

City Council Building
Chattanooga, Tennessee
February 10, 2004
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 Littlefield gave invocation.

REZONING

2003-107: City of Chattanooga

Councilmen Taylor and Lively made the motion and second to substitute the amendments to this Ordinance; the motion carried.

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 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, AND C-2 CONVENIENCE COMMERCIAL ZONE TO R-1 RESIDENTIAL ZONE

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.

AMEND CITY CODE

Councilman Pierce asked if this matter has been in Committee; that if this is a revision the Council should know about it.

City Attorney Nelson stated that no new positions are created with the Ordinance and that it was discussed in Committee last week. He stated that there would be no additional money and no additional positions; that the State has reviewed the City's OSHA program and have come back with suggestions as to the revisions. He stated the OSHA program was first adopted in the early seventies; that the matter was approved in Committee.

Councilman Pierce stated that the Ordinance indicates that a Director is being provided for.

Councilman Littlefield stated that the provision makes us comply with State law, which is done from time-to-time; that it is like the Building Code that evolves over time.

Councilman Pierce again indicated that the Ordinance calls for the provision of a Director.

City Attorney Nelson stated that the Director would be nominated from someone in one of the Departments as the Director of the OSHA program.

Councilman Littlefield stated that the City has always had someone serve in that capacity that has other jobs and does several other things.

Later in the meeting, **Roger Hankins**, Loss Control Coordinator for the City, stated all they are doing is amending the plan to be in the same formulation the State is requesting. He stated every five years there is a request to update information to reflect new personnel, such as the department's director or administrator and the Mayor.

On motion of Councilman Hakeem, seconded by Councilman Littlefield,
**AN ORDINANCE TO AMEND PART II, CHATTANOOGA CITY CODE,
CHAPTER 2, ARTICLE III, SECTIONS 2-272 THROUGH 2-289, REVISING
THE OCCUPATIONAL SAFETY AND HEALTH (OSHA) PROGRAM, AND
REVISING THE OSHA RULES AND REGULATIONS FOR THE CITY OF
CHATTANOOGA, AND TO PROVIDE FOR A DIRECTOR AND THE
IMPLEMENTATION OF SUCH PROGRAM**

passed first reading.

REZONING

2003-148: Glasscock Development, Joe Glasscock

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

Jerry Pace, Director of Operations with the Regional Planning Agency (RPA), stated that this matter has been deferred a couple times and the applicant is ready to move forward on first reading. He stated the property is located at the intersection of West View and Mountain Avenue and comes with a recommendation for approval from Planning and Staff with conditions.

Councilman Lively clarified that the alternate version is the version that is being voted on.

On motion of Councilman Littlefield, 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 613 WEST VIEW ROAD, MORE PARTICULARLY
DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO RT -1 RESIDENTIAL
TOWNHOUSE ZONE, SUBJECT TO CERTAIN CONDITIONS**

passed first reading.

REZONING

2004-002: Edward Wall

Pursuant to notice of public hearing, the request of Edward Wall to rezone a tract of land located at 309 Forest Avenue came on to be heard.

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

Mr. Pace stated that this request is recommended for approval from both Planning and Staff.

On motion of Councilman Taylor, seconded by Councilwoman Robinson,

**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF
LAND LOCATED AT 309 FOREST AVENUE, MORE PARTICULARLY
DESCRIBED HEREIN, FROM R-3 RESIDENTIAL ZONE TO R-T/Z
RESIDENTIAL TOWNHOUSE/ZERO LOT LINE ZONE**

passed first reading.

CLOSE AND ABANDON

2004-004: Larry Crane

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

Mr. Pace stated this request is located in the Clifton Hills area between Rossville Boulevard and Calhoun; that businesses along Rossville Boulevard are in the C-2 zone with M-1 and R-2 in the area, as well. He stated the recommendation is for denial; that an alternative would be to request a temporary use of the alley to gate or close it off without closing or abandoning the alleyway.

Larry Crane stated that he owns property at 3003, 3007 and 3012 Rossville Boulevard, as well as 303 and 304 Calhoun; that he has businesses at all the locations with an alley that goes through. He stated that there are bars on 31st and 33rd Streets and that alcoholics and drunk drivers use this alley to go to bars; that prostitution, drug dealing and other illegal activities go on in this alley. He stated the alley used to reach from 28th Street to 51st Street and all of it was closed except for the two blocks between 30th and 31st Streets; that only two parcels are still open. He stated the City Council closed the rest of the alley as recently as two years ago and asked that the Council give him the same courtesy of closing this because of traffic and public nuisances that go on in the alley. He asked that the Council do something to help get this stopped; that the Police told him they do not have time to patrol alleys and there is a lot of activity going on in this alley and he is trying to stop it. He reiterated that he owns businesses on both sides of the alley.

Councilman Hakeem inquired as to the Public Works Department's concern regarding this alley.

Admin. McDonald stated that their only concern is that it is an open alley and that it is in use, which was their reason for recommending denial.

Councilman Hakeem asked if the matter of temporary closure would negate Public Works' concern.

Admin. McDonald responded "yes"; that that could be worked out and he would be glad to look at it. He stated he did not know if the applicant has made application for that.

Councilman Hakeem asked the City Attorney if the City could move in that direction if temporary closure would be of use to the applicant. City Attorney Nelson responded "yes".

CLOSE AND ABANDON (Continued)

Mr. Pace stated that the applicant has made application to the City Engineer and the matter will come to the Council for approval.

Councilman Benson asked Mr. Crane if the temporary closure would satisfy what he needs for security reasons. Mr. Crane responded "yes".

Mr. Pace clarified that the temporary use request does not go to Planning; that it comes to the Council from the City Engineer.

Councilman Pierce stated that the alley is being used and wondered how Mr. Crane would be able to gate the alley without denying use of it.

Mr. Pace stated temporary use would not close the alley, yet access would be denied; that the City Council could alter the request or eliminate the temporary use of the alley and reopen it for use.

Mr. Crane stated that the alley used to run from 28th to 51st Streets and the alley has been closed a block at a time; that there are only two blocks left, now.

Councilman Littlefield stated since he was Commissioner of Public Works in 1987, this has been a continuing problem, and the gentleman is right that people trash them. He stated if the Council gives temporary use for a period of six months and if there are no complaints or any unnecessary or unanticipated problems, we could go ahead and completely close the portion he controls now. He proposed that the matter be deferred for six months and asked the City Attorney to bring from the City Engineer a Resolution for temporary closure. He stated the applicant would not have to reapply and could put up the gates unless there is a "fire storm of people" that are cut off, we might have to go back on that.

Councilman Page stated that he wanted to make sure that he heard the alley is being used and wants to make sure the people using it are notified regarding this; that he wants to make sure this is in the deferral request.

Mr. Pace stated that it is hard to say who is using it; that as far as sending out notices, they can be sent to the residents to make them aware it will be temporarily closed.

Councilman Littlefield stated people would still be able to access it one way.

Mr. Pace indicated that people could still go out 31st Street.

CLOSE AND ABANDON (Continued)

City Attorney Nelson asked if the property has been posted and if there was opposition to the request. Mr. Pace responded that the property has been posted for closure and that there was no opposition.

On motion of Councilman Littlefield, seconded by Councilman Lively,
**AN ORDINANCE CLOSING AND ABANDONING AN UNNAMED ALLEY
BEGINNING ON THE SOUTH LINE OF THE 1500 BLOCK OF EAST 30TH
STREET, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON
THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY
REFERENCE**
was deferred six months.

REZONING

2004-008: Chattanooga Elks Lodge #91

Pursuant to notice of public hearing, the request of Chattanooga Elks Lodge #91 to rezone the northeast corner of property located at 1067 Graysville Road came on to be heard.

A representative for the applicant was present; there was no opposition in attendance.

Mr. Pace stated this request is located in the East Brainerd Area and at the Planning Commission the request was for the whole site for C-2. He stated the East Brainerd Corridor Plan calls for offices for the site and Planning and Staff concurred with rezoning only the portion where the building is located. He stated the recommendation is to deny the C-2 and recommend the C-5, which is called for in the East Brainerd Plan for that area.

Councilman Benson stated that the request was changed to C-5 at the Planning Commission hearing with certain conditions.

On motion of Councilman Benson, seconded by Councilman Littlefield,
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE THE
NORTHEAST CORNER OF PROPERTY LOCATED AT 1067 GRAYSVILLE
ROAD, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-4 SPECIAL
ZONE TO C-5 NEIGHBORHOOD COMMERCIAL ZONE, SUBJECT TO
CERTAIN CONDITIONS**
passed first reading.

REZONING

2004-009: Martin McNabb

Pursuant to notice of public hearing the request of Martin McNabb to rezone part of a tract of land located at 5008 Highway 58 came on to be heard.

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

Mr. Pace explained that this request is located near Swann Road in an area located behind C-2 property that is currently a car wash/apartment complex. He displayed photos of the property and indicated there are vacuum pumps on the site, which are located near R-1 property. He the Staff recommended denial of the request for C-2 because it went back into the residential area along Swann Road. He stated the recommendation is to rezone a portion of the property where the vacuum hoses are located and that the remainder of the property would remain R-1 45 feet west of and parallel to the eastern property line. He stated the existing vegetative buffer area would be retained between the commercial and R-1 property to the back. He stated there was opposition at the Planning Commission regarding this.

Councilman Benson stated that he did not recall opposition; that there were two people from the audience representing the neighborhood association out there who had some questions; that he did not hear any outright opposition.

Reumel Washington represented the applicant and stated this property is located on Highway 58. He stated in order to access the residential property on Swann Road a person has to go miles around to get in; that the property Mr. McNabb wants rezoned the vacuum pumps were already there and the car wash actually comprises offices that he (Washington) occupies as a real estate broker. He stated Mr. McNabb owns the property and has been there for some time. He stated the property elevation of Mr. McNabb's property is lower than the residential property and there is a built-in buffer. He stated Affordable Tire is next door and is commercial and, at this point, presented a letter from an adjoining resident who does not have any objection to this. He stated that this request does not affect any of the R-1 properties. He stated that he has two offices and one is for storage; that they do not want to do anything that would upset the community. He stated if the Council would come out and view the site they would see his point.

REZONING (Continued)

Mr. Pace stated that there is a large metal building that is used for newspaper distribution for news carriers in that area that is operated early in the morning. He stated one reason denial was recommended was because of the abutting residential neighborhood; that this would be disturbing to them and was not appropriate for this location.

Mr. Washington stated the distance from where this is to any residential structure is somewhere between 150-200 feet and indicated he was not aware of the newspaper activity. He stated he would be operating from a lower level with a built-in buffer and cannot see how this could disturb the residential area. He stated people have to go up Oakwood Terrace or toward Booker Washington Park and turn on Mimosa and come back down; that there is no way these two properties connect as there is no access. He stated this property faces in the opposite direction and it is his wish someone on the Council would come look at it.

Councilman Page expressed understanding with the elevation issue and that Highway 58 is certainly commercial. He stated that he still has a question with regard to adequate vegetation protecting the R-1 properties.

Councilman Lively stated if he understands this correctly the property owner directly behind this request is the one that would come closest to this. Mr. Washington responded "yes".

Mr. Pace then indicated that the house has been demolished already.

Councilman Lively stated he would definitely vote to approve this request; that he did not realize that the pumps were already on the property.

Councilman Hakeem made the motion to defer the matter one week; Councilman Taylor seconded the motion.

On motion of Councilman Hakeem, seconded by Councilman Taylor,

**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE PART OF A
TRACT OF LAND LOCATED AT 5008 HIGHWAY 58, MORE
PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO C-
2 CONVENIENCE COMMERCIAL ZONE, SUBJECT TO CERTAIN
CONDITIONS**

was deferred one week.

REZONING

2004-012: Chattanooga Neighborhood Enterprise

Pursuant to notice of public hearing, the request of Chattanooga Neighborhood Enterprise to rezone tracts of land located in the 800 blocks of East Eighth Street and Flynn Street came on to be heard.

Representatives for the applicant were present; there was no opposition in attendance.

Mr. Pace stated this request is located in the M. L. King neighborhood along Eighth Street near the new elementary school. He stated M. L. King was down zoned several months ago and during that process RPA met with the community several times and talked about a proposal for town homes on this site. He stated it was thought R-4 would accommodate what was planned, but in seeing what is needed for setback and density, a zoning change to C-2 residential only would be requested. He stated that RPA met with the neighborhood since the Planning meeting to explain that they were not trying to change the zoning to commercial; that it is commercial in this instance allowing for residential only. He stated the residents' questions were answered regarding this project and it was explained that the use would be for sale and fee simple would not be for a rental-type apartment complex, even though a person could rent a town house; that it is a fee simple for sale lot showing nineteen units with the capability of a garage apartment to the rear if the homeowner so desires. He stated this comes with a recommendation for approval from Planning and Staff with conditions. He stated the site plan may vary a little as we get into the final design and RPA will meet with the applicant prior to second and third reading to make sure it is "nailed down" better. He stated as far as use, it is for the same use, just a different zone for town houses.

Chairman Franklin stated that the Council toured the area last week.

Councilman Pierce stated that the Council did tour the area and it is felt this is a good project. He stated there was one objection, however, that changed once the person was informed of what was getting ready to happen in light of the recent down zoning that was approved recently. He stated he was informed the Community Impact Fund (CIF) would have to inform the neighborhood before taking a position on this issue and urged them to have a meeting with the neighborhood, which he understands took place on Thursday and the neighborhood is not objecting to this. He stated CIF is all a part of the down zoning and expressed appreciation for what is being done in the community.

REZONING (Continued)

Councilman Pierce stated that he urged CIF and CNE to stay involved with the community organizations on the front end and not at the end; that they have to partner with the community organizations and give them the respect they deserve as they want to build their community and be a part of it. At this point he made the motion to approve the rezoning on first reading.

Councilman Benson expressed strong support for Councilman Pierce's comments and stated that he tried to get people in his district and the developers to make contact before the yellow signs go up. He stated that there is the process of education and respect that should go for CNE, as well as developers or anyone. He stated the yellow signs go up a month in advance and the meeting with the neighborhood just took place last week. Mr. Pace indicated that he met with the group just last week.

Councilman Pierce stated that he was informed that RPA would meet with the Executive Board on Thursday.

Bob McNutt of CNE stated that they had several meetings prior and that was not the only one before the signs went up.

Ken Jordan also expressed support for Councilman Pierce's comments and stated that it is his belief work done by CNE, CIF and M. L. King Tomorrow does benefit the neighborhood. He stated they are very pleased to hear Councilmen Pierce and Benson's request to be as inclusive as they can and indicated he is not quite sure which member of the M. L. King group was met with as his first meeting was last Friday and as former Vice President and now a Board Member he expressed appreciation for the work they have done to improve the neighborhood.

On motion of Councilman Pierce, seconded by Councilman Taylor,

AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE TRACTS OF LAND LOCATED IN THE 800 BLOCKS OF EAST 8TH STREET AND FLYNN STREET, MORE PARTICULARLY DESCRIBED HERIEN, FROM R-4 SPECIAL ZONE TO C-3 CENTRAL BUSINESS ZONE, SUBJECT TO CERTAIN CONDITIONS

passed first reading.

CLOSE AND ABANDON

MR-2004-013: Thomas A. Austin

The applicant was present; opposition was in attendance.

Mr. Pace stated this request is located in the North Chattanooga community regarding an unopened road running from Baker Street on the north down to Tampa on the west near Frazier. He stated Planning, Staff and Public Works reviewed this request and found an unopened and unused right-of-way and found no reason to keep the alleyway open. He stated that this request comes with a recommendation for approval from Planning and Public Works.

Thomas Austin, owner of the lot, stated that he owns two other lots that are adjacent. He stated he has been buying up property since the early nineties and the final one was purchased more than five years ago; that he has owned all the properties between five and nine years. He stated that he attempted to find out what the opposition is about and has a bad feeling that the Council will hear more than they care to hear. He stated some of the adjacent property owners have enlisted others to petition some of the Council members' telephone lines to try to keep this from happening. He stated that he would begin by making a couple requests which are to keep to the subject and that questions be appropriate as he sat through a lengthy Variance Board meeting and discussion got so far off the subject he was not sure what was being voted on at the end of it!

Councilman Littlefield asked Mr. Austin if he has a site plan for where he plans to locate the house; that it is apparent this has been to the Variance Board.

Mr. Austin stated that he asked for a ten-foot variance on the front, as ten feet is what many of the houses in the area are; that he asked for a variance for a side setback on the alley and is now asking to have it closed today. He stated he asked for a zero setback on the alley and received enough opposition that it was declined. He stated that he requested originally that the entire alley be closed, but Mr. Bowers used part of it for vehicle storage.

Nick Bowers stated that he owns property at 108 Baker Street and made reference to a retaining wall in the area. He stated that the State built the retaining wall when they built the Veterans Bridge to protect the approach to the Bridge. He stated that he tried to buy this property in 1992 and the City said it had to be sold at auction, yet in 1996 it was sold to Mr. Austin without anyone else being notified. He stated that the City sold it straight out to him and he does not know how that was done!

CLOSE AND ABANDON (Continued)

Mr. Bowers stated that there is not supposed to be anything built above that wall, however the City's Building Inspector said all he has to do is have the engineers say it was not going to affect the wall if the house was built against it. He stated he always thought there would be a walkway from Baker Street to Frazier Avenue; that it just never occurred to him until a few weeks ago that the alleyway could be turned into a walkway. He stated that is what he is proposing, to put off the decision to abandon this alley and study the feasibility of putting in a walkway from the neighborhood; that there is a large area where people do walk down through and that they used to be able to go down the bank. He stated it has grown up so much and eroded that no one can walk there anymore. He stated he could guarantee it would be greatly used and people are always parking on the wall to enjoy the view. He stated it would be a shame to have a house built there and take up that view that all of us in North Chattanooga and other citizens enjoy.

Margaret Cooper stated that she lives at 111 Baker Street and has been at this address since 1965, and formerly lived next door in 1955. She stated that she has traveled this area many times and so have her children; that people still go down there but cannot see down to the end of the wall. She stated it is her wish it could be left open.

Bill Matthews stated that he started buying property in the eighties and expressed that he did not think Mr. Austin started buying property in the early nineties as the records he has shows he became involved in 1996 once the area was very clean and beautiful and kept pristine due to the neighborhood association's pressure on some of us. He asked that this matter be tabled and have a committee investigate the sale of the land, the appropriateness of a walkway and how we can better have our City become stewards of property. He stated according to records the City was given the property in 1987 by the State, which made the City the caretaker; that the City has a fiduciary duty to protect the property. He stated if indeed the property had been available to him and two others who were interested he certainly would have bid to the "high heavens" so the City would have made more money. He stated that the alleyway is about 50% of the property; that the footprint of this issue will not fit on what is being proposed. He stated the issue is that they have the right to be treated fairly; that the Pledge was taken earlier in the meeting wherein justice was talked about. He stated that he knows the difference between fairness and non-fairness; that some of the laws need to be tweaked and there needs to be involvement of neighborhoods. He stated people need to know and the process of letting us know is not easy.

CLOSE AND ABANDON (Continued)

Mr. Matthews stated that August of 1996 is when the property was sold and the issue is that he did not know the land was up for sale and did not have an opportunity and right to buy it. He stated all he is asking is an opportunity to correct something that most members presently on the Council were not involved in. He stated it is his thought if the Council truly looked at the laws, what happened in 1996 and the early nineties was not fair to several land owners. He stated what is fair for one is not fair for others; that the house will not go on the property without being a "sore thumb" because all other lots are small and a dangerous precedence is being set. He stated other residents cannot put up that kind of house on the other lots and the issue is simple as what has been done here is not fair and he would love to have a chance to do it the easy way.

Mr. Austin stated for the record he did begin buying property in the early nineties at 102 Baker, which subsequently burned down. He stated this is not about justice it is about money and about people who own property; that he bought it to do with it what the property was sold for, which was to sell to someone who would build on it. He stated when this came along he dealt with Countess Jenkins seven years ago and it took two years to buy the property because he spent most of the time waiting for dialogue between the City and State. He stated that he met with Bob McNutt, Mai Bell Hurley and meeting-after-meeting with RPA; that this was not a "cloak and dagger, sneaky thing" that occurred. He stated that he purchased the property at the appraised value, which was done by a City appointed appraiser. He stated if Dr. Matthews' idea of having a committee to tell him what he can do with this property is valid, he would like to be on the committee to tell him (Matthews) what he could do with his in the future across the street! He stated as far as the alley goes, this is a last ditch effort to keep him from closing the alley. He stated that he owns the property on both sides and there is enough City property there up to Baker Street to build a greenway. He stated that he respects Mrs. Cooper's statement, as she has been there longer than anyone, yet he would not call it an open alleyway.

Councilman Littlefield stated that we could sit here and debate all night; that Mr. Matthews has suggested a committee and the Council is that committee to determine how this works out; that several of us were not on the Council when this began in the mid-nineties. He stated that he recalls when crews had to repaint the wall and it was his thought it was City property; that if he knew it belonged to the State he would have had them paint it! He stated that he would like to look at a number of things before he feels ready to vote on this; that he would like to look at the map engineering has to see clearly how the property line relates to the topography and look at some of the material Mr. Austin submitted to the Board of Appeals for his proposal.

CLOSE AND ABANDON (Continued)

Councilman Littlefield stated he would have to look at the alley closer as it relates to the "larger picture", reiterating that he would not feel comfortable voting until he could see the "paper trail" of what was acquired from the City. He stated he is not suggesting anything improper was done; that he needs to look at the "whole picture" before making a decision. At this point he **made the motion to defer the matter four weeks to gather materials and look closer: Councilman Lively seconded the motion .**

Councilman Benson respectfully disagreed with the applicant who indicated this was not about justice, but about money. He stated this was not mutually exclusive; that he does not want to vote on something where justice was not involved. He stated that he has enough "daylight" in his mind to know exactly what justice is, which is what is right! He encouraged deferment for a look into this to see if there has been any prior breach, wrong or void and if there is, we have an obligation to correct before a decision is made.

Councilwoman Robinson stated this is an area where there has been tremendous progress on the north shore on Frazier and in North Chattanooga. She stated this is an area where people are eager to invest, property values have gone up and just a tremendous quality of life with Coolidge Park nearby, however, at the same time she is not comfortable voting on this tonight. She stated she has received a number of calls and spoke with the applicant, who got in touch with her early on. She stated that she has not had a chance to speak with everyone who called her office to get more information and does not have complete information at hand. She stated that everyone would be well served to take four weeks to review the scope of this entire impact.

Councilman Page inquired as to how Public Works arrived at the position to close the alley with people wanting it to stay open.

Admin. McDonald stated that from Public Works' point of view, the alley was not open and they did not know there was opposition to it. He stated usually when the alley is already closed and not used, their recommendation is to close it.

Mr. Pace stated that when RPA reviewed it, they saw the alley was unopened and unused and felt there was no need to keep it open; that they sent it on to Public Works who reviewed it and made the recommendation to this body.

Councilman Lively stated the only correction he would make is when one is "for" and the other "against" to leave it open and in this case, the same owner has both sides of the alley, which makes a difference.

CLOSE AND ABANDON (Continued)

Councilman Taylor stated that he knows the Council is dealing with the closure only, yet he noticed the references with regard to purchase of the property.

City Attorney Nelson stated by City Ordinance, generally when the City sells City property it should be put on the open market and sold to the highest bidder unless there is some peculiar advantage to the City or public in leaving the selling to one particular owner. He stated that he has not checked the record to see what happened on this sale, that it might be whoever made the determination in 1996 felt because the same owner owned both sides of the lot it would be to the City's advantage to have those other lots in a common ownership. He stated that might be the reason, yet he does not know and was only surmising.

Councilman Pierce stated since this is being passed four weeks, he asked Councilman Littlefield if it could be brought to Committee prior to coming to the Council.

Councilman Littlefield responded "yes"; that material would be gathered; that there could be a good "paper trail" to tell us how this transpired.

City Attorney Nelson stated there is a need to see the appraisal to see if the square footage included the alleyway.

On motion of Councilman Littlefield, seconded by Councilman Lively,

AN ORDINANCE CLOSING AND ABANDONING TWO UNOPENED ALLEYS LOCATED BETWEEN THE 100 BLOCKS OF BAKER STREET AND TAMPA STREET, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO COMCAST CABLE COMMUNICATIONS, INC. AND THE CHATTANOOGA GAS COMPANY RETAINING THEIR RESPECTIVE EASEMENTS IN THE FULL WIDTH OF THE EXISTING RIGHT-OF-WAY

was deferred four weeks (March 9, 2004).

REZONING

2004-016: City of Chattanooga

Pursuant to notice of public hearing, the request of the City of Chattanooga to rezone three tracts of land located in the 6700 block of Bonny Oaks Drive came on to be heard.

There was no opposition in attendance.

Mr. Pace stated that this request is for the Enterprise South property zoning; that it was felt there should be a permanent zone in place prior to selling the property. He stated the recommendation is for M-1 and R-1; that the R-1 is being proposed for basically all the rugged terrain area that is undevelopable that would be left as a park land and not sold for industrial use. He stated the little strip abutting the industrial area would be left R-1 to protect the neighborhood against any industrial development. He stated there is an area south of Bonny Oaks that is currently the railroad track that comes into Enterprise South that would be left as M-1.

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 THREE (3)
TRACTS OF LAND LOCATED IN THE 6700 BLOCK OF BONNY OAKS
DRIVE, MORE PARTICULARLY DESCRIBED HEREIN, FROM M-1
TEMPORARY MANUFACTURING ZONE TO M-1 PERMANENT
MANUFACTURING ZONE AND R-1 RESIDENTIAL ZONE, SUBJECT TO
CERTAIN CONDITIONS**

passed first reading.

ADOPT OAK GROVE NEIGHBORHOOD PLAN

Councilman Hakeem asked three of the neighborhood representatives who were present if they were comfortable with this plan; their response was affirmative.

On motion of Councilman Taylor, seconded by Councilwoman Robinson,
**A RESOLUTION AUTHORIZING THE ADOPTION OF THE OAK GROVE
NEIGHBORHOOD PLAN**

was adopted.

CHANGE ORDER

On motion of Councilman Hakeem, seconded by Councilman Littlefield,
A RESOLUTION AUTHORIZING THE EXECUTION OF CHANGE ORDER NO. 2, RELATIVE TO INSTALLATION OF OXYGENATION EQUIPMENT, MOCCASIN BEND WASTEWATER TREATMENT PLANT, CONTRACT NO. 28J2, WITH H & H BROWN, INC., WHICH CHANGE ORDER INCREASES THE CONTRACT AMOUNT BY FIVE HUNDRED NINETY THOUSAND ONE HUNDRED SIXTY-NINE DOLLARS (\$590,169.00), FOR A REVISED CONTRACT AMOUNT NOT TO EXCEED TWO MILLION ONE HUNDRED EIGHTY-SIX THOUSAND SIXTY-SIX DOLLARS (\$2,186,066.00)
was adopted.

AGREEMENT: ARCADIS G&M, INC.

On motion of Councilman Benson, seconded by Councilman Lively,
A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO EXECUTE AN AGREEMENT WITH ARCADIS G&M, INC., FOR ENGINEERING SERVICES RELATIVE TO CONTRACT NO. E-03-011, IGOU GAP ROAD PROJECT (FROM CONCORD ROAD TO GREY ROAD), IN AN AMOUNT NOT TO EXCEED THREE HUNDRED TWENTY-TWO THOUSAND DOLLARS (\$322,000.00)
was adopted.

DEVELOP COMMUNITY LAND USE PLAN FOR NORTH BRAINERD AREA

On motion of Councilwoman Robinson, seconded by Councilman Littlefield,
A RESOLUTION AUTHORIZING THE CHATTANOOGA-HAMILTON COUNTY REGIONAL PLANNING AGENCY TO DEVELOP A COMMUNITY LAND USE PLAN FOR THE NORTH BRAINERD AREA
was adopted.

OVERTIME

Overtime for the week ending February 6, 2004 totaled \$89,475.38.

PERSONNEL

The following personnel matters were reported for the various departments:

PUBLIC WORKS DEPARTMENT:

MICHAEL S. REAMS – Family Medical Leave, Crew Worker, Citywide Services, effective January 29 – April 23, 2004.

RONALD L. MADDEN – Hire, Crew Worker, Sr., Citywide Services, Pay Grade 5/Step 1, \$19,234.00 annually, effective February 11, 2004.

SHELLY SHELNUTT – Resignation, Office Assistant, Senior, Technical Information, effective February 13, 2004.

CHATTANOOGA POLICE DEPARTMENT:

JACOB TAN – Suspension (three days without pay), Police Officer, effective February 11 –13, 2004.

SCOTT A. KNOWLTON, JONATHAN A. DURICHEK – Resignation, Police Cadet, effective February 5, 2004.

T. E. VAUGHN – Promotion, Deputy Chief, Pay Grade 5/Step 6, \$74,904.00 annually, effective February 2, 2004.

FREEMAN COOPER – Promotion, Executive Chief, Pay Grade 43/Step 9, \$92,186.00 annually, effective February 2, 2004.

FINANCE DEPARTMENT, INFORMATION SYSTEMS:

MICHELE R. OLSON – Promotion, Senior Programmer, Pay Grade 19/Step 3, \$39,499.00 annually, effective February 6, 2004.

BEVERLY L. MUSE – Reclassification of Position, Programmer Analyst, Pay Grade 25/Step 6, \$53,773.00 annually, effective February 6, 2004.

PURCHASES

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

CROWN TECHNOLOGY (Lowest and best bid)
R0069067/B0001238

Thermoplastic Paving Marking Materials

\$407.00 – Yellow/Ton

\$455.00 – White/Ton

HOTEL PERMITS

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

ECONO LODGE – 7421 Bonny Oaks Drive, Chattanooga, Tennessee

HAMPTON INN-CHATTANOOGA – 7013 Shallowford Road, Chattanooga, Tennessee

HOLIDAY INN HOTEL & SUITES – 2345 Shallowford Village Drive, Chattanooga, Tennessee

INTOWN SUITES – GUNBARREL ROAD, INC. – 1914 Gunbarrel Road, Chattanooga, Tennessee

KNIGHTS INN – 6914 Shallowford Road, Chattanooga, Tennessee

MAINSTAY SUITES – 7030 Amin Drive, Chattanooga, Tennessee

MOTEL 6 – 7707 Lee Highway, Chattanooga, Tennessee

SLEEP INN – 2351 Shallowford Village Drive, Chattanooga, Tennessee

SUPER 8 MOTEL – 5111 Hunter Road, Chattanooga, Tennessee

PURCHASE

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

MOTOROLA, INC. (Single Source)
R0054815

Motorola Radios & Accessories

\$49,248.00

RE-ADVERTISE BID

On motion of Councilwoman Robinson, seconded by Councilman Taylor, approval was given for the re-advertisement of a bid for self-contained breathing apparatus. The Fire Department has determined the price of the equipment is much higher than their estimated cost. It is recommended that no award be made as a result of this invitation to bid. The quantity will be revised and this requirement re-advertised.

ROAR 2004!

Admin. Curry stated that the Department of Neighborhood Services is kicking off a new program to attack illegal dumping. He stated they are encouraging citizens to open their eyes and ears and pay attention to people who come through dumping illegal substances or perform illegal activities in our communities. He stated this has become a growing problem and they plan to get very aggressive to stop the trash in our neighborhoods. He stated citizens are encouraged to call 311 and report illegal dumping and that they are willing to pay \$50 to person if a conviction is made for a person dumping illegally. He asked that this information be made known as Council members talk with their constituents or attend neighborhood meetings in an effort to keep the scenic City of Chattanooga looking beautiful!

HEARING: RICHARD M. AKERS

City Attorney Nelson reported that a request for a hearing has been received by Richard Michael Akers regarding this termination from the Chattanooga Fire Department. He stated Captain Akers was terminated January 27 and indicated that he has been accused of a criminal offense that occurred last summer. Chief Coppinger interjected that Captain Akers was actually arrested on October 4, 2002.

HEARING: RICHARD M. AKERS (Continued)

City Attorney Nelson stated Captain Akers has now run out of accumulated leave. Chief Coppinger stated that Chief Akers has exhausted his personal leave and is now in the court system with six felony charges that have been reduced to five.

City Attorney Nelson stated that Captain Akers trial begins June 8 and suggested that the Council schedule his hearing with the City on June 21.

A hearing for Mr. Akers was scheduled for June 21 beginning at 1 p.m. with Councilmen Pierce, Benson and Hakeem serving as the panel.

COMMITTEES

Councilman Hakeem scheduled a meeting of the **Public Works Committee for Tuesday, February 17 at 4 p.m.**

Councilman Littlefield stated that the **Legal and Legislative Committee would meet on Tuesday, February 17 at 3 p.m.**

NORTH RIVER CIVIC CENTER

Councilman page joined with Councilwoman Robinson in inviting everyone to the opening of the North River Civic Center on February 20. He stated they are receiving comments regarding programming and encouraged everyone that lives in the area to attend the grand opening from 2-6 p.m. He stated there would be an opportunity to fill out a survey that is community-driven; that they want ideas as to the type of programs that will be offered.

MAYA ANGELOU PERFORMANCE

Councilman Taylor announced the upcoming performance of Maya Angelou scheduled for Wednesday, February 25 at 7 p.m. He stated that her coming to Chattanooga is sponsored by the Alton Park Community Development Corporation.

YOUTH LEADERSHIP MEETING

Mr. Pace invited Council members to the meeting of the Youth Leadership scheduled for February 18 from 1-3 p.m. at the United Way headquarters in the Central Block building. He stated Councilmen Benson and Hakeem have participated previously and asked that other Council members attend to show their support for the program. He stated that the RPA, Chamber and YMCA sponsor the Youth Leadership group.

LOUISE HAMMONDS

Louise Hammonds thanked the Council for appointing Steve Parks, the perfect Police Chief, and indicated that she and others feel good about it.

Councilman Pierce inquired as to the status of the Sugar and Spice show bar. Ms. Hammonds responded that a policeman told her they had to close the doors because there was a \$3,000 light bill and they could not pay it. She stated that she had also been told that their televisions had been "pulled".

Councilman Pierce stated that he had noticed they were closed and did not know the reason why.

DAWN OLIVEIRA

Dawn Oliveira stated that she was present because she was a victim of a crime on December 25, 2003 and has had all sorts of problems since the incident that occurred at the Courtyard Marriott at Hamilton Place. She stated there have been a number of inaccuracies from the police reports that were taken and she is trying to get answers. She stated that she contacted the new Chief last week and spoke with him and told him what had happened and was told he would get back with her the next day or that someone would get back with her but that did not happen. She stated that she called on yesterday and left a message with Vivian and there has been no response from her, either. She stated today when she went to the Police Department and get more copies of the report she asked to see the Chief and was told he was busy but that the Executive Chief would see her. She stated that she waited 30-45 minutes and was then told he got called way to a meeting. She stated she is trying to get help and answers and has been looking at the victims' rights document from the Police Department and everything it says about services, yet none of it has been done. She stated that she has even given a taped statement due to the nature of what happened to the Sergeant who took the statement and the officer cannot come up with the tape.

DAWN OLIVEIRA (Continued)

Ms. Oliveira stated there have been all sorts of problems and asked the Council for their help to have someone look into it. She stated that she has talked with Sgt. Bickford who indicated that it has been assigned to major crimes. She reiterated that she contacted Chief Parks because she has always liked and respected him.

BOBBIE BRYANT

Bobbie Bryant asked the Council what in the *Charter* gives the Council the authority to place districts in operation and change the Council people. She stated she has looked at it and would like for the City Attorney to tell her where it is in the *Charter*.

Councilman Littlefield stated that Ms. Bryant's question has been answered three times, explaining that the districts have been drawn according to State and Federal guidelines and we have done that according to the law. He stated some of this in the *Charter* relates back to the Federal Court Order that this Council was organized under; that Council members are elected under one district and when the districts are redrawn that district is considered theirs until the next election and they will have to run under the new district. He informed Ms. Bryant that her complaint is not found in anything other than her own confusion about this situation; that there is nothing this Council can do about her confusion on things.

Ms. Bryant retorted that she was not confused and has no problem with the redistricting. She stated she does not understand how the Council is operating with a Councilperson who has not been elected; that the new district should not take effect until the next election. She stated her question has not been answered as to where this can be found in the *Charter*; that she has been looking and found the districts in the *Charter* and she has no problem with that. She stated what she has a problem with is that every week there are rezonings with RPA; that Councilman Hakeem represented her neighborhood at meetings; that they did not elect him to represent them and this is unlawful. She stated if the Council couldn't tell her where this is in the *Charter* why can't they just say that.

Councilman Littlefield stated that he just told Ms. Bryant that they all run for election the next time; that they have the same authority now as they did the first time they were elected. He expressed his sorrow that she cannot understand that; that this is the way the government functions.

BOBBIE BRYANT (Continued)

Ms. Bryant stated that she wants to be on record that the Council cannot tell her where this is located in the *Charter*. She indicated that the government has been operating outside the boundaries of the law.

ADJOURNMENT

Chairman Franklin adjourned the meeting of the Chattanooga Council until Tuesday, February 17, 2004 at 6:00 p.m.

CHAIRMAN

CLERK OF COUNCIL

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