



CITY OF MEMPHIS

COUNCIL AGENDA

September 6, 2011

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 (August 16, 2011)

ANNOUNCEMENT FOR APPEARANCE CARDS FOR PUBLIC SPEAKING

ITEMS HELD OR DROPPED FROM THE AGENDA

PRESENTATION AND RECOGNITION OF VISITORS

1. RESOLUTION approving an honorary street name change for Roosevelt Jamison.
Collins

ACTION REQUESTED: Adopt the resolution

2. RESOLUTION recognizing September 11, 2011, as a day of solemn commemoration of the events of September 11, 2001, and calling for the observance of the moment of remembrance to last for 1 minute beginning at 12:00 p.m. Central Daylight Time by, to the maximum extent practicable ceasing all work or other activity; and marking the moment in an appropriate manner, including by ringing bells, blowing whistles, or sounding sirens.

Lowery

ACTION REQUESTED: Adopt the resolution

3. PRESENTATION of Golf Digest Award by First Tee of Memphis.
Lowery

PUBLIC HEARINGS

4. RESOLUTION approving an appeal located on the south side of Steve Road; +/-182.59 feet west of Ellsworth Street, containing 12.18 acres and is currently governed by Steve Road Planned Development, Amended (P.D.06-332).

Ford

Case No. PD 06-332

Appellant: Thomas Investments (William H. Thomas, Jr.)
SR Consulting, LLC – Representative

Request: Appeal to overturn decision of the Land Use Control Board on Thursday, March 10, 2011 denying a request for a five (5) year time extension and to remove phasing restrictions from Outline Plan Conditions

LUCB and OPD recommendation: REJECTION

ACTION REQUESTED: Take whatever action Council deems advisable

74 NOTICES MAILED ON AUGUST 19, 2011

- 5. RESOLUTION approving a use variance located on the north side corner of Tant Road and Interstate 240, containing 3.2 acres in the Single Family Residential (R-S6) District. (Held from 7/5; 7/19) **(This item was pulled from the Minutes of August 2, 2011 on August 16, 2011)**

Ford

Case No. UV 10-12

Applicant: Brianne K. Mawry

Request: Contractor Storage and Recycling

LUCB recommendation: APPROVAL

OPD recommendation: REJECTION

ACTION REQUESTED: Take whatever action Council deems advisable

22 NOTICES WERE MAILED ON JUNE 24, 2011

DIVISION OF PLANNING & DEVELOPMENT

- 6. RESOLUTION approving a planned development located on the north side of A.W. Willis Avenue between North Fifth Street and North Sixth Street, containing .49 acre in the Mixed Use (MU) District.

Ford

Case No. PD 11-310

Applicant: Bridges USA, Inc. – (Jim Boyd)
SR Consulting, LLC – (Cindy Reaves) – Representative

Request: Legalize the existing parking and add a future parking lot

LUCB and OPD recommendation: APPROVAL, with conditions

ACTION REQUESTED: Take whatever action Council deems advisable

No Opposition at LUCB; No Public Hearing Required

7. RESOLUTION approving a planned development located south of Summer Avenue; +/- 396.5 feet east of Graham Street, containing .14 acre in an area currently governed by the approved conditions of the Law Office Planned Development (P.D. 82-023).

Ford

Case No. PD 11-314

Applicant: Aida Talley

Request: Child Care Center (13 or more children)

LUCB and OPD recommendation: APPROVAL, with conditions

ACTION REQUESTED: Take whatever action Council deems advisable

No Opposition at LUCB; No Public Hearing Required

8. RESOLUTION approving a planned development located on the northeast corner of Fair Oaks Avenue and Jackson Avenue, containing 0.83 acre in the Residential Urban-1 (RU-1) District.

Ford

Case No. PD 11-315

Applicant: Ware Properties, LLC
W.H. Porter Consultants, PLLC – Representative

Request: Planned Development Amendment to permit a Dollar General Retail Store

LUCB and OPD recommendation: APPROVAL, with conditions

ACTION REQUESTED: Take whatever action Council deems advisable

No Opposition at LUCB; No Public Hearing Required

9. RESOLUTION approving a special use permit located at the northwest intersection of I-240 and Joy Lane, containing 1.42 acres in the Commercial Mixed Use-3 (CMU-3) District.

Ford

Case No. SUP 11-209

Applicant: Tennessee Learning Academy (Sharon Paige)
Jim Whalen – Representative

Request: Juvenile Transitional Housing Facility

LUCB and OPD recommendation: APPROVAL, with conditions

ACTION REQUESTED: Take whatever action Council deems advisable

No Opposition at LUCB; No Public Hearing Required

ZONING ORDINANCE – THIRD AND FINAL READING

10. **ORDINANCE** rezoning the south side of Monroe Avenue; +/-146.0 feet east of Florence Street, containing .21 acre in the Residential Urban-3 (RU-3) District, up for T H I R D and F I N A L reading.

Ford

Case No. Z 11-105
Ordinance No. 5412

Applicant: Caruthers Group, LLC
The Reaves Firm, Kay Reeves – Representative

Request: Rezone property from Residential Urban – 3 (RU-3) to the
Commercial Mixed Use (CMU-1) District

LUCB and OPD recommendation: APPROVAL

ACTION REQUESTED: Take whatever action Council deems advisable

50 NOTICES MAILED ON AUGUST 26, 2011



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CONSENT AGENDA

GENERAL ORDINANCE - FIRST READING (None)

GENERAL ORDINANCES- SECOND READING

11. **ORDINANCE** to amend Chapter 4 – Alcoholic Beverage, Article I, in general, Section 7 – Sale to certain persons prohibited, drinking in or on premises of Retail, Liquor Stores prohibited, penalty – of the Code of Ordinances of Memphis, Tennessee, up for S E C O N D reading.

Strickland

Ordinance No. 5413

ACTION REQUESTED: Adopt the ordinance on Second reading

12. **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 of Memphis, Tennessee, up for S E C O N D reading.

Strickland

Ordinance No. 5414

ACTION REQUESTED: Adopt the ordinance on Second reading

13. **ORDINANCE** to amend Chapter 39 of the City of Memphis Code of Ordinances so as to establish the Memphis Transportation Commission, up for S E C O N D reading.

Strickland

Ordinance No. 5415

ACTION REQUESTED: Adopt the ordinance on Second reading

14. **ORDINANCE** to amend Memphis, Tennessee, Code of Ordinances Title 4 – Pension and Retirement System, so as to modify the Pension Benefits allowable under the Ordinance, up for S E C O N D reading.

Collins

Ordinance No. 5416

ACTION REQUESTED: Adopt the ordinance on Second reading

ZONING ORDINANCE - FIRST READING (None)

ZONING ORDINANCE - SECOND READING (None)

ENGINEERING

15. RESOLUTION approving final plat of STANSELL CROSSING P.D., PART OF PARCEL 11, PHASE 21.

Case No. PD 08-332cc

Resolution approves the final plat located on the northside of Lowrance Road, southwest of Nonconnah Parkway. Cost of the required improvements to be borne by the developer. This action is subject to County approval.

City Engineer recommends approval

ACTION REQUESTED: Adopt the resolution

16. RESOLUTION approving final plat of CORDOVA GROVE P.D., PHASE 4, LOT 7.

Case No. PD 03-303

Resolution approves the final plat located on the west side of Macon Road, south of Macon Terrace.

City Engineer recommends approval

ACTION REQUESTED: Adopt the resolution

17. RESOLUTION accepting HOUSTON LEVEE TRAILS P.D., 4TH AMENDMENT, PHASE 1 and authorizing release of bond.

Case No. PD 04-383
(Contract No. CR-5136)

Resolution accepts completion of the improvements and the dedication of public streets and easements as shown on the final plat located on the southwest corner of Houston Levee Road and Highway 64. The standard improvement contract was approved on March 17, 2009. Resolution also authorizes the release of the performance bond in the amount of \$124,300.00.

City Engineer recommends approval

ACTION REQUESTED: Adopt the resolution

18. RESOLUTION approving the SUPPLEMENTAL AGREEMENT #1 to WINDSOR VIEW SUBDIVISION.

Case No. S 10-012
Contract No. CR-5172AM

Resolution approves the Supplemental Agreement #1 located on the northside of Windsor Road and southside of Holmes Road. Cost of the required improvements to be borne by the developer. Resolution also authorizes the proper officials to execute the attached Supplemental Agreement #1.

City Engineer recommends approval

ACTION REQUESTED: Adopt the resolution

NOTATION FROM OPD

19. **NOTATION** from Land Use Control Board that the following case was heard and recommendation made requesting a date of public hearing:

A. Case No. SAC 10-611

Located between Third Street and A.W. Willis Avenue, containing 4.38 acres

Applicant: St. Jude Children's Research Hospital

Request: Close and vacate North Parkway through the St. Jude Hospital Campus

LUCB and OPD recommendation: APPROVAL, with conditions

ACTION REQUESTED: Set a date of public hearing

SUGGESTED DATE: September 20, 2011



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MLGW FISCAL CONSENT

20. RESOLUTION approving Change No. 2 to Contract No. 11274, Emergency Aid Agreement, with Henkels and McCoy, Inc., in the funded amount of \$371,775.20. (This change covers payment for work performed due to the storm of April 4, 2011 in the amount of \$216,687.26 and the storm of April 27, 2011 in the amount of \$155,087.94).
21. RESOLUTION awarding contract for one self-propelled trenching machine to Ditch Witch Mid-South in the amount of \$72,890.00.
22. RESOLUTION authorizing MLGW to purchase unleaded and low sulfur diesel fuel for the Division from Petroleum Traders under City of Memphis Contract No. 28025, in an estimated amount not to exceed \$24,548,130.00, for the period October 1, 2011 through June 30, 2014.
23. RESOLUTION ratifying approval after the fact of Purchase Order No. 142372 in the amount of \$49,990.00 and Purchase Order No. 142336 in the amount of \$49,500.00, for a total of \$99,490.00, both issued to APAC Tennessee, Inc., for #57 washed limestone.
24. RESOLUTION approving Change No. 2 to Contract No. 10140, PDSFAST Software License, with Software Engineering of America, in the funded amount of \$23,768.00, for a new contract value of \$193,673.51. (This change renews annual software maintenance, license and support. The term of the annual maintenance covers the period October 1, 2011 to September 30, 2013, with no increase from the previous year).
25. RESOLUTION approving Change No. 2 to Contract No. 10171, Operating System Recovery Project, with NewEra Software, Inc., in the funded amount of \$6,426.00, for a new contract value of \$54,284.00. (This change renews annual software maintenance, license and support. The term of the annual maintenance covers the period September 1, 2011 to August 31, 2014, with no increase in rates from the previous year).
26. RESOLUTION approving Change No. 3 to Contract No. 11179, Business Software License and Related Service Agreement, with SAP America, Inc. in the funded amount of \$64,220.21. (This change renews annual software maintenance, licenses and support for Business Objects for the period November 4, 2011 to November 3, 2012 in the amount of \$31,813.21; renews annual software maintenance, licenses and support services for ACE LACSLink for the period December 22, 2011 to December 21, 2012 in the amount of \$1,214.00; and renews annual software maintenance, licenses and support for ACE DPV for the period October 6, 2011 to October 5, 2012, in the amount of \$31,193.00).

27. RESOLUTION approving Change No. 4 to Contract No. 11186, Environmental Affairs and Crisis Management, with General Construction Services, in the funded amount of \$3,500,000.00. (This change covers additional work in order to comply with environmental regulations to include the following: storm water remediation of the MLGW Service Center in the amount of \$750,000.00; lead and asbestos abatement of the Arlington LNG decommissioning project in the amount of \$575,000.00; PCB Capacitor Bank Removal Project in the amount of \$425,000.00; Substation #3 expansion remediation project approved by TDEC in the amount of \$1,500,000.00; and the lead abatement of the seismic retrofits substation transformers project in the amount of \$250,000.00).

28. RESOLUTION awarding contract to Bowe Bell and Howell for inserter machine maintenance agreement in the amount of \$58,005.00.



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REGULAR AGENDA

BUDGET ITEM

29. RESOLUTION establishing the MEMPHIS LIGHT GAS AND WATER DIVISION in lieu of tax payment to the City of Memphis for Fiscal Year 2012. (GAS & ELECTRIC) (Held from 6/7; 6/21; 7/5; 7/19; 8/2; 8/16)

Flinn

ACTION REQUESTED: Adopt the resolution

30. APPOINTMENTS

Collins

Landmarks Commission

Appointment

Emily Trenholm

Reappointment

Earlice Taylor

GENERAL ORDINANCES-THIRD AND FINAL READING

31. ORDINANCE to amend the Charter of the City of Memphis, same being Chapter 11 of the Acts of 1879, as amended, pursuant to the provisions of Article 11, Section 9 of the Constitution of the State of Tennessee (Home Rule Amendment), so as to require a Two-Thirds Majority approval of the City Council in order to increase the Ad Valorem Tax Rate if the increase is a higher percentage than the rate of inflation and to submit the proposed Referendum Ordinance to the qualified voters of the City of Memphis at the first General State Election to be held November 8, 2012, up for T H I R D and F I N A L reading. (Held from 8/2; 8/16)

Flinn

Ordinance No. 5408

ACTION REQUESTED: Take whatever action Council deems advisable

32. ORDINANCE to amend Chapter 16, Article V, of the City of Memphis, Code of Ordinances, so as to amend the Section pertaining to Pedestrian Vendors, up for T H I R D and F I N A L reading.

Ford

Ordinance No. 5411

ACTION REQUESTED: Take whatever action Council deems advisable

ENGINEERING DIVISION

33. RESOLUTION amending the Capital Improvement Budget by appropriating \$440,000.00 in G.O. General Bond Funds to Traffic Signals, Project Number EN01004 in Furniture, Fixtures and Equipment for the purchase of equipment used in the installation of traffic signals by City forces.

Hedgepeth

City Engineer recommends approval

ACTION REQUESTED: Adopt the resolution

EXECUTIVE DIVISION (None)

FINANCE & ADMINISTRATION (None)

DIVISION OF FIRE SERVICES

34. RESOLUTION appropriating \$657,700.00 in G.O. Bonds from the FY 2012 CIP Budget for the Division of Fire Services to purchase turnouts/Fire Protective Ensemble designated for the annual procurement of protective clothing for a total appropriation of \$657,700.00.

Strickland

ACTION REQUESTED: Adopt the resolution

DIVISION OF GENERAL SERVICES (None)

DIVISION OF HOUSING AND COMMUNITY DEVELOPMENT (None)

DIVISION OF HUMAN RESOURCES (None)

INFORMATION SERVICES (None)

LAW DIVISION (None)

MLGW DIVISION

35. RESOLUTION approving transfer of funds from the Common Fund to the OPEB Trust in an estimated amount of \$18,805,432.59 with a settlement at year end to equal the 2011 Annual OPEB Cost.

Fullilove

ACTION REQUESTED: Adopt the resolution

- 36. RESOLUTION approving actuarial funding to the Retirement and Pension System in the amount of \$26,208,301.00 for the 2011 Plan Year.

Fullilove

ACTION REQUESTED: Adopt the resolution

PARK SERVICES

- 37. RESOLUTION seeking Council approval of bid for the construction of Raleigh Bartlett Meadows Park Improvements, CIP Project Number PK04005 funded by G.O. Bonds General in the amount of \$213,450.00 plus contingency of \$17,076.00 for a total amount of \$230,526.00. The lowest and best bid was received on June 24, 2011 from P.C. Mock Construction Company.

Boyd

ACTION REQUESTED: Adopt the resolution

DIVISION OF POLICE SERVICES

- 38. RESOLUTION accepting grant funds from the Department of Justice (DOJ), Bureau of Justice Assistance FY 2010 Bulletproof Vests Partnership (BVP 2010) in the amount of \$42,281.48. Resolution also amends the FY 2012 Operating Budget to establish and appropriate \$42,281.48 in grant funds.

Strickland

ACTION REQUESTED: Adopt the resolution

- 39. RESOLUTION accepting grant funds in the amount of \$196,895.99 from the State of Tennessee Department of Military – Tennessee Emergency Management Agency FY 2010 Buffer Zone Protection Program (BZZP) grant program to support the implementation of Buffer Zone Plans (BZPs) outside the perimeter of identified critical infrastructure/key resource sites. These plans are intended to develop effective preventive and protective measures that make it more difficult for terrorists to conduct surveillance or launch attacks within the immediate vicinity of high priority critical infrastructure targets. Resolution also amends the FY 2012 Operating Budget to establish and appropriate \$196,895.99 in grant funds for FY 2010.

Strickland

ACTION REQUESTED: Adopt the resolution

DIVISION OF PUBLIC SERVICES (None)

DIVISION OF PUBLIC WORKS

- 40. RESOLUTION amending the FY 2012 Capital Improvement Budget by transferring an allocation of \$53,244.00 funded by G.O. Bonds (Storm Water) from Drainage – ST, Project Number ST03006 to Whitehaven/Twinkletown, Project Number ST03127 for drainage repair. Resolution also appropriates \$53,244.00 funded by G.O. Bonds (Storm Water) for Whitehaven/Twinkletown, Project Number ST03127 for a construction contract with Ensco, LLC.

Hedgepeth

ACTION REQUESTED: Adopt the resolution

41. RESOLUTION amending the FY 2012 Capital Improvement Budget by transferring an allocation of \$1,585,980.00 funded by G.O. Bonds General (Storm Water) from Drainage – ST, Project Number ST03006 to Drain and HES Storage, Project Number ST04045 to design a storage building to protect equipment from exposure to the elements. Resolution also appropriates \$1,585,980.00 funded by G.O. Bonds General (Storm Water) in Drain and HES Storage Building, Project Number ST04045 for a construction contract with Zellner Construction Services, LLC.

Hedgepeth

ACTION REQUESTED: Adopt the resolution

GENERAL ITEM

42. Impasse - Fire Department (Held from 8/2)

Lowery

APPEARANCE CARDS FOR PUBLIC SPEAKING

ADJOURNMENT

ADD-ONS

43. RESOLUTION amending the FY2012 CIP Budget by transferring an allocation of \$500,000.00 from Contract Construction to Architecture and Engineering in Overton Square Redevelopment, Project Number GA01015.

Hedgepeth

ACTION REQUESTED: Adopt the resolution

44. RESOLUTION approving the terms of the Memorandum of Understanding executed by the Education Merger/Consolidation case number 11-2011 in the United States District Court for the Western District of Tennessee.

Lowery

ACTION REQUESTED: Adopt the resolution

ACTION TAKEN BY COUNCIL ON THIS DATE

1. Through 3 – Approved
4. Held until September 20, 2011
5. Approved, as amended
6. & 7 – Approved
8. Approved, as amended
9. Approved, as amended
10. Through 18 – Approved
19. Public Hearing Set for September 20, 2011
20. Through 28 – Approved
29. Held until September 20, 2011
30. Approved
31. Held until September 20, 2011
32. Through 41 – Approved
42. Held until September 20, 2011
43. & 44 – Approved

ACTION TAKE BY COUNCIL ON THE MINUTES OF AUGUST 16, 2011 MEETING

Approved

ACTION TAKEN BY COUNCIL ON THE MINUTES OF ITEMS #20, #43 & #44 FROM TONIGHT'S MEETING

Approved