



CITY OF MEMPHIS

COUNCIL AGENDA

June 5, 2007

Public Session Tuesday, 3:30 p.m.

Council Chambers, First Floor, City Hall

125 North Main Street

Memphis, Tennessee 38103-2017

CALL TO ORDER by the Sergeant-at-Arms

INVOCATION

PLEDGE OF ALLEGIANCE

CALL OF ROLL by the Comptroller

APPROVAL OF PREVIOUS MEETING MINUTES (May 15, 2007)

CONSENT AGENDA

GENERAL ORDINANCES - FIRST READING (None)

GENERAL ORDINANCES - SECOND READING (None)

ZONING ORDINANCE - FIRST READING (None)

ZONING ORDINANCE - SECOND READING (None)

ENGINEERING

1. RESOLUTION approving final plat of MEMPHIS INTERMODAL FACILITY LAMAR AVENUE SEWER RELOCATION.

Contract No. CR-5076

Resolution approves the final plat located on the east side of US Hwy 78, north of John's Creek. Cost of the required improvements to be borne by the Developer. Resolution also authorizes the proper officials to execute the attached standard improvement contract.

City Engineer recommends approval

ACTION REQUESTED: Adopt the resolution

NOTATIONS FROM OPD

2. NOTATIONS from Land Use Control Board that the following cases were heard and recommendation made requesting a date of public hearing:

A. Case No. PD 07-302

Located on the west side of Windover Cove; +143.20 feet south of Joffre Avenue, containing .35 acre in the Single Family Residential (R-S6) & Local Commercial (C-L) Districts

Applicant: Pete Rosato
SR Consulting, LLC Cindy Reaves - Representative

Request: Two Single Family Lots

LUCB and OPD recommendation: APPROVAL, with conditions

B. Case No. PD 07-308

Located on the north side of Macon Road @ Town Centre Circle, containing .39 acre in the Light Commercial (C-L) District

Applicant: Gill Properties
Brown Gill - Representative

Request: Restaurant with Alcoholic Beverages

LUCB and OPD recommendation: APPROVAL, with conditions

C. Case No. PD 07-309

Located on the southeast corner of Island Drive and Auction Avenue, containing 2.80 acres in the Multiple Dwelling Residential (R-MM) and Agricultural Floodplain (AG [FP]) District

Applicant: Island Properties Associates
Ronald Harkavy - Representative

Request: A maximum of 17 lots for single family detached units

LUCB and OPD recommendation: APPROVAL, with conditions

ACTION REQUESTED: Set a date of public hearing

SUGGESTED DATE: June 19, 2007

GENERAL ITEM

3. RESOLUTION commending Mrs. Frances Manley for her 50 years of volunteer service to the Memphis Library System.

Ware

ACTION REQUESTED: Adopt the resolution



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MLGW FISCAL CONSENT

4. RESOLUTION awarding Contract No. 11172, Automatic Gate System, to South Memphis Fence Company, Inc., in an estimated funded amount of \$323,678.59.
5. RESOLUTION awarding Contract No. 11189, Filter Media Replacement for Sheahan Water Pumping Station, to Tech Coat, Inc., in the funded amount of \$518,820.00.
6. RESOLUTION awarding Contract No. 11197, Electronic Operations UPS/PDU Maintenance System, to Electronic Power Systems, Inc. in the funded amount of \$52,650.00.
7. RESOLUTION awarding Contract No. 11200, MLGW HVAC Upgrade at Various Locations, to CS3, Inc., in an estimated funded amount of \$2,054,200.00.
8. RESOLUTION approving Change No. 3 to Contract No. 9955 with Memphis and Shelby County Health Department, in the funded amount of \$141,339.00. (This covers 2007 payment for Partial Funding of Pollution Control.)
9. RESOLUTION requesting ratification of Expedited Procurement Request for Change No. 6 to Contract No. 10858, All Risk Property Insurance, with Factory Mutual Insurance Company, Inc., in the funded amount of \$767,713.00. (This changes the name to FM Global, and renews the policy for the period June 1, 2007 to May 31, 2008.)
10. RESOLUTION approving Change No. 3 to Contract No. 11000, Proactive Dialer Solution, with Televox Software, Inc., in an estimated funded amount of \$50,000.00. (This covers additional funding for services through the first renewal term which expires December 31, 2007.)
11. RESOLUTION approving Change No. 3 to Contract No. 11013, Line Clearance, with Blume Tree Services, in an estimated funded amount of \$111,884.00. (This covers additional funding for herbicides.)
12. RESOLUTION approving Change No. 2 to Contract No. 11039, MLGW Gas/Water Leak Surveys, with Heath Consultants, Inc., in an estimated funded amount of \$370,975.89. (This renews the contract for the second term, July 1, 2007 to June 30, 2008.)
13. RESOLUTION requesting ratification of Expedited Procurement Request for Change No. 1 to Contract No. 11072, MLGW Employee Assistance Program, with Methodist Healthcare, Inc., in the funded amount of \$28,500.00. (This renews the contract for the first term, April 1, 2007 to March 31, 2008.)
14. RESOLUTION approving Change No. 1 to Contract No. 11105, Aerator Maintenance, with R. P. Services, in the funded amount of \$201,681.08. (This renews the contract for the first term, August 1, 2007 to July 31, 2008.)
15. RESOLUTION requesting one-year extension and permission to purchase biodiesel fuel from Cary Oil Company, under Interdivisional Cooperative Agreement for fuel purchasing with the City of Memphis, in the amount of \$3,607,500.00.
16. RESOLUTION awarding contract for five-inch aluminum alloy pipe to H. D. Supply Utilities, Ltd., in the amount of \$196,700.00.
17. RESOLUTION awarding contract for galvanized steel transmission poles to Falcon Steel Company, in the amount of \$1,487,003.00.

18. RESOLUTION approving Position No. 06171, Interim Chief Utility Officer, with a salary of \$10,001.33 per month.
19. RESOLUTION approving Change No. 1 to Contract No. 11083, SAS 70 Audit, with Watkins Uiberall, PLLC, in an estimated funded amount of \$100,000.00. (This extends the current contract to include 2007 SAS 70 Audit.)
20. RESOLUTION requesting ratification of purchase order issued to Specialty Steel Supply for stainless steel well shaft rods, in the amount of \$26,899.28.



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APPEARANCE CARDS FOR PUBLIC SPEAKING

ITEMS HELD OR DROPPED FROM THE AGENDA

REGULAR AGENDA

21. APPOINTMENTS

Taylor

Memphis and Shelby County Building Code Advisory Board

Appointment

Paul T. Ryan

Memphis and Shelby County Cross Connection Board

Appointment

Cindy Cook

Memphis and Shelby County Music Commission

Reappointments

Antonio Parkinson

Pat Kerr Tigrett

BUDGET ITEMS

22. RESOLUTION to establish the Memphis Light Gas and Water Division In-Lieu-Of Tax payment to the City of Memphis for Fiscal Year 2008.

Chumney

ACTION REQUESTED: Adopt the resolution

23. RESOLUTION to approve the Capital Acquisition Budget and the Capital Improvement Program for Fiscal Years 2008 - 2012.

Jones

ACTION REQUESTED: Adopt the resolution

24. RESOLUTION to direct the City Treasurer to prepare tax bills for the various utilities carriers utilizing the last certified assessment as of June 30, 2007.

and
Chumney

ACTION REQUESTED: Adopt the resolution

25. RESOLUTION to approve the FY 2008 Budget for the Center City Commission.

Chumney

ACTION REQUESTED: Adopt the resolution

26. RESOLUTION approving the Memphis City Schools budget for 2007 - 2008.

Lowery

ACTION REQUESTED: Adopt the resolution

27. **ORDINANCE** establishing the Fiscal Year 2008 Operating Budget for the City of Memphis, up for T H I R D and F I N A L reading.

Chumney

Ordinance No. 5208

ORDINANCE to appropriate the proceeds of the Tax Levy on the assessed values on all properties of every species within the city limits for general purposes for the Fiscal Year July 1, 2007 through June 30, 2008, inclusive, together with all collections from privileges, licenses, fees, fines, permits, charges, requests, transfers from non-budget accounts, earnings, refunds, and all other items constituting the revenue receipts of the City of Memphis for the Fiscal Year July 1, 2007 through June 30, 2008, inclusive to provide the manner in which monies may be transferred from one fund to another and to provide the standard code or designations under which the appropriations are to be administered and accounting control maintained.

ACTION REQUESTED: Take whatever action Council deems advisable

28. **ORDINANCE** to fix the Tax Rate of the City of Memphis for Fiscal Year 2008, up for T H I R D and F I N A L reading.

Chumney

Ordinance No. 5209

ACTION REQUESTED: Take whatever action Council deems advisable

GENERAL ORDINANCES - THIRD AND FINAL READING

29. **ORDINANCE** approving a new Code of Ethics pursuant to legislation enacted by the General Assembly requiring all municipalities in Tennessee to adopt a policy for all municipal and elected officials, employees, boards, commissions, authorities, corporations and other instrumentalities, up for T H I R D and F I N A L reading. (Held from 5/1; 5/15)

Lowery & Sammons

Ordinance No. 5206

ACTION REQUESTED: Take whatever action Council deems advisable

30. **ORDINANCE** repealing Ordinance No. 4709, which established an aspirational Code of Ethics for all elected and appointed officials of the city and replacing with a more comprehensive ethics policy, up for T H I R D and F I N A L reading. (Held from 5/1; 5/15)

Lowery & Sammons

Ordinance No. 5207

ACTION REQUESTED: Take whatever action Council deems advisable

31. **ORDINANCE** to amend Chapter 25, Code of Ordinances, City of Memphis, so as to increase Pension Benefits allowable under Section 25-95 and 25-195, up for T H I R D and F I N A L reading.

Taylor

Ordinance No. 5210

ACTION REQUESTED: Take whatever action Council deems advisable

ENGINEERING DIVISION (None)

EXECUTIVE DIVISION (None)

FINANCE & ADMINISTRATION (None)

DIVISION OF FIRE SERVICES

32. **RESOLUTION** accepting grant funds in the amount of \$672,750.00 from the State of Tennessee for the In-Service Training program for in-service training of 1,495 fire personnel. Resolution also amends the FY 2007 Operating Budget to establish and appropriate grant funds.

Sammons

ACTION REQUESTED: Adopt the resolution

DIVISION OF GENERAL SERVICES

- 33. RESOLUTION accepting an offer from Bret James to purchase City owned surplus property located on the north side of Southern Avenue at the east right of way of Bruce Street, containing 2,914 square feet, more or less, in the amount of \$2,350.00.

McCormick

Resolution accepts an offer from Bret James to purchase property located on the north east corner of Southern Avenue and Bruce Street in the City of Memphis, County of Shelby and State of Tennessee. The City Engineer's Office has determined that there is no apparent need for the subject property. The amount of the offer is \$2,350.00. Per ordinance, the sale of the subject property is not subject to the offer laying over for a second reading and Council approval on the first reading shall be deemed approval of the sale. Resolution also authorizes the Mayor to execute the necessary documents, on behalf of the City of Memphis, in connection with the sale.

Director of General Services and City Engineer recommend approval

ACTION REQUESTED: Adopt the resolution

- 34. RESOLUTION accepting an offer from Robert D. Pelts and wife, Eleanor M. Pelts, to purchase City of Memphis and County of Shelby unimproved land, containing approximately 0.807 acres, located on the north side of Levee Road west of I-240/240 in Memphis, Shelby County, Tennessee.

McCormick

Resolution accepts an offer from Robert D. Pelts and wife, Eleanor M. Pelts to purchase property located on the north side of Levee Road, west of I-40/240 in City of Memphis, County of Shelby and State of Tennessee. The Public Works Division has determined that the subject property is surplus. The consideration is Purchasers granting the City and County rights of encroachment and ingress/egress, which legitimatizes the continued use of Purchasers' property as an Environmental Maintenance Facility for the staging of bulk materials and the continued regular access across Purchasers' property to a sanitary sewer collector and siphon line at the Wolf River.

Per ordinance, the sale of the subject property is not subject to the offer laying over for a second reading and Council approval on the first reading will be deemed approval of the sale. Resolution also authorizes the Mayor to execute the necessary documents, on behalf of the City of Memphis, in connection with the sale. The offer is subject to both City and County approval.

Director of General Services and Public Works recommend approval

ACTION REQUESTED: Adopt the resolution

DIVISION OF HOUSING AND COMMUNITY DEVELOPMENT

- 35. JOINT RESOLUTION between the City of Memphis and Shelby County Tennessee, for the Benefit of LeMoyne-Owen College. Contribution to the general fund of LeMoyne-Owen College in the amount of \$1,000,000.00 by the City of Memphis, and \$500,000.00 by Shelby County Government, for a period of three consecutive years, beginning on date no later than July 1, 2007.

Ware

ACTION REQUESTED: Adopt the resolution

DIVISION OF HUMAN RESOURCES (None)

LAW DIVISION (None)

DIVISION OF PARK SERVICES

- 36. RESOLUTION accepting and adopting the City of Memphis Division of Park Services Wolf River Greenway Master Plan for the Greenway that links neighborhoods, businesses, parks and other community assets with a 22 mile multi-use trail network that provides alternative facilities for bicycle commuting, walking, and jogging, and provides environmental benefits including wetlands preservation, aquifer recharge protection, stormwater management/retention and flood plain preservation extending from Mud Island Greenbelt Park to Houston Levee Road, linking to other greenways throughout Shelby County.

McCormick

ACTION REQUESTED: Adopt the resolution

- 37. RESOLUTION accepting R. A Bloch Cancer Foundation award of an additional \$150,000.00 towards the construction and maintenance of the Cancer Survivors Park under construction in Audubon Park and amending the FY 2007 Capital Improvement Budget to allocate and appropriate funds.

McCormick

ACTION REQUESTED: Adopt the resolution

DIVISION OF POLICE SERVICES

- 38. RESOLUTION appropriating funding for Organized Crime Unit special funds for Fiscal Year 2008, in the amount of \$3,835,250.00.

Sammons

ACTION REQUESTED: Adopt the resolution

DIVISION OF PUBLIC SERVICES (None)

DIVISION OF PUBLIC WORKS (None)

ZONING ORDINANCE - THIRD AND FINAL READING

- 39. **ORDINANCE** amending the text of the Subdivision Regulations, up for T H I R D and F I N A L reading. (Held from 2/6; 2/20; 3/6; 5/1)

Lowery

Ordinance No. 5202
Case No. STA 06-001cc

Applicant: Office of Planning and Development

Request: Subdivision Text Amendment as follows: Amend Sections 300.2E: Names and Addresses and 404.3F: Adjacent Properties – to add requirements for interconnected streets

LUCB and OPD recommendation: APPROVAL

ACTION REQUESTED: Take whatever action Council deems advisable

NO NOTICES WERE REQUIRED

DIVISION OF PLANNING & DEVELOPMENT

- 40. RESOLUTION establishing a Moratorium on the issuance of Adult-Oriented business and compensated dance permits by the Memphis and Shelby County Office of Planning & Development and the Memphis Alcohol Commission and Permits Office, until December 5, 2007.

Lowery

ACTION REQUESTED: Adopt the resolution

41. RESOLUTION approving a special use permit located at 4985 Windsong Park Drive, containing 16.71 acres in the Agricultural (AG) District.

Lowery

Case No. SUP 06-227cc

Applicant: Patty McDaniel
Kevin Vaughan, PE, Township Development Services -
Representative

Request: Special Events Venue

LUCB recommendation: APPROVAL, with conditions

OPD recommendation: REJECTION

ACTION REQUESTED: Take whatever action Council deems advisable

No Public Hearing Required; No Opposition at LUCB

PUBLIC HEARINGS

42. RESOLUTION approving a planned development located on the east side of E. Parkway South; +380.47 feet south of Central Avenue, containing 14.89 acres in the Duplex Residential (R-D) District. (Held from 5/15)

Lowery

Case No. PD 07-306

Applicant: Salvation Army
Ron Harkavy – Representative

Request: A planned development to permit a community center

LUCB and OPD recommendation: APPROVAL, with conditions

ACTION REQUESTED: Adopt the resolution

113 NOTICES MAILED ON MAY 4, 2007

PRESENTATIONS AND RECOGNITION OF VISITORS

43. RESOLUTION commending Mr. Webb Brewer for his outstanding work on behalf of Memphis Area Legal Services. (Held from 5/15)

Cooper Taylor

ACTION REQUESTED: Adopt the resolution

44. RESOLUTION approving an honorary street name change of Sewanee in honor of S.L. and Ida Jones.

Ford &
Taylor

ACTION REQUESTED: Adopt the resolution

45. RESOLUTION honoring Dave Brown for 30 Years of Outstanding Service to WMC-TV 5.

Jones

ACTION REQUESTED: Adopt the resolution

ADJOURNMENT

ADD-ONS

2. **NOTATIONS** from Land Use Control Board that the following cases were heard and recommendation made requesting a date of public hearing:

D. Case No. PD 07-310 - FRAYSER BUSINESS CENTER PD

Located on the east side of N. Thomas St., bordering the southeast side of Canadian National Railway, containing ±24.2 acres in the Highway Commercial (C-H) and Single Family Residential (R-S6) Districts.

Applicant: Steven L. Williamson (dba. Memphis Wrecking Company)
Homer Branam - Representative

Request: Phase I : Class IV Landfill; Phase II: Redevelopment with commercial/industrial uses

LUCB and OPD recommendation: APPROVAL, with conditions

E. Case No. SAC 07-603 - KENTUCKY STREET CLOSURE

Location extending north and south; between W. Carolina Avenue and Railroad Avenue, containing 10,800 square feet (Area of R.O.W.) and 30' x 360' (Length x Width), in the Bluffview Residential (R-B) District.

Applicant: Newsom Enterprises, LLC
Homer Branam, III - Representative

Request: Close & Vacate Street Right-Of-Way

LUCB and OPD recommendation: APPROVAL, with conditions

ACTION REQUESTED: Set a date of public hearing

SUGGESTED DATE: June 19, 2007

46. RESOLUTION approving MARIE SUBDIVISION.

Consent

Case No. S 06-048

Resolution approves final plat located on the south west corner of Garden Lane and Fenwick Road. Cost of the required improvements to be borne by the Developer.

City Engineer recommends approval

ACTION REQUESTED: Adopt the resolution

47. RESOLUTION accepting CONCORD ESTATES SUBDIVISION, SECTION C, and authorizing release of bond.

Consent

Case No. S 99-062cc
(Contract No. CR-4994)

Resolution accepts completion of the improvements and the dedication of public streets and easements as shown on the final plat located on the south side of Shelby Drive, west of Gertrude Drive. The standard improvement contract was approved on December 20, 2005. Resolution also authorizes the release of the letter of credit in the amount of \$26,000.00. This action is subject to County approval.

City Engineer recommends approval

ADD ONS

ACTION REQUESTED: Adopt the resolution

- 48. RESOLUTION accepting SUNSET LAKES SUBDIVISION, SECTION B, and authorizing release of bond.

Consent

Case No. S 98-018cc
(Contract No. CR-4787)

Resolution accepts completion of the improvements and the dedication of public streets and easements as shown on the final plat located on the east side of Old Covington Pike, north and south of Meegan Drive. The standard improvement contract was approved on April 15, 2003. Resolution also authorizes the release of the performance bond in the amount of \$50,200.00. This action is subject to County approval.

City Engineer recommends approval

ACTION REQUESTED: Adopt the resolution

- 49. RESOLUTION amending the Rules of Procedure to establish a process to fill a Council vacancy.

Taylor

ACTION REQUESTED: Adopt the resolution

- 50. RESOLUTION amending the Fiscal Year 2007 Capital Improvement Budget by transferring an allocation and appropriating \$5,938,640.000 funded by GO Bonds - General (Storm Water) from Drainage - ST, CIP Project number ST03006 to Harrison Creek - ST project number ST03063 for drainage repair and a contract with Ferrell Paving for drainage repair.

Sammons

Director of Public Works and City Engineer recommends approval

ACTION REQUESTED: Adopt the resolution

- 51. RESOLUTION appropriating \$1,500,000.00 funded by G.O. Bonds General for the Police Real Time Crime Center, CIP #PD04017.

Sammons

ACTION REQUESTED: Adopt the resolution

- 52. RESOLUTION supporting the passage of Senate Bill 1967 - Gun Crime Bill.

Sammons

ACTION REQUESTED: Adopt the resolution

- 53. RESOLUTION applauding Northwest Airlines for its recent success in emerging from bankruptcy as a stronger more globally focused carrier, looking forward to opening new routes and enhancing customers' travel experiences.

Sammons

ACTION REQUESTED: Adopt the resolution

ACTION TAKEN BY COUNCIL ON THIS DATE

- 1. Approved
- 2. Public Hearing set for June 19, 2007
- 3. Through 22 – Approved
- 23. Approved, as amended

ADD ONS

- 24. Through 26 – Approved
- 27. Approved, as amended
- 28. Approved
- 29. Approved, as amended
- 30. Through 33 – Approved
- 34. Back to Committee on June 19, 2007
- 35. Through 38 – Approved
- 39. Dropped
- 40. and 41 – Approved
- 42. Approved, as amended
- 43. Through 48 – Approved
- 49. Approved, as amended
- 50. Through 53 – Approved

ACTION TAKEN BY COUNCIL ON THE MINUTES OF JUNE 5, 2007 FOR ITEM #18 ONLY:

MOTION: McCormick
SECOND: Sammons
AYES: Brittenum, Brown, Cooper Taylor, Ford, Ware, Jones, Lowery, McCormick, and Sammons
NAYS: Chumney
Marshall did not cast a vote
Taylor was absent

APPROVED, item #18 only

ACTION TAKEN BY COUNCIL ON THE MINUTES OF MAY 15, 2007 with the following motion:

MOTION: Lowery -The County Commission made some minor changes to a zoning ordinance that we passed three weeks ago, (May 15, 2007), Case No. SUP 07-203). I move that the minutes be reflected to show these changes.
SECOND: McCormick
AYES: Brittenum, Brown, Chumney, Cooper Taylor, Ford, Ware, Jones, Lowery, McCormick, Sammons
Marshall did not cast a vote
Taylor was absent

APPROVED, as amended