

MINUTES

REGULAR MEETING OF THE CITY COUNCIL

CITY OF MEMPHIS

March 20, 2012

3:30 P.M. SCHEDULED SESSION

3:30 P.M. MEETING COMMENCED

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

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

INVOCATION

The meeting was opened with prayer by Rev. Willie I. Henry, Jr., from The New Olivet Baptist Church. Councilman Brown presented Pastor Henry 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 6, 2012 with the following motion:

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

APPROVED

- 5. **RESOLUTION APPROVING A SPECIAL USE PERMIT LOCATED ON THE WEST SIDE OF BOSTON STREET, 175 FEET NORTH OF MIDLAND AVENUE, CONTAINING 0.17 ACRE IN THE RESIDENTIAL URBAN (RU-1) DISTRICT. (HELD FROM 3/6)**

Case No. SUP 11-224

Held until April 17, 2012

- 8. **ORDINANCE REZONING THE SOUTH SIDE OF HIGHWAY 64 +/-1,500 FEET WEST OF HIGHWAY 385, CONTAINING 11.05 ACRES IN THE CONSERVATION AGRICULTURAL (CA) DISTRICT, UP FOR T H I R D AND F I N A L READING.**

Case No. Z 11-110

Ordinance No. 5443

Held until April 3, 2012

- 24. **RESOLUTION AMENDING THE FY 2012 BUDGET TO ALLOCATE AND APPROPRIATE FUNDING FOR LIBERTY BOWL STADIUM UPGRADES.**

Held until April 3, 2012

- 18. **ORDINANCE TO AMEND TITLE 6-BUSINESS LICENSES AND REGULATIONS CHAPTER 6-88-WRECKERS AND TOWING OPERATORS, SECTION 6-88-15 PRIVATE PROPERTY TOW AUTHORIZATION FORMERLY CHAPTER 41 WRECKERS OR TOWING OPERATOR, OF THE CODE OF ORDINANCES, UP FOR T H I R D AND F I N A L READING. (HELD FROM 1/3; 1/17; 2/7; 3/6)**

Ordinance No. 5431

DROPPED

- 1. **RESOLUTION HONORING MUS VARSITY BASKETBALL COACH JERRY PETERS.**

MOTION: Flinn

SECOND: Strickland

APPROVED, unanimous voice vote

- 2. **RESOLUTION APPROVING AN HONORARY STREET NAME CHANGE OF SHARPE AVENUE BETWEEN PRESCOTT ROAD AND ELLSWORTH STREET IN HONOR OF DR. GENE CROCKETT.**

MOTION: Fullilove

SECOND: Flinn

APPROVED, unanimous voice vote

3. **RESOLUTION APPROVING AN HONORARY STREET NAME CHANGE OF ESTATE ROAD FOR FORMER STATE REPRESENTATIVE JOE KENT.**

MOTION: Strickland
SECOND: Ford

APPROVED, unanimous voice vote

(Chairman Morrison recognized Professor Grant and his class, who were visiting in the audience).

4. **RESOLUTION APPROVING A PLANNED DEVELOPMENT LOCATED ON THE NORTHEAST CORNER OF CHERRY ROAD AND AMERICAN WAY BOULEVARD, CONTAINING 113.50 ACRES IN AN AREA FORMERLY KNOWN AS ‘MALL OF MEMPHIS’ REGIONAL MALL IN THE COMMERCIAL MIXED-USE (CMU-2) DISTRICT.**

Case No. PD 11-324

Applicant: Johnson Development Associates, Inc.
SR Consulting, LLC – Representative

Request: Planned Development to allow Employment (EMP) District land uses, including warehouse and distribution within the Outline Plan

LUCB and OPD recommendation: APPROVAL, with conditions

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

APPROVED

(Chairman Morrison recognized Professor Justin and her class, who were visiting in the audience).

6. **RESOLUTION APPROVING A SPECIAL USE PERMIT LOCATED ON THE EAST SIDE OF CHERRY ROAD, OPPOSITE OF HAVERHILL ROAD, CONTAINING 4.5 ACRES IN THE RESIDENTIAL SINGLE FAMILY-10 (R-10) DISTRICT.**

Case No. SUP 12-201

Applicant: Harding Academy of Memphis, Inc.
The Reaves Firm – Representative

Request: A Special Use Permit to allow a pre-school within the R-10 District

LUCB and OPD recommendation: APPROVAL, with conditions

MOTION: Ford

SECOND: Fullilove

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

APPROVED

- 7. **RESOLUTION APPROVING A SPECIAL USE PERMIT LOCATED AT 8350 MACON ROAD, ON THE NORTHEAST CORNER OF MACON ROAD AND CULLY ROAD, CONTAINING 3.47 ACRES IN THE RESIDENTIAL SINGLE FAMILY-6 (R-6) DISTRICT.**

Case No. SUP 12-202

Applicant: Harding Academy of Memphis, Inc.
The Reaves Firm – Representative

Request: A Special Use Permit to allow a pre-school within the R-10 District

LUCB and OPD recommendation: APPROVAL, with conditions

MOTION: Ford

SECOND: Strickland

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

APPROVED

CONSENT AGENDA – Items 9 - 13 may be acted upon by one motion: SEE PAGE 2195 FOR ROLL CALL

- 9. **ORDINANCE TO AMEND CHAPTER 33, ARTICLE III, OF THE CITY OF MEMPHIS CODE OF ORDINANCES, TO CREATE THE MEMPHIS WASTEWATER HEARING AUTHORITY AND TO CLARIFY THE ADMINISTRATION AND ENFORCEMENT PROVISIONS, UP FOR S E C O N D READING.**

Ordinance No. 5445

APPROVED, on Second reading

- 10. **ORDINANCE TO AMEND CHAPTER 33, ARTICLE IV, OF THE CITY OF MEMPHIS CODE OF ORDINANCES, TO CREATE THE MEMPHIS STORMWATER BOARD AND MODIFY PROVISIONS RELATED TO CIVIL PENALTIES, UP FOR S E C O N D**

READING.

Ordinance No. 5446

APPROVED, on Second reading

11. **RESOLUTION APPROVING FINAL PLAT OF WHITTEN I-40 P.D., PHASE 22.**

Case No. PD 05-320

Contract No. CR-5179

Resolution approves the final plat located on the west side of Whitten Road, 255 feet north of Macon 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

APPROVED

12. **RESOLUTION CANCELING THE STANDARD IMPROVEMENT CONTRACT FOR LEGENDS PARK P.D., PHASE 4 AND AUTHORIZING THE RELEASE OF BOND.**

Case No. PD 07-338

(Contract No. CR-5163)

Resolution cancels the improvements and the dedication of public streets and easements as shown on the final plat located on the east side of Ayers Street, 405 feet north of Poplar Avenue. The standard improvement contract was approved on July 20, 2010. Resolution also authorizes the release of the performance bond (No.105443559) in the amount of \$849,329.76.

City Engineer recommends approval

APPROVED

13. **RESOLUTION APPROVING FINAL PLAT OF WALMART SUBDIVISION, RESUBDIVISION OF LOT 1.**

Case No. S 11-017

Resolution approves the final plat located on the westside of N. Germantown Parkway, south of Trinity. Cost of the required improvements to be borne by the developer.

City Engineer recommends approval

APPROVED

ROLL CALL CONSENT ITEMS

MOTION: Ford

SECOND: Strickland

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

APPROVED

MLGW FISCAL CONSENT – Items 14 - 16 may be acted upon by one motion:

14. **RESOLUTION APPROVING CHANGE NO. 5 TO CONTRACT NO. 11148, PROFESSIONAL ENGINEERING SERVICES, WITH SSR ELLERS, INC. IN THE FUNDED AMOUNT OF \$187,800.00. (THIS CHANGE RENEWS THE CONTRACT FOR THE FOURTH AND FINAL RENEWAL TERM, JANUARY 1, 2012 THROUGH DECEMBER 31, 2012, WITH NO INCREASE IN RATES).**

APPROVED

15. **RESOLUTION APPROVING CHANGE NO. 1 TO CONTRACT NO. 11516, TIRE AND TIRE REPAIR SERVICE, WITH SOUTHERN TIRE MART IN THE FUNDED AMOUNT OF \$46,371.50, FOR A NEW CONTRACT VALUE OF \$729,509.50. (THIS CHANGE IS TO ADD QUANTITIES THAT WERE OMITTED FROM THE ORIGINAL CONTRACT).**

APPROVED

16. **RESOLUTION AWARDING CONTRACT NO. 11531, CUSTOMER SATISFACTION SURVEY, TO RENEE ENTERPRISES, IN THE FUNDED AMOUNT OF \$33,774.00.**

APPROVED

MLGW ROLL CALL CONSENT ITEMS

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

APPROVED

17. **APPOINTMENTS**

ECONOMIC DEVELOPMENT GROWTH ENGINE OF MEMPHIS AND SHELBY COUNTY (EDGE)

APPOINTMENT

COUNCILMAN GEORGE SHEA FLINN III

MEMPHIS BOARD OF ETHICS

APPOINTMENT

CRAIG L. CARDWELL

MEMPHIS LIGHT, GAS AND WATER COMMISSION

APPOINTMENT

DERWIN SISNETT (HELD TO 4/3)

REAPPOINTMENT

V. LYNN EVANS

MEMPHIS TRANSPORTATION COMMISSION

APPOINTMENTS

SCOTT C. BOUCHER

BETH FLANGAN (DROPPED)

JEFFERY D. HARRIS

VINCE HIGGINS

KEVIN KANE (HELD TO 4/3)

TAWANDA KNIGHT

RICHARD V. WHITE

PENSION BOARD OF ADMINISTRATION

APPOINTMENT

PAULA YETTE POLITE

REAPPOINTMENTS

ROWENA ADAMS

NANCY H. ALBONETTI

DEREK BRASSEL
LISA GEATER
DWAN L. GILLIOM

PREVAILING WAGE COMMISSION

APPOINTMENT

SAMUEL J. HAYNIE

REAPPOINTMENTS

ROBERT L. CAMPBELL
HAROLD MCDONALD
PAUL SHAFFER

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

APPROVED, as amended (Beth Flanagan’s name was dropped from the Memphis Transportation Commission)

19. **ORDINANCE FIXING SPECIAL SCHOOL TAX RATE AND ASSESSMENT BY THE CITY OF MEMPHIS FOR THE BENEFIT OF THE BOARD OF EDUCATION OF THE MEMPHIS CITY SCHOOLS FOR ITS FISCAL YEAR 2012, UP FOR T H I R D AND F I N A L READING.**

Ordinance No. 5444

(Chairman Morrison recognized the following people who spoke from the audience)
Meg Clifton, 1412 Glen Oaks Drive, Memphis, Tennessee, 38119
Mary Margaret Ware, 2110 Hickory Crest Drive, Memphis, Tennessee, 38119

(Councilman Conrad made a motion to drop this Ordinance, without objection, and substitute a Resolution amending the FY 2012 Operating Budget by Abolishing the voluntary retirement program, Appropriating \$10,200,00.00 from the General Fund Reserve for the general operations and Reducing the FY2012 Budget by \$3,200,000.00 implementing reductions presented on 3-20-2012 by the Administration).

(Special Item#1- Conrad’s Motion)

MOTION: Conrad
SECOND: Hedgepeth

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

APPROVED, (Ordinance #5444 was Dropped and substituted with a Resolution.)

20. **RESOLUTION ACCEPTING GRANT FUNDS IN THE AMOUNT OF \$317,419.00 FROM THE U.S. DEPARTMENT OF HOMELAND SECURITY GRANT PROGRAM FOR THE DIVISION OF FIRE SERVICES – METROPOLITAN MEDICAL RESPONSE SYSTEM (MMRS) TO SUPPORT THE INTEGRATION OF EMERGENCY MANAGEMENT, HEALTH, AND MEDICAL SYSTEMS INTO A COORDINATED RESPONSE TO MASS CASUALTY INCIDENTS CAUSED BY ANY HAZARD. RESOLUTION ALSO AMENDS THE FY 2012 OPERATING BUDGET TO ESTABLISH AND APPROPRIATE GRANT FUNDS.**

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

APPROVED

21. **RESOLUTION APPROPRIATING \$133,477.00 IN GENERAL OBLIGATION BONDS FROM THE FY 2012 CIP BUDGET FOR THE DIVISION OF FIRE SERVICES TO PURCHASE AIR MASK SYSTEM UNITS AND ACCESSORIES FOR A TOTAL APPROPRIATION OF \$133,477.00.**

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

APPROVED

22. **RESOLUTION APPROPRIATING \$340,000.00 FOR CIP PROJECT NUMBER IS01070, WEBSITE/ INTRANET UPGRADE, WHICH WAS APPROVED BY CITY COUNCIL IN THE FY2012 CIP BUDGET. (HELD FROM 3/6)**

(Councilman Conrad made a motion to reduce the appropriation amount to \$240,000.00, this was seconded by Councilman Boyd).

(Councilwoman Halbert objected to Councilman Conrad's motion. After a brief discussion, Councilwoman Halbert withdrew her objection).

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

APPROVED, as amended

23. **RESOLUTION SEEKING APPROVAL TO PURCHASE AND INSTALL AN "EMERGENCY EVACUATION ALARM SYSTEM" AT THE PIPKIN AND CREATIVE ARTS BUILDINGS THAT ARE LOCATED ON SOUTH TIGER LANE AT A COST OF \$50,000.00 FROM FURNITURE, FIXTURE AND EQUIPMENT IN CIP PROJECT NUMBER PK10010, LIBERTY BOWL LOCKER ROOMS, FUNDED BY G.O. BONDS GENERAL.**

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

APPROVED

25. **RESOLUTION TRANSFERRING AN ALLOCATION AND APPROPRIATION IN THE AMOUNT OF \$475,000.00 FROM CONTRACT CONSTRUCTION TO ARCHITECTURE AND ENGINEERING TO COVER UNEXPECTED A/E EXPENDITURES. RESOLUTION ALSO APPROPRIATES \$1,472,000.00 FROM UNAPPROPRIATED CONTRACT CONSTRUCTION ALLOCATIONS, GS01007 MAJOR MODIFICATION/IMPROVEMENTS, FUNDED BY G.O. BONDS GENERAL FOR VARIOUS PROJECTS TO CITY FACILITIES.**

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

Lowery was absent

APPROVED

26. **RESOLUTION AMENDING THE FISCAL YEAR 2012 CAPITAL IMPROVEMENT BUDGET BY TRANSFERRING AN ALLOCATION OF \$2,594,350.00 FUNDED BY SEWER REVENUE BONDS FROM REHAB EXISTING SEWERS, PROJECT NUMBER SW02001 TO CIPP 84-96 REHAB PROJECT, PROJECT NUMBER SW02098 TO REPAIR AND REHAB EXISTING DAMAGED SANITATION SEWER PIPE. RESOLUTION ALSO APPROPRIATES \$2,594,350.00 FUNDED BY SEWER REVENUE BONDS FOR CIPP 84-96 REHAB PROJECT, PROJECT NUMBER SW02098 FOR A CONSTRUCTION CONTRACT WITH SAK CONSTRUCTION, LLC.**

MOTION: Hedgepeth

SECOND: Strickland

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

APPROVED

27. **RESOLUTION AMENDING THE FISCAL YEAR 2012 CAPITAL IMPROVEMENT BUDGET BY TRANSFERRING AN ALLOCATION OF \$313,075.00 FUNDED BY SEWER REVENUE BONDS FROM REHAB EXISTING SEWERS, PROJECT NUMBER SW02001 TO STILES ROOF REPAIR, PROJECT NUMBER SW02088. RESOLUTION ALSO APPROPRIATES \$313,075.00 FUNDED BY SEWER REVENUE BONDS IN STILES ROOF REPAIR, PROJECT NUMBER SW02088 FOR A CONSTRUCTION CONTRACT WITH ARK ROOFING COMPANY.**

MOTION: Hedgepeth

SECOND: Ford

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

APPROVED

28. **RESOLUTION APPROPRIATING \$281,243.00 FUNDED BY SEWER REVENUE BONDS FROM SOUTH PLANT EXPANSION, PROJECT NUMBER SW02033 FOR A CONSTRUCTION CONTRACT WITH ALDERSON ROOFING AND SHEET METAL COMPANY, INC.**

MOTION: Strickland

SECOND: Ford

AYES: Boyd, Brown, Collins, Conrad, Flinn, Ford, Fullilove, Halbert, Harris,

Strickland and Chairman Morrison
Hedgepeth did not cast a vote
Lowery was absent

APPROVED

29. **RESOLUTION OPPOSING HOUSE BILL 3386 AND SIMILAR LEGISLATION RESTRICTING THE ABILITY OF LOCAL GOVERNMENTS TO SET POLICY REGARDING LIVING WAGE, PREVAILING WAGE AND SIMILAR MATTERS.**

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

APPROVED

30. **RESOLUTION OPPOSING HOUSE BILLS 3694 AND 3696 WHICH WOULD GREATLY RESTRICT LOCAL GOVERNMENT’S AUTHORITY RELATIVE TO ZONING MATTERS.**

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

APPROVED, as amended

INTRODUCTION OF ITEMS ON MATTERS BY THE GENERAL PUBLIC:

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

Walter Broady, 4256 Ledbetter Cove, Memphis, TN 38109

ADJOURNED MEETING AT 5:45 P.M.

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

CHAIRMAN

Attest:

Deputy Comptroller/Council Records