

**City Council Building  
Chattanooga, Tennessee  
September 29, 2009  
6:00 p.m.**

Chairman Benson called the meeting of the Chattanooga Council to order with Councilmen Berz, Gilbert, McGary, Ladd, 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, City Attorney Mike McMahan gave invocation.

**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.

**RECOGNITION OF ANDREA DANIEL AND ANIKA  
KRELLMAN**

Councilman Rico recognized the presence of Andrea Daniel and Anika Krellmann, Public Administration Assistants from Hamm, Germany.

**AMEND CITY CODE**

On motion of Councilman McGary, seconded by Councilwoman Berz,  
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,  
CHAPTER 18, SECTION 18-165, SO AS TO PROVIDE FOR APPEALS TO  
THE PUBLIC OFFICER OF NOTICE TO ABATE A PUBLIC NUISANCE**  
passed second and final reading and was signed in open meeting.

**AMEND CITY CODE**

On motion of Councilman Murphy, seconded by Councilman Rico,  
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,  
CHAPTER 3, ARTICLE X, SECTION 3-102, RELATIVE TO JURISDICTION OF  
THE BOARD**  
passed second and final reading and was signed in open meeting.

**ANNEXATION AND PLAN OF SERVICES: AREA 1B**

City Attorney McMahan announced that this is an official public hearing of annexation for Area 1B in the Cummings Cove area of the city or county. He stated those wishing to speak in reference to this request should come forward at this time.

**Jeff Perlaky** of 319 West Hills Drive stated that it is his understanding West Hills Drive has been excluded from this annexation area. Chairman Benson responded that Mr. Perlaky was right.

Mr. Perlaky stated that the paperwork does not show the lot his brother, Steve, owns.

City Attorney McMahan stated the ordinance was amended on first reading last week to take out West Hills Drive; that directly further out Cummings Highway toward Marion County was also deleted. He stated he does not know where Mr. Perlaky's brother's property is.

Mr. Perlaky stated it is along West Hills Drive located off to the right; that it is a 260 acre tract the city was going to take.

Chairman Benson stated the ordinance was amended to take that out.

City Attorney McMahan stated he was not sure about that parcel; that the map is a fairly small scale and would look to see if it has been taken out.

At this point Adm. Steve Leach came forward and showed the map to Mr. Perlaky confirming the property was taken out.

Chairman Benson stated this is the second reading for this ordinance and it passed first reading last week with the property omitted.

**ANNEXATION AND PLAN OF SERVICES: AREA 1B**  
**(Continued)**

**Rebecca Little** stated she actually lives in District 1 at 3145 Scenic Waters Lane. She read from a prepared statement which indicated according to Tennessee Statute annexation can happen in two ways: the people can petition for it or a city may annex by ordinance but only when it appears that the prosperity of such city and territory will be materially retarded if the safety and welfare of the inhabitants are in danger if the city does not annex. She stated her family's property in Lookout Valley provides an enduring example of the results of annexation by ordinance when the intent of the Tennessee Statute is ignored. She stated she mentioned last Tuesday her community was annexed into the city 35 years ago followed by unsuccessful legal opposition; that in 2003 three adjoining properties were deannexed based upon insufficient services and parts of her rural community remain in the city. She stated based on meetings with the Mayor and city officials this month the city still has no plans to provide standard municipal services to taxpayers in her community. She stated roadways remain hazardous and properties continue the lack of proper sanitation services and the city currently proposes the same services to prospective taxpayers within three years, and again it has been 35 years.

Ms. Little continued by stating when she brought this issue to the attention of the City Council last week one Council member made the excuse that the annexation of her family's farm in the 70's was established by a different administration which means the county residents here today may approach the Council in 2044 about insufficient services and that Council may refuse to provide them services on the grounds that the current body of Council members annexed their properties in 2009. She stated given the above situation is it really the city's position that the length of time that has passed since annexation by ordinance actually negates the city's responsibility to provide services, not withstanding the ongoing payment of city taxes by residents. She asked if the city has any responsibility to provide standard municipal services to its established taxpayers before providing city resources to others. She stated given the catastrophic change in the national and local economy since 2001 when the urban growth plan for 2021 was approved by governing authority, is it really reasonable to assume the officials who agreed the boundary support the city's projected timeline or the means by which the city plans to claim the territory, now. She stated recent public hearings in Council meeting is clear evidence property owners do not support annexation and many believe they will be "materially retarded" by the city's proposed annexations by ordinance; that the allowance for annexation by ordinance seems in Tennessee law it is meant to prevent injury not to produce it.

**ANNEXATION AND PLAN OF SERVICES: AREA 1B**  
**(Continued)**

On motion of Councilman Rico, seconded by Councilwoman Scott,

**AN ORDINANCE ADOPTING A PLAN OF SERVICES AND EXTENDING THE CORPORATE LIMITS OF THE CITY OF CHATTANOOGA, TENNESSEE, TO ANNEX CERTAIN TERRITORY CONTIGUOUS TO THE PRESENT CORPORATE LIMITS OF THE CITY OF CHATTANOOGA KNOWN AS AREA 1B, BEING CERTAIN PARCELS ADJACENT TO CUMMINGS HIGHWAY WITHIN THE URBAN GROWTH BOUNDARY OF THE CITY OF CHATTANOOGA, IN HAMILTON COUNTY, TENNESSEE, AS SHOWN BY THE ATTACHED MAP**

passed second and final reading and was signed in open meeting; **Councilman Gilbert voted "no"**.

**ANNEXATION AND PLAN OF SERVICES: AREA 4A**

**Ken Kerry** of 1769 Chadwick Court and President of the Homeowners Association of Laurel Cove expressed thanks for the final opportunity to speak on behalf of all the homeowners. He stated if he did not know better he would think it is health care that is being debated as the similarities are outstanding. He stated on one side we have annexation, not by referendum where both parties present their case and the people decide, but by ordinance which simply shoves it down the throats of the populace. He stated on the other hand there is the opposition who has made an awful lot of good points; that he would like to review some of the points before the vote. He stated one Council person here has been against annexation since day one saying "we can not take care of what we got", as quoted from the *Free Press* and that person has remained true to that position. He stated other Council members have listened to the people and expressed thanks for their support; that they also see that the Republican and Democratic parties of Hamilton County have come together to oppose annexation on the grounds of representation, economy, taxation and timing.

Mr. Kerry stated State Legislators like Jim Cobb has come forward saying annexation will have a negative impact on all due to service reductions and the overall cost. He stated the men and women of the police department have come forward through their representatives saying they are stretched thin and will be stretched thinner; that they are already short handed with no academy in sight which was verified very clearly in the 917 FBI report showing the city cover for police has dropped every year since 2007 and when annexation is done it will continue to drop even more.

**ANNEXATION AND PLAN OF SERVICES: AREA 4A**  
**(Continued)**

Mr. Kerry continued by stating the men and women of the fire department have come forward through their representatives echoing the same concerns of the police department. He stated the people on the "firing line" say they are 30 short and 24 are needed just to cover VW, as well as another 30 for the new stations and shifting people around is an absolute fact of life. He stated the Mayor says he is going to take from the overstaffed stations and pull those personnel off to staff the new station, however, if we take all the stations we currently have and reduce the coverage on each shift from five to four we have the people we need, but that reduces the overall effect of this by 20 percent on each shift. He stated then again there are the County Commissioners who have come out one after another stating that annexation is at this time not in the best interest of the people from both sides. He stated that brings us to the people that have come forward and asked "where is the quit pro quo" as they do not see it; that even the annexation expert who recently held the symposium from Atlanta has said in annexation there must be a quit pro quo. He asked if anyone talked to the people - no; were any meetings held in the area to explain the annexation to the people - no; did anyone explain benefits for the dollars they're going to pay out - no! He stated the seniors who have stood at this podium who have moved from the city to the county to maximize their fixed incomes stated they can not afford to pay four-to-eight weeks of their social security in city taxes and then they were told that some must suffer for the greater good.

Mr. Kerry concluded his comments by stating the small business people who came to this podium and told the Council nine years of hard work building a business would be completely wiped out and that person's eleven employees, who are good tax paying citizens, are going to end up on the street in this economy. He stated those that have come forward pointing out that in Phase I alone if you take a total look at \$16.9 million dollars in capital and bond debt it really does not make much difference, debt is debt that has to be repaid plus interest. He stated all we have done by annexing at this point in time and in this economy is just we are going to end up burying people in debt. He stated he has heard the term "we'll take care of it out of user fees"; that "fee" is another three letter synonym for tax and once applied never seems to go away. He stated what we have done is put citizens of "new" Chattanooga on the hook for all this debt for whatever time it takes; that there were people who came forward after waiting eight, twelve and 35 years to receive promised services from the 1973 annexation.

**ANNEXATION AND PLAN OF SERVICES: AREA 4A**  
**(Continued)**

Mr. Kerry stated the track record does not look good; that a plan of services has been given with specific time lines and if the vote is affirmative "we the people" consider it a contract; that the "clock starts ticking" on October 30 and asked that there not be a "hiccup" because "we the people" will not forget or acquiesce.

**Ed Pastusek** of 1726 Thrasher Pike attempted to speak at this time in reference to the future growth plan around Middle Valley, however, Chairman Benson informed him that he is not involved in this item that is being discussed and could address the Council for three minutes at the end of the meeting.

On motion of Councilman Rico, seconded by Councilman Murphy,

**AN ORDINANCE ADOPTING A PLAN OF SERVICES AND EXTENDING THE CORPORATE LIMITS OF THE CITY OF CHATTANOOGA, TENNESSEE, TO ANNEX CERTAIN TERRITORY CONTIGUOUS TO THE PRESENT CORPORATE LIMITS OF THE CITY OF CHATTANOOGA KNOWN AS AREA 4A, BEING CERTAIN PARCELS ADJACENT TO THE CURRENT CITY LIMITS BETWEEN HIXSON PIKE AND MIDDLE VALLEY ROAD WITHIN THE URBAN GROWTH BOUNDARY OF THE CITY OF CHATTANOOGA, IN HAMILTON COUNTY, TENNESSEE, AS SHOWN BY THE ATTACHED MAP**

passed second and final reading and was signed in open meeting; on **roll call vote**:

<b>BERZ</b>	<b>"Yes"</b>
<b>GILBERT</b>	<b>"No"</b>
<b>LADD</b>	<b>"No"</b>
<b>MCGARY</b>	<b>"No"</b>
<b>MURPHY</b>	<b>"Yes"</b>
<b>RICO</b>	<b>"Yes"</b>
<b>ROBINSON</b>	<b>"Yes"</b>
<b>SCOTT</b>	<b>"Yes"</b>
<b>BENSON</b>	<b>"Yes"</b>

**ANNEXATION AND PLAN OF SERVICES: AREA 4C**

City Attorney McMahan stated that this ordinance was corrected to reflect **4C**, as intended.

Chairman Benson stated this area is surrounded completely by the city.

**Councilmen Rico and Robinson made the motion and second to substitute the amendment to this Ordinance; the motion carried.**

On motion of Councilman McGary, seconded by Councilman Rico,  
**AN ORDINANCE ADOPTING A PLAN OF SERVICES AND EXTENDING THE CORPORATE LIMITS OF THE CITY OF CHATTANOOGA, TENNESSEE, TO ANNEX CERTAIN TERRITORY CONTIGUOUS TO THE PRESENT CORPORATE LIMITS OF THE CITY OF CHATTANOOGA KNOWN AS AREA 4C, BEING CERTAIN PARCELS ADJACENT TO THE CURRENT CITY LIMITS OF HIXSON MARINA ROAD, BIG RIDGE ROAD, AND FAIRVIEW ROAD WITHIN THE URBAN GROWTH BOUNDARY OF THE CITY OF CHATTANOOGA, IN HAMILTON COUNTY, TENNESSEE, AS SHOWN BY THE ATTACHED MAP**

passed second and final reading and was signed in open meeting; **on roll call vote:**

BERZ	"Yes"
GILBERT	"No"
LADD	"No"
MCGARY	"Yes"
MURPHY	"No"
RICO	"Yes"
ROBINSON	"Yes"
SCOTT	"Yes"
BENSON	"Yes"

## AMEND CITY CODE

Councilwoman Scott stated for those not present at Committee meeting she asked Bill Payne, City Engineer, to come forward and give a synopsis of why he feels this is a benefit.

Bill Payne stated this converts the existing fee calculation structure to change it to a method where they calculate the impervious areas as measured on the actual parcels from aerial photography as opposed to an estimated amount, which is one part of this. He stated the other reason for the rate increase is it consolidates all of the resources into multiple funding sources; that currently they are spread over general fund funding, state street aid and some solid waste in addition to the current water quality fee. He stated all of these are currently funding programs that have a regulatory component that is mandated by the Clean Water Act and by the State of Tennessee Water Control Act. He stated the city does have a permit for coding all of these required regulatory items that will comprise approximately of the proposed \$9.60 per month or \$115 per year; that six dollars of that monthly charge would be to cover the regulatory requirements and consolidate them all into a single enterprise fund and the remaining approximately \$3.60 (a rough average on the amount per month) would be used to improve and expand drainage services. He stated for many years there has been a standing call from many citizens within the city to do more drainage work, not just within the public right-of-way but also beyond that onto private property which would include adding two additional pipe crews, two additional riding crews and additional back truck crew and staff for engineering analysis resources and all of the capital funding.

Councilwoman Scott asked Mr. Payne if we are under any kind of federal mandate to do anything with regard to water quality.

Mr. Payne responded "yes"; that the permit that was issued by the State of Tennessee to Chattanooga under the guidelines and the Clean Water Act does require the city to do certain things. He stated our permit has 150 different requirements for monitoring, inspection, enforcement and maintenance that we are required to do.

Councilwoman Scott asked if we could meet the requirement of monitoring with the current fee we have now and if we do not meet the requirement what will happen.



## AMEND CITY CODE (Continued)

Mr. Payne stated currently the existing fee generates less than half of the funds necessary for the existing program compliance and at this time we are under a notice of violation and consent order to improve our compliance efforts and we do have to add resources in order to do them.

Councilwoman Scott asked if there have been any other cities that have ignored that and if so, what was the result.

Mr. Payne stated there have been other cities that have ignored that, both on the stormwater side and on the sanitary sewer side; that those that have not willingly progressed into compliance have typically been forced into a consent order that was EPA or the State, typically the EPA oversees those, and generally comes as a result of not what the program elements would you do, it comes into how much money would you spend over some amount of time. He stated some of them have been in the billions of dollars; that Birmingham, Jefferson County and the sanitary sewer system currently has a \$3 billion dollar consent order; that Lexington, Kentucky or Louisville are under one that is basically at a \$1 billion dollar price tag and many of those basically have 20 years to spend that amount of money on compliance and it is not measured in terms of results but in terms of dollars and we are trying to avoid that.

Councilman Murphy stated that he wanted to confirm that Mr. Payne referred both in monthly terms and the annual rate; that he has a number of folks out there who are renters and the actual ordinance references an annual amount and there is no intent to have this billed on anything other than the tax bill.

Mr. Payne stated this is currently proposed on the tax bill and they have, for the purpose of calculating, equated it also to a monthly billing and tax collection would be on an annual basis on the tax bill.

Councilman Murphy stated from what he read for our commercial enterprise, some of whom have gone and taken upon themselves to install things like green roofs, stormwater detention facilities, storage facilities and reused rain water to flush toilets or irrigate landscaping, there is a credit system anticipated that will encourage financially that type of activity.

Mr. Payne stated there are multiple credits that would be available to any property owner that is charged equivalent to three or more residential uses; they would have to be equal to at least three residential properties before they would be able to apply for the credits.

**AMEND CITY CODE (Continued)**

Councilman Murphy stated for the reasons Councilwoman Scott brought out of him (Payne) in his testimony as well as others, essentially this is a requirement that is imposed upon us by federal and state mandates; that it may be “bitter medicine” but as Mr. Payne discussed based on the fines and requirements placed on similar sized cities we are coming out greatly ahead with this project at this point.

Mr. Payne stated we certainly want to put our best foot forward and feel if they can begin before additional consent order comes down it would be favorable.

On motion of Councilman Rico, seconded by Councilwoman Scott,

**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 31, ARTICLE VIII, SECTIONS 31-302, 31-352, 31-354, 31-356, AND 31-357, TO ADD DEFINITIONS, REVISE THE WATER QUALITY FEE (FORMERLY KNOWN AS STORMWATER USER’S FEE) RATE STRUCTURE, AND PROVIDE A SCHEDULE OF CHARGES FOR THE FUNDING OF THE OPERATION, MAINTENANCE, AND IMPROVEMENT OF THE WATER QUALITY SYSTEM WITHIN THE CITY LIMITS**

passed first reading.

**REZONING**

**2009-090: Gurdeep K. Madan, Broker**

The applicant was present; opposition was in attendance.

Greg Haynes, Director of Development Services with the Regional Planning Agency stated the Clerk of Council read the original request to rezone to C-2 and there has been a lot of discussion and options considered both by the Planning Commission and then by the City Council once it came before them the first of this month. He stated it has been deferred to consider those options; that Planning’s original recommendation was to approve the C-2 with conditions and then later at the Planning meeting it was decided to consider the C-5 option with a special permit which would allow beer sales if, in fact, that amendment was made which last week failed. He stated they are now left with a recommendation from Planning that is a little fuzzy; that the first was to recommend C-2 with ten conditions which were created both from the neighborhood association, neighborhood input, as well as with RPA staff looking at those to see which ones were appropriate and which ones were enforceable to help the City Attorney.

## REZONING (Continued)

Mr. Haynes stated there was a recommendation from the Planning Commission that was to approve with the conditions. At this point a PowerPoint was shown of the proposed site for rezoning; that the main reason for the C-2 was for beer sales and surrounding photos were shown to the east and across the street. He stated that the recommendation at one point was to keep the C-5 and approve a special permit but the permit failed and are still left with the previous recommendation to approve the C-2 with conditions.

Councilman McGary stated that he wanted to clarify some things he heard as it is his understanding the initial request was for C-2 with some conditions. Mr. Haynes clarified that the original request by the applicant was just for C-2.

Councilman McGary asked if that passed or failed. Mr. Haynes stated the Planning Commission recommended to approve C-2 with about ten conditions and toward the end of the meeting after discussion of another case very similar the recommendation for another case was made for the C-5 amendment so later in the meeting Planning Commission discussed that and wanted to consider that same type of recommendation of C-5 with a permit for this case. He stated they were asked to prepare two versions before City Council, one for C-2 with conditions and the other C-5 with a special permit; that the Clerk of Council read the version for the original request for C-2 without any conditions and in the packet are two versions, one with conditions.

Councilman McGary stated that he wanted to make sure he has a clear understanding that there was C-2 that passed Planning Commission without conditions.

Mr. Haynes stated Staff recommended against it and Planning recommended approval of C-2 with conditions.

**John Taylor**, owner and developer of the property, was present with Mr. Madan and stated what they are seeking has generated quite a bit of concern as to whether or not this would be a liquor store and he stated that this will not be a liquor store. He stated plans are to have it as a convenience store; that packages were distributed earlier that showed photos of the present building and what it was previously. He stated they are looking at making it a convenience store and bringing in some franchise with that at the same location such as a sub shop, ice cream shop and other things that relate in the area of groceries, as well. He stated they have been working hard with the neighborhood trying to answer any concerns.

## REZONING (Continued)

Mr. Taylor stated that he is truly a neighbor there and that property set vacant for several years and was an eyesore; that they wanted to do something to improve that particular area at that location and is present asking for the Council's support.

**Will Smith** of 347 Towerway Drive and a member of the Planning Commission stated at the Planning meeting they "shot down" the C-2 and recommended R-1. He stated he has been out of town for fifteen months and came in and was told a convenience store was coming in at that location. He stated they are trying to get the neighborhood back together like Highland Park as they have gotten sick and tired of gunshots from Tunnel Boulevard and the violence; that they have formed an organization of several people that has been kept kind of quiet and have gotten a lot of things done and the Chief of Police can speak to that. He stated they have enough convenience stores and have enough stores that sell beer and they are trying to stop that. He stated they would like a produce shop, flower shop – anything but something that sells beer as there is a hub in that area. He asked others in opposition to identify themselves and several in attendance stood. He stated he does not mind a grocery store as he is a businessman and owns property on Tunnel Boulevard as rental property; that they are just tired of the things that are going on.

Mr. Haynes stated Mr. Smith is correct and (he) would confuse the Council one more time as Planning did recommend denial of the C-2; that the confusion was in between Planning and Council as the Staff was asked to prepare another version with the conditions so the neighborhood could decide what they wanted to do. He reiterated that Mr. Smith is correct that Planning did recommend denial of C-2 and expressed an apology for the confusion. He stated it has been confusing on both sides and he stands corrected.

Councilman Gilbert referenced the special conditions that he thought were added to this ordinance.

Mr. Haynes stated version two has the conditions and Councilman Gilbert asked that they be read.

Mr. Haynes read the conditions as follows:

1. *Only those uses listed under "Principal Uses Permitted" of the C-5 Neighborhood Commercial Zone shall be permitted. Beer sales shall be permitted in a grocery store or other permitted uses within the C-5 Neighborhood Commercial Zone for off premises consumption only.*

## REZONING (Continued)

2. *A 20-foot Type B landscape buffer as described in the landscape requirements of the Chattanooga Landscape Ordinance shall be required where the proposed C-2 Zone abuts a residential zone.*
3. *All lighting shall be directed down and away from residential properties.*
4. *Dumpster service shall be limited to 8am to 6pm.*
5. *Signage visible from the street shall be attached to the structure that reads: "No loitering, gambling, use of drugs or consumption of alcoholic beverages are allowed on the property."*
6. *Outdoor sales and street vendors are prohibited.*
7. *The sale of adult-oriented material (adult books, adult tapes) and drug paraphernalia is prohibited.*
8. *External speakers or other outdoor sound amplification equipment is prohibited.*
9. *Security cameras shall be installed in appropriate locations.*
10. *If this property is ever sold or lost to any third party, the permitted uses set forth in these conditions shall apply to any new property owner and future uses of this property shall comply with the conditions of this rezoning ordinance.*

Councilwoman Berz stated that the first sentence references C-2 only with conditions permitted in C-5. Mr. Haynes clarified the request is for approval of C-2 subject to conditions listed in C-5.

Councilwoman Berz stated beer sales are prohibited in C-5. Mr. Haynes stated the request is for C-2 but pulling the uses from C-5 and keeping the beer sales allowed in C-2 under these conditions.

Councilwoman Berz stated the request is for C-2 except it includes the sale of beer. Mr. Haynes stated the request is to keep the beer sales and other uses listed as in C-5.

Councilman Gilbert asked if the conditions could be put on the C-2 for the applicants.

Chairman Benson added "with the condition of no beer".

Councilman Gilbert responded, "no, with beer"; that they are wanting C-2 with special conditions; that they want the conditions on the C-2 which is that they can sell beer.

## REZONING (Continued)

Mr. Haynes stated it probably would have been easier to list it only with those uses; that beer sales shall be permitted in grocery stores or other permitted uses for off-premise consumption only and read the ten conditions again.

Chairman Benson stated this is a contentious issue as those in attendance do not want beer sold there. He asked those wanting beer sold at this location to raise their hands – a few in the audience acknowledged they were in favor.

Councilman Murphy stated what came before the Council last week would have been C-5 but allowing beer; that it is his understanding that one of the concerns of the neighborhood was they did not want to see the C-2 get the “camels nose under the tent” on the other side of the tunnel as they did not want C-2 “marched down” the rest of Wilcox. He stated if he is close to what one of the concerns was, he asked those in attendance to raise their hands – several raised their hands at this point. He stated by raising their hands they are “saying” they do not want beer regardless whether C-5 or C-2.

Chairman Benson stated what Mr. Smith stated is they do not want any more beer on the corners.

Mr. Smith stated the Eastdale Study says no more C-2 which is why the C-5 was done; that the city paid money for the study and the Eastdale community decided that is what we wanted.

Mr. Taylor asked those in attendance who are in favor of this request for a convenience store to stand – six people stood at this point. He stated this has been a community project in bringing in community people to take part within the development of this piece; that it has truly made a difference and, hopefully, will make not only a difference in putting people to work but a difference in improving the community, as well.

Councilman Gilbert stated several meetings were held on this; that there were at least four meetings. He stated in the last meeting he attended there were still some in opposition but most did want this to happen. He stated Mr. Smith did make comments about the area as far as the Study and during that time, if he is not mistaken, since the study was before 2005 a facility called Kanku’s was before Planning that Mr. Smith actually said he was “for”, but when I asked him about that a few minutes ago he (Smith) said he was for putting on restrictions to sell gas but not beer at that time. He stated the charge was led by Mr. Smith who wanted this to happen because the facility that was currently there was an eyesore, noting that his comments were not word-for-word but gathered from Planning’s minutes.

## REZONING (Continued)

Councilman Gilbert stated if that is the case then at that time there was a pretty nice building that was torn down for Kanku, but if the facility for this store was done half as well and was an eyesore, Mr. Taylor is now bringing in something that is nice. He stated as far as crime and beer, back in his day there were problems with people on corners selling beer, but these days that is not an issue any more; that the issue is drugs. (At this point there was an obvious audible reaction from those in attendance.)

**Councilman Gilbert** continued by stating, again, the issue mostly is drugs and gang banging as he sees it; that there is a facility down the street that is not selling beer, period, but there is a lot of activity going on, asking "what is the difference". He stated to him it is about being a good neighbor, it is about a person that is not going to allow these activities at this facility; that John (Taylor) could have left this as C-5 and had people selling whatever – lemonade, clothing – he could not have built a nicer building. He stated now there is an opportunity for conditions to be placed on this store and **made the motion to approve with conditions and pass this on through; Councilman Murphy seconded the motion.**

Mr. Taylor stated the conditions are welcomed noting that they did meet with the community presidents and the neighborhood association many times. He stated they do want to be a good neighbor and brought out the fact of other stores in the area, noting that this same zoning would apply to what is already across the street on both sides.

Councilwoman Berz expressed concern about the community plan. Mr. Haynes referenced the community plan for C-5 was done in 1997 and noted there was a zoning study, as well.

Chairman Benson asked for clarification that the area was downzoned to C-5. Mr. Haynes stated most of the commercial property was zoned to C-5 for the purpose of maintaining neighborhood commercial use, but no one specified what kind of commercial. He stated the property across the street is C-2 and the one Councilman Gilbert was referring to was rezoned previously with conditions restricting uses in the C-2. He corrected himself in stating that the zoning study was done in 1991.

Councilwoman Berz stated her question is when there is a zoning or downzoning, as in this case to C-5 from R-1, is it proper to get a rezoning or variance if somebody wants to do something other than those. Mr. Haynes stated if it is zoned C-5 whatever business before is grand parented-in.

## REZONING (Continued)

Councilwoman Berz stated if someone wants to do a neighborhood store and do something different like in this case, C-5 that sells beer, is that the proper venue for that or a variance. Mr. Haynes responded "no"; that if it is C-5 they can not do beer, period.

Councilwoman Berz stated they want beer to be sold in C-2 and asked if that requires a variance from C-5 as opposed to a zoning matter. Mr. Haynes responded "no", that it is a rezoning matter; that it is a rezoning from C-5 to C-2 for convenience commercial, which are two separate zones. He confirmed it is a rezoning, not a variance.

Councilwoman Berz stated that goes against the Plan. Mr. Haynes responded "no" noting the land use plan recommended commercial; that the land use plan recommends commercial but did not specify what intensity. The zoning study is the one that actually changed the zoning.

Councilwoman Berz stated that she thought she heard the recommendation there would not be any more C-2.

Councilman Murphy stated that the Council voted on the ordinance for C-5 with beer and it failed as it did not get the five votes; that the Council heard the rest of the restrictions on this property but one that stuck out to him the most was it was going to be C-2 except the C-5 conditions apply with the exception they can sell beer for off-premise consumption. Mr. Haynes responded "yes," those are the conditions proposed.

Councilman Gilbert stated that he made the motion to accept the C-2 with special conditions.

City Attorney McMahan stated that is not on the agenda; that an ordinance will have to be prepared to accomplish that. At this point the conditions requested were given to Mr. McMahan, which he read. After reading the first condition he confirmed that the first condition allows for the sale of beer. Councilman Gilbert confirmed there are actually ten conditions total.

Councilman Rico asked if a special permit is what is being talked about. Chairman Benson responded "no"; that the request is for C-2 with ten conditions.

Councilman Rico asked if that makes it a special permit. Chairman Benson responded "there is no such thing as special permit". Councilman Rico immediately responded, "I know!"



**REZONING (Continued)**

On motion of Councilman Gilbert, seconded by Councilman Murphy,  
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHATPER 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**

passed first reading; **on roll call vote:**

<b>BERZ</b>	<b>"Yes"</b>
<b>GILBERT</b>	<b>"Yes"</b>
<b>LADD</b>	<b>"Yes"</b>
<b>MCGARY</b>	<b>"No"</b>
<b>MURPHY</b>	<b>"Yes"</b>
<b>RICO</b>	<b>"No"</b>
<b>ROBINSON</b>	<b>"No"</b>
<b>SCOTT</b>	<b>"Yes"</b>
<b>BENSON</b>	<b>"No"</b>

**REZONING**

**2009-111: Sean Daniels**

Councilman Murphy stated that the applicant is present and indicated that he did not know if there is any one in opposition to this request, at which time it was made known opposition was in attendance. He stated this request is a recommendation to the Council to approve a zoning category that did not exist at the time the recommendation was made; that since that time, that ordinance fails to exist and was voted down as it did not get the required five votes. He made the motion to refer the matter back to Planning to sort out some of the issues and have a public hearing for those "for" and "against" this particular zoning request at this time.

**REZONING (Continued)**

Mr. Haynes stated if it goes back to Planning the original request was for C-2 for property that is zoned R-1; that the recommendation came to the Council for C-5 with the special permit but it failed. He asked if the Council wants Planning to reconsider the original C-2 request.

Councilman Murphy responded "C-2 or what we just passed, also" as he did not think that was considered by the Planning Commission previously. He stated what the Council just witnessed might be middle ground for C-2 with "anything goes" with some owner restrictions.

At this point **James Mapp** attempted to speak, however, Chairman Benson stated that the vote on the matter has already been called. Mr. Mapp stated that it is his hope people will look at the lot for this request as it is not a proper lot.

Chairman Benson stated that everyone is familiar and indicated that Mr. Mapp is welcome to come to the Planning meeting where the process will be started all over again.

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 A TRACT OF LAND LOCATED AT 3630 RIDGESIDE ROAD, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO C-2 CONVENIENCE COMMERCIAL ZONE**  
was referred back to Planning for a recommendation.

**ANNEXATION AND PLAN OF SERVICES: AREA 8A**

On motion of Councilman Rico, seconded by Councilwoman Berz,  
**AN ORDINANCE ADOPTING A PLAN OF SERVICES AND EXTENDING THE CORPORATE LIMITS OF THE CITY OF CHATTANOOGA, TENNESSEE, TO ANNEX CERTAIN TERRITORY CONTIGUOUS TO THE PRESENT CORPORATE LIMITS OF THE CITY OF CHATTANOOGA KNOWN AS AREA 8A, BEING CERTAIN PARCELS ADJACENT TO INTERSTATE 75 AND HUNTER ROAD WITHIN THE URBAN GROWTH BOUNDARY OF THE CITY OF CHATTANOOGA, IN HAMILTON COUNTY, TENNESSEE, AS SHOWN BY THE ATTACHED MAP**  
passed first reading; **Councilman Gilbert** voted "no".

**ANNEXATION AND PLAN OF SERVICES: AREA 8B**

On motion of Councilman Rico, seconded by Councilwoman Ladd,  
**AN ORDINANCE ADOPTING A PLAN OF SERVICES AND EXTENDING THE CORPORATE LIMITS OF THE CITY OF CHATTANOOGA, TENNESSEE, TO ANNEX CERTAIN TERRITORY CONTIGUOUS TO THE PRESENT CORPORATE LIMITS OF THE CITY OF CHATTANOOGA KNOWN AS AREA 8B, BEING CERTAIN PARCELS ADJACENT TO INTERSTATE 75 AND RELOCATION WAY WITHIN THE URBAN GROWTH BOUNDARY OF THE CITY OF CHATTANOOGA, IN HAMILTON COUNTY, TENNESSEE, AS SHOWN BY THE ATTACHED MAP**

passed first reading; **Councilman Gilbert voted "no"**.

**ANNEXATION AND PLAN OF SERVICES: AREA 9A**

On motion of Councilman Rico, seconded by Councilman Murphy,  
**AN ORDINANCE ADOPTING A PLAN OF SERVICES AND EXTENDING THE CORPORATE LIMITS OF THE CITY OF CHATTANOOGA, TENNESSEE, TO ANNEX CERTAIN TERRITORY CONTIGUOUS TO THE PRESENT CORPORATE LIMITS OF THE CITY OF CHATTANOOGA KNOWN AS AREA 9A, BEING CERTAIN PARCELS ADJACENT TO THE ENTERPRISE SOUTH PROPERTY AND THE RIGHT-OF-WAY OF INTERSTATE 75 WITHIN THE URBAN GROWTH BOUNDARY OF THE CITY OF CHATTANOOGA, IN HAMILTON COUNTY, TENNESSEE, AS SHOWN BY THE ATTACHED MAP**

passed first reading; **Councilman Gilbert voted "no"**.

**ANNEXATION AND PLAN OF SERVICES: AREA 9B**

**Tamara Woodard** of 4939 Village Drive in Ooltewah, Tennessee stated that she is from Summit and talked to the Council last week and asked that the Council please reconsider because she knows a number of the Council members have already made up their minds about the annexation. She asked that they revisit what the city has already put on her community and if they do consider this annexation she requested that the city ask EPA and independent environmental organizations to come in and make a morbidity and mortality study, check the groundwater and the air and be responsible for their community for what the city has already done.

Councilman McGary stated that he respects Ms. Woodard's request that the city entertain a morbidity study, noting that she is currently in Ooltewah's jurisdiction.

**ANNEXATION AND PLAN OF SERVICES: AREA 9B**  
**(Continued)**

Ms. Woodard stated that she actually, physically lives in Ooltewah; that Summit addresses are in Ooltewah. She stated that the land the city is looking at is property that has been owned for five generations in her family and does not think the city understands that she is one sibling that lives in Summit. She stated there are five of them and the income the city is looking at for that property is probably based on most of her siblings who do not live in the area. She stated the probable average of the people who actually live in that area is less than \$20,000 - \$25,000; that she noticed the \$800,000 on the income information and that income is probably based on her siblings. She stated that it is her thought it is really unfair to the people of Summit to look at that income level as most of the property the city is looking at does not have houses on it. She stated that it is her understanding Councilman McGary has been out there.

Councilman McGary responded "yes"; that what he is trying to pinpoint specifically is if Ms. Woodard lives within the city of Chattanooga.

Ms. Woodard responded "no".

Councilman McGary asked if Ms. Woodard's request for a morbidity study has been requested under the current jurisdiction she currently lives under.

Ms. Woodard responded "Ooltewah is not annexed and is not a city".

Councilman McGary stated his question is if she has requested this of any other persons.

Ms. Woodard responded "the other persons did not put a city landfill in that jurisdiction".

Councilman McGary expressed understanding and reiterated that his question is whether there has been no such request made.

Ms. Woodard stated a request has been made but has not been made recently. She stated the first request was made when the city attempted to annex more property in Summit to expand the landfill and that became a legal battle that ended up in the seventies where the city did not annex that property. She stated at that time they did make a request, not just locally but nationally.

**ANNEXATION AND PLAN OF SERVICES: AREA 9B**  
**(Continued)**

On motion of Councilman Rico, seconded by Councilman Murphy,  
**AN ORDINANCE ADOPTING A PLAN OF SERVICES AND EXTENDING THE CORPORATE LIMITS OF THE CITY OF CHATTANOOGA, TENNESSEE, TO ANNEX CERTAIN TERRITORY CONTIGUOUS TO THE PRESENT CORPORATE LIMITS OF THE CITY OF CHATTANOOGA KNOWN AS AREA 9B, BEING CERTAIN PARCELS ADJACENT TO OLD LEE HIGHWAY AND APISON PIKE WITHIN THE URBAN GROWTH BOUNDARY OF THE CITY OF CHATTANOOGA, IN HAMILTON COUNTY, TENNESSEE, AS SHOWN BY THE ATTACHED MAP**

failed; on roll call vote:

BERZ	"Yes"
GILBERT	"No"
LADD	"No"
MCGARY	"No"
MURPHY	"No"
RICO	"Yes"
ROBINSON	"Yes"
SCOTT	"No"
BENSON	"Yes"

**ANNEXATION AND PLAN OF SERVICES: AREA 11A**

**Jack Smith** of 1724 Radio Circle stated that he would like to oppose annexation as he did once before and would like to oppose it again. He stated he was at the courthouse when the annexation discussion started and was at West View when there was talk about annexation; that both buildings were filled with people against annexation and they had to take turns to get into the courthouse room and find a parking place a half mile off at West View School.

**ANNEXATION AND PLAN OF SERVICES: AREA 11A**  
**(Continued)**

Mr. Smith stated that he would like to discuss what was said; that they have a great fear as this is a time when people are losing their jobs and people out his way are almost losing their houses; that there are a lot of people in retirement and this is a very untimely time to annex and put this financial burden on the people. He stated not only that, as he looks "down the pike" and thinks about things that are going to happen, he knows this will not only affect the people annexed but will also affect people in the city of Chattanooga or any part of Chattanooga. He stated in his opinion it will probably lessen their services and they will have diluted services and understands the fire department was being maligned for awhile; that the fire department they have is a very good one and understands it will be part of the city in some way. He stated we have these problems and when the services are given to them on Radio Circle and all around and east of Morris Hill, it will not be long before they not only have a tax burden they will be realizing, but also a tax increase. He stated not only will they have a tax increase but the people in the city of Chattanooga will also have a tax increase. He stated it is a lose, lose thing and lessening of services in the city of Chattanooga and money that will cost the city of Chattanooga, as well as those being annexed.

Mr. Smith continued by stating he was not present last Thursday night and according to the newspaper only ten people came and it was thought people were not interested. He stated people on Radio Circle are interested and fear being annexed. He stated that he personally wrote every Council member twice - 18 letters - about this over the last three-or-four weeks and gave his ideas and the only Council member he wanted to brag on was Chairman Benson who called him and told him he did not think Radio Circle was going to be annexed, however, "low and behold" as he picked up the newspaper he saw that Mr. Benson had indicated that the Council never heard they were against this even though he wrote 18 letters and made phone calls, however that is the way "the ball bounces". He expressed appreciation to Chairman Benson for the civil conversation they had and wanted the Council to know how they feel as it is their thought this is a lose, lose situation because all taxes will go up when this happens and ended by quoting the old saying, "you can't beat city hall unless you can vote!"

Councilwoman Berz stated that she has heard from several people here referring to fire and police protection and asked the two Chiefs to come forward and address this as she has heard three-or-four times to the fact police and fire personnel have said relative to annexation services would be "watered down"; that they did not have what they needed now and, particularly, keeps hearing about the police academy that has not happened, yet.

**ANNEXATION AND PLAN OF SERVICES: AREA 11A**  
**(Continued)**

Councilwoman Berz stated that she kept hearing this over-and-over again; that we have heard differently in our meetings and she wondered if some of this coming from the newspaper did not have to do with the take home cars. She asked them, as she has heard this four times tonight from the various areas, somehow with this annexation fire and police services will be insufficient and that is coming from the mouths of our own personnel.

Chief Cooper indicated as he has stated previously in the various presentations that have been done before, they can absorb this area with our current manpower as well as in the others and the one we will talk about later this evening. He stated he can not address what others are telling Councilwoman Berz as far as people, employees or the newspaper.

Councilwoman Berz expressed thanks and noted that she just wanted clarification.

Chief Parker stated they do have a plan in place for fire coverage; that they are 1.6 miles from the current location on Morris Hill Road and currently cover one side of Morris Hill Road and are basically picking up the other side and a few streets that run off that area. He stated they will service from the fire station located at 7700 East Brainerd Road; that he has had discussion with people who have asked if it is a city fire station and he clarified it is a city fire station; that they currently provide fire coverage on one side and are picking up the other side. He reiterated that they have a plan in place to staff up people and an academy that starts in thirty days that will have 30-32 people in it; that they have a plan in place in every area of annexation and will discuss the other one later tonight. He stated there is a ground breaking scheduled for tomorrow at Enterprise South for the fire station there; that they are slated to start work on it Thursday or Friday of this week and it is scheduled to be completed in ten-to-eleven months.

Councilwoman Berz inquired about the two areas in Hixson she keeps hearing about that is insufficient. She stated that she knows this is hearsay and is just asking.

Chief Parker stated the Ramsgate area will be provided service from Station 19 located on Brunswick Lane in Hixson and the other area that is slated for discussion later in October as far as discussion of that area which has not come up yet.

**ANNEXATION AND PLAN OF SERVICES: AREA 11A**  
**(Continued)**

Chief Parker stated the plan is to build a fire station in the Hixson area to provide service there; that a few weeks ago they indicated in a previous annexation hearing a fire station would be provided in the Tiftonia area that is going to be annexed. He stated as far as the East Brainerd area is concerned there will be a fire station there also, as well as in the other small areas of 8A, 8B and 9A voted on tonight. He stated they will re-negotiate the contract we currently have with Tri-Community, noting that he has spoken with the Chief there and he is aware of it; that the Chief plans to go to the Board and will come back and negotiate with the City Attorney's office and we will decide on that contract.

Councilwoman Berz asked both Chiefs if there is any truth to the allegations there will be insufficient service because we are stretched too thinly.

Chief Parked stated when they have an academy they will staff to the level appropriate; that they will always be short one or two as you can not have an academy of one or two people; that they will be fully staffed in the fire department and as they go forward they will hire additional personnel. He stated when fire stations are constructed they will staff it.

Councilwoman Berz stated she has heard comments tonight from people who were attributing comments to police and fire personnel; that she is trying to clear the air because from the conversation she had it is her understanding services will be sufficient.

Chief Cooper stated services will be sufficient and that is correct. He stated he can not address what different opinions are of those people that are not in the process of managing the department or making the plans for the department or working on the budget for the department. He stated he can not answer to their discussion, confirming that the department can absorb the calls for service beginning the first day this is approved for the police department for those areas considered for annexing.

Mayor Littlefield reiterated that the services are adequate and will be expanded and extended to the annexed areas to be consistent with the level of services we already have in the city. He stated there will be no reduction in force in the fire or police departments except for the normal attrition which takes place prior to an academy in either of the "blue" services.



**ANNEXATION AND PLAN OF SERVICES: AREA 11A**  
**(Continued)**

Mayor Littlefield stated the annexation plans the Council is considering anticipates expansion of both the fire and police departments; that it has been discussed it is the city's plan and commitment to continue to expand the police department by ten officers per year until it passes 500 police officers. He stated we presently have more police officers than any other city per square mile per thousand population than any other city in Tennessee other than Memphis; that we are adequately staffed and will be more than adequately staffed as we go through this plan.

Mayor Littlefield asked that the Council remember when they talked about the take home cars, during that discussion/controversy it was learned that 57 percent of our police officers live outside the city and by their own admission, their own spokesperson, they are on duty, available, and on call 24 hours per day; that they know in driving around the areas being annexed there are a number of Chattanooga police cars parked in the areas to be annexed. He stated to say we are stretched too thinly and know we have police officers out there on call and available 24 hours per day is very difficult to make that argument; that we have been through this before. He stated the annexation plans anticipate the construction of new fire halls that will be discussed later tonight again and with that we will expand the urban footprint of this growing community in order to keep the community growing and prosperous.

**Rusty Rymer** of the Chattanooga Fire Fighters Association attempted to speak at this time, however Chairman Benson cautioned him that he needed to talk when the Middle Valley annexation comes forward which would be at the end of the next Council meeting.

Councilwoman Berz stated that the fault is hers; that she was asking a question which they answered and it is her belief this gentlemen wanted answers from the perspective of the fire department.

Chairman Benson asked Chief Parker if Mr. Rymer speaks for the Fire Department, to which the Chief responded "no".

ANNEXATION AND PLAN OF SERVICES: AREA 11A  
(Continued)

On motion of Councilman Rico, seconded by Councilwoman Robinson,  
**AN ORDINANCE ADOPTING A PLAN OF SERVICES AND EXTENDING THE CORPORATE LIMITS OF THE CITY OF CHATTANOOGA, TENNESSEE, TO ANNEX CERTAIN TERRITORY CONTIGUOUS TO THE PRESENT CORPORATE LIMITS OF THE CITY OF CHATTANOOGA KNOWN AS AREA 11A, BEING CERTAIN PARCELS ADJACENT TO THE CURRENT CITY LIMITS OF MORRIS HILL ROAD, EAST BRAINERD ROAD, AND IGOU GAP ROAD WITHIN THE URBAN GROWTH BOUNDARY OF THE CITY OF CHATTANOOGA, IN HAMILTON COUNTY, TENNESSEE, AS SHOWN BY THE ATTACHED MAP**

passed first reading; **on roll call vote:**

BERZ	"Yes"
GILBERT	"No"
LADD	"No"
MCGARY	"No"
MURPHY	"Yes"
RICO	"Yes"
ROBINSON	"Yes"
SCOTT	"No"
BENSON	"Yes"

CONTRACT

On motion of Councilman McGary, seconded by Councilwoman Robinson,  
**A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PARKS AND RECREATION TO AMEND THE PERSONAL SERVICES CONTRACT WITH TOWNSEND ATELIER, LLC FOR COORDINATOR OF PUBLIC ART SERVICES TO INCREASE THE CONTRACT AMOUNT BY TWELVE THOUSAND FOUR HUNDRED EIGHTY DOLLARS (\$12,480.00), FOR A REVISED CONTRACT AMOUNT NOT TO EXCEED FIFTY-FOUR THOUSAND EIGHTY DOLLARS (\$54,080.00)**

was adopted; Councilmen Gilbert and Scott voted "no".

## OVERTIME

Overtime for the week ending September 24, 2009 totaled \$48,078.62.

## PERSONNEL

The following personnel matters were reported for the various departments:

### CHATTANOOGA FIRE DEPARTMENT:

- **DANIEL HAGUE** – Promotion, Assistant Fire Chief (Tactical Services), Range F6C, \$65,350.00 annually, effective September 25, 2009.

### PUBLIC WORKS DEPARTMENT:

- **ANTWONE L. JONES** – Suspension (2 days without pay), Crew Worker 1, effective September 22-23, 2009.

### CHATTANOOGA POLICE DEPARTMENT:

- **JOSHUA E. MCGUIRE** – Return to Duty from Medical Leave, Police Officer 1, effective September 23, 2009.

## PURCHASE

On motion of Councilman McGary, seconded by Councilman Rico, the following purchase was approved for use by the Public Works Department:

**SUN VALLEY LIGHTING (Price offered appears to be fair, reasonable and bid meets specifications)**  
**R0126216/B0006291**

Purchase of Sidewalk Lighting and Luminaries

\$2,554.00 (Annual expenditure: \$319,250)

#### **HEARING: APRIL BOLTON**

City Attorney McMahan stated Councilwoman Scott has informed him she will be out of the city and unavailable to serve on the April Bolton hearing panel.

**Councilman McGary volunteered to serve as the alternate for this hearing, with the panel now comprised of Councilmen Murphy, Benson and Ladd; Councilman Murphy will serve as Chair.**

#### **HEARING: LOYD LEMLEY**

City Attorney McMahan stated a request for continuance has been received in reference to the Loyd G. Lemley hearing. He stated Mr. Lemley notified the Clerk of Council that his doctor was out of the city for two weeks and did not make his medical records available to him.

**The hearing for Mr. Lemley was rescheduled for Monday, November 16 beginning at 9 a.m. with the same panel: Councilmen Murphy, Scott and McGary, with Councilman Benson as alternate and Councilman Murphy as Chair.**

#### **HEARING: LILLIAN SMITH**

City Attorney McMahan stated it was reported last week the request for an appeal from Lillian Smith was received and it was thought at the time to be premature, but it was found a letter was sent to the Mayor on September 2 which was well within the fifteen days of her August 26 termination. He stated SEIU, on behalf of Ms. Smith, requested the hearing, however, it was noted no one from the organization was present. He stated he does not know if she is represented by an attorney and if so he does not know who it is. He stated the matter would be scheduled next week.

#### **HEARING: SHAWN CUNNINGHAM**

City Attorney McMahan stated a panel was set for the Shawn Cunningham hearing consisting of Councilmen McGary, Ladd, and Scott, with Councilman Gilbert serving as alternate and Council McGary as Chair. **A hearing date for the appeal was scheduled for Monday and Tuesday, December 7-8, 2009, beginning at 9 a.m.**

## COMMUNITY IMPACT TOUR

Councilwoman Robinson reminded Council members of the Community Impact tour scheduled for Wednesday, October 7 at 10 a.m. which would last about an hour and a half. She invited Council members to ride along and see the work Community Impact is doing in those neighborhoods.

## COMMITTEES

Councilwoman Scott stated the Economic Development Committee met today and would meet again on a date to be set.

Councilman Murphy stated the Legal and **Legislative Committee would meet on Tuesday, October 6** to discuss ordinance and resolutions within the Committee's jurisdiction.

Councilman Rico scheduled a meeting of the **Public Works Committee for Tuesday, October 6 immediately following the agenda session.**

Councilwoman Ladd scheduled a meeting of the **Safety Committee for Tuesday, October 6** to discuss an agreement with the U. S. Nuclear Regulatory Commission and hear a presentation from the International Association of Black Professional Firefighters.

## NEXT WEEK'S AGENDA: OCTOBER 6, 2009

The agenda for next week is spread below:

### Ordinances – Final Reading:

- a) An ordinance to amend Chattanooga City Code, Part II, Chapter 31, Article VIII, Sections 31-302, 31-352, 31-354, 31-356, and 31-357, to add definitions, revise the water quality fee (formerly known as **storm water user's fee**) rate structure, and provide a schedule of charges for the funding of the operation, maintenance, and improvement of the **storm water system** within the City limits. **(Revised.)**
- b) 2009-090 Gurdeep K. Madan, Broker (C-5 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 3467 Wilcox Boulevard, more particularly described herein, from C-5 Neighborhood Commercial Zone to C-2 Convenience Commercial Zone, subject to certain conditions.

**NEXT WEEK'S AGENDA: OCTOBER 6, 2009**  
**(Continued)**

- c) An ordinance adopting a Plan of Services and extending the corporate limits of the City of Chattanooga, Tennessee, to annex certain territory contiguous to the present corporate limits of the City of Chattanooga known as Area 8A, being certain parcels adjacent to Interstate 75 and Hunter Road within the Urban Growth Boundary of the City of Chattanooga, in Hamilton County, Tennessee, as shown by the attached map. **(Public Hearing.)**
  
- d) An ordinance adopting a Plan of Services and extending the corporate limits of the City of Chattanooga, Tennessee, to annex certain territory contiguous to the present corporate limits of the City of Chattanooga known as Area 8B, being certain parcels adjacent to Interstate 75 and Relocation Way within the Urban Growth Boundary of the City of Chattanooga, in Hamilton County, Tennessee, as shown by the attached map. **(Public Hearing.)**
  
- e) An ordinance adopting a Plan of Services and extending the corporate limits of the City of Chattanooga, Tennessee, to annex certain territory contiguous to the present corporate limits of the City of Chattanooga known as Area 9A, being certain parcels adjacent to Enterprise South property and the right-of-way of Interstate 75 within the Urban Growth Boundary of the City of Chattanooga, in Hamilton County, Tennessee, as shown by the attached map. **(Public Hearing.)**
  
- f) An ordinance adopting a Plan of Services and extending the corporate limits of the City of Chattanooga, Tennessee, to annex certain territory contiguous to the present corporate limits of the City of Chattanooga known as Area 11A, being certain parcels adjacent to the current City limits of Morris Hill Road, East Brainerd Road, and Igou Gap Road within the Urban Growth Boundary of the City of Chattanooga, in Hamilton County, Tennessee, as shown by the attached map. **(Public Hearing.)**

**NEXT WEEK'S AGENDA: OCTOBER 6, 2009**  
**(Continued)**

Ordinances – First Reading:

- a) An ordinance adopting a Plan of Services and extending the corporate limits of the City of Chattanooga, Tennessee, to annex certain territory contiguous to the present corporate limits of the City of Chattanooga known as Area 10A, being certain parcels adjacent to Old Lee Highway, Green Shanty Road, Rexway Lane, Ranco Circle, and Maywater Road, within the Urban Growth Boundary of the City of Chattanooga, in Hamilton County, Tennessee, as shown by the attached map.
  
- b) An ordinance adopting a Plan of Services and extending the corporate limits of the City of Chattanooga, Tennessee, to annex certain territory contiguous to the present corporate limits of the City of Chattanooga known as Area 10B, being certain parcels adjacent to Old Lee Highway, Apison Pike, Patten town Road, Woodland Drive, and Old Woodland Drive, within the Urban Growth Boundary of the City of Chattanooga, in Hamilton County, Tennessee, as shown by the attached map. **(Request to defer.) (Alternate version to be presented; re-advertise public hearing.)**

Resolutions:

- a) A resolution authorizing the Administrator of the Department of Education, Arts & Culture to negotiate and enter into a License Agreement with Chattanooga Public Market, Inc. for Oktoberfest on Saturday, October 24, 2009, to be held at Renaissance Park, Coolidge Park, Walnut Street Bridge, and Bluff View. **(Special Permission was granted by the EAC Committee.)**

**RUSTY RYMER**

**Rusty Rymer** of 1603 Dale Drive in Middle Valley stated that he is the Secretary/Treasurer of the Chattanooga Fire Fighters Association and does not represent the Chattanooga Fire Department but does represent 250 members of the fire fighters association. He stated they are in support of annexation and their concern has to do with staffing and stations. He stated we can talk numbers all day long; that the numbers can be discussed all day long to "confuse you beyond confusion".

**RUSTY RYMER (Continued)**

Mr. Rymer stated he has given each Council member a report of the organization commissioned through the international office in Washington who compiled the information and completed the report. He asked that the Council members look through the report and spend time with it; that their concerns are that certain parts of the city now are not adequately protected and requested a review of those areas for future expansion of the fire department, as well as the annexed areas. He stated they are not trying to be the bad guys but just want to see that their department gets its fair share in annexation and not short changed at the end of the day.

**GENE HAIG**

**Gene Haig** of Hixson, Tennessee stated that he does live in one of the areas to be annexed, noting that he wanted to comment on what Mayor Littlefield said about the percentage of police being 57 percent outside the city; that the good reason they do is it is 100 percent much cheaper and wanted the Council to know that!

**EDWARD PASTUSIC**

**Edward Pastusic** of 1726 Thrasher Pike stated that he is in the Urban Growth Plan and is concerned about police protection. He stated right now he has an alarm system in the house and if he mistakenly pushes it the police are there by the time that alarm goes off; that he does not have to wait for five minutes for the police officers to be in the driveway. He stated he does not have time to call to say he made a mistake; that he would like to know what type of response they will get when they are annexed out there on the far boundaries. He stated if his wife pushes the panic button and someone comes inside the house at night, if they push the panic button will they have to wait 35-40 minutes before an officer comes.

**RECESS**

Chairman Benson recessed the meeting of the Chattanooga Council at this time for the public hearing on the annexation of Areas 10A and 10B.



Council Building  
Chattanooga, Tennessee  
September 29, 2009  
Annexation Public Hearing: Areas 10A, 10B  
7:00 p.m.

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

**PUBLIC HEARING TRANSCRIPT**

A complete transcript of the public hearing proceedings is available at [http://www.chattanooga.gov/annexation/annexation\\_info.htm](http://www.chattanooga.gov/annexation/annexation_info.htm).

**ADJOURNMENT**

At the close of the public hearing, Chairman Benson adjourned the meeting of the Chattanooga Council until Tuesday, October 6, 2009 at 6:00 p.m.

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CHAIRMAN

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CLERK OF COUNCIL

A LIST OF NAMES OF PERSONS IN ATTENDANCE AT THE COUNCIL MEETING  
AND ANNEXATION PUBLIC HEARING FOR AREAS 10A AND 10B  
IS FILED WITH MINUTE MATERIAL OF THIS DATE