

MINUTES**REGULAR MEETING OF THE CITY COUNCIL****CITY OF MEMPHIS**

April 10, 2007

3:30 P.M. SCHEDULED SESSION**4:45 P.M. MEETING COMMENCED**

ROLL CALL: Dedrick Brittenum, Joe Brown, Carol Chumney, Madeleine Cooper Taylor, Edmund Ford, Barbara Holt-Ware, E. C. Jones, Myron Lowery, Scott McCormick, Rickey Peete, Jack Sammons, Brent Taylor and Chairman Tom Marshall

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

INVOCATION

The meeting was opened with prayer by Rev. John Leach, from Church of the Annunciation. Councilman Taylor presented Rev. Leach with a certificate naming him Chaplain of the Day.

The original of the ordinances, resolutions and documents relating to each item is filed in the office of Council Records and on microfilm in the office of Records Management, Room 2B-08. The original documents shall control in the event of any conflict between the description in these minutes and the original documents.

37. **RESOLUTION CONGRATULATING FELICIA SUZANNE'S RESTAURANT ON ITS FIFTH ANNIVERSARY.**

Held to April 24, 2007

28. **RESOLUTION APPROVING AN HONORARY STREET NAME CHANGE ON PENDLETON STREET, IN HONOR OF THE FORMER UNIVERSITY OF MEMPHIS TIGERS BASKETBALL COACH LARRY FINCH.**

MOTION: Sammons

SECOND: Brown

APPROVED, by unanimous voice vote

CONSENT AGENDA – Items 1 – 5, 29-36, 38 & 39 may be acted upon by one motion. SEE PAGE 2164 FOR ROLL CALL

1. **RESOLUTION APPROVING FINAL PLAT OF GEMSTONE PD, PART OF AREAS B & C, PHASE 10.**

Case No. PD 99-380

Contract No. CR-5065

Resolution approving the final plat located east of Weaver Road, south of Holmes 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

2. **RESOLUTION APPROVING FINAL PLAT OF RUBY ESTATES SUBDIVISION, 1ST ADDITION.**

Case No. S 06-028
 Contract No. CR-5066

Resolution approves the final plat located eastern terminus of Ruby Creek Place. 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

3. **RESOLUTION APPROVING FINAL PLAT OF WALNUT GROVE SUBDIVISION, RESUBDIVISION OF LOT 50.**

Case No. S 06-061

Resolution approves the final plat located at the northwest corner of Waring Road and Minden Avenue. Cost of the required improvements to be borne by the Developer.

City Engineer recommends approval

APPROVED

4. **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 06-369 – Germantown Road Hotel P.D., Amended
- B. Case No. PD 07-301
- C. Case No. PD 07-304cc
- D. Case No. 07-305 (formerly Z 06-130) – Hernando Road P.D.

Public Hearing set for April 24, 2007

5. **RESOLUTION APPROVING TEMPORARY STRUCTURES ON THE STREETS, APRIL 28 - MAY 27, 2007, FROM 12:01 A.M. TO 11:59 P.M., FOR THE MEMPHIS IN MAY INTERNATIONAL FESTIVAL.**

APPROVED

29. **RESOLUTION APPROVING FINAL PLAT OF DICCO SUBDIVISION.**

Case No. S 04-003

Resolution approves the final plat located on the north side of Poplar Avenue, east of Leath Street. Cost of the required improvements to be borne by the Developer.

City Engineer recommends approval

APPROVED

30. **RESOLUTION APPROVING FINAL PLAT OF JONES RIDGE SUBDIVISION.**

Case No. S 05-079cc

Resolution approves the final plat located East side of Rust Road, south of Rust Ave. Cost of the required improvements to be borne by the Developer. This action is subject to County approval.

City Engineer recommends approval

APPROVED

31. **RESOLUTION APPROVING ENGINEERING PLANS OF SANGA ROAD SEWER EXTENSION.**

Contract No. CR-5067

Resolution approves the engineering plans located on the southwest corner of Trinity Road and Sanga Road. Cost of the required improvements to be borne by the Developer. Resolution also authorizes the proper officials to execute the attached standard sewer extension contract.

City Engineer recommends approval

APPROVED

32. **RESOLUTION APPROVING FINAL PLAT OF VANDERBILT PARK SUBDIVISION.**

Case No. S 04-020

Contract No. 5068

Resolution approves the final plat located on the west side of New Allen Road, north of Ridgemont. 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

33. **RESOLUTION APPROVING FINAL PLAT OF WEST CHERRY SUBDIVISION.**

Case No. S 06-059

Resolution approves the final plat located on the east side of Cherry Road at the east terminus of Gayoso Road. Cost of the required improvements to be borne by the Developer.

City Engineer recommends approval

APPROVED

34. **RESOLUTION APPROVING FINAL PLAT OF STONE CREEK PD., PHASE 1.**

Case No. PD 06-345cc

Contract No. 5069

Resolution approves the final plat located east of Hacks Cross Road, south of Shelby Drive. Cost of the required improvements to be borne by the Developer. Resolution also authorizes the proper officials to execute the attached standard improvement contract. This action is subject to County approval.

City Engineer recommends approval

APPROVED

35. **RESOLUTION APPROVING FINAL PLAT OF STONE CREEK PD, PH. 2.**

Case No. PD 06-345cc

Contract No. CR-5070

Resolution approves the final plat located east of Hacks Cross Road, south of Shelby Drive. Cost of the required improvements to be borne by the Developer. Resolution also authorizes the proper officials to execute the attached standard improvement contract. This action is subject to County approval.

City Engineer recommends approval

APPROVED

36. **RESOLUTION APPROVING TEMPORARY STRUCTURES ON THE STREETS APRIL 21, 2007, FROM 10:00 A.M. UNTIL 6:00 P.M., FOR THE MEMPHIS STREET FAIR.**

APPROVED

38. **ORDINANCE APPROVING A CODE OF ETHICS PURSUANT TO LEGISLATION ENACTED BY THE GENERAL ASSEMBLY REQUIRING ALL MUNICIPALITIES IN TENNESSEE TO ADOPT A POLICY FOR ALL MUNICIPAL AND ELECTED OFFICIALS, EMPLOYEES, BOARDS, COMMISSIONS, AUTHORITIES, CORPORATIONS AND OTHER INSTRUMENTALITIES, UP FOR F I R S T READING.**

Ordinance No. 5206

APPROVED, on First reading

39. **ORDINANCE REPEALING ORDINANCE NO. 4709, WHICH ESTABLISHED AN ASPIRATIONAL CODE OF ETHICS FOR ALL ELECTED AND APPOINTED OFFICIALS OF THE CITY AND REPLACING WITH A MORE COMPREHENSIVE ETHICS POLICY, UP FOR F I R S T READING.**

Ordinance No. 5207

APPROVED, on First reading

ROLL CALL CONSENT ITEMS

MOTION: Sammons
 SECOND: Jones
 AYES: Brittenum, Brown, Chumney, Cooper Taylor, Ford, Ware, Jones, Lowery, McCormick, Peete, Sammons, Taylor and Chairman Marshall
 Brittenum recused himself on Item #4B only

APPROVED

27. **RESOLUTION APPROVING AN HONORARY STREET NAME CHANGE OF KIMBALL BETWEEN MENAGER AND LYCEUM IN HONOR OF PASTOR LEONDARD DAWSON, JR.**

MOTION: Peete
 SECOND: Brown

APPROVED, by unanimous voice vote

40. **RESOLUTION AMENDING THE FY 2007 OPERATING BUDGET TO FUND FY 2007 FINANCIAL AUDIT.**

MOTION: Brittenum
 SECOND: Sammons
 AYES: Brittenum, Brown, Chumney, Cooper Taylor, Ford, Ware, Jones, Lowery, McCormick, Peete, Sammons, Taylor and Chairman Marshall

APPROVED

MOTION: Peete – Suspend the Rules for the purpose of adding an item

Without Objection, rules suspended

41. **RESOLUTION AMENDING THE LIVING WAGE POLICY TO EXCLUDE PARTICIPANTS OF THE CITY OF MEMPHIS SUMMER YOUTH PROGRAM.**

MOTION: Peete
 SECOND: Brown
 AYES: Brittenum, Brown, Chumney, Cooper Taylor, Ford, Ware, Lowery, McCormick,

Peete, Sammons, Taylor and Chairman Marshall
Jones did not cast a vote

APPROVED

MOTION: Sammons – Suspend the Rules for the purpose of adding an item
SECOND: McCormick
AYES: Chumney, Lowery, McCormick, Sammons, Taylor and Chairman Marshall
NAYS: Brittenum, Brown, Cooper Taylor, Ford and Ware
Jones and Peete did not cast a vote

APPROVED, Rules suspended, Special Item #1

42. **RESOLUTION REQUESTING THAT JOSEPH LEE TENDER HIS RESIGNATION AS MLG&W PRESIDENT EFFECTIVE IMMEDIATELY.**

MOTION: Brittenum – Refer the matter to the Personnel Committee for further consideration
SECOND: Brown
AYES: Brittenum, Brown, Ford, Ware and Peete
NAYS: Chumney, Cooper Taylor, Jones, Lowery, McCormick, Sammons, Taylor and Chairman Marshall

FAILED, Special Item #2

MOTION: Chumney – Substitute motion – based upon the letter that President Lee gave us it simply says that the Council based upon his request that's in the best of interest of MLGW that he resign and that the Council accept that resignation and ask the Mayor to reconsider

FAILED, for the lack of a second

MOTION: Sammons – Move previous question
SECOND: McCormick

APPROVED, by unanimous voice vote

MAIN MOTION: Sammons
SECOND: McCormick
AYES: Jones, Lowery, McCormick, Sammons, Taylor and Chairman Marshall
NAYS: Brittenum, Brown, Cooper Taylor, Ford, Ware and Peete
Chumney abstained

FAILED

MLGW FISCAL CONSENT – Items 6-13 may be acted upon by one motion

6. **RESOLUTION AWARDED CONTRACT NO. 11118, ROOF CONSULTANT, TO BIGHAM ROOF CONSULTING, IN THE FUNDED AMOUNT OF \$60,000.00.**

APPROVED

7. **RESOLUTION AWARDED CONTRACT NO. 11182, PHARMACEUTICAL CLAIMS AUDIT, TO STEPHEN CONSULTING SERVICES, LLC, IN AN ESTIMATED FUNDED AMOUNT OF \$30,000.00.**

APPROVED

8. **RESOLUTION AWARDED CONTRACT NO. 11207, 12-INCH WATER MAIN REPLACEMENT BORE AND JACK INSTALLATION, TO MEMPHIS ROAD BORING COMPANY, INC., IN THE FUNDED AMOUNT OF \$32,354.40.**

APPROVED

- 9. **RESOLUTION APPROVING CHANGE NO. 5 TO CONTRACT NO. 10912, CARPET CLEANING AND MAINTENANCE, WITH KENNY FLOOR COVERING, INC., IN THE FUNDED AMOUNT OF \$41,978.16. (THIS RENEWS THE CONTRACT FOR THE FOURTH AND FINAL TERM COVERING THE PERIOD MAY 30, 2007 TO MAY 29, 2008.)**

APPROVED

- 10. **RESOLUTION APPROVING CHANGE NO. 1 TO CONTRACT NO. 11063, CABLE TREATMENT AND REJUVENATION, WITH UTILX CORPORATION, IN AN ESTIMATED FUNDED AMOUNT NOT TO EXCEED \$500,000.00. (THIS RENEWS THE CONTRACT FOR THE FIRST TERM OF FOUR RENEWAL TERMS COVERING THE PERIOD MARCH 1, 2007 TO FEBRUARY 28, 2008.)**

APPROVED

- 11. **RESOLUTION APPROVING CHANGE NO.1 TO CONTRACT NO. 11078, PROFESSIONAL CLAIMS ADJUSTING SERVICES, WITH HORTON & ASSOCIATES, IN AN ESTIMATED FUNDED AMOUNT OF \$160,000.00. (THIS RENEWS THE CONTRACT FOR THE FIRST TERM OF FOUR RENEWAL TERMS COVERING THE PERIOD APRIL 1, 2007 TO MARCH 31, 2008.)**

- 12. **RESOLUTION AWARDDING CONTRACTS FOR TRUCKS, VANS AND SEDANS, AS FOLLOWS:**

Gossett Motor Cars.....	\$157,159.56
Crossroads Ford.....	<u>714,612.56</u>
Total:	\$871,772.12

APPROVED

- 13. **RESOLUTION APPROVING CHANGE NO. 2 TO CONTRACT NO. 11041, RIGHT-OF-WAY MOWING, WITH BEAN AND PRINCE CONTRACTORS, INC., IN AN ESTIMATED FUNDED AMOUNT OF \$139,912.50. (THIS CORRECTS CHANGE NO. 1 APPROVED BY THE BOARD MAY 4, 2006, TO INCLUDE FUNDS IN THE AMOUNT OF \$800.00, AND RENEWS THE CONTRACT FOR THE SECOND TERM OF FOUR RENEWAL TERMS FOR THE PERIOD JULY 3, 2007 TO JULY 2, 2008.)**

APPROVED

ROLL CALL MLGW FISCAL CONSENT ITEM

MOTION: Ware
 SECOND: McCormick
 AYES: Brittenum, Chumney, Cooper Taylor, Ford, Ware, Jones, Lowery, McCormick, Peete, Sammons, Taylor and Chairman Marshall
 Jones recused on Item #12 only
 Brown did not cast a vote

APPROVED

- 14. **APPOINTMENTS**

MEMPHIS AND SHELBY ELECTRICAL CODE BOARD

Reappointments

Ralph Gusmus
 Phillip K. Lim, P.E.

MOTION: Taylor

SECOND: Ware
 AYES: Brittenum, Chumney, Cooper Taylor, Ford, Ware, Jones, Lowery,
 McCormick, Peete, Sammons, Taylor and Chairman Marshall
 Brown did not cast a vote

APPROVED

15. **RESOLUTION ACCEPTING GRANT FUNDS IN THE AMOUNT OF \$750,000.00 FROM THE TENNESSEE FAST TRACK INFRASTRUCTURE DEVELOPMENT PROGRAM (FIDP) FOR THE BNSF RAILWAY COMPANY FIDP GRANT TO BE USED TO MAKE DRAINAGE IMPROVEMENTS THAT WILL SUPPORT THE TRACK AND PAVEMENT NEEDED FOR THE EXPANSION OF THE BNSF TENNESSEE YARD INTERMODAL FACILITY AT SHELBY DRIVE AND LAMAR AVENUE IN SOUTHWEST MEMPHIS. RESOLUTION ALSO AMENDS FY 2007 OPERATING BUDGET TO ESTABLISH AND APPROPRIATE GRANT FUNDS AND MATCHING FUNDS IN THE AMOUNT OF \$1,728,175.00.**

MOTION: Sammons
 SECOND: Peete
 AYES: Brittenum, Chumney, Cooper Taylor, Ford, Ware, Jones, Lowery, McCormick,
 Peete, Sammons, Taylor and Chairman Marshall
 Brown did not cast a vote

APPROVED

16. **RESOLUTION ACCEPTING GRANT FUNDS IN THE AMOUNT OF \$750,000.00 FROM THE TENNESSEE FAST TRACK INFRASTRUCTURE DEVELOPMENT PROGRAM (FIDP) FOR THE ILLINOIS CENTRAL RAILROAD COMPANY FIDP GRANT TO BE USED TO RELOCATE UTILITIES AND THE JET FUEL LINE AT FRANK C. PIDGEON INDUSTRIAL PARK AS PART OF THE RECONSTRUCTION OF THE JOHNSTON YARD BY ILLINOIS CENTRAL RAILROAD COMPANY. RESOLUTION ALSO AMENDS FY 2007 OPERATING BUDGET TO ESTABLISH AND APPROPRIATE GRANT FUNDS AND MATCHING FUNDS IN THE AMOUNT OF \$1,764,885.00.**

MOTION: Sammons
 SECOND: McCormick
 AYES: Brittenum, Chumney, Cooper Taylor, Ford, Ware, Lowery, McCormick, Peete,
 Sammons, Taylor and Chairman Marshall
 Brown and Jones did not cast a vote

APPROVED

17. **RESOLUTION AMENDING THE FY 2007 OPERATING BUDGET TO ACCEPT A TRANSFER OF UP TO \$8,000,000.00 FROM DEBT SERVICE TO THE GENERAL FUND.**

MOTION: Chumney
 SECOND: Sammons
 AYES: Brittenum, Cooper Taylor, Ford, Ware, Lowery, Sammons, Taylor and Chairman
 Marshall
 NAYS: Chumney and McCormick
 Brown, Jones and Peete did not cast a vote

APPROVED

18. **RESOLUTION APPROPRIATING \$99,523.00 IN G. O. BONDS GENERAL IN CIP PROJECT FS04003 MDTs AND MOTOROLA RADIO REPEATERS FOR THE PURCHASE OF SOFTWARE AND PERIPHERALS TO ENHANCE THE FUNCTIONALITY OF THE MOBILE DATA TERMINALS (MDTs).**

[Back to Committee on April 24, 2007](#)

19. **RESOLUTION TRANSFERRING AN ALLOCATION OF \$477.00 IN G.O. BONDS FROM MDTS AND M RADIO REPEATERS PROJECT NUMBER FS04003 AND APPROPRIATING \$1,224,477.00 IN G.O. BONDS TO REPLACE AND PURCHASE 3 PUMPERS, PROJECT NUMBER FS03001, IN THE FY 2007 CIP BUDGET.**

MOTION: Sammons
 SECOND: McCormick
 AYES: Brown, Cooper Taylor, Ford, Ware, Jones, Lowery, McCormick, Sammons,
 Taylor and Chairman Marshall
 Brittenum, Chumney and Peete did not cast a vote

APPROVED

20. **RESOLUTION AUTHORIZING THE DIVISION OF HOUSING AND COMMUNITY DEVELOPMENT TO AWARD \$752,000.00 IN CIP FUNDING TO THE FIRESTONE PROJECT FOR THE PURPOSE OF INFRASTRUCTURE RELATED ACTIVITIES.**

MOTION: Ware
 SECOND: Jones
 AYES: Brown, Cooper Taylor, Ford, Ware, Jones, Lowery, McCormick, Sammons,
 Taylor and Chairman Marshall
 Brittenum, Chumney and Peete did not cast a vote

APPROVED

21. **RESOLUTION ESTABLISHING MEMPHIS AS A TREE CITY USA.**

MOTION: McCormick
 SECOND: Ware
 AYES: Brown, Cooper Taylor, Ford, Ware, Jones, Lowery, McCormick, Sammons,
 Taylor and Chairman Marshall
 Brittenum, Chumney and Peete did not cast a vote

APPROVED

22. **RESOLUTION AMENDING THE FY 2007 CAPITAL IMPROVEMENT BUDGET BY TRANSFERRING A PREVIOUS ALLOCATION AND APPROPRIATING \$275,000.00 FUNDED BY SEWER FUNDS FROM REHAB EXISTING SEWERS, PROJECT NUMBER SW02001 TO CURED-IN-PLACE-PIPE, PROJECT NUMBER SW02030, FOR A CONSTRUCTION CONTRACT WITH MOORE CONSTRUCTION CO., INC.**

Director of Public Works recommends approval

MOTION: Sammons
 SECOND: McCormick
 AYES: Brown, Chumney, Cooper Taylor, Ford, Ware, Jones, Lowery, McCormick,
 Sammons, Taylor and Chairman Marshall
 Brittenum and Peete did not cast a vote

APPROVED

23. **RESOLUTION APPROVING A HOTEL WAIVER FOR THE HAMPTON INN ON HUMPHREY'S CENTER.**

MOTION: Lowery
 SECOND: Jones
 AYES: Brown, Cooper Taylor, Ware, Jones, Lowery, McCormick, Sammons, Taylor,
 and Chairman Marshall
 Brittenum, Chumney, Ford and Peete did not cast a vote

APPROVED

24. **RESOLUTION APPROVING A PLANNED DEVELOPMENT LOCATED ON THE NORTHEAST CORNER OF PISGAH ROAD AND LATTING ROAD, CONTAINING 16.310 ACRES IN THE AGRICULTURAL (AG), AGRICULTURAL FLOOD PLAIN (AG[FP]) AND FLOODWAY (FW) DISTRICTS.**

Case No. PD 05-372cc

Applicant: R. S. Harris
Michael J. Fahy, Prime Development Group, Inc. – Representative

Request: A planned development to create six single family detached lots
(minimum lot size = 41,954 square feet)

LUCB and OPD recommendation: APPROVAL, with conditions

MOTION: Lowery
SECOND: McCormick
AYES: Brittenum, Brown, Chumney, Cooper Taylor, Ware, Jones, Lowery, McCormick,
Taylor and Chairman Marshall
Ford, Peete and Sammons did not cast a vote

APPROVED, as amended

25. **RESOLUTION APPROVING A STREET/ALLEY CLOSURE LOCATED BETWEEN PISGAH ROAD AND HOUSTON LEVEE ROAD, CONTAINING 1.08 ACRE IN THE AGRICULTURAL (AG) DISTRICT.**

Case No. SAC 02-608

Applicant: Roy Hendrix
Ralph Smith, ETI Corp. – Representative

Request: Close & Vacate Street Right-of-Way

LUCB and OPD recommendation: APPROVAL, with conditions

MOTION: Lowery
SECOND: Ware
AYES: Brittenum, Brown, Chumney, Cooper Taylor, Ware, Jones, Lowery and Taylor
Ford, Marshall, McCormick, Peete and Sammons did not cast a vote

APPROVED

26. **RESOLUTION APPROVING A STREET/ALLEY CLOSURE LOCATED ON ROSELAWN AVENUE AT E. CRESTWOOD DRIVE, CONTAINING 13,586 SQUARE FEET IN THE SINGLE FAMILY RESIDENTIAL (R-S10) DISTRICT.**

Case No. SAC 06-632

Applicants: Thomas R. & Patricia A. Morris
Frederick C. & Anne F. Reid

Request: Close and Vacate Alley Street Right-of-Way

LUCB and OPD recommendation: APPROVAL, with conditions

MOTION: Lowery
SECOND: Ware
AYES: Brittenum, Brown, Chumney, Cooper Taylor, Ware, Jones, Lowery, McCormick,
Sammons, Taylor and Chairman Marshall
Ford and Peete did not cast a vote

APPROVED

MINUTES

Approval of the Minutes of the regular meeting of April 10, 2007 for Item #36 Only

MOTION: Sammons
SECOND: McCormick
AYES: Brittenum, Brown, Chumney, Cooper Taylor, Ware, Jones, Lowery, McCormick,
Sammons, Taylor and Chairman Marshall
Ford and Peete did not cast a vote

APPROVED, item #36 only, Special Item #3

MINUTES

Approval of the Minutes of the regular meeting of March 20, 2007

MOTION: McCormick
SECOND: Ware
AYES: Brittenum, Chumney, Cooper Taylor, Ware, Jones, Lowery, McCormick,
Sammons and Chairman Marshall
Brown, Ford, Peete and Taylor did not cast a vote

APPROVED

INTRODUCTION OF ITEMS ON MATTERS BY THE GENERAL PUBLIC:

Chairman Marshall recognized the following person from the audience:

Laticia Wilson, 99 North Main St., Apt. 1104, Mphs, TN 38103

ADJOURNED MEETING AT 6:05 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