

MINUTES
REGULAR MEETING OF THE CITY COUNCIL
CITY OF MEMPHIS

July 7, 2009

3:30 P.M. SCHEDULED SESSION

3:36 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 Councilman Jim Strickland. Councilman Flinn presented Councilman Strickland 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 June 16, 2009 with the following motion:

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

APPROVED

23. **RESOLUTION CONGRATULATING DR. MICHAEL O. UGWUEKE ON BEING NAMED ADMINISTRATOR AND CEO OF METHODIST NORTH AND SOUTH HOSPITALS.**

MOTION: Lowery
SECOND: Collins

APPROVED, unanimous voice vote

25. **RESOLUTION REQUESTING CITY COUNCIL APPROVAL OF THE AGREEMENT BETWEEN THE CITY OF MEMPHIS, TENNESSEE THROUGH ITS DIVISION OF PARK SERVICES AND THE SUMMITT MANAGEMENT CORPORATION FOR THE USE OF THE LIBERTY BOWL MEMORIAL STADIUM AND PARKING AREAS TO ACCOMMODATE THE SOUTHERN HERITAGE CLASSIC GAME.**

(Councilman Strickland made a motion to delay this item for 2 weeks)

(Special Item #1)

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

(Councilman Strickland's motion FAILED)

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

APPROVED

26. **RESOLUTION REQUESTING CITY COUNCIL APPROVAL OF THE AGREEMENT BETWEEN THE CITY OF MEMPHIS, TENNESSEE THROUGH ITS DIVISION OF PARK SERVICES AND THE LIBERTY BOWL FESTIVAL ASSOCIATION FOR THE USE OF THE LIBERTY BOWL MEMORIAL STADIUM AND PARKING AREAS TO ACCOMMODATE THE LIBERTY BOWL CLASSIC.**

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

APPROVED

- 27. **RESOLUTION REQUESTING CITY COUNCIL APPROVAL OF THE AGREEMENT BETWEEN THE CITY OF MEMPHIS, TENNESSEE THROUGH ITS DIVISION OF PARK SERVICES AND THE UNIVERSITY OF MEMPHIS FOR THE USE OF THE LIBERTY BOWL MEMORIAL STADIUM AND PARKING AREAS TO ACCOMMODATE EACH OF THE HOME FOOTBALL GAMES.**

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

APPROVED

- 29. **RESOLUTION ENCOURAGING AN EXCHANGE/ALLIANCE BETWEEN THE CITY OF MEMPHIS THROUGH THE MEMPHIS AND SHELBY COUNTY FILM COMMISSION AND BERLIN-BRANDENBURG AND ITS FILM COMMISSION.**

Chairman Lowery recognized the following people from the audience:
 Linn Sitler, Reid Dulberger, Gina Sugarmon, Johnnie Walker and Julia Donner

MOTION: Flinn
 SECOND: Morrison

APPROVED, unanimous voice vote

- 1. **RESOLUTION APPROVING A PLANNED DEVELOPMENT LOCATED ON THE NORTHWEST CORNER OF HOUSTON LEVEE ROAD AND WALNUT GROVE ROAD, CONTAINING 101.46 ACRES AND IS CURRENTLY GOVERNED BY P.D. 97-365CC & P.D. 03-387CC.**

Case No. PD 08-306cc

Applicants: Walnut Grove Properties, LLC
 Farris-Bobango-Branan, PLLC – Representative

Request: Planned development to consolidate parcels into one (1) Outline Plan to allow a mixed-use plan of office and retail, including upper-story residential and live/work units, multi-family apartments/independent senior living facility and planned commercial development

LUCB and OPD recommendation: APPROVAL, with conditions

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

APPROVED, as amended

2. **RESOLUTION APPROVING A USE VARIANCE LOCATED ON THE WEST SIDE OF COLLIERVILLE-ARLINGTON ROAD, IMMEDIATELY NORTH OF MARY'S CREEK INTERSECTION, CONTAINING 6.96 ACRES IN THE AGRICULTURAL (AG) DISTRICT.**

Case No. UV 08-11cc

(Councilman Hedgepeth made a motion to add (2) conditions to this item, as a Friendly Amendment. Councilwoman Ware made a motion to remove all restrictions on this item, this was seconded by Councilman Hedgepeth and Councilman Morrison made a motion to delay this item for (2) weeks, this was seconded by Councilman Conrad. After further discussion of item #2, all (3) motions were WITHDRAWN).

Applicant: John & Kristina Laiche

Request: Use variation for a office/warehouse for electrical contractor

LUCB and OPD recommendation: REJECTION

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

APPROVED, as amended

3. **RESOLUTION ADOPTING THE UNIVERSITY DISTRICT COMPREHENSIVE PLAN. (HELD FROM 4/21; 5/5).**

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

Brent Alvord, 3431 Lake Pointe, Memphis, TN. 38125
 Steve Auterman, 408 S. Front St., #203, Memphis, TN. 38103
 Randon Carvel, 6539 Cottingham Pl., Memphis, TN. 38120
 Carol Collinworth, 3129 Cowden, Memphis, TN. 38111
 David Cox, 4130 Village Rd., Memphis, TN. 38117
 Melissa Pearce Galloway, 3855 Kearney Ave., Memphis, TN. 38111
 Beth Hoople, 3553 Spottswood, Memphis, TN. 38111
 Ann Huckaba, 232 S. Highland, Apt. #1103, Memphis, TN. 38111

Ed Masten, 3627 Cowden Ave., Memphis, TN. 38111
Dr. Mark Matheny, 480 S. Highland, Memphis, TN. 38111
Tony Poteet, University of Memphis, 38152
Andrew Trippel, 1003 Bruce St., Memphis, TN. 38104
David Zettergren, University of Memphis, 38152

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

APPROVED

6. **ORDINANCE TO ADOPT THE UNIVERSITY DISTRICT OVERLAY (UDO) AS A ZONING TEXT AMENDMENT, UP FOR T H I R D AND F I N A L READING. (HELD FROM 4/21; 5/5)**

Ordinance No. 5301
Case No. ZTA 08-002

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

APPROVED

7. **ORDINANCE TO AMEND THE TEXT OF THE ZONING ORDINANCE, UP FOR T H I R D AND F I N A L READING. (HELD FROM 4/21; 5/5)**

Ordinance No. 5302
Case No. Z08-104

Request: Amend the Official Zoning Map by adopting the proposed University District Comprehensive Rezoning and establishing the boundaries for the University District Overlay. The University Overlay includes proposed Shopfront or Urban Frontage Designation for segments of Highland, Southern, Walker, Central, Mynders, Patterson, Houston and Park

LUCB and OPD recommendation: APPROVAL

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

APPROVED

4. **RESOLUTION APPROVING A SPECIAL USE PERMIT LOCATED ON THE SOUTHEAST CORNER OF MISSISSIPPI BOULEVARD AND OAKLAND AVENUE, CONTAINING 1.668 ACRES (72,658 SQ. FT.) IN THE SINGLE-FAMILY RESIDENTIAL (R-S6) DISTRICT. (HELD FROM 6/2)**

Case No. SUP 09-204

Applicant: Rev. Kenneth S. Robinson, St. Andrews AME Church

Request: Day Care Center

LUCB and OPD recommendation: APPROVAL

MOTION: Morrison

SECOND: Ford

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

APPROVED

5. **RESOLUTION APPROVING A SPECIAL USE PERMIT LOCATED ON THE NORTH SIDE OF LAMAR AVENUE; ±120 FEET WEST OF AIRWAYS BOULEVARD, CONTAINING 0.27 ACRE IN THE HIGHWAY COMMERCIAL (C-H) DISTRICT.**

Case No. SUP 09-210

(Councilwoman Ware made a motion to remove #3 and #5 conditions from this item)
(Special Item #4)

MOTION: Ware

SECOND: Morrison

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

NAYS: Strickland and Chairman Lowery

(Special Item #4 – PASSED)

Applicant: J. Wise Smith

Request: Retail Sales – Outdoor (Ice Vending Machine)

LUCB and OPD recommendation: APPROVAL

MAIN MOTION: Morrison

SECOND: Boyd

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

APPROVED, as amended

- 8. **ORDINANCE REZONING THE SOUTHWEST CORNER OF RAINES ROAD AND GRACELAND STREET, CONTAINING 0.112 ACRE IN THE SINGLE FAMILY RESIDENTIAL (R-S10) DISTRICT, UP FOR T H I R D AND F I N A L READING. (HELD FROM 6/2)**

Ordinance No. 5315
Case No. Z 09-101

Held until July 21, 2009

CONSENT AGENDA – Items 9 – 13 & #28 may be acted upon by one motion: SEE PAGE 2951 FOR ROLL CALL

- 9. **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 F I R S T READING.**

Ordinance No. 5321

APPROVED, on First reading

- 10. **ORDINANCE TO AMEND CHAPTER 7, CODE OF ORDINANCES, CITY OF MEMPHIS, SO AS TO DECREASE THE MEMBERSHIP OF THE BOARD OF DIRECTORS OF THE CENTER CITY COMMISSION, UP FOR F I R S T READING.**

Ordinance No. 5322

APPROVED, on First reading

- 11. **ORDINANCE AMENDING CHAPTER 2, ARTICLE V, DIVISION 3, OF THE CODE OF ORDINANCES, TO ESTABLISH A CITY OF MEMPHIS FLEET AND EMPLOYEE TAKE HOME VEHICLE POLICY, UP FOR F I R S T READING.**

Ordinance No. 5323

APPROVED, on First reading

- 12. **ORDINANCE AMENDING CHAPTER 20, SECTION 20-21 SO AS TO EXERCISE THE CITY OF MEMPHIS GOVERNMENT’S STATUTORY OPTION TO OPT OUT OF ANY STATE LAW THAT WOULD AUTHORIZE THE CARRYING OF FIREARMS ON PUBLIC PARKS, PLAYGROUNDS, CIVIC CENTERS, AND OTHER PUBLIC RECREATIONAL BUILDINGS AND GROUNDS, UP FOR S E C O N D READING.**

Ordinance No. 5320

Chairman Lowery recognized the following person from the audience:

Ronald Daniels, 2351 Forrest Ave., Memphis, TN. 38112

APPROVED, on Second reading

13. **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 09-303 – Christie Place, P.D.
- B. Case No. PD 09-306 – Lamar Davidson P.D. (Amended)
- C. Case No. PD 09-307 – Community Capital P.D.
- D. Case No. PD 09-308 – Natural Learning School, P.D.
- E. Case No. SUP 09-206cc
- F. Case No. SUP 09-207

Public Hearing Set for July 21, 2009

28. **RESOLUTION EXPRESSING CONDOLENCES TO THE FAMILY OF FORMER COUNCILMAN THOMAS HARDY TODD, JR.**

(This item was read into the records, after item #24)

APPROVED

ROLL CALL CONSENT ITEMS

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

APPROVED

MLGW FISCAL CONSENT – Items 14 - 19 may be acted upon by one motion:

14. **RESOLUTION APPROVING CHANGE NO. 4 TO CONTRACT NO. 10863, BLUE PUMPKIN SOFTWARE LICENSE/MAINTENANCE/SUPPORT SERVICES, WITH VERINT AMERICAS, INC. IN THE FUNDED AMOUNT OF \$44,803.00. (THIS CHANGE IS TO UPGRADE THE EXISTING SYSTEM, WFM SOLUTION V7.7 TO V7.8 WITH ADV SCORECARDS, ADHERENCE, STRATEGIC PLANNER AND LESSON MANAGEMENT AND ALSO INCLUDES FULL WFM SOLUTION ON-SITE TRAINING WITH TRAVEL).**

APPROVED

15. **RESOLUTION APPROVING CHANGE NO. 3 TO CONTRACT NO. 11105, AERATOR MAINTENANCE, WITH R. P. SERVICES IN THE FUNDED AMOUNT OF \$211,563.45. (THIS CHANGE RENEWS THE CONTRACT FOR THE THIRD OF FOUR RENEWAL TERMS, AUGUST 1, 2009 TO JULY 31, 2010, WITH NO INCREASE IN RATES).**

APPROVED

16. **RESOLUTION APPROVING CHANGE NO. 5 TO CONTRACT NO. 11110, COURIER SERVICES, WITH EXPRESS COURIER, INC. IN THE FUNDED AMOUNT OF \$144,946.71. (THIS CHANGE RENEWS THE CONTRACT FOR THE THIRD OF FOUR RENEWAL TERMS, SEPTEMBER 1, 2009 THROUGH AUGUST 31, 2010, WITH NO INCREASE IN RATES OR FUEL SURCHARGE).**

APPROVED

17. **RESOLUTION AWARDED CONTRACT FOR ONE VIBRATORY ASPHALT ROLLER TO THOMPSON MACHINERY IN THE AMOUNT OF \$43,570.00.**

APPROVED

18. **RESOLUTION AMENDING PURCHASE ORDER NO. 129505 WITH TYNDALE COMPANY FOR FLAME RESISTANT CLOTHING IN THE AMOUNT OF \$266,093.00. (THIS AMENDMENT IS NEEDED TO ENSURE THAT MLGW IS IN COMPLIANCE WITH THE NATIONAL ELECTRICAL SAFETY CODE).**

APPROVED

19. **RESOLUTION AWARDED CONTRACT NO. 11324, IN-SERVICE WOOD POLE INSPECTION, TO OSMOSE UTILITIES SERVICES, INC. IN THE FUNDED AMOUNT NOT TO EXCEED \$900,000.00.**

APPROVED

MLGW ROLL CALL CONSENT ITEMS

MOTION: Ware

SECOND: Fullilove

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

APPROVED

20. **APPOINTMENTS**

MEMPHIS & SHELBY COUNTY MUSIC COMMISSION

APPOINTMENTS

MICHAEL GLENN
JULIEN SALLEY, JR.

PUBLIC ART OVERSIGHT COMMITTEE

RE-APPOINTMENT

ERIN HARMON

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

APPROVED

21. **ORDINANCE FIXING TAX RATE OF THE CITY OF MEMPHIS FOR THE BOARD OF EDUCATION OF THE MEMPHIS CITY SCHOOLS, UP FOR T H I R D AND F I N A L READING.**

Ordinance No. 5319

Held until July 21, 2009

22. **RESOLUTION APPROVING A HOTEL WAIVER FOR THE IRIS MOTEL LOCATED ON THE SOUTHEAST CORNER OF LEDGER AVENUE AND ELVIS PRESLEY BOULEVARD.**

Case No. HMW 09-01

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

FAILED

24. **RESOLUTION APPROPRIATING \$7,167,641.00 FOR THE CONSTRUCTION OF THE ANIMAL SHELTER REPLACEMENT, CIP PROJECT NUMBER PS01010, AS PART OF THE FY 09 CAPITAL IMPROVEMENT PROGRAM FUNDED BY G.O. BONDS GENERAL.**

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

APPROVED

(Councilman Strickland made a motion to suspend the rules and add a resolution to hold a special election for the Office of Mayor, to the Agenda).

(Special Item #5)

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

(Special Item #5 – APPROVED)

30. **RESOLUTION REQUESTING THE SHELBY COUNTY ELECTION COMMISSION TO HOLD A SPECIAL ELECTION FOR THE OFFICE OF MAYOR.**

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

APPROVED

(Councilman Hedgepeth made a motion to approve same night minutes on item#30)

(Special Item #6)

MOTION: Hedgepeth
SECOND: Strickland
AYES: Conrad, Flinn, Hedgepeth, Morrison, Strickland and Chairman Lowery
NAYS: Boyd, Brown, Collins, Ford, Fullilove, Halbert and Ware
(A voice vote was taken, due to the system malfunctioning)

(Special Item #6 – FAILED)

(Councilwoman Ware made a motion to approve same night minutes on items #18 & #24)

(Special Item #7 – Minutes for items #18 & #24)

MOTION: Ware
SECOND: Fullilove

(Special Item #7 –APPROVED), unanimous voice vote

(Councilman Boyd made a motion to approve same night minutes on items #25, #26 & #27)

(Special Item #8)

MOTION: Boyd
SECOND: Collins

(Special Item #8 –APPROVED), unanimous voice vote

INTRODUCTION OF ITEMS ON MATTERS BY THE GENERAL PUBLIC:

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

Walter Broady, 4256 Ledbetter, Mphs, TN 38109

ADJOURNED MEETING AT 7:24 P.M.

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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