

**City Council Building
Chattanooga, Tennessee
November 14, 2006
6:00 p.m.**

Chairman Pierce called the meeting of the Chattanooga Council to order with Councilmen Bennett, Benson, Gaines, Page, Rico, Robinson and Rutherford present; Councilman Franklin was out of the city on business. City Attorney Randall Nelson, Management Analyst Randy Burns and Council Clerk Carol O'Neal were also present.

PLEDGE OF ALLEGIANCE/INVOCATION

Following the Pledge of Allegiance, Councilwoman Bennett gave invocation.

MINUTE APPROVAL

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

CLOSE AND ABANDON

MR-2006-141: Jedco, LLC

On motion of Councilman Rico, seconded by Councilwoman Rutherford,
**AN ORDINANCE CLOSING AND ABANDONING A PORTION OF THE
100 BLOCK RIGHT-OF-WAY OF WEST 13TH STREET, MORE PARTICULARLY
DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO
AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN
CONDITIONS**

passed second and final reading and was signed in open meeting.

APPROPRIATION

On motion of Councilwoman Gaines, seconded by Councilman Rico,
AN ORDINANCE APPROPRIATING FROM THE GENERAL FUND, OFFICE OF FAITH BASED INITIATIVE, TO FRONT PORCH ALLIANCE THE AMOUNT OF THREE THOUSAND DOLLARS (\$3,000.00) TO BE USED FOR EXPENSES ASSOCIATED WITH THE CHATTANOOGA EASTSIDE TASKFORCE
passed first reading.

CLOSE AND ABANDON

MR-2006-179: Yerbey Concrete Construction

On motion of Councilman Rico, seconded by Councilman Page,
AN ORDINANCE CLOSING AND ABANDONING A PORTION OF THE EASTERN RIGHT-OF-WAY OF THE 3800 BLOCK OF AGAWELA DRIVE, 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.

CLOSE AND ABANDON

MR-2006-187: Andy Schwall

The applicant was present; there was no opposition.

Greg Haynes, Director of Development Services for the Regional Planning Agency (RPA), stated that the Planning Commission recommends approval of this request subject to conditions. He stated that the applicant has negotiated with the property owners to the east to purchase the property for business expansion.

On motion of Councilwoman Rutherford, seconded by Councilman Rico,
AN ORDINANCE CLOSING AND ABANDONING THE UNOPENED 3000 BLOCK OF WATAUGA STREET, 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.

CLOSE AND ABANDON

MR-2006-192: Elder Healy & Company, LLC

The applicant was present; there was no opposition.

Mr. Haynes stated that Planning approves this request subject to conditions. He stated this is currently unopened and has never been opened. Photos were displayed by PowerPoint noting the properties to the west, east and south.

On motion of Councilwoman Bennett, seconded by Councilman Benson,
**AN ORDINANCE CLOSING AND ABANDONING AN UNOPENED ALLEY
LOCATED ON THE NORTH LINE OF THE 1000 BLOCK OF APPLING
STREET, 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.

REZONING

2006-201: Engstrom Services

Pursuant to notice of public hearing, the request of Engstrom Services to rezone tracts of land located in the 600 block of North Holtzclaw Avenue came on to be heard.

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

Mr. Haynes stated that this request is for an office building and parking. The site plan was displayed showing the existing office building in the southwest corner and other surrounding properties. He stated approval is recommended from Planning subject to conditions (which were read).

On motion of Councilwoman Gaines, seconded by Councilman Benson,
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE TRACTS OF
LAND LOCATED IN THE 600 BLOCK OF NORTH HOLTZCLAW AVENUE,
MORE PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL
ZONE TO R-4 SPECIAL ZONE, SUBJECT TO CERTAIN CONDITIONS**

passed first reading.

REZONING

2006-206: Chattanooga Neighborhood Enterprise

Pursuant to notice of public hearing, the request for Chattanooga Neighborhood Enterprise to rezone a tract of land located at 1115 East 8th Street came on to be heard.

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

Mr. Haynes stated the request is to rezone to C-3 non-conforming use for an area that has been downzoned as part of the M. L. King study years ago. He stated the property will be used to modify a building for condominiums and Planning recommends approval subject to conditions.

Councilman Benson stated this is spot zoning.

Chairman Pierce stated that he met with the neighborhood one afternoon along with CNE and the residents agreed wholeheartedly this would be the best use for the property for the area and there is no opposition. He stated about fifteen-to-twenty people attended and were made aware this would be spot zoning.

Councilman Benson asked if they agreed with this.

Chairman Pierce responded "yes".

Councilman Benson inquired as to the purpose for the rezoning.

Mr. Haynes responded that it is for condominiums for sale.

Councilman Benson expressed that he understood, noting that the request is for C-3 and not C-2 as he had originally thought.

On motion of Councilwoman Rutherford, 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 1115 EAST 8TH STREET, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO C-3 CENTRAL BUSINESS ZONE, SUBJECT TO CERTAIN CONDITIONS

passed first reading.

REZONING

2006-208: Wilwat Properties, Inc.

Pursuant to notice of public hearing, the request of Wilwat Properties, Inc. to rezone tracts of land located in the 5700 through 5900 blocks of Cassandra Smith Road and the 5900 block of Hixson Pike came on to be heard.

The applicant was present; considerable opposition was in attendance.

Mr. Haynes displayed the site plan for this request and stated that the Hixson Pike Area Land Use Plan recommended that the north portion of the site be a business mix and while this proposed project does not fit that specific use in the Land Use Plan, it does meet the intent of the Plan placing commercial on this location at the corner. He stated usually when there is a discrepancy in the land use plan and a proposed project the applicant is encouraged to have meetings with the neighborhood to discuss the issues to see if issues could be addressed ahead of time prior to Planning Commission meeting. He stated in cases such as this the RPA usually suggests to the Council person representing the area to involve the Hixson Land Use Advisory Group and that was done. He stated a meeting was held prior to the full Planning Commission meeting and the matter is recommended for approval subject to eleven conditions (which were read).

Councilman Benson stated that he heard during the reading that there is one condition there be "*no dumpster service between the hours of 12 a.m. and 6 a.m.*"

Mr. Haynes clarified that the conditions states "*between the hours of 7 p.m. and 7 a.m.*"

Councilman Benson stated that there is a city ordinance that says when dumpster service is in the proximity of a neighborhood the hours of service would be between 7 a.m. to 9 p.m. and indicated that it should not be changed.

City Attorney Nelson responded "yes" as it relates to hydraulic equipment.

Mr. Haynes again clarified that the conditions states "*no dumpster pick-up between the hours of 7 p.m. and 7 a.m.*"

Councilman Benson stated that the ordinance says 9 p.m. and if it can be increased that is fine.

REZONING (Continued)

Councilman Page asked persons in opposition to stand and then asked those in support to stand. He stated that he did that so that he would know who was present this evening. He acknowledged the presence of Commissioner Jim Coppinger who represents the area, as well, and noted that he is "new on the team" as a County Commissioner.

Lee Freeman of 2761 Gray Moss Pass in Duluth, Georgia stated that he is Vice President of Wilwat Properties. He expressed excitement about being able to be a part of bringing Publix to Chattanooga and noted that they cover forty public shopping centers and have been an amenity to the neighborhood and their neighbors. He stated if the request is approved they would make a \$10 million investment in the community; that the Hixson site is the one they chose after evaluating five others. He stated the project will create 200 jobs and create \$500,000 in sales taxes and approximately \$185,000 in additional property taxes. He stated he has met with contiguous property owners: Creeks Bend Golf Course, Townhouse Partners, Butch Brown, Word of Life Church and Big Ridge Cleaners. He stated he has had various meetings with Amberbrook, Heritage Ridge and Valleybrook homeowners; that he contacted the homeowners from Old Stage Run and they declined to meet. He mentioned that he met with the Ingrams, Ms. Standifer and others, as well as the Hixson North River Leadership Committee.

Mr. Freeman continued by stating that he knew he is not going to make everyone happy, but they will do their best to be a good neighbor. He stated the main concern brought up consistently were three things: traffic, lighting and landscaping. He stated when the traffic issue first came up he told the homeowners his company would take care of the traffic they would generate and to that extent a traffic study was done by Arcadis and Mr. McCaig (of Arcadis) is present to answer any questions about the study. He stated that he also met with the city's traffic engineer and reported the findings to the homeowners and at the time several asked for additional support regarding numbers generated from TDOT and the city. He stated at that point he asked Mr. McCaig to go back and do another study at his (Freeman's) expense to update traffic counts and the bottom line is traffic would be minimal especially with improvements to the road based on the traffic to Cassandra Smith. He stated they would also donate land for the right-of-way.

Mr. Freeman stated as for lighting they would go with light reflectors on the boundary as well as landscaping and sidewalks along Cassandra Smith, as sidewalks are already on Hixson Pike.

REZONING (Continued)

Mr. Freeman stated they would be developing, leasing, managing and owning this shopping center and noted he would not address the flier that was mentioned in the newspaper other than to say that it had nothing to do with his company. He stated it is his belief there were several misinterpretations in the flier and would be happy to address anything regarding that. He stated Publix's motto is "Where shopping is a pleasure" and they take this seriously; that he tried to work with homeowners to make the site conditioned upon their request and this is a good thing for Chattanooga. He stated competition improves quality and drives prices down. He closed by respectfully requesting Council approval.

Atty. John Anderson of Grant Konvalinka and Harris spoke on behalf of the Ganns, Ingrams and Leroy Phillips, who were unable to be present due to health issues with his mother. He stated the purpose of the opposition in essence is that the traffic along Cassandra Smith is pretty intense in several portions at times during the day. He stated traffic reported from the study does not address the endemic problem as traffic backs up substantially. He stated it is important in the planning process in the Hixson Plan adopted in 2002 and updated in 2004 that it unequivocally does not include the majority of this property as commercial. He stated there is medium commercial for the northern portion indicated by Mr. Freeman; that pictures shown of the neighborhood surroundings are all very light commercial on shallow frontages with very heavy emphasis on residential use.

Atty. Anderson stated the crux of the opposition is that the planning process in the North River Plan and the change did not observe the same formality; that the Plan in 2002 said "no" to retail and the Plan for the bulk of the property in 2004 said "no". He stated the rezoning requested before was also "no" and the reason for this is there is no way to ensure the commercial creep does not go further down Cassandra Smith. He stated that is what the plan originally called for, not to zone property commercial as it goes down; that once the "door is open" it can be said there will be a buffer and landscape and can talk about it on and on, however the question is, is it reality this time. He stated the Plan had said in 2002 and 2004 "no" to previous requests for commercial and "no" has to be said now.

Atty. Anderson read excerpts from the planning process outlined in the Plan which calls for public participation in the overall success and to ensure coverage of the community the RPA sent out invitations to every property owner within the study for public meetings, workshops, visioning and strategy meetings.

REZONING (Continued)

Atty. Anderson stated RPA contracted with an independent survey firm to conduct a business and focus group meeting; that the focus group involved area business owners who cited safety, convenience and growth. He stated that he made a point of reading excerpts from the Plan and the methodology employed in adopting this plan to say the same methodology has not been applied after it was passed in 2002 by RPA. He respectfully requested, on behalf of his clients, to defer this matter sixty (60) days and employ that same methodology. He says Mr. Freeman says he has had a lot of meetings; that the Hixson North River Land Use Advisory Group met but his methodology of going back and doing a thorough job to see if amendments were desired by the community was not observed.

Atty. Anderson stated that the Council has to observe the same methodology as it relates to the land use plan. He stated rules, if not written and not set in stone, should employ consistent methodology when changes are made to the Plan, when change is ratified and updated and when previous requests have been turned down. He thanked the Council for the opportunity to speak.

Clint Ingram of 5812 Cassandra Smith Road asked the Council to picture two driveways out in front of his house, noting that he does not want to walk out his front door and see asphalt and buildings where before he has seen green grass and people playing golf. He stated another thing is that he wants to know what will be done with the "meth house" over there as special care has to be taken in tearing it down. He stated that he really opposes this thing!

Rachel DeFriese of 5502 Cassandra Smith Road stated that her first question is what will the residents gain from this – nothing it seems. She stated they claim 200 jobs would be coming into town; however they would mainly be minimum wage. She stated that she managed the Winn Dixie on 153 and Hixson Pike and saw people come and go; that minimum wagers do not make a career out of it unless they were in management. She stated there are fourteen managers per store and only two Publix stores are coming with fourteen salaried positions and the rest will be minimum wage. She stated Chattanooga would be gaining another grocery store, yet there are so many empty buildings in Hixson; that if Publix wanted to come they should look into that real estate. She stated there is a new super Bi-Lo going in less than two miles away where the new Publix will be. She stated she did not realize so many people were for it which tells her there are more people for corporations than for residential. She stated the Council could vote "yes" and make one person from Georgia happy or vote "no" and make residential people here in Hixson and Cassandra Smith happy.

REZONING (Continued)

Michael Reynolds of 6212 North Innsbrook Drive stated that the young lady spoke about entry level positions; that he intends to put in a hair salon and the positions will be considerably more than entry level. He stated other retail places he has talked with about possibly locating there will not be entry level, either. He stated his company is Great Clips, Inc. and (he) only looks for upscale locations; that he refuses to put his salon in locations that would be a "down kind of thing" as it would not be good for the community. He stated that he found this site, as he has in other locations with Publix, to being extremely positive and looks forward to being a part of retail, as well.

Ruth Brown of 112 Cedar Lane stated that she owns B&B Development and is developing property to the left of this location in the R-3 zone. She stated that she could be wrong, but she does not think anyone has a larger investment in that than she does and wanted to show her support toward the development as it is a great asset for Hixson.

Ben Vance of 5320 Cassandra Smith Road stated that he has no economic incentive and will not benefit at all from an economic perspective; that he is in support of this and thinks the presence of a high end, brand new grocery store and a world class operator like Publix will be a benefit not only to Hixson but to Chattanooga; that the tax benefits stated are real and that will provide incremental revenues for public use. He stated he would be in favor of having responsible development like the one proposed rather than to have someone else come in and not do it as responsibly as what is proposed. He stated that he knows traffic will increase, yet at the end of the day the benefits far outweigh the cost.

Councilman Benson stated that he represents the district of East Brainerd where there was a similar situation. He stated when Winn Dixie proposed a store at the very threshold of Hurricane Creek a lot of people had a lot of anxiety about it and were about evenly divided. He stated it was approved with conditions which qualified the development to protect the surrounding development from harm and gave accessibility to a nice place to shop and was aesthetically pleasant. He stated it was a nice place and the community that fought it are now upset because it is gone and they want another store there now. He stated it is his thought it is an important thing that there were only two complaints since he took office seven years ago involving the dumpsters and the noise, however an ordinance has been passed since then regarding loading and unloading. He asked Mr. Freeman to tell him he would honor the conditions to keep this development from being a hardship on anyone.

REZONING (Continued)

Chairman Pierce stated he would ask Mr. Freeman to address Councilman Benson's question later during rebuttal.

At this point Councilman Page asked Everett Fairchild, Chairman of the Steering Committee, to speak.

Everett Fairchild of 4704 Whispering Hills Lane stated that he is Chairman of the Hixson-North River Planning and Leadership Committee. He stated the Committee called the community together for an opportunity to meet with the developer and several were present. He stated there were some questions about traffic and invasion of the residential area; that the Committee was impressed with the proposal and efforts the developer made in response to concerns. He stated there was a feeling the developer was willing to make changes where possible to accommodate concerns of the people. He stated they have been involved from the very first meeting and it is impossible to draw a set of guidelines to cover every situation which they found on at least three other occasions where Planning found the requests did not fit the guidelines but were not in violation. He stated the Committee used the same process this time as the other three occasions; that the Committee notified all the residents and people were informed. He stated it was not a hearing but a place to express their concerns and that is what they did this time. He stated the Committee came to the conclusion this proposal with commercial development on both corners was compatible with the surrounding area and the community; that the Committee voted to recommend approval based on it being an asset to development in the community.

Councilman Benson stated that Mr. Fairchild answered the second part of his question; that he was afraid the process was violated according to what Atty. Anderson said. He stated that he is satisfied from what Mr. Fairchild said that the matter was taken back to the public; that the process does not say it has to have one hundred percent approval but to go back to the people who helped generate it. He stated that he wants it to be clear for the record how dumpsters will be loading and unloading. He asked Mr. Freeman if he is comfortable with that.

Mr. Freeman responded "yes" and quoted from Proverbs 22:1 that a "good name is worth more than gold and riches". He responded "yes" that he plans to meet all the agreements.

Councilman Benson asked if 9 p.m. – 7 a.m. is good for no dumpster service.

REZONING (Continued)

Mr. Freeman responded that he thought the time was 7 p.m. – 7 a.m.; that he could live with 9 p.m. – 7 a.m., however 7 p.m. – 7 a.m. is what everyone agreed to at the Planning Commission.

Councilman Benson stated it was reported this afternoon that assurance was given traffic would not be worse than it presently is due to accommodations made for the other lane.

Mr. Freeman stated that he could not answer specifically and asked Mr. McCaig of Arcadis to address the matter.

Mr. McCaig stated that a traffic impact study was conducted and it was determined the grocery store would not impact the peak hours as much as they do on Saturdays when there is more access. He stated this development will not make the situation any worse.

Councilman Page stated that he would like to make a couple points and noted that everyone will not be made happy in this situation; that he is concerned about people that live directly next to this proposed development. He stated one thing mentioned concerned him as to what he has heard about the “meth house”. He stated that is something that will be taken care of with this. He stated just because there is a residential approach across from you and rental houses and different people coming in does not secure your neighborhood as it could be very bad. He stated that the Council has heard about the problems in residential areas with “meth houses” and drug activity; that R-1 does not guarantee peace and quiet. He stated this kind of development with conditions and restrictions are an asset as opposed to a detriment. He stated he did not think a developer would meet so many times with a neighborhood; that there were seventeen (17) meetings held to inform the neighborhood of what is going on.

Councilman Page continued by stating that there were a couple points he would like to make regarding the traffic as he knows the roads are small; that Ring Road will be started next year and construction on that will go around back of Northgate from Godsey to Hixson Pike, which will allow for an alternate route. He stated there is talk about a roundabout at Cassandra Smith and Hamill where traffic is becoming a larger problem and it is his thought the city and people are committed to help.

REZONING (Continued)

Councilman Page stated Big Ridge Elementary is a problem in terms of drop-off and pick-up as it has become very difficult; that he and Commissioner Coppinger have been working together to get another lane to make it easier to pull into the School and they are actively working to get that to happen. He stated they are working to secure a grant for sidewalks for the Walk to School Program.

Councilman Page stated that he met with the developer this afternoon and he has agreed not only to the number of restrictions that have been read, but will prohibit these kinds of establishments in the C-2 zoning: adult oriented establishments, fast food drive-throughs, package liquor stores, service stations, used car lots, mini-warehouses or self-storage facilities and repair garages. He asked Mr. Freeman if he agrees to this point.

Mr. Freeman acknowledged his agreement, yet noted some exception having to do with drive-throughs. He clarified that he did not want to limit a drive-through as a (drive-through) bank.

At this point Councilman Page made the motion to approve the request with conditions; Councilwoman Rutherford seconded the motion.

Councilwoman Robinson addressed those in attendance and stated that she and Councilman Page consider themselves next door neighbors. She stated that they met with so many of those in attendance during the months and weeks during the planning process of the Hixson-North River Land and Growth Plan. She stated that it gives her a great deal of confidence that we have in place the Leadership Council that is the keeper of the Plan; that the contact is Everett Fairchild who led us through the original plan who is in touch with the community. She stated that it gives her an added measure of confidence to receive his report and to hear from the planners and neighborhood. She expressed appreciation for their coming out tonight and expressed hope that the right thing is being done tonight by the spirit of the Plan.

At this point Councilman Rico called for the question.

REZONING (Continued)

On motion of Councilman Page, seconded by Councilwoman Rutherford,
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE TRACTS OF
LAND LOCATED IN THE 5700 THROUGH 5900 BLOCKS OF CASSANDRA
SMITH ROAD AND THE 5900 BLOCK OF HIXSON PIKE, MORE
PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE AND
O-1 OFFICE ZONE TO C-2 CONVENIENCE COMMERCIAL ZONE,
SUBJECT TO CERTAIN CONDITIONS**
passed first reading.

REZONING

2006-211: Valor, Inc.

Pursuant to notice of public hearing, the request of Valor, Inc. to rezone a tract of land located in the 7600 block of Shallowford Road came on to be heard.

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

Mr. Haynes stated this is another proposal where the developer requests a use which does not match the land use plan for the area, however, the residents living around the site saw fit to take advantage to have input for development of the property. He stated Planning recommends denial of the R-4 zone and approval of the O-1 zone with conditions (which were read).

After hearing the conditions, Councilman Benson inquired as to the dumpster service during daytime work hours.

City Attorney Nelson clarified that the City's ordinance states the hours of pick-up are not permitted from 9 p.m. until 7 a.m.; that it might be hard to live with if it is done during daylight hours.

Councilwoman Rutherford asked if the ordinance could be amended prior to next week's final reading.

Ken DeFoor, applicant, asked what the City's ordinance stated; that he is in a lawsuit involving something similar to this.

Councilman Benson stated that it was mentioned that it could not be picked up between the hours of 9 p.m. and 7 a.m.

REZONING (Continued)

Mr. DeFoor stated if it could be from 7 p.m. – 7 a.m. a lot more homes would be much happier if this is something the city could take up. He stated that he is in a situation now in court because they refused to stop picking up late at night.

Councilwoman Robinson stated that is breaking the law.

Mr. DeFoor stated the company is only fined fifty dollars (\$50.00).

Councilman Benson stated the service is from out of Cleveland and they will not cooperate.

Mr. DeFoor stated he will abide by the ordinance and if it is tightened he will not oppose.

City Attorney Nelsons stated that the Constitution prohibits us from charging more than the fifty dollar (\$50.00) fine.

Chairman Pierce stated the fine would be levied on each occurrence.

City Attorney Nelson stated as far as he is concerned it could be taken out and go by what is on the books.

On motion of Councilwoman Rutherford, 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 IN THE 7600 BLOCK OF SHALLOWFORD ROAD, MORE
PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO
O-1 OFFICE ZONE, SUBJECT TO CERTAIN CONDITIONS**

passed first reading.

REZONING

2006-212: Chattanooga Valued Partners, LLC

Pursuant to notice of public hearing, the request of Chattanooga Valued Partners, LLC to rezone part of a tract of land located at 6242 Perimeter Drive came on to be heard.

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

REZONING (Continued)

Mr. Haynes stated that a four-story hotel is proposed for this request and is located behind the Sporting Goods Warehouse at the old Home Depot site. He stated Planning recommends approval subject to two conditions. He stated the second conditions states that the “*existing trees shall remain*” however with the way the parking is situated, as construction or design needs indicate some of the trees will have to be taken out; that additional wording would make this condition more flexible.

Councilwoman Rutherford asked if the landscaping plan has to be followed to have the trees.

Mr. Haynes responded “yes”; that the existing trees have to be left to at least a minimum of the landscape ordinance requirements.

On motion of Councilman Rico, seconded by Councilwoman Robinson,
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A PART OF A
TRACT OF LAND LOCATED AT 6242 PERIMETER DRIVE, MORE
PARTICULARLY DESCRIBED HEREIN, FROM M-2 LIGHT INDUSTRIAL ZONE
AND R-1 RESIDENTIAL ZONE TO C-2 CONVENIENCE COMMERCIAL
ZONE, SUBJECT TO CERTAIN CONDITIONS**

passed first reading.

REZONING

2006-214: DeFoor Brothers, Development

Pursuant to notice of public hearing, the request of DeFoor Brothers Development to rezone a tract of land located at 2430 Timberlane Trail came on to be heard.

Mr. Haynes stated that this is the final piece of this development for mixed use. A revised site plan was displayed and he noted that it is different from the original plan with the two lane road. He stated that the road has been shifted to the west and all properties shown in the initial site plan along the eastern boundary have been shifted. He stated Planning recommends approval with no conditions.

Councilman Benson stated that the map does not reflect the public library that has been proposed.

REZONING (Continued)

Mr. DeFoor stated there will be a public library that will be in one of the corner buildings.

Councilman Benson inquired as to the size of the lake and the location of the amphitheatre.

Mr. DeFoor stated that the lake would be three acres and the gazebo amphitheatre would be close to the library.

Councilman Benson stated this will be a fine development and wanted to make sure it will be developed.

Mr. DeFoor stated that there are many challenges and this is the last piece of the puzzle.

At this point, Councilman Benson called for the question.

On motion of Councilman Rico, seconded by Councilwoman Rutherford,
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF
LAND LOCATED AT 2430 TIMBERLANE TRAIL, MORE PARTICULARLY
DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO MXU MIXED USE
ZONE**

passed first reading.

ADOPTION OF GENERAL FUND BALANCE POLICY

On motion of Councilwoman Rutherford, seconded by Councilwoman Robinson,

**A RESOLUTION ADOPTING A GENERAL FUND BALANCE POLICY,
SUBJECT TO FUTURE REVISION, A COPY OF WHICH IS ATTACHED
HERETO AND MADE A PART HEREOF BY REFERENCE**

was adopted.

AGREEMENT

On motion of Councilman Rico, seconded by Councilwoman Rutherford,
**A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN
AGREEMENT WITH CHATTANOOGA COMMUNITY DEVELOPMENT
FINANCIAL INSTITUTION, INC. TO MANAGE AND SERVICE THE
CHATTANOOGA OPPORTUNITY FUND PORTFOLIOS**

was adopted.

CHANGE ORDER

On motion of Councilwoman Gaines, seconded by Councilwoman Robinson,
A RESOLUTION AUTHORIZING THE EXECUTION OF CHANGE ORDER NO. 2 RELATIVE TO CONTRACT NO. W-05-007, WARNER PARK-ENGEL STADIUM HYDRAULIC MODELING, WITH CONSOLIDATED TECHNOLOGIES, INC., WHICH CHANGE ORDER INCREASES THE CONTRACT AMOUNT BY TWELVE THOUSAND DOLLARS (\$12,000.00), FOR A REVISED CONTRACT AMOUNT NOT TO EXCEED FIFTY-FIVE THOUSAND FIVE HUNDRED DOLLARS (\$55,500.00)
was adopted.

CHANGE ORDER

On motion of Councilman Rico, seconded by Councilwoman Rutherford,
A RESOLUTION AUTHORIZING THE EXECUTION OF CHANGE ORDER NO. 1 RELATIVE TO CONTRACT NO. S-06-015-201, 720 CURVE STREET REMEDIATION, WITH AFFINITY ENVIRONMENT GROUP, WHICH CHANGE ORDER INCREASES THE CONTRACT AMOUNT BY ONE THOUSAND SIX HUNDRED SIXTY-THREE AND 10/100 DOLLARS (\$1,663.10), FOR A REVISED CONTRACT AMOUNT NOT TO EXCEED FOURTEEN THOUSAND TWO HUNDRED SIXTY-EIGHT AND 78/100 DOLLARS (\$14,268.78)
was adopted.

TEMPORARY USE

On motion of Councilman Rico, seconded by Councilwoman Rutherford,
A RESOLUTION AUTHORIZING T-MOBILE SOUTH, LLC TO USE TEMPORARILY A CERTAIN PORTION OF THE RIGHT-OF-WAY AT THE INTERSECTION OF CAMDEN STREET AND WILCOX BOULEVARD AT THE WESTERN ENTRANCE TO THE WILCOX TUNNEL TO INSTALL A 40' TELECOMMUNICATIONS TOWER AND SUPPORTING EQUIPMENT, AS SHOWN ON THE DRAWING ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS
was deferred until December 12, 2006.

ACCEPT LAND

MR-2006-217: Paul Page, Director, General Services

On motion of Councilwoman Rutherford, seconded by Councilman Rico,
A RESOLUTION AUTHORIZING THE ACCEPTANCE OF PART OF AN UNPLATTED TRACT OF LAND LOCATED IN THE 900 BLOCK OF THE EASTGATE LOOP, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, FROM BRAINERD VILLAGE SHOPPING CENTER, LLC, UPON THE EXPIRATION OF THE CURRENT LEASE OF NO EARLIER THAN JULY 1, 2007 AND NO LATER THAN DECEMBER 31, 2007
was adopted.

DECLARE SURPLUS

MR-2006-219: Paul Page, Director, General Services

On motion of Councilman Rico, seconded by Councilwoman Gaines,
A RESOLUTION DECLARING AS SURPLUS CERTAIN REAL PROPERTY LOCATED AT 38 17TH STREET, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, AND AUTHORIZING THE DIRECTOR OF GENERAL SERVICES TO EXECUTE A QUITCLAIM DEED TO SELL SAID PROPERTY TO CHATTANOOGA NEIGHBORHOOD ENTERPRISE IN CONSIDERATION OF THREE THOUSAND FIVE HUNDRED DOLLARS (\$3,500.00)
was adopted.

LETTER OF AUTHORIZATION

Chairman Pierce requested that City Attorney Nelson place in writing his opinion of the status of the property and our being in the position to "forgive" it.

City Attorney Nelson responded that Chairman Pierce's request is "so noted".

On Motion of Councilwoman Rutherford, seconded by Councilman Rico,
A RESOLUTION AUTHORIZING AND DIRECTING THE CITY ATTORNEY TO SEND A LETTER TO ALABUCKS, LLC. EXPRESSING THAT THE CITY HAS NO CLAIM TO THE "PARK AREA" OF THE EASTGATE TOWN CENTER
was adopted; Councilman Pierce abstained.

OVERTIME

Overtime for the week ending November 10, 2006 totaled \$82,749.43.

PERSONNEL

The following personnel matters were reported for the various departments:

PUBLIC WORKS DEPARTMENT:

- **WILLIAM BOYD** – 90-Day Leave of Absence Without Pay, Heavy Equipment Operator, City Wide Services, effective November 1, 2006 - February 2, 2007.
- **CHARLES J. WHITLOCK** – Suspension (2 days without pay), Crew Worker, City Wide Services, effective November 8-9, 2006.
- **JERRY W. HAYES** – Extension of Leave of Absence, Crew Worker, City Wide Services, October 27 – November 30, 2006.

CHATTANOOGA FIRE DEPARTMENT:

- **RODNEY RIVERS** – Resignation, Senior Firefighter, effective November 5, 2006.
- **RONNY MCMILLAN** – Promotion, Senior Firefighter, Pay Grade F2/Step 4, \$33,415.00 annually, effective November 10, 2006.
- **MATTHEW BIGGS** – Resignation, Cadet, effective November 10, 2006.

PERSONNEL DEPARTMENT:

- **JANICE SUTTLES** – Promotion, Personnel Assistant, Pay Grade 7/Step 4, \$25,532.00 annually, effective October 18, 2006.

PERSONNEL (Continued)

CHATTANOOGA POLICE DEPARTMENT:

- **TERESA GORDON** – Return from Family Medical Leave, Communications Officer, effective November 6, 2006.
- **KIMBERLY MILLER** – Retirement, Police Officer, effective November 9, 2006.
- **ADENA STINNETT** – Hire, School Patrol Officer, \$29.27 per day, effective November 10, 2006.
- **ODESSA MCCULLOUGH** – Hire, School Patrol Officer, \$29.27 per day, effective November 13, 2006.
- **MARCIE KEITH-MOORE** – Voluntary Demotion, Police Records Clerk, Sr., Pay Grade 5/Step 10, \$29,252.00 annually, effective November 24, 2006.

REJECT ALL BIDS

On motion of Councilwoman Robinson, seconded by Councilman Page, all bids were duly rejected for the Parks and Recreation Department on R0092103/B0003473 for Waste Disposal Services due to numerous change requests to the specifications.

HOTEL PERMIT

On motion of Councilman Rico, seconded by Councilwoman Bennett, the following hotel permit was approved:

NORTHSIDE MOTEL, 422 Cherokee Boulevard, Chattanooga, TN

REFUND

On motion of Councilwoman Rutherford, seconded by Councilman Rico, the Administrator of Finance was authorized to issue the following refund for overpayment of property taxes:

SHABAZ A. KHAN	\$5,778.27
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HAPPY BIRTHDAY!

Councilman Page noted that today is Adm. Daisy Madison's birthday.

Chairman Pierce extended birthday greetings on behalf of the Council and expressed appreciation for the work she is doing!!

BOARD APPOINTMENT

On motion of Councilwoman Rutherford, seconded by Councilman Rico, the following Board appointment was approved:

CHATTANOOGA HOUSING AUTHORITY:

- Appointment of **WILBERT R. ROBERTS, JR.** to fill the unexpired term of Al Chapman.

BOARD APPOINTMENT

On motion of Councilman Benson, seconded by Councilwoman Robinson, the following Board appointment was approved; **Councilwoman Bennett abstained:**

NORTHSHORE REVIEW COMMITTEE:

- Appointment of **MARY EASTMAN** for a term ending October 17, 2009.

Councilwoman Bennett stated that she had asked that this appointment be held until the C-7 rezoning is finished. She stated that she has no objections to Ms. Eastman serving but would abstain at this time.

COMMITTEES

Councilwoman Bennett scheduled a meeting of the **Budget and Personnel Committee for Tuesday, November 21 at 4 p.m.**

Councilman Benson reminded Council members of the meeting of the **Legal and Legislative Committee scheduled for 3 p.m. on Tuesday, November 21.**

Councilwoman Gaines scheduled a meeting of the **Parks and Recreation Committee for Tuesday, November 28 beginning at 3:30 p.m.**

COMMITTEES (Continued)

Councilman Page stated that the **Economic Development Committee** met this afternoon and items discussed will be on next week's Council agenda. He scheduled another meeting of the Committee for **Tuesday, December 5 at 3 p.m.**

Councilwoman Rutherford stated that the **Education, Arts and Culture Committee will meet on Tuesday, November 21 at 4:30 p.m.** She stated David Eichenhal is scheduled to come and give a summary of the report he has been working on.

"EDUCATION" COMMITTEES

Councilwoman Robinson stated that she requested that consideration be given that would appropriately transfer the "education" part of assigned committees to the Education, Arts and Culture Committee and taken off of the Health, Education, Human Services and Housing Opportunities Committee. She stated that she wanted to make sure that is in process and it is her thought the City Attorney is working on something.

Chairman Pierce stated the City Attorney will work it out.

CANCELLATION OF COUNCIL MEETINGS

City Attorney Nelson stated that Christmas is scheduled on a Monday this year, as is New Year's. He stated in speaking with the Chairman, there was discussion that there seems to be no reason to meet beyond December 19 and the Council not meet December 26, 2006 and January 2, 2007. He stated the Council would come back in regular session on Tuesday, January 9, 2007.

On motion of Councilwoman Robinson, seconded by Councilwoman Bennett, the Council meetings for December 26, 2006 and January 2, 2007 were duly cancelled.

HUGH REECE

Hugh Reece stated that he works at City Court and is the new President of the Southeast Council of the Tennessee Commission on Children and Youth which covers ten counties. He stated he has been coming to Council meetings for the last couple months and has attended a couple Safety Committee meetings.

HUGH REECE (Continued)

Mr. Reece stated the issue of crime is plaguing the county and Juvenile Court polled the figures of crime statistics in Hamilton County and each of the Council members' districts. He stated that he talked with Judge Bailey, who allowed him to have the figures for the past year and the first three quarters of this year; that the information covers all of Hamilton County and is broken down by neighborhoods. He stated the numbers are on the "scary side" and (he) wanted Council members to have a better understanding of what is going on.

Chairman Pierce expressed appreciation to Mr. Reece for the information as all Council members are interested in their district's crime statistics.

Mr. Reece stated that the numbers are released once a year and Judge Bailey understands what is going on and he told her he was going to give the information to the Council. He recommended that the Council stay in touch with Juvenile Court or work with the Court as a lot is going on that the Council needs to be aware as the majority of kids going through the Court are inner city kids.

Chairman Pierce stated Judge Bailey is welcome to come and address the Council; that by right, the City Court Judge(s) are supposed to give quarterly updates, which has not been enforced; that updates were done when Judge Williams was on the bench but it has since been relaxed.

Mr. Reece stated he would make sure the Council "stays in the loop".

Councilman Benson stated Chattanooga is the only urban city that does not have a juvenile detention center.

Mr. Reece stated it is a political issue; that Judge Bailey has been trying for the last six years to get a regional lockup for Chattanooga.

Councilman Benson asked if persons have to go to Nashville.

Mr. Reece stated that they go to Nashville and are transported to the Taft Center or Mountain View; that the State will place them in any bed that is available throughout the State.

Councilman Benson stated Mr. Reece's group and Judge Bailey should rally together to push for construction of a detention center within our reach as it is not right for Chattanooga not to have a center.

HUGH REECE (Continued)

Mr. Reece stated that the youth are turned over to State custody and carted all over the state; that parents and legal guardians do not have input or transportation to see them and be part of their rehabilitation. He stated if the youth are in town the parents could have access to the treatment plan.

Councilwoman Robinson stated that the City Council would be interested in being as supportive as they can in trying to get the facility we need; that she can not believe we do not have a facility as one of the four largest cities in Tennessee. She stated she does not understand what the political problem could be.

Mr. Reece stated that he would get something set up so that Judge Bailey can come and address this body and explain what is needed.

Councilwoman Rutherford stated that she had Judge Bailey in before her Committee last year and will ask her to come again after the first of the year.

ADJOURNMENT

Chairman Pierce adjourned the meeting of the Chattanooga Council until Tuesday, November 21, 2006 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)**