

**City Council Building
Chattanooga, Tennessee
May 14, 2002
6:00 p.m.**

Chairman Littlefield called the meeting of the Chattanooga Council to order with Councilmen Benson, Franklin, Hakeem, 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 Lively gave invocation.

MINUTE APPROVAL

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

HIGHLAND PARK YOUTH ASSOCIATION

Chairman Littlefield recognized the presence of the Highland Park Youth Association under the leadership of Charles Shaw.

Charles Shaw stated the group was present to see their "government at work" and asked that the officers of the organization introduce themselves.

Trevor Harrison (President) introduced Travis Harrison (Vice President), Rachel Harrison (Treasurer) and Molly Shea (Secretary). He indicated that the group has been meeting since January on the second Saturday of the month in an effort to provide activities for kids in the neighborhood; that 20-40 youth normally attend. He stated the group participated in an activity at the YMCA and are in the process of planning other activities for the summer months. He stated their group assists the Highland Park Neighborhood Association with the cleanup of the neighborhood.

Chairman Littlefield expressed appreciation for their attendance.

**M.L.KING BOULEVARD/BAILEY AVENUE AND
MCCALLIE AVENUE TWO-WAY STREETS**

Chairman Littlefield stated that a number of people are present for various items on the agenda and in order to move efficiently through the agenda three items need to be moved forward from their position on the agenda: Ordinance 6(d) relating to Edward Stephens and Resolutions 7(a) and (j). Councilman Taylor asked that Ordinance 6(e) be added to those being moved forward.

On motion of Councilman Franklin, seconded by Councilman Benson, Ordinances 6(d) and (e) and Resolutions 7(a) and (j) were requested to be moved forward; the motion passed.

Chairman Littlefield suggested that Resolution 7(a) be discussed first, stating that this matter has been before the Council previously, has been studied very well and has been covered in the media. He stated there have been a number of meetings with the stakeholders during the course of study and it is his belief this is the fourth occasion for public comment. He stated the matter was before Planning on yesterday and many read or are aware of the outcome of that meeting; that it has been sent back to the Council for action. He stated the Resolution tonight authorizes the Mayor to proceed with discussions and negotiate with the Tennessee Department of Transportation and the Federal Highway Administration and other officials for whatever might be required. He stated he does not want to unduly limit debate and will handle this matter the same way rezoning cases are handled in that speakers will be limited to no more than three persons for each side for the proponents and opponents and suggested that those in attendance choose among themselves who will speak. He stated no one would be left unnoted and will be asked to stand and give their name and affiliation for the record prior to the Council's deliberation.

James Stevenson was the first to speak in opposition. As President of the Taxpayers Association, Mr. Stevenson read a Resolution that was passed at the Association's last regular meeting requesting that ". . . no tax revenues be expended on this debacle". He stated that the morning and rush hour traffic would be put back on Highway 27 and I-24, which is already overcrowded. (A copy of the Resolution is filed with minute material of this date.)

**M.L. KING BOULEVARD/BAILEY AVENUE AND
MCCALLIE AVENUE TWO-WAY STREETS (Continued)**

Vickie Arnold stated that she would be speaking on behalf of herself and Marti Rutherford who could not be present. She stated that she spoke on yesterday at Planning in opposition and indicated head-on collisions will increase, especially if there is no turning lane. She stated it has been indicated McCallie will have on-street parking and getting rid of the exit lane of traffic will impede the flow and make head-on collisions likely. She stated a simulation has indicated only one minute would be added going in-or-out of town; that she does not know if the simulation includes CARTA buses and traffic stopping for parallel parkers. She stated a survey of UTC faculty and staff shows 78 per cent favor keeping it one-way and the administration favors the two-way. She stated overall people would travel to and from downtown; that she hates going to Hamilton Place because traffic is so bad; that the two-way traffic would have the same situation for downtown events and an impact in the future on shopping. She stated that it is her thought the \$1 million amount is severely low and expressed agreement with the Citizens Taxpayers Committee. She referenced the tight budgets of the State, City and County, indicating that she cannot see spending \$1 million for this.

Anita Polk Conley spoke in support of the two-way pairing stating that she lives in the M. L. King neighborhood and serves as President of the Neighborhood Association. She stated that she spoke with persons from the Highland Park and Fortwood Neighborhood Associations and all are in support of this Resolution. She stated changing the streets would really help the viability of the neighborhood and their primary concern is safety. She stated that she loves where she lives and enjoys the easy accessibility to Brainerd Road and made reference to the excessive speed on these streets as they are now. She stated that she would like for her children and others to feel comfortable walking to Warner Park and that it is difficult to cross McCallie Avenue without running at full speed. She stated all should be willing to make a small personal sacrifice; that this took place fifty years ago when no freeways surrounded the area, however, there are freeways now and are a way to get from one side-to-the-other.

Dr. John Schaerer brought greetings from Chancellor Stacy, who was unable to attend. He indicated that representatives from UTC have spoken at several meetings regarding this issue and that he had attended many of them. He commended the Council for "sticking to their principles", and stated that UTC is "on the move"; that students have to cross McCallie Avenue each day to attend classes.

**M.L. KING BOULEVARD/BAILEY AVENUE AND
MCCALLIE AVENUE TWO-WAY STREETS (Continued)**

Dr. Schaerer referenced the elementary school in the area that is scheduled to open in the fall with over 350 registered students, who will also be moving across McCallie Avenue. He stated the M. L. King commercial corridor is important to the revitalization and renaissance of Chattanooga and recognized that the issue goes beyond any neighborhood or person; that it involves all the citizens of Chattanooga with a look toward development of this city. He stated ten years from now all will look back and say this was a good thing in reverting to two-way traffic; that fifty years ago Amnicola stopped at Chickamauga Creek. He stated there is every reason to support this Resolution of the two-way pairing; that economic development is important to the City and the quality of life will be enhanced for all by adoption of this change.

Doug Judd of Missionary Ridge spoke in opposition to the Resolution, stating that it took under five minutes for him to travel from Dodds Avenue to downtown and there were eleven stoplights. He cited the backlog of cars with four lanes as opposed to two lanes, indicating that the time would be longer for those waiting for a stoplight to change and for pedestrians attempting to cross the street. He stated the cost for the change has been estimated at \$1 million and asked where the money would come from, indicating that the state and federal governments would help, however that money is not free as it comes out of everyone's pocket. He stated that he knows the situation with state finances and no one wants taxes raised. He stated all who use the roads should be heard as state and federal roads are paid for by state taxes and federal money. He stated Chancellor Brown has stated that the two-way "just might work", indicating that "might work" rather than "will work" is coming from someone who is for the pairing!

Heather Bell of Highland Park and a proponent of the pairing exclaimed "shame" on anyone who thinks getting downtown or their commute is more important than the revitalization of our town's historic neighborhoods! She stated whether it is five minutes or one minute, neighborhoods need to be revitalized to allow businesses to come back. She stated people moving into old neighborhoods can walk off their front porch and walk to a coffee shop, antique mall or bakery; that we need those roads two-way in order for business to thrive and flourish. She stated anyone who would not want historic neighborhoods to come back and continue to decline, "shame on you"!

**M.L. KING BOULEVARD/BAILEY AVENUE AND
MCCALLIE AVENUE TWO-WAY STREETS (Continued)**

Charles Shaw of Highland Park stated that he lives a block from Bailey Avenue and Highland Park and three months does not go by without someone bleeding from a car accident! He stated that this is a quality of life issue and the thirty people complaining about this should "hit" the freeway like everyone else and leave us alone!

Chairman Littlefield asked Chris Rushing of the Regional Planning Agency to come forward to answer questions that might arise. He indicated that the presentation regarding this request has been shown numerous times and would not be viewed this evening.

Councilman Hakeem stated that this town has been and is known for finding ways of working together and "getting down to business" for the benefit of the whole. He stated one of the things the Council has done in recent years was the East Brainerd Plan and that could not have happened without those of us in the inner city working with those who represent persons in East Brainerd. He stated we did not attempt to determine the destiny of East Brainerd; that he listened to what the representative from East Brainerd had to say along with the community and moved forward from that. He stated today we are talking about a renaissance, a revitalization of the inner city, and we are saying we want to determine our own destiny. He stated what is being proposed is not harmful to anyone who may have to travel five minutes more, if that much, and asked that everyone look beyond that. He stated if persons are truly interested in revitalization of the inner city and the city as a whole, we should want young people to feel that they are represented by this body. He stated we do not want them to feel they cannot cross the street as if they were a "deer in a light". He asked that everyone in attendance consider his comments, as the Mayor and Council do not take this issue lightly; that they are very deliberate and have studied the issue and it is hoped this body will vote to move forward with this plan. He stated like others, he has nostalgic feelings; however, time has brought about a change.

Councilman Lively stated even though the Resolution is worded quite strongly, it is a Resolution that takes the process to the next level to petition the State and the final decision will have to come in an Ordinance to change the Charter. He stated the process would continue once the Resolution is approved; that he would like for the city to be its own worst critic and look at all the positives, negatives and get down to what the exact cost of this project is going to be.

**M.L. KING BOULEVARD/BAILEY AVENUE AND
MCCALLIE AVENUE TWO-WAY STREETS (Continued)**

Councilman Lively stated that he has heard it could be \$1 - \$6 million, reiterating that it is his wish that we be our own worst critic in saying this is the right thing to do. He stated the Economic Development and Finance Committees could have a joint meeting within the next few weeks to look at the final findings to know we are doing the right thing. He stated that he knows this is a highly controversial issue and understands the University's position and others on both sides.

Councilman Page stated neighborhoods do need to determine their own needs and Council members want to see that happen; that they would like to consider it on a factual basis rather than the emotional one it has been at this point. He stated when the matter came up a couple weeks ago before one of the Council meetings when it was referred to Planning, he expressed a concern about grid locking the city and narrowing the riverfront, Georgia Avenue and the new Provident building plans. He stated that he would like an answer as to whether this plan of converting the lanes would gridlock the city and make an adverse problem in traffic?

Chris Rushing, Planner with the Regional Planning Agency (RPA), stated that their assessment is that it would not create a gridlock; that the changes to be made can accommodate the level of traffic on Riverfront Parkway. He stated the short answer is that it will not create gridlock.

Councilman Page expressed appreciation for Mr. Rushing's response and asked that he make a statement in regard to the \$1 million amount, which is the next important amount, stating that if his response is affirmative he could support the motion for approval.

Mr. Rushing stated that parking on McCallie calls for the location of 383 new spaces. He stated that if the decision was made to build a parking garage to accommodate 383 spaces the spending would be about \$4 million to do it; that the Department of the U. S. Chamber of Commerce estimates on-street parking to be between \$200,000 and \$300,000 to a business in retail sales. He stated that he knows there is not as much retail on McCallie as desired right now, however, as revitalization continues we can expect an increase in sales tax revenues and the same goes as well on M. L. King.

**M.L. KING BOULEVARD/BAILEY AVENUE AND
MCCALLIE AVENUE TWO-WAY STREETS (Continued)**

Councilman Taylor stated that quite a few events take place downtown and at the Memorial Auditorium, expressing his concern for traffic. He stated in regard to the \$1 million price, the cost of streetscaping and having to make adjustments in two-or-three locations, is that figure pretty much "nailed"?

Mr. Rushing responded that the \$1 million figure looks perfectly fair; that streetscaping could expand the figure, however it is not included in this; that streetscaping would come out of another plan. He stated the reason it is so inexpensive basically is that the project is buying signalization and painting and striping the street. He stated that the plan calls for an exit curb lane to remain except for the intersection at McCallie and Georgia Avenue, which is to be redone, and creation of one intersection as the two lanes come out of the tunnel. He stated that there are only three small construction projects and the rest is signalization.

Councilman Benson stated to emphasize and follow up on what Councilman Hakeem has stated is that in October 2000 persons from East Brainerd asked for a study by experts. He stated consultants asked for input from each and every one in the community in East Brainerd; that there were five-or-six charrettes that came up with a land use plan. He stated Councilman Hakeem was one of the five that supported that and persons in the East Brainerd area had an opportunity for involvement in their own destiny and that is the study he (Hakeem) was referring to. He stated that he started out against making these streets two-way as no one wants to destroy one neighborhood or commercial on those streets. He stated revitalization can take place if persons have the will, interest and guidance; that the investments will far outweigh the cost. He stated the price of houses on McCallie have gone up just on the rumor that it would be two-way, and in the same way assessment values have gone up, revenues will go up. He expressed agreement with the person who spoke in reference to change and the quality of life for this community. He stated that he was previously against this and was recently converted after reading the documented study regarding the pairing. He offered his copy of the document to anyone interested in reading it, adding that he would like for them to give him their thoughts afterward.

Others in attendance in support of the Resolution included Ron Farmer, Parkridge Medical Center; Jacqueline Strong Moss of Brainerd and the Community Impact Fund; Gary Cummings, Highland Park; Bob Pomeroy; Nicole Distavio, Highland Park; Jonathan Bell, of Highland Park and business owner on McCallie Avenue; and Deborah Bryant, who lives and works in the M. L. King area.

**M.L. KING BOULEVARD/BAILEY AVENUE AND
MCCALLIE AVENUE TWO-WAY STREETS (Continued)**

Those in attendance in opposition to the Resolution were Cynthia Cash, North Brainerd Neighborhood Association; Ralph Lewis, former Traffic Engineer for the City of Chattanooga for 28 years; Roy Williams of East Brainerd and owner of a business at Holtzclaw and Twelfth Street; and Doug and Cate Judd, Missionary Ridge residents.

Councilman Pierce stated that this matter has been discussed at length and at least four public meetings have been held, indicating that everyone has been given ample time to speak. He stated some speakers have been heard over-and-over again and that he is comfortable with the request. At this point he "called for the question."

On motion of Councilman Franklin, seconded by Councilman Benson,

**A RESOLUTION AUTHORIZING THE MAYOR AND APPROPRIATE CITY
DEPARTMENTS TO TAKE ANY AND ALL ACTION NECESSARY TO MAKE
MARTIN LUTHER KING BOULEVARD/BAILEY AVENUE AND MCCALLIE
AVENUE TWO-WAY STREETS**

was adopted.

REZONING

2002-069: Edward E. Stephens (Partner N. Concord Partnership)

Pursuant to notice of public hearing, the request of Edward E. Stephens to rezone a tract of land located in the 1200 block of Concord Road came on to be heard.

The applicant was not present; considerable opposition was in attendance.

Jerry Pace, Director of Operations with the Regional Planning Agency (RPA), stated that the Clerk of the Council had received a request from the applicant to withdraw this request for R-T/Z zoning. He stated the recommendation from Planning was for denial of the R-T/Z and the Staff's recommendation was for approval. He stated the decision with regard to withdrawal would be left up to the Council for decision.

Councilman Taylor inquired as to what would happen with the property if the request for withdrawal was approved?

REZONING (Continued)

Mr. Pace indicated that the property is zoned for duplexes presently; that Mr. Stephens could build duplexes or single family structures.

Councilman Benson inquired as to how many duplexes could be built and the number of acres?

Mr. Pace stated that a rough calculation would total 70-74 duplexes or 140 single family residents on 15.5 acres. He stated approval would have to come through the subdivision review process; that this is a rough estimation.

Councilman Benson stated a number of Council members have viewed the site and he knows a lot of people have watched from the freeway, indicating that all the trees are gone from the property. He asked if there would be a negative impact on the road due to the increase in traffic?

Mr. Pace responded "yes;" that it could overload the road with traffic. He stated it is a very narrow two-lane road and could cause the City to do improvements by either widening or paving, if nothing else. He stated there would be a cost to the City regardless as to what development goes in there.

Councilman Benson then indicated that "we are at their mercy"; that this will have an effect on the value of homes and an increase in revenue to build roads and possible other infrastructure needs; that it is like a "Catch 22".

Mr. Pace indicated "yes" to Councilman Benson's comments.

County Commissioner Curtis Adams spoke at this point, indicating that this was his first time appearing before the City Council. He stated that he represents East Ridge, Brainerd, Eastgate, Brainerd Hills and Concord and that this is the worst he has seen in fourteen years in office. He stated that he has seen a lot of projects such as this; that there are a lot of shysters building in the County and it has to be stopped. He stated one of the residents in the area called him to ask that he drive by and look at it; that he drove up to it and could not believe what he saw! He stated he does not know how many trees there were and it appears as many as 200 trees were whacked down; that developments such as this would be like putting twenty people in a car built for six! He stated this is the worst he has seen in fourteen years and would not be present if there was any doubt in his mind. He asked persons in attendance from the Concord area to stand (a majority of persons in attendance stood at this point).

REZONING (Continued)

Commissioner Adams continued by stating that governments have done a lot of good things down through the years; that one thing that has been done in government is that building occurs too fast and consideration has not been given to one important thing, which are sidewalks. He stated this little street does not have any place for the residents to walk except in the street; that this would probably be a pretty great development; however, it is in the wrong place. He stated this is the worst place he could possibly imagine for what the applicant wants to do. He expressed admiration for Councilman Benson for trying to stop what was happening around Hamilton Place because had it kept on the area would be a "ghost town" a few years from now; that he is happy to join him in saving neighborhoods. He stated we have made these laws and Jerry Pace and others at the RPA have are doing what we tell and vote them to do. He stated government officials need to look at outdated laws and zoning ordinances and indicated that this is one that is outdated and it falls back on government officials to correct it.

Commissioner Adams concluded his comments by stating that it was his thought that it is not good for this gentleman to build duplexes, because the lot is even too small for duplexes. He invited everyone to ride out and see this; that it is not a good place to build this kind of thing. He stated that he would like for officials in the City and county to go back and do some studying on some of these outdated zoning ordinances. He stated that he found out one county commissioner could call for a zoning study and did not know it; that everything stopped after a study was done. He stated someone on the City Council could stop everything and give time to talk the applicant into moving somewhere else. He expressed hope that a stop would be put to this and that there would be a change in the zoning ordinance; that he does not believe the applicant should build at this location. He expressed thanks to the Council and stated that the City, county and all the people should get with the applicant and help him find a better place.

Councilman Hakeem inquired as to the option the Council has in regard to whether the development should move forward?

City Attorney Nelson stated the applicant has already spent a lot of money on the property and the issue was addressed in Legal and Legislative Committee today. He stated there are several things that can be done such as looking at tightening the zoning laws, perhaps enlarge the requirement for allowing for duplex zoning and have the Committee look into that within the next several weeks.

REZONING (Continued)

Councilman Hakeem asked if there is anything that can be done to change or delay this process?

City Attorney Nelson responded right now the property is presently zoned for duplex zoning and there is not much that can be done immediately. He stated the Council might want to initiate a study of the area to see if R-2 zoning is appropriate.

Annette Ragon, President of the newly formed Concord-Radmoor Association, introduced Bob Harrison, Vice President, and distributed a petition with 250 signatures in opposition to this request. She stated that the clear cutting of the land is what got them going on this.

Bob Harrison stated that there are several problems; that the major problem is the condition of North Concord Road as it is extremely narrow and has a four-foot deep drainage ditch on each side. He stated that pedestrians have no other place to walk; that if two cars and a pedestrian meet, the pedestrian would have to leap into the ditch or one of the cars has to come to a complete stop. He stated that it is his belief there is no other narrower two-way road in Chattanooga that carries the load this one does; that the neighborhood maintains that this is the worst neighborhood road in Chattanooga! He stated the density of the neighborhood would be greatly increased by this planned development and if the development happens the community problem would be much worse as this is not a place for putting houses every 30 feet. He stated that the neighborhood association organized to oppose this change and expressed appreciation to Councilman Benson and County Commissioner Adams for their support. He stated with the current R-2 zoning Mr. Stephens could proceed; that they ask before any major development is constructed that a plan be put into place detailing how and when the community infrastructure would be upgraded to handle the additional load; that sidewalks, lights and drainage should all be addressed. He stated Mr. Stephens has a right to develop his land, but the surrounding property owners have rights, also.

Councilman Lively stated the developer has no respect for the community; that in looking at the photos distributed he has made a major blunder. He related a similar incident in his district of a person applying for zoning; that fortunately the property was zoned R-1 and needed rezoning. He stated that the person clear cut the land and created a stormwater runoff problem; that the stormwater officials put a stop work order in effect.

REZONING (Continued)

Councilman Franklin stated during discussion in Committee earlier, one thought came to mind as to whether there is any recourse as far as a grandfathering issue. He stated there is a request for withdrawal and asked if there is any resource that will not allow this person to proceed?

City Attorney Nelson stated all the facts were not known when this was discussed earlier. He stated if the person has spent a considerable amount of money he would look into the issue for the next week and see what the state of the situation is out there in an effort to determine how much they have on the road, how much money they have spent, and have the stormwater people and others take a look, as well.

Councilman Benson stated these are fine citizens in the Concord area and are not unruly, mean or hateful; that they have called upon elected officials and government to protect their community. He stated they have all worked in harmony through the district and again expressed thanks to Councilman Hakeem and others for financing the study as it has been an invaluable tool in developing relationships. He stated there is harmony between business and residential, with some exceptions. He stated that Admin. McDonald toured the area with him and visited the Anderson property; that they are doing all they can within legal limits; that new legal parameters should be developed to prevent this from happening to other citizens. He clarified that these are cooperative people.

Patrick Anderson of 6917 Tyner Road stated that he met with Mr. Stephens; that he pulled into his driveway to ask if he would sell his home to him. He stated he did not want the house and wanted to bulldoze the property and pay for the property. He stated that he asked Mr. Stephens to leave; that Mr. Stephens does not like him because he would not sell his property for what he paid for it. He stated employees for Mr. Stephens ran bulldozers on his property and within ten feet of the property the surveyor put in a property marker, totally disregarding his (Anderson's) property. He stated that he approached them about it and ended up summoning the police after a back hoe was brought in creating more damage, yet nothing was done about it. He stated that he has been to Planning on two separate occasions and nothing was done. He stated that he took time off from work because Mr. Stephens has property next to him and sometimes threatens to build townhouses; that he does not know what he is going to do. He stated heavy equipment was placed within 35 feet of the side of his house and a limb was broken off one of his trees. He stated that it is "just a bucket of trouble" out there!

REZONING (Continued)

Mr. Anderson continued by stating that Mr. Stephens is only there to take money out of the neighborhood and invited the Council to go look at the Webb Oaks Court development Mr. Stephens built on Webb Road. He stated that a road was to be put in next to his property and they put a curb cut on his property line. He indicated that he would have to give up ten feet of his property for a right-of-way and went to Planning and asked about it. He stated Mr. Stephens re-platted the plat and moved the road 25 feet away from his property. He stated his property has four lots and because he asked the question about the right-of-way, Mr. Stephens moved the road 25 feet away and now he has been told he can have a flag lot. He stated at some point in the future the value of his property has been reduced by 50 per cent at least. He suggested that someone check to see if Mr. Stephens is licensed to do this type of work.

Councilwoman Robinson stated that a similar situation took place in District 2. She stated a developer owned property along Hixson Pike, sent in a bulldozer and entirely destroyed what amounted to a wetland along Hixson Pike. She stated it was zoned R-1 and he owned it and gained it without benefit of any permit from the City and his job was quickly shut down. She stated the City quickly shut it down! She stated the question she has just as many present tonight is how someone can come in and really destroy or tear up the grid of what is a very settled neighborhood? She suggested that the matter go back to Councilman Benson's Committee for a look at what to do about permitting.

Mr. Anderson stated that he has a dump next to his property from all the debris that sits there. Councilman Benson stated that he would call Neighborhood Services for them to check on the matter.

At this point, Councilman Page made the motion that the City Council request the Regional Planning Agency to review zoning ordinances in the City as it relates to this development and new development and recommend any changes if necessary. Councilman Taylor seconded the motion.

Councilman Pierce asked if the Council is to act on the request for withdrawal before Councilman Page's motion? City Attorney Nelson stated that a motion is needed to treat the withdrawal request, first.

Councilman Benson asked if the Council does not act on the request for withdrawal, would it put the request in limbo?

Chairman Littlefield stated that the motion on the floor is from Councilmen Page and Taylor and the Council should vote on that and go back to the issue of the withdrawal.

REZONING (Continued)

Councilman Hakeem asked if the questions raised with regard to stormwater would be a part of the motion?

Admin. McDonald stated that he and the stormwater people have been to the site and Mr. Stephens does have State permits required for removal of the trees and the work they are doing. He stated for what he is doing there are no requirements for any City permits at this time; that they are keeping a close watch to make sure if it is necessary for them to have a permit they will stop him until they get it.

At this point, Councilman Benson called for the question on Councilman Page and Taylor's motion to refer to the RPA for review of zoning ordinances; the motion passed.

Chairman Littlefield then indicated that the matter of the withdrawal is before the Council.

Councilman Benson stated if the Council does not take action and the applicant asked for withdrawal, what does it do? City Attorney Nelson stated that it leaves the property zoned R-2 until two weeks after the Council rezones it.

Councilman Benson stated if the Council takes action and allows the applicant to withdraw the property is left as R-2. City Attorney Nelson responded "right", regardless. He stated if the applicant is allowed to withdraw the difference is he cannot come back and ask for rezoning to R-T/Z for nine months if the Council denies this request.

Councilwoman Robinson asked what if we were to act on the zoning request and change it to townhouse only?

Mr. Pace stated the property could be rezoned R-T/Z and add conditions to it; that several conditions had been added from Staff with R-T/Z regarding screening and landscaping requirements. He reiterated that the property could be rezoned R-T/Z and put conditions that there be no duplexes and several others (conditions). He stated the matter might need to go back to Planning if too many conditions were added that were not discussed at the Planning meeting.

At this point, Councilwoman Robinson made the motion to rezone the property from R-2 to R-T/Z with conditions.

REZONING (Continued)

Mr. Harrison, Vice President of the Concord-Radmoor Neighborhood Association, inquired as to impact fees and the possibility of more schools being built, which would require more roads, water lines, electricity and sidewalks for children. He stated since they do not have that now, would this come back on them and whether they would have to pay for this? City Attorney Nelson responded every citizen in Chattanooga would pay.

City Attorney Nelson amended the caption in the Ordinance to reflect "with conditions" as discussed at the Planning meeting.

At this point, Councilman Page seconded Councilwoman Robinson's motion to approve the Ordinance on first reading for the R-T/Z zone.

Commissioner Adams stated that he would feel better if a moratorium could be placed on building permits; that it is one option to think about.

Chairman Littlefield indicated that either way nothing would happen between now and next week.

Barry Bennett, Executive Director of the Regional Planning Agency, stated that this is one of the options the Council has considered in the past; that this area, to a lesser extent, has undergone the same experience a number of others areas have in the past, particularly Brainerd and North Chattanooga back in the 60's. He stated no one knows why the areas were mass zoned R-2 permitting duplexes; that the fact is over the years most of the areas have developed with single family residences. He stated the main difference in this area is the size of the study boundaries we would be talking about; that it is unusual to do a downzoning study for such a small area. He stated there is nothing in the regulations that references a limit on the size of the area. He stated that they could look at a land use pattern for this whole community and then come back with a recommendation. He stated one thing that has been done in the past is that while a study of this type is being conducted a moratorium could be put in use on building permits which could preclude development that would go out the next day. He stated that the problem Mr. Nelson indicated is that there may have been substantial investment in the property which could bring up the legal-taking issue. He stated we should be looking at whether or not the property is zoned appropriately based on the existing character of that area and make a recommendation accordingly.

REZONING (Continued)

Mr. Bennett stated with regard to the motion Councilwoman Robinson made for R-T/Z, the Planning Commission recommended denial of the R-T/Z and the Staff recommended approval; that because there is the possibility of developing townhouses and duplexes we felt townhouses were more preferable for a number of reasons. He stated one reason is that the intent of the townhouse development is sold as fee simple and owner occupied and duplexes are rental property. He stated another was that through rezoning requirements for landscaping, screening and a number of other conditions would apply. He stated traffic is a consideration based on the Traffic Engineer's statistics; that townhouses would generate 5.5 trips per day as opposed to ten trips as the standard for single family residential development; that there would be even more for duplexes.

Councilwoman Robinson stated that we are looking at the "lesser of two evils"; that this is an interesting alternative.

Councilman Pierce injected that he did not know whether the Council would be moving a little too hastily; that he has not heard from Council persons regarding a preference of R-T/Z over duplexes. He asked whether the Council wants to do this as his concern is that the developer has started clearing property and what position would the City be placed (in) if the council takes action to stop him in constructing what the property is already zoned for? He stated that he does not know if it would do any good to table this one week to allow the City Attorney an opportunity to come back and advise as to the best option.

City Attorney Nelson stated that it would not make much difference if the ordinance passes as stated on first reading; that it has to come back for second and third and would have a week built in regardless of what we do. He stated at that time, perhaps, we would be in a better position to evaluate the matter.

Councilman Lively stated that he has already stated his opinion that the zoning requested would have more impact on what has happened out there. He stated that it is his thought the representative from the district would be in a better position to evaluate the matter.

Councilman Franklin stated that he was unaware of the conditions imposed on the original zoning and asked if the option of the moratorium is something the Council can have as an available option?

REZONING (Continued)

City Attorney Nelson stated if the Council chooses the moratorium it is his suggestion that it still be used for R-1 single family because in any case the Council could not go below that as stated in a Tennessee State Supreme Court ruling.

Councilman Franklin again inquired as to the original conditions? Mr. Pace explained that he did not have the conditions with him; that when the matter came before Planning the Staff recommended approval of the townhouses. He stated conditions included a screening depth of 20 feet along Concord Road with one entrance way and a limit of 101 units in the subdivision. He stated that the applicant had two entrance ways for the original subdivision plan and the recommendation was to landscape the area.

Councilman Taylor stated in regard to the zoning study would that put a stop to his process until the zoning is complete? Mr. Bennett responded "no", not unless he is told directly by the Council.

Councilman Taylor stated once the study is done and the recommendation is for R-1, would Mr. Stephen's property automatically go to R-1? Mr. Bennett responded the applicant could go back to Planning for a recommendation, which would come back to this body for final action. He stated if it is rezoned then any property for which he has not obtained a building permit could only be developed single family at that time. He stated if a permit is obtained to build duplexes in the meantime, that would be grandfathered-in and he can build those and there is not much we can do about; anything for which he has obtained building permits prior to rezoning for R-1.

Councilman Benson stated that he has heard the question of money lost, the applicant has a positive cash flow; that an independent contractor has been hauling beautiful logs down the street. He stated he does not think the applicant is in much financial jeopardy if we move that way; that he has bought the land and stripped it without saying anything to anyone except Lisa Gilliland, who is waiting to address the Council. He stated that he would move on it today unless a moratorium was in place if it were he; that Councilwoman Robinson probably made the best motion with R-T/Z with conditions. He asked Jerry Pace or Barry Bennett to verify that from his understanding there would be fewer cars on the road, private ownership and fewer units with the RT/Z as originally asked. He stated in his heart he does not want the applicant to get anything, especially after the story Ms. Gilliland tells. He stated this Council will do what the community wants; that they came here asking for help. He asked if the Staff agrees?

REZONING (Continued)

Mr. Pace stated that they do not disagree; that he found some of his notes on the landscaping conditions, which would be ten feet of landscaping along R-1 to the south; that the only thing is that the vegetation would remain and from his understanding there is no vegetation remaining! He stated some of the conditions the Staff placed are probably "out the window" as far as trees along the back and the R-1 to the south.

Lisa Gilliland stated that she lives next to this development; that her house has been in her family for 54 years. He stated Mr. Stephen stood on her porch and offered her \$8,000 for her property which goes back into the woods; that he started at \$5,000 and went up to \$8,000. She stated that he told her that her land would be worthless if she did not sell to him and that she would not be able to access her land. She stated that her lot is only 100 feet wide and it would be difficult for her to get to her land from what he plans to do; that he is looking at shutting her in and this has upset the whole community and her son.

Jill Eisenhoe, President of the Concord-Highland Neighborhood Association and co-owner of a business with her husband and father-in-law two lots over from this, stated that she saw this go up two months ago and it was easy to see this was going to be a problem. She expressed being more in favor of a moratorium restricting him to the R-1.

Morgan Cole stated in a meeting two weeks ago the applicant agreed to make a change. Councilman Benson stated that the applicant did agree and said he would go back to R-2 and then started cutting and hauling logs. He stated that he bought more property over the hill.

Chairman Littlefield stated the motion before the Council is to act on the application for R-T/Z or allow him to withdraw and go forward with R-2. He stated R-T/Z "buys" one week to consider the possibility of a moratorium.

Councilman Benson stated there are too many informed people and he could not vote for R-T/Z. He stated that he thought Councilman Pierce was right and asked if the matter could be deferred one week?

Chairman Littlefield responded "yes"; that the zone would continue to be R-2.

Councilman Taylor asked if it is possible to impose a temporary moratorium of 30 days?

REZONING (Continued)

Chairman Littlefield reminded Council members that a motion and second is “on the floor” unless there is further discussion on that motion to proceed with R-T/Z.

City Attorney Nelson distributed a new page one of the ordinance that further amends conditions that there be “. . . 20 feet of screening and shrubbery along Concord and all property lines adjacent to R-1 properties. . .”

Chairman Littlefield stated that there is a request for a 30 day moratorium.

Councilman Page inquired as to the parameters of the moratorium boundaries.

Councilman Hakeem asked Councilwoman Robinson if she wanted to proceed with her motion or withdraw?

Councilwoman Robinson stated both could be passed on first reading with rezoning from R-2 to R-T/Z and then move ahead and put a 30 day moratorium in place.

Councilman Hakeem stated that his reason for asking is that if the Council moves forward with the R-T/Z there is not clarity enough with residents that we have done the right thing. He stated that his question is whether it is more feasible to defer this for one week with a part of this as a 30 day moratorium and let the attorney do what he has to do?

Councilwoman Robinson stated Councilman Hakeem’s statement makes a lot of sense; that this is very complicated for all. She stated a period to understand what all the alternatives are would be good and come back next week. At this point she **withdrew her motion to approve the R-T/Z**.

Councilman Page stated he would not withdraw his second to the motion right now and asked if the Council would be putting themselves in a more difficult position by passing on first reading with conditions then all vote on it next week? He stated he does not see why we don’t do this; that it seems that the simple solution is to pass this and then ask for a moratorium next week. At this point he deferred to Councilman Benson.

Councilman Benson stated that he knows Councilman Page’s point but is afraid to pass it on first reading now with the “psychological explosion” out there. He stated it would be misunderstood. He asked why not the 30 day moratorium?

REZONING (Continued)

Councilman Lively inquired as to a 90 day moratorium?

At this point Councilman Page withdrew his second to Councilwoman Robinson's motion to approve R-T/Z.

Chairman Littlefield stated a long period for a moratorium is difficult to defend; that he has been to court a few times with City Attorney Nelson and others. He asked if anyone wished to make a motion?

Councilman Lively made the motion to declare a 30 day moratorium for a land use study for an area bounded on the west by the golf course, Concord on the north by East Brainerd Road, on the east by Gunbarrel and the south by the Georgia state line. Councilman Pierce seconded the motion.

Mr. Bennett inquired as to the time frame for the study? He stated RPA could have something before Planning at their June meeting and come back before this body in July as it to be advertised. He stated that we are looking at having it back before the Council by the second week of July; that 60 days would be more appropriate than 30 days to get through the entire process. He suggested instead of a blanket moratorium, that it be for anything other than single family residential, which would leave the applicant with reasonable use of the property.

Councilman Taylor inquired as to how many single family R-1 homes could be built on that site? Mr. Bennett stated that there are approximately 14 acres and there could probably be four homes per acre; that it depends upon the land and there has to be a certain percentage for roads and infrastructure; that we are generally looking at four-to-five residences per acre.

Chairman Littlefield stated the question is whether we want a 30 day moratorium or go with 60 days?

City Attorney Nelson suggested 75 days; that the Council would not get this back until July 9 for passage on first reading and it would become effective the end of July, about 75 days from now.

Councilman Lively amended his motion to 75 days; Councilman Pierce agreed.

REZONING (Continued)

On motion of Councilman Lively, seconded by Councilman Pierce,

AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED IN THE 1200 BLOCK OF CONCORD ROAD, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-2 RESIDENTIAL ZONE TO R-T/Z RESIDENTIAL TOWNHOUSE/ZERO LOT LINE ZONE

approval was given for a 75-day moratorium on building permits.

At this point Chairman Littlefield declared the property under a 75-day moratorium.

BRAINERD HILLS NEIGHBORHOOD PLAN

Greg Haynes of the RPA stated that they were asked to work with the Brainerd Hills community for a plan for the area. He recognized residents of the area who participated in the plan and expressed appreciation to them. He stated the plan started approximately six months ago and public meetings were held on four different occasions; that various issues were discussed regarding zoning, traffic, road improvements and other concerns. He stated that they developed a land use plan that is intended to guide development. He stated recommendations are to maintain the single family residential area, discourage commercial or office uses and encourage parks and open spaces. He stated some area are recommended for listing on the National Historic Register and a commercial center is also recommended that would be limited to commercial office use. He stated the area would be re-examined once streetscaping, sidewalks and traffic improvements are made; that after improvements are made there should be sufficient time to remedy any residential challenges to maintain the residential character of the area. He stated recommendations are to add sidewalks, streetscaping from Chickamauga Road to the overpass, add a bike lane to East Brainerd Road to coordinate with the Master Bike Plan, and an extension of the alley coming off Anderson Road as an alternative for getting in-and-out of the road.

Carol Berz expressed thanks to Greg Haynes, RPA and Chairman Littlefield for helping them and stated that government really did help them and there was a good relationship.

BRAINERD HILLS NEIGHBORHOOD PLAN
(CONTINUED)

Kathy Tower stated that she was the one that initiated the rezoning in East Brainerd and got this particular study started, as well. She stated it is a wonderful plan if it gets done; that she has a copy of the 2010 land use plan to widen East Brainerd Road and another copy that indicates that it has been "looked at". She stated widening of East Brainerd Road was "looked at" 22 years ago and urged the Council to find money to get this done in a timely manner. She stated it is to be done in three phases: first street lights, sidewalks and closing ditches; that she is only asking for the next step up. She stated O-1 was asked for to go along with the neighborhood and R-4 is across the street facing her; that R-4 with special conditions would be fine. She stated that she wants to see something done to make the neighborhood a better place; that when a plan is adopted, get money to do it and not use it as a stifling point on zoning issues.

Steve Cooper, owner of two properties, expressed agreement with Ms. Tower's comments. He made reference to the difficulty he has each day with regard to speeding; that police do not see speeding going on, but there is speeding out there every day! He stated that his business is at the corner lot at Chickamauga and East Brainerd and he had plans to put an office there and really thinks that area should stay R-4 like the rest of the street; that he feels removed from Brainerd Hills.

Chairman Littlefield stated discussions were held about this and all the issues were heard at numerous meetings.

On motion of Councilman Franklin, seconded by Councilman Taylor,

A RESOLUTION TO ADOPT THE BRAINERD HILLS NEIGHBORHOOD PLAN

was adopted.

REZONING

2002-071: Volunteer Behavioral Health Care System

Pursuant to notice of public hearing, the request of Volunteer Behavioral Health Care Systems to rezone a tract of land located at 413 Spring Street came on to be heard.

The applicant was present; opposition was present.

REZONING (Continued)

Mr. Pace stated that this request is located in the North Chattanooga area; that the property is surrounded by M-1, C-2 and R-1. He stated the request is for C-2 for offices and the Staff reviewed the request and indicated it would be better suited for R-4; that they made the recommendation for R-4 to include the entire property. He stated the applicant was looking for the building itself to be rezoned to C-2 and leave the remainder; that the recommendation is for the entire tract to be zoned R-4.

Bill Robinson, Architect, was present and indicated that he was helping with the project. Bob McCallie, of Volunteer Behavioral Health, expressed agreement with the R-4 zone.

Linda Bennett, President of the Northside Community Association, stated that they had an opportunity last week to visit with Randy Utt, one of the directors of the Joseph Johnson Mental Health facility; that they learned a lot. She stated that it was heard in the community nine months ago there was a health care facility moving into the neighborhood and because there is no need for rezoning, the organization moved and that is when they realized what was happening. She stated the facility was located at Four Squares and is now on Bell Avenue. She stated this facility is a crisis stabilization facility; that last week the individual that murdered Officer Julie Jacks would have been brought to this facility for stabilization. She stated that she understands why the community is asking questions about traffic flow; that she believes the rezoning request enables this facility to have over night stays and not just outpatients. She stated the community is concerned about this interfacing with R-1 residential and requested a little more time to actually let the community interface with Mr. Austin; that they would like to be part of the decision.

Councilman Taylor stated that dialogue would take place and made the motion to table the matter one week.

Bill Robinson stated that he and the applicant were unaware of the community's intention; that they accept the one week delay. He stated that they are encouraged the community is not in disagreement with the zoning as the area has somewhat of an interesting history. He stated R-4 would take this to a better zoning condition for the whole neighborhood.

REZONING (Continued)

On motion of Councilman Taylor, seconded by Councilman Pierce,
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE ATRACT OF
LAND LOCATED AT 413 SPRING STREET, MORE PARTICULARLY DESCRIBED
HEREIN, FROM M-1 MANUFACTURING ZONE TO R-4 SPECIAL ZONE,
SUBJECT TO CERTAIN CONDITIONS**
was tabled one week.

INTERIM BUDGET

On motion of Councilman Lively, seconded by Councilwoman Robinson,
**AN ORDINANCE PROVIDING FOR AN INTERIM BUDGET AND
APPROPRIATING FUNDS FOR THE USUAL AND ORDINARY EXPENSES OF
THE CITY GOVERNMENT FOR THE MONTHS OF JULY, AUGUST, AND
SEPTEMBER 2002, PENDING THE ADOPTION OF THE 2002-2003 ANNUAL
BUDGET**

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

AMEND DIGITAL VERSION OF ZONING MAP

There was no opposition present in reference to this Ordinance.

Mr. Pace stated that this is a "house cleaning" matter; that they found areas on the digital mapping that did not match the paper copies in the office.

On motion of Councilman Pierce, seconded by Councilman Lively,
**AN ORDINANCE TO ADOPT AN AMENDED DIGITAL VERSION OF THE
ZONING MAP TO CORRECT ERRORS OF OMISSION AS SHOWN ON
"EXHIBIT A" ATTACHED HERETO AND MADE A PART HEREOF BY
REFERENCE**

passed first reading.

REZONING

2002-050: Michael E. Catlett

Pursuant to notice of public hearing, the request of Michael E. Catlett to rezone a tract of land located at 6540 Lee Highway came on to be heard.

The applicant was present; there was no opposition.

Mr. Pace stated this request is located on Lee Highway; that half of the property is presently zoned C-2 and the other is R-2; that the request is to rezone the R-2 portion to C-2. He stated Lee Highway is generally commercial on either side. A diagram was shown that exaggerated the site's elevation and Mr. Pace indicated that grading and filling is presently going on. He stated the request comes as a recommendation from Planning for approval with conditions. He stated parameters should be suggested as it is mentioned in the conditions there would be no round the clock activities. He stated Inspection would have to enforce the time constraints and the Council should look at the hours of operation.

Michael Catlett, a developer and brick mason in Chattanooga, stated that he happened upon the property and thought it would be a good opportunity to build and develop; that he worked with the neighborhood and Councilman Benson satisfied any concerns.

Mr. Pace stated that the matter came from Planning with round the clock activity; that in order to enforce the conditions a time needs to be set.

Councilman Benson suggested that the matter be deferred.

Mr. Catlett stated from "midnight until 6 a.m." or from "11 p.m. until 6 a.m." would be fine; that he does not know the "norm" for commercial property.

Mr. Pace stated that it does not matter what time it is, whether midnight to 6 a.m.; that some time needs to be designated.

Councilman Benson stated midnight to 6 a.m. has been accepted by the applicant; that the matter could be deferred until the applicant has something more definite.

REZONING (Continued)

On motion of Councilman Benson, seconded by Councilman Lively,

AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED AT 6540 LEE HIGHWAY, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-2 RESIDENTIAL ZONE TO C-2 CONVENIENCE COMMERCIAL ZONE, SUBJECT TO CERTAIN CONDITIONS

passed first reading.

REZONING

2002-063: Steve and Tina Pickett

Pursuant to notice of public hearing, the request of Steve and Tina Pickett to rezone a tract of land located at 5111 Lynnwood Avenue came on to be heard.

The applicant was not present; opposition was in attendance.

Mr. Pace stated this property is surrounded by R-2 and is located in St. Elmo to permit a multi-family triplex on the property. He stated the area has gone through an extensive neighborhood study that was adopted by the Council; that the recommendation is that it remain a low density residential area and comes from Planning and Staff for denial as it is not in compliance with the neighborhood plan.

Arline Cadwell of 5023 Sunnyside Avenue stated that she lives two blocks east of this property; that she and others were not certain the applicant would be present or not and wanted to provide convincing argument why the Planning Commission's recommendation should be accepted. She presented a petition with 70 names of persons in the immediate neighborhood who do not want this to happen. She stated that she is pleased the applicant has not tried to make a case of this; that all the persons who signed the petition are registered voters.

On motion of Councilman Taylor, 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 5111 LYNNWOOD AVENUE, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-2 RESIDENTIAL ZONE TO R-3 RESIDENTIAL ZONE

was denied.

REZONING

2002-073: River City Resort, Inc.

Pursuant to notice of public hearing, the request of River City Resort, Inc. to rezone a tract of land located at 501 Manufacturers Road came on to be heard.

The applicant was present; opposition was present.

Mr. Pace stated that this request is located on the north shore for the development of a hotel and townhouse development. He stated the request is in keeping with the 21st Century Plan just unveiled last evening at the Trade Center. He stated the area is generally along Manufacturer's Road and uses include the JIT Development and some residential. He stated that the matter was reviewed and a Resolution is on the agenda to extend the central business district to include this area. He stated it was felt since this is a vital part of downtown and the north shore's being under the development it is presently going through, this is certainly a vital part of downtown. He stated the Planning Commission made the recommendation for C-3 zoning rather than go to the R-3 and C-1 as requested. He stated the property has been conditioned with some restraints to help in finalizing the design; that most important is that they will work with the Urban Design Studio to review and develop this property with no free standing cellular tower and other conditions as listed in the ordinance. He stated there is a question remaining about the Trail of Tears and they are not sure where that will "fall". He stated they cannot recommend the C-3 as they do not have the boundary and an opportunity to look at the property more closely should be allowed.

Vance Travis with TWH Architects was present representing Allen Casey, who was also in attendance. He stated they have been working with Mr. Casey, Jerry Pace, Barry Bennett and RPA on the development of this property. He stated they have had many meetings with Stroud Watson and Eric Myers and he and Mr. Casey have attended every one of the presentations, meetings and charrettes with respect to the 21st Century Waterfront Plan. He stated they were thrilled yesterday to see that a lot of ideas they have been presented are a result of working with RPA and the Design Center and are being incorporated into the north shore as part of the Plan. He stated the acreage is directly across from the Aquarium and the property sits on the north shore directly in the middle and across from Ross' Landing. He stated the 9.6 acres are owned by Mr. Casey; that a small marina exists on this property Mr. Casey had developed as well as a garage where he proposes to put a 350 seat restaurant.

REZONING (Continued)

Mr. Travis stated the schematic drawing represents a master plan they have been developing with the City and Mr. Casey; that one of the aspects of the plan Stroud Watson recommended they are in total agreement with is creation of a boulevard or avenue from Manufacturer's Road to the River which is very much like the boulevard that goes from the River at the Chattanooga Little Theatre with a median strip and landscaping that goes to a termination point. He stated Mr. Casey has developed an agreement with Ameri-Suites to build a 94-room guest hotel on the site and then condominiums that step down away from the hotel consisting of 60 units along the River. He stated a bridge has been shown connecting a small waterway, slew or creek that meanders into the site that they would agree would become an asset for the property to have direct access to Coolidge Park; that people coming from Coolidge Park would have access to this property, restaurant and the Trail of Tears. He stated last night there was a diagonal walkway through the wetlands and it is thought that would be a wonderful opportunity to become part of that historic interpretation. He stated Mr. Casey has indicated on the plan that there might some type of interpretive exhibit as part of that.

Don Aho was present representing JIT Terminal, the neighbor to the west of this development. He stated JIT is a long standing corporate citizen in this community, engaged in the production of propane and chemicals from this site by barge, rail and truck. He stated this site pointed out as M-1 is the JIT site; that JIT has been operating as a transfer site for over 30 years. He stated JIT is in favor of the well-planned and intelligent development of this City's riverfront, and this project may be of benefit to the City; however, JIT officials feel it is being placed in the wrong location. He stated two concerns JIT has are in relation to safety and the threat it poses to JIT by way of nuisance allegations. He stated JIT is proud of their safety record; that they have never had serious incidents there regarding release of any chemical or propane gas; that it is a transfer facility for caustic sodium dioxide and sodium bisulfate, all placarded materials subject to specialized handling procedures. He stated JIT is also the largest bulk propane transfer terminal in the State of Tennessee; that there are 25 or 30 eighteen wheelers in-and-out of the property every day. He stated JIT also uses a rail line that is owned by the Norfolk-Southern Railroad and there is an easement that goes approximately 90 per cent across their (Casey's) property. He stated JIT and Norfolk-Southern litigated with River City all the way to the Tennessee Supreme Court to protect the use of that rail spur which is very important to JIT's operations. He stated JIT works hard to comply with any safety rule and has not had serious incidents.

REZONING (Continued)

Mr. Aho continued by stating that in connection with the litigation that was conducted, River City advocated for removal of the rail spur because of the hazardous materials on that rail spur; that they have not heard anything about a plan for any handling of that or any continued concern. He stated the other issue relates to nuisance claims asserted against JIT; that JIT tries hard to comply with the safety ordinances, but there is a certain amount of noise and dust that is generated by its operation. He stated that an injection of mercaptin is the smell that is smelled when persons think it is the smell of propane; that occasionally a small amount of that gets away, however it has not caused any complaints. He stated JIT is concerned if something like that happens, it could result in a situation of legal action against it; that they have been up that "long trail" before with River City and really are not looking forward to doing anymore. He stated at this point, JIT is opposed to this development and at a minimum consideration of this proposal should be deferred per Mr. Pace's comments so issues could be studied in connection with overall development of the riverfront.

John Hull, Attorney for Norfolk-Southern Railroad, stated their problem with the plan is that it is not a viable plan, which is the whole basis of this rezoning. He referenced copies of the Judgment rendered in this case stating River City tried to force removal of the easement, however the Court would not rule for removal as the railroad has had it since 1958 and River City purchased the property in 1992. He stated if Council members look at the plan as presented and the area where the railroad tracks are it looks as if the area is all together. He stated this track is vital to the railroad's operation to all of the manufacturing businesses; that the tracks are used every day. He stated the issue was argued in Court and River City lost. He stated that the plan is not viable; that the plan is flawed to the extent that it either moves the railroad tracks or the only route to parking is over that railroad track. He stated they are opposed to the plan and thinks this is the basis for zoning and should be looked at as to what to do with the easement and track. He pointed out that is the manufacturing area of Chattanooga and no railroad should make life difficult for those businesses.

Mr. Travis repeated what was stated earlier from a proponent for the two-way street pairing, "shame on you". He stated that he is an architect and is the architect for the new downtown school at Main and Market, and had to deal with railroad closings, streetscape and utilities; that they take this business seriously. He stated this development will work and does work; that the rail spur that was mentioned in no way constrains the development of this property. He stated they purposely admitted to the railroad being there; that the spurs access to JIT is to the west and will continue to have that and should. He stated they do not see the spur as a problem.

REZONING (Continued)

Mr. Travis mentioned a similar situation with a Sacramento Hotel, stating "that is the way life is!" and acknowledged access to the property is "key". He stated with regard to the threat or warning about caustic gases, he would say look into that. He stated with the wonderful development on the north shore, if they are professing it will have an impact on Mr. Casey's development, it is not something they are concerned about. He stated Mr. Casey plans to be a good neighbor with others along Manufacturers Road. He indicated there is a slide Mr. Pace had showing the Aquarium from across the River looking at Mr. Casey's property; that it shows all of the development of JIT and that is what will be seen from Ross' Landing if Mr. Casey is not able to do his development.

Allen Casey stated that he was not certain if opposition would be present; that he was told not to get into the litigation, but as far as the railroad is concerned they were told when they first acquired the property there were two things they had to do. He stated one was to get permission from TVA to do the project and one from the railroad. He stated they bought the property and it was some time later they discovered JIT sent a letter, a copy of which is in his possession. He stated he would not go over all the case, but did say they have tried to be a good neighbor; that they told JIT what was going on the property five years before they built the butane tanks. He stated at that time he asked Mayor Roberts, five years after the property was purchased, if he could not get the railroad to leave the property. He stated they wrote back and said they would subject to building a spur on the other side of Manufacturer's Road. He stated that he proceeded with his plans and paid little less than \$2 million; that now it has been ten years and they have followed the North Chattanooga Plan the "City fathers", Council and Planning Commission started; that they followed it to the "T" for a hotel, restaurant and housing. He stated now the Boston folk have come in and reiterated the same plan and he followed that at his cost and the development.

Mr. Casey stated he is prepared to go ahead with this and the railroad is not bothering them and they have put in trees. He stated Mr. Travis mentioned restaurants and hotels in (Sacramento) California; that in Nashville there is one near a stock yard wherein persons have to travel through four railroad tracks. He stated the rail spur is not bothering them; that there are tracks at the Choo Choo and it is fine. He stated they have a right to stay there.

Councilman Hakeem stated that there are too many questions for the Council to take action tonight, especially with the issue of the Trail of Tears and the railroad. He stated the plan viewed last night he thought was in terms of the expansion of Coolidge Park; that there are so many questions he could not ask tonight.

REZONING (Continued)

Councilman Hakeem asked if the Council would be putting themselves into a situation similar to building near the airport and then hearing complaints about noise, or putting themselves into a position of reality of "killing" one business to create another? He stated there is not enough information for a decision tonight.

Councilman Taylor asked if this matter was presented to Planning and whether there was knowledge about the train tracks? Mr. Pace responded "yes".

Councilman Taylor asked Mr. Casey if his plan is viable even with the train tracks and cars there? Mr. Casey responded "absolutely!" He stated they did everything they wanted; that the hotel will hide the tanks for all visitors to see the beautiful property over there; that his development would hide all the industrial area. He stated they are not afraid of the letter from Texaco; that there is no problem with their operation, and in fact, it is safe.

Councilman Taylor inquired as to whether all the financing is in place and approved? Mr. Casey responded "yes"; that they are three months toward finishing the architectural and engineering phases and will start immediately as soon as the architects get finished to get it into the ground, which would be about seven-to-nine months. He stated it would be a year from now before the operation would start.

Councilman Taylor inquired as to whether there would be environmental concerns? Mr. Casey stated from his familiarity, it would be as clean as could be.

Councilman Franklin commented on Mr. Travis' integrity and stated that he has viewed the site from both sides. He stated that he is certain this will be a quality development; however, in Committee earlier today the issues whether perceived or real are some that should definitely be pursued with caution. He stated that is the reason the Committee decided to recommend deferral to make sure these items were addressed and to allow the process to work. He stated the tanks, noise and railway issues may not be a problem tonight, but once the development goes through to fruition, problems may occur. He stated as Councilman Hakeem stated, we do not want to "nix" any development; that it is hoped both entities can work harmoniously so that both can sustain themselves.

REZONING (Continued)

Councilman Page stated several questions have been raised and there are more he would like to ask. He **made the motion to defer the matter thirty days and send it back to the Urban Design Studio for another look with respect to the new riverfront development** and to allow time for parties to see if they can resolve their differences. He stated we have very talented people who can “put their heads together” and work for both businesses.

Councilman Hakeem seconded the motion and asked if the thirty day timeframe is sufficient time?

Mr. Pace stated that the process is correct; that the Urban Design Studio is heavily relied upon for their expertise in urban planning of the downtown area. He stated all parties should come to the table, not only Mr. Casey, but JIT and the railroad to work out solutions for this problem. He stated it does fit into the intent of the 21st Century Riverfront Plan; that he is not sure of the timetable the Urban Design Studio could review the matter. He stated thirty days is the minimum, yet it might take longer. He stated we do need to work with Mr. Casey on this project as it will be a benefit for this community.

Attorney Aho stated he would like to make sure that he heard correctly when Mr. Casey stated financing was in place for this project? Mr. Casey stated there is a permanent financing “take out” clause.

Councilwoman Robinson stated that she is not sure it has already been said that all support riverfront development. She stated she and Vance go back to the early 80’s of the Riverbend Festival and the Moccasin Bend Task Force. She stated she is very supportive of this and is working as hard as she can on the Moccasin Bend National Park piece, and the Trail of Tears is one of the more sensitive issues. She stated the issues have to be addressed to make sure we allow enough time for a successful dialogue and exploration of all issues. She stated if four weeks is what it will take then that is a good start; that there are some “thorny” issues.

Mr. Pace stated that it might take less time; that they want to move forward as far as they can because they do want the development to occur.

Mr. Travis stated all they are asking for is rezoning; that nothing of what the Council heard today can happen without input and approval of the Design Studio. Mr. Casey he has an awful lot of money tied up; that he would like to proceed as far as he can and does not want to lose financing.

REZONING (Continued)

Councilman Littlefield stated thirty days is a minimal amount of time unless someone objects.

Councilman Benson suggested that the time frame be **“up to thirty days”**.

Councilman Pierce stated he was not present for last night’s presentation and the Council is talking about postponing action. He stated his question is in reference to rezoning and how much other manufacturing in the vicinity is needed. He stated to rezone all property from M-1 we might need to have a land use study done as there are other businesses surrounding this area.

Mr. Pace clarified that only this parcel is being rezoned. Councilman Pierce stated only this parcel “today”; that he is wondering about “tomorrow” and whether this will expand.

Mr. Pace stated they would have to request a zoning change.

Councilman Pace asked if this is spot zoning? Mr. Pace stated that it is downzoning.

Chairman Littlefield stated the new plan addresses all property along the River; that this is one thing that is being unveiled and we need to see how this fits in.

Councilman Pierce inquired as to the plan for the whole area? Chairman Littlefield stated there was a very lengthy presentation involving parks and other expansions.

Councilman Hakeem stated the expansion of Coolidge Park, wetlands and an interpretive area for the Trail of Tears presented last night did not discount the possibility of Mr. Casey’s development. He stated it was recommended that there be protection and enhancement of manufacturing in the area. He stated there was quite a bit of material to digest and the Plan is headed in the right direction.

At this point, Councilman Benson called for the question.

On motion of Councilman Pierce, 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 501 MANUFACTURERS ROAD, MORE PARTICULARLY
DESCRIBED HEREIN, FROM M-1 MANUFACTURING ZONE TO C-3 CENTRAL
BUSINESS ZONE, SUBJECT TO CERTAIN CONDITIONS**
was tabled up to 30 days for further review by the Urban Design Studio.

AMEND RESOLUTION 22872: EXPANDING BOUNDARY OF THE CENTRAL BUSINESS DISTRICT

Mr. Pace stated this Resolution expands the central business district, and all it does is expand the boundary to allow C-3 zoning; that it does not change zoning in any way other than expanding the boundary to include the C-2 district.

On motion of Councilwoman Robinson, seconded by Councilman Taylor,

A RESOLUTION TO AMEND RESOLUTION NO. 22872, ADOPTED ON MARCH 13, 2001, EXPANDING THE BOUNDARY OF THE CENTRAL BUSINESS DISTRICT TO INCLUDE THE AREA NORTH OF THE TENNESSEE RIVER BETWEEN THE MARKET STREET BRIDGE AND THE OLGATI BRIDGE AND SOUTH OF MANUFACTURERS ROAD, AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE

was adopted.

PRELIMINARY PUD

2002-065: S. Reginald Ruff, III

The applicant was present; there was no opposition.

Councilman Benson stated this matter was discussed in today's Legal and Legislative Committee and approval is recommended.

On motion of Councilman Benson, seconded by Councilman Franklin,

A RESOLUTION APPROVING A PRELIMINARY PLANNED UNIT DEVELOPMENT SPECIAL EXCEPTIONS PERMIT FOR A PROPOSED PLANNED UNIT DEVELOPMENT, KNOWN AS THE SPENCER J. MCCALLIE HOMES PLANNED UNIT DEVELOPMENT, ON A TRACT OF LAND LOCATED AT 3500 KIRKLAND AVENUE, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS

was adopted.

AMEND RESOLUTION 21514

Councilman Hakeem stated this Resolution and other Public Works Resolutions were discussed in Public Works Committee and approval is recommended.

AMEND RESOLUTION 21514 (Continued)

On motion of Councilman Hakeem, seconded by Councilman Lively,

A RESOLUTION AMENDING RESOLUTION NO. 21514, AS ADOPTED ON SEPTEMBER 2, 1997, RELATIVE TO THE AGREEMENT FOR THE CLOSURE/POST CLOSURE PLAN FOR THE BIRCHWOOD LANDFILL WITH THE STATE OF TENNESSEE, DIVISION OF SOLID WASTE MANAGEMENT, BY DELETING "AN AMOUNT NOT TO EXCEED NINE MILLION NINE HUNDRED TWENTY-FIVE THOUSAND SEVENTY DOLLARS (\$9,925,070.00)" AND SUBSTITUTING IN LIEU THEREOF "AN AMOUNT NOT TO EXCEED FIVE MILLION THREE HUNDRED FORTY THOUSAND FOUR HUNDRED SIXTY-FIVE DOLLARS (\$5,345,465.00)"

was adopted.

AMEND CONTRACT

On motion of Councilman Lively, seconded by Councilman Franklin,

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AMENDMENT TO THE CONTRACT IN LIEU OF PERFORMANCE BOND WITH THE STATE OF TENNESSEE, DIVISION OF SOLID WASTE MANAGEMENT, RELATIVE TO THE CLOSURE/POST CLOSURE PLAN FOR NORTH HAWTHORNE/WOOD RECYCLING SOLID WASTE PROCESSING UNIT, IN AN AMOUNT NOT TO EXCEED TWENTY-SEVEN THOUSAND ONE HUNDRED TWENTY-TWO DOLLARS (\$27,122.00)

was adopted.

AMEND CONTRACT

On motion of Councilwoman Robinson, seconded by Councilman Franklin,

A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO EXECUTE AMENDMENT NO. 2 TO THE AGREEMENT WITH ARCADIS, GERAGHTY & MILLER, INC., RELATIVE TO THE TREMONT STREET CSO FACILITY, WHICH AMENDMENT DECREASES THE FEE IN THE AMOUNT OF FORTY-FOUR THOUSAND NINE HUNDRED EIGHTY-ONE DOLLARS (\$44,981.00), FOR A TOTAL REVISED FEE NOT TO EXCEED TWO HUNDRED TWO THOUSAND FIVE HUNDRED NINETEEN DOLLARS (\$202,519.00)

was adopted.

CHANGE ORDER

On motion of Councilman Lively, seconded by Councilman Page,

A RESOLUTION AUTHORIZING THE EXECUTION OF CHANGE ORDER NO. 1 (FINAL), RELATIVE TO STORMWATER IMPROVEMENT PROJECT, CONTRACT NO. SWM-4-99, WITH HBJ CORPORATION, WHICH CHANGE ORDER DECREASES THE CONTRACT AMOUNT BY TWO HUNDRED NINE THOUSAND THREE HUNDRED SIXTY-EIGHT AND 78/100 DOLLARS (\$209,368.78), FOR A REVISED CONTRACT PRICE OF THREE HUNDRED SEVENTY-THREE THOUSAND NINE HUNDRED FORTY-THREE AND 97/100 DOLLARS (\$373,943.97)

was adopted.

AGREEMENT: CONSOLIDATED TECHNOLOGIES, INC.

On motion of Councilman Franklin, seconded by Councilman Page,

A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO ENTER INTO AN AGREEMENT WITH CONSOLIDATED TECHNOLOGIES, INC., RELATIVE TO ENGINEERING SERVICES FOR THE AMNICOLA HIGHWAY SEWER REPAIR AND VALVE REPLACEMENT AT THE SOUTH CHICKAMAUGA CREEK PUMP STATION, FOR A TOTAL FEE NOT TO EXCEED TWENTY THOUSAND SEVEN HUNDRED FORTY DOLLARS (\$20,740.00)

was adopted.

CONTRACT: FOSTER CONSTRUCTION, INC.

On motion of Councilman Franklin, seconded by Councilwoman Robinson,

A RESOLUTION AUTHORIZING THE CITY FINANCE OFFICER TO ENTER INTO A CONTRACT WITH FOSTER CONSTRUCTION, INC., RELATIVE TO THE RENOVATION OF THE FORMER STORMWATER BUILDING, IN AN AMOUNT NOT TO EXCEED THREE HUNDRED THIRTY-FIVE THOUSAND THREE HUNDRED DOLLARS (\$335,300.00)

was adopted.

TEMPORARY USE

Chairman Littlefield stated this Resolution was added as a result of today's Public Works Committee.

City Attorney Nelson stated an additional condition was added addressing a thirty day discontinuance (Condition 4).

TEMPORARY USE (Continued)

On motion of Councilman Taylor, seconded by Councilwoman Robinson,
**A RESOLUTION AUTHORIZING THE TEMPORARY USAGE OF THE CITY'S
 RIGHT-OF-WAY ON 36TH STREET AND DODDS AVENUE TO ERECT A
 NEIGHBORHOOD ANNOUNCEMENT SIGN SUBJECT TO CERTAIN
 CONDITIONS**
 was adopted.

OVERTIME

Overtime for the week ending May 10, 2002 totaled \$18,968.52.

PERSONNEL

The following personnel matters were reported for the various departments:

CHATTANOOGA POLICE DEPARTMENT:

- ✍ **JOHN THOMAS HAYNES** – Retirement, Office Assistant, effective May 13, 2002.

PUBLIC WORKS DEPARTMENT:

- ✍ **ROBIN MATTHEWS** – Termination, Crew Supervisor, Waste Resources, effective May 2, 2002.
- ✍ **ALVIN THOMAS** – Promotion, Light Equipment Operator, Citywide Services, Pay Grade 5/Step 9, \$26,483.00 annually, effective May 1, 2002.
- ✍ **JAMES J. LANCE** – Retirement, Equipment Operator, Citywide Services, effective April 30, 2002.

CHATTANOOGA HUMAN SERVICES DEPARTMENT:

- ✍ **HARVEY HEREFORD, JR.** – Hire, Bus Driver, Head Start, \$9.25 per hour, effective May 6, 2002.
- ✍ **SONYA HUCKEBA** – Hire, Substitute Teacher, Head Start, \$5.15 per hour, effective April 22, 2002.

PERSONNEL (Continued)

- ✍ **MICHELL TAYLOR** – Hire, Teacher Assistant, Head Start, \$14,142.40 annually, effective April 22, 2002.
- ✍ **CAROLYN IRELAND** – Hire, Substitute Teacher, Head Start, \$5.15 per hour, effective April 24, 2002.

PURCHASE

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

ALL SEASON LAWN CARE, DAYLIGHT 2 DARK, DENHAM LANDSCAPE, FRESH START LAWN CARE, M & M LAWN (Multiple contracts on the basis of lowest and best bids) R0058625/P0017472

City Rights-of-Way Grounds Maintenance

(Price information available and filed with minute material of this date)

PURCHASE

On motion of Councilman, the following purchase was approved for use by the Department of Finance and Administration for Fleet Maintenance I:

GRAY BROTHERS REPAIR SERVICE (Lower and better bid) R0062262/B0000686

Refurbishing and Certification of a Pettibone Crane

\$29,925.00

PURCHASE

On motion of Councilman Franklin, seconded by Councilman Taylor, the following purchase was approved for use by the Department of Neighborhood Services:

PREBUL JEEP (Lowest and best bid) R0045873

Sport Utility Vehicle

\$19,338.00

PURCHASE

City Attorney Nelson requested Council approval to advertise the amended and restated **Charter** in the Times-Free Press in the amount of **\$16,262.00** for a six-page advertisement of the 75-page document. He indicated that this advertisement is considered a "single source" purchase.

On motion of Councilman Benson, seconded by Councilman Lively, approval was duly given.

CITY/COUNTY BUDGET HEARINGS

Chairman Littlefield reminded Council members of the City/County budget hearings for joint agencies scheduled for Thursday, May 16 beginning at 9:30 a.m. in the County Commission Assembly Room.

AGENDA FOR MAY 21

Chairman Littlefield indicated that he would not be present for next week's Council meeting, and that the meeting will be chaired by Vice Chairman Franklin.

ADJOURNMENT

Chairman Littlefield adjourned the meeting of the Chattanooga Council until Tuesday, May 21, 2002 at 6 p.m.

CHAIRMAN

CLERK OF COUNCIL

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