

**City Council Building
Chattanooga, Tennessee
October 23, 2001
6:00 p.m.**

Chairman Hakeem called the meeting of the Chattanooga Council to order with Councilmen Benson, Franklin, Littlefield, Lively, Page, Pierce, Robinson and Taylor present. City Attorney Randall Nelson, Management Analyst Randy Burns and Council Clerk Carol O'Neal, CMC, were also present.

PLEDGE OF ALLEGIANCE/INVOCATION

Following the Pledge of Allegiance, Councilman Littlefield gave invocation.

AMEND CITY CODE

On motion of Councilman Littlefield, seconded by Councilman Franklin,
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, ARTICLE III,
SECTION 18-45 AND ARTICLE V, SECTION 18-86, RELATIVE TO
GARBAGE AND REFUSE**

passed second reading. On motion of Councilman Littlefield seconded by Councilman Franklin, the Ordinance passed third and final reading and was signed in open meeting.

REZONING

2001-057: Jack and Tina Johnson and Irene Walters

City Attorney Nelson stated that the legal description from Planning has been revised and the conditions have been deleted.

Councilmen Benson and Franklin, made the motion and second to substitute the amendment to this Ordinance; the motion carried.

REZONING (Continued)

On motion of Councilman Page, seconded by Councilman Franklin,
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF
LAND LOCATED AT 1606 AND 1608 GUNBARREL ROAD, MORE
PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO R-
4 SPECIAL ZONE**

passed second reading. On motion of Councilman Littlefield, seconded by Councilman Pierce, the Ordinance passed third and final reading and was signed in open meeting.

REZONING

2001-143: John S. Wise, III

The applicant was not present; there was no opposition.

Councilman Taylor stated Mr. Pace had an opportunity to speak with the property owner who expressed agreement with the conditions contained within this Ordinance.

Councilman Pierce stated that he would go along with approval of the conditions on the motion at this time; that he would appreciate hearing from the land owner in the future when property is rezoned with conditions.

Jerry Pace, Director of Operations with the Planning Agency, stated that he encouraged the applicant to be present but (he) was not able to come due to work he could not get away from. He stated the applicant expressed agreement with the conditions.

Chairman Hakeem asked the City Attorney what the role of the applicant is on this issue, whether it is the Council's decision to be independent of that?

City Attorney Nelson responded that the Council's decision is independent of what the applicant wants; that if the applicant has good reasons why he wants what he wants, the Council when voting can take those reasons into consideration. He stated when it comes down to it, it is a legislative decision to be made by the Council and does not have to be upon the approval of the applicant.

Councilman Pierce stated that the applicant made application for this zoning and asked if the Council has the authority to impose the rezoning regardless of what the applicant wants or not, or leave the zoning as is?

REZONING (Continued)

City Attorney Nelson stated the Council has the authority to impose zoning as long as the Planning Commission considered the request. He stated if the applicant applied for commercial and the property was residential and the Council thought it should be manufacturing, the matter would have to be sent back to Planning before the property could be rezoned manufacturing. He stated the Council could put conditions on property whether commercial or residential. He stated it is up to this Council; that the Council makes that decision irrespective of what the applicant wants.

Councilman Pierce again asked for clarification by stating regardless whether the applicant wants a piece of property rezoned commercial from residential and conditions are put on the property, the property owner has no claim on his property? He asked if the Council could rezone anybody's property in the City without the owner's consent?

City Attorney Nelson responded that Councilman Pierce is correct; that the Council has that authority as long as the property owner is not deprived of any beneficial use of the property.

Mr. Pace clarified his previous statement by stating that the applicant "agreed" to the conditions; that the correct terminology should be that the applicant "understood" the conditions.

On motion of Councilman Taylor, seconded by Councilman Littlefield,

AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE TRACTS OF LAND LOCATED AT 725, 825 AND 855 CHEROKEE BOULEVARD, MORE PARTICULARLY DESCRIBED HEREIN, FROM M-2 LIGHT INDUSTRIAL ZONE AND R-1 RESIDENTIAL ZONE TO C-2 CONVENIENCE COMMERCIAL ZONE, SUBJECT TO CERTAIN CONDITIONS

passed second reading. On motion of Councilman Taylor, seconded by Councilman Franklin, the Ordinance passed third and final reading and was signed in open meeting.

AMEND ZONING ORDINANCE

Councilman Littlefield stated that he requested that this Ordinance be tabled a couple weeks due to the concern he had that we not so liberalize the terms of the Ordinance as it relates to duplexes that would cause unforeseen problems. He stated that he spoke with Planning Staff and Mr. Pace and he is convinced that the language has been left as it is in the current Ordinance regarding central family lots of record. **At this point he made the motion to approve the Ordinance; Councilman Franklin seconded the motion.**

Mr. Pace stated the only thing this Ordinance addresses is incorporation of the language adopted in the Open Space Ordinance relative to Section 108 that has dates of lots of record and the requirement of the setbacks for those lots. He stated the Ordinance does not change anything other than including numbers so the Building Inspector and Zoning Board of Appeals will have something they can look at by way of figures.

Councilman Littlefield clarified that his motion for approval is in reference to the Staff's version.

On motion of Councilman Littlefield, seconded by Councilman Franklin,
AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, BY AMENDING ARTICLE VI, SECTION 105 AND 106, TO INCORPORATE NEW LANGUAGE RELATIVE TO SINGLE FAMILY DWELLINGS AND DUPLEXES ON LOTS OF RECORD AND TO REVISE ARTICLE VI, SECTION 108, TO INCORPORATE NEW LANGUAGE RELATIVE TO CORNER LOT SETBACKS
passed first reading **(Staff's version)**.

ANNEXATION: PETER KRENKEL

The applicant was not present; there was no opposition.

City Attorney Nelson stated that Ordinances 6(a) and (b) are requests for annexation by the City on property located on the side of Lookout Mountain. He indicated both have been advertised for a public hearing to be held tonight. He stated it has been called to his attention that the Plan of Services attached hereto has not been sent to the Planning Commission as yet and suggested that the Ordinances be adopted on first reading tonight, with second and third reading coming forth once a recommendation from Planning has been received and can be duly advertised.

REZONING (Continued)

At this point, Chairman Hakeem declared a public hearing in process for persons wishing to speak for or against the annexation requests; being none, the hearing was duly closed.

On motion of Councilman Littlefield, seconded by Councilman Taylor,
AN ORDINANCE EXTENDING THE CORPORATE LIMITS OF THE CITY OF CHATTANOOGA, TENNESSEE, BY ANNEXING CERTAIN TERRITORY CONTIGUOUS TO THE PRESENT CORPORATE LIMITS OF SAID CITY, BEING AN AREA ON THE SIDE OF LOOKOUT MOUNTAIN IN HAMILTON COUNTY, TENNESSEE, OWNED BY PETER A. KRENKEL, BEING MORE FULLY DESCRIBED HEREIN

passed first reading.

ANNEXATION: RICHARD A. AND MARTHA ROSSELL

The applicant was not present; there was no opposition.

On motion of Councilman Littlefield, seconded by Councilman Benson,
AN ORDINANCE EXTENDING THE CORPORATE LIMITS OF THE CITY OF CHATTANOOGA, TENNESSEE BY ANNEXING CERTAIN TERRITORY CONTIGUOUS TO THE PRESENT CORPORATE LIMITS OF SAID CITY, BEING AN AREA ON THE SIDE OF LOOKOUT MOUNTAIN IN HAMILTON COUNTY, TENNESSEE, OWNED BY RICHARD A. ROSSELL AND MARTHA ROSSELL, BEING MORE FULLY DESCRIBED HEREIN

passed first reading.

REFER TO PLANNING

At this point, Councilmen Littlefield and Franklin made the motion and second to refer the Plan of Services involving both annexation requests to the Planning Commission; the motion carried.

AMEND CITY CODE

On motion of Councilman Franklin, seconded by Councilman Littlefield,
AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 24, SECTION 24-345(c), RELATIVE TO THE PUBLIC HEARING ON ABATEMENT OR REMOVAL ORDERS FOR DISCARDED AND ABANDONED VEHICLES

passed first reading.

PAYMENT AUTHORIZATION

Councilman Franklin stated this Resolution was discussed in Public Works Committee and approval is recommended.

On motion of Councilman Benson, seconded by Councilman Taylor,

A RESOLUTION AUTHORIZING THE CITY FINANCE OFFICER TO MAKE PAYMENT FROM THE PUBLIC WORKS CAPITAL FUNDS TO SISKIN CHILDREN'S INSTITUTE, FOR THE STREETScape PROJECT AT 1101 CARTER STREET, IN AN AMOUNT NOT TO EXCEED ONE HUNDRED TWENTY THOUSAND DOLLARS (\$120,000.00)

was adopted.

PROPERTY ACQUISITION

MR-2001-017: Finance and Administration

On motion of Councilman Taylor, seconded by Councilman Pierce,

A RESOLUTION AUTHORIZING THE ACQUISITION OF CERTAIN PROPERTY LOCATED TO THE REAR OF THE MAURICE POSS HOMES IN SOUTH CHATTANOOGA, MORE PARTICULARLY DESCRIBED HEREIN, FROM THE CHATTANOOGA HOUSING AUTHORITY, FOR A CONSIDERATION OF FORTY-SEVEN THOUSAND SEVEN HUNDRED FIFTY DOLLARS (\$47,750.00), FOR INSTALLATION OF A COMBINED SEWER OVERFLOW SYSTEM

was adopted.

CONTRACT: JACKSON PERSON & ASSOCIATES, INC.

On motion of Councilman Pierce, seconded by Councilwoman Robinson,

A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF COMMUNITY SERVICES TO ENTER INTO A CONTRACT WITH JACKSON PERSON & ASSOCIATES, INC., FOR PROFESSIONAL SERVICES FOR THE WHITESIDE FAITH MANOR PARK CONSTRUCTION, IN AN AMOUNT NOT TO EXCEED TWENTY-SEVEN THOUSAND FOUR HUNDRED DOLLARS (\$27,400.00), WITH SAID PAYMENT TO BE PAID FROM THE COMMUNITY DEVELOPMENT FUND

was adopted.

AGREEMENT: DOWNS ENGINEERING, INC.

Councilman Franklin stated Resolutions 7(d) and (e) were discussed in Public Works Committee and approval is recommended.

On motion of Councilman Franklin, seconded by Councilman Benson,

A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO EXECUTE AN AGREEMENT WITH DOWNS ENGINEERING, INC., RELATIVE TO CONSTRUCTION SERVICES FOR CONTRACT CSO-6-99, MARTIN LUTHER KING CSO CONTROL FACILITY, FOR A TOTAL FEE NOT TO EXCEED ONE HUNDRED EIGHTY-ONE THOUSAND SEVEN HUNDRED TWENTY-TWO DOLLARS (\$181,722.00)

was adopted.

CHANGE ORDER

On motion of Councilwoman Robinson, seconded by Councilman Page,

A RESOLUTION AUTHORIZING THE EXECUTION OF CHANGE ORDER NO. 1, RELATIVE TO MOCCASIN BEND WASTE WATER TREATMENT PLANT, CONTRACT NO. 28K (EP-3), WITH ANAEROBIC DIGESTER EQUIPMENT TO ONDEO DEGREMONT, WHICH CHANGE ORDER DECREASES THE CONTRACT AMOUNT BY ONE HUNDRED NINETEEN THOUSAND SIX HUNDRED DOLLARS (\$119,600.00), FOR A REVISED CONTRACT PRICE OF THREE MILLION NINETY-TWO THOUSAND THREE HUNDRED FIFTY DOLLARS (\$3,092,350.00)

was adopted.

CONTRACT: JIMMIE L. DOTSON

On motion of Councilman Page, seconded by Councilman Littlefield,

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER NEGOTIATIONS ON A CONTRACT WITH JIMMIE L. DOTSON REGARDING HIS POSITION AS CHIEF OF POLICE

was adopted.

OVERTIME

Overtime for the week ending October 19, 2001 totaled \$76,387.37.

PERSONNEL

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

ANGELA R. PUTMAN – Return from Medical Leave, Crew Worker, Citywide Services, effective October 1, 2001.

TIMOTHY B. LANGFORD – Resignation, Water Quality Technician, Stormwater Division, effective October 19, 2001.

OLIVER HARRIS, JR. – Family Medical Leave, Crew Worker, Citywide Services, effective October 1, 2001.

PERSONNEL

The following personnel matters were reported for the Chattanooga Police Department:

RODNEY C. BROWN – Military Leave, Police Officer, effective October 6, 2001 – October 5, 2002.

RICHARD HUTSON – Military Leave, Police Officer, effective October 22, 2001 – October 21, 2002.

GREGORY H. MARDIS – Military Leave, Police Officer, effective October 18, 2001 – October 17, 2002.

MABLE DEBOLT – Retirement, Police Records Clerk, effective October 12, 2001.

CHRISTOPHER MCLEOD – Resignation, Police Officer, effective October 16, 2001.

TODD LEVI – Resignation, Police Cadet, effective October 17, 2001.

MICHAEL SMITH – Suspension (1 day without pay), Police Officer, effective October 13, 2001.

HEARING: OFFICER MICHAEL FAVORS

City Attorney Nelson reported that Officer Michael Favors has requested a continuance of his hearing originally scheduled for October 15. **The hearing was rescheduled for Monday, November 5 beginning at 3 p.m.** with Councilmen Lively (Chair), Benson and Robinson remaining as the panel.

BOARD APPOINTMENT

On motion of Councilman Littlefield, seconded by Councilman Page, the following Board resignation/appointment was approved:

Board of Variances and Appeals:

- ❖ Appointment of **JACK MCGILL** for a term expiring January 2004 representing District 1. (Mr. McGill replaces James W. Woods, who resigned due to his being unable to perform the duties as a member of the Board.)

CELEBRATION OF HALLOWEEN

Councilwoman Robinson reported that Halloween would be celebrated in seven City recreation centers this year in an effort to provide a safe haven for a lot of "little goblins". She invited everyone to attend the parties at no charge in the hope families living nearby would bring children and enjoy the festivities at the following recreation centers: Avondale, Brainerd-Friendship, Carver, Eastdale, East Lake, Glenwood and Tyner-East. She stated there would be games, refreshments and lots of fun for people of all ages!

PARK DEDICATION

Councilman Page announced that the dedication of the Lake Hills Recreation Park was held on Saturday. He stated it is something everyone should see, as it was formally a dumping ground and is now a nice park for people in the area and is an asset to the City.

COMMITTEES

Councilman Littlefield reminded Council members of the meeting of the **Legal and Legislative Committee scheduled for Tuesday, October 30 at 3 p.m.**

SISTER BEY

Sister Bey asked for a better understanding of Ordinance 6(a) regarding the amendment to the Zoning Ordinance relative to corner lot setbacks. She stated she does not want anyone or any new language "messing with her corner lot property" regarding family dwellings. She requested the explanation prior to asking Senator Thompson to look into the matter.

SISTER BEY (Continued)

At this point Mr. Pace clarified statements he made earlier regarding the generalities of this Ordinance, giving assurance that the amendment does nothing to prevent people from developing property in any manner.

LIZ HESTER

Liz Hester of 1707 South Hawthorne Street addressed the Council regarding the work being performed by Case Construction Company, stating that they are giving neighbors on her street a lot of problems. She stated the street was closed without notifying any of them and that holes 13-14 feet deep and 3-4 feet long have been left open. She stated the street was closed from Saturday to Monday and residents on the street could not get in and out of their homes; that there are seven elderly persons on the street with health-related problems. She related an incident that occurred on Saturday morning wherein she had prepared food to take to her church and asked that she be allowed to get in and out of her home, with the request that she not be blocked out. She stated it took thirty minutes for someone to let her out and when she returned at 12:30 p.m., the workers had gone to lunch and a bulldozer blocked entrance to her home causing her to leave her van in someone else's yard. She stated that she did not see anyone until Monday morning and asked why they would not let her out; that Mr. Case was very negative and displays an unconcerned attitude toward people. She stated she could not park in her driveway last night and had to park her van on the street and the van was hit; that the men from the construction company saw the lady hit her van and did not tell her. She stated when the company's personnel was approached she was told that they thought someone else had informed her of the damage to her van. She asked the Council for help stating that the City should check people more thoroughly when giving contracts, rather than accepting the lowest bid. She stated this is a problem; that her house looks terrible as she had her house painted prior to the construction and her car is has been damaged. She stated that she would like to know what to do.

Chairman Hakeem asked Admin. McDonald to respond to Ms. Hester's inquiry.

Admin. McDonald stated that the Department is aware of continuing problems with this contractor and they are taking steps to see if the contract can be legally terminated, as well as prevent him from getting contracts in the future. He stated he has not done a good job and Ms. Hester is right, that there are problems with him. He stated that he would try to stay on top of the matter until something can be done with it.

LIZ HESTER (Continued)

Councilman Benson expressed appreciation for Admin. McDonald's comments; that Ms. Hester has related a horror story and (he) is glad the Department is willing to face it.

City Attorney Nelson stated one of the criteria looked at when awarding a bid is the performance of the bidder in the past; that if their "track record" is not good, whether low bid or not, they don't and should not be able to get future City contracts.

JAMES VINCENT GREGG

James Vincent Gregg stated that his first issue involves parking; that he lives downtown and never wants to move. He stated access to go anywhere is very hard; that he has tried to find the route for free busing but the route is not advertised enough. He related a story regarding a meeting at Warehouse Row to do photography and having to pay \$1.50 to park for less than ten minutes of work. He stated his second issue is in regard to his having to pay a late fee for his business license; that he has had a business license for over a year and was late two months. He stated that he spoke with Carl Levi who informed him that he would have to take the matter to the legislative body, which is why he is before the Council tonight. He asked if there is any policy for someone who just forgot(!); that the fee is \$20 to get a license and is almost double for a late fee.

City Attorney Nelson stated that the business tax is set by State law and not by this body; that all the City does is collect for the State. He stated with regard to the other item mentioned, the reason there is metered parking downtown is so that people can patronize downtown merchants. He stated if the metered parking was eliminated, all the people employed downtown would get there first thing in the morning and there would not be any turnover all day long and there would not be anyway for people who want to come downtown for business to have parking for their customers.

Mr. Gregg asked if some consideration could be given to time limits on the meters? City Attorney Nelson responded that there are already time limits; that the meters are color-coded and there are several for half-hour, an hour, two hours and some five hours. He encouraged Mr. Gregg to become familiar with the coloration on meters as it might be of some help to him.

JAMES VINCENT GREGG (Continued)

Councilwoman Robinson stated CARTA publishes a map every year as they follow a fixed route. She stated the ride is free and copies of the map are in the parking terminals near the Aquarium and the Choo-Choo.

Councilman Littlefield stated that there are signs along the shuttle route and expressed his pleasure at being on the Council when the shuttle service started some years ago. He stated one benefit of going with the buses rather than the rail system is that demand changes, and if more people want to ride the shuttle in a different part of town it could be "moved on". He stated with regard to parking, there is some hope in the near future there will be a configuration of parking along Market Street and other parts of town to allow for more parking space and, in addition, two parking garages are underway. He stated things should change in a positive way very soon.

Mr. Gregg than made reference to the debris along High Street and the smell of alcohol from beer bottles. Chairman Hakeem stated that this matter would be placed in the hands of the Councilperson for that area.

ADJOURNMENT

Chairman Hakeem adjourned the meeting of the Chattanooga Council until Tuesday, October 30, 2001 at 6 p.m.

CHAIRMAN

CLERK OF COUNCIL

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