

**City Council Building
Chattanooga, Tennessee
May 11, 2004
6:00 p.m.**

Chairman Benson called the meeting of the Chattanooga Council to order with Councilmen Franklin, 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 Lively, seconded by Councilman Franklin, the minutes of the previous meeting were approved as published and signed in open meeting.

SPECIAL PRESENTATION: MRS. LYDA MCKELDIN -- RE: 50TH ANNIVERSARY OF THE BROWN V. THE BOARD OF EDUCATION SUPREME COURT DECISION

Chairman Benson invited Mrs. McKeldin and Councilman Hakeem to join him at the podium and explained that the three of them came out of the Chattanooga Public School system; that many years were spent between the three of them. He stated it is an honor to be able to present this Proclamation to Mrs. McKeldin proclaiming the Fiftieth Anniversary of the Brown v. Board of Education Supreme Court Decision. He and Councilman Hakeem read from portions of the Proclamation.

Mrs. McKeldin stated that a degree has a lot of meaning to her in that she lived in a small town in Tennessee and fifty years ago made a lot of difference in the lives of those who lived there, as well as herself. She stated that she commented to a group one day that when an African American student reached tenth grade in her small town, in order to complete high school with any hope of going to college, they had to leave home as she did to finish high school. She stated that she is number nine of thirteen children and it has taken a long time to realize how much her parents sacrificed to have all of them go away.

SPECIAL PRESENTATION: MRS. LYDA MCKELDIN --
RE: 50TH ANNIVERSARY OF THE BROWN V. THE
BOARD OF EDUCATION SUPREME COURT DECISION
(Continued)

Mrs. McKeldin continued by stating that she lived in a home and her parents paid taxes and related the story of the bell ringing every morning at Walnut Hill School that she could hear every morning, reiterating that fifty years has made a great difference in her life and others. She stated that UTC and the NAACP join The Links in celebrating this day and expressed hope that everyone would acknowledge the Anniversary on Monday, May 17 at 12:23 p.m. She stated if those in attendance are near a school and hear the school bell ringing at that time, spread the word by telling children what happened at that time fifty years ago!

Chairman Benson stated that Mrs. McKeldin is a fine example of what education and a good background can do. He stated that her brother is a well-known author and was Administrative Assistant to Bobby Kennedy. He expressed appreciation for her coming.

CLOSE AND ABANDON

MR-2003-225: City of Chattanooga, c/o Phillip Lynn

On motion of Councilman Lively, seconded by Councilman Franklin,
**AN ORDINANCE CLOSING AND ABANDONING A PORTION OF
RIVERFRONT PARKWAY, MORE PARTICULARLY DESCRIBED HEREIN AND
AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART
HEREOF BY REFERENCE**

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

AMEND ZONING ORDINANCE

Jerry Pace, Director of Operations with the Regional Planning Agency (RPA), stated that this amendment adds language to clarify the ordinance.

AMEND ZONING ORDINANCE (Continued)

On motion of Councilman Littlefield, seconded by Councilman Hakeem,
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, BY AMENDING ARTICLE V,
SECTION 404, SUBSECTIONS (3), (5) AND (8), TO INCORPORATE NEW
LANGUAGE RELATIVE TO SIDE YARD REQUIREMENTS AND MINIMUM
FRONTAGE IN THE R-4 SPECIAL ZONE**
passed first reading.

**AMEND ORDINANCE 11510 CLOSURE AND
ABANDONMENT**

MR-2003-224: City of Chattanooga, c/o Phillip Lynn

Councilman Hakeem stated Ordinances (b) and (c), as well as Resolutions (b) and (c) were discussed in today's Public Works Committee meeting and approval is recommended.

On motion of Councilman Hakeem, seconded by Councilman Taylor,
**AN ORDINANCE AMENDING ORDINANCE NO. 11510, ADOPTED
JANUARY 13, 2004, CLOSING AND ABANDONING AN UNOPENED
PORTION OF MORGAN STREET AT THE INTERSECTION OF 28TH STREET,
MORE PARTICULARLY DESCRIBED HEREIN, TO INCLUDE THE
TRIANGULAR PORTION AT THE NORTHEAST CORNER OF LOT 1, AS
SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF
BY REFERENCE**
passed first reading.

CLOSE AND ABANDON

MR-2004-008: City of Chattanooga, c/o William McDonald

On motion of Councilman Hakeem, seconded by Councilman Pierce,
**AN ORDINANCE CLOSING AND ABANDONING AN UNMAINTAINED
ALLEY LOCATED EAST OF THE 4700 BLOCK OF COVINGTON STREET,
MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE
MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE**
passed first reading.

REZONING

2004-042: James E. Citty

Pursuant to notice of public hearing, the request of James E. Citty to rezone tracts of land located at 1412 and 1420 Crawford Street came on to be heard.

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

Mr. Pace stated that the site is in an "L" shape toward Crawford Street and the Planning Commission recommended only the front portion for rezoning to R-4 for use as offices only. He stated all existing surrounding properties are single-family residential and both Planning and Staff recommend approval of the front portion to R-4.

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 AT 1412 AND 1420 CRAWFORD STREET, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO R-4 SPECIAL ZONE, SUBJECT TO CERTAIN CONDITIONS

passed first reading.

REZONING

2004-059: James D. Corbitt

Pursuant to notice of public hearing, the request of James D. Corbitt to rezone tracts of land located at 1916 and 1924 Plymouth Lane came on to be heard.

The applicant was not present.

Mr. Pace stated that this request is located in the East Brainerd area near Hamilton Place along Plymouth Road. He stated surrounding uses are single-family residential and the Hamilton Place Plan calls for high density residential. He stated other properties in this area have been requested for R-3 and have been denied; that Staff and Planning recommend denial, as the request is not in keeping with the Hamilton Place Community Plan.

REZONING (Continued)

On motion of Councilman Hakeem, seconded by Councilwoman Robinson,
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE TRACTS OF
LAND LOCATED AT 1916 AND 1924 PLYMOUTH LANE, MORE
PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO R-
3 RESIDENTIAL ZONE**
was denied.

REZONING

2004-064: Ray Allen Jones

Pursuant to notice of public hearing, the request of Ray Allen Jones to rezone a tract of land located at 4031 Brainerd Road came on to be heard.

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

Mr. Pace stated this request is located next to the Bi-Lo Center with two churches close by. He displayed by PowerPoint a view of the property, which is presently vacant. He stated both Staff and Planning recommend approval of the C-2; that the location is next to a large commercial center and would be appropriate for this rezoning.

Councilman Littlefield stated that he talked with the applicant and has heard from people in the Brainerd area. He stated there seems to be no opposition as the applicant is proposing to put a commercial print shop there. He stated the shop is presently located downtown and there seems to be no problem as far as land use is concerned; that the property is situated close to churches and could never be used as an alcoholic-type related business due to the distance. He stated that it is his thought this kind of use would be in keeping with the neighborhood.

On motion of Councilman Littlefield, seconded by Councilman Franklin,
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF
LAND LOCATED AT 4031 BRAINERD ROAD, MORE PARTICULARLY
DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO C-2
CONVENIENCE COMMERCIAL ZONE**

passed first reading.

REZONING

2004-065: James A. Tipton

Pursuant to notice of public hearing, the request of James A. Tipton to rezone a tract of land located at 1343 Burgess Road came on to be heard.

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

Mr. Pace stated the request is for a Boatel and four-to-six cabins would be located on the tract with access to the Tennessee River for fishermen to rent as they would an apartment for overnight stays and fish from the locations. He stated the Planning and Staff recommend approval as its use is in keeping with the Lookout Valley Plan. He stated two conditions have been attached to the ordinance and approval is recommended.

Councilman Lively stated there was some opposition and it is his thought their concerns have been addressed.

Mr. Pace stated the request is strictly for a Boatel and there could be no gasoline dispensed from the site nor a residential or commercial marina allowed.

On motion of Councilman Lively, seconded by Councilman Franklin,

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 1343 BURGESS ROAD, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO R-3 RESIDENTIAL ZONE, SUBJECT TO CERTAIN CONDITIONS

passed first reading.

REZONING

2004-073: City of Chattanooga, c/o Chattanooga Housing Authority

Pursuant to notice of public hearing the request of the City of Chattanooga, c/o Chattanooga Housing Authority, to rezone tracts of land located at 3811 Chandler Avenue and in the 3800 block of Ohls Avenue came on to be heard.

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

REZONING (Continued)

Mr. Pace stated this request is located in the Alton Park area and is part of the Hope VI development. He stated the request was originally for R-3 and the Housing Authority agreed to rezone to R-1 to meet the needs to develop this section. He stated the site consists of a mainly vacant area, now, with a right-of-way and old trolley lane. He displayed by PowerPoint other residential uses near the site and stated that the request is recommended for approval from both Staff and Planning.

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 TRACTS OF
LAND LOCATED AT 3811 CHANDLER AVENUE AND IN THE 3800 BLOCK
OF OHLS AVENUE, MORE PARTICULARLY DESCRIBED HEREIN, FROM M-
1 MANUFACTURING ZONE TO R-1 RESIDENTIAL ZONE, SUBJECT TO
CERTAIN CONDITIONS**

passed first reading.

REZONING

2004-074: Southmark, LLC

Pursuant to notice of public hearing, the request of Southmark, LLC to rezone tracts of land located at 2103, 2105, 2109 and 2111 Duncan 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 Ridgedale community for rezoning along Duncan Avenue. By PowerPoint presentation, a photo was displayed of the site with a structure on the property that will be demolished as the project moves forward for an Eckerd's on the C-2 portion. He stated the development needed to come back toward Duncan due to the size of delivery trucks and the drive-in area needed more space. He displayed photos of the commercial property across the street and the existing Eckerd's on the west side of Willow. A site plan of the proposed development was shown and it was stated that Planning approved the C-2 portion down toward Duncan and the 30-foot portion between the C-2 and Duncan would remain R-2 with conditions for development as a park use only. He stated that the park would be maintained by the developer with neighborhood-type friendly trees; that no Leyland Cypress would be planted, only neighborhood-friendly trees. He stated Planning and Staff recommend approval.

REZONING (Continued)

Councilman Taylor stated that he shares the district with Councilman Hakeem and expressed thanks to the developer and real estate agent for working closely with the neighborhood association, Council representatives and agencies of the City. He stated that this has been a premier example of working together with community.

Councilman Hakeem expressed agreement with Councilman Taylor's comments and added that the neighborhoods of Ridgedale and Highland Park came together and worked with the developer; that it has really been a joy to work this project. He expressed appreciation to the RPA Staff for "buying into" the concept of what the community and the developer had in mind. As a point of clarification, he asked Gary Ball if the condition in regard to the thirty feet was something that is part of the plan. Mr. Ball responded affirmatively.

Chairman Benson thanked Council members for working this out with Mr. Ball; that this has been a sensitive matter and has come out as an asset to the community.

On motion of Councilman Hakeem, seconded by Councilman Pierce,
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE TRACTS OF
LAND LOCATED AT 2103, 2105, 2109 AND 2111 DUNCAN AVENUE,
MORE PARTICULARLY DESCRIBED HEREIN, FROM R-3 RESIDENTIAL
ZONE TO R-3 RESIDENTIAL ZONE WITH CONDITIONS AND C-2
CONVENIENCE COMMERCIAL ZONE, SUBJECT TO CERTAIN
CONDITIONS**

passed first reading.

REZONING

2004-075: Mike Wall

Pursuant to notice of public hearing, the request of Mike Wall to rezone a tract of land located at 3503 Valley Trail came on to be heard.

The applicant was present; opposition was in attendance.

Mr. Pace stated pursuant to discussion with Councilman Lively, residents near this subdivision and the developer the request is to defer the matter for two weeks so that the neighborhood can assure that their agreement with the developer would be incorporated in the ordinance.

REZONING (Continued)

Chairman Benson asked if it would be proper to hear their objections, now, as opposed to having them come back.

Councilman Lively stated after talking with the president of the neighborhood association it is his belief within a couple of weeks they will have worked out a solution and all they want is to get it on paper into the ordinance and know what it will be. He **made the motion to defer the matter two weeks; Councilman Taylor seconded the motion.**

Jim Bowers stated that he has lived in Spring Valley since 1971 and it is one of the most beautifully well-kept communities in Chattanooga consisting of 170-180 houses. He stated this lot is at the entrance to Spring Valley and two roads go into it; that there is no need for offices in that area. He stated the Four Squares Shopping center was a "boondoggle" that was put in several years ago and failed and has finally degenerated into a half-empty shopping center with half filled offices. He stated if this person needs office space, he should to go Four Squares and rent a space and leave the community alone and not upset property values. He stated the lot could be made into a good private home residence.

Mike Price of MPA Engineers stated that he has met with the neighborhood and they had a good meeting. He stated that they have a list of conditions and once they see the plan and are presented with the conditions they will be pleased with it.

Cindy Hixson, President of the Spring Valley Community Club, stated that they met with the developer and have had several issues answered; that they made calls to Neighborhood Services and Jerry Pace of RPA for an understanding of what can be developed in the C-2 zone. She stated there is still opposition and they want the matter to come back to the neighborhood. She asked if the matter could be deferred 30 days as opposed to two weeks.

Chairman Benson asked if a 30-day deferral is acceptable with the developer.

Mr. Price stated that he would really prefer two weeks; that it becomes a difficult process to proceed forward with a plan and it was his hope to have the project underway and complete before the bad water at the end of the year. He stated any further delays would create hardships for him.

Councilman Lively stated one consideration is the fact that if it is turned down it will not start at all; that an extra two weeks is not going to "kill it". At this point he **amended his motion to defer four weeks (until June 8).**

REZONING (Continued)

Mr. Pace asked if it is possible for Mr. Price and the neighborhood residents to meet in the Council Conference Room in an effort to speed up the process and report their findings later in the meeting.

Later in the meeting Mr. Price indicated that it was his thought he and persons in the neighborhood would work it out and confirmed that the matter should be deferred four weeks. He stated most of them are not present tonight and he would not want to delay the process any longer.

On motion of Councilman Lively, seconded by Councilman Taylor,

AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED AT 3503 VALLEY TRAIL AND 3508 MOUNTAIN CREEK ROAD, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE AND C-2 CONVENIENCE COMMERCIAL ZONE TO O-1 OFFICE ZONE, SUBJECT TO CERTAIN CONDITIONS

was tabled four weeks (June 8, 2004).

REZONING

2004-076: Henry C. Eickhoff and Karen Ford Eickhoff

Pursuant to notice of public hearing, the request of Henry C. and Karen Ford Eickhoff to rezone a tract of land located at 4400 Brainerd Road came on to be heard.

The applicant was present; opposition was in attendance.

Mr. Pace stated this request is located in the Brainerd area almost across from a previous zoning request. He stated the property is presently zoned C-5 for a frame shop that has been there for a number of years and the request is for C-2. He stated there is commercial zoning along Brainerd Road from the Tunnel to Airport Road, which is mostly C-2; that on this section the zoning is C-5, R-4 and O-1 due to the entrance to subdivision. He displayed a site plan of the building and parking arrangement, as well as surrounding churches, bookstores and the Belvoir neighborhood entrance. He stated there are offices to the east and west and only one C-5 area. He indicated there is a rezoning study presently for the Brainerd area from R-2 to R-1 and the Staff looked at this and felt a more neighborhood friendly zoning than C-2 is needed. He stated Staff made the recommendation to Planning for denial and they concurred; that both request denial of the C-2 zoning.

REZONING (Continued)

Karen Ford Eickhoff stated that she owns the property along with her husband. She stated they originally applied for a change and was told by the zoning office that the permitted use would need to be C-2. She stated in the meantime a sales contract was signed with William Bulls to move his office from the Chattanooga Business Development Center on Cherokee Boulevard to our building in Brainerd. She stated two weeks ago Richard Hutsell informed her that Mr. Bulls' business could not go in C-5 and would need the C-2 zone. She stated her business is the only C-5 property between Tunnel and Airport Road and cannot see how changing a 95 x 150 foot building to C-2 would harm the neighborhood. She stated she and her husband bought and operated the Brainerd Road business properly and always had the neighborhood's support. She stated Planning recommended not changing the zone because it was speculative zoning and it is now no longer speculative; that they have a sales contract and the zoning official said the building would need to be rezoned C-2. She stated changing the property should be seen as a win, win situation; that Mr. Bulls wants to move to Brainerd to run his business.

Jennifer Parris of 202 Brookfield Avenue spoke in opposition and stated that the neighborhood is adjacent to this proposed change. She stated the Eickhoffs have been great and they have enjoyed the relationship with them, however, as a neighborhood association they are desperately trying to change their neighborhood. She stated across from them on Brainerd Road are a gas station and cash advance businesses all up and down Brainerd. She stated the gentleman that is buying the building may not have any intention to do that, but he may not be in business five years from now and once it is zoned if he goes out of business or decides to leave one of the other businesses mentioned could come in and lead to deterioration of the neighborhood. She made reference to the age of the homes in the area, families raising children and residents walking their dogs. She stated the older generation is starting to leave and a new generation is coming in and they are taking pride in their homes; that they want their area to stay in tact. She stated they are trying to preserve their neighborhood and do not want more businesses coming in.

The resident at 205 Larchmont stated she has been in the neighborhood four years and could not have said it better than the previous speaker. She stated she is very concerned about what may come in the future if this is rezoned. She stated the gentlemen may not change the look or the aesthetics of the building, however, in a few years it could change and she does not want a gas station or anything like that facing the entrance into her neighborhood, nor does she want more cut-through traffic. She asked the Council to deny this.

REZONING (Continued)

Deedee Marshall of 4400 Lonsdale stated that she has been a resident eight years and it is a wonderful neighborhood and it scares her to think of a gas station or fast food business coming in; that it would really deteriorate the neighborhood. She stated that she feels the same as the first two speakers; that she has nothing against the proposed new owner and asked if conditions could be put into the request.

Mr. Eickhoff clarified that the business is C-5, now, and for a business to qualify for C-5 the residents of the area might not approve as it might be a butcher shop or market; that the C-2 would not necessarily bring in an unfavorable business in the future.

Chairman Benson asked the applicant if he would be objectionable to conditions being added.

Mr. Eickhoff stated he has no objections and is certain Mr. Bulls would not object; that it would be satisfactory with both of them.

Councilman Taylor expressed concern regarding the community's objections, indicating that he knows the proposed business owner and has visited his business; that he has grown from a small business and has done marvelous things. He stated that he must say personally that he has visited his place of business and knows his operation; that he is a very outstanding business owner and would be an excellent neighbor. He stated their concerns are valid and suggested that the ordinance be conditioned as requested.

Councilman Littlefield stated that he had an opportunity to talk to the applicants who have an excellent reputation in Brainerd; that there is no question about the proposed owner of the business. He stated he has been around a long time and can remember every zoning case on Brainerd Road as it transitioned from a residential street to commercial with every use permitted there, even the C-2 rezonings that were carefully negotiated; that Mr. Eickhoff's business facing the street is more sensitive than others. He stated he knows we have a little bit of an option; that a petition has been signed by dozens in the neighborhood regarding this proposed use and want it denied. He stated he is not sure that the business zone proposed should be legally permitted and the matter is to go before the Board of Zoning Appeals tomorrow morning. He stated he would have to say at this point that this matter is not resolvable in full tonight; that we need to have the hearing before the Appeals Board, look at the proposed development and the change of uses of this property in context with the law we have available to us, now.

REZONING (Continued)

Councilman Littlefield stated that he wants people to know if it is rezoned C-2 he would only suggest it be done prohibiting use as a check cashing or car title pawn-type operation, which is very near the top of his list of unwanted land uses in Brainerd and everyone admits this. He stated that he and Councilman Franklin were in the same meeting with Mr. Bulls; that the matter should be deferred one week to allow for tomorrow's Appeals hearing and discussion in detail. He stated a week's delay would afford an opportunity to hear from other people who signed the petition.

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 4400 BRAINERD ROAD, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE AND C-5 NEIGHBORHOOD COMMERCIAL ZONE TO C-2 CONVENIENCE COMMERCIAL ZONE
was tabled one week.

REZONING

2004-086: Bobby Fairbanks and Jerry Hagan

Pursuant to notice of public hearing, the request of Bobby Fairbanks and Jerry Hagan to rezone tracts of land located at 1605 Gunbarrel Road and 7388 Applegate Lane came on to be heard.

The applicants were not present; there was no opposition.

Mr. Pace stated that this request is located in East Brainerd. He stated when the RPA staff was working on this area it was noted in the legal description that these two parcels were O-1. He stated when they redid the Applegate neighborhood it was found these two parcels were inadvertently put into the legal description in the O-1 zone rather than R-4. He stated this request clears up the mistakes and corrects it to reflect R-4 as the proper zoning.

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 AT 1605 GUNBARREL ROAD AND 7388 APPLGATE LANE, MORE PARTICULARLY DESCRIBED HEREIN, FROM O-1 OFFICE ZONE TO R-4 SPECIAL ZONE, SUBJECT TO CERTAIN CONDITIONS
passed first reading.

CLOSE AND ABANDON

MR-2004-071: Michael Dowlen

On motion of Councilman Hakeem, seconded by Councilman Littlefield,
**AN ORDINANCE CLOSING AND ABANDONING A PORTION OF THE
UNOPENED 3600 BLOCK OF 16TH AVENUE, MORE PARTICULARLY
DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO
AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN
CONDITIONS**
passed first reading.

PUD

2004-070: RLS Group, LLC, Old Stage Run

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

Mr. Pace stated this is a PUD that was approved a year ago and the applicant had to return for the final Old Stage Run to be completed. He stated the matter has gone through the review process and has met all the requirements for the preliminary and final requests and meets the standards set forth in the PUD requirements. He stated following approval tonight, it would go back to the City's Engineering and planning departments for signatures on the plat that is to be recorded. He stated approval is recommended.

Councilman Page stated as a matter of record the first phase of this project had drainage and water problems which has been diligently worked on over the past couple years. He stated he has spoken with representatives of public works and has been assured there is no adverse effect of this final phase upon the first phase. He stated that he wanted to make this a matter of record that there has been and problem and it is not there and will not be a continuation (of the problem) regarding this project. He asked Mr. Pace if he has any knowledge that this matter has been thoroughly corrected.

Mr. Pace indicated that he would make sure it meets all requirements prior to signing. He stated there should not be an adverse effect on the subdivision as the water drains away from the property. He stated there was drainage on the first stage of this development and acting on the final state is something that needs to be worked out through the developer and residents of the surrounding area.

PUD (Continued)

On motion of Councilman Page, seconded by Councilman Lively,
A RESOLUTION APPROVING A PROPOSED PRELIMINARY AND FINAL PLANNED UNIT DEVELOPMENT SPECIAL EXCEPTIONS PERMIT FOR A PLANNED UNIT DEVELOPMENT KNOWN AS OLD STAGE RUN PLANNED UNIT DEVELOPMENT, ON TRACTS OF LAND LOCATED AT 5235 AND 5311 CASSANDRA SMITH ROAD, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS
was adopted.

TEMPORARY USE

On motion of Councilman Hakeem, seconded by Councilwoman Robinson,
A RESOLUTION AUTHORIZING MATT MCGAULEY TO USE TEMPORARILY THE CITY'S RIGHT-OF-WAY LOCATED AT 11 EAST 7TH STREET TO INSTALL A VERTICAL BANNER, MORE PARTICULARLY DESCRIBED HEREIN, SUBJECT TO CERTAIN CONDITIONS
was adopted.

TEMPORARY USE

On motion of Councilman Pierce, seconded by Councilman Littlefield,
A RESOLUTION AUTHORIZING DAVID HUGHES (PRESIDENT OF MCKIBBON BROTHERS, INC.) TO USE TEMPORARILY THE CITY'S RIGHT-OF-WAY LOCATED AT 200 CHESTNUT STREET TO INSTALL A SIGN, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE DRAWINGS ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS
was adopted.

RESCIND RESOLUTION 24076: MORATORIUM ON ISSUANCE OF NEW SIGN PERMITS

On motion of Councilman Hakeem, seconded by Councilman Littlefield,
A RESOLUTION RESCINDING RESOLUTION NO. 24076, ADOPTED APRIL 20, 2004, ENCAPTIONED "A RESOLUTION DECLARING A MORATORIUM FOR NINETY (90) DAYS ON THE ISSUANCE OF ANY NEW SIGN PERMITS SO AS TO ALLOW CITY COUNCIL TO REVIEW AND REVISE ITS EXISTING ORDINANCES"
was adopted.

DECLARE AS PUBLIC NUISANCE

On motion of Councilman Littlefield, seconded by Councilman Lively,
**A RESOLUTION DECLARING A PUBLIC NUISANCE AS TO THE DRAINAGE
PIPING ON OR ADJACENT TO THE PROPERTY AT 104 PEERLESS AVENUE
AND AUTHORIZING THE CITY ATTORNEY TO BRING SUIT AGAINST SUCH
PARTIES AS MAY BE NECESSARY TO ABATE THE NUISANCE AND
RECOVER DAMAGES THE CITY HAS INCURRED**
was adopted.

OVERTIME

Overtime for the week ending April 7, 2004 totaled \$18,035.13.

PERSONNEL

The following personnel matters were reported for the various departments:

PUBLIC WORKS DEPARTMENT:

- **RONALD L. SMITH** – Return from Family Medical Leave, Crew Worker, Citywide Services, effective May 4, 2004.
- **SIGMUND BLATT** – Return from Compulsory Medical Leave, Crew Worker, effective May 5, 2005.
- **GEORGE MAFFETT, JR.** – Rescission of 5-day suspension, Refuse Inspector, Citywide Services, effective May 10, 2004.
- **JIMMIE L. GREEN** – Retirement, Crew Worker, Sr., Citywide Services, effective May 10, 2004.

CHATTANOOGA FIRE DEPARTMENT:

- **TIMOTHY GREER** – Promotion, Senior Firefighter, Pay Grade F2A/Step 2, \$29,667.00 annually, effective May 14, 2004.

REFUNDS

On motion of Councilman Pierce, seconded by Councilman Littlefield, the Administrator of Finance was authorized to issue the following refunds real and/or personal property taxes for tax year 2003 due to assessment changes:

TRUGREEN LP	\$1,942.37
MEMORIAL ATRIUM IMAGING CENTER	\$2,123.04

PURCHASE

On motion of Councilman Page, seconded by Councilman Pierce, the following purchase by the Finance and Administration Department was approved for use by the Police Department and City Court:

VISIONAIR (Single source)
R0069698

Software Interface per TCA 6-56-304.2

\$15,000.00

HEARING: JOHN POINTER

City Attorney Nelson stated a hearing has been requested by John Pointer regarding his termination from the Department of Public Works.

A hearing for Mr. Pointer was scheduled for Monday, June 14 beginning at 3 p.m. with Councilmen Benson, Lively and Hakeem serving as the panel hearing the request.

MORATORIUM: AVONDALE AREA

Councilman Hakeem stated he and Councilman Pierce represent the Avondale area and asked the Council to approve a ninety (90) day moratorium in regard to building duplexes (R-2 zone). He stated there is a neighborhood plan being developed and it is hoped within that timeframe the plan would be complete and the moratorium lifted.

MORATORIUM: AVONDALE AREA (Continued)

At this time, City Attorney Nelson asked if Councilmen Hakeem and Pierce want the Resolution to read "R-2" or "multi-family". Both Councilmen responded "R-2". City Attorney Nelson drafted the Resolution in open meeting read the caption upon completion.

On motion of Councilman Hakeem, seconded by Councilman Pierce,
**A RESOLUTION IMPOSING A MORATORIUM ON CONSTRUCTING
DUPLEXES IN R-2 ZONES FOR NINETY (90) DAYS IN THE AVONDALE
AREA, AS MORE PARTICULARLY DESCRIBED HEREINAFTER.**

was adopted.

COMMITTEES

Councilman Pierce scheduled a meeting of the **Budget and Finance Committee for Tuesday, May 18, immediately following the meeting of the Parks and Recreation Committee.**

Councilman Littlefield scheduled a meeting of the **Legal and Legislative Committee for Tuesday, May 18 at 3 p.m.**

Councilman Hakeem scheduled a meeting of the **Public Works Committee for Tuesday, May 25 at 4 p.m.**

GARY BALL

Gary Ball, a representative of the Ridgedale area, addressed the Council at this time and presented documentation of the condition of rental properties in the Ridgedale area and the effect this has had in regard to the area's viability as a residential community. He indicated that he had informed Tony Smith of Neighborhood Services that he (Ball) would be present at tonight's Council meeting to address the first meeting of the Spot Blight Commission. He stated that he understands all the parameters of the ordinance that makes reference to a 90 day period for the property before being dealt with again, however, in the process it is his understanding from Neighborhood Services that they do not have another agenda ready to go forth in May. He distributed photos of properties in various degrees of decay and stated that it troubles him to have the problems that people keep coming to meetings with; that there is an agency that cannot find enough spot blight properties in the city to start a commission and go through a lengthy time to process to get a number of properties "in the pipeline" to see if they will have to be dealt with by this Council.

GARY BALL (Continued)

Mr. Ball stated that the "excuse" he gets from Neighborhood Services, basically, is that they do not have another agenda in May because the City Attorney's Office was not ready to deal with the question of eminent domain that would come after the ninety day time period; that maybe Tony will explain this.

Mr. Ball presented another document that he indicated Kenardo Curry and Tony had refused for him to have access to. He stated he is the only community leader who asked for this; that he did not know what it was until he asked the coordinator about it at the hearing. He stated if someone is interested in trying to help them solve problems and be proactive, he could not understand why they do not want to work with certain people; that Kenardo seems to feel that the approach is wrong. He stated when they are forced to have to go outside the agency, a "road block" is put up and they are then forced "outside the box". He made reference to a newspaper article wherein Mr. Miller's name was mentioned and indicated that he did not give the reporter Mr. Miller's name, as he (Miller) was not at the hearing, yet he (Miller) made comments as to the Commission not doing certain things.

Mr. Ball presented more photos that displayed a piece of property that had new windows and indicated no building permit was secured; another photo of a property in disrepair next door to the previous one that showed drug dealers on the porch in the background. He stated that he spoke with Don Young today regarding this and displayed a copy of four building permits for properties in various stages of disrepair. He stated once the building permit is issued the inspector has to do something to keep the blight down in the community.

Chairman Benson stated Admin. Eichenthal is present and will look into it. Admin. Eichenthal quickly responded that Tony Smith was present from Neighborhood Services.

Chairman Benson asked Mr. Ball to connect with Mr. Smith and follow up on this.

CLEMONS LECROY

Clemons LeCroy of 1610 East 47th Street displayed photos of a residence adjacent to his home showing the grass waist high. He stated that he called 311 numerous times and has not received a response. He stated his dog has killed five gophers that have come out of the house; that it should be condemned, as it is not fit for human habitation.

CLEMONS LECROY (Continued)

Mr. LeCroy stated the door is pulled closed, however if the knob is touched the door will open; that it is a bad place for drugs, rats and everything else! He stated it is the worst house in the neighborhood and something needs to be done about it; that it needs to be torn down. He stated the man who owns it gave it to his daughter and nothing has been done about it.

Councilman Taylor indicated that he would follow-up with Mr. LeCroy and check on the property; that it is his thought it is in his area.

At this point, Mr. Ball interjected that the photos he displayed earlier are in Councilman Taylor's district, as well. Councilman Taylor indicated that he just inherited the area.

Councilman Littlefield stated that there should be a control number generated from the gentleman's calls to 311 and should be easy to "call up" and track to see how it was referred.

BETH HENDRICKS

Beth Hendricks of 1617 East 48th Street stated that she came before the Council two months ago regarding this matter. She stated there needs to be a four-way stop at the intersection of Covington and East 49th Street. She stated that she tried to work with the Traffic Engineer and was told that the City does not like four way stops. She asked how many people would have to have wrecks at this intersection until something is done; that if one car stops another will run through it and all have to stop! She stated that she has had two family members and several neighbors who have had accidents at this location and one day a child will be hit on a bicycle because people won't stop! On another issue, she stated that the gentleman from Ridgedale discussed housing problems in his area and reminded the Council that she referenced her grandfather's home when she was before them previously; that she turned in her own grandfather because nothing has been done to his home in her neighborhood. She indicated that there is a stop sign on the railroad track in her neighborhood.

City Attorney Nelson stated with regard to the four way stop signs, there are manuals the departments of transportation on the federal, state and local levels follow with regard to uniform traffic control and there are a certain number of warrants that must be met. He stated he does not know how many warrants there are, but is sure Public Works will look into that.

STEVE WEST

Steve West of 4501 Midland Pike stated that he works for the Public Works Department. He stated Mr. Norris has a proposal to present to the Council next week and asked if he and others from the Department could meet with the Council before it is presented. He stated that the problem is that the meeting begins at 4 p.m. and many of them are still at work, asking again if there is a time they could meet with the Council before the item is voted upon. He stated many of the workers have second jobs and the proposal Mr. Norris is bringing to the Council will cut their pay; that they have two jobs, now and if their pay is cut they will have to get three or four jobs just to make ends meet. He stated he has spoken to many on the Council and that Thornton had talked with Councilman Littlefield. He stated Councilman Littlefield brought the knucklebooms to the Yards when he was in office, which were brought in to pick up brush out of ditches. He asked that the Council try to work it out with the Department and have them come down to the Committee meeting without using their time; that if they have to they will sign for two hours in effort to come down to the meeting.

Councilman Hakeem expressed appreciation for Mr. West's concerns, indicating that the question is how can the Council address his concerns when the proposal has not been presented to them. He stated that he did not know if modifications could be made prior to the presentation; that it is his thought the Council would need to hear what the process is before they have any discussion.

Mr. West stated they could meet with the Council before or after the meeting; that they could possibly come and meet with the Council after he makes his presentation, before the Council votes on it. He stated the problem is that they do not get off until 6 p.m. and a lot of them have that problem. He stated they do their jobs "great" and Mr. Norris has told them that before, even during last Thursday's meeting; that he expresses his appreciation by cutting their jobs, which is not funny!

Councilman Hakeem stated a moment ago Mr. West indicated that their pay would be cut and now he is saying their jobs will be cut.

Mr. West clarified that they will cut their pay and more than likely get rid of the brush trucks and workers. He stated the way it was presented to them is that there will be sixteen knuckleboom trucks and all would not lose their job; that only four people would probably lose their job, but four is too many to him.

STEVE WEST (Continued)

Mr. West stated some of the operators have a real history with their jobs; if some were "topped out" they would lose about \$10,000 if the knuckleboom trucks were moved in. He stated they would not be a supervisor anymore, just an operator and they will cut that person's pay; that the guys on the front-end loaders have been on the job for a good while.

Councilman Pierce asked if the front-end loaders could operate the knuckleboom trucks.

Mr. West responded that they probably could but would have to take a cut in pay to do it.

Councilman Littlefield expressed reassurance to everyone that he would not be ready to vote until he heard all sides of the issue, which would only be fair; that it is his thought the plan has been in the works for quite sometime and he has been hearing things about it. He stated that he did bring the knucklebooms in and they have done a good job with what they have done. He stated there are some who have concerns about limitations and he does not have a problem saying that, reiterating that he wants to hear all aspects of the plan before voting on it. He indicated that it is his thought that it is appropriate for the workers to have a chance to tell their side of the story.

Mr. West stated there are four people to a crew – two truck drivers, one operator and one laborer; that the way it has been explained is that two knucklebooms would be "booked" to one area.

Councilman Taylor asked Mr. West if it would be possible to have a representative at the committee meeting next Tuesday on behalf of the workers.

Admin. McDonald stated that he wants to present the plan to the Council members as to how this would be handled. He stated it is better for him to lay out the plan and he was not prepared to do that today. He stated that he spoke with Councilman Hakeem about tagging onto one of the committees next week to do that. He clarified that no action is required to approve the plan; that they would present it to Council and after the committee meeting a purchase for the knuckleboom trucks would be presented during Council meeting.

Councilman Hakeem proposed that the discussion be tagged onto one of the committees on next week's schedule for discussion.

STEVE WEST (Continued)

Councilman Taylor again asked if a representative could be present at next week's committee meeting.

Councilman Hakeem stated that that is for the workers to decide; that he would not want to pay anybody to come to a meeting.

Councilman Taylor stated that he would rather they be at the meeting so that any questions they have could be answered.

Councilman Hakeem stated there was some discussion from Mr. West about our making arrangements for them to be present, reiterating that he would not want to pay anyone to be here.

Councilman Pierce stated that he understands Admin. McDonald has indicated they would present the plan to the Council; that it is not for the Council to adopt, just to approve the knuckleboom trucks.

Admin. McDonald clarified that it is not a plan to be adopted by the Council; that he wants to present how they plan to handle it in an effort to be certain everyone is clear before the purchases are presented to the Council.

Councilman Pierce stated that he understands this is something public works can pursue without our approval or disapproval other than the trucks; that they want to inform us as to what is going on.

Councilman Franklin stated that it is his understanding that Mr. Norris and Admin. McDonald will bring the proposal, which will be implemented after the trucks are purchased. He stated the proposal will not come to the Council for voting, only the purchase of the equipment; that they want to lay it out so the Council will know what is going on. He stated that is why Mr. West and others are concerned as to what will be implemented, the jobs that will be eliminated if any and how the pay will be as they move into the operation. He indicated that the Public Works Committee would not meet for another two weeks.

Councilman Littlefield expressed concern about the plan being presented and then a request for sixteen trucks on the same day to take action.

Councilman Hakeem stated that is not what is being proposed; that the Public Works Committee will not meet for another two weeks.

STEVE WEST (Continued)

Admin. McDonald stated that he could bring the purchase next week; that there is no great rush about this; that he only wants to lay out the plan and answer any questions so they would be ready. He stated he could certainly wait a week or so to bring it.

Councilman Littlefield stated that he is very sensitive to this; that when he was elected in 1987 the brush crews were thirteen weeks behind at the time and nothing gets citizens more "fired up" than brush that does not get picked up in the street. He stated that he wants to make sure the plan is a workable plan, sensitive to the employees there and be sure it will work with the public. He stated it is a policy matter although administration has a lot of things they can do and inform us about. He stated they have to bring a budget with position changes to put this in place; that it is not just a matter of telling us as a courtesy.

Chairman Benson stated brush has been successfully picked up for the last year or two and he does not want to hurt the morale of the pickup crew.

Admin. McDonald stated they will continue to use what they have; that they will figure out a way to save taxpayer's money and that is what they are doing. He stated they would bring a plan that will convince the Council that is the right way.

Councilman Page stated that it is his thought that the "cart is being placed before the horse"; that he does not have any idea of what this will involve. He stated the Council and committee meetings are open to the public and anyone can come that wants to come. He stated outside of that, the Council needs to hear what the plan is; that this issue should be terminated tonight to see where we go from here.

Councilman Franklin inquired as to the cost of one knuckleboom truck. Admin. McDonald responded, "\$85,000".

Councilman Littlefield suggested that the matter be discussed during Legal and Legislative on Tuesday, May 18 at 3 p.m. He stated that there would also be discussion regarding the wrecker ordinance, which will be quickly discussed as it has been before the Committee several times prior.

STEVE WEST (Continued)

Councilman Lively stated everyone should keep open minds and remember that the automatic garbage trucks took us into the 21st Century and are working great. He stated all personnel were reassigned through attrition, reiterating that everyone should keep an open mind and look positively at this.

Chairman Benson stated that the key word is "attrition", which should satisfy everyone.

ADJOURNMENT

Chairman Benson adjourned the meeting of the Chattanooga Council until Tuesday, May 18, 2004 at 6:00 p.m.

CHAIRMAN

CLERK OF COUNCIL

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