a landmark and everyone wants to see what it looks like inside. She stated when the matter was brought to her attention about it being denied she could no longer clean it with Zena's Cleaning Service and was really upset; that she is present to support the space house being reconsidered due to a couple reasons: when people rent the space house it pays her salary; that Mr. Farris pays her to clean thereby stimulating the economy. She stated she and her business partner reside on Signal Mountain and Hixson and not only is there consideration for the criminal element to be brought to the space house, not to be considered or even given any weight to is when the vacation rental home is vacant that actually attracts criminal activity. She stated she would like to see it go from R-1 to R-3 and provide taxes, money and revenue to Chattanooga and to themselves!

Richard Clinton of 1467 Palisades Road was present representing the majority of residents living on Palisades Road and presented a petition signed by every property owner on the entire road with only five exceptions, with one of the five being Mr. Farris who does not reside on the road. He stated renters on the road were one hundred percent opposed with the exception of one; that the renters renting single family homes do not want the space house used as vacation rental. He asked that the Council please understand that their focus and concern is about the people who live on Palisades unlike Mr. Farris who solicits support on his website, vacationrentalsbyowner.com, from people all over the United States and the world. He stated the great majority of e-mails Council members received in favor of the space house were from people who never ever set foot on Signal Mountain and maybe not even Chattanooga. He stated those who live on the Road have real concerns they have to deal with on a daily basis and zoning is very important as it influences the character and qualities of a neighborhood. He stated the city of Signal Mountain where Mr. Farris lives has strict neighborhood zoning guidelines and fought at every turn commercialization of Signal Mountain.

Mr. Clinton continued by stating that they are asking that the safety and character of their R-1 neighborhood be maintained; that a request for special permit does not technically rezone the property but the net effect of this permit will result in the same as if it were spot zoned. He stated spot zoning is usually avoided because it rests on zoning precedent and Mr. Farris sought to present his new venture as low profile with regard to neighborhood impact. He read from Article 33, Appendix B, Page 13 of the Zoning Ordinance regarding Non-Conforming Use and noted the *Chattanooga Code* states a motel is a "*building or group of buildings used for overnight occupancy by transient motorists*".

REZONING (Continued)

Mr. Clinton stated they certainly understand a business person's desire to make a profit, but respectfully submitted his desire that in order to make a profit it should not trump on their community's needs. He stated most neighborhoods are about safety; that police tell everyone to be aware of their surroundings and alert to strangers. He stated when new people arrive everyday or night, who can have a sense of neighborhood security when the space house is run as a motel. He stated the neighborhood will not be improved if this is approved and respectfully requested denial of this request.

Mary Nell Moore of 1446 Palisades Road on Signal Mountain stated Palisades Road is a small, quiet and relatively undiscovered neighborhood. She stated there are 20 houses, 18 homeowners with 14 owned by people who actually reside in the neighborhood; that residents include small children to people in their seventies, some of which are retired, some full time, some travel out of town over night and by the week on their jobs. She stated some are single women with one single mother who on occasion has to travel and leave two daughters alone at home. She distributed photos of the street with its winding single lane road which is 13 feet, noting in one case it is less than 11 feet wide with one ditch on the other side, a blind curb, steep embankments and woods; that vehicles can not pass each other as one has to pull off the road onto the shoulder. She distributed more visuals showing 25 percent of homes that are totally or partially secluded. She stated as a mother and grandmother she feels a strong obligation to help protect children from unknown people who would travel their streets; that Mr. Farris is a licensed realtor, a principal broker and sits on the Board of Zoning Appeals of Signal Mountain. She stated this would establish an unwanted precedent by changing the character of the neighborhood if it becomes a motel-type operation. She stated compared to Bal Moral Road, Bal Moral's apron is 53 feet wide and the street approximately 26 feet wide; that Palisades Road's apron is only 28 feet wide and the road is approximately 13 feet wide; that the apron to her personal driveway is exactly the same width as the entrance to Palisades Road. She stated Mr. Farris entered into the space house knowing beforehand his intended use was in violation of the zoning ordinance, yet he did it anyway. She asked that the Council protect the integrity of their neighborhood and not allow Palisades Road to become commercialized and not overturn the unanimous vote of the Planning Commission.

Mr. Farris stated people have been driving up that road since the place was built and as far as the short term rental goes, he meets everyone who rents from him, has their credit card number, their tag number and the make of their car; that if they can not find the space house he does not want them there anyway if they drive right by it. He stated as far as safety goes he knows who is staying there which he thinks would lend an air of safety to the place.

REZONING (Continued)

Mr. Farris stated when he started the short term rental the court case in Knoxville had just been decided and he was under the impression these things would be taken on a case-by-case basis or he would not have begun this. He stated the reason he asked and paid for a special exceptions permit was because in the middle of the process he was told he would have to go with an R-3 and that is where this all began. He stated all his family lives on Signal and they drive up and down the mountain every day, can see the place and know what is going on all the time.

Councilman McGary asked if the Council is voting tonight in regard to rezoning from R-1 to R-3 or the special exceptions permit.

Special Council Noblett responded "nothing right now"; that R-1 to R-3 is in front of the Council.

Chairman Benson stated he heard two things; that a special permit is not the issue.

Mr. Haynes stated the only thing that is an issue is the R-3 zone which is the request. He stated Mr. Farris mentioned applying for a special permit in the beginning; that the confusion is in the county; that in Hamilton County a person can have the special permit in the A-1 zone and in the city it is just an R-3. He stated what the confusion may be is Staff's suggestion to do only a special permit which was withdrawn; that the only thing left is the R-3 request.

Councilman McGary stated if indeed this item is voted down as it stands and the discussion begins for short term vacation rental would this gentleman be able to apply immediately or would he have to wait a period.

Mr. Haynes stated he would have to wait nine months to apply for anything on this property.

Chairman Benson asked for clarification that Mr. Farris can not apply for a special permit in the city. Mr. Haynes responded "no".

Councilwoman Scott stated at first blush when you look at this particular problem before us it seems somewhat innocent and yet over the past few months she has had an interesting experience with this particular item. She stated first of all she is very familiar with the roads up there; that they are very narrow and it is treacherous even without the location of this house.

REZONING (Continued)

Councilwoman Scott stated the other thing is that she has received hundreds of e-mails, phone calls and faxes from people all wishing to have this property rezoned to allow short term nightly rental. She stated that she thinks Mr. Farris said he has 200 contacts, perhaps.

Mr. Farris clarified that he had 22,000 hits from people expressing interest.

Councilwoman Scott continued by stating she had also been contacted by the Huntsville Convention Bureau wanting to support this and also contacted by a person wishing to dock with the space ship! She stated she was contacted by another person wishing to visit with the alien ship; that she has no doubt in her mind if this is approved as a short term rental or rezoned into R-3 that will be a very, very popular spot to stay; however, she has to ask herself what value does short term rental and having people come in one day, two days or a weekend on a continuous basis bring to a neighborhood. She stated she does not see a positive effort for the neighborhood; that she sees a positive effect for a business but this is a neighborhood. She stated a majority of people on this street, not all, but the majority, object to night rentals and the presence of transient strangers. She stated the Planning Commission has wisely denied this request and it is her belief the Council should deny it also. At this point she **made the motion to deny the request; Councilwoman Robinson seconded the motion.**

Councilman Murphy directed his question to Mr. Haynes and asked under the current zoning what is the shortest period of time this could be rented; for R-1 what is the shortest period of time this could be rented for.

Mr. Haynes stated that the question of this whole thing that came up for short term vacation rental was what does that mean, and without looking at the regulations it is his thought it was mentioned anything less than 12 months, if he is not mistaken.

Councilman Murphy stated in the current R-1 zoning can people rent a property by the month. Mr. Haynes responded "correct".

Councilman Murphy then inquired as to rental by the week. Mr. Haynes responded that he did not know and would let the City Attorney answer.

Special Counsel Noblett stated this does not refer to weekly rental involvement; that this is month-to-month.

REZONING (Continued)

Councilman Murphy stated that is what he is asking, if the current law allows weekly rentals; that he (Farris) can have 52 different tenants in the course of a year and does not know how much further the "balls will move forward" for the neighborhood, but does not know if that is a clear definition, thou shall not.

Special Counsel Noblett stated that it is his thought the question becomes what is more kin to a short term rental, meaning what is a normal real estate practice in this community. He stated it is not a question of month-to-month rentals as he does not think weekly rentals would be normal real estate practice.

Councilman Murphy stated he was going to say he could bring him by several places in his district that are rented weekly as a matter of practice.

Councilwoman Ladd complimented Mr. Farris and stated from everything she has been told he has made a real improvement of the structure and the property and the neighbors have been complimentary of what he has done to upgrade it. She stated this area was zoned R-1 to make it a neighborhood with single family dwellings and most people move into R-1 because they want a stabilized neighborhood environment where they can grow and have relationships with people living around them. She stated when we begin to alter that or look to alter that we dilute our process of zoning and it becomes dysfunctional. She stated she is also very familiar with this property and the roads that lie around it and has driven past the space house on the road; that with the residents who are living there she can attest that their descriptions are so accurate as that road is just impassable; that it is not meant for traffic back though there and unless you just live back there you would not want to travel it. She stated it is her belief it would invite more traffic due to the fact people staying at the space house will want to know what is on down the road as it is a very inviting environment to see where does this road take them and they are going to have traffic down in this residential area that is very tight. She stated if you go in there you have trouble turning around to come back out; that one of the residents shared with her that they had a GPS bus that had come down and was trying to negotiate the curves and turn around and they were there to pick up people who had stayed the night in the space house. She stated she does not think it is a good use for the neighborhood, nor the way the R-1 zoning should look. She expressed support for denial of this request.

Councilwoman Robinson stated to go with what Councilman Murphy stated about week-to-week rental, there are places that a person can lease week-to-week which are generally extended stay motels.

REZONING (Continued)

Councilwoman Robinson stated that there may be in some areas week-to-week rental of R-1 but she assured everyone this is not one of those places that that is standard practice and does not think the Council should open the door for it there. She stated that she, too, is very familiar with that road and supports denying this; that she has lived on Signal Mountain for many years and can attest not only is Palisades Road very narrow as described but the road coming up the mountain as you come around a hairpin curve, that is where the space house is located. She stated just beyond that road is actually a narrow, merge situation; that it is not an area that needs to see this kind of rezoning for a commercial use in her opinion.

On motion of Councilwoman Scott, seconded by Councilwoman Robinson,
AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 38, ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED AT 1408 PALISADES ROAD, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO R-3 RESIDENTIAL ZONE
was denied.

REZONING

2009-111: Sean Daniels

Pursuant to notice of public hearing the request of Sean Daniels to rezone a tract of land located at 3630 Ridgeside Road came on to be heard.

The applicant was present.

On motion of Councilman Murphy, seconded by Councilwoman Rico,
AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 38, ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED AT 3630 RIDGESIDE ROAD, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO C-5 NEIGHBORHOOD COMMERCIAL ZONE, SUBJECT TO CERTAIN CONDITIONS
was deferred until September 29, 2009.

REZONING

2009-114: Armstrong, Weber, Randall, LLC c/o Andrew Mattox

Pursuant to notice of public hearing, the request of Armstrong, Weber, Randall, LLC c/o Andrew Mattox to rezone part of a tract of land located at 1711 Baldwin Street came on to be heard.

The applicant was not present; there was no opposition.

Mr. Haynes stated the original request was for C-3 for a Live-Work Studio; that Staff and Planning agree this is an appropriate use; however, the recommendation is for an alternate zone, UGC, which is a more appropriate zone for this area. He stated the recommendation from Planning is to deny C03 and approve the UGC Zone.

On motion of Councilman Rico, seconded by Councilwoman Berz,

AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 38, ZONING ORDINANCE, SO AS TO REZONE PART OF A TRACT OF LAND LOCATED AT 1711 BALDWIN STREET, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-3 RESIDENTIAL ZONE TO UGC URBAN GENERAL COMMERCIAL ZONE

passed first reading.

2009-2010 BUDGET

Chairman Benson asked Councilwoman Berz to address the budget issue in the event there are those who are worried about the budget.

Councilwoman Berz noted that she was not sure who is worried about the budget and asked if someone wanted to speak at this time, however there was no response. She stated on tomorrow the Council would be meeting to set an agenda for an all day Friday meeting to go over in detail the budget; that they will review the ledger related to the budget and other considerations. She stated the Council wants to act with all due speed and act responsibly to make sure our city is safe and shows good stewardship with the money. She stated if there are any particular questions she would be happy to answer them.

2009-2010 BUDGET (Continued)

On motion of Councilwoman Berz, seconded by Councilwoman Robinson,
AN ORDINANCE, HEREINAFTER ALSO KNOWN AS "THE FISCAL YEAR 2009-2010 BUDGET ORDINANCE", TO PROVIDE REVENUE FOR THE FISCAL YEAR BEGINNING JULY 1, 2009, AND ENDING JUNE 30, 2010; APPROPRIATING SAME TO THE PAYMENT OF EXPENSES OF THE MUNICIPAL GOVERNMENT; FIXING THE RATE OF TAXATION ON ALL TAXABLE PROPERTY IN THE CITY, AND THE TIME TAXES AND PRIVILEGES ARE DUE, HOW THEY SHALL BE PAID, WHEN THEY SHALL BECOME DELINQUENT; PROVIDING FOR INTEREST AND PENALTY ON DELINQUENT TAXES AND PRIVILEGES; AND TO AMEND CHATTANOOGA CITY CODE, PART I, CHAPTER 2, SECTION 2-267, RELATIVE TO PAID LEAVE FOR ACTIVE-DUTY TRAINING
was deferred until consideration on all aspects of the budget are complete.

CHANGE ORDER

On motion of Councilman McGary, seconded by Councilwoman Ladd,
A RESOLUTION AUTHORIZING THE EXECUTION OF A CHANGE ORDER TO CONTRACT NO. P0025759 WITH ORACLE TO DECREASE THE CONTRACT AMOUNT BY THREE HUNDRED FORTY-THREE THOUSAND SIX HUNDRED SIXTY-SIX AND 37/100 DOLLARS (\$343,666.37), FOR A REVISED TOTAL CONTRACT AMOUNT NOT TO EXCEED THREE MILLION FOUR HUNDRED EIGHTY-EIGHT THOUSAND TWO HUNDRED TWENTY-THREE AND 63/100 DOLLARS (\$3,488,223.63)
was adopted.

CHANGE ORDER

On motion of Councilman Rico, seconded by Councilwoman Ladd,
A RESOLUTION AUTHORIZING THE EXECUTION OF A CHANGE ORDER TO CONTRACT NO. P0027350 WITH DULEY HOPKINS TO INCREASE THE CONTRACT AMOUNT BY THREE HUNDRED EIGHTEEN THOUSAND DOLLARS (\$318,000.00), FOR A REVISED TOTAL CONTRACT AMOUNT NOT TO EXCEED FOUR MILLION FIVE HUNDRED EIGHTEEN THOUSAND DOLLARS (\$4,518,000.00)
was adopted.

AWARD (ROOFING)

On motion of Councilman Rico, seconded by Councilwoman Berz,
A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF PUBLIC WORKS TO APPROVE AN AWARD TO PARRIS ROOFING FOR ROOFING REPAIRS FOR THE FRIAR BRANCH PUMP STATION IN AN AMOUNT NOT TO EXCEED TWENTY TWO THOUSAND NINE HUNDRED DOLLARS (\$22,900.00)
was adopted.

TEMPORARY USE

On motion of Councilman McGary, seconded by Councilman Murphy,
A RESOLUTION AUTHORIZING CARMIKE CINEMAS TO USE TEMPORARILY THE RIGHT-OF-WAY FOR PLACEMENT OF SIGNAGE AT 311 BROAD STREET, AS SHOWN ON THE DRAWINGS ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS
was adopted.

REQUEST OPINION

On motion of Councilwoman Berz, seconded by Councilman Murphy,
A RESOLUTION REQUESTING AN OPINION FROM THE ATTORNEY GENERAL OF THE STATE OF TENNESSEE WITH REGARD TO THE AUTHORITY OF THE CHATTANOOGA CITY COUNCIL TO ENACT AN ORDINANCE THAT WOULD GIVE PREFERENCE TO CONTRACTORS THAT UTILIZE LOCAL LABOR
was adopted.

FINAL PUD

2005-077: Dale Darby

Councilwoman Ladd asked Dale Darby to come forward so she could ask questions regarding this project. She stated this is in her district and has a lot of interest. She asked if he is the original developer that has worked with the property.

FINAL PUD (Continued)

Dale Darby stated that he represents McCallie LP, a company that funded this project for another developer and they have had to take this project back over that has been foreclosed on and sat for some months; that they actually have to take it over to finish it. He stated all they are requesting to do is follow the same guidelines that were requested in the beginning.

Councilwoman Ladd asked if they will finish the part where the land has been disturbed and a couple shells of homes or will they complete the entire project.

Mr. Darby stated they plan on doing this and completing the first 52 lots which is what comes from Cassandra Smith Road and circles the first portion of the project. He stated the first part that comes in from Cassandra Smith Road is a short road that runs up and circles which would be the first phase and as that is completed they will continue with the rest of the project. He stated the whole project would be brought under what is required by the city and state in order to get vegetation and get it on for stormwater.

Councilwoman Ladd thanked him and told him how much she admires them for stepping up and doing the right thing. She stated she has numerous projects in her district where folks have come in and destroyed the landscape, left it to erosion and said they were bankrupt and left the properties. She stated she is so glad they are going to finish this project!

Mr. Darby stated McCallie has retained him; that he has already let the bids out and will have approval on the bids by Friday.

Councilwoman Ladd wished him good luck!

Chairman Benson reiterated that the Council put a lot of stringent conditions on that piece of property because there were a lot of objections from the beginning; that it is his thought if they build according to the conditions they will have a nice asset out there.

Mr. Darby stated they have read them and agree with everything.

FINAL PUD (Continued)

On motion of Councilwoman Ladd, seconded by Councilman Rico,
A RESOLUTION APPROVING A PROPOSED FINAL PLANNED UNIT DEVELOPMENT SPECIAL EXCEPTIONS PERMIT FOR A PLANNED UNIT DEVELOPMENT KNOWN AS AMBERBROOK GARDENS PLANNED UNIT DEVELOPMENT ON PART OF A TRACT OF LAND LOCATED AT 5506 CASSANDRA SMITH ROAD, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE FINAL PLANNED UNIT DEVELOPMENT PLAN ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS
was adopted.

FINAL PUD

2007-155: R and S Development

On motion of Councilman Rico, seconded by Councilman Murphy,
A RESOLUTION APPROVING A PROPOSED FINAL PLANNED UNIT DEVELOPMENT SPECIAL EXCEPTIONS PERMIT FOR A PLANNED UNIT DEVELOPMENT KNOWN AS DALLAS ROAD SUBDIVISION PLANNED UNIT DEVELOPMENT ON TRACTS OF LAND LOCATED IN THE 1000 BLOCK OF DALLAS ROAD, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE DRAWING ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS
was deferred one week.

DECLARE SURPLUS

MR-2009-094: City of Chattanooga c/o Bill Payne

Councilman Murphy asked if this property is going to be land available for hunting and sporting purposes.

Adm. Steve Leach stated that this is land that abuts the proposed road right-of-way known as the "yellow brick road parkway" that is about 20 acres all total and split into two different sites. He stated it is fenced and the theory is that the fencing would keep "ne'er do wells" out that would harvest this "mint". He stated the agreement was made to build the road; that the area would likely not be unpreserved although deer could flatfoot the fence!

DECLARE SURPLUS (Continued)

Adm. Leach stated the area is going to be protected for the foreseeable future; that this plant is in danger of being threatened and this plan carries with it requirements of an endangered plan and this will be preservation for this plant.

Councilman Murphy stated that it is his understanding this plant is a springtime flower; that it is very pretty and he certainly wants to preserve it. He stated when U. S. Fish and Wildlife is mentioned he wonders when it comes October or November this will be land that is bow hunting eligible.

Adm. Leach stated that there are 2,800 acres out there that is bow hunting eligible except for these 20 acres.

Special Counsel Noblett stated that the city and county owns the property and can designate how it is used and can designate what purposes can occur, whether to allow hunting or not is the discretion of this Council.

On motion of Councilman Rico, seconded by Councilman Murphy,

A RESOLUTION DECLARING SURPLUS THE CITY'S INTEREST IN PROPERTY OWNED JOINTLY BY THE CITY AND HAMILTON COUNTY PART OF THE ENTERPRISE SOUTH INDUSTRIAL PARK, TAX MAP NO. 130-001.01, AS SHOWN ON THE ATTACHED MAPS AND MADE A PART HEREOF BY REFERENCE, AND AUTHORIZING THE MAYOR OR HIS DESIGNEE TO EXECUTE A CONSERVATION EASEMENT FOR SAID PROPERTY IN FAVOR OF THE U. S. FISH AND WILDLIFE SERVICE FOR THE PROTECTION OF THE LARGE FLOWERED SKULLCAP (CS. MONTANA)

was adopted.

ENDORSEMENT

Councilwoman Scott stated that she asked for a copy of this proposal a while back and has not received it and because she has not read it (she) is going to abstain from the vote.

Councilman McGary explained for those unaware these are federal dollars in the sum of \$40 million toward bringing about multi-modal transportation to Enterprise South; that various roadways in regard to traffic lights are being observed so there may be possible ways to reduce traffic in the area as well as providing bus transit so individuals working in the surrounding area may also be able to go to the Enterprise South Volkswagen plant. He stated one final area is in regard to the railroad construction where there will be increased traffic by train to this area, as well as looking at the various intersections so individuals may be able to have alternate routes to the Volkswagen Site.

ENDORSEMENT (Continued)

Councilman McGary clarified these are federal dollars and no matching dollars by the city; that it is his thought these are things that will be a great project for Volkswagen, as well as the citizens of Chattanooga.

On motion of Councilman Murphy, seconded by Councilwoman Berz,

A RESOLUTION AUTHORIZING THE MAYOR TO ENDORSE THE ENTERPRISE SOUTH TRANSPORTATION EFFICIENCY PROJECT (ESTEP) PROPOSAL FOR A TRANSPORTATION INVESTMENT GENERATING ECONOMY RECOVERY (TIGER) GRANT FOR UP TO FORTY MILLION DOLLARS (\$40,000,000.00) FROM THE UNITED STATES DEPARTMENT OF TRANSPORTATION

was adopted; Councilwoman Scott abstained.

CONTRACT

On motion of Councilman Rico, seconded by Councilman Murphy,

A RESOLUTION AUTHORIZING THE DIRECTOR OF GENERAL SERVICES TO EXECUTE A CONTRACT WITH GEORGE WRIGHT CONSTRUCTION, INC. FOR REPAIRS AND REPLACEMENTS FOR THE SECOND FLOOR OF THE CITY HALL ANNEX IN THE AMOUNT OF FORTY-EIGHT THOUSAND ONE HUNDRED SEVENTY-FIVE DOLLARS (\$48,175.00), ALONG WITH A PROJECT CONTINGENCY OF FIVE PERCENT (5%) FOR A TOTAL AMOUNT NOT TO EXCEED PROJECT AMOUNT OF FIFTY THOUSAND FIVE HUNDRED EIGHTY-THREE AND 75/100 DOLLARS (\$50,583.75)

was adopted.

OVERTIME

Overtime for the week ending September 3, 2009 totaled \$9,905.62.

PERSONNEL

The following personnel matters were reported for the various departments:

PUBLIC WORKS DEPARTMENT:

- **GENEAL LEWIS** – Family Medical Leave, Equipment Operator 4, City Wide Services, effective August 24 – November 16, 2009.

PERSONNEL (Continued)

- **CLYDE J. JEANSONNE** – Retirement, Forestry Inspector, Land Development Office, effective September 24, 2009.
- **JESSE T. COMPTON** – Hire, Laboratory Technician 1, Waste Resources, Range 12, \$31,021.00 annually, effective August 31, 2009.
- **STEPHEN E. PORTER** – Hire, Electrician 2, Waste Resources, Range 14, \$34,201.00 annually, effective August 31, 2009.

INFORMATION SYSTEMS:

- **COREY WENTZ** – Hire, IT Business Project Analyst, Range 25, \$64,000.00 annually, effective September 8, 2009.

CHATTANOOGA HUMAN SERVICES:

- **GWENDOLYN NORWOOD** – Retirement, Teacher, Head Start, effective August 27, 2009.

REFUNDS

On motion of Councilman McGary, seconded by Councilman Rico, the Administrator of Finance was authorized to issue the following refunds of property and personalty tax:

CHATTANOOGA GAS COMPANY	\$74,160.32
TOWER II ASSOCIATION	26,591.57
HOSPICE OF CHATTANOOGA	10,541.69
JAMESTOWN WAREHOUSE TOW LP	3,746.86

PURCHASE

On motion of Councilman Rico, seconded by Councilman Murphy, the following purchase was approved for use by the General Services Division:

SEARS SHOE STORE and ASR (Dual Award, Best bids) R0125520/B0006235

Purchase of City Wide Blanket Contract for Safety Shoes

\$40,000.00 - \$50,000.00

ANNEXATION PUBLIC HEARINGS

Special Counsel Noblett stated that an electronic message was sent to all Council members last week outlining the potential dates for additional annexation public hearings. **He stated the dates include Areas 3A and 3C on October 13; Area 4A on October 15; Areas 6A, 6B, and 6C on October 20; Area 12A on October 22 and Area 12B on October 27. He stated the hearings on Tuesday could begin at 6:45 p.m. after the regular City Council meetings and the Thursday meetings begin at 6:00 p.m.** He stated that he needed to know if the dates would work for the Council members as he needs to notify the School Board 30 days in advance.

Chairman Benson asked if some of the smaller areas could be combined.

Special Counsel Noblett explained that some of them have been combined such as areas 3A and 3C, Areas 6A, 6B and 6C as they are all in the Highway 58 areas, Area 4B is in Hixson and 12A and 12B are East Brainerd areas.

Chairman Benson asked if the areas mentioned include Summit.

Special Counsel Noblett stated that that includes Area 10B which is already on the Council's agenda.

Councilman Murphy noted that he would not be able to be present for the hearing scheduled for the 27th.

INQUIRY ABOUT PAY INCREASES

Councilwoman Scott stated in a previous Budget and Finance Committee meeting she raised the question about looking at some data for pay increases for fire, police and general employees of the city. She stated she has been given some percentages and had asked for an overall total of percentages of pay increases going from 1999 to 2009 and Adm. Madison has gotten that information together. She distributed the information among Council members to peruse as they go through the budget.

HEARING: APRIL BOLTON

Special Counsel Noblett stated that a request for appeal has been received from April Bolton regarding her termination from the Chattanooga Police Department.

A hearing for Ms. Bolton was scheduled for October 5 beginning at 9:30 a.m. with Councilmen Murphy, Scott and Benson serving as the panel. Councilman Murphy volunteered as Chair and Councilwoman Ladd volunteered as alternate.

REQUEST TO RECONSIDER ZONING DECISION

Councilman Murphy stated that he wished to make a motion for the Council to reconsider a zoning decision made in January of last year as it pertains to Trudy Mott and Thomas Mott for a Rockway Drive address property. He stated that he brought the matter up in Committee and feels the current zoning procedures do not effectively allow downzoned neighborhoods to return boarded and blighted structures for productive use. He stated this is the use in question which caused him to believe there is a need to change our rules to allow Mr. Mott to short circuit the nine month time period to present his case for this rezoning. He stated he wanted to do this also after Mr. Mott went through substantial effort with the community and neighborhood who demonstrated clear support in favor of this. He stated Mr. and Mrs. Mott are present this evening and was not certain he would get a second to his motion; that he would like an opportunity to discuss the matter before this Council. **Councilman Gilbert seconded the motion.**

Chairman Benson asked if this could be done without advertising the matter.

Special Counsel Noblett responded that there needs to be some sort of action by Planning to make a recommendation to this body.

REQUEST TO RECONSIDER ZONING DECISION
(Continued)

Councilman Murphy stated actually the Council did this in a situation in East Brainerd that he recalls was not advertised; that the motion was made to revisit the vote made on Planning's decision which is the only way to abrogate the nine month rule Planning imposes; that if they need advertising and notice it did not occur previously when it was done earlier in this term.

Chairman Benson inquired as to the property Councilman Murphy was referring.

Councilman Murphy responded that it was his belief it involved a doctor looking to rezone a parcel of property.

Chairman Benson stated it was a different matter as it only involved a portion of the property.

Councilman Murphy stated he did not know what difference it makes whether it is a portion or whole property.

Councilwoman Berz stated both Council members are right; that the Council actually did allow it to be heard; that there was a special hearing on it, however, it was advertised and asked if that could take place within a week.

Councilman Murphy stated that the case could be made in a week; that the issue is whether to allow this to be revisited; that he is Mr. Mott's representative on the Council and probably his one best advocate for his interest.

Councilman McGary asked if this is the same property in question that would have an opportunity to come back within nine months.

Councilman Murphy stated it is his understanding that is the way it is counted; that it would not afford Mr. Mott much benefit if we not allow this to go forward; that time is money in order for him to be allowed to rent the structure,.

Councilman McGary asked if the matter could come forth in early or late October.

Mr. Haynes responded that the nine months would expire soon and he could apply by October 10 and that would be heard by Planning in November and before the Council for action in December.

Councilman McGary stated if the Council approves Councilman Murphy's request is there any benefit to Mr. Mott as far as time.

REQUEST TO RECONSIDER ZONING DECISION
(Continued)

Mr. Haynes stated possibly 60-90 days might save him minus advertising time, which is fifteen days notice.

Councilman Gilbert asked that Mr. Mott briefly come forward to speak.

Mr. Mott stated that this property was bought in good faith; that they did not request to rezone anything as the electrical inspector came out and said the property was zoned incorrectly and needed to be zoned correctly. He stated that they sat here tonight and heard Councilwoman Ladd talk about how she appreciated people stepping up and buying property that has been foreclosed in the community and fixing them up. He stated they are back before this Council nine months later still dealing with this property that is sitting there, was already there, that has not been properly given the right respect. He stated it is unfair to them, unfair to the community and would carry it further to say it is unfair to the black community. He stated that it seems like every time in sitting in zonings, he hears this was approved for "this and that"; that they have paid over \$150 and it costs them \$1,500 a month for the last year trying to wait for a decision to be made. He stated it is unfair; that as a pastor he is very upset about it and has talked to people in the community; that he has always tried to advocate for the city and feels he has been treated unfairly. He stated he has taken the matter to God and told Him He would have to deal with this.

Mr. Mott continued by stating some members of the Council are unfair to them and asked that they look at what they are saying; that he bought through a realtor, a proper title was given and everything else; that this is not some "he said, she said" as he bought it legally and in good faith. He stated when sitting and hearing zoning cases, one zoning board member wanted to approve for a house to be built behind their parent's house and it was said this would be "opening a can of worms" and it was noted, "Well this is a friend of mine" and approval was recommended. He stated that they have property that has been sitting there for 48 years and can not properly utilize it and it is unfair to them. He stated this Council and the zoning board is unfair, clarifying not all of them, but someone needs to take a serious look at it. He stated if they can not get approval the next time they will take it to the next level; that he is very tired, very disappointed and appalled at the attitude of some of the people that continuously want to do for those who are white and when it comes to us (blacks) trying to do things in our community it is not happening!

Councilman Gilbert stated it is his understanding that the neighborhood agrees with this and asked if he were correct.

REQUEST TO RECONSIDER ZONING DECISION
(Continued)

Mr. Mott stated that he collected over 30 signatures the second time noting that the neighborhood has two different neighborhood associations who have supported them. He stated everyone in the community is upset at them because it is still sitting there; that he has said to them that it is not them it is the zoning board or Council and they get the same reaction.

Councilman Gilbert stated that the Motts were told they bought in good faith and that means something to him; that they did not know what the situation was at hand and wanted a business to make money like anyone else. He stated "we dropped the ball" on that in his opinion; that if the neighborhood agreed and the issue at the time came up and the issue was solved, he is hopeful that can be looked into the next time they come to reapply.

Councilman Murphy addressed Mr. Haynes and stated that it is his understanding from Committee a special permit could be requested that apparently was not taken; that the special permit authority through RPA was not for anything more than a duplex and Mr. Mott is looking at a triplex. He stated that Mr. Mott would probably have easier sailing under that permit process; that he is advocating with the Council to revisit the issue with Planning and does not believe it got anywhere.

Mr. Mott stated the property is actually a quadriplex; that he is not trying to change it because one unit is used for storage.

Councilman Murphy stated that the property was built as a quadriplex and we are only looking at three units as discussed in Committee today. He stated his motion was made to take up the matter short of the nine month time period after sufficient time for advertising in three weeks.

Chairman Benson asked if Councilman Murphy is suggesting a new application be made which is what happened in the East Brainerd situation.

Mr. Murphy responded "I am not".

Councilwoman Berz asked Councilman Murphy if he was sure he wants it heard in three weeks before Planning has had a time to revisit the law itself.

Councilman Murphy stated that it is his understanding based on conversations today he does not have the support of the Council to have Planning revisit the law.

REQUEST TO RECONSIDER ZONING DECISION
(Continued)

Councilman Murphy stated maybe he miscalculated, but it was his belief he got a general negative response they did not want to ask Planning to do this. He stated we did not put it to a vote as we generally do not vote in Committee.

Councilwoman Berz stated if the Council follows the law as it exists now relative to spot zoning this sort of thing, the outcome could be different than if the law itself were changed; that we have to follow the law.

Chairman Benson asked for clarification from Mr. Haynes that this would be spot zoning.

Mr. Haynes responded "yes".

Mr. Mott added that they have spot zoned gas stations and now a package store within a quarter mile of this property; that there is a new package store that is on Tunnel Boulevard and a gas station there for several years. He reiterated that they did not ask for the property to be rezoned as it was already sitting there; that it could sit there for 27 or 30 years boarded up and does not help the community at all. He stated the Council has the authority to revisit this; that they bought it and the lady had no electricity and they tried to put them under a 200 day rule as they did not know she did not have electricity.

Councilman Rico referred to what Councilwoman Berz stated noting that we have to go by the law and expressed his wish that Mr. Mott would not bring the race issue into it. He stated there is not a person on the Council, and he has worked with them, that is racist or goes by color; that they have worked with people and are trying to obey the law. He stated the Council is not trying to make it hard on Mr. Mott or anybody else.

Mr. Mott stated when it is said "obey the law" the Council has allowed without looking at the total picture of what happens in the black community versus white communities. He stated it goes back to the black communities sitting there boarded up because there is a law that is in place that should be changed or altered for the benefit of the community and when that is not done the same issues are still there. He stated he does not care how it is articulated it is still there.

Councilman Gilbert asked Councilman Murphy what he is asking.

REQUEST TO RECONSIDER ZONING DECISION
(Continued)

Councilman Murphy stated that he is asking that Mr. Mott's request be reheard. He stated Councilwoman Berz is correct we do need to revisit and refer to the Regional Planning Agency the issue of whether there needs to be a process whereby grandfathered status can be revived under certain conditions. He stated when he broached the topic earlier it was his understanding the only people who spoke on it spoke to it as a bad idea. He made the point that he represents a lot of downzoned areas and there is a prevalence and proliferation of boarded up structures. He stated from what he hears in the community they do not want any new duplexes constructed and do not want any new triplexes constructed, but they also do not want to live on a street with three boarded up structures. He stated the only viable way to put them back into use is to afford some means for triplexes such as Mr. Mott's to be put back to use. He stated there is stimulus money coming in to clear some of these properties, but it is not going to clear all of the properties that exist on the Southside, in Avondale, in East Chattanooga and in the rest of these areas where these boarded up structures exist. He asked if we are going to do something logical about this or are we not and it is his hope we would.

Mr. Haynes clarified the question raised by Councilman McGary with reference to time lines, stating if this Council acts to reconsider the matter has to go back to Planning and it would end up being the same time as if he applied to be heard in November and back before the Council in December. He stated after thinking through the time line it does have to be reviewed by Planning again.

Chairman Benson asked Mr. Haynes if he has any assurance it will get through Planning for approval.

Mr. Haynes responded "there is never approval assurance".

Councilwoman Berz stated that it was her thought at one time when properties similar to the one Councilman Murphy is talking about, had not Mr. Haynes or someone come up with plans where duplexes or triplexes could be converted and meet R-1 specifications, noting that she recalled seeing pictures regarding this.

Mr. Haynes explained those had been downzoned and built as duplexes and had lost their grandfather status; that the photos Councilwoman Berz referenced were of Camden Street where two or three had been converted from a duplex to single family.

REQUEST TO RECONSIDER ZONING DECISION
(Continued)

Councilwoman Berz stated that was one solution so that people would not get stuck with these properties that had been downzoned.

Mr. Haynes stated a duplex is easier to convert to single family.

Councilwoman Berz stated she remembered this one because we all visited it; that it is also amenable to conversion. She stated so people are not left "hanging" there is a possibility of converting or making it go along with R-1 requirements, correct.

Mr. Haynes stated it could be converted to single family; that it would probably be more difficult to convert a triplex or a quad back to a single. He stated a duplex would be easier to do that.

Councilman McGary expressed thanks to Mr. Haynes for clarifying the time line and asked if there would be no time benefit.

Mr. Haynes responded that he did not see any.

Councilman McGary inquired as to whether the fee would have to be paid.

Mr. Haynes responded that he fee would be waived.

At this point, Councilman Rico "called for the question"; the motion carried.

Mr. Haynes stated that the Planning Commission meets on Monday and he would see if it could be placed on the agenda and get Staff to look at it.

HEARING: STEVE K. HARGIS

Special Council Noblett stated a request for appeal has been received form Steven K. Hargis regarding his discharge from Neighborhood Services.

A hearing for Mr. Hargis was scheduled for Monday, November 23 beginning at 9:30 a.m. with Councilmen Rico, Robinson and McGary as the panel. Councilman Rico volunteered as Chair and Councilman Benson volunteered as alternate.

COMMITTEES

Councilwoman Scott announced that a meeting of the **Economic Development Committee is scheduled for Tuesday, September 22 immediately following Legal and Legislative** to discuss a PILOT for Arcade.

Councilwoman Robinson suggested revisiting the work Planning has underway to help property owners be assured when buying property that they understand what the zoning is, at least as far as our records reflect that information. She stated it is incumbent upon the property buyer to do their own independent due diligence; that it is their responsibility to properly vet a property and get a title search to show any encumbrances or liens upon the property and confirm what the zoning is. She stated to the extent that the Regional Planning Agency can affirm as far as tax records and proper zoning is the work that is underway with the Housing Committee under the leadership of Mr. Bennett; that they should have a definitive answer shortly so what the gentleman and lady faced this evening will be far less likely to happen.

Councilman Murphy scheduled a meeting of the **Legal and Legislative Committee for Tuesday, September 15** to the ordinance relative to a special exceptions permit for beer sales in neighborhood grocery stores and other matters that fall within the Committee's jurisdiction. He asked that Adm. Leach have representatives present to brief the Council very briefly about the federal reflectivity standards as it relates to signage. He stated in trying to revise the street naming ordinance having a system in place does not mean having to repost streets and then have to pay for new signage with new reflectivity standards shortly thereafter. He stated he would like to make the sign ordinance read in a way complete with what the actual practice is.

Councilman McGary reminded Council members of the **Education, Arts and Culture Committee scheduled for Tuesday, September 15 immediately following Legal and Legislative** for a discussion regarding alcohol and wine sales at the Memorial Auditorium and Tivoli Theatre.

Councilwoman Berz stated that the **Budget, Finance and Personnel Committee is scheduled to meet a 1 p.m. on tomorrow in the Conference Room to set the agenda for the meeting scheduled for Friday, September 11 beginning at 9 a.m. to do due diligence on the budget.**

NEXT WEEK'S AGENDA: SEPTEMBER 15, 2009

The Council agenda for next week, September 15, 2009, is spread below:

Ordinances – First Reading

Ordinances – Final Reading

- a) An ordinance to amend Chattanooga City Code, Part II, Chapter 38, Zoning Ordinance, Section 38-84, regarding the use of the Urban Overlay Zone within R-TZ Residential Townhouse/Zero Lot Line Zone.

- a) An ordinance to amend Chattanooga City Code, Part II, Chapter 38, Zoning Ordinance, Section 38-402(3)(c) to change a condition for residential planned unit developments.

- b) An ordinance to amend Chattanooga City Code, Part II, Chapter 26, Sections 26-22, 26-23, 26-24, 26-25, and 26-134, and by adding new Sections 26-26, 26-27, 26-28, 26-29, 26-30, 26-31, 26-32, 26-33, and 26-34, establishing event fees for usage of various Chattanooga Parks and Recreation facilities.

- c) 2009-037 Chattanooga Metropolitan Church c/o Pamela Ammons (R-1 to C-2). An ordinance to amend Chattanooga City Code, Part II, Chapter 38, Zoning Ordinance, so as to rezone a tract of land located at 1063 Shallowford Road, more particularly described herein, from R-1 Residential Zone to C-2 Convenience Commercial Zone. **(Not recommended for approval by Planning.)**

- d) 2009-114 Armstrong, Weber, Randall, LLC c/o Andrew Mattox (R-3 to C-3). An ordinance to amend Chattanooga City Code, Part II, Chapter 38, Zoning Ordinance, so as to rezone part of a tract of land located at 1711 Baldwin Street, more particularly described herein, from R-3 Residential Zone to C-3 Central Business Zone. **(Not recommended for approval by Planning.)**

2009-114 Armstrong, Weber, Randall, LLC c/o Andrew Mattox (R-3 to UGC). An ordinance to amend Chattanooga City Code, Part II, Chapter 38, Zoning Ordinance, so as to rezone part of a tract of land located at 1711 Baldwin Street, more particularly described herein, from R-3 Residential Zone to UGC Urban General Commercial Zone. **(Recommended for approval by Planning.)**

NEXT WEEK'S AGENDA: SEPTEMBER 15, 2009
(Continued)

- f) An ordinance hereinafter also known as "the Fiscal Year 2009-2010 Budget Ordinance", to provide revenue for the fiscal year beginning July 1, 2009, and ending June 30, 2010; appropriating same to the payment of expenses of the municipal government; fixing the rate of taxation on all taxable property in the City, and the time taxes and privileges are due, how they shall be paid, when they shall become delinquent; providing for interest and penalty on delinquent taxes and privileges; and to amend Chattanooga City Code, Part I, Chapter 2, Section 2-267, relative to paid leave for active-duty training.

Ordinances – First Reading:

- a) An ordinance to amend Chattanooga City Code, Part II, Chapter 3, Section 3-126(3), relative to placement of business directional signs.
- b) An ordinance to amend Chattanooga City Code, Part II, Chapter 38, Zoning Ordinance, Sections 38-264 and 38-266, and by adding Section 38-527 relative to a Special Exceptions Permit for beer sales in neighborhood grocery stores.

Resolutions:

- a) A resolution authorizing amendment of the City of Chattanooga 401(a) Retirement Plan to address changed regulations under the Internal Revenue Code, and authorizing the City Finance Officer to execute any and all documents necessary in connection with said amendment. **(Deferred from 8/25/09.)**
- c) A resolution designating an economic Recovery Zone which shall include areas as shown on the map attached hereto and made a part hereof by reference.
- d) A resolution authorizing the Chief of Police to negotiate and enter into a memorandum of understanding with Hamilton County, Tennessee in substantially the form attached hereto and incorporated herein by reference.

NEXT WEEK'S AGENDA: SEPTEMBER 15, 2009
(Continued)

- d) 2009-PW-012 City of Chattanooga, c/o Bill Payne, City Engineer (Street Name Change). A resolution to change the right-of-way name of the 800 through 899 block of Wells Street to the 807 through 899 block of Forest Avenue, due to 911 issues.
- e) 2009-PW-013 City of Chattanooga, c/o Bill Payne, City Engineer (Street Name Change). A resolution to change the right-of-way name of the 700 through 799 block of Natchez Circle (AKA Natchez Road) to the 1800 through 1999 block of Notting Hill, due to 911 issues, with the 1000 through 1099 block portion of North Natchez Road remaining unchanged.
- f) 2009-PW-014 City of Chattanooga, c/o Bill Payne, City Engineer (Street Name Change). A resolution to change the right-of-way name of the portion of Oak Street between Oak Hill Road and the dead end to the 4600 block of Begonia Lane, due to duplicate street names.
- g) 2009-PW-015 City of Chattanooga, c/o Bill Payne, City Engineer (Street Name Change). A resolution to change the right-of-way name of the 1 through 99 block of Beason Drive to the 800 through 899 block of McRoy Drive, due to duplicate street names.
- h) 2009-PW-016 City of Chattanooga, c/o Bill Payne, City Engineer (Street Name Change). A resolution to change the right-of-way name of the 500 through 599 block of West Crewdson Street to the 500 through 599 block of Moonhollow Lane, due to 911 issues.
- i) 2009-PW-018 City of Chattanooga, c/o Bill Payne, City Engineer (Street Name Change). A resolution to change the right-of-way name of the 4700 through 4719 block of Charlotte Drive to the 2600 through 2699 block of Bryant Road, due to plat correction.
- e) **A resolution authorizing the Administrator of Public Works to enter into an agreement with Arcadis, U.S., Inc. for a planning study for Moccasin Bend Architectural District in an amount not to exceed \$98,500.00. (Added by permission of Council Vice Chair Rico.)**

NEXT WEEK'S AGENDA: SEPTEMBER 15, 2009
(Continued)

- f) **A resolution authorizing the Administrator of Public Works to enter into a contract with MAP Engineering/Bonny Oaks Sewer Relocation at Railroad Bridge in an amount not to exceed \$13,650.00. (Added by permission of Council Vice Chair Rico.)**

- h) 2007-166 R and S Development (PUD Special Exceptions Permit.) A resolution approving a proposed final Planned Unit Development Special Exceptions Permit for a Planned Unit Development known as Dallas Road Subdivision Planned Unit Development on tracts of land located in the 1000 block of Dallas Road, more particularly described herein and as shown on the drawing attached hereto and made a part hereof by reference, subject to certain conditions.

RICH TEASLEY

Rich Teasley of the Summit area stated that he lives in one of the annexation areas scheduled for public hearing. He stated that he heard other areas mentioned tonight and asked where they are located; as his information only indicates Area 1B and 4B and 4C.

Chairman Benson stated that is a good question and noted that he would like for this to have been done by Council districts.

Special Counsel Noblett explained that area 3A and 3C is the Lookout Mountain area around Highway 41; that 4B is the Hixson area, and 6A, 6B and 6C are in the Highway 58 commercial areas; and 12A and 12B include East Brainerd.

Mr. Teasley inquired as to the dates in September.

Special Counsel Noblett responded that the first hearing begins on September 15.

Mr. Teasley acknowledged that his area would be heard on September 29 for Areas 10A and 10B.

MAHMOOD ABDULLAH

Mahmood Abdullah of 202 West 38th Street asked the question if he were a white man at his property would he be going through what he is going through. He stated many frowned and one gentleman said "nobody is racist" and referenced the young man having been shot 53 times in "this gentleman's district" noting "those parents are hurting". He stated we need to get together; that "something will come through this city you have never seen before". He stated he was giving the Council warning in the name of God; that he is present pleading and no one looked at it noting that he is looked upon "as a joke" and asked if "black folks are a joke to them".

Councilman Murphy stated that Mr. Abdullah indicated his business could not open and asked what is keeping his business from being open, noting that he is new to this. He asked what regulatory office or power is keeping him from opening his business.

Mr. Abdullah stated that he received money from the City of Chattanooga in the amount of \$48,000; that the building inspector came and inspected his building and found everything nicely in place. He stated Joe Reed did the work and the Chief Electrical Inspector, Don Fowlkes, did not approve the work. He stated that he asked what Mr. Fowlkes had to do with the roof; that he (Abdullah) had a signed paper saying the roof was in place. He stated the main part of the business is the grocery store which is where the money is. He stated every time he (Fowlkes) came to inspect they would not allow him to open; that years passed and every time the electrical inspector came in something wrong was found; that finally, Don Fowlkes was fired.

Councilman Murphy asked if the building has passed electrical inspection.

Mr. Abdullah stated that it probably will now; that he has to call them back out.

Councilman Murphy stated that most of us have been in office for less than six months and can not do much that happened over the last several years; that if it will pass inspection, call the inspectors again.

Mr. Abdullah stated that he agrees with the fact all are new and he made that clear; that many other people of the Chattanooga Community Council have been hurt by some of the same things Mr. Mott says he has been hurt by. He asked what right the electrical inspector had over the building inspector; that it is because of the "uniform" (color) he wears and he cannot change the "uniform".

MAHMOOD ABDULLAH (Continued)

Councilman Murphy stated the real issue is whether Mr. Abdullah does business or not. He asked that he get the electrical inspector out and if he feels discriminated against by the prior Council or government to file a lawsuit.

Mr. Abdullah stated he would try to take it further; that he came to the elected officials and got no help. He stated this is a city issue and there is no real solution for "us" and "we" realize this.

Chairman Benson noted that Mr. Abdullah had used his three minutes and to do as Councilman Murphy said. He suggested that he speak with Adm. Leach to have an inspector come out.

Mr. Abdullah stated that he would see Adm. Leach tomorrow and would call the Mayor and whomever!

GARY BALL

Gary Ball was present representing his company and stated that he had been to a police meeting earlier. He stated it is always interesting to come to Council meetings because he agreed with all "these people"; that he sees Peter's downzoned community does not want duplexes and then everybody is "up in arms" when it happens and somebody feels slighted. He stated that he "feels everybody's pain"; that he thinks what Peter is saying is good; that he does not think government can do that; that there is always somebody that wants something special. He stated most people go by the rules and expressed agreement with Mr. Mott indicating that he has seen people that get special treatment down at the Planning Commission. He stated what this guy says is true; that it is not black or white as it happens to the best and worst. He stated that he saw an article in the newspaper and knows Roger Tudor was present last week talking about work to local contractors. He stated he is a contractor and does not know what the Council is trying to do; that he wanted the Council to know Roger represents small contractors like him and he (Roger) is there for a reason. He stated they cannot send people to an apprenticeship program as it is not a union contract; that they can not work guys who are not on the union contract. He stated the friendship program is great and is handled through Washington and controlled by a limited number of people; that if the Council thinks they are going to give little guys, minority contractors any type of advantage by caving into the union on what they are trying to get the Council to do they are "barking up the wrong tree".

GARY BALL (Continued)

Mr. Ball stated he wanted to make sure the Council understood they will not help them and will not help a lot of guys locally as they all have to be competitive; that he wished they would just really leave well enough alone.

DAVID MCKEE

David McKee of 4313 Wooden Drive, Ooltewah, stated that emission control is where he takes his car and the way the economy is now he has a gripe about it.

Chairman Benson informed Mr. McKee that is not a subject the Council has any control over; that it is within the county's jurisdiction.

Mr. McKee stated if a gas cap is loose it costs \$150 to check it out.

Chairman Benson again asked Mr. McKee to "try the County Commission".

JAMES MATHIS

James Mathis stated that he has done contracting and other things and expressed agreement with what Gary Ball said. He stated making a preference for unions and others wanting to have things set aside would probably be against the law, which is what he has heard his whole life. He stated there are things he would like to see put in place, such as goals on jobs and the city does not do goals setting; that they go strictly on good faith effort and it would be discriminatory to do something different. He stated that he wanted to ask about federal funding and recalled a resolution adopted tonight that dealt with \$40 million.

Councilman Murphy clarified that the \$40 million at Volkswagen was for traffic control and railroad transportation; that it was for the whole infrastructure.

Chairman Benson stated that all the roads are due to have traffic increased on them.

Councilman McGary stated the resolution addressed the Enterprise South Volkswagen parcel; that the greater area is Enterprise South and Volkswagen is only one piece of it.

Mr. Maffett asked if that would be servicing the Volkswagen site. Councilman McGary responded that it would service that area.

JAMES MATHIS (Continued)

Mr. Mathis asked if there are any allocated funds coming through the state directly or from the federal government. Councilman McGary responded they are federal dollars.

Mr. Mathis asked if other grants the city has received to do Industrial Development Board projects are federal dollars in any of those grants. Chairman Benson responded that there is a mixture.

Mr. Mathis stated his point is are there or are there not any federal funds in those grants. Chairman Benson responded "yes".

Mr. Mathis expressed thanks to the Council for their response.

CITY'S WEBSITE: ANNEXATION

Councilwoman Scott asked Richard Beeland if the city's website has been updated to include the new areas for annexation.

Mr. Beeland responded "yes"; that everything is on there; that the new sections are going to RPA on Monday.

Councilwoman Scott asked for clarification that any citizen who is unclear about what streets are within the various areas can go to the website and access and get all the information they have been given in their packets.

Mr. Beeland responded "correct".

Chairman Benson asked that Mr. Beeland add after Area 12A that this area means Windstone and Hurricane Creek.

ADJOURNMENT

Chairman Benson adjourned the meeting of the Chattanooga Council until Tuesday, September 15, 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)**