

MINUTES**REGULAR MEETING OF THE CITY COUNCIL****CITY OF MEMPHIS**

April 24, 2007

3:30 P.M. SCHEDULED SESSION**3:43 P.M. MEETING COMMENCED**

ROLL CALL: Dedrick Brittenum, Joe Brown, Carol Chumney, Madeleine Cooper Taylor, Edmund Ford, Barbara Holt-Ware, E. C. Jones, Myron Lowery, Scott McCormick, Rickey Peete, Jack Sammons, Brent Taylor and Chairman Tom Marshall

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

INVOCATION

The meeting was opened with prayer by Pastor Anthony Henderson, from Beulah Baptist Church. Councilman Brittenum presented Pastor Henderson with a certificate naming him Chaplain of the Day.

The original of the ordinances, resolutions and documents relating to each item is filed in the office of Council Records and on microfilm in the office of Records Management, Room 2B-08. The original documents shall control in the event of any conflict between the description in these minutes and the original documents.

CONSENT AGENDA – Items 1 – 7 may be acted upon by one motion. SEE PAGE 2172 FOR ROLL CALL

1. **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 S E C O N D READING.**

Ordinance No. 5206

APPROVED, on Second reading

2. **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 S E C O N D READING.**

Ordinance No. 5207

APPROVED, on Second reading

3. **RESOLUTION APPROVING FINAL PLAT OF BIG ORANGE SUBDIVISION.**

Case No. S 02-056cc

Contract No. CR-5072

Resolution approves the final plat located on the northwest corner of Cordova Park Road and Big Orange Road. Cost of the required improvements to be borne by the Developer. Resolution also authorizes the proper officials to execute the attached standard improvement contract. This action is subject to County approval.

City Engineer recommends approval

APPROVED

4. **RESOLUTION APPROVING FINAL PLAT OF CAZASSA ROAD, PD.**

Case No. PD 06-329

Resolution approves the final plat located on Cazassa Rd and September Ave.
Cost of the required improvements to be borne by the Developer.

City Engineer recommends approval

APPROVED

5. **RESOLUTION APPROVING FINAL PLAT OF FIRE STATION 54 SUBDIVISION.**

Case No. S 02-038

Resolution approves the final plat located south of Trinity Road and west of
Sanga Road. Cost of the required improvements to be borne by the Developer.

City Engineer recommends approval

APPROVED

6. **RESOLUTION ACCEPTING STONEBRIAR PD, PHASE 5 AND AUTHORIZING
RELEASE OF BOND.**

Case No. PD 03-335cc
(Contract No. CR-5011)

Resolution accepts completion of the improvements and the dedication of public streets and easements as shown on the final plat located on the west side of Shades Valley Place, south of East Holmes. The standard improvement contract was approved on May 16, 2006. Resolution also authorizes the release of the cash bond in the amount of \$37,000.00. This action is subject to County approval.

City Engineer recommends approval

APPROVED

7. **RESOLUTION ACCEPTING GALLERIA OF MEMPHIS PD DRAINAGE
IMPROVEMENTS (BOX CULVERT EXTENSION), AND AUTHORIZING RELEASE
OF BOND.**

(Contract No. CR-5036)

Resolution accepts completion of the improvements and dedication of public streets and easements as shown on the final plat located on the west side of Germantown Parkway, south of Belleview Parkway. The standard improvement contract was approved on September 19, 2006. Resolution also authorizes the release of the certificates of deposit in the amount of \$400,000.00.

City Engineer recommends approval

APPROVED

ROLL CALL CONSENT ITEMS

MOTION: Jones

SECOND: Peete

AYES: Brittenum, Brown, Chumney, Cooper Taylor, Ford, Ware, Jones, Lowery,
McCormick, Peete, Sammons, Taylor and Chairman Marshall

APPROVED

34. **RESOLUTION CONGRATULATING THE UNIVERSITY OF MEMPHIS TIGERS ON THEIR OUTSTANDING BASKETBALL SEASON.**

MOTION: Ware

SECOND: Peete

APPROVED, by unanimous voice vote

MLGW FISCAL CONSENT – Items 8 & 10-17 may be acted upon by one motion

8. **RESOLUTION AWARDDING CONTRACT NO. 11190, MOWING/GROUNDS MAINTENANCE WELL LOTS, TO BEAN & PRINCE CONTRACTORS, INC., IN THE FUNDED AMOUNT OF \$57,316.00.**

Chairman Marshall recognized the following person from the audience:

Bill Hawkins, 4000 Clearpool Circle, Mphs, TN 38118

APPROVED

9. **RESOLUTION APPROVING CHANGE NO. 8 TO CONTRACT NO. 10840, TEMPORARY PERSONNEL SERVICES, WITH KELLY SERVICES, INC., IN AN ESTIMATED FUNDED AMOUNT OF \$540,000.00. (THIS CHANGE COVERS RATIFICATION IN THE AMOUNT OF \$52,000.00 TO COVER SERVICES PERFORMED THROUGH MARCH 23, 2007, AND APPROVAL OF AWARD IN THE AMOUNT OF \$488,000.00 TO COVER PROJECTED COST OF SERVICES UNTIL THE END OF THE CONTRACT TERM, JUNE 4, 2007.)**

Chairman Marshall recognized the following person from the audience:

Bill Hawkins, 4000 Clearpool Circle, Mphs, TN 38118

Back to Committee on May 1, 2007

10. **RESOLUTION APPROVING CHANGE NO. 4 TO CONTRACT NO. 11016, DRUG AND ALCOHOL COLLECTION PROVIDER, WITH TRUE TEST COLLECTION, IN AN ESTIMATED FUNDED AMOUNT OF \$30,026.00. (THIS RENEWS THE CONTRACT FOR THE FIRST TERM, MAY 6, 2007 TO MAY 5, 2008.)**

APPROVED

11. **RESOLUTION AWARDDING CONTRACT FOR SOFTWARE LICENSES AND MAINTENANCE SERVICE TO DOBLE ENGINEERING COMPANY, IN THE AMOUNT OF \$59,020.00.**

APPROVED

12. **RESOLUTION REQUESTING AUTHORIZATION TO ENTER INTO AN INTERDIVISIONAL COOPERATIVE AGREEMENT WITH THE CITY OF MEMPHIS FOR THE PURCHASE OF MECHANICS' UNIFORM RENTAL AND SHOP TOWEL LAUNDERING SERVICES FROM AMERIPRIDE LINEN AND APPAREL SERVICES, IN THE AMOUNT OF \$562,580.00.**

APPROVED

13. **RESOLUTION AWARDDING CONTRACT FOR ELECTRIC METER PEDESTALS TO THE DURHAM COMPANY, INC., IN THE AMOUNT OF \$992,026.74.**

APPROVED

14. **RESOLUTION AWARDDING CONTRACT FOR PORCELAIN INSULATORS TO HD SUPPLY UTILITIES, IN THE AMOUNT OF \$125,838.48.**

APPROVED

15. **RESOLUTION AWARDING CONTRACT FOR 90-DEGREE STEEL PIPE BENDS TO AMERICAN PIPE BENDING, IN THE AMOUNT OF \$32,322.00.**

APPROVED

16. **RESOLUTION REQUESTING AUTHORIZATION TO EXTEND THE CONTRACT FOR POLYETHYLENE GAS FITTINGS WITH CONTINENTAL INDUSTRIES, IN THE AMOUNT OF \$189,721.50.**

APPROVED

17. **RESOLUTION AWARDING CONTRACT FOR SOFTWARE MAINTENANCE FOR BINDVIEW COMPLIANCE REPORTING SOFTWARE TO VENTURE TECHNOLOGIES, IN THE AMOUNT OF \$35,702.38.**

APPROVED

ROLL CALL MLGW FISCAL CONSENT ITEMS

- MOTION: Brown – Send Item #9 Back to Committee
 SECOND: Ware
 AYES: Brittenum, Brown, Chumney, Cooper Taylor, Ford, Ware, Jones, Lowery, McCormick, Peete and Chairman Marshall
 NAYS: Sammons and Taylor

APPROVED, Item #9 sent back to Committee, Special Item #1

- MOTION: Sammons – Move previous question
 SECOND: Peete

- MAIN MOTION: Ware
 SECOND: Jones
 AYES: Brittenum, Brown, Chumney, Cooper Taylor, Ford, Ware, Jones, Lowery, McCormick, Peete, Sammons, Taylor and Chairman Marshall

APPROVED, Items 8 & 10-17. Item #9 is being sent back to Committee

33. **RESOLUTION CONGRATULATING FELICIA SUZANNE'S RESTAURANT ON ITS FIFTH ANNIVERSARY. (Held from 4/10).**

- MOTION: Sammons
 SECOND: Peete

APPROVED, by unanimous voice vote

18. **APPOINTMENTS**

Memphis and Shelby County Building Code Board

Reappointment

Chandrika Reed Winston

Memphis and Shelby County Industrial Development Board

Appointments

Mary Singer
 Clifford Stockton, Sr.
 Mark Yates

Reappointment

Jill Iglehart

Memphis and Shelby County Plumbing Code Board

Appointments

James R. Boatwright, Jr.
Thomas Boyd, Jr.
Jimmy D. Hardin
Harold McDonald
Lloyd Rainey

Memphis and Shelby County Sports Authority

Reappointment

Valerie Bryant Morris

Prevailing Wage Commission

Appointment

Mark S. LaGasse

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

APPROVED

19. **RESOLUTION AMENDING THE FY 2007 OPERATING BUDGET TO REFLECT EXPENDITURE SHIFTS, ENHANCED REVENUE AND REPRIORITIZATION OF SPENDING BY TRANSFERRING AND APPROPRIATING FUNDS BETWEEN LEGAL LEVELS IN UNALLOCATED, PARK SERVICES, DEBT SERVICE, CITY COURT CLERK, GRANTS & AGENCIES AND SPECIAL REVENUE FUND.**

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

APPROVED

20. **RESOLUTION APPROVING THE PURCHASING AGENT TO DISPOSE OF ALL SURPLUS MATERIALS OF ANY NATURE INCLUDING MOTOR VEHICLES (EXCEPT BUILDING STRUCTURES) THAT HAVE BEEN DECLARED SURPLUS AND UNFIT BY THE VARIOUS CITY DIVISIONS.**

MOTION: Chumney
SECOND: Ware
AYES: Brittenum, Brown, Chumney, Cooper Taylor, Ford, Ware, Jones, Lowery, and Peete
McCormick, Sammons, Taylor and Chairman Marshall

APPROVED

21. **RESOLUTION ADOPTING DIXIE HOMES/LEGENDS PARK URBAN RENEWAL PLAN.** (Held from 3/06).

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

APPROVED

22. **RESOLUTION ACCEPTING THE TRANSFER OF TAX DELINQUENT PARCEL 032 0310 00010 FROM SHELBY COUNTY, TENNESSEE FOR FURTHER TRANSFER TO THE MEMPHIS HOUSING AUTHORITY FOR THE UNIVERSITY PLACE REDEVELOPMENT PROJECT.**

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

APPROVED

23. **RESOLUTION APPROPRIATING \$63,790.22, FUNDED BY GO BONDS GENERAL, USED TO PURCHASE THREE SERVICE VEHICLES FOR THE MEMPHIS PUBLIC LIBRARY, CIP PROJECT L101011, SERVICE VEHICLE REPLACEMENT.**

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

APPROVED

24. **RESOLUTION AUTHORIZING THE EXECUTION OF A LEASE AGREEMENT WITH WEPFER MARINE, INC. FOR CERTAIN MOORING RIGHTS LOCATED IN MCKELLAR LAKE, AS APPROVED BY THE BOARD OF COMMISSIONERS OF THE MEMPHIS AND SHELBY COUNTY PORT COMMISSION ON NOVEMBER 16, 2006.**

Contract No. CR-5071

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

APPROVED

25. **RESOLUTION ACCEPTING SURFACE TRANSPORTATION PROGRAM FUNDS IN THE AMOUNT OF \$8,910,000.00 FROM THE STATE OF TENNESSEE DEPARTMENT OF TRANSPORTATION FOR HOLMES/TCHULAHOMA/GETWELL FROM MALONE TO LAMAR, PROJECT NUMBER PW01123.**

Director of Public Works and City Engineer recommend approval

MOTION: Sammons
 SECOND: Cooper Taylor
 AYES: Brown, Chumney, Cooper Taylor, Ford, Ware, Lowery, Peete, Sammons and Chairman Marshall

Brittenum, Jones, McCormick and Taylor did not cast a vote

APPROVED

26. **RESOLUTION AMENDING THE FISCAL YEAR 2007 CAPITAL IMPROVEMENT BUDGET BY TRANSFERRING A PREVIOUS ALLOCATION AND APPROPRIATING \$1,023,516.00 FUNDED BY GO BONDS-GENERAL (STORM WATER) FROM DRAINAGE, CIP PROJECT NUMBER ST03006 TO LICK DRAINAGE CHANNEL REPAIR PROJECT NUMBER ST03094 AND FOR A CONSTRUCTION CONTRACT WITH PROSHOT CONCRETE, INC.**

Director of Public Works/City Engineer recommends approval

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

APPROVED

27. **RESOLUTION APPROVING A HOTEL WAIVER FOR THE HILTON, LOCATED AT 939 RIDGE LAKE BLVD., MEMPHIS, TN. 38120.**

MOTION: Lowery
 SECOND: Sammons
 AYES: Brown, Chumney, Ford, Ware, Lowery, McCormick, Sammons and Chairman Marshall
 Peete recused
 Brittenum, Cooper Taylor, Jones and Taylor did not cast a vote

APPROVED

28. **RESOLUTION APPROVING A SPECIAL USE PERMIT LOCATED ON THE NORTHWEST CORNER OF POPLAR AVENUE AND TILLMAN STREET, CONTAINING 0.55 ACRE(23,958 SQ. FT.) IN THE LOCALCOMMERCIAL (C-L) DISTRICT.**

Case No. SUP 07-201

Applicant: Enterprise Rent-A-Car
 Request: Special use permit to allow a car rental agency

LUCB and OPD recommendation: APPROVAL, with conditions

No Opposition at LUCB; No Public Hearing Required

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

APPROVED, as amended

29. **RESOLUTION APPROVING A PLANNED DEVELOPMENT LOCATED ON THE EAST SIDE OF N. GERMANTOWN PARKWAY; +/-315 FEET SOUTH OF TIMBER CREEK ROAD, CONTAINING 4.0 ACRES IN THE GENERAL OFFICE (O-G) DISTRICT.**

Case No. PD 06-369

Applicants: B & H Hospitality, LLC
 Bray-Davis Firm, LLC - Representative

Request: Planned development to allow a four (4)-story hotel and restaurant building within the Outline Plan

LUCB and OPD recommendation: APPROVAL, with conditions

Chairman Marshall recognized the following persons from the audience:

Thomas Farmer, 235 German Creek Cove
 Bill Brennan, no address available

Condition: (Stated by Mary Baker)

Install 100% of the land scaping if the hotel goes in prior to the restaurant. If the restaurant goes first, then he would install of the frontage landscaping along Germantown Parkway and Timber Creek, but not the internal landscaping that would have been when the hotel was built

The maker of the Motion accepted this condition as a Friendly Amendment

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

FAILED

30. **RESOLUTION APPROVING A PLANNED DEVELOPMENT LOCATED ON THE WEST OF JACKSON AVENUE; SOUTH OF WALES AVENUE, CONTAINING 28.90 ACRES IN THE MULTIPLE DWELLING RESIDENTIAL (R-MM) & MULTIPLE DWELLING RESIDENTIAL FLOOD PLAIN (R-ML {FP}) DISTRICTS.**
 Case No. PD 07-301

Applicant: Wilma Costa
 Homer Branam - Representative

Request: A planned development for commercial uses consisting of mini storage warehouse and an open air community market which would include both a flea market and a farmer's market

LUCB and OPD recommendation: APPROVAL, with conditions

MOTION: Lowery
 SECOND: McCormick
 AYES: Brown, Chumney, Cooper Taylor, Ware, Jones, Lowery, McCormick, Sammons and Taylor
 Brittenum, Ford and Chairman Marshall did not cast a vote
 Peete recused

APPROVED

31. **RESOLUTION APPROVING A PLANNED DEVELOPMENT LOCATED ON THE NORTH SIDE OF MANSLICK ROAD @ WESTERN TERMINUS OF PRESMOND ROAD, CONTAINING 6.53 ACRES IN THE SINGLE FAMILY RESIDENTIAL (R-S6) DISTRICT.**
 Case No. PD 07-304cc

Held to May 15, 2007

32. **RESOLUTION APPROVING A PLANNED DEVELOPMENT LOCATED ON THE WEST SIDE OF HERNANDO ROAD; +/-40 FEET NORTH OF FERGUSON ROAD, CONTAINING 4.88 ACRES IN THE MULTIPLE DWELLING RESIDENTIAL (R-MM) DISTRICT.**

Case No. PD 07-305

Applicant: Outdoor Management, LLC
Fisher & Arnold, Inc. - Representative

Request: Planned development to allow one half (1/2) acre lots for Light Industrial(I-L) District Business Park development within the Outline Plan

LUCB recommendation: APPROVAL, with conditions

OPD recommendation: HOLD for Thirty (30) Days

MOTION: Lowery

SECOND: Ware

AYES: Brittenum, Brown, Chumney, Cooper Taylor, Ware, Jones, Lowery, McCormick, Sammons, Taylor and Chairman Marshall
Ford did not cast a vote
Peete recused

APPROVED

35. **RESOLUTION REQUESTING RELATED AND JOINTLY GOVERNED ORGANIZATIONS EXCLUDED FROM THE CITY'S FINANCIAL STATEMENTS, TO PRESENT THEIR 2006 AUDIT AT THE SECOND MEETING IN JULY AND THEREAFTER, SHALL PRESENT THEIR ANNUAL AUDIT AT THE FIRST MEETING IN MARCH.**

MOTION: Brittenum

SECOND: Cooper Taylor

AYES: Brittenum, Brown, Chumney, Cooper Taylor, Ware, Jones, Lowery, McCormick, Peete, Sammons, Taylor and Chairman Marshall
Ford did not cast a vote

APPROVED

36. **RESOLUTION ENCOURAGING THE GENERAL ASSEMBLY TO TAKE ACTION AFFIRMING ITS SUPPORT OF HB 2132 AND SB 1584 TITLE LENDING.**

MOTION: Taylor

SECOND: Ware

AYES: Brittenum, Brown, Chumney, Cooper Taylor, Ware, Jones, Lowery, McCormick, Peete, Sammons, Taylor and Chairman Marshall
Ford did not cast a vote

APPROVED

37. **RESOLUTION APPROVING REWARDS FOR THE APPREHENSION AND CONVICTION OF ANY PERSON OR PERSONS WHO HAVE COMMITTED UNSOLVED HEINOUS OFFENSES.**

MOTION: Brittenum

SECOND: Ware

AYES: Brittenum, Brown, Cooper Taylor, Ware, Jones, Lowery, McCormick, Peete, Sammons, Taylor and Chairman Marshall
Chumney and Ford did not cast a vote

APPROVED

- 38. **RESOLUTION APPROPRIATING \$99,523.00 IN G.O. BONDS GENERAL IN CIP PROJECT FS04003 MDTS AND MOTOROLA RADIO REPEATERS FOR THE PURCHASE OF SOFTWARE AND PERIPHERALS TO ENHANCE THE FUNCTIONALITY OF THE MOBILE DATA TERMINALS (MDTS).** (Held from 4/10)

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

APPROVED

- 39. **APPOINTMENTS**

City Attorney

Appointment

Elbert Jefferson Jr.

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

APPROVED

- 40. **RESOLUTION HONORING KAITLIN BAHN.**

MOTION: Brittenum
 SECOND: Sammons

APPROVED, by unanimous voice vote

MINUTES

Approval of the Minutes of the regular meeting of April 10, 2007

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

APPROVED

INTRODUCTION OF ITEMS ON MATTERS BY THE GENERAL PUBLIC:

Chairman Marshall recognized the following persons from the audience:

Regenia Dowell, 1739 Haywood, Mphs, TN 38127
 Walter Broady, 4256 Ledbetter Cove, Mphs, TN 38109

ADJOURNED MEETING AT 6:10 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