

MINUTES

REGULAR MEETING OF THE CITY COUNCIL

CITY OF MEMPHIS

April 2, 2013

3:30 P.M. SCHEDULED SESSION

3:30 P.M. MEETING COMMENCED

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

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

INVOCATION

The meeting was opened with prayer by Rev. Ralph White, from Bloomfield Full Gospel Baptist Church. Councilwoman Fullilove presented Rev. White 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 19, 2013 with the following motion:

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

Strickland did not cast a vote

APPROVED

Councilman Brown recognized Lee Saunders, National President of AFSCME who was visiting Memphis, Tennessee.

Councilman Collins recognized Leroy Watson and others from the ABA who was in the audience.

- 25. **ORDINANCE TO AMEND TITLE 6 – BUSINESS LICENSES AND REGULATIONS, CHAPTER 6-96, SECTION 1, OF THE CODES OF ORDINANCES, TO CREATE LOCAL PREFERENCE AND WORKFORCE TRAINING PREFERENCE FOR AWARD OF CITY CONTRACTS, UP FOR T H I R D AND F I N A L READING.**

Ordinance No. 5503

Held until July 16, 2013

- 27. **RESOLUTION CLOSING WHITEHAVEN GOLF COURSE FOR THE WINTER MONTHS, INCREASING GOLF CART RENTAL FEES AND ESTABLISHING A NON-SHELBY COUNTY USER FEE. (Held from 11/6; 12/4; 12/18; 1/22)**

DROPPED

- 24. **ORDINANCE TO AMEND ORDINANCE NO. 5460, TO ALLOW THE MAXIMUM LOCAL OPTION SALES TAX BE LEVIED IN THE CITY OF MEMPHIS AND TO SUBMIT THIS PROPOSED REFERENDUM ORDINANCE TO THE QUALIFIED VOTERS OF THE CITY OF MEMPHIS, AT A SPECIAL ELECTION TO BE HELD BY SEPTEMBER 30, 2013, UP FOR T H I R D AND F I N A L READING. (Held from 3/5)**

Ordinance No. 5495

Held until July 2, 2013

- 26. **RESOLUTION TO SET THE SALES TAX REFERENDUM TO ALLOCATE MONEY IN THE AMOUNT OF \$27,000,000.00 FOR PRE-KINDERGARTEN PROGRAMS AND PROPERTY TAX DECREASE IN THE AMOUNT OF \$20,000,000.00. (Held from 2/5; 3/5)**

Held until July 2, 2013

- 1. **RESOLUTION DECLARING APRIL 2, 2013 AS AUTISM AWARENESS DAY AND APRIL AS AUTISM AWARENESS MONTH.**

MOTION: Fullilove

SECOND: Ford

APPROVED, by unanimous voice vote

- 2. **RESOLUTION DECLARING APRIL AS FINANCIAL LITERACY MONTH IN THE CITY OF MEMPHIS.**

MOTION: Ford
SECOND: Fullilove

APPROVED, by unanimous voice vote

3. **RESOLUTION CONGRATULATING SOUTHWIND HIGH SCHOOL BOYS' BASKETBALL TEAM, ON AN OUTSTANDING SEASON AND WINNING THE STATE CHAMPIONSHIP.**

MOTION: Lowery
SECOND: Morrison

APPROVED, by unanimous voice vote

31. **RESOLUTION ENDORSING BISHOP CHARLES E. BLAKE, PRESIDING BISHOP FOR THE CHURCH OF GOD IN CHRIST, AS HE MAKES STEPS TO EXPAND THE FOOTPRINT OF THE NATIONAL CHURCH IN MEMPHIS, TENNESSEE.**

MOTION: Ford
SECOND: Halbert

APPROVED, by unanimous voice vote

4. **RESOLUTION APPROVING A PLANNED DEVELOPMENT LOCATED AT 2250 CENTRAL AVENUE (NORTHEAST CORNER OF CENTRAL & NEW YORK) CONTAINING 0.35 ACRE IN THE COMMERCIAL MIXED USE (CMU-1) AND RESIDENTIAL URBAN (RU-3) DISTRICTS.**

Case No. PD 13-304
(Casablanca)

Applicant: Aimer Shtaya
Bray-Davis Firm, LLC David Bray) – Representative

Request: Commercial PD for a restaurant

LUCB and OPD recommendation: APPROVAL, with conditions

No Opposition at LUCB; No Public Hearing Required

MOTION: Collins
SECOND: Boyd

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

APPROVED

- 5. **RESOLUTION APPROVING A PLANNED DEVELOPMENT LOCATED AT 1674 DELANO ROAD; NORTHWEST CORNER OF N. WATKINS STREET AND DELANO ROAD, CONTAINING 0.7840 ACRE IN THE COMMERCIAL MIXED USE-1 (CMU-1) DISTRICT.**

Case No. PD 13-308
(Converted from SUP 13-204)

Applicant: Brian Liberto Cook
Royston Construction Codes Consultants – Representative

Request: Request approval for a Vehicle Sales Office with 25 parking spaces for vehicle display

LUCB and OPD recommendation: APPROVAL

No Opposition at LUCB; No Public Hearing Required

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

APPROVED, as amended in Committee

- 6. **RESOLUTION APPROVING A STREET/ALLEY CLOSURE LOCATED ON THE WEST SIDE OF TILLMAN – TILLMAN COVE, CONTAINING .680 ACRE IN THE RESIDENTIAL USE (RU-3) DISTRICT.**

Case No. SAC 12-608

Applicants: Thompson II, LLC
Solomito Land Planning (Brenda Solomito) – Representative

Request: Close and vacate public right-of-way

LUCB and OPD recommendation: APPROVAL, with eight (8) conditions

No Opposition at LUCB; No Public Hearing Required

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

APPROVED

- 7. **RESOLUTION APPROVING A SPECIAL USE PERMIT LOCATED ON THE NORTH SIDE OF POPLAR AVENUE, 676 FEET WEST OF RACINE DRIVE, CONTAINING 0.567 ACRE IN THE CMU-2 DISTRICT.** (Held from 3/19)

Case No. SUP 13-203

Applicant: Budget Rent-A-Car
Kim Anderson – Representative

Request: Auto leasing lot

LUCB and OPD recommendation: APPROVAL

No Opposition at LUCB; No Public Hearing Required

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

APPROVED

- 8. **RESOLUTION APPROVING A SPECIAL USE PERMIT LOCATED ON THE WEST SIDE OF THOMAS STREET, NEAR WHITNEY ROAD, CONTAINING 0.46 ACRE IN THE COMMERCIAL MIXED USE (CMU-1) DISTRICT.**

Case No. SUP 13-205

Applicant: TV6-W, LLC DBA Tower Ventures
Lou Katzerman – Representative

Request: Proposal to construct a one hundred seventy five foot (175') CMCS Tower

LUCB and OPD recommendation: APPROVAL, with conditions

No Opposition at LUCB; No Public Hearing Required

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

APPROVED

9. **RESOLUTION APPROVING A SPECIAL USE PERMIT LOCATED AT 1130 COLLEGE STREET; 215 FEET NORTH OF MCLEMORE AVENUE, CONTAINING 0.11 ACRE IN THE RU-3 DISTRICT.**

Case No. SUP 13-207

Applicant: Community Lift
Linx Consulting – Representative

Request: Neighborhood Arts Center

LUCB and OPD recommendation: APPROVAL

No Opposition at LUCB; No Public Hearing Required

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

APPROVED

CONSENT AGENDA – Items 10 & 11 may be acted upon by one motion: SEE PAGE 2548 FOR ROLL CALL

10. **ORDINANCE AMENDING THE MEMPHIS AND SHELBY COUNTY UNIFIED DEVELOPMENT CODE. THIS TEXT AMENDMENT AFFECTS ALL PROPERTY WITHIN THE CITY OF MEMPHIS AND UNINCORPORATED SHELBY COUNTY, UP FOR S E C O N D READING.**

Case No. ZTA 13-001
Ordinance No. 5504

APPROVED, on Second reading

11. **NOTATIONS FROM LAND USE CONTROL BOARD THAT THE FOLLOWING CASES WERE HEARD AND RECOMMENDATION MADE REQUESTING A DATE OF PUBLIC HEARING:**

- A. Case No. SAC 13-601 (Companion Case PD 13-302)
- B. Case No. SUP 13-201
- C. Case No. SUP 13-302

Public Hearing Set for April 16, 2013

ROLL CALL CONSENT ITEMS

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

APPROVED

MOTION: Harris – Move to divide the question for Item #12
 SECOND: Fullilove

Chairman Ford stated that without objection, we will divide the question for Item #12

MOTION: Harris - Move to accept a companion resolution for Item #12

Without Objection, companion resolution accepted. Set up as Special Item #1

Friendly Amendment: Resolution by City Council urging Memphis Light, Gas and Water to approve the contract submitted by Bean and Prince

MOTION: Lowery

Councilman Harris accepted Councilman Lowery's friendly amendment

After a discussion with the Council Attorney, Councilman Harris withdrew his motion regarding the companion resolution for Item #12

12. **RESOLUTION AWARDDING CONTRACT NO. 11564, GROUNDS MAINTENANCE TO VANDERBILT LANDSCAPING, IN THE FUNDED AMOUNT OF \$496,606.50.** (Held from 3/19)

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

FAILED**MLGW FISCAL CONSENT – Items 13 - 21 may be acted upon by one motion:**

13. **RESOLUTION AWARDDING CONTRACT TO DOBBS FORD, INC. FOR CREW CAB AND CHASSIS, IN THE FUNDED AMOUNT OF \$100,540.00.**

APPROVED

14. **RESOLUTION AWARDDING CONTRACT TO DOBBS FORD, INC. IN THE AMOUNT OF \$1,710,973.00, SAM SWOPE AUTO GROUP, LLC. IN THE AMOUNT OF \$196,890.65, AND TEREX EQUIPMENT SERVICE IN THE AMOUNT OF \$35,445.00, FOR LIGHT DUTY VEHICLES.**

APPROVED

15. **RESOLUTION AWARDDING CONTRACT NO. 11536, AERIAL PATROL OF GAS TRANSMISSION RIGHT OF WAY TO TENNESSEE HELICOPTER SERVICES, INCORPORATED, IN THE FUNDED AMOUNT OF \$72,000. 00.**

APPROVED

16. **RESOLUTION AMENDING PURCHASE ORDER NUMBER 144306 TO BADGER METER, INC. FOR WATER METERS, IN THE AMOUNT OF \$372,314.29.**

APPROVED

17. **RESOLUTION AWARDDING A STRATEGIC ALLIANCE CONTRACT FOR POWER CIRCUIT BREAKERS TO MITSUBISHI ELECTRIC POWER PRODUCTS, INC. C/O H.V. SALES; ABB, INC. C/O YODER SALES, AND SIEMENS C/O UTILITY SALES AGENCY, LLC, IN AN AMOUNT NOT TO EXCEED \$3,420,854.00 FOR A 60-MONTH PERIOD.**

APPROVED

18. **RESOLUTION AWARDDING CONTRACT TO BRIGHTER DAYS AND NITES FOR RECLOSERS, IN THE FUNDED AMOUNT OF \$525,572.20.**

APPROVED

19. **RESOLUTION AWARDDING CONTRACT TO ITRON, INC. FOR METER READING HANDHELD DEVICES AND DOCKING STATIONS, IN THE FUNDED AMOUNT OF \$695,667.72.**

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

Donna Bohannon, 5343 Sea Isle, Memphis, TN 38119

APPROVED

20. **RESOLUTION APPROVING CHANGE NO. 14 TO CONTRACT NO. 10705, ORACLE SOFTWARE LICENSE AND SERVICE AGREEMENT, WITH ORACLE, TO RENEW THE CURRENT CONTRACT IN THE FUNDED AMOUNT OF \$851,007.10.**

APPROVED

21. **RESOLUTION APPROVING CHANGE NO. 5 TO CONTRACT NO.11281, MAINTAINING MLGW ARCHIVAL DOCUMENTS, WITH VITAL RECORDS CONTROL, INCORPORATED, IN THE FUNDED AMOUNT OF \$6,685.00. (THIS CHANGE IS TO EXTEND THE CONTRACT THROUGH OCTOBER 31, 2013 TO ALLOW TIME TO RE-BID FOR A NEW CONTRACT. A SINGLE BID WAS RECEIVED AND EXCEEDED THE AREA'S BUDGET.)**

APPROVED

MLGW ROLL CALL CONSENT ITEMS

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

APPROVED, as amended, with the exception of Item #12, which was voted on separately

22. **APPOINTMENT**

MEMPHIS AND SHELBY COUNTY JOINT BOARD OF APPEALS

Appointment

Yolanda R. Kight

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

APPROVED

23. **ORDINANCE AMENDING CHAPTER 48 OF THE CITY OF MEMPHIS CODE OF ORDINANCES, BY ADDING SECTIONS 48-23 THRU 48-28 TO INCLUDE “PROPERTY REGISTRATION REQUIREMENTS” THAT WILL REQUIRE OWNERS OF REAL PROPERTIES, INCLUDING CONDOMINIUMS, TO MAINTAIN ON FILE WITH THE COUNTY REGISTER OR OTHER DESIGNEE OF THE CITY, AN ACCURATE NAME AND MAILING ADDRESS OF ONE OR MORE OF THE OWNERS FOR PURPOSES OF NOTICE AND SERVICE OF PROCESS AND TO REQUIRE REGISTRATION BY A MORTGAGEE OR MORTGAGEE’S AGENT UPON NOTICE OF DEFAULT OR VACANCY BY A MORTGAGOR REGARDING SINGLE FAMILY RESIDENTIAL REAL PROPERTY INCLUDING CONDOMINIUMS LOCATED IN THE MUNICIPAL BOUNDARIES OF THE CITY OF MEMPHIS, UP FOR T H I R D AND F I N A L READING.** (Held from 12/4; 1/22; 2/19)

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

Bob Beeson, 2125 Black Oak, Memphis, TN 38119
 Donna Bohannon, 5343 Sea Isle, Memphis, TN 38119
 Deandra Brown, 2360 Clearpark, Memphis, TN 38127
 Hunt Campbell, 95 Hollyoke Ln., Memphis, TN 38117
 Joe Kirkland, 6590 Kirby Forrest, Memphis, TN 38119
 Steve Lockwood, 3684 N. Watkins, Memphis, TN 38127
 Stevie Moore, 4584 Applegate St., Memphis, TN 38109
 Ray E. Smith, 4817 Fairley, Memphis, TN 38109
 Kenneth G. Sullivan, 4800 Navy Rd., Apt. #5, Millington, TN 38053
 Ronnie Tickle, 1980 E. Arden Oaks Dr., Germantown, TN 38139
 Charles Todd, 787 Alice Ave., Memphis, TN 38106
 Charles Tuggle, 165 Madison Ave., Memphis, TN 38103
 Lynda H. Whalen, 7446 Palgrave Ln., Memphis, TN 38125

Ordinance No. 5477

MOTION: Flinn – Lay the ordinance on the table
 SECOND: Fullilove
 AYES: Boyd, Conrad, Flinn, Fullilove, Hedgepeth and Strickland
 NAYS: Brown, Collins, Halbert, Lowery, Morrison and Chairman Ford
 Harris abstained

FAILED. Set up as Special Item #2

MOTION: Fullilove – Hold for 60 days for more discussion and to form a subcommittee to do a study and bring recommendations to the Council
 SECOND: Strickland
 AYES: Conrad, Fullilove, Harris, Hedgepeth and Strickland
 NAYS: Boyd, Brown, Collins, Halbert, Lowery, Morrison and Chairman Ford
 Flinn did not cast a vote

FAILED. Set up as Special Item #3

MOTION: Harris – Strike Roman Numeral I and II
 SECOND: Strickland
 AYES: Boyd, Brown, Collins, Conrad, Fullilove, Halbert, Harris and Strickland
 NAYS: Hedgepeth, Morrison and Chairman Ford
 Lowery abstained
 Flinn did not cast a vote

APPROVED

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

APPROVED, as amended

28. **RESOLUTION APPROPRIATING \$70,000.00 IN CONTRACT CONSTRUCTION AND TO TRANSFER AND APPROPRIATE \$25,000.00 FROM FURNITURE FIXTURES & EQUIPMENT TO CONTRACT CONSTRUCTION FOR CIP PROJECT NUMBER PK01024, REC/AQUATIC FACILITIES MAJOR MAINTENANCE, FUNDED BY G.O. BONDS GENERAL FOR REPAIRS AND REPLACEMENTS OF HVAC UNITS AT VARIOUS COMMUNITY CENTERS MADE BY GENERAL SERVICES.**

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

APPROVED

29. **RESOLUTION APPROPRIATING \$750,679.00 FOR DRAINAGE REPAIR AT LICK CREEK DRAINAGE DISTRICT.**

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

APPROVED

30. **RESOLUTION APPROPRIATING \$2,705,285.00 FOR GAYOSO SEWER PUMPING STATION REHABILITATION.**

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

APPROVED

INTRODUCTION OF ITEMS ON MATTERS BY THE GENERAL PUBLIC:

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

Walter Broady, 4256 Ledbetter Cove, Memphis, TN 38109
Cynthia Hart, 3146 Pacific Ave., Memphis, TN 38112
Herbert James, 2954 McVay Trail Dr., Memphis, TN 38112
Gail Tyree, 485 Beale St., Memphis, TN 38103

ADJOURNED MEETING AT 7:42 P.M.

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

CHAIRMAN

Attest:

Deputy Comptroller/Council Records