

MINUTES

REGULAR MEETING OF THE CITY COUNCIL

CITY OF MEMPHIS

March 17, 2009

3:30 P.M. SCHEDULED SESSION

3:31 P.M. MEETING COMMENCED

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

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

INVOCATION

The meeting was opened with prayer by Rev. Martin McCain from Grace United Methodist Church. Councilman Collins presented Rev. McCain 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.

MINUTES

Approval of the Minutes of the regular meeting of March 3, 2009 with the following motion:

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

APPROVED, as amended - (Item #29, Ord.#5298, was pulled from the minutes and Sent Back to Committee)

- 31. **RESOLUTION AMENDING THE FY2009 RIVERFRONT DEVELOPMENT CORPORATION’S CAPITAL IMPROVEMENT PROGRAM FUND TO INCLUDE GA01003, MUD ISLAND PLAYGROUND AND CHICKASAW HERITAGE PARK WALKING TRAIL AND ESTABLISH AN ALLOCATION AWARD OF \$397,000.00 IN THE CONSTRUCTION LINE FUNDED BY G.O. BONDS GENERAL AND APPROPRIATE SAID ALLOCATION FOR CONSTRUCTION. (HELD FROM 3/3)**

DROPPED

- 1. **RESOLUTION CONGRATULATING THE CLASS OF 2009 OF MS. GLYNN’S CHARM AND FINISHING SCHOOL.**

MOTION: Lowery
 SECOND: Ware

APPROVED, unanimous voice vote

- 2. **RESOLUTION APPROVING AN HONORARY STREET NAME CHANGE ON MEAGHER STREET FOR MR. JOE C. WARREN, FIRST PRESIDENT OF AFSCME LOCAL 1733.**

MOTION: Brown
 SECOND: Morrison

APPROVED, unanimous voice vote

- 3. **RESOLUTION RECOGNIZING THE OVERTON HIGH LADY WOLVERINES ON THEIR VICTORY AS BEING NAMED 15-AAA DISTRICT CHAMPIONS.**

MOTION: Brown
 SECOND: Ford

APPROVED, unanimous voice vote

- 4. **RESOLUTION APPROVING A PLANNED DEVELOPMENT LOCATED ON THE EAST SIDE OF TILLMAN STREET, CONTINUING TO THE NORTH SIDE OF JOHNSON AVENUE, CONTAINING 8.67 ACRES IN THE SINGLE FAMILY RESIDENTIAL (R-S6) DISTRICT. (HELD FROM 3/3)**

Case No. PD 08-335

Applicant: Lakeview Estates Development, LLC (Darrell Cobbins)
 Powers Hill Design, LLC (Nisha Powers) – Representative

Request: A planned development to permit affordable housing for the elderly (100 units in 1, three-story building)

LUCB and OPD recommendation: APPROVAL, with conditions

MOTION: Morrison

SECOND: Ford

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

APPROVED, as amended

- 5. **RESOLUTION APPROVING A PLANNED DEVELOPMENT LOCATED ON THE SOUTHEAST CORNER OF N. GERMANTOWN PARKWAY AND WALNUT RUN ROAD, CONTAINING 3.57 ACRES IN AN AREA CURRENTLY GOVERNED BY P.D. 84-348.**

Case No. PD 08-336

Applicant: Gill Properties
Harkavy, Shainberg, Kaplan & Dunston, PLLC
(Ronald Harkavy) - Representative

Request: Plan amendment to allow Planned Commercial (C-P) District land uses, including restaurant, retail center and a four (4) story hotel building

LUCB and OPD recommendation: APPROVAL, with conditions

MOTION: Morrison

SECOND: Strickland

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

APPROVED

- 6. **ORDINANCE REZONING THE SOUTH SIDE OF MACON ROAD, OPPOSITE DEXTER LANE INTERSECTION CONTAINING 5.44 ACRES IN THE SINGLE FAMILY RESIDENTIAL (R-S6) AND GENERAL OFFICE (O-G) DISTRICTS, UP FOR T H I R D AND F I N A L READING. (HELD FROM 3/3)**

Ordinance No. 5299

Case No. Z 08-118

Sent Back To LUCB

CONSENT AGENDA –Items may be acted upon by one motion: SEE PAGE 2835 FOR ROLL CALL

- 7. **ORDINANCE TO AMEND CHAPTER 5 OF THE CODE OF ORDINANCES SO AS TO PROHIBIT THE ROADSIDE SALE OF ANIMALS, UP FOR F I R S T READING.**

APPROVED, on First reading

8. **ORDINANCE TO ADOPT THE UNIVERSITY DISTRICT OVERLAY (UDO) AS A ZONING TEXT AMENDMENT, UP FOR F I R S T READING.**

Ordinance No. 5301
Case No. ZTA 08-002

APPROVED, on First reading

9. **ORDINANCE TO AMEND THE TEXT OF THE ZONING ORDINANCE, UP FOR F I R S T READING.**

Ordinance No. 5302
Case No. Z08-104

APPROVED, on First reading

10. **RESOLUTION ACCEPTING DEXTER WAY PD, PHASE 1, AREA A AND AUTHORIZING RELEASE OF BOND.**

Case No. PD 02-326
(Contract No. CR-4791)

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 Dexter Road, east of Dexter Woods. The standard improvement contract was approved on May 20, 2003. Resolution also authorizes the release of the letter of credit in the amount of \$73,000.00.

City Engineer recommends approval

APPROVED

11. **RESOLUTION ACCEPTING DEXTER WAY PD, PHASE 2, AREA B AND AUTHORIZING RELEASE OF BOND.**

Case No. PD 02-236
(Contract No. CR-5117)

Resolution accepts completion of the improvements and the dedication of public streets and easements as shown on the final plat located on Dexter Road, west of Dexter Woods. The standard improvement contract was approved on September 23, 2008. Resolution also authorizes the release of the letter of credit in the amount of \$27,300.00.

City Engineer recommends approval

APPROVED

12. **RESOLUTION ACCEPTING FEDEX HEADQUARTERS MEDIAN MODIFICATION AND AUTHORIZING RELEASE OF BOND.**

(Contract No. CR-5105)

Resolution accepts completion of the improvements and the dedication of public streets and easements as shown on the final plat located on the Avenue of Commerce, north of Winchester Road. The standard improvement contract was approved on April 1, 2008. Resolution also authorizes the release of the performance bond in the amount of \$297,500.00.

City Engineer recommends approval

APPROVED

13. **RESOLUTION APPROVING FINAL PLAT OF HOUSTON LEVEE TRAILS PD, 4TH AMENDMENT, PHASE 1.**

Case No. PD 04-383
Contract No. CR-5136

Resolution approves the final plat located on the southwest corner of Houston Levee Road and Highway 64. 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

APPROVED

14. **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 08-337 – Fieldstone P.D., 2nd Amendment

Public Hearing Set for April 7, 2009

ROLL CALL CONSENT ITEMS

MOTION: Halbert

SECOND: Morrison

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

APPROVED**MLGW FISCAL CONSENT – Items may be acted upon by one motion:**

15. **RESOLUTION AWARDING CONTRACT NO. 11277, EMERGENCY GENERATOR FOR SHAW GENERATOR INSTALLATION, TO TRI-STATE ARMATURE & ELECTRICAL WORKS, INC. IN THE FUNDED AMOUNT OF \$1,673,647.00.**

APPROVED

16. **RESOLUTION APPROVING CHANGE NO. 2 TO CONTRACT NO. 10929, LICENSING AGREEMENT BETWEEN MLGW AND E-SOURCE, INC. IN THE FUNDED AMOUNT OF \$171,100.00. (THIS CHANGE RENEWS THE CONTRACT FOR THE TERM MAY 1, 2009 TO APRIL 30, 2010).**

APPROVED

17. **RESOLUTION APPROVING CHANGE NO. 3 TO CONTRACT NO. 11072, MLGW EMPLOYEE ASSISTANCE PROGRAM, WITH METHODIST HEALTHCARE, INC. IN THE FUNDED AMOUNT OF \$28,500.00. (THIS EXTENDS THE CURRENT CONTRACT FOR A ONE-YEAR TERM, APRIL 1, 2009 TO MARCH 31, 2010).**

APPROVED

18. **RESOLUTION APPROVING CHANGE NO. 3 TO CONTRACT NO. 11078, PROFESSIONAL CLAIMS ADJUSTING SERVICE, WITH HORTON AND ASSOCIATES OF MEMPHIS IN THE FUNDED AMOUNT OF \$160,000.00. (THIS CHANGE RENEWS THE CONTRACT FOR THE THIRD OF FOUR RENEWAL TERMS, APRIL 1, 2009 TO MARCH 31, 2010).**

APPROVED

19. **RESOLUTION APPROVING CHANGE NO. 3 TO CONTRACT NO. 11187, FLEXIBLE SPENDING ACCOUNT ADMINISTRATOR, WITH FRINGE BENEFITS MANAGEMENT COMPANY IN THE FUNDED AMOUNT OF \$10,000.00, FOR A NEW CONTRACT VALUE OF \$46,651.99. (THIS CHANGE RENEWS THE CONTRACT FOR THE SECOND AND FINAL RENEWAL TERM, MAY 1, 2009 THROUGH APRIL 30, 2010).**

APPROVED

- 20. **RESOLUTION APPROVING CHANGE NO. 2 TO CONTRACT NO. 11261, COMMERCIAL AUTO INSURANCE, WITH PETE MITCHELL & ASSOCIATES, INC. IN THE FUNDED AMOUNT OF \$12,500.00, FOR A NEW CONTRACT VALUE OF \$189,859.00. (THIS CHANGE IS TO PAY AN ENDORSEMENT FOR ADDING VEHICLES FOR THE EMERGENCY RESPONSE RESULTING FROM THE ICE STORM IN MAYFIELD, KENTUCKY AND ADDS CONTINGENCY FUNDING FOR FUTURE EMERGENCY RESPONSE NEEDS).**

APPROVED

- 21. **RESOLUTION AWARDDING CONTRACT FOR VMWARE REPLICATION EQUIPMENT AND SERVICES TO LOGICALIS, INC. IN THE AMOUNT OF \$156,731.55.**

APPROVED

- 22. **RESOLUTION AWARDDING 36-MONTH CONTRACT FOR BIODIESEL FUEL TO PETROLEUM TRADERS CORPORATION IN THE AMOUNT OF \$711,225.00.**

APPROVED

- 23. **RESOLUTION AWARDDING 60-MONTH CONTRACTS FOR URD PRIMARY CABLE, AS FOLLOWS:**

The Kerite Company.....	13,851,612.50
Universal Scaffolding.....	<u>16,908,760.00</u>
Total.....	<u><u>\$30,760,372.50</u></u>

APPROVED

- 24. **RESOLUTION APPROVING PAYMENT OF 2009 ANNUAL MEMBERSHIP DUES TO TENNESSEE ONE-CALL SYSTEM, INC. IN THE AMOUNT OF \$83,440.35.**

APPROVED

- 25. **RESOLUTION APPROVING EMPLOYMENT OF GENE PALERMO, PH.D FOR CONSULTING EXPERT-WITNESS SERVICES ON AN AS-NEEDED BASIS AT THE HOURLY RATE OF \$175.00.**

APPROVED

MLGW ROLL CALL CONSENT ITEMS

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

Brown did not cast a vote

APPROVED

26. **APPOINTMENTS**

MEMPHIS AND SHELBY COUNTY AIR POLLUTION CONTROL BOARD

APPOINTMENTS

DORIS F. BOYD
MARY MARGARET WARE

REAPPOINTMENT

JAMES G.M. LENSCHAU

MEMPHIS AND SHELBY COUNTY DEPOT REDEVELOPMENT CORPORATION BOARD

APPOINTMENT

ANDREW N. GLISSON

LANDMARKS COMMISSION

APPOINTMENT

KEITH KAYS

REAPPOINTMENTS

SUZANNE ASKEW
VERNA HAWKINS-LAMBERT

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

APPROVED

27. **RESOLUTION AMENDING THE FISCAL YEAR 2009 CIP BUDGET BY ALLOCATING AND APPROPRIATING \$250,000.00 IN CAPITAL PAY GO FUNDS TO PREPARE PROJECTS FOR FUNDING FROM THE ECONOMIC RECOVERY (STIMULUS) LEGISLATION AND OTHER AVAILABLE FEDERAL GRANTS THROUGH THE STATE OF TENNESSEE.**

MOTION: Boyd

SECOND: Ford

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

APPROVED

28. **RESOLUTION APPROPRIATING AN ADDITIONAL \$6,900.00 IN G.O. BONDS FROM THE FY 2009 CIP BUDGET TO REPAIR ENGINE 55 FOR THE DIVISION OF FIRE SERVICES.**

MOTION: Hedgepeth

SECOND: Morrison

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

APPROVED

29. **RESOLUTION APPROPRIATING AN ADDITIONAL \$35,000.00 IN G.O. BONDS FROM THE FY 2009 CIP BUDGET TO REPAIR TRUCK 3 FOR THE DIVISION OF FIRE SERVICES.**

MOTION: Hedgepeth

SECOND: Morrison

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

APPROVED

30. **RESOLUTION AMENDING THE FY 2009 HCD OPERATING BUDGET BY APPROPRIATING \$450,000.00 IN REVENUES FOR BENEFIT OF THE PYRAMID REDEVELOPMENT PROJECT. CONTRACT NO. 25189.**

MOTION: Ford

SECOND: Flinn

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

APPROVED

32. **RESOLUTION APPROVING THE COMPLETION OF PLANS AND SPECIFICATIONS AND TAKING OF BIDS FOR THE LIBERTY BOWL LOCKER ROOMS PHASE II, CIP PROJECT NUMBER PK10010, AS PART OF THE FY 09 CAPITAL IMPROVEMENT PROGRAM AT AN ESTIMATED CONSTRUCTION COST OF \$1,480,000.00 FUNDED BY G.O. BONDS GENERAL.**

MOTION: Strickland

SECOND: Morrison

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

APPROVED

33. **RESOLUTION APPROPRIATING \$500,000.00 IN PK08011, "CHILDREN'S GARDEN", IN CONTRACT CONSTRUCTION, FUNDED BY G.O. BONDS GENERAL FOR PAYMENT TO THE MEMPHIS BOTANIC GARDEN FOUNDATION FOR CONSTRUCTION OF THE PROJECT.**

MOTION: Strickland

SECOND: Morrison

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

NAY: Collins

Brown did not cast a vote

APPROVED

34. **RESOLUTION APPROPRIATING \$300,000.00 FROM GA01008, MUD ISLAND MAJOR MAINTENANCE, FY 09 CIP TO REPLACE THE AIR-CONDITIONING CHILLER FOR THE AMPHITHEATER AND REPLACEMENT OF HVAC CONTROL SYSTEM FOR THE MUSEUM AND OFFICES BY THE GENERAL SERVICES DIVISION.**

MOTION: Strickland

SECOND: Morrison

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

APPROVED

35. RESOLUTION APPROVING AN AMENDMENT TO THE LEASE AGREEMENT WITH PETTY REAL ESTATE, INC., AS APPROVED BY THE BOARD OF COMMISSIONS OF THE MEMPHIS AND SHELBY COUNTY PORT COMMISSION ON JANUARY 22, 2009.

Contract No. CR-3601AM

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

APPROVED

36. RESOLUTION URGING TEAMWORK AND COMMUNICATION.

Chairman Lowery recognized the following person who spoke from the audience:
Minister Curtis Powell, 1130 S. Wellington, Memphis, TN. 38120

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

APPROVED

37. RESOLUTION ESTABLISHING A CIVILIAN LAW ENFORCEMENT REVIEW BOARD SPECIAL COMMITTEE.

Sent Back to Committee

38. RESOLUTION APPROPRIATING \$135,000.00 FUNDED BY G.O. BONDS GENERAL, CHARGEABLE TO THE FISCAL YEAR 2009 CAPITAL IMPROVEMENT BUDGET FOR CHICKASAW HERITAGE PARK WALKING TRAIL.

(In Committee, The Mud Island Playground portion of this resolution was tabled, until a study can be done. Councilman Brown made a motion to have this portion of the resolution, brought back to Committee on April 7, 2009, before the study is done).

(Special Item #1) – Brown’s motion

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

(Special Item #1 – FAILED)

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

APPROVED (The Committee’s motion stands, the Mud Island Playground portion of this resolution is Tabled)

39. **RESOLUTION OPPOSING SENATE BILL 83, AN ACT TO AMEND TENNESSEE CODE ANNOTATED, TITLE 50, CHAPTER 2, PART 1, RELATIVE TO WAGES.**

Chairman Lowery recognized the following person who spoke from the audience:
 Rev. Rebekah Jordan, 1060 Philadelphia St., Memphis, TN. 38104

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

APPROVED

40. **RESOLUTION ACCEPTING AND APPROPRIATING GRANT FUNDS IN THE AMOUNT OF \$11,506,415.00 FROM THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT TO MAKE FUNDS AVAILABLE FOR USE BY NON-PROFIT AND FOR-PROFIT AFFORDABLE HOUSING DEVELOPERS WITHIN TEN ZIP CODES OF MEMPHIS FOR THE ACQUISITION, REHABILITATION AND DEPOSITION OF APPROXIMATELY 145 UNITS.**

Chairman Lowery recognized the following person who spoke from the audience:
 Sylvia Loyd-Chism, 361 W. Holmes Rd., Memphis, TN. 38109

(Councilman Hedgepeth made a motion to have the RFQ looked at by the Council, before it goes public. After some discussion of this item, Councilman Hedgepeth withdrew his motion).

(Councilman Strickland offered a friendly amendment asking that a report be made to the Committee on a quarterly basis, showing the addresses purchased and rehabilitated, the vendors used to do the work and the amount of money spent out on each house.)

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

Brown recused

APPROVED, as amended

(Special Item #2 – Minutes for Item #40, from tonight’s meeting)

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

APPROVED

INTRODUCTION OF ITEMS ON MATTERS BY THE GENERAL PUBLIC:

Chairman Lowery recognized the following people who spoke from the audience:

- Walter Broady, III, 4256 Ledbetter Cove, Memphis, TN. 38109
- Chris Caldwell, 244 Angelus, Memphis, TN. 38112
- Sylvia Loyd-Chism, 361 W. Holmes Rd., Memphis, TN. 38109
- Kathy Farris, 2115 Allenby Road, Memphis, TN. 38139
- Leona Love, 1407 Greendale Ave., Memphis, TN. 38127
- Charles Scott, 3689 Huckleberry Street, Memphis, TN. 38116

ADJOURNED MEETING AT 6:45 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