

Municipal Building  
Chattanooga, Tennessee  
April 13, 1999

The meeting of the Chattanooga Council was called to order by Vice Chairman Lively with Councilmen Eaves, Hakeem, Hurley, Pierce, and Rutherford present; Councilmen Crockett, Franklin and Taylor were out of the City on business. City Attorney Randall Nelson, Management Analyst Randy Burns, and Council Clerk, Carol O'Neal, CMC, were also present.

### **INVOCATION**

Invocation was given by Councilwoman Hurley.

### **MINUTE APPROVAL**

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

### **CHATTANOOGA THEATRE**

Vice Chairman Lively moved Resolutions 7(i) and (h) up on the agenda.

Councilwoman Hurley acknowledged the great work of the Chattanooga Theatre which serves a wide region of people. She expressed her happiness at the presence of many of those involved with the Theatre and stated it (Theatre) has added immeasurably to the cultural life of this community over the last 75 years and wished them 175 more!

Betty Quave stated the Theatre has enjoyed 75 years of uninterrupted, continuous play performances in Chattanooga; that the Theatre is serving the community through its volunteers. She stated there have been thousands of volunteers through the years and they are happy to be celebrating their 75<sup>th</sup>. She stated many events are planned for April 23-25 and expressed hope that everyone will come out to enjoy and participate in them.

On motion of Councilwoman Hurley, seconded by Councilwoman Rutherford,  
**A RESOLUTION HONORING THE CHATTANOOGA THEATRE  
CENTRE FOR 75 YEARS OF SERVICE TO OUR COMMUNITY  
AND THE THEATRE ARTS**

Was adopted.

**BOARD APPOINTMENT:**  
**ELECTRIC POWER BOARD**

Atty. Carlos Smith expressed appreciation for the confidence in Mr. Ferguson, who was unable to be present. He stated Mr. Ferguson asked that the Council be assured he will do his best in this position.

On motion of Councilwoman Rutherford, seconded by Councilwoman Hurley,  
**A RESOLUTION CONFIRMING AND APPROVING THE  
APPOINTMENT OF L. JOE FERGUSON AS A MEMBER OF THE  
ELECTRIC POWER BOARD OF CHATTANOOGA**

Was adopted.

**AMEND CITY CODE**

Councilman Pierce reiterated that this Ordinance is just for the upcoming Academies; that discussion will continue in Committee regarding the age issue.

On motion of Councilman Hakeem, seconded by Councilwoman Hurley,  
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE,  
PART II, SECTION 16-2, TO ADD A NEW SUBSECTION (c) TO  
EXCEPT FROM THE MAXIMUM AGE OF HIRING OF AGE  
THIRTY-ONE (31) THE CLASSES TO BE STARTED FOR NEW  
FIREFIGHTERS IN APRIL, 1999, AND FOR NEW POLICE  
OFFICERS IN MAY, 1999.**

Passed second reading. On motion of Councilwoman Hurley, seconded by Councilman Hakeem, the ordinance passed third and final reading and was signed in open meeting.

**REZONING**

1999-043: Bob Johnson

Pursuant to notice of public hearing the request Bob Johnson to rezone a tract of land located at 5809 Winding Lane came on to be heard.

The applicant was present; there was opposition in attendance.

Barry Bennett stated this request is for rezoning from R-1 to C-2 for a Rex Audio, Video and Appliance store. He stated the surrounding zoning includes R-1 and the nearest other C-2 is located to the south across Winding Lane and to the east across Highway 153 and beyond Sutton Drive.

**REZONING (Continued)**

Mr. Bennett stated land use on the west side of 153 immediately adjacent to the property is primarily single family residential along Sutton Lane and the southeast portion of Winding Lane. He stated the predominant vacant property to the south on 153 is commercial to the east across 153 and single family residential to the north. He stated in looking at the initial plan, the Staff recommended against the zoning change because of the policy that was adopted for the 153 corridor which shows primarily mixed use, low intensity, office, institutional and residential uses. He stated the Planning Commission Board recommended approval of C-2 for the front portion of the property for 320 feet subject to conditions. He stated this property is unusual and difficult to deal with in that it fronts on what generally is considered to be a major commercial corridor, for the most part being 153, and there is commercial zoning to the south and the east. He stated the problem is that it is almost immediately abutting a low density single family subdivision and the only way the Staff could support it is if there would be no impact on the single family area. He stated he realizes it would be difficult to develop as residential being adjacent to commercial and on 153 and also recognizes the need to protect the adjacent single family development.

Ed Fisher of Realty Center Commercial represented the applicant and stated he has appeared before the Council previously with little public opposition, yet, tonight is different. He stated a few will go home understanding their position and possibly sympathize with them (applicant); that he knows he cannot perform miracles and he needs to convince the Council that what he is asking for is the right thing to do and not necessarily the popular one. He stated Mr. Johnson owns 3.7 acres of land zoned R-1, which is almost completely surrounded on three sides by commercial zoning to the north, east, and south. He stated Planning has voted to rezone a portion to C-2, a portion to R-4 and the remaining R-1; that the owner agreed to this and Rex Audio and Video proposes to build an all-brick attractive building with restricted access and only one entrance off 153. He stated the plans were changed to allow for parking on the north side to pacify homeowners across Sutton and there is no parking lot between those to the north and the brick building. He stated they have agreed to a berm along Sutton Drive to reduce visibility from the homes; that they will change the dumpster location to the south and rear to reduce noise to the houses at the rear. He stated Rex averages only eight (8) cars per hour in customers in their building in Chattanooga and does not know if this is an overall average. He stated they will not have any loud speakers bellowing "take your order please" and will operate from 9 a.m. to 9 p.m. He stated they would be a very compatible neighbor, more than any other; that they would not be a nuisance or disturbance. He stated if the Council denies this it would be the wrong thing for the owner, the neighborhood and the City; that eventually something other than homes will be built and it might not be to someone as good as Rex. He asked the Council to "do the right thing" and approve this limited rezoning.

**REZONING (Continued)**

Sharon Goforth of 906 Sutton Drive spoke in opposition to the request. She stated she has lived in Northwoods South for twelve years as a homeowner; and has lived in this neighborhood for almost 20 years. She stated it is a quiet neighborhood with good neighbors and emphasized that this is a neighborhood. She stated the families ask for denial due to the Hixson Elementary Traffic, which is heavy and dangerous to all; that additional traffic would make the situation worse. She gave an accounting of a traffic study, which outlined the thousands of vehicles that travel through the area per day; that traffic should be kept to a minimum, and Rex would cause additional traffic problems. She stated Sutton Drive is the bus stop for children twice in the morning and afternoon and families know to watch for them but others would not be as attentive. She stated they do not want their children at risk. She stated commercial property is in abundance in Hixson; that many are vacant and are in close proximity to the property in question. She stated the Horizon Plan 2010 discusses the outward growth strategy; that one object of the Plan makes reference to the conflicts between residential and industrial land areas will be reduced. She indicated that the North Suburban Area Plan maintains a balance of residential and industrial while minimizing industrial land uses which fit the description of the encroachment into the area. She stated this rezoning will add conflict and infringe on their neighborhood and there is no need for additional zoning. She asked the Council to please vote to deny.

John Catlett of 819 Sutton Drive stated he is not worried about the vote in question; that he is worried about the rest of the property at Winding Lane and 153; that Rex will only use part of it. He stated he does not want Hooter's coming in or anything of that nature. He stated he does not want to deny the applicant use of his property, but he does not want any infringement into their neighborhood.

At this point those in opposition were recognized by a "show of hands".

Barry Wilde of Realty Center Commercial also represented Rex and stated Mr. Johnson has asked for the same zoning to retail zoning for the rest of his property which is the only lower rate of zoning that will require offices or something of that nature and there will be no more retail on the rest of the property. He stated they have altered their plans to provide there will be no access off Sutton Drive; that the new plan has no access at all off Sutton. He stated there will be an earth berm and there will not be a parking lot on Sutton in the new plan as the Planning Commission asked.

Councilwoman Rutherford asked how wide the berm would be. Mr. Wilde stated the berm is a rolling earth berm that goes up at an angle to partially block view of the building. He stated the building will be all brick and will have a normal setback from Sutton according to City Code. He stated there is no parking lot or driveway on that side.

**REZONING (Continued)**

Councilman Hakeem asked Mr. Wilde if he and others associated with the rezoning have met with the community. Mr. Wilde stated he has not; that they have met with the community's representatives individually and they have met with the Councilman representing the area.

Councilman Hakeem asked if he has met with the people. Mr. Wilde responded "no; not personally"; that they (residents) have not seen the revised plan. He stated it has taken since the Planning Commission meeting to get a new architectural drawing. He stated he has not scheduled a meeting with everyone prior to tonight to show the plan; that Barry Bennett and Councilman Lively have both seen the plan.

Councilman Hakeem asked Mr. Bennett if the concern raised regarding the school children and the amount of traffic has been taken into consideration.

Mr. Bennett responded that he did not recall a lot of discussion about that at the Planning Commission meeting; that he thinks traffic is a primary consideration in any issue of this type. He stated in regard to the prior statement he made the only way the Staff could support anything would be if it could be shown it would not be a negative impact by traffic or any other nuisance factor. He stated they have not looked at the school bus situation.

Mr. Wilde reiterated that there is no access to this store from Sutton Drive.

Councilman Hakeem asked City Attorney Nelson if a precedent is being set by proposing to change part of this property and not the whole piece. City Attorney Nelson stated that it is his assumption they would have to subdivide the property if they reapply to put anything else on the remaining parcel.

Mr. Bennett stated if they sell the property they would have to reapply. City Attorney Nelson stated they would also have to reapply if another building is put on it. Mr. Bennett stated they can have more than one commercial building with a common access.

City Attorney Nelson stated they will still have the R-1 zone; that they will have two different zones on the same lot. He stated if the zone is R-4 they will have to come back for commercial zoning if it is for anything but office use. Mr. Bennett stated R-4 would only allow office and residential.

In answer to Councilman Hakeem's previous question, City Attorney Nelson stated "yes" a precedent would be set for breaking the zoning plan already in place for the 153 corridor.

**REZONING (Continued)**

Councilman Hakeem stated that the neighborhoods have invested much and a lot of time and effort has gone into developing a plan for the area. He stated he really has concern that there has not been a meeting of the neighborhood in considering such a change of this nature. He stated the matter has to be worked out with Planning and the community and at this time cannot see favoring this proposal.

Councilwoman Hurley echoed Councilman Hakeem's remarks by stating this is the entranceway to a great deal of very good neighborhood development and R-1 property. She stated she has great respect for those before the Council as Mr. Fisher usually comes with good development that she can support. She stated this case this is not consistent with the Plan for the area; that it calls for a certain amount of residential and this is among the last significant entranceways currently there.

On motion of Councilwoman Hurley, seconded by Councilman Hakeem,

**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED AT 5809 WINDING LANE, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO C-2 CONVENIENCE COMMERCIAL ZONE**

**Was denied.**

**REZONING**

1999-047: Kay Wong

Pursuant to notice of public hearing the request of Kay Wong to rezone a tract of land located at 1105 Tunnel Boulevard came on to be heard.

The applicant was present; opposition was in attendance.

Councilman Eaves made the motion to defer the matter one week since the Councilman representing the area is not present tonight.

Councilwoman Hurley suggested that the Council hear from those present and then postpone the matter.

**REZONING (Continued)**

Kay Wong, the applicant, stated the President of the neighborhood association off Tunnel Boulevard is present and would like to speak.

Barry Bennett stated the request is for C-2 for property at 1105 Tunnel Boulevard. He stated the surrounding zoning includes R-1 to the south and the east across Tunnel; that the property abuts an existing C-5, which extends from the south to Hoyt Street. He stated the land use in the area includes single family residential and commercial development at the intersection of Tunnel and Hoyt. He stated the initial request was for development of this property in the middle of the block and on that basis the Staff recommended against the rezoning. He stated Ms. Wong's plans have changed; that a new plan has been submitted to Staff which indicates the current plan is to develop the entire property including the site being petitioned for rezoning and develop it along with the other C-5 property all the way to Hoyt Street. He stated the Staff finds this an interesting situation; that normally they would not recommend for an extension of commercial into residential. He stated the odd thing about this case is that the reason the C-5 properties are in existence is that at one time it was all C-1. He stated several years ago a study was done for the Tunnel Boulevard area in an effort to try to get rid of the C-2 zoning, and to cut down on the number of adult-oriented establishments damaging the efforts in the neighborhood to stabilize the area as a residential community.

Mr. Bennett stated currently a club is located on the corner property at Hoyt and the development proposal is to combine all these properties and do a small commercial or office complex which would include only neighborhood type commercial development such as a barber shop or beauty shop. He stated the plan is to do away with all the existing buildings and in that respect it would be something that meets the interest of what is being done in this neighborhood. He stated the main concern was extending commercial further away from the intersection; that it was found this property is 50 feet wide and under the new landscape ordinance 20 feet of that lot would have to be used as a landscape buffer between the C-5 and the R-1 to the south. He stated the initial plan that was before Planning was development of the one lot; that it now includes developing the entire property.

Councilman Hakeem stated of the type of businesses Mr. Bennett outlined he (Hakeem) did not think they could be accommodated in C-2. Mr. Bennett stated they cannot; that C-5 is what is being requested, now; that the initial request was for C-2 and it has been amended to C-5.

City Attorney Nelson asked when the request was amended. Mr. Bennett stated he does not recall; that it might have been after the Planning Commission meeting.

**REZONING (Continued)**

City Attorney Nelson stated if Planning did not consider the C-5 the Council cannot, either. Mr. Bennett stated the matter will have to go back to Planning. Councilman Hakeem stated Ms. Wong needs to have that understanding. Vice Chairman Lively explained to Ms. Wong that the Council cannot change the zoning; that she went before Planning to request C-2 and the Council cannot change that.

Mr. Bennett further explained that the petition before Planning was for C-2; that since the Planning Commission meeting, she has asked to amend the request to C-5. He stated the City Attorney has indicated because of a recent court decision in another city and county anything not considered at Planning has to go back for consideration, even if it were for a more restrictive zone.

City Attorney Nelson stated the Knox County case is what Mr. Bennett is referring to; that there is another issue and that is we might need to take a look at the Planning rules because if everything the Planning Commission denies and they then change their application (that) could lead to problems. He stated normally when a request is turned down it takes nine months to come back.

*At this point Councilmen Hakeem and Hurley made the motion and second to refer the matter back to Planning.*

Mr. Bennett stated because C-5 was not requested at Planning the City Council cannot act on a request for any zone even though it is a more restrictive zone; that they cannot consider the matter unless Planning discussed it at that time. He stated the matter has to go back to Planning before the Council can take action. He stated it will not cost Ms. Wong another application fee; that the matter will automatically be put back on the agenda.

City Attorney Nelson stated for the persons in opposition he hopes they understand, also; that the matter will go back to Planning which will meet the second Monday of next month. He stated the matter will come back to the Council on the second Tuesday of the following month.

On motion of Councilman Hakeem, seconded by Councilwoman Hurley,

**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED AT 1105 TUNNEL BOULEVARD, BEING ON THE NORTHWEST LINE OF TUNNEL BOULEVARD NORTHEAST OF LASALLE STREET MORE PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO C-2 CONVENIENCE COMMERCIAL ZONE**

**Was referred back to Planning.**

**REZONING**

1999-048: John C. & Jimmy E. Justice

Pursuant to notice of public hearing the request of John C. and Jimmy E. Justice to rezone a tract of land located at 2314 East 13<sup>th</sup> Street came on to be heard.

The applicant was present; opposition was in attendance.

Mr. Bennett stated the request includes a site area of 21,300 square feet for M-1 for sales and service of shower doors; that the reason for the request is they also have outdoor storage or material. He stated the surrounding zoning in this area includes one spot of M-1 and the other surrounding zoning is entirely R-2 to the west, south and east. He stated the land use is predominantly single family residential with some commercial development to the north, as well as church development. He stated the Staff recommended against the zoning and the Planning Board recommended denial of M-1 and approval of M-2 with conditions.

Atty. Arvin Reingold represented Mr. Justice stated he was “asking for justice”. He stated he was not able to represent Mr. Justice at the Planning Commission because he became involved in the matter later. He stated the request is for M-2; that Mr. Justice has operated a business for a number of years and would like to defer the matter thirty days for an opportunity to review the recommendation that came from the Planning Commission for M-2. He stated something less restrictive like an M-2 would enable him to maintain that which he has been doing for a dozen years or so and would not get “caught in this trap”. He requested that the matter be delayed 30 days for an opportunity to look further into it; that some of the problem has been with Better Housing; that Mr. Justice has put up a site obscuring fence and in the process is doing a great deal of work on the property.

***At this point Councilmen Eaves and Pierce made the motion to table the matter 30 days.***

Councilwoman Rutherford stated she went by the property last Friday and was amazed at how bad it looked; that it is certainly not in keeping with the neighborhood. She stated there are some plans in the process; that there has been a meeting in the Mayor’s office about this and surrounding property. She stated Dixie has been purchased by a firm out of Charlotte and a Mississippi Valley plant is ready to cooperate with the neighborhood. She stated another meeting is planned in the next couple weeks; that they are working with Habitat for Humanity, CNE and the Chattanooga Housing Authority. She stated this is not the location to put industry or commercial at this time; that she would not be happy postponing it. She stated she would really like to see the Council deny this as it is not in keeping with anything “in the works” and the plans are very exciting. She expressed belief that everyone will see something happening with that immediate neighborhood in the next 120 days.

**REZONING (Continued)**

Councilman Eaves expressed that a motion to defer takes precedence over a motion to deny. Vice Chairman Lively stated since the Council has heard from the applicant and it is only fair to hear from those in opposition.

Gary Ball, a member of the Ridgedale Community Association, stated he and others asked a group of people to come tonight in the hope the matter could be resolved. He stated of those present regarding this matter the majority of them are in opposition to this request. He stated he is very confused about what is happening and made reference to the matter going back to Planning and coming back to the Council before a decision can be made. He stated he and others have wasted a lot of time coming tonight and asked that the Council please clarify the matter before they leave. He stated he and others have spent two years working on a plan for this community and they did not envision a situation cropping up in the neighborhood and creeping back to Main Street. He stated all he is asking is in whatever decision is made everyone realize that this is not in keeping with what the community had hoped to see happen in that area.

James Davis stated he lives across the street from this property, grew up there and came back to the old home place. He stated some of the history when he was a child was his house was between the parsonage and the Church of God; that the Church was sold and Mr. Justice bought the building and has since been making changes to the structure over a period of time. He stated in general Mr. Justice is a good neighbor, is quiet, keeps his yard mowed and looks out for crime; however, as far as appearance, his property is awful. He stated his property is a junkyard with eight-to-ten vehicles parked there. He stated there has been construction going on over a period of ten-to-fifteen years in parts and is certain none of it is being done with a building permit. He stated as his (Justice's) attorney stated he has been running a business in an R-2, which is in violation of the law. He stated what he has seen over a period of time is that the laws have not been enforced to restrict the quality of construction that went on or the use of the property in a residential area which detrimentally affects that area. He stated from what he understands when Mr. Justice was asked by the fire department to be inspected for fire hazards it was said his business should not be "going on" without a manufacturing zone for the property. He stated up to this point he has not been upset about it, but upset about a pattern wherein an old neighborhood building gets bought, the building gets run down, nothing is done legally and the solution is to zone it manufacturing; that none of this makes sense. He stated in thirty days he would like to see various City agencies such as Better Housing, the inspection department, the fire department and the department having to do with stormwater inspect the property before it comes back.

Councilwoman Hurley clarified that the matter has not been voted upon to defer it for thirty days.

**REZONING (Continued)**

Councilwoman Rutherford stated she has been in touch with Moses Freeman this week and the department of Neighborhood Services is working on this and has Jack Marcellis involved. She stated the City understands this is an absolute nuisance and a neighborhood mistake.

Pat Rogers presented photographs of the property that had been taken the day prior which reflect that the property has not been cleaned up and junk is still everywhere. She stated the property is absolutely unacceptable; that the photos point to trash in the windows, on the grounds, trashy fences, that dogs are on the lot and many others. She stated there is a wonderful use that could be used for this area which would fit into the plans; that this is not in keeping with the spirit of the Ridgedale plan and current legal use of the property.

At this point Councilman Pierce asked if Councilman Eaves would consider withdrawing his motion to defer 30 days. ***Councilman Eaves stated if his motion is not going to be recognized he will withdraw his motion. Councilman Pierce withdrew his second.***

***At this point Councilwomen Rutherford and Hurley made the motion to deny.***

Atty. Reingold stated the property is not much to be desired aesthetically; that the property is right across from Dixie Yarns. He stated one of the reasons for the delay request is to work on a plan for the improvement of the property; that Better Housing has been there and at their urging a large fence was put up. He stated there can be aesthetic improvements to the property that could make it more attractive; that many loads have been carried away. He reiterated that the reason for the delay is to make the property more aesthetically appealing and they are asking for an opportunity for justice to come forward with a plan to make it more appealing and continue use of the manufacturing area across the street.

Councilwoman Rutherford called for the question on the motion to deny.

Councilwoman Rutherford asked how the law regarding this can be enforced. City Attorney stated Better Housing can cite the matter to Judge Williams' Court.

Councilwoman Rutherford asked if the citation from Better Housing falls under Admin. Marcellis' purview. Admin. Marcellis stated a building inspector has to go out and if there is not some form of improvement within ten days it is cited to court.

**REZONING (Continued)**

On motion of Councilwoman Rutherford, seconded by Councilwoman Hurley,  
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED AT 2314 EAST 13<sup>TH</sup> STREET, BEING ON THE SOUTHWEST LINE OF EAST 13<sup>TH</sup> STREET AT WATKINS STREET, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-2 RESIDENTIAL ZONE TO M-1 MANUFACTURING ZONE**

**Was denied.**

**REZONING**

1999-049: Harry & JoAnn Bundy

Pursuant to notice of public hearing the request of Harry and JoAnn Bundy to rezone a tract of land located at 1048 Graysville Road came on to be heard.

The applicant was present; there was no opposition.

On motion of Councilman Eaves, seconded by Councilman Hakeem,

**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED AT 1048 GRAYSVILLE ROAD, BEING ON THE NORTHEAST LINE OF GRAYSVILLE ROAD SOUTHEAST OF EAST BRAINERD ROAD, MORE PARTICULARLY DESCRIBED HEREIN, FROM O-1 OFFICE ZONE TO C-2 CONVENIENCE COMMERCIAL ZONE**

Passed first reading

**REZONING**

1999-051: Ring Construction

Pursuant to notice of public hearing the request of Ring Construction to amend certain conditions imposed in Ordinance no. 10803 on property located at 3501 St. Elmo Avenue came on to be heard.

The applicant was present; there was no opposition.

**REZONING (Continued)**

Councilman Pierce stated the Councilman representing the district for this rezoning is not present tonight and made the motion to table the motion one week.

On motion of Councilman Pierce, seconded by Councilwoman Hurley,

**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO AMEND CERTAIN CONDITIONS IMPOSED IN ORDINANCE NO. 10803 ON PROPERTY LOCATED AT 3501 ST. ELMO AVENUE, BEING ON THE NORTHWEST LINE OF ST. ELMO AVENUE NORTHEAST OF CUMMINGS HIGHWAY, BEING MORE PARTICULARLY DESCRIBED HEREIN, SUBJECT TO CERTAIN CONDITIONS**

**Was tabled one week.**

**REZONING**

1999-053: Martin & Iona C. Hamby

Pursuant to notice of public hearing the request of Martin & Iona C. Hamby to rezone a tract of land located at 7408 Igou Gap Road came on to be heard.

The applicant was present; there was no opposition.

Councilwoman Hurley inquired as to the "note" attached to the backup material for this ordinance.

City Attorney Nelson stated last week there was a recommendation from Planning that was confusing and the Council voted to send the matter back (to Planning). He stated there was a new resolution passed at yesterday's Planning meeting clarifying conditions for rezoning which have been adopted to the ordinance, now, so it is alright to act upon it tonight.

Councilwoman Hurley asked if the clarified resolution comes with a recommendation from Planning Staff. Barry Bennett responded "yes". At this point City Attorney Nelson read the new resolution in its entirety.

Councilman Eaves asked if the applicant is acceptable to all the conditions. Atty. John Anderson represented the applicant and responded "yes".

**REZONING (Continued)**

Councilman Hakeem stated he is not clear on this and asked if this is property the Council has considered previously for rezoning in one of the other major cases. City Attorney Nelson stated this property is south of Shallowford.

Atty. Anderson stated it is south of Shallowford and north of East Brainerd Road and "tucks" into a piece considered previously.

Mr. Bennett stated all property surrounding this piece has been zoned C-2 and this is the only one left.

Councilwoman Rutherford asked for clarification that this property has not been considered before. Councilman Hakeem reiterated that all other properties have been rezoned C-2.

Councilman Eaves stated the case originally was one small piece that was not included because the person who owned it for whatever reason wanted to hold onto it for awhile. He stated the owner has now agreed to let the property go with the rest and they are asking for this one piece of property to be included.

Councilman Hakeem asked if the normal procedures have been followed with regard to notices and whether there was opposition at the Planning Commission meeting.

Mr. Bennett responded "yes" that the notices were properly placed and there was no opposition at the Planning Commission meeting.

On motion of Councilman Eaves, seconded by Councilwoman Rutherford,

**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED AT 7408 IGOU GAP ROAD, BEING ON THE SOUTHWSET LINE OF IGOU GAP ROAD SOUTHEAST OF GUNBARREL ROAD, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO C-2 CONVENIENCE COMEMRCIAL ZONE, SUBJECT TO CERTAIN CONDITIONS**

Passed first reading.

**AMEND ORDINANCE NO. 10718**

Admin. Boney stated approximately two weeks ago this matter was discussed in Budget Committee.

On motion of Councilwoman Rutherford, seconded by Councilwoman Hurley,

**AN ORDINANCE TO AMEND ORDINANCE NO. 10718, ENTITLED "AN ORDINANCE TO PROVIDE REVENUE FOR THE FISCAL YEAR BEGINNING JULY 1, 1998, AND ENDING JUNE 30, 1999, AND 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; AND PROVIDE FOR INTEREST AND PENALTY ON DELINQUENT TAXES AND PRIVILEGES.", SO AS TO PROVIDE FOR CERTAIN CHANGES AS SET OUT IN SECTION 11.**

Passed first reading.

**DECLARE SURPLUS**

On motion of Councilwoman Rutherford, seconded by Councilman Hakeem,

**A RESOLUTION THAT CERTAIN PROPERTY LOCATED AT 908 ROANOKE AVENUE AND AT THE INTERSECTION OF DODSON AVENUE AND WINDSOR STREET BE DECLARED SURPLUS**

Was adopted.

**DECLARE SURPLUS**

On motion of Councilwoman Rutherford, seconded by Councilman Hakeem,

**A RESOLUTION THAT CERTAIN PROPERTY LOCATED AT 706 CENTRAL AVENUE BE DECLARED SURPLUS**

Was adopted.

**CBDG GRANT FUNDING**

Councilwoman Hurley stated this matter was discussed in a long and complicated Committee meeting and expressed thanks to the citizens committee that spent many hours reviewing the recommendations.

On motion of Councilwoman Hurley, seconded by Councilman Hakeem,

**A RESOLUTION APPROVING FISCAL YEAR 1999-2000  
COMMUNITY DEVELOPMENT BLOCK GRANT, HOME  
INVESTMENT PARTNERSHIP ACT AND EMERGENCY  
SHELTER GRANT FUNDING AS SHOWN MORE FULLY  
HEREINBELOW**

Was adopted.

**MONETARY AWARD: HOPE FOR  
CHATTANOOGA**

On motion of Councilwoman Rutherford, seconded by Councilwoman Hurley,

**A RESOLUTION AUTHORIZING THE OFFICE OF ECONOMIC  
AND COMMUNITY DEVELOPMENT TO AWARD THIRTY  
THOUSAND DOLLARS (\$30,000.00) IN PROGRAM INCOME  
GENERATED FROM THE TENNESSEE HOUSING  
DEVELOPMENT AGENCY (THDA) HOUSING PROGRAM TO  
HOPE FOR CHATTANOOGA**

Was adopted.

**CHANGE ORDER**

On motion of Councilwoman Rutherford, seconded by Councilwoman Hurley,

**A RESOLUTION AUTHORIZING THE EXECUTION OF  
CHANGE ORDER NO. 2 (FINAL), CONTRACT NO. MB-1-97,  
MOCCASIN BEND WASTEWATER TREATMENT PLANT -  
STORMWATER DETENTION BASIN, WITH CASE  
CONSTRUCTION SERVICES, INC., WHICH CHANGE ORDER  
INCREASES THE CONTRACT AMOUNT BY SIX THOUSAND,  
THIRTY-EIGHT AND 55/100 DOLLARS (\$6,038.55), FOR A  
REVISED CONTRACT AMOUNT OF EIGHTY-TWO  
THOUSAND, EIGHT HUNDRED EIGHTEEN AND 55/100  
DOLLARS (\$82,818.55)**

Was adopted.

**PROPOSAL APPROVAL**

On motion of Councilwoman Hurley, seconded by Councilwoman Rutherford,  
**A RESOLUTION APPROVING THE PROPOSAL OF CROXTON COLLABORATIVE ARCHITECTS, PC, RELATIVE TO BUILDING ENVELOPE AND SYSTEMS OPTIMIZATION FOR THE CITY OF CHATTANOOGA'S DEVELOPMENT RESOURCE CENTER, FOR A CONSIDERATION OF THIRTY-SIX THOUSAND DOLLARS (\$36,000.00), PLUS A BONUS FEE IN ENERGY SAVINGS**

Was adopted.

**AMEND RESOLUTION NO. 21194**

On motion of Councilwoman Hurley, seconded by Councilwoman Rutherford,  
**A RESOLUTION TO AMEND RESOLUTION NO. 21194, ENCAPTIONED "A RESOLUTION ADOPTING ADMINISTRATIVE REGULATIONS FOR CONDUCT OF EMPLOYEE DISCIPLINARY HEARINGS." SO AS TO AMEND SECTION 3 TO REQUIRE AN ODD NUMBER OF COUNCIL MEMBERS TO SERVE ON ALL PERSONNEL HEARING COMMITTEES**

Was adopted.

**DESIGN AND BID:  
17<sup>TH</sup> STREET PROJECT**

On motion of Councilwoman Hurley, seconded by Councilman Hakeem,  
**A RESOLUTION AUTHORIZING THE DEPARTMENT OF PUBLIC WORKS TO PROCEED WITH THE DESIGN AND BIDDING OF A PROJECT ALONG 17<sup>TH</sup> STREET BETWEEN BROAD STREET AND MARKET STREET, SAID PROJECT TO BE FUNDED FROM THE ECONOMIC DEVELOPMENT FUND**

Was adopted.

**OVERTIME**

Overtime for the week ending April 9, 1999, totaled \$89,180.51.

**RON LITTLEFIELD**

Vice Chairman Lively recognized the presence of former Councilman, Ron Littlefield.

**JUDGE WALTER WILLIAMS**

Vice Chairman Lively recognized the presence of Judge Walter Williams.

**PERSONNEL**

The following personnel matters were reported for the Parks and Recreation Department:

RICHARD L. WILLIAMS -- Promotion, General Supervisor, Buildings and Grounds, Pay Grade 14/Step 1, \$27,491.00 annually, effective April 23, 1999.

PAUL D. MEYNERS -- Promotion, Crew Leader Senior, Tennessee Riverpark, Pay Grade 8, Step 1, \$20,803.00 annually, effective April 14, 1999.

TROY Z. WILLIAMS, JOHN T. DAVIS -- Promotion, Crew Leader Senior, Tennessee Riverpark, Pay Grade 8/Step 1, \$20,803.00 Annually, effective May 5, 1999.

**PERSONNEL**

The following personnel matters were reported for the Public Works Department:

JIMMY HARRIS -- Dismissal, Crew Worker, City-wide Services, effective March 23, 1999.

ADRIAN H. STARGELL - Promotion, Crew Worker, City-wide Services, Pay Grade 5/Step 2, \$18,332.00 annually, effective April 14, 1999.

SIGMUND BLATT -- Return from Family Medical Leave, Crew Worker, City-wide Services, effective April 5, 1999.

CHARLES N. THOMPSON -- Family Medical Leave, Crew Worker, City-wide Services, effective March 17 - May 31, 1999.

RON ESDAILE -- Employment, Zoning Inspector, Inspection, Pay Grade 12/Step 1, \$25,262.00 annually, effective April 19, 1999.

**PERSONNEL (Continued)**

JOEL T. BAGGETT -- Employment, Zoning Inspector, Inspection, Pay Grade 12/Step 3, \$27,788.00 annually, effective April 5, 1999 (Revised).

**PURCHASE**

On motion of Councilwoman Rutherford, seconded by Councilwoman Hurley, the following purchase was approved for use by the Public Works Department:

**DIRT-TEC SERVICES (Highest bid received for the sale of used Crawler Tractor @ \$32,500.00)**

**STOWERS MACHINERY CORP (Purchase of new Crawler Tractor)**

**Requisition No. R0028710**

Sale and Purchase of Used/New Crawler Tractor

\$159,000.00

**PERSONNEL**

The following personnel matters were reported for the Fire Department:

MARC A. ABERNATHY -- Rehire, Firefighter, Pay Grade F1/Step 1, \$23,790.00 annually, effective April 9, 1999.

JAMES J. SMITH, JAMES M. WILKEY -- Promotion, Firefighter, Pay Grade F1/Step 1, \$23,790.00 annually, effective April 9, 1999.

HOWARD L. BAKER, DARREN B. BOWLES, WILLIAM C. FRYAR, KENNETH N. HARDEN, BOBBY D. LAWRENCE, RONALD D. MIZELL, JAMIE A. RATCHFORD, JEFFREY K. SODER, SCOTT RYAN SPARKS, KELVIN W. STRICKLAND, CHRISTINE M. YARIO -- Hire, Firefighter, Pay Grade F1/Step 1, \$23,790.00 annually, effective April 9, 1999.

**PURCHASES**

On motion of Councilwoman Rutherford, seconded by Councilwoman Hurley, the following purchases were approved for use by the Police Department:

**SIRCHIE FINGER PRINT LABS, INC. (Only bid received)**  
**Requisition No. R0037987**

Evidence collection Van

\$79,003.00

**COMMISSION ON ACCREDITATION OF LAW ENFORCEMENT AGENCIES, INC. (Single Source Purchase)**  
**Requisition No. R0038250**

For Accreditation Fee for Three Year Service Contract

\$12,325.00

**REFUND**

On motion of Councilwoman Hurley, seconded by Councilwoman Hakeem, the Administrator of Finance was authorized to issue the following refund of real and/or personalty taxes for 1998:

**D & K LEASING, Bill No. 66403, Overpayment, \$1,109.51.**

**MATT KELLOGG**

Vice Chairman Lively recognized the presence of Matt Kellogg, a resident of District Two, who is working on his Eagle Scout qualification.

**MAY 3 PERSONNEL HEARING**

Councilwoman Hurley stated in her absence last week she was placed as an alternate for a May 3 hearing for Easterling Scott. She indicated that she is not available to serve on May 3 but can serve as an alternate for the April 26 personnel hearing for Jeffery Alford.

**SIGN ORDINANCE**

Councilwoman Hurley stated there is a lot of news this week about the sign ordinance; that she has received the minutes from the meeting when the matter was discussed in Committee and urged Council members to submit the names of their district appointee. She stated this is something the Council needs to move forward on.

**COMMITTEES**

Councilman Hakeem scheduled a meeting of the **Economic Development Committee for April 27 to discuss the Grove Street project immediately following Parks and Recreation Committee** and reminded Council members of the **Committee meeting scheduled for April 20 immediately following Public Works Committee for a discussion regarding the North Chattanooga rezoning.**

**SISTER BEY**

Sister Bey expressed how appalled she was at the way Rep. Tommie Brown was treated on this past Saturday during a discussion regarding taxes. She indicated that the voting African-American community "put" the Council members in office and can take them out; that it is disgusting the way African-Americans have been treated. She stated the Council raises taxes and all the money goes to downtown projects; that the City doesn't repair housing, the Chattanooga Housing Authority "runs" everything and there are potholes in the streets.

**RON LITTLEFIELD**

Ron Littlefield stated on April 27 and 28 there will be a GE Rail Passenger authorization meeting in North Georgia (4/27) and Dalton (4/28). He indicated that this message was left in each Council members' box a few days ago along with a copy of a draft report that was put together by the Georgia Department of Transportation. He stated the meeting on the 27<sup>th</sup> is a meeting of the whole, which is essentially a public hearing.

**RON LITTLEFIELD (Continued)**

Councilwoman Hurley reminded Mr. Littlefield that April 27 is a Tuesday evening. Mr. Littlefield stated there will be another meeting on Wednesday morning (April 28) at the Dalton Chamber Board Room and the Council is welcome to attend either day. He stated people think the idea of the train is "dead" and indicated that it is not. He stated it is true it was not funded this time in the Georgia Legislature, which operates differently from the Tennessee Legislature. He stated Governor Barnes has been very encouraging in considering the rail issue and knows Mayor Kinsey quite well.

**ADJOURNMENT**

Vice Chairman Lively adjourned the meeting until Tuesday, April 20, 1999 at 6 p.m.

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**CHAIRMAN**

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**CLERK OF COUNCIL**

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

