

City Council Building  
Chattanooga, Tennessee  
September 9, 2003  
6:00 p.m.

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

**MINUTE APPROVAL**

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

**CAPITAL BUDGET, 2003-2004**

On motion of Councilman Lively, seconded by Councilman Littlefield,  
**AN ORDINANCE APPROPRIATING, AUTHORIZING OR ALLOCATING  
FUNDS TO THE CAPITAL IMPROVEMENTS BUDGET FOR THE FISCAL YEAR  
2003/2004 AND AMENDING ORDINANCE NO. 11316**  
passed second reading. On motion of Councilman Littlefield, seconded by Councilman Taylor, the Ordinance passed third and final reading and was signed in open meeting.

**COUNCIL DISTRICT REAPPORTIONMENT**

Councilman Hakeem stated during discussion in today's Legal and Legislative Committee meeting, the desire from Committee was to defer this item for a maximum of four weeks. He stated if the issue were ready to come back to the Council in two weeks, it would be brought back at that time, yet, no more than a maximum of four weeks.

**COUNCIL DISTRICT REAPPORTIONMENT**  
**(Continued)**

On motion of Councilman Hakeem, seconded by Councilman Littlefield,  
**AN ORDINANCE REAPPORTIONING THE NINE (9) DISTRICTS FOR CITY  
COUNCIL**  
was tabled up to four (4) weeks.

**AMEND ZONING ORDINANCE: URBAN OVERLAY  
ZONE**

Jerry Pace, Director of Operations with the Regional Planning Agency (RPA), stated this matter was presented to the Legal and Legislative Committee this afternoon where it was adequately discussed.

At this point a public hearing was declared for this amendment to the Zoning Ordinance for those wanting to speak for or against this matter; being none, the hearing was duly closed.

On motion of Councilman Littlefield, seconded by Councilman Benson,  
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,  
KNOWN AS THE ZONING ORDINANCE, BY AMENDING ARTICLE III, SO  
AS TO ADD A NEW SECTION 105, TO INCORPORATE NEW LANGUAGE  
RELATIVE TO AN URBAN OVERLAY ZONE**  
passed first reading.

**AMEND ZONING ORDINANCE: PARKING  
STANDARDS**

At this point a public hearing was declared for this amendment to the Zoning Ordinance for those want ing to speak for or against this matter; being none, the hearing was duly closed.

On motion of Councilman Littlefield, seconded by Councilman Benson,  
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,  
KNOWN AS THE ZONING ORDINANCE, BY AMENDING ARTICLE IV,  
GENERAL REGULATIONS, ARTICLE V, ZONE REGULATIONS, AND  
ADDING A NEW SECTION 1700, TO INCORPORATE LANGUAGE  
RELATIVE TO OFF-STREET PARKING, SHARED PARKING AND REDUCED  
PARKING STANDARDS**  
passed first reading.

**REZONING**

**2003-080: Neal Spurling**

The applicant was present; there was no opposition in attendance.

Councilman Taylor stated that he spoke with the applicant and this request is within the area of study that is in process. He made that the motion to defer for thirty days; Councilman Lively seconded the motion.

Later in the meeting, it was determined that the matter should be delayed for a longer period of time, until November 18, both the motioner and seconder agreed.

On motion of Councilman Taylor, seconded by Councilman Lively,

**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,  
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE TRACTS OF  
LAND LOCATED AT 600 AND 606 HAMILTON AVENUE, MORE  
PARTICULARLY DESCRIBED HEREIN, FROM R-2 RESIDENTIAL ZONE TO R-  
3MD MODERATE DENSITY ZONE**

**was deferred until November 18.**

**REZONING**

**2003-107: City of Chattanooga**

Pursuant to notice of public hearing, the request of the City of Chattanooga to rezone properties within the area being generally bounded on the south by Manning Street, on the north by Oxford Street, on the east to the rear property lines of parcels with frontage on Forest Avenue and Mississippi Avenue, and on the west to North Market Street, Dallas Road and Hamilton Avenue came on to be heard.

Mr. Pace stated several property owners are present in regard to this request.

Councilman Taylor stated this request should also be deferred until October 7; that the area is still in the planning phase.

Councilman Lively stated it is his thought the request should be looked into in a more sophisticated way rather than down zoning everything to R-1. He stated there are projects in that area that would not have been able to take place if everything was R-1; that we need to look more into the requirements and make it more sophisticated.

### REZONING (Continued)

Councilman Lively stated more thought should be put into it rather than down zoning everything.

Mr. Pace stated this is the rezoning study; that it was sent to the Council with the ability to make adjustments during this period of time. He stated Planning passed the matter on with the understanding it could be looked at and revised to some extent before being voted upon at the Council.

Councilman Benson stated it is his hope during the interim that the effort would be made to find out exactly which properties are resistant about down zoning and look to see if the blanket down zone will cause a fiduciary loss in value of those properties. He stated if the area is down zoned and someone paid a commercial price and loses or takes an economic "blow", we need to have extra consideration of that. He stated sometimes he realizes down zoning can enhance the property value if all others are lifted up, and that needs to be taken into consideration in the next thirty days.

Mr. Pace responded that Councilman Benson was correct. He stated they have met with the property owners once and are now in a transition period. He stated that they want to be cautious and want to make sure everyone involved is for this recommendation.

Councilman Taylor stated a meeting was held with those in opposition or those who have properties or concerns; that he and others want to make sure there is a chance to hear their concerns to assure that whatever comes forth will be an enhancement for the neighborhood.

William Ring stated that he has property in the area that he recently purchased that is presently zoned R-3, and now he is hearing it is going to be down zoned to R-1. He stated R-1 does not suit the plan or desire for his intended purposes and will restrict the area for his development. He stated he does not think this can be done within thirty days to satisfy the drawings completely as there are new concerns and new everything! He stated more time is needed like sixty days rather than thirty to solidly "court" the situation so it can be sensibly brought to a reasonable conclusion.

Jim Crooks of 612 Forest Avenue stated he lives right across the street from the zone and has property affected. He expressed agreement with the sixty-day deferral.

Councilman Taylor amended his motion to reflect a sixty-day deferral (November 18), which was agreed upon by the seconder, Councilman Lively.

**REZONING (Continued)**

On motion of Councilman Taylor, seconded by Councilman Lively,  
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE PROPERTIES WITHIN THE AREA BEING GENERALLY BOUNDED ON THE SOUTH BY MANNING STREET, ON THE NORTH BY OXFORD STREET, ON THE EAST TO THE REAR PROPERTY LINES OF PARCELS WITH FRONTAGE ON FOREST AVENUE AND MISSISSIPPI AVENUE, AND ON THE WEST TO NORTH MARKET STREET, DALLAS ROAD AND HAMILTON AVENUE, MORE PARTICULARLY DESCRIBED HEREIN AND SHOWN ON THE MAPS ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, FROM R-2 RESIDENTIAL ZONE, R-3 RESIDENTIAL ZONE, R-4 SPECIAL ZONE, C-2 CONVENIENCE COMMERCIAL ZONE, M-1 MANUFACTURING ZONE AND M-3 WAREHOUSE AND WHOLESALE ZONE TO R-1 RESIDENTIAL ZONE**  
was deferred until November 18.

**CHANGE RIGHT-OF-WAY NAME**

Pursuant to notice of public hearing, the request of the City of Chattanooga to change the right-of-way name of the 1600 block of White Oak Road to Auburndale Avenue came on to be heard.

Mr. Pace stated this request is being made due to a conflict with the 911 system; that approval is recommended by both the Staff and Planning Commission.

On motion of Councilman Lively, seconded by Councilman Littlefield,  
**AN ORDINANCE TO CHANGE THE RIGHT-OF-WAY NAME OF THE 1600 BLOCK OF WHITE OAK ROAD TO AUBURNDALE AVENUE, BEING MORE PARTICULARLY DESCRIBED HEREIN**  
passed first reading.

**LIFT CONDITIONS**

**2003-126: Brian L. Tune**

Pursuant to notice of public hearing, the request of Brian L. Tune to lift conditions imposed in Ordinance No. 8943 and Ordinance No. 9657 on property located at 1651 Gunbarrel Road came on to be heard.

**LIFT CONDITIONS (Continued)**

Mr. Pace stated this request is located in the Hamilton Mall community. He stated the neighborhood has requested that the developer remedy the situation of dead pine trees and replace it with landscaping more appropriate than dead trees as they were afraid the trees would fall on a houses. He stated this request is to lift the conditions; that a site plan has been submitted showing the tree plantings replacing the lost trees.

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 LIFT CONDITIONS  
IMPOSED IN ORDINANCE NO. 8943 AND ORDINANCE NO. 9649, ON  
PROPERTY LOCATED AT 1651 GUNBARREL ROAD, BEING MORE  
PARTICULARLY DESCRIBED HEREIN, SUBJECT TO CERTAIN CONDITIONS**  
passed first reading.

**REZONING**

**2003-127: Clare Parker**

Pursuant to notice of public hearing, the request of Clare Parker to rezone a tract of land located at 3222 Calhoun Avenue came on to be heard.

The applicant was present; there was no opposition in attendance.

Mr. Pace stated this request is located in the Clifton Hills and Rossville Boulevard area. He stated along Calhoun are a lot of C-2, R-2 and M-1 that has been a mixed zone area for some time. He stated there is a policy dating back to the 1960's and over a period of time the zoning has changed and the policy is not effective anymore. He stated this request involves a single-family house with a request for C-2 for storage; that Planning and Staff recommend approval.

Councilman Taylor asked if the whole block is C-2 and whether there is any future plan to acquire the other piece of property.

John Moore was present representing his wife, Claire Parker. He stated they own a very small cleaning service and purchased this building to store their propane buffers and scrubbers. He stated there is a garage behind the house that cannot be seen from the photos displayed and they want to do billing and payables from this location. He stated they have no plan whatsoever to try to acquire anything else on this street; that they have this little business and will not bother anyone. He stated this will be great for the neighborhood and they cut the grass once a week.

**REZONING (Continued)**

Councilman Taylor stated representatives from the East Lake neighborhood are present and he knows Mr. Moon will be a good neighbor.

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 A TRACT OF  
LAND LOCATED AT 3222 CALHOUN AVENUE, MORE PARTICULARLY  
DESCRIBED HEREIN, FROM R-2 RESIDENTIAL ZONE TO C-2  
CONVENIENCE COMMERCIAL ZONE**  
passed first reading.

**REZONING**

**2003-129: Wyndi M. White and Louise Ferguson, Jr.**

Pursuant to notice of public hearing, the request of Wyndi M. White and Louis Ferguson, Jr. to rezone a tract of land located at 13 North Parkdale Avenue came on to be heard.

The applicant was not present.

Mr. Pace stated he received a letter from Mr. Ferguson requesting withdrawal and gave a copy of the letter to Councilman Littlefield.

Councilman Littlefield stated that he knows the neighborhood has been very concerned about this and expressed his appreciation to the applicant for wanting to withdraw. He stated there is a very consistent policy along Brainerd Road not to rezone commercial along the first tier (of Brainerd Road). At this point he made the motion to deny.

On motion of Councilman Littlefield, seconded by Councilman Benson,  
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,  
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF  
LAND LOCATED AT 13 NORTH PARKDALE AVENUE, MORE  
PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO R-  
4 SPECIAL ZONE**  
was denied.

## REZONING

### **2003-132: Sandy Maddox**

Pursuant to notice of public hearing, the request of Sandy Maddox to rezone a tract of land located at 2235 Hickory Valley Road came on to be heard.

The applicant was present; there was no opposition in attendance.

Mr. Pace stated this request is located in the Hickory Valley and Shallowford Road areas. He stated the structure on the property is presently single-family use. He stated two-to-three months ago some properties were rezoned R-4 to the north and west, which left only single family residential in between RT-1 and R-4. He stated the request is for R-4 and there is commercial across the street. He stated since the adjacent lot is an office park R-4 is an acceptable use for the property. He stated the request is recommended for approval from Staff and Planning.

Councilman Benson stated that he recalled there was a site plan and certain conditions placed on the property to enhance the quality of development and make it harmonious with the surrounding neighborhood.

Mr. Pace stated the conditions on the other R-4 property that is between R-1 and R-4 required that a brick fence be installed. He stated in this area abutting R-4 on one side and commercial on the front along with RT-1, they will have to meet the City's landscape ordinance for the property between the RT-1 and R-4 and there is no need for buffering between the office park and this office.

Councilman Benson stated that a rendering was required for this property with regard to the quality of construction.

Mr. Pace responded, "no"; that they would only have to have a site plan, which is in each Council member's packet and is reflected on the map that was shown.

Councilman Benson stated that he has no problem voting for R-4 if we keep it in the quality of construction we conditionally zoned for the adjacent property.

Mr. Pace stated there is nothing in the Zoning Ordinance that requires him to request that from them.

Sandy Maddox, Financial Advisor with Raymond James, stated that he wants to build an office at this location with the ability to build other locations to sell or lease. He stated he updated the site plan to reflect the correct setbacks on both sides, which was incorrect when submitted initially.

### REZONING (Continued)

Councilman Benson stated this is for Mr. Maddox's protection as well as to see if the quality is commensurate with what is in the area. He asked if Mr. Maddox plans to house his office at this site.

Mr. Maddox responded, "yes"; that it will be residential in nature. He assured the Council his plans will be extremely nice and will be a Class A office space. He stated as for a site rendering he has that scheduled for permitting after approval; that he did not want to go to any expense under this scenario if it was not approved. He stated he plans to remodel the house.

Councilman Benson asked if Mr. Maddox plans to keep the house there. Mr. Maddox responded "no".

Councilman Benson then asked when the construction would occur. Mr. Maddox responded that it is his hope to get started this year.

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 2235 HICKORY VALLEY ROAD, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO R-4 SPECIAL ZONE**

passed first reading.

### REZONING

#### **2003-133: Hunter Museum c/o DHW Architects and City of Chattanooga c/o Jeff Pfitzer**

Pursuant to notice of public hearing, the request of Hunter Museum c/o DHW Architects and City of Chattanooga c/o Jeff Pfitzer to rezone a tract of land located at 10 Bluff View came on to be heard.

There was no opposition in attendance.

Mr. Pace stated this request is located in the downtown area for a request of C-3 to help facilitate and implement the 21<sup>st</sup> Century Riverfront Development Plan occurring all along the riverfront. He stated approval is recommended from both the Planning and Commission, along with a number of conditions attached pursuant to downtown C-3 rezoning to assure quality and the success of this zone and development.

**REZONING (Continued)**

On motion of Councilwoman Robinson, 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 10 BLUFF VIEW, MORE PARTICULARLY DESCRIBED  
HEREIN, FROM R-4 SPECIAL ZONE TO C-3 CENTRAL BUSINESS ZONE,  
SUBJECT TO CERTAIN CONDITIONS**  
passed first reading.

**REZONING**

**2003-134: Elmer J. Bass**

Pursuant to notice of public hearing, the request of Elmer J. Bass to rezone a tract of land located at 3402 and 3404 7th Avenue came on to be heard.

The applicant was present; there was no opposition in attendance.

Mr. Pace stated this request is located in the East Lake area south of 34<sup>th</sup> Street. He stated there is R-2 to the south and across the street and a number of single-family residential homes, with commercial use at the corner of 34<sup>th</sup> Street and Seventh Avenue. He stated this is an area that is between M-1 and has some C-2, yet it still has a residential component that is very well kept. He stated approval is recommended from both the Planning Commission and Staff subject to conditions, which indicate that the site would be used as storage for vehicles and supplies only. He stated it was felt the storage of equipment and supplies would be appropriate for C-2 but not rezoned for commercial retail use, per se.

Elmer Bass stated when he purchased the property he did not check on it; that the property line reflected there were two pieces of property, a house and a garage, and neither one would be anything by themselves because there is an alley or driveway that comes through there. He stated he just got it and wanted to be able to store his equipment.

Jean Swafford of the East Lake Neighborhood Association stated that they object to spot zoning. She stated that she knows Atomic Ice was there and used the house for storage. She stated Mr. Bass came in and built-on to a little garage in the back and built close to Eighth Avenue and needs a variance because the property does not have the frontage required and there is a driveway between Atomic Ice and this house. She stated Mr. Bass has rented out the house that Atomic Ice used for storage.

### REZONING (Continued)

Ms. Swafford stated since Mr. Bass built-on there has been a problem; there was a stop work order because he did not have a permit and does not have a plan. She stated when a person has a business in the community it decreases property values and when she purchased her house it was a residential area and has been for 42 years. She asked the Council to vote 'no' for the rezoning.

Yvonne Smith stated there is a gutter company and a Post Office in the area and they do not need anything else!

Mr. Bass stated the reason they are "fighting" him is because they want the people that live in the house to move. He stated the lady that lives there is on Section 8 and on disability; that they came to him and told him he was wrong and they were going to "fight" him on this if he did not tell the people they would have to move out.

**Councilman Taylor** stated in looking at the R-2 zoning the persons in the house would be allowed to stay as far as the residential portion of it is concerned, however, if it moves to C-2 problems would arise. He stated that he had an opportunity to look at this and to speak with some of the residents of the neighborhood. He stated if you look at the line between East 34<sup>th</sup> and East 35<sup>th</sup>, there is a "strong hold" of single-family residences, with only one house as a duplex. He stated considering the neighborhood on that street and the way they are working together to uphold their homes and keep them, once commercial starts encroaching into the neighborhood greater problems arise. At this point, he **made the motion to deny the request.**

Councilman Hakeem asked for a point of clarification as to whether Mr. Bass wants this rezoned to allow the persons to live in the house. Mr. Bass responded "yes".

Councilman Hakeem stated that he thought he heard someone said he would use it for storage. Mr. Bass responded, "just the garage"; that the garage has been a storage area for a former business all along.

Ms. Swafford interjected that Mr. Swafford has built a gate onto the structure.

Councilman Hakeem asked if Mr. Bass could use the gate as it presently is without having the property rezoned. City Attorney Nelson responded "yes".

Councilman Littlefield asked if the house the property is on is already zoned commercial. Mr. Pace responded "no"; that it is R-1.

### REZONING (Continued)

Mr. Bass stated that he thought it was (commercial); that one part if it is and there are actually three parts.

Councilman Littlefield clarified that Mr. Bass wants to use the house residentially but wants it rezoned commercial and rent the house out as a residence.

Mr. Bass stated that the garage did not go with the house; that the only reason he is going through this is to use the garage.

City Attorney Nelson asked if the lot is big enough to be subdivided. Mr. Pace responded "no".

At this point, Councilman Benson "called for the question" on the motion to deny.

On motion of Councilman Taylor, seconded by Councilman Page,

**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND AT 3402 AND 3404 7<sup>TH</sup> AVENUE, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-2 RESIDENTIAL ZONE TO C-2 CONVENIENCE COMMERCIAL ZONE, SUBJECT TO CERTAIN CONDITIONS**

was denied; Councilman Lively abstained.

### REZONING

#### **2003-135: Jim Horsey**

Pursuant to notice of public hearing, the request of Jim Horsey to rezone a tract of land located at 1900 Gunbarrel Road came on to be heard.

The applicant was present; there was no opposition.

Mr. Pace stated this request is located in the Hamilton Mall area. He stated there is R-4 and C-2 in the area and an O-1 lot that goes back to Denton Lane. He stated the site is for a branch bank to be located on the part that is being rezoned. He stated there is a bank across the street, an office to the north in the R-4 zone and a motel in the C-2 zone. He stated this meets the intent of the Hamilton Place Community Plan, however, condition one of the request stated there is to be the "*addition of a right turn lane running along the north side of Gunbarrel Road*", which is incorrect.

### REZONING (Continued)

Mr. Pace stated the street name in that condition should read "*Igou Gap Road*", which will be corrected prior to second and third reading. He stated it did come from the RPA office as "Gunbarrel Road", however the correction needs to be made.

Councilman Benson asked if the Traffic Engineer approved this.

Mr. Pace responded "yes", that the Traffic Engineer requested the turning lane.

On motion of Councilman Benson, 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 1900 GUNBARREL ROAD, MORE PARTICULARLY  
DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO R-4 SPECIAL  
ZONE, SUBJECT TO CERTAIN CONDITIONS**  
passed first reading.

### REZONING

#### **2003-137: Rick Thompson**

Pursuant to notice of public hearing, the request of Rick Thompson to rezone a tract of land located in the 500 block of Lindsay Street came on to be heard.

The applicant was present; there was no opposition.

Mr. Pace stated this request is located in the downtown area near the community garden. He stated parking would be provided along Vine and Lindsay Streets and there was opposition from residents at 508 Fifth Street who questioned the alleyway between Houston and Lindsay, expressing concern about access being limited or cut off. He stated that he pulled a plat dated from 1927 that showed the alleyway distance as presently platted and never going through to Lindsay. He stated the alleyway will not be affected at all for people that face Fifth Street and access will not be cut off. He stated it is inaccessible now because it is grown over and they researched to make sure the alleyway was not being cut off. He stated both the Staff and Planning Commission recommend approval with the same conditions placed on properties in downtown so as to assure a quality development.

### REZONING (Continued)

On motion of Councilwoman Robinson, 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 IN THE 500 BLOCK OF LINDSAY STREET, MORE  
PARTICULARLY DESCRIBED HEREIN, FROM R-4 SPECIAL ZONE TO C-3  
CENTRAL BUSINESS ZONE, SUBJECT TO CERTAIN CONDITIONS**  
passed first reading.

### REZONING

#### **2003-140: Jeffery B. Carmack – Carmack Properties**

Pursuant to notice of public hearing, the request of Jeffery B. Carmack – Carmack Properties to rezone a tract of land located at 5809 Winding Lane came on to be heard.

The applicant was present. Several residents from the community were present in support of this request.

Mr. Pace stated this request is located in the Hixson area and has been heard a number of times. He stated the residents on Sutton Drive have been very religious in their attendance to rezoning requests for this property. He stated the request is for rezoning for a branch bank and comes with the recommendation for approval from both Planning and Staff with conditions as stated in the Ordinance.

Councilman Lively wanted assurance that the conditions in the Ordinance state that it is for a “*bank only*”. Mr. Pace clarified that the conditions do state that the request is for a “*bank only*”.

Councilman Page stated that the adjoining property was rezoned O-1 and was for a bank also.

Mr. Pace stated that R-4 zone is also for a bank and both indicate for “*bank only*”. He stated there have been some negotiations and there may be some competition there for banks.

Councilman Littlefield stated this goes back to 1987 or 1988 and the residents have been very religious about this. He stated this thing has eternal life!

**REZONING (Continued)**

On motion of Councilman Lively, seconded by Councilman Littlefield,  
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,  
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF  
LAND LOCATED AT 5809 WINDING LANE, MORE PARTICULARLY  
DESCRIBED HEREIN, FROM O-1 OFFICE ZONE TO R-4 SPECIAL ZONE,  
SUBJECT TO CERTAIN CONDITIONS**  
passed first reading.

**AMEND CITY CODE**

Councilman Littlefield stated this matter was before the Legal and Legislative Committee this afternoon. He stated it is a draft Ordinance that will be revised prior to second and third reading next week.

On motion of Councilman Littlefield, seconded by Councilman Lively,  
**AN ORDINANCE TO AMEND PART II, CHATTANOOGA CITY CODE,  
CHAPTER 24, ARTICLE II, SECTION 24-82 AND ARTICLE X, SECTIONS 24-  
304(c) AND 24-322, RELATIVE TO PARKING VIOLATIONS**  
passed first reading.

**LEASE-PURCHASE AGREEMENT: MOTOROLA, INC.**

On motion of Councilman Littlefield, seconded by Councilman Hakeem,  
**A RESOLUTION APPROVING A LEASE-PURCHASE AGREEMENT WITH  
MOTOROLA, INC., RELATIVE TO THE ACQUISITION OF CERTAIN RADIO  
COMMUNICATIONS EQUIPMENT AND SOFTWARE, AND AUTHORIZING  
THE CITY FINANCE OFFICER TO ENTER INTO SAID LEASE-PURCHASE  
AGREEMENT**  
was adopted.

**INTERLOCAL AGREEMENT**

On motion of Councilman Hakeem, seconded by Councilman Littlefield,  
**A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN  
INTERLOCAL AGREEMENT WITH HAMILTON COUNTY AND THE 911  
BOARD RELATIVE TO RADIO COMMUNICATIONS**  
was adopted.

**INTERLOCAL AGREEMENT**

On motion of Councilman Hakeem, seconded by Councilman Littlefield,  
**A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN  
INTERLOCAL AGREEMENT WITH HAMILTON COUNTY RELATIVE TO THE  
SHARING OF THE COST OF THE MOTOROLA UPDATE IN RADIO  
COMMUNICATIONS EQUIPMENT AND SOFTWARE**  
was adopted.

**TEMPORARY USE: EWEN ENVIRONMENTAL**

On motion of Councilman Pierce, seconded by Councilman Littlefield,  
**A RESOLUTION AUTHORIZING EWEN ENVIRONMENTAL TO USE  
TEMPORARILY THE CITY'S RIGHT-OF-WAY BETWEEN THE 500 BLOCK  
AND THE 800 BLOCK OF RIVERFRONT PARKWAY FOR THE  
INSTALLATION OF GROUND MONITORING WELLS FOR THE JONES-  
BLAIR COMPANY, SUBJECT TO CERTAIN CONDITIONS**  
was adopted.

**AMEND RESOLUTION 23721: TEMPORARY USE**

On motion of Councilman Littlefield, seconded by Councilman Hakeem,  
**A RESOLUTION AMENDING RESOLUTION NO. 23721 AUTHORIZING  
MALCOLM WALKER, PRESIDENT OF THE SHEPHERD COMMUNITY  
COUNCIL, TO USE TEMPORARILY THE CITY'S RIGHT-OF-WAY AT THE  
1700 BLOCK OF SHEPHERD ROAD AND FISK AVENUE TO PLACE A  
GATEWAY SIGN AT A REVISED LOCATION, SUBJECT TO CERTAIN  
CONDITIONS**  
was adopted.

**TEMPORARY USE: LEMONT JOHNSON, D/B/A/  
LEMONT'S CATERING**

On motion of Councilman Hakeem, seconded by Councilman Littlefield,  
**A RESOLUTION AUTHORIZING LEMONT JOHNSON, D/B/A/ LEMONT'S  
CATERING TO USE TEMPORARILY THE CITY'S RIGHT-OF-WAY OF THE  
800 BLOCK OF DODDS AVENUE TO PLANT TREES AND GRASS ALONG  
THE SIDEWALK AREA, SUBJECT TO CERTAIN CONDITIONS**  
was adopted.

**AGREEMENT: GERSHMAN, BRICKNER & BRATTON, INC.**

On motion of Councilman Hakeem, seconded by Councilman Littlefield,  
**A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO ENTER INTO AN AGREEMENT WITH GERSHMAN, BRICKNER & BRATTON, INC. FOR PROFESSIONAL SERVICES RELATIVE TO SOLID WASTE MANAGEMENT IN AN AMOUNT NOT TO EXCEED EIGHTY-FIVE THOUSAND DOLLARS (\$85,000.00)**  
was adopted.

**SPECIAL POLICEMEN**

On motion of Councilwoman Robinson, seconded by Councilman Taylor,  
**A RESOLUTION AUTHORIZING THE APPOINTMENT OF JACKIE L. MOORE, THOMAS J. PICKENS, MICHAEL T. ROBERTSON, ALBERT D. CHANDLER, RICHARD E. COOK, JR., JUSTIN E. JACKSON, DANNY MINGO, AND JAMES FLANAGAN AS SPECIAL POLICEMEN FOR THE HAMILTON COUNTY PARKS DEPARTMENT, TO DO SPECIAL DUTY AS PRESCRIBED HEREIN, SUBJECT TO CERTAIN CONDITIONS**  
was adopted.

**AGREEMENT: STOKES, BARTHOLOMEW, EVANS & PETREE, P.A.**

On motion of Councilman Hakeem, seconded by Councilman Littlefield,  
**A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH STOKES, BARTHOLOMEW, EVANS & PETREE, P.A., RELATIVE TO LOBBYING SERVICES FOR FISCAL YEAR 2003-2004, FOR AN AMOUNT NOT TO EXCEED FIFTY THOUSAND DOLLARS (\$50,000.00), PLUS REASONABLE OUT-OF-POCKET EXPENSES**  
was adopted.

**OVERTIME**

Overtime for the week ending September 5, 2003 totaled \$88,443.54.

**PERSONNEL**

The following personnel matters were reported for the various departments:

**PERSONNEL (Continued)**

**PUBLIC WORKS DEPARTMENT:**

- ✍ **TERRY L. MCCULLOUGH** – Hire, Equipment Operator, Citywide Services, Pay Grade 6/Step 1, \$20,429.00 annually, effective September 2, 2003.
- ✍ **WILLIAM MILES** – Suspension (3 days without pay), Equipment Operator, Sr., Citywide Services, effective August 21-26, 2003.
- ✍ **WILLARD G. TROTTER** – Suspension (3 days without pay), Equipment Operator, Citywide Services, effective September 3-5, 2003.
- ✍ **JEFFERY B. TEMPLIN** – Promotion, General Supervisor, Sr., Citywide Services, Pay Grade 16/Step 4, \$37,151.00 annually, effective August 29, 2003.

**CHATTANOOGA POLICE DEPARTMENT:**

- ✍ **BOBBY MOSES, TODD ROYVAL, CHAD SUTTLES, SR.** – Resignation, Police Officer, effective September 4, 2003.
- ✍ **DEVONA J. DAVIS** – Resignation, School Patrol, effective August 29, 2003.
- ✍ **REBECCA A. ROYVAL** – Resignation, Communications Officer, effective September 4, 2003.
- ✍ **GAY P. SHETTER** – Reinstatement, School Patrol, effective September 5, 2003.

**HOTEL PERMITS**

On motion of Councilman Littlefield, seconded by Councilman Pierce, the following hotel permits were approved:

**HOLIDAY INN EXPRESS** – 4833 Hixson Pike, Hixson, TN

**BLUFF VIEW INN-MACLELLAN HOUSE** – 411 East Second Street, Chattanooga, TN

**PURCHASE**

On motion of Councilman Hakeem, seconded by Councilman Littlefield, the following purchase was approved for use by the Chattanooga Fire Department:

**P&R PRODUCTS COMPANY (Lowest and best bid)**  
**R0054778/B0000890**

Helmet Passport Shields

\$10,687.50

**RETIREMENTS**

Chief Coppinger stated four Firefighters retired recently and wanted the official record to reflect recognition of their exemplary performance. The four Firefighters are: Captain Chester Carney (28 years of dedicated service), Captain Randy Stargin, Sr. (28 years of dedicated service), Captain Randall Goins (30 years of dedicated service) and Sr. Firefighter Larry Taylor (28 years of dedicated service). He stated all four retirees would be sorely missed.

**PURCHASE**

On motion of Councilman Taylor, seconded by Councilman Littlefield, the following purchase was approved for use by the Chattanooga Police Department:

**G. T. DISTRIBUTORS (Lower bidder)**  
**R0054067/B0000904**

Duty Weapons

\$1,322.17

**G.T. DISTRIBUTORS (Best bid overall)**  
**R0069439/B0000894**

Tactical Gear/Leather Goods

\$351.95

**PURCHASES (continued)**

**G.T. DISTRIBUTORS (Lowest bid meeting specifications for item one only)**  
**R0069441/B0000903**

Ballistic Vests *(It is recommended that no award be made on item two. The requisitioner discovered an error in the specifications for this item. The specifications for item two will be revised and re-advertised.)*

\$329.45

**PERSONNEL INQUIRY**

Councilman Taylor stated that he noticed there are five resignations on tonight's personnel transaction for the Police Department. He asked if there is an explanation for this.

Captain Williams stated they have resigned for various reasons, indicating that some are going into other professions outside law enforcement.

Councilman Taylor asked if those who have resigned were in the training class.

Captain Williams responded "no"; that they were veteran officers.

Councilman Pierce stated that the Council deserves some type of explanation. He stated department heads were excused from having to come to the Council meeting to report personnel matters, however, when questions like this come up someone should be present to explain. He asked if someone could be present at next week's Council meeting to explain the resignations.

Captain Williams apologized for not having the answers and stated that he would pass the inquiry on to Chief Dotson.

Councilman Benson asked if an exit interview is part of the process.

Captain Williams responded, "not through training". He stated that he did not know whether Chiefs Dotson or Cooke did this.

Councilman Benson stated that a lot could be learned from the exit interview process. He stated that the Council should know the outcome of the exit interview.

Captain Williams indicated that he would pass the information on to Chief Dotson.

**PURCHASE**

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

**INDUSTRIAL CLEANING PRODUCTS (Best bid)**  
**R0068745/B0000892**

Twelve Months Requirements Contract for Truck Wash Products

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

**BOARD APPOINTMENTS**

On motion of Councilman Hakeem, seconded by Councilman Littlefield, the following Board Appointments were approved:

**VARIANCE BOARD:**

- ✍ Appointment of **CASILDA JAMES** to fill the unexpired term of Nicole DiStasio for a term expiring August 15, 2004, representing District 9.

**GAS FITTERS EXAMINERS BOARD:**

- ✍ Appointment of **DOUG DAILEY** for a term ending October 6, 2007.

**COMMITTEES**

Councilman Littlefield scheduled a meeting of the **Legal and Legislative Committee for Tuesday, September 16 beginning at 3 p.m.**

Councilman Hakeem reminded Council members of the meeting of the **Public Works Committee scheduled for Tuesday, September 16 at 4 p.m.**

Councilman Page stated the Economic Development Committee met today and looked at migration trends for Hamilton County. He stated RPA has been requested to come back with information about migration patterns.

**JOHN GRAHAM**

John Graham stated that he noticed that the Council was very vocal about the increase in water rates and wondered if the Council could draft an ordinance wherein the increase in water rates would not increase the sewer rate. He asked that the Council show their "true spirit" and reduce the sewer rate.

Councilman Lively informed Mr. Graham that the water increase does not affect the sewer rate.

Mr. Graham stated that his consumption determines how much his sewer bill is.

Councilman Lively stated that his sewer bill might go down if less water is used.

Mr. Graham asked for clarification that the amount is based on the percentage of gallons rather than dollars. The response was "yes".

Councilman Benson stated the sewer bill has no relationship to the rates.

**GARY BALL**

Gary Ball stated that he was not sure how many Council members would attend tomorrow's Variance Board meeting, and that he wanted to let everyone know that the issue he and others would bring forward is much broader than the 500 feet allowance from the church. He presented a large poster board with three different colored circles encompassed within streets in the area. He stated the three circles are representative of the Puss and Boots Club, an adult bookstore and the Sugar and Spice Club, if it is approved. He stated the issue is that they have discovered in looking into this nationwide is that the City's ordinance was done quite awhile back; that the clustering effect of these businesses is something he and others in the community believe can be taken into account when people look at where the businesses should go. He stated it might be that when this situation is over, some of us will come back to the Council and ask that the present Ordinance be amended; that this is a lot of impact in such a small area if these type businesses are compounded in one area.

Mr. Ball continued by stating that it is his thought that it is proper for the City to look at another part of the City for this, indicating that it is not his wish to downgrade another neighborhood. He stated it is his preference this be looked at on a larger scale and decide how they can be placed in communities where they have the right to exist and the rest of the community have their right for quality of life issues.

**GARY BALL (Continued)**

Mr. Ball stated he and others do not plan to attend the Variance Board meeting on tomorrow and make an emotional plea; that they plan to present facts through their research in the hope the Board can act in such a way they would feel confident if it goes to another venue. He stated one of the gentlemen on the Board serving as a volunteer stated he was faced with the issue of having the finger pointed at him because of this case. He stated as a volunteer he felt troubled that he has strong sentiments as to how it would affect the community, but did not want to do something based on sentiment or emotion; that he wants it based on facts. He stated the whole issue might be something everyone should begin to think about and revisit for the future.

Councilman Pierce inquired as to whether the property is still being developed.

Mr. Ball responded "yes"; that they have a building permit and that is what is troubling; that they have felt from the "get go" that this is not an issue. He stated it is his belief that they were given another month by last month's vote by the Board not having a quorum to look at a much broader issue than what the Board first thought. He stated they felt if the church is "dead" there would not be any other issue the City could bring forward to stop it. He stated the applicant has had a building permit for several weeks.

Councilman Pierce stated that he is fearful that construction is continuing although there is a "feeling" toward the Variance Board that they will do what they want to do. He stated the applicant feels it is a "done deal" and cannot be stopped. He asked if the church is still in existence.

Mr. Ball stated as far as they know the church is not coming back, however, that is not the issue as far as they are concerned. He stated the entire issue is what effect these businesses have on the community; that they found out last night that the Mayor and County Commission produced a document on vices in 1997. He stated the document was found last night and it goes into great detail addressing a number of the issues. He stated they are going to approach it as to how they feel the Ordinance allowed the Board to review the entire matter and present the facts based on that.

Councilman Pierce stated there was an issue once before regarding a beer license and the end result was that the church was did not object to it; that he was wondering if it is not a church why it is not back on the tax roll; that there could be an effort to try to collect a little money if it is on the tax roll.

**GARY BALL (Continued)**

Councilman Littlefield expressed appreciation for Mr. Ball's points and stated it has been a long time since the issue was looked into as the Ordinance was written back in the 1970's; that he and the City Attorney worked on this years ago. He stated it was written based on an Ordinance from Detroit, Michigan, which had been all the way to the Supreme Court. He stated it is very difficult to control those types of uses and not violate their Constitutional rights. He stated they wrote it as stringently and tightly as they could; that the effect of it over the years is that the number of adult-oriented establishments remains very small. He stated if we had our way, we would encourage them all to go somewhere else; that in this case the applicant can have a building permit to work on a building and whether to not it is used as an adult-oriented establishment remains to be seen. He stated he would say to any member of the Board of Appeals that he does "feel their pain" having to vote on this issue; that it is his thought many feel they do not know how they can abstain. He stated he would be happy to look at any revisions or any advances in controlling these uses, indicating there are two ways to think about this: (1) keep them all in the same area or (2) spread them throughout the City. He stated he would be interested in anything Mr. Ball turned up from other communities that has been more successful; that there have been a lot of cases since back in the 1970's and (he) would be glad to bring it to the Legal and Legislative Committee.

Councilman Benson stated an establishment such as this is a heavy cost to the City and some cities found it necessary to levy liens or fees and other ways to get the cost back. He asked City Attorney Nelson if the taxes for these establishments could be higher.

City Attorney Nelson stated if you could quantify the loss to the City perhaps we could levy a permit.

Councilman Littlefield stated that he thinks it is the appropriate thing before the vote tomorrow to see if the church is being carried on the tax roll as a church and if it is it is exempt.

Mr. Ball stated that the church has been listed for \$150,000 (to sell).

Councilman Littlefield stated he would be inclined to think it is still tax exempt.

Councilman Taylor inquired as to the location of the church. Mr. Ball clarified that the church is across the street (from this request).

**GARY BALL (Continued)**

City Attorney Nelson stated the City has been successful in limiting these establishments as good as probably any city in the country. He stated we would have to have some hard rungs to "hang our hats on" before jeopardizing the City and getting an ordinance that is unconstitutional.

Carol Gaddis presented photos of herself and other ladies at the church in question and indicated that she and the other ladies, known as the Power of Touch, hold church service at the front door of the church; that they gather and actively hold church. She stated the realtor has not unlocked the church at all to show them the inside of it. She stated the realtor has indicated there is an appraisal on it and when they questioned him for documentation that confirmed the amount of the \$150,000 value they were told that there is not an actual appraisal that it is a realtor's estimate. She stated she does not know where the cabaret is that is in the area and then heard there is a nude girly dance place. She stated in another part of the City a nine-year old girl was raped two years ago; that the gentleman perpetrator was arrested, served time is already back on the street! She stated she has watched that little girl since the rape and when businesses of this type come into the City, it is worse than an insult to decent women who live in this City; it is an absolute neglect of duty for protecting our little children. She stated she would hate to see Chattanooga become a City where parents are told to lock up their children. She stated this child has a psychological situation and has had counseling, however, her life is ruined! She stated this sort of thing is invited when businesses of this type come into residential neighborhoods.

**SHIRLEY DEAKINS**

Shirley Deakins stated that she needed to speak out on this issue. She stated she was told a house built in 1882 had a covenant that stated no hard liquor would ever be sold there. She stated if we could have a covenant that goes back to the late 1700's or 1800's we should consider what is happening with our City; that we are touting all over the world that this is a beautiful place to come and bring your factory and kids. She stated you see all up and down the street pawn stores, "cash your check" and sleazy stuff; that this other stuff is sleaze that impacts little kids. She referenced a group from Brainerd High School students who had said they had "had their way" with her, however, she stated that did not damage her because they never touched her. She stated as long as we have "horny" men and women who do not know how to get out and make a living because they have to have big bucks, sleaze is sleaze any way you want to slice it!

**ADJOURNMENT**

Chairman Pierce adjourned the meeting of the Chattanooga Council until Tuesday, September 16, 2003 at 6:00 p.m.

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**CHAIRMAN**

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**CLERK OF COUNCIL**

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