



CITY OF MEMPHIS

COUNCIL AGENDA

February 21, 2006

Public Session Tuesday, 3:30 p.m.

Council Chambers, First Floor, City Hall

125 North Main Street

Memphis, Tennessee 38103-2017

CALL TO ORDER by the Sergeant-at-Arms

INVOCATION

PLEDGE OF ALLEGIANCE

CALL OF ROLL by the Comptroller

APPROVAL OF PREVIOUS MEETING MINUTES (February 7, 2006)

CONSENT AGENDA

GENERAL ORDINANCE - FIRST READING

1. **ORDINANCE** amending the City of Memphis Code of Ordinances, Chapter 33 Article IV, Division 3, Storm Water Enterprise Fund, to revise the Rate Schedule and to specify an Implementation Date, up for F I R S T reading.

Jones

Ordinance No. 5157

Director of Public Works recommends approval

ACTION REQUESTED: Adopt the ordinance on First reading

GENERAL ORDINANCE - SECOND READING (none)

ZONING ORDINANCE - FIRST READING

2. **ORDINANCE** rezoning the northeast corner of Mill Avenue and Seventh Street, containing 0.78 acre in the Mixed Use(MU) & Moderate Density Residential (MDR) Districts, up for F I R S T reading.

Peete

Ordinance No. 5158

Case No. Z 05-137

Applicant: MLB-Uptown LLC
S R Consulting – Representative

Request: Moderate Density Residential (MDR) District

LUCB and OPD recommendation: APPROVAL

ACTION REQUESTED: Adopt the ordinance on First reading

ZONING ORDINANCES - SECOND READING

3. **ORDINANCE** rezoning the northeast corner of Monroe Avenue and Avalon Street, containing 0.20 acre in the Local Commercial (C-L) District, up for S E C O N D reading.

Peete

Ordinance No. 5154

Case No. Z 05-128

Applicant: Pinnacle Homes, LLC
Michael Fahy – Representative

Request: Single Family Residential (R-S6) District

LUCB and OPD recommendation: APPROVAL

ACTION REQUESTED: Adopt the ordinance on Second reading

- 4. **ORDINANCE** rezoning +200 feet east of Ridgeway Road; +200 feet south of Winchester Road, containing 19.452 acres in the Highway Commercial (C-H) District, up for S E C O N D reading.

Peete

Ordinance No. 5155
Case No. Z 05-136

Applicant: Safeway Plaza, Inc., Rafat Shaikh
Homer Branam – Representative

Request: Planned Commercial (C-P) District

LUCB and OPD recommendation: APPROVAL, with conditions

ACTION REQUESTED: Adopt the ordinance on Second reading

- 5. **ORDINANCE** rezoning the east side of Airways Boulevard; +/-2,240 feet north of Stateline Road, containing 4.38 acres in the Single Family Residential (R-S8) District, up for S E C O N D reading.

Peete

Ordinance No. 5156
Case No. Z 05-138

Applicant: City Auto Finance, LLC

Request: Light Industrial (I-L) District

LUCB and OPD recommendation: APPROVAL, of the Light Industrial (I-L) District

ACTION REQUESTED: Adopt the ordinance on Second reading

ENGINEERING

- 6. RESOLUTION accepting AFTON GROVE P.D., PHASE 3, and authorizing release of bond.

Case No. PD 01-319cc
(Contract No. CR-4907)

Resolution accepts completion of the improvements and the dedication of public streets and easements as shown on the final plat located on the north side of Acadia Place, 507.47 feet east of Canoe Ridge Lane. The standard improvement contract was approved on November 23, 2004. Resolution also authorizes the release of the letter of credit in the amount of \$19,000.00. This action is subject to County approval.

City Engineer recommends approval

ACTION REQUESTED: Adopt the resolution

- 7. RESOLUTION accepting BELVEDERE COLLECTION, and authorizing release of bond.

(Contract No. CR-4949)

Resolution accepts completion of the improvements and the dedication of public streets and easements as shown on the final plat located on the northwest corner of Union Avenue and Belvedere Boulevard. The standard improvement contract was approved on June 21, 2005. Resolution also authorizes the release of the certificate of deposit (No. 173643562) in the amount of \$29,000.00.

City Engineer recommends approval

ACTION REQUESTED: Adopt the resolution

- 8. RESOLUTION accepting BARKSDALE P.D., and authorizing release of bond.
 Case No. PD 03-350
 (Contract No. CR-4870)

Resolution accepts completion of the improvements and the dedication of public streets and easements as shown on the final plat located on the east side of Barksdale Street, 165.28 feet north of Evelyn Street. The standard improvement contract was approved on May 18, 2004. Resolution also authorizes the release of the Letter of Credit (No. 801) in the amount of \$63,700.00.

City Engineer recommends approval

ACTION REQUESTED: Adopt the resolution

- 9. RESOLUTION accepting STONE SHADOWS P.D., and authorizing release of bond.
 Case No. PD 04-308cc
 (Contract No. CR-4918)

Resolution accepts completion of the improvements and the dedication of public streets and easements as shown on the final plat located on the north side of Holmes Rd. and east of Riverdale Rd. The standard improvement contract was approved on January 4, 2005. Resolution also authorizes the release of the letter of credit in the amount of \$13,000.00. This action is subject to County approval.

City Engineer recommends approval

ACTION REQUESTED: Adopt the resolution

- 10. RESOLUTION approving final plat of NORTH HOUSTON LEVEE RETAIL CENTER C-P, PHASE 2.

Case No. Z 99-105cc

Resolution approving the final plat located at the terminus of Macon Road and Houston Levee. Cost of the required improvements to be borne by the Developer.

City Engineer recommends approval

ACTION REQUESTED: Adopt the resolution

- 11. RESOLUTION accepting STONE SHADOWS EAST PD, and authorizing release of bond.
 Case No. PD 04-348cc
 (Contract No. CR-4919)

Resolution accepts completion of the improvements and the dedication of public streets and easements as shown on the final plat located on the north side of Holmes Road, west of Gertrude Drive. The standard improvement contract was approved on January 4, 2005. Resolution also authorizes the release of the letter of credit in the amount of \$18,000.00. This action is subject to County approval.

City Engineer recommends approval

ACTION REQUESTED: Adopt the resolution

NOTATION FROM OPD

- 12. 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 05-380 – FOX MEADOWS VILLAS P.D.

Located on the east side of Clarke Road; +195 feet north of Knight Arnold Road, containing 6.15 acres in the Single Family Residential (R-S6 & R-S8) Districts

Applicant: Jamar Investments
 ETI (Ralph Smith) – Representative

Request: A maximum of 31 residential lots

LUCB and OPD recommendation: APPROVAL, with conditions

ACTION REQUESTED: Set a date of public hearing

SUGGESTED DATE: March 7, 2006

GENERAL ITEM

13. RESOLUTION approving February 25, 2006 as “Shelby Berryhill Day in Memphis, TN”.

Jones

ACTION REQUESTED: Adopt the resolution



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MLGW FISCAL CONSENT

14. RESOLUTION approving ratification of an expedited procurement request for Contract No. 10718, Long and Short Term Disability, to UnumProvident Corporation, in the funded amount of \$1,539,901.79.
15. RESOLUTION approving Change No. 5 to Contract No. 10705, Oracle Software License and Service Agreement, with Oracle Inc., in the funded amount of \$107,097.70. (This covers additional software licenses and support for Self-Service Tutor and iRecruitment for the implementation of e-Business Suite software.)
16. RESOLUTION approving Change No. 2 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 beginning May 6, 2006 to May 5, 2007.)
17. RESOLUTION awarding contract for polyethylene gas fittings to Continental Industries in the amount of \$153,582.50.
18. RESOLUTION awarding contract for tap kits and terminal kits to Tennessee Valley Electric Supply Company in the amount of \$734,307.50.
19. RESOLUTION awarding contract for capacitor cans and banks to Tennessee Valley Electric Supply Company in the amount of \$44,915.00.
20. RESOLUTION approving ratification of emergency Purchase Order No. 126776 for licenses and maintenance of novell software to Novell, Inc. in the amount of \$258,809.00.
21. RESOLUTION awarding contract for one 25.8 kV, 40kaIC power circuit breaker to Siemens PT & D, c/o Utility Sales Agency, in the amount of \$34,995.00.
22. RESOLUTION canceling Purchase Order No. 123900 for personal and laptop computers with Trinity Technology, Inc. and awarding contract to Thomas Consultants, Inc. in the amount of \$1,974,572.00.



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APPEARANCE CARDS FOR PUBLIC SPEAKING

ITEMS HELD OR DROPPED FROM THE AGENDA

REGULAR AGENDA

PRESENTATIONS AND RECOGNITION OF VISITORS

23. RESOLUTION honoring the students of the Memphis in May Student Exchange Program.

Lowery

ACTION REQUESTED: Adopt the resolution

24. RESOLUTION honoring Pastor Lynnwood Dillard and Mickell Lowery for being named to Ebony Magazine's Top 30 under 30.

Lowery

ACTION REQUESTED: Adopt the resolution

25. **APPOINTMENTS**

Marshall

PENSION BOARD

Appointment

Michael Jubirt

GENERAL ORDINANCE - THIRD AND FINAL READING

26. **ORDINANCE** amending Chapter 41, Code of Ordinances, City of Memphis, so as to update regulations for Wreckers and Towing Operators within the City of Memphis, up for T H I R D and F I N A L reading.(Held from 10/11; 10/25;11/1; 12/6; 1/03; 1/17;2/7)

Sammons

Ordinance No. 5133

ACTION REQUESTED: Take whatever action Council deems advisable

ENGINEERING DIVISION (none)

EXECUTIVE DIVISION (none)

FINANCE & ADMINISTRATION (none)

DIVISION OF FIRE SERVICES (none)

DIVISION OF GENERAL SERVICES

27. RESOLUTION approving the conveyance of City owned property located on the west side of North Hollywood, north of Chelsea, to the City of Memphis Division of Housing and Community Development.

Ford

Resolution approved the conveyance of five parcels 40' X 150' located on the west side of North Hollywood, north of Chelsea Avenue, acquired by the City of Memphis, in Tax Sale #10 in 1997. Property identified by the Shelby County

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Assessor's Office as Ward 042, Block 007, Parcels 011, 012, 013, 014, and 015. The City of Memphis Division of Housing and Community Development has requested said parcels with improvements to be used for Code Enforcement and a Resource Center for CDC's. Per ordinance, the transfer of the subject parcel is NOT subject to being held over and Resolution approval shall be deemed as approval of transfer. Resolution also authorizes the Mayor to execute the necessary documents in connection with the transfer.

Director of General Services and Housing and Community Development
recommend approval

ACTION REQUESTED: Adopt the resolution

DIVISION OF HOUSING AND COMMUNITY DEVELOPMENT (none)

DIVISION OF HUMAN RESOURCES (none)

LAW DIVISION

28. RESOLUTION approving release of Capital Improvement funds for settlement of Fed Ex Forum Lawsuit and payment of Administrative expenses of the New Memphis Arena Public Building Authority of Memphis and Shelby County.

Marshall

ACTION REQUESTED: Adopt the resolution

DIVISION OF PARK SERVICES (none)

DIVISION OF POLICE SERVICES

29. RESOLUTION appropriating \$375,000.00 in G.O. Bonds General in CIP Project PD02002-Hickory Hill Police Precinct to provide network and telephone connectivity.

Chumney

ACTION REQUESTED: Adopt the resolution

30. RESOLUTION accepting grant funds in the amount of \$10,000.00 from State of Tennessee Governor's Highway Safety Office for expenditures related to the GHSO Network Coordinator. Resolution also amends FY 2006 Operating Budget to establish and appropriate grant funds in the amount of \$10,000.00.

Chumney

ACTION REQUESTED: Adopt the resolution

DIVISION OF PUBLIC SERVICES

31. RESOLUTION amending the FY06 Capital Improvement Budget by an unencumbrance of an appropriation of \$1,823,016.00 funded by GO Bonds – General in CIP Project #PS02003, Convention Center due to previous contract cancellation.

Marshall

Resolution also establishes an allocation and appropriates \$5,596,675.00 funded by GO Bonds – General to CIP Project #PS02003, Convention Center.

ACTION REQUESTED: Adopt the resolution

DIVISION OF PUBLIC WORKS (none)

ZONING ORDINANCE - THIRD AND FINAL READING

32. **ORDINANCE** rezoning the northeast corner of Levi Road and Leech Road, containing 5.0 acres in the Townhouse Residential (R-TH) District, up for T H I R D and F I N A L reading.

Peete

Ordinance No. 5153
Case No. Z 05-127

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Applicant: Running Bear Construction

Request: Single Family Residential (R-S6) District

LUCB and OPD recommendation: APPROVAL

ACTION REQUESTED: Take whatever action Council deems advisable

DIVISION OF PLANNING & DEVELOPMENT

33. RESOLUTION submitting a grant application to the State of Tennessee Department of Transportation State Industrial Highway Program for costs related to the realignment of Rivergate Road in preparation for the expansion of the Canadian National Railway Company.

Brittenum

ACTION REQUESTED: Adopt the resolution

34. RESOLUTION submitting a grant application to the State of Tennessee Department of Economic and Community Development Fast Track Infrastructure Development Program for an amount not to exceed \$750,000.00 for infrastructure improvement and realignment along Rivergate Road in preparation for the expansion of the Canadian National Railway Company.

Brittenum

ACTION REQUESTED: Adopt the resolution

35. RESOLUTION approving a use variance located on the southeast corner of Front Street and Keel Avenue, containing 1.04 acres in the Mixed Use (MU) District.

Peete

Case No. UV 05-08

Applicant: Gary Meloni, Jr.
S R Consulting (Cindy Reaves) – Representative

Request: Non-hazardous chemical processing

LUCB and OPD recommendation: APPROVAL, with conditions

ACTION REQUESTED: Take whatever action Council deems advisable

No Opposition at LUCB; No Public Hearing Required

36. RESOLUTION approving a use variance located on the west side of Exocet Drive; +180 feet north of Fischer Steel Road, containing 1.76 acres in the Light Industrial (I-L) & Heavy Industrial (I-H) Districts.

Peete

Case No. UV 06-01

Applicant: Gameday Baseball Holdings
Davis Engineering – Representative

Request: Use Variation to permit an off-premise sign advertising the adjoining 1st Tennessee Ballfields Complex utilizing the former Bogey's Entertainment Complex Sign that currently exists on Lot 2 of the East Memphis Industrial District Subdivision

LUCB and OPD recommendation: APPROVAL, with conditions

ACTION REQUESTED: Take whatever action Council deems advisable

No Opposition at LUCB; No Public Hearing Required

PUBLIC HEARINGS

37. RESOLUTION approving a planned development located on the northwest corner of Poplar Avenue and Reddoch Street, containing 0.74 acre in the Single Family Residential (R-S10) District. (Held from 12/20;2/7)

Peete

Case No. PD 05-362
(Companion Case SAC 05-618)

Applicant: William H. Thomas, Jr.
ETI Corporation (Dan Graddy) – Representative

Request: Two-story office building, occupied by limited General Office (O-G) uses, including a bank

LUCB recommendation: APPROVAL, with conditions

OPD recommendation: REJECTION

ACTION REQUESTED: Take whatever action Council deems advisable

30 NOTICES WERE MAILED ON DECEMBER 9, 2005

38. RESOLUTION approving a street/alley closure located on Reddoch Street, a segment extending northward ±140 feet from Poplar Avenue, containing 2,651 square feet in the Single-Family Residential (R-S10) District and 1,933 square feet in the Multi-Family Residential (R-MM) District. (Held from 12/20;2/7).

Peete

Case No. SAC 05-618
(Companion Case: PD 05-362)

Applicant: William H. Thomas, Jr.
ETI Corporation (Dan Graddy) – Representative

Request: Close and Vacate Street Right-of-Way

LUCB recommendation: APPROVAL, with conditions

OPD recommendation: REJECTION

ACTION REQUESTED: Take whatever action Council deems advisable

45 NOTICES MAILED ON DECEMBER 9, 2005

39. RESOLUTION approving a planned development located on the south side of Quince Road; +600 feet west of Kirby Parkway, containing 5.63 acres in the P.D. 02-310 Kirby Gate South Planned Development.

Peete

Case No. PD 05-355

Applicant: K G Land LLC
Fisher & Arnold (Jud Te Paske) – Representative

Request: Amend Parcel 4 to permit Jaguar/Land Rover Dealership with support facilities

LUCB and OPD recommendation: APPROVAL, with conditions

ACTION REQUESTED: Take whatever action Council deems advisable

48 NOTICES MAILED ON FEBRUARY 10, 2006

40. RESOLUTION approving a planned development located on the east side of Graham Avenue; +825.6 feet north of Given Avenue, containing 2.216 acres in the Single Family Residential (R-S6) District.

Peete

Case No. PD 05-358

Applicant: Mars Development, LLC
The Bray-Davis Firm, LLC – Representative

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Request: A planned development to permit ten (10) single family detached lots (Minimum lot size: 5,557 sq. ft.)

LUCB and OPD recommendation: APPROVAL, with conditions

ACTION REQUESTED: Take whatever action Council deems advisable

119 NOTICES MAILED ON FEBRUARY 10, 2006

41. RESOLUTION approving a subdivision appeal located on the north side of Smithson Trail, containing 13.17 acres in the Agricultural (AG) District .(Held from 2/7)
Peete Case No. S 05-061cc

Applicant/Appellant: Fred Elam
Frank P. Palumbo, Jr. – Representative

Request: Appeal to overturn action of the Land Use Control Board requiring the dedication and installation of dry sanitary sewer lines and the dedication and improvement of a stub street to the north property line

LUCB and OPD recommendation: APPROVAL, subject to 4 variances, 16 conditions and 3 design changes

ACTION REQUESTED: Take whatever action Council deems advisable

17 NOTICES MAILED ON JANUARY 20, 2006

42. RESOLUTION approving a street/alley closure located on the south side of Georgia Avenue; +150 feet east of S. Main Street, containing 20,473 square feet in the Street/Alley ~ South Main (SM) District.
Peete Case No. SAC 04-619

Applicant: Front Row Development, LLC
Tetra Tech, Inc./Frank Gianotti – Representative

Request: Time Extension for Street & Alley Closure Approved January 4, 2005 for an additional one year period

LUCB and OPD recommendation: APPROVAL, with conditions

ACTION REQUESTED: Take whatever action Council deems advisable

16 NOTICES MAILED ON FEBRUARY 10, 2006

43. RESOLUTION supporting a Living Wage.
Mitchell

ACTION REQUESTED: Adopt the resolution

ADJOURNMENT

ADD-ONS

44. RESOLUTION approving final plat of OLD OAKS SUBDIVISION.

Consent

Case No. S 05-059cc

Contract No. CR-4996

Resolution approves the final plat located on Montorey Road, east of Red-Hooker 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.

City Engineer recommends approval

ACTION REQUESTED: Adopt the resolution

12. **NOTATIONS** from Land Use Control Board that the following cases were heard and recommendation made requesting a date of public hearing:

B. Case No. S 05-081 – CORDOVA OAKS SUBDIVISION

Located on the east side of Blake Road; +168.75 feet north of Rocky Point Road, containing 2.0 acres in the Single Family dwelling ~ Single Family Residential (R-S6) District

Appellant: David Jumper

Request: Eight (8) Lot Preliminary Plat Preliminary Plat. Mr. Jumper is making this appeal in effort to develop this subdivision with an eight (8) lot plan with a cove rather than an eight (8) lot plan with a street stub connection to Versilia Avenue

LUCB and OPD recommendation: REJECTION

C. Case No. SAC 05-625 - KENTUCKY STREET & RAILROAD AVENUE INTERSECTION

Located on Kentucky Street at Railroad Avenue, containing 8,869 Square Feet

Applicant: City of Memphis
Wayne Gaskins, City Engineer

Request: Close & Vacate Alley Street Right-Of-Way

LUCB and OPD recommendation: APPROVAL, with conditions

D. Case No. PD 04-370cc – FOUNTAIN BROOK PLANNED DEVELOPMENT

Located on the east side of Berryhill Road, opposite Berry Bush Lane

Appellant: Danny Tabrizi for Fountain Brook, LLC

Request: Overturn the decision of the Memphis/Shelby County Land Use Control Board on 01/12/06 which rejected the appellant's request to delete the requirement for road improvements to Berryhill Road as required by the Outline Plan Conditions for Fountain Brook Planned Development

LUCB and OPD recommendation: REJECTION

ADD-ONS

ACTION REQUESTED: Set a date of public hearing

SUGGESTED DATE: March 7, 2006

45. **ORDINANCE** rezoning the southeast corner of Pennsylvania Avenue and Illinois Avenue, containing 2.02 acres in the Heavy Industrial (I-H) District, up for F I R S T reading.

Consent

Ordinance No. 5159
Case No. Z 05-140

Applicant: Pennsylvania Ave., LLC

Request: Bluffview Residential (R-B) District

LUCB and OPD recommendation: APPROVAL of the Bluffview Residential (R-B) District

ACTION REQUESTED: Adopt the ordinance on First reading

46. **RESOLUTION** approving the selection of Mr. Armstead Ward for the position of Vice President of Human Resources at MLGW, in accordance with Salary No. S-77184 in the amount of \$147,014.40 annually.

Ford

ACTION REQUESTED: Adopt the resolution

ACTION TAKEN BY COUNCIL ON THIS DATE

- 1. Through 11 – Approved
- 12. Public Hearing set for March 7, 2006
- 13. Through 24 – Approved
- 25. and 26 – Held to March 7, 2006
- 27. Through 34 – Approved
- 35. Approved, as amended
- 36. Through 38 – Approved
- 39. Approved, as amended
- 40. and 41 – Failed
- 42. Approved
- 43. Approved, as amended
- 44. Through 46 – Approved

ACTION TAKEN ON MINUTES OF FEBRUARY 7, 2006 with the following motion:

Approved as amended. Ms. Holt wanted language added to Item #30, Ord. No. 5136, CaseNo. ZTA 05-001cc, that states to review opinions and give copies of opinions to Joe Cooper and Randall Swaney