

MINUTES

REGULAR MEETING OF THE CITY COUNCIL

CITY OF MEMPHIS

January 18, 2011

3:30 P.M. SCHEDULED SESSION

3:33 P.M. MEETING COMMENCED

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

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

INVOCATION

The meeting was opened with prayer by Pastor James Henderson from Abundant Life Fellowship Church (formerly ZOE Baptist). Councilwoman Fullilove presented Pastor Johnson 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 January 4, 2011 with the following motion:

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

APPROVED

16. **APPOINTMENTS**

MEMPHIS AND SHELBY COUNTY NEW ARENA PUBLIC BUILDING AUTHORITY

APPOINTMENTS

Henry R. Evans (Joint Appointment)
David L. Levine (Joint Appointment)
Allison Kay Moody (Joint Appointment)
Senator Mark Norris (Joint Appointment)

Held until February 1, 2011

1. **PRESENTATION OF THE CITY COUNCIL 2010 HUMANITARIAN AWARD TO BARBARA AND PITT HYDE.**

MOTION: Lowery
SECOND: Boyd

APPROVED, unanimous voice vote

25. **APPOINTMENT**

CHIEF INFORMATION OFFICER

APPOINTMENT

BRENTON NAIR

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

APPROVED

2. **RESOLUTION APPROVING AN APPEAL LOCATED ON THE EAST SIDE OF GERMANTOWN PARKWAY, 926 FEET NORTH OF BONNIE LANE, CONTAINING ±2.3 ACRES IN AN AREA CURRENTLY GOVERNED BY THE AVANTI NORTH PLANNED DEVELOPMENT, 8TH AMENDMENT, PART OF PARCEL A-2 (PD 07-339), PLAT BOOK 238, PAGE 18.**

(Councilman Morrison offered a friendly amendment, stating that if there is a change of ownership, this property has to go back through a site plan review. This was seconded by Strickland).

Applicant: TM Partners
SR Consulting, LLC – Cindy Reaves - Representative

Appellant: Cordova Leadership Council

Request: Overturn the decision of the LUCB approving a site plan for Motor Vehicle Sales

LUCB and OPD recommendation: APPROVAL, with conditions

MOTION: Ford

SECOND: Hedgepeth

AYES: Boyd and Morrison

NAYS: Brown, Collins, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Strickland and Chairman Lowery
Ware was absent

FAILED

26. **INITIAL RESOLUTION AUTHORIZING THE ISSUANCE OF NOT TO EXCEED EIGHTY MILLION DOLLARS (\$80,000,000.00) GENERAL OBLIGATION BONDS OF THE CITY OF MEMPHIS, TENNESSEE FOR THE PURPOSE OF FINANCING THE COST OF PUBLIC WORKS PROJECTS IN THE CITY.**

MOTION: Conrad

SECOND: Fullilove

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

APPROVED

27. **RESOLUTION APPROVING THE EXECUTION AND DELIVERY OF A SITE LOCATION AND DEVELOPMENT AGREEMENT BY AND AMONG ELECTROLUX HOME PRODUCTS, INC., AND THE STATE OF TENNESSEE, SHELBY COUNTY, TENNESSEE, THE CITY OF MEMPHIS, TENNESSEE AND THE MEMPHIS AND SHELBY COUNTY INDUSTRIAL DEVELOPMENT BOARD; CONSENTING TO THE ISSUANCE OF DEBT BY THE MEMPHIS AND SHELBY COUNTY PORT COMMISSION TO FINANCE THE CITY'S SHARE OF COSTS IN AN AMOUNT OF TWENTY-TWO MILLION DOLLARS (\$22,000,000.00) UNDER SUCH AGREEMENT; AUTHORIZING THE CITY TO ENTER INTO AN AGREEMENT WITH THE PORT COMMISSION IN SUPPORT OF SUCH FINANCING; AND OTHERWISE PROVIDING WITH RESPECT TO THE FOREGOING.**

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

APPROVED

29. **JOINT RESOLUTION OF THE BOARD OF COMMISSIONERS OF SHELBY COUNTY AND THE COUNCIL OF THE CITY OF MEMPHIS, TENNESSEE ESTABLISHING THE AUTHORIZATION AND FORMATION OF THE ECONOMIC DEVELOPMENT GROWTH ENGINE FOR MEMPHIS AND SHELBY COUNTY.**

(Special Item #1 – Councilman Conrad made a motion that there should not be a member of the Shelby County Commissioner, nor a member of the City Council, on the Board).

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

(Special Item #1 – APPROVED)

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

APPROVED, as amended

28. **RESOLUTION ACCEPTING AND APPROVING THE DISSOLUTION AND SURRENDER OF THE MEMPHIS CITY SCHOOLS CHARTER WITH AN EFFECTIVE DATE OF MARCH 21, 2011 AND AN OPTION TO RECONSIDER IF THE VOTERS DISAPPROVE THE REFERENDUM.**

(Councilwoman Halbert made a correction to this resolution, the caption should read “Accepting and approving the dissolution and surrender of the Memphis City Schools Charter with an effective date of March 21, 2011 and an option to reconsider”).

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

Ford and Morrison recused
Ware was absent

APPROVED, as amended

- 3. **RESOLUTION APPROVING A STREET/ALLEY CLOSURE BEGINNING 152 FEET NORTH OF THE NORTH SIDE OF MADISON AVENUE AND ±180 FEET EAST OF N. BELLEVUE BOULEVARD BETWEEN MADISON AVENUE AND COURT AVENUE, EXTENDING 230 FEET EASTWARD, CONTAINING 3,220 SQUARE FEET.**

Case No. SAC 10-608

Applicant: The Embroidery Company/E. F. Spikner
The Reaves Firm – Representative

Request: Close alley right-of-way

LUCB and OPD recommendation: APPROVAL

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

APPROVED

(Special Item #2 – Councilman Collins made a motion to add item #30 to the Agenda, without objection. This was seconded by Councilwoman Fullilove).

- 30. **RESOLUTION BY THE MEMPHIS CITY COUNCIL APPROVING THE 2011 STATE LEGISLATIVE AGENDA WHICH INCLUDES JOINT PRIORITIES FOR THE CITY OF MEMPHIS AND SHELBY COUNTY GOVERNMENT AND REQUESTING THE SHELBY COUNTY DELEGATION TO SUPPORT, AND MEMBERS OF THE TENNESSEE GENERAL ASSEMBLY TO ENACT LEGISLATION AS PROPOSED BY THE 2011 STATE LEGISLATIVE AGENDA.**

(Special Item #3 – Councilman Morrison made a motion to hold item #30 for (2) weeks).

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

APPROVED, item #30 is held until February 1, 2011

4. **RESOLUTION APPROVING A STREET/ALLEY CLOSURE LOCATED ON WATSON STREET, SOUTH OF INTERSTATE 240 EAST, +/-1,700 FEET EAST OF GETWELL ROAD, EXTENDING SOUTHWARD APPROXIMATELY 466 LINEAR FEET, CONTAINING 0.54 ACRE.**

Case No. SAC 10-609

Applicant: Patricia Tanner
The Reaves Firm – Representative

Request: Close Watson Street which is currently unimproved right-of-way

LUCB and OPD recommendation: APPROVAL

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

APPROVED

(Councilman Collins stated that when the Companion Case to the above item comes before Council in (2) weeks, he wants the billboard moratorium issue to be addressed. The Companion Case is Z 10-115)

5. **RESOLUTION APPROVING A SPECIAL USE PERMIT LOCATED ON THE NORTHWEST SIDE OF AMERICAN WAY; +/-1,182.41 FEET SOUTHWEST OF MOUNT MORIAH ROAD, CONTAINING 8.11 ACRES IN THE HIGHWAY COMMERCIAL (C-H) DISTRICT.**

Case No. SUP 10-229

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

Terry Burton, 398 Bowen Rd., Sardis, Mississippi, 38666

Randy Stepherson, 4009 Walnut Grove, Memphis, Tennessee, 38117

(The applicant requested that they be allowed to put up a chain linked fence, with barbwire. This was offered as a Friendly Amendment by Councilman Collins and seconded by Councilman Boyd).

Applicant: RSB Investments, LLC
The Burton Company – Representative

Request: Special Use Permit to allow warehouse storage of supermarket goods, products and merchandise

LUCB and OPD recommendation: APPROVAL, with conditions

MOTION: Ford

SECOND Boyd

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

APPROVED, as amended

(Items 6 -11 were called together)

6. **RESOLUTION APPROVING A HOTEL WAIVER FOR 6083 APPLE TREE DRIVE EXTENDED STAY AMERICA.**

Case No. HMW 11-01

7. **RESOLUTION APPROVING A HOTEL WAIVER FOR 8110 CORDOVA CENTER DR. EXTENDED STAY.**

Case No. HMW 11-02

8. **RESOLUTION APPROVING A HOTEL WAIVER FOR 5885 SHELBY OAKS DRIVE EXTENDED STAY.**

Case No. HMW 11-03

9. **RESOLUTION APPROVING A HOTEL WAIVER FOR 6520 MT. MORIAH ROAD EXTENDED STAY.**

Case No. HMW 11-04

10. **RESOLUTION APPROVING A HOTEL WAIVER FOR 6325 QUAIL HOLLOW EXTENDED STAY.**

Case No. HMW 11-05

11. **RESOLUTION APPROVING A HOTEL WAIVER FOR 2524 HORIZON LAKE DRIVE EXTENDED STAY.**

Case No. HMW 11-06

(The applicant of these cases stated that his records show that the address for item #11 should be 2520 Horizon Lake Drive. OPD stated that their records show the address is 2524 Horizon Lake Drive. City Council Attorney, Alan Wade, stated that the address for the records should read 2520 -2524).

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

APPROVED (items 6 – 11)

CONSENT AGENDA – Items 12 - 15 may be acted upon by one motion: SEE PAGE 1762 FOR ROLL CALL

12. **ORDINANCE TO REZONE THE SOUTH SIDE OF INTERSTATE 240 EAST, +/-1,760 FEET EAST OF GETWELL ROAD, CONTAINING 7.62 ACRES IN THE AGRICULTURAL (AG) [FP] DISTRICT, UP FOR S E C O N D READING.**

Case No. Z 10-115
 Ordinance No. 5391

APPROVED, on Second reading

13. **RESOLUTION APPROVING FINAL PLAT OF WOODLAND HILLS II P.D., PHASE 4 (WOODLAND LAKE DRIVE ROAD DEDICATION).**

Case No. PD 08-324cc

Resolution approves the final plat located on Woodland Lake Drive at Walnut Grove Road. This action is subject to County approval.

City Engineer recommends approval

APPROVED

14. **RESOLUTION APPROVING FINAL PLAT OF SMITHART S/D.**

Case No. S 10-010

Resolution approves the final plat located at the southeast corner of Poplar Avenue and Mendenhall. Cost of the required improvements to be born by the developer.

City Engineer recommends approval

APPROVED

15. **RESOLUTION APPROVING FINAL PLAT OF KIRBY POINT SUBDIVISION, 1ST ADDITION, SECTION B.**

Case No. S 04-031

Resolution approves the final plat located on the south side of Raines Road, between Kirby and Hickory Hill. Cost of the required improvements to be borne by the developer.

City Engineer recommends approval

APPROVED

ROLL CALL CONSENT ITEMS

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

APPROVED

17. **ORDINANCE TO AMEND CHAPTER 2, DIVISION 6, LOCAL SMALL BUSINESS DEVELOPMENT AND PROCUREMENT PROGRAM, UP FOR THIRD AND FINAL READING. (HELD FROM 1/4)**

Ordinance No. 5389

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

APPROVED

18. **RESOLUTION TO ACCEPT ADDITIONAL 100% FEDERAL GRANT FUNDS IN THE AMOUNT OF \$1,054,240.70 FROM THE TENNESSEE DEPARTMENT OF TRANSPORTATION FOR THE COORDINATED TRAFFIC SIGNAL SYSTEM YEAR 1 PROJECT TO HELP RELIEVE TRAFFIC CONGESTION AND RELATED AIR POLLUTION ON LAMAR AVENUE IN THE CITY OF MEMPHIS. RESOLUTION ALSO AMENDS THE FY 2011 OPERATING BUDGET BY ADDING FUNDS TO THE PROJECT (EN90003) AND APPROPRIATES GRANT FUNDS.**

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

APPROVED

(Special Item #4 –Councilwoman Halbert made a motion to approve Same Night Minutes for item #28).

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

APPROVED

19. **RESOLUTION AUTHORIZING THE OFFICE OF YOUTH SERVICES AND COMMUNITY AFFAIRS TO AWARD \$362,583.00 IN FUNDING FROM APPROVED FY 2011 GENERAL FUNDS OPERATING BUDGET TO 14 DESIGNATED 501 (C) 3 ORGANIZATIONS; WITH EACH ORGANIZATION RECEIVING THEIR FUNDING FOR THE PURPOSE OF COMMUNITY DEVELOPMENT, YOUTH DEVELOPMENT, HUMAN SERVICES AND/OR ENVIRONMENTAL DEVELOPMENT ACTIVITIES.**

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

Joseph Mullins, 1312 Elmview Lane, Memphis, Tennessee 38116

Held until February 1, 2011

20. **RESOLUTION AUTHORIZES THE ADMINISTRATION TO SELL THE CITY'S DELINQUENT TAX RECEIVABLES IN ORDER TO ACCELERATE THE COLLECTION OF DELINQUENT TAX REVENUES. (HELD FROM 1/4).**

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

APPROVED

21. **RESOLUTION TO AMEND FIRE SERVICE'S CAPITAL IMPROVEMENT BUDGET REQUEST TO REPLACE THE ORIGINAL REQUEST WITH EIGHT ALTERNATIVE RESPONSE VEHICLES, ONE BRUSH TRUCK, SEVEN AMBULANCES, TWO ENGINES AND TWO AERIAL/QUINTS TRUCKS AT A COST OF \$4,508,284.00. THE COST IS THE SAME AS THE ORIGINAL REQUEST. (HELD FROM 1/4)**

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

APPROVED, as amended (The money amount changed to \$4,008,284.00)

22. **RESOLUTION APPROVING THE COMPLETION OF PLANS AND SPECIFICATIONS AND TAKING OF BIDS FOR THE DRAIN MAINTENANCE STORAGE BUILDING, CIP PROJECT NUMBER ST04045, AS PART OF THE FY 2011 CAPITAL IMPROVEMENT PROGRAM AT AN ESTIMATED CONSTRUCTION COST OF \$700,000.00 FUNDED BY G.O. BONDS GENERAL.**

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

APPROVED

23. **RESOLUTION AMENDING THE FISCAL YEAR 2011 CAPITAL IMPROVEMENT BUDGET BY TRANSFERRING AN ALLOCATION OF \$56,436.00 FUNDED BY SEWER REVENUE BONDS FROM REHAB EXISTING SEWERS, PROJECT NUMBER SW02001 TO GAYOSO SEWER TRANSFER SWITCH, PROJECT NUMBER SW02087, TO PURCHASE A STANDARDIZED SMART SWITCH TO USE AS AN ALTERNATIVE POWER FEED IN CASE OF ELECTRICAL FAILURE FOR THE GAYOSO SEWER PUMPS. RESOLUTION ALSO APPROPRIATES \$56,436.00 FUNDED BY SEWER REVENUE BONDS IN GAYOSO SEWER TRANSFER SWITCH, PROJECT NUMBER SW02087 FOR A CONTRACT WITH STUART C. IRBY COMPANY.**

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

Ware was absent

APPROVED

24. **RESOLUTION AMENDING THE FY2011 GENERAL SERVICES CAPITAL ACQUISITION BUDGET FOR THE PUBLIC WORKS CAPITAL ACQUISITION, PROJECT NUMBER GS0211E TO CHANGE THE EQUIPMENT ORIGINALLY SUBMITTED. THERE IS NO CHANGE IN THE APPROVED BUDGET.**

MOTION: Hedgepeth

SECOND: Strickland

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

APPROVED

(Special Item #5 –Councilman Collins made a motion to approve Same Night Minutes for items #21, #22, #24, #26, #27 & #28)

MOTION: Collins

SECOND: Boyd

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

APPROVED

INTRODUCTION OF ITEMS ON MATTERS BY THE GENERAL PUBLIC:

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

Walter Broady, 4256 Ledbetter Avenue, Memphis, TN 38109

(Special Item #6 - Councilman Flinn made a motion to recess, until called to order by the Chairman, upon 24 hour written notice to all appropriate news media & newspaper of general circulation and be posted outside the Council Chambers).

MOTION: Flinn

SECOND: Collins

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

APPROVED (January 18, 2011 Meeting is in recess)

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