

MINUTES**REGULAR MEETING OF THE CITY COUNCIL****CITY OF MEMPHIS****October 12, 2010****3:30 P.M. SCHEDULED SESSION****3:31 P.M. MEETING COMMENCED**

ROLL CALL: Joe Brown, William Boyd, Kemp Conrad, Shea Flinn, Edmund Ford, Jr., Janis Fullilove, Wanda Halbert, Reid Hedgepeth, Myron Lowery, Bill Morrison, Jim Strickland, and Chairman Harold Collins. Barbara Swearengen Ware was absent

**THE MEETING WAS CALLED TO ORDER
BY SERGEANT-AT-ARMS**

INVOCATION

The meeting was opened with prayer by Elder Charlie Caswell from Pursuit of God Church. Councilman Conrad presented Elder Caswell with a certificate naming him Chaplain of the day.

These minutes record the agenda items and the action taken by the Council on such items. The full text of the original of the ordinances, resolutions and supporting documents, including an audio recording of Council's deliberations are filed and maintained in the office of Council Records/Records Management, Room 2B-08. The original ordinances and/or resolutions adopted by the Council shall control in the event of any conflict between the description in these minutes and the original documents, ordinances and/or resolutions.

1. **RESOLUTION APPROVING AN HONORARY STREET NAME CHANGE FOR MR. E.C. JONES.**

Held until October 26, 2010

9. **ORDINANCE REGULATING THE ENCROACHMENT OF CABLE AND VIDEO SERVICES IN THE CITY'S RIGHTS-OF-WAY, UP FOR T H I R D AND F I N A L READING.** (Held from 7/6; 8/10; 9/14)

Ordinance No. 5365

DROPPED

MINUTES**Approval of the Minutes of the regular meeting of September 28, 2010 with the following motion:**

MOTION: Ford
 SECOND: Morrison
 AYES: Boyd, Brown, Flinn, Ford, Fullilove, Halbert, Lowery, Morrison and
 Chairman Collins
 Conrad, Hedgepeth and Strickland did not cast a vote
 Ware was absent

APPROVED

18. **RESOLUTION AMENDING THE FY2011 OPERATING BUDGET TO RE-INSTATE THE PRIOR YEAR FUNDING LEVEL OF THE TUITION REIMBURSEMENT PROGRAM BY TRANSFERRING AN ALLOCATION AND APPROPRIATION OF \$902,211.00 ACROSS THE HUMAN RESOURCES DIVISION LEGAL LEVELS AND OPERATING CATEGORIES.** (Held from 8/24; 9/14; 9/28)

Held until October 26, 2010

2. **RESOLUTION APPROVING A SPECIAL USE PERMIT LOCATED ON THE WEST SIDE OF BILLY MAHER AND NORTH OF MAHER TRAIL, CONTAINING 5.2 ACRES IN THE AGRICULTURAL (AG) DISTRICT.**

Case No. SUP 10-218cc

Applicant: SBA Network Services, LLC (John Rosenhack)
 Shawn Massey – Representative

Request: Cell Tower (150 Feet Tall – Flush Mounted Antennae)

LUCB and OPD recommendation: APPROVAL, with conditions

MOTION: Ford
 SECOND: Fullilove
 AYES: Boyd, Brown, Ford, Fullilove, Halbert, Hedgepeth, Lowery, Morrison, Strickland,
 and Chairman Collins
 Flinn recused
 Conrad did not cast a vote
 Ware was absent

APPROVED

3. **RESOLUTION APPROVING A HOTEL WAIVER FOR SUN INN LOCATED AT 1543 ELVIS PRESLEY BOULEVARD.(This item was approved on 4/13/10 for 6 months and had to come back before Council on 10/12/10).**

Case No. HMW 10-01

Friendly Amendment: Applicant must come back before Council in 6 months for another review of criminal activity

MOTION: Fullilove
SECOND: Halbert

Councilman Collins stated that without objection. There was objection by Councilman Brown.

Friendly Amendment: Applicant must come back before Council in 1 year for another review of criminal activity

MOTION: Brown

Councilwoman Fullilove accepted Councilman Brown’s Friendly Amendment

MAIN MOTION: Ford
SECOND: Boyd
AYES: Boyd, Brown, Flinn, Fullilove, Halbert, Hedgepeth, Lowery, Morrison and Strickland
NAYS: Ford and Chairman Collins
Conrad did not cast a vote
Ware was absent

APPROVED, as amended

4. **ORDINANCE REZONING THE SOUTHEAST CORNER OF NORTH DUNLAP STREET AND MOSBY AVENUE, CONTAINING 2.49 ACRES IN THE MULTIPLE DWELLING RESIDENTIAL (R-MM) AND LOCAL COMMERCIAL (C-L) DISTRICTS AND OVERLAY DISTRICTS: WINCHESTER PARK [WP] AND MEDICAL OVERLAY [MO] DISTRICTS, UP FOR T H I R D AND F I N A L READING.**

Case No. Z 10-110
Ordinance No. 5385

Applicant: Methodist Healthcare-Memphis Hospitals
SR Consulting, LLC (Cindy Reaves) – Representative

Request: Change to the Hospital (H) and Overlay Zones: Winchester Park [WP] and Medical Center [MO]

LUCB and OPD recommendation: APPROVAL

MOTION: Ford
SECOND: Boyd
AYES: Boyd, Brown, Flinn, Ford, Fullilove, Lowery, Morrison and Chairman Collins

Conrad, Halbert, Hedgepeth and Strickland did not cast a vote
Ware was absent

APPROVED

CONSENT AGENDA – Items 5-7 may be acted upon by one motion: SEE PAGE 1653 FOR ROLL CALL

- 5. **ORDINANCE REZONING THE WEST SIDE OF RALEIGH LAGRANGE ROAD; 130' SOUTH OF GOODLETT FARMS PARKWAY, CONTAINING 0.41 ACRE IN THE SINGLE FAMILY RESIDENTIAL (R-S6) DISTRICT, UP FOR F I R S T READING.**

Case No. Z 10-113cc
Ordinance No. 5386

APPROVED, on First reading

- 6. **RESOLUTION APPROVING FINAL PLAT OF POPLAR MANOR S/D, RESUB. OF LOT 16.**

Case No. S 10-016

Resolution approving the final plat located at the south of Rex and west of the I-240 frontage road.

City Engineer recommends approval

APPROVED

- 7. **NOTATION FROM LAND USE CONTROL BOARD THAT THE FOLLOWING CASE WAS HEARD AND RECOMMENDATION MADE REQUESTING A DATE OF PUBLIC HEARING:**

A. Case No. PD 10-311cc – The Offices of Southwind P.D., 2nd Amendment

Public Hearing Set for October 26, 2010

ROLL CALL CONSENT ITEMS

MOTION: Ford
 SECOND: Boyd
 AYES: Boyd, Brown, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery, Morrison, Strickland and Chairman Collins
 Conrad did not cast a vote
 Ware was absent

APPROVED

8. **RESOLUTION ESTABLISHING THE MEMPHIS LIGHT GAS AND WATER DIVISION IN LIEU-OF-TAX PAYMENT TO THE CITY OF MEMPHIS FOR FISCAL YEAR 2011.** (Held from 6/8; 6/22; 9/14; 9/28)

Attorney Wade addressed the Council and presented 2 substitute resolutions

MOTION: Fullilove
SECOND: Morrison
AYES: Boyd, Brown, Flinn, Fullilove, Halbert, Hedgepeth, Lowery, Morrison, Strickland and Chairman Collins
Conrad and Ford did not cast a vote
Ware was absent

APPROVED, as amended

10. **ORDINANCE TO AMEND CODE OF ORDINANCES OF THE CITY OF MEMPHIS PERTAINING TO THE BUDGET, SALARIES AND CONTRACTS OF THE MEMPHIS LIGHT, GAS AND WATER DIVISION TO INCREASE THE AMOUNT OF CONTRACTS REQUIRING APPROVAL OF THE CITY COUNCIL TO \$50,000.00, UP FOR T H I R D AND F I N A L READING.**

Ordinance No. 5383

Chairman Collins recognized the following person who spoke from the audience:

Sandra Kinsey, 7613 Dexter Hills, Cordova, TN 38016

Friendly Amendment: Approve 50,000.00 for 6 months

MOTION: Fullilove

Chairman stated that without objection. There was objection.

Friendly Amendment: Approve \$50,000.00 for 1 year

MOTION: Lowery

Councilwoman Fullilove accepted Councilman Lowery’s Friendly Amendment

MAIN MOTION: Fullilove
SECOND: Halbert
AYES: Boyd, Conrad, Flinn, Ford, Halbert, Hedgepeth, Lowery, Morrison, Strickland and Chairman Collins
NAYS: Brown and Fullilove
Ware was absent

APPROVED, as amended

11. **ORDINANCE TO REPEAL, IN ITS ENTIRETY, PREVIOUS ORDINANCE NO. 4388, CODIFIED AS CITY CODE, CHAPTER 2, DIVISION 5, SECTION 2-325 THRU SECTION 2-331 AND REPLACE WITH THE ATTACHED ORDINANCE INSERTED IN LIEU THEREOF AS A RESULT OF THE FINDINGS OF THE 2010 DISPARITY STUDY AS PERFORMED BY GRIFFIN & STRONG, PC, UP FOR T H I R D AND F I N A L READING.**

Ordinance No. 5384

Back to Committee on October 26, 2010

12. **RESOLUTION AUTHORIZING THE ISSUANCE OF NOT TO EXCEED FORTY MILLION DOLLARS (\$40,000,000.00) PRINCIPAL AMOUNT, SALE AND DELIVERY OF SANITARY SEWERAGE SYSTEM REVENUE REFUNDING BONDS, SERIES 2010, OF THE CITY OF MEMPHIS, TENNESSEE FOR THE PURPOSE OF REFUNDING CERTAIN OUTSTANDING SANITARY SEWERAGE SYSTEM REVENUE BONDS OF THE CITY.**

MOTION: Morrison

SECOND: Ford

AYES: Boyd, Brown, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery, Morrison, Strickland and Chairman Collins
Ware was absent

APPROVED

13. **RESOLUTION APPROPRIATING \$245,181.00 IN GENERAL OBLIGATION BONDS FROM THE FY11 CIP BUDGET FOR THE DIVISION OF FIRE SERVICES TO DO MAJOR MODIFICATION RENOVATIONS AT FIRE STATION #26 FOR A TOTAL APPROPRIATION OF \$245,181.00.**

MOTION: Lowery

SECOND: Boyd

AYES: Boyd, Brown, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery, Morrison, Strickland and Chairman Collins
Ware was absent

APPROVED

14. **RESOLUTION APPROPRIATING \$397,428.00 IN FISCAL YEAR 2011 CAPITAL IMPROVEMENT BUDGET FOR FIRE STATION REPAIR, PROJECT NUMBER FS02001 CONTRACT CONSTRUCTION TO BE FUNDED BY G.O. BONDS-GENERAL.**

MOTION: Lowery

SECOND: Fullilove

AYES: Boyd, Brown, Conrad, Flinn Ford, Fullilove, Halbert, Hedgepeth, Lowery, Morrison, Strickland and Chairman Collins

Ware was absent

APPROVED

15. **RESOLUTION APPROPRIATING \$4,965,000.00 FUNDED BY GO BONDS – GENERAL FROM MAJOR MODIFICATIONS AND IMPROVEMENTS, CIP PROJECT #GS01007. THIS PROJECT PROVIDES FUNDING FOR MAJOR MODIFICATIONS, RENOVATIONS AND IMPROVEMENTS TO CITY FACILITIES, INCLUDING SECURITY, ROOFING, ELECTRICAL, PLUMBING, PAINTING, CONSTRUCTION AND HVAC IMPROVEMENTS.**

MOTION: Hedgepeth

SECOND: Ford

AYES: Boyd, Brown, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery, Morrison, Strickland and Chairman Collins
Ware was absent

APPROVED

MOTION: Strickland – Suspend the Rules for the purpose of adding Item #26

APPROVED, without objection, Rules Suspended, Item #26 added

26. **APPOINTMENTS**

Memphis/Shelby County Downtown Parking Authority

Appointments

Graham W. Askew

J. Richard (Rick) Wagers, Jr.

MOTION: Strickland

SECOND: Ford

AYES: Boyd, Brown, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery, Strickland and Chairman Collins
Morrison did not cast a vote
Ware was absent

APPROVED

16. **RESOLUTION APPROPRIATING \$922,000.00 FUNDED BY GO BONDS – GENERAL FROM AMERICANS WITH DISABILITIES, CIP PROJECT #GS01010. THIS PROJECT PROVIDES CONTRACT CONSTRUCTION FUNDING FOR THE RENOVATION OF EXISTING CITY FACILITIES TO COMPLY WITH THE FEDERAL AMERICANS WITH DISABILITIES ACT.**

MOTION: Hedgepeth
SECOND: Ford
AYES: Boyd, Brown, Conrad, Fullilove, Halbert, Lowery, Strickland and Chairman Collins
Flinn, Ford, Hedgepeth and Morrison did not cast a vote
Ware was absent

APPROVED

17. **RESOLUTION AUTHORIZING THE DIVISION OF HOUSING AND COMMUNITY DEVELOPMENT TO AWARD \$588,500.00 IN FUNDING TO DESIGNATED 501(C)3 ORGANIZATIONS FOR THE PURPOSE OF COMMUNITY DEVELOPMENT, COMMUNITY INITIATIVES, AND BUSINESS/ECONOMIC DEVELOPMENT ACTIVITIES.**

MOTION: Brown
SECOND: Ford
AYES: Boyd, Brown, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery and Chairman Collins
Morrison and Strickland did not cast a vote
Ware was absent

APPROVED

19. **RESOLUTION ACCEPTING \$224,597.14 FROM SHELBY COUNTY FOR REIMBURSEMENT OF THE NICE RECORDER PROJECT.**

MOTION: Conrad
SECOND: Boyd
AYES: Boyd, Brown, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery, Strickland and Chairman Collins
Morrison did not cast a vote
Ware was absent

APPROVED

20. **RESOLUTION ACCEPTING \$25,000.00 FROM SHELBY COUNTY COMMISSION FOR ACCESS TO GIS TECHNOLOGY TOOL DEVELOPED BY THE CITY OF MEMPHIS.**

MOTION: Conrad
SECOND: Boyd
AYES: Boyd, Brown, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth and Chairman Collins
Lowery, Morrison and Strickland did not cast a vote
Ware was absent

APPROVED

21. **RESOLUTION ACCEPTING GRANT FUNDS IN THE AMOUNT OF \$240,000.00 FROM THE STATE OF TENNESSEE OFFICE OF JUSTICE PROGRAMS FOR THE 2011 INTERNET CRIMES AGAINST CHILDREN (ICAC) AWARD. RESOLUTION ALSO AMENDS THE FY2011 OPERATING BUDGET TO ESTABLISH AND APPROPRIATE GRANT FUNDS.**

MOTION: Lowery
SECOND: Boyd
AYES: Boyd, Brown, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery, Morrison and Chairman Collins
Strickland did not cast a vote
Ware was absent

APPROVED

22. **RESOLUTION AMENDING THE FY2011 CAPITAL IMPROVEMENT BUDGET BY TRANSFERRING AN ALLOCATION AND APPROPRIATING \$76,628.00 FUNDED BY G.O. BONDS- GENERAL FROM ADA CURB RAMP, PROJECT NUMBER PW04007 TO ADA CURB RAMP GROUP 44, PROJECT NUMBER PW04082 FOR THE INSTALLATION OF ADA RAMPS AT VARIOUS LOCATIONS IN THE CITY AND FOR A CONSTRUCTION CONTRACT WITH ENSCOR, LLC.**

MOTION: Hedgepeth
SECOND: Ford
AYES: Boyd, Brown, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery, Morrison, Strickland and Chairman Collins
Ware was absent

APPROVED

23. **RESOLUTION APPROPRIATING \$415,250.00 IN GENERAL OBLIGATION BONDS FROM THE FY2011 CIP BUDGET FOR THE DIVISION OF FIRE SERVICES TO PURCHASE AIR MASK SYSTEM UNITS AND ACCESSORIES FOR A TOTAL APPROPRIATION OF \$415,250.00.**

MOTION: Lowery
SECOND: Boyd
AYES: Boyd, Brown, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery, Morrison, Strickland and Chairman Collins
Ware was absent

APPROVED

24. **CONSIDERATION OF RESOLUTION AWARDING MANAGED PRESCRIPTION DRUG PROGRAM.**

Chairman Collins recognized the following persons who spoke from the audience:

Nathan Bicks, 130 N. Court Ave., Memphis, TN 38103
Sandra Kinsey, 7613 Dexter Hills, Cordova, TN 38016
Josh Lawhead, 130 N. Court Ave., Memphis, TN 38103
Dot Milford, 1922 Little John Road, Millington, TN 38053
Bert Wolf, 200 Jefferson, Suite 1501, Memphis, TN 38103

MOTION: Conrad – Reject the award to Medco and encourage the board to consider one of two things: Give Express Scripts a one year extension at a savings to the rate payers of \$851,000.00 or do a short term extension of 30 days or 60 days, so we can re-bid this

SECOND: Boyd

Councilman Flinn stated that you cannot have an either or motion (above), so Councilman Conrad made the following motion below

MOTION: Conrad – Go month to month with Express Scripts and ask the MLGW Board to re-bid as soon as possible

SECOND: Boyd

After a discussion with the Council Attorney regarding Councilman Conrad’s motion (above), the Chairman ruled this motion out of order

Chairman Collins stated that the ruling will be: If we reject the recommendation of the Committee, then we could entertain a motion to request MLGW to do A or B only after we do the initial vote with the recommendation of the Committee

MAIN MOTION: Fullilove

SECOND: Ford

AYES: Brown, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Strickland and Chairman Collins

NAYS: Boyd, Conrad, Lowery and Morrison
Ware was absent

APPROVED

25. **CONSIDERATION OF RESOLUTION AWARDING MEDICAL ADMINISTRATIVE SERVICES.**

Chairman Collins recognized the following persons who spoke from the audience:

John Farris, 999 S. Shady Grove Rd., Suite 500, Memphis, TN 38120

Sandra Kinsey, 7613 Dexter Hills, Cordova, TN 38016
Rickey E. Wilkins, 66 Monroe Ave., Memphis, TN 38103
Roby S. Williams, 555 Beale St., Memphis, TN 38103

MOTION: Fullilove – Grant United Healthcare a 60 day extension so we can prepare another RFP

Chairman Collins ruled Mrs. Fullilove’s motion (above), out of order

MAIN MOTION: Fullilove
SECOND: Ford
AYES: Brown, Conrad, Flinn, Ford, Lowery, Morrison and Strickland
NAYS: Boyd, Fullilove, Halbert, Hedgepeth and Chairman Collins
Ware was absent

APPROVED

MOTION: Strickland – Ask MLGW Board, by resolution, to cooperate with the City of Memphis and expedite the bid process within 120 days
SECOND: Halbert

Friendly Amendment: Bring back both RFP’s for the City of Memphis and MLGW separately and together

MOTION: Halbert

Councilman Strickland accepted Mrs. Halbert’s Friendly Amendment

APPROVED, without objection, Item #25A

MINUTES

Approval of the Minutes of the regular meeting of October 12, 2010 for Item #23 only, with the following motion:

MOTION: Fullilove
SECOND: Ford

APPROVED, by unanimous voice vote

INTRODUCTION OF ITEMS ON MATTERS BY THE GENERAL PUBLIC:

Chairman Collins recognized the following person who spoke from the audience:

Jim Hamilton, 380 N. Island Drive, #314, Memphis, TN 38103

ADJOURNED MEETING AT 7:06 P.M.

Upon statement of the Chairman, without objection, the meeting was adjourned, subject to the call of the Chairman.

C H A I R M A N

Attest:

Deputy Comptroller/Council Records