

MINUTES

REGULAR MEETING OF THE CITY COUNCIL

CITY OF MEMPHIS

July 17, 2012

3:30 P.M. SCHEDULED SESSION

3:33 P.M. MEETING COMMENCED

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

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

INVOCATION

The meeting was opened with prayer by Rev. Charles Elliott from Golden United Methodist Church. Councilman Harris presented Rev. Elliott 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 July 3, 2012 with the following motion:

(Councilwoman Halbert made a motion to pull item #3 – SUP 12-203 & item #7 – Z 12-101 – Ord.#5453 from the minutes and hold both items until August 7, 2012 Meeting, without objection)

MOTION: Halbert
 SECOND: Boyd
 AYES: Boyd, Conrad, Flinn, Fullilove, Halbert, Harris, Hedgepeth, Lowery, Strickland and Vice Chairman Ford

Brown, Collins and Chairman Morrison were absent

APPROVED, as amended

2. **RESOLUTION APPROVING A PLANNED DEVELOPMENT LOCATED ON THE SOUTH SIDE OF TOURNAMENT DRIVE; +/-1,800 FEET WEST OF HACKS CROSS ROAD, CONTAINING 22 ACRES IN AN AREA CURRENTLY GOVERNED BY THE APPROVED CONDITIONS FOR AREA B AND C (OFFICE USES) OF THE TOURNAMENT CENTER PLANNED DEVELOPMENT (P.D. 09-305).**

Case No. PD 12-304

Held until August 7, 2012

6. **RESOLUTION APPROVING A PLANNED DEVELOPMENT LOCATED ON THE SOUTH SIDE OF U.S. HIGHWAY 64; +2,292 FEET WEST OF COLLIERVILLE ARLINGTON ROAD, CONTAINING 2.59 ACRES IN THE AGRICULTURAL (AG) DISTRICT CURRENTLY GOVERNED BY PD 07-328.**

Case No. PD 12-308

Held until August 7, 2012

25. **RESOLUTION APPROVING A FIVE YEAR INITIAL CONTRACT TERM BETWEEN CITY OF MEMPHIS PARK SERVICES DIVISION AND MEMPHIS CITY SCHOOLS (MCS) FOR MANAGEMENT AND OPERATIONS OF HALLE FOOTBALL STADIUM. THE AGREEMENT HAS TWO 10 YEAR RENEWAL OPTIONS FOR A TOTAL OF 25 YEARS AND REQUIRES MCS TO COVER ALL OPERATIONS COSTS RELATED TO THE FOOTBALL STADIUM. MCS HAS OPERATED THE FACILITY SINCE THE EARLY 1970'S WITHOUT A FORMALIZED WRITTEN AGREEMENT. (HELD FROM 1/3; 1/17)**

DROPPED

1. **RESOLUTION THANKING MR. ASHLEY MOONEY, CREATOR OF THE MEMPHIS SMART GOVERNMENT APP, FOR HIS SERVICE TO OUR CITY.**

MOTION: Lowery
SECOND: Strickland

APPROVED, unanimous voice vote

3. **RESOLUTION AUTHORIZES THE MAYOR OF THE CITY OF MEMPHIS TO SIGN AN INTRA-GOVERNMENTAL AGREEMENT BETWEEN THE CITY OF MEMPHIS AND MEMPHIS LIGHT, GAS AND WATER (MLGW) FOR THE USE OF GRANT FUNDS IN THE AMOUNT OF \$2,000,000.00 AWARDED TO THE CITY FROM THE TENNESSEE DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT**

FAST TRACK INFRASTRUCTURE DEVELOPMENT PROGRAM ON BEHALF OF K.T.G. (USA) INC., FOR THE PURCHASE OF ELECTRICAL EQUIPMENT FOR A NEW SUB-STATION.

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

APPROVED

4. **RESOLUTION AUTHORIZES THE MAYOR OF THE CITY OF MEMPHIS TO SIGN THE TENNESSEE DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT (ECD) FAST TRACK INFRASTRUCTURE DEVELOPMENT PROGRAM (FIDP) GRANT CONTRACT FOR PURCHASE OF EQUIPMENT FOR A NEW ELECTRICAL SUBSTATION FOR K.T.G. (USA) INC., AND AMENDS THE FISCAL YEAR 2012 CAPITAL IMPROVEMENT BUDGET TO ESTABLISH AND APPROPRIATE GRANT FUNDS IN THE AMOUNT OF \$2,000,000.00.**

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

APPROVED

5. **RESOLUTION ADJUSTING THE FEE SCHEDULES OF THE MEMPHIS AND SHELBY COUNTY LAND USE CONTROL BOARD AND THE MEMPHIS AND SHELBY COUNTY BOARD OF ADJUSTMENT. THIS RESOLUTION AFFECTS ALL PROPERTY WITHIN THE CITY OF MEMPHIS AND UNINCORPORATED SHELBY COUNTY.**

Case No. ZTA 12-001

Applicant: Memphis and Shelby County Office of Planning and Development
 Josh Whitehead, Esq., AICP, Planning Director - Representative

Request: Adopt new fee schedules for the Land Use Control Board and the Board of Adjustment

LUCB and OPD recommendation: APPROVAL

MOTION: Ford
 SECOND: Strickland
 AYES: Boyd, Conrad, Flinn, Fullilove, Halbert, Harris, Hedgepeth, Lowery,

Strickland and Vice Chairman Ford
Brown, Collins and Chairman Morrison were absent

APPROVED

7. **ORDINANCE AMENDING THE MEMPHIS AND SHELBY COUNTY UNIFIED DEVELOPMENT CODE. THIS TEXT AMENDMENT AFFECTS ALL PROPERTY WITHIN THE CITY OF MEMPHIS AND UNINCORPORATED SHELBY COUNTY, UP FOR T H I R D AND F I N A L READING.**

Case No. ZTA 12-001
Ordinance No. 5458

Vice Chairman Ford recognized the following people who spoke from the audience:
Nancy Binkley & Bill Douglas, 54 & 77 Grove Park North, Memphis, Tennessee, 38117
Jeffrey S. Phillips, 986 Novarese, Memphis, Tennessee, 38122
Babak Tabatabai, 2615 Broad Avenue, Memphis, Tennessee, 38112
Kathy Bryson, 6820 Macon, Memphis, Tennessee, 38134
June West, 1650 Peabody Avenue, Memphis, Tennessee, 38104
Scott McCullough, 6884 Red Gum Cove, Memphis, Tennessee, 38119
Cindy Reaves, 5909 Shelby Oaks Drive, Memphis, Tennessee, 38134
David S. Kreher, 100 N. Main Street, Memphis, Tennessee, 38103
Wil Gatlin, 3545 Clayphil Avenue, Memphis, Tennessee, 38111
Mary Baker, 2037 Higbee, Memphis, Tennessee, 38104
Yvonne Burton, 442 Don Valley, Cordova, Tennessee, 38017

Applicant: Memphis and Shelby County Office of Planning and Development
Josh Whitehead, Esq., AICP, Planning Director – Representative

Request: Adopt amendments to the Memphis and Shelby County Unified Development Code

LUCB and OPD recommendation: APPROVAL

(Special Item #1 - (Councilman Conrad made a motion to change the comprehensive rezoning process by requiring mailed notification to the subject property owners, stipulate that only the legislative bodies may initiate such a rezoning and, if 100% of the subject property owners do not approve of the rezoning, a 4/5 majority be required by the legislative bodies for final approval. These changes shall not apply to comprehensive rezonings designed to adopt revised FEMA floodway and floodplain maps).

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

APPROVED

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

APPROVED, as amended

8. **ORDINANCE AMENDING THE MEMPHIS CODE OF ORDINANCES AS A COMPANION ITEM TO CASE ZTA 12-001. THIS AMENDMENT AFFECTS ALL PROPERTY WITHIN THE CITY OF MEMPHIS, UP FOR T H I R D AND F I N A L READING.**

Companion Case to ZTA 12-001
 Ordinance No. 5459

Applicant: Memphis and Shelby County Office of Planning and Development
 Josh Whitehead, Esq., AICP, Planning Director – Representative

Request: Adopt amendments to the Memphis Code of Ordinances

OPD recommendation: APPROVAL

LUCB recommendation: NA

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

APPROVED

CONSENT AGENDA – Items 9-13 may be acted upon by one motion: SEE PAGE 2303 FOR ROLL CALL

9. **ORDINANCE TO AMEND CHAPTER 2, CODE OF ORDINANCES, CITY OF MEMPHIS, SECTION 2-277, SUBSECTION C.4, TO INCREASE DISCRETIONARY SPENDING AMOUNTS FOR DIVISIONS FROM \$2,500 TO \$5,000, UP FOR S E C O N D READING.**

Ordinance No. 5462

APPROVED, on Second reading

10. **ORDINANCE TO AMEND CHAPTER 2, SECTION 2-110 OF THE CITY OF MEMPHIS, CODE OF ORDINANCES, TO REMOVE SHELBY COUNTY FROM PARTICIPATION IN THE MEMPHIS AND SHELBY COUNTY CONVENTION CENTER COMMISSION AND TO CHANGE THE NAME AND MEMBERSHIP OF THE COMMISSION, UP FOR S E C O N D READING.**

Ordinance No. 5463

APPROVED, on Second reading

11. **ORDINANCE TO AMEND THE CHARTER OF THE CITY OF MEMPHIS, THE SAME BEING CHAPTER 11 OF THE ACTS OF 1879, AS AMENDED PURSUANT TO THE PROVISIONS OF ARTICLE XI, SECTION OF THE CONSTITUTION OF THE STATE OF TENNESSEE (HOME RULE AMENDMENT) AND THE ACTS OF 1915, CHAPTER 408 SO AS TO AUTHORIZE THE LEVY AND COLLECTION OF A ONE CENT GASOLINE TAX AND TO AUTHORIZE THE USE OF REVENUE DERIVED THEREFROM AND FOR BUDGET EXPENDITURES FOR PUBLIC TRANSPORTATION AND TO SUBMIT THIS PROPOSED REFERENDUM ORDINANCE TO THE QUALIFIED VOTERS OF THE CITY OF MEMPHIS AT THE FIRST GENERAL STATE ELECTION TO BE HELD NOVEMBER 6, 2012, UP FOR S E C O N D READING.**

Ordinance No. 5464

APPROVED, on Second reading

12. **ORDINANCE REZONING THE WEST SIDE OF JACK CARLEY AT W. TRIGG AVENUE, CONTAINING 20.63 ACRES IN THE CONSERVATION AGRICULTURE (CA) FLOOD PLAIN [FP] DISTRICT, UP FOR S E C O N D READING.**

Case No. Z 12-105

Ordinance No. 5465

APPROVED, on Second reading

13. **NOTATION FROM LAND USE CONTROL BOARD THAT THE FOLLOWING CASES WERE HEARD AND RECOMMENDATION MADE REQUESTING A DATE OF PUBLIC HEARING:**

A. Case No. SAC 12-601

B. Case No. SAC 12-602

Public Hearing Set for August 7, 2012

ROLL CALL CONSENT ITEMS

MOTION: Fullilove

SECOND: Boyd

AYES: Boyd, Flinn, Fullilove, Halbert, Harris, Hedgepeth, Strickland and Vice Chairman Ford
Conrad and Lowery did not cast a vote

Brown, Collins and Chairman Morrison were absent

APPROVED

MLGW FISCAL CONSENT – Items 14 - 20 may be acted upon by one motion:

14. **RESOLUTION AWARDING CONTRACT FOR THREE DIESEL-POWERED PORTABLE AIR COMPRESSORS TO WILLIAMS EQUIPMENT AND SUPPLY COMPANY, INC., IN THE AMOUNT OF \$59,994.00.**

APPROVED

15. **RESOLUTION AWARDING CONTRACT FOR SIX BACKHOE LOADERS AND ONE INDUSTRIAL TRACTOR TO STRIBLING EQUIPMENT IN THE AMOUNT OF \$454,215.00.**

APPROVED

16. **RESOLUTION APPROVING CHANGE NO. 1 TO CONTRACT NO. 11460, AERATOR MAINTENANCE, WITH R. P. SERVICES, INC., IN THE FUNDED AMOUNT OF \$216,428.43. (THIS CHANGE RENEWS THE CONTRACT FOR THE FIRST OF FOUR RENEWAL TERMS, AUGUST 1, 2012 TO JULY 31, 2013, AND REFLECTS A 2.3% INCREASE FROM THE PREVIOUS YEAR DUE TO THE COST OF LIVING (CPI).**

APPROVED

17. **RESOLUTION AWARDING 12-MONTH BLANKET CONTRACT FOR GENERATOR REPAIR ALLIANCE TO R. P. SERVICE IN AN AMOUNT NOT TO EXCEED \$80,000.00.**

APPROVED

18. **RESOLUTION AWARDING 12-MONTH BLANKET CONTRACT FOR DECORATIVE CONCRETE STANDARDS AND BRACKETS TO SALCO, INC. IN THE AMOUNT OF \$54,750.00 AND TO STRESSCRETE, INC. IN THE AMOUNT OF \$917,300.00, FOR A TOTAL OF \$972,050.00.**

APPROVED

19. **RESOLUTION AWARDING 12-MONTH BLANKET CONTRACT FOR SOUTHERN YELLOW PINE POLES TO BROWN WOOD PRESERVING IN THE AMOUNT OF \$1,056,475.00, WHICH INCLUDES AN ADDITIONAL \$10,000.00 ALLOWANCE TO COVER UNFORESEEN OR FUTURE JOB PROJECTS AND EMERGENCY SITUATIONS SUCH AS WINTER OR SUMMER STORMS DURING THE NEXT 12-MONTH PERIOD.**

APPROVED

20. **RESOLUTION APPROVING CHANGE NO. 1 TO CONTRACT NO. 11451, COURIER SERVICES, WITH EXPRESS COURIER INTERNATIONAL, INC., IN THE FUNDED AMOUNT OF \$180,165.04. (THIS CHANGE REFLECTS AN INCREASE IN THE NUMBER OF STOPS FROM 208 TO 212 IN THE CURRENT TERM WITH NO INCREASE IN RATES IN THE FUNDED AMOUNT OF \$23,356.91. THIS CHANGE ALSO RENEWS THE CONTRACT FOR THE FIRST OF FOUR ANNUAL RENEWAL TERMS, SEPTEMBER 7, 2012 THROUGH SEPTEMBER 6, 2013, WITH NO INCREASE IN RATES, IN THE FUNDED AMOUNT OF \$156,808.13, WHICH INCLUDES CONTINGENCY FUNDS FOR POSSIBLE EMERGENCY STOPS IN THE AMOUNT OF \$3,785.34).**

APPROVED

MLGW ROLL CALL CONSENT ITEMS

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

APPROVED

21. **APPOINTMENTS**

MEMPHIS STORMWATER BOARD

APPOINTMENTS (HELD FROM 7/3)

BRETT DUNAGEN
LORI MORRIS
EMILY WIGGINS

MEMPHIS WASTEWATER HEARING AUTHORITY

APPOINTMENT

PAUL JOSEPH PALAZOLA (HELD FROM 7/3)

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

22. **ORDINANCE TO ALLOW THE MAXIMUM LOCAL OPTION SALES TAX BE LEVIED IN THE CITY OF MEMPHIS AND TO SUBMIT THIS PROPOSED REFERENDUM ORDINANCE TO THE QUALIFIED VOTERS OF THE CITY OF MEMPHIS AT THE FIRST GENERAL STATE ELECTION TO BE HELD NOVEMBER 6, 2012, UP FOR T H I R D AND F I N A L READING.**

Ordinance No. 5460

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

APPROVED

23. **RESOLUTION FOR THE FISCAL YEAR 2013 TO APPROVE THE CITY OF MEMPHIS DIVISION OF HOUSING AND COMMUNITY DEVELOPMENT'S LEASES AND/OR SUB-LEASES OF MEMPHIS CITY PROPERTY THAT MAY BE SUBJECT TO CITY OF MEMPHIS ORDINANCE 2-291 RELATING TO REAL PROPERTY.**

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

APPROVED

24. **RESOLUTION APPROVING THE EMPLOYMENT OF MR. ROLAND MCELRATH AS CONTROLLER AT AN ANNUAL SALARY IN THE AMOUNT OF \$133,016.00.**

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

APPROVED

26. **RESOLUTION TO AMEND THE FISCAL YEAR 2013 CAPITAL IMPROVEMENT BUDGET BY TRANSFERRING AN ALLOCATION OF \$766,587.00 FUNDED BY SEWER REVENUE BONDS FROM REHAB EXISTING SEWERS, PROJECT NUMBER SW02001 TO CIPP CYPRESS CREEK 24-30 REHAB, PROJECT NUMBER SW02101 FOR THE INSTALLATION OF CIPP LINER IN A SECTION OF THE CYPRESS CREEK SEWER OUTFALL. RESOLUTION ALSO APPROPRIATES \$766,587.00 FUNDED BY SEWER REVENUE BONDS FOR CIPP CYPRESS CREEK 24-30 REHAB,**

PROJECT NUMBER SW02101 FOR A CONSTRUCTION CONTRACT WITH REYNOLDS INLINER, INC.

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

APPROVED

27. **RESOLUTION AMENDING THE FISCAL YEAR 2013 CAPITAL IMPROVEMENT BUDGET BY TRANSFERRING AN ALLOCATION OF \$1,000,000.00 FUNDED BY G.O. BONDS GENERAL FROM STREET LIGHTING, PROJECT NUMBER PW01093 TO FISCAL YEAR 2013 STREET LIGHTING, PROJECT NUMBER PW01238. RESOLUTION ALSO APPROPRIATES \$1,000,000.00 FUNDED BY G.O. BONDS GENERAL FOR FISCAL YEAR 2013 STREET LIGHTING, PROJECT NUMBER PW01238 TO COVER THE COST OF THE INTERSTATE STREET LIGHTING SYSTEM LOCATED WITHIN THE CITY OF MEMPHIS.**

Director of Public Works recommends approval

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

APPROVED

28. **RESOLUTION AMENDING THE FISCAL YEAR 2013 CAPITAL IMPROVEMENT BUDGET BY TRANSFERRING AN ALLOCATION OF \$6,500,000.00 FUNDED BY G.O. BONDS GENERAL FROM ASPHALT PAVING, PROJECT NUMBER PW01040 TO FISCAL YEAR 2013 ASPHALT PAVING, PROJECT NUMBER PW01239. RESOLUTION ALSO APPROPRIATES \$6,500,000.00 FUNDED BY G.O. BONDS GENERAL FOR FISCAL YEAR 2013 ASPHALT PAVING, PROJECT NUMBER PW01239 TO PAVE CITY STREETS USING CITY FORCES AND EQUIPMENT.**

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

APPROVED

- 29. **RESOLUTION URGING THE UNIFIED MEMPHIS AND SHELBY COUNTY SCHOOL BOARD TO SIGNIFY THEIR COMMITMENT TO INCREASE THE NUMBER OF STUDENTS SERVED BY HIGH PERFORMING SCHOOLS BY ENTERING INTO A CHARTER-DISTRICT COLLABORATION COMPACT.**

Vice Chairman Ford recognized the following person who spoke from the audience:
 Marc Willis, 111 S. Highland Street, #263, Memphis, Tennessee, 38111

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

APPROVED

INTRODUCTION OF ITEMS ON MATTERS BY THE GENERAL PUBLIC:

Vice Chairman Ford recognized the following people who spoke from the audience:

Marjorie E. Steakley, 4689 Summerlane Avenue, #5, Memphis, Tennessee, 38118
 Walter Broady, III, 4256 Ledbetter Cove, Memphis, Tennessee 38109

ADJOURNED MEETING AT 5:41 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