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MINUTES OF THE REGULAR SESSION OF THE COUNCIL OF THE CITY OF KNOXVILLE

SEPTEMBER 9, 2008 – 7:00 P.M.
Main Assembly Room, City-County Building

1. CALL TO ORDER

The Council of the City of Knoxville met in Regular Session at 7:00 p.m. in the Main Assembly Room of the City-County Building, 400 Main Street, on Tuesday, September 9, 2008. Mayor Bill Haslam was present and presiding officer of the Council.

2. INVOCATION AND PLEDGE OF ALLEGIANCE TO THE FLAG

Councilmember Pelot led in the Invocation and Vice-Mayor Brown led in the “Pledge of Allegiance” to the Flag.

3. ROLL CALL

The following City Council members were present: Joe Bailey, Bob Becker, Vice-Mayor Mark Brown, Rob Frost, Steve Hall, Joe Hultquist, Barbara Pelot, Marilyn Roddy and Chris Woodhull.

4. APPROVAL OF MINUTES

Councilmember Frost made a motion to approve the minutes from the August 26, 2008 City Council meeting. Councilmember Woodhull seconded the motion. By unanimous voice vote the motion carried. The minutes were adopted.

5. ANNOUNCEMENTS AND EXTRAORDINARY MATTERS, ADOPTION OF AGENDA

5-a. ITEMS WITHDRAWN (Indicated with “W”)

None.

5-b. ITEMS FOR POSTPONEMENT (Indicated with “P”)

Councilmember Frost made a motion to postpone the following resolution two (2) weeks:

- 11-g.** A Resolution amending the Major Road Plan for the City of Knoxville and Knox County to change Loves Creek Road to a Major Collector Street through its entire length. (MPC Approved 13-0) (File No. 7-A-08-MRP) (Fourth District)

Councilmember Roddy seconded the motion.

Discussion ensued on the motion to postpone. The following persons addressed the motion: Councilmember Frost; Arthur Seymour, Jr.; Councilmember Becker; Councilmember Pelot; Gene Mathis, 5266 Brigg Lane, Ronnie Collins, Washington Pike.

By unanimous voice vote the motion to postpone carried. The resolution was postponed (2) weeks.

Councilmember Hultquist made a motion to postpone the following resolution four (4) weeks:

- 11-c.** A Resolution requesting and encouraging the Executive Director and the professional staff at the Metropolitan Planning Commission to study, evaluate and analyze the feasibility and potential for adopting a comprehensive sidewalk ordinance for the City of Knoxville. (Requested by Councilmember Becker)

Councilmember Bailey seconded the motion. By unanimous voice vote the motion carried. The resolution was postponed four (4) weeks.

**5-c. ITEMS REQUESTED TO BE ADDED BY MOTION
(Indicated with “M”)**

None.

5-d. CONSENT ITEMS (Indicated with “*”)

None

6. MAYOR’S REPORT

RE: CERTIFICATE OF COMPLIANCE FOR LYNN BEELER AND CATHERINE HENRY d/b/a ON THE ROCKS WINE AND LIQUOR

- 6-a.** An application for renewal of a Certificate of Compliance for Lynn Beeler and Catherine Henry d/b/a On the Rocks Wine and Liquor, 7545 Conner Road, Knoxville, Tennessee, 37849. (Requested by Department of Finance and Accountability)

Councilmember Becker made a motion to approve the Certificate of Compliance. Councilmember Becker seconded the motion. By unanimous voice vote the motion carried. The certificate was approved.

RE: CERTIFICATE OF COMPLIANCE FO JERRY F. ARTHUR AND JERRY F. ARTHUR, JR. d/b/a JERRY’S PACKAGE STORE, INC.

- 6-b.** An application for renewal of a Certificate of Compliance for Jerry F. Arthur and Jerry F. Arthur, Jr. d/b/a Jerry’s Package Store, Inc., 107 Cedar Lane, Knoxville, Tennessee, 37912. (Requested by Department of Finance and Accountability)

Councilmember Hultquist made a motion to approve the Certificate of Compliance. Councilmember Woodhull seconded the motion. By unanimous voice vote the motion carried. The certificate was approved.

RE: MAYOR’S REPORT

- Mayor Haslam thanked those who helped with hurricane Gustav evacuees from the New Orleans area.

7. REPORTS OF COUNCIL MEMBERS OR COMMITTEES

- Councilman Pelot thanked those who worked to make “Boomsday” another huge success.

- Councilmember Hultquist announced that the Cumberland Avenue Advisory Committee would meet September 10 at 4:00 p.m. at the UT Visitors Center.
- Councilmember Frost read a special 50th birthday poem to Mayor Haslam and presented him with “special” gifts from Weigel’s (Pilot Travel Centers competitor).

8. ELECTIONS AND CONFIRMATIONS

None.

9. ORDINANCES ON SECOND READING

RE: CITY CODE AMENDMENT – ZONING REGULATIONS – ELECTRONIC MESSAGE CENTERS

- 9-a.** An Ordinance to amend the Knoxville City Code, Appendix B, “Zoning Regulations”, Article V, Section 10 “Signs, billboards, and other advertising structures”, and related sections, regarding the operating regulations of Electronic Message Centers in the City of Knoxville. (MPC Approved 14-0) (File No. 5-A-08-OA)

Discussion on the ordinance began with the following persons addressing the issue: Arthur Seymour, Jr., representing Turkey Creek Land Partners, in favor of ordinance; Robert Bedwell, developer, in favor of ordinance; Duane Grieve, Scenic Knoxville; Joyce Feld, Scenic Knoxville; Gene Burr, Scenic Knoxville; Charles Swanson, City Council attorney; Councilmember Becker; Councilmember Roddy; Councilmember Hultquist; Councilmember Bailey; Debbie Poplin, Law Director; Anita Cash, Inspections.

Councilmember Frost made the following motion:

Councilman Frost: I make a motion to refer this back to MPC to consider brightness standards, having a minimum of 250 feet of frontage in order to have an EMC, hold times of 60 seconds or more, addressing where EMCs are subject to a major signage plan and finally, consideration of banning them.

Discussion continued with the following persons speaking: Councilmember Pelot; Councilmember Becker; Councilmember Hultquist; Charles Swanson, City Council Attorney.

Councilmember Becker made a motion to divide the question as relates to Councilman Frost’s motion. Councilmember Pelot seconded the motion.

Discussion followed with the following persons addressing the motion: Councilmember Pelot; Councilmember Bailey; Charles Swanson, City Council Attorney; Councilmember Hultquist; Councilmember Becker; Councilmember Frost; Vice-Mayor Brown.

Upon roll call on the motion to divide the question, Council voted as follows: Councilmembers Becker and Pelot voted “Aye.” Councilmembers Bailey, Brown, Frost, Hall, Hultquist, Roddy and Woodhull voted “Nay.” The motion failed.

By unanimous voice vote the motion made by Councilmember Frost, as printed above, was approved. The ordinance was referred back to MPC for MPC to consider EMC brightness standards, having a minimum of 250 feet of frontage in order to have an EMC, hold times of 60 seconds or more, addressing where EMCs are subject to a major signage plan and consideration of banning EMC’s.

RE: CITY CODE AMENDMENT – CHAPTER 17 – BOOTING OF VEHICLES

- 9-b.** An Ordinance to amend Chapter 17, Article VI of the Knoxville City Code, so as to regulate the booting of vehicles parked within the city limits of Knoxville. (Requested by Police Department)

City Attorney Alyson Eberting, Attorney Mike McGovern, representative of the booting companies and Councilmember Pelot addressed the ordinance.

Councilmember Becker made a motion to approve the ordinance on second reading. Councilmember Pelot seconded the motion.

Councilmember Frost made a motion to amend Section 3 of the ordinance to designate the ordinance's effective date as thirty (30) days from and after its passage (instead of the current immediate passage). Councilmember Pelot seconded the motion. By unanimous voice vote the motion carried. The printed ordinance can be found attached to these minutes as Ordinance No. O-184-08.

RE: CITY CODE AMENDMENT – CITY OF KNOXVILLE’S HOURLY/EVENTS PAYROLL RATES

- 9-c.** An Ordinance to amend Section 2-450 (5) of the Knoxville City Code to adjust the City of Knoxville's hourly/events payroll rates. (Requested by Civil Service)

Councilmember Roddy made a motion to approve the ordinance on second reading. Councilmember Becker seconded the motion. By unanimous voice vote the motion carried. The printed ordinance can be found attached to these minutes as Ordinance No. O-185-08.

RE: REZONING REQUEST OF TODD KENNEDY – CHEROKEE TRAIL AND EDINGTON ROAD

- 9-d.** An Ordinance to rezone property located on the northeast side of Cherokee Trail, northwest of Edington Road, from R-1, Low Density Residential District to RP-1, Planned Residential District at a density up to 3.5 dwelling units per acre with a maximum of 80 bedrooms total, Todd Kennedy, Applicant. (MPC Approved 12-0 PR, 10-2 for density) (File No. 7-I-08-RZ) (First District)

Councilmember Hultquist made a motion to approve the ordinance. Councilmember Pelot seconded the motion.

Discussion ensued with the following persons addressing the motion: Arthur Seymour, Jr.; Councilmember Becker; Todd Kennedy; Councilmember Frost; Mark Donaldson, MPC; Martha Olsen, resident in opposition; Dewayne Johnson, resident in opposition; Chuck Bane, Councilmember Becker; Mr. Gunno, 909 Loghaven; Councilmember Hultquist; Councilmember Hall; Mayor Haslam.

By voice vote on the motion to approve the ordinance, Council voted as follows: Councilmembers Bailey, Becker, Brown, Hall, Pelot, Roddy and Woodhull voted "Aye." Councilmembers Frost and Hultquist voted "Nay". The motion carried. The printed ordinance can be found attached to these minutes as Ordinance No. O-186-08.

10. HEARINGS ON ZONING MATTERS, APPEALS FROM ACTION OF MPC/BOARD OF ZONING APPEALS OR PLANS REVIEW

RE: APPEAL BY JIM BLETNER ON BEHALF OF THE KINGSTONPIKE/SEQUOYAH HILLS HOMEOWNERS ASSOCIATION

- 10-a.** An Appeal by Jim Bletner, on behalf of the Kingston Pike/Sequoyah Hills Homeowners Association, of the Metropolitan Planning Commission's decision to approve a Use on Review request for a financial planning office as a home occupation subject to seven conditions, property located on the northwest side of Lyons View Pike, southwest of Colony Way. (MPC Approved 7-5) (File No. 6-A-08-UR) (Second District) (Consider with 11h.)

In conjunction with

- 9-h.** A Resolution approving an appeal by Jim Bletner, on behalf of the Kingston Pike/Sequoyah Hills Homeowners Association, of the Metropolitan Planning Commission's decision to approve a Use on Review request for a financial

planning office as a home occupation subject to seven conditions, property located on the northwest side of Lyons View Pike, southwest of Colony Way. (MPC Approved 7-5) (File No. 6-A-08-UR) (Second District) (Consider with 10a.)

Jim Bletner, 3819 Glenfield Drive and Councilmember Pelot addressed the appeal. Councilmember Pelot made a motion to approve the appeal. Councilmember Woodhull seconded the motion. By unanimous voice vote the motion carried. The appeal was approved. The printed resolution can be found attached to these minutes as Resolution No. R-299-08.

11. RESOLUTIONS

RE: A. G. HEINS, JR.

11-a. A Resolution honoring the memory of the late A.G. Heins, Jr. and expressing Council's sympathy to his family upon the occasion of his passing. (Requested by Councilmembers Frost and Hultquist)

Councilmembers Frost and Hultquist addressed the resolution. Councilmember Frost made a motion to approve the resolution. Councilmember Hultquist seconded the motion. By unanimous voice vote the motion carried. The printed resolution can be found attached to these minutes as Resolution No. R-294-08.

RE: DESIGN & CONSTRUCTION SERVICES, INC. – 2007 SIDEWALK REPLACEMENT PROJECT

11-b. A Resolution authorizing the Mayor to approve Change Order No. 1 to Contract No. C-08-0137 between the City of Knoxville and Design & Construction Services, Inc. for the 2007 Sidewalk Replacement Project so as to increase the contract price by \$134,214.69 for a new contract price of \$653,723.04 and to increase the contract time by 30 calendar days to December 6, 2008. (Requested by Department of Engineering)

Vice-Mayor Brown made a motion to approve the resolution. Councilmember Pelot seconded the motion. By unanimous voice vote the motion carried. The printed resolution can be found attached to these minutes as Resolution No. R-295-08.

RE: UNITED STATES DEPARTMENT OF ENERGY – KNOXVILLE'S DESIGNATION AS 2008 SOLAR CITY – UNITED STATES DEPARTMENT OF ENERGY'S SOLAR AMERICA CITIES PROGRAM

11-d. A Resolution authorizing the Mayor to execute all documents necessary to accept a grant in the amount of \$200,000.00 from the United States Department of Energy in accordance with Knoxville's designation as a 2008 Solar City through the United States Department of Energy's Solar America Cities Program. (Requested by Department of Policy and Communications)

Councilman Woodhull made a motion to approve the resolution. Councilmember Becker seconded the motion. By unanimous voice vote the motion carried. The printed resolution can be found attached to these minutes as Resolution No. R-296-08.

**RE: TENNESSEE VALLEY AUTHORITY – CITY OF KNOXVILLE’S
DESIGNATION AS A 2008 SOLAR CITY – UNITED STATES DEPARTMENT
OF ENERGY’S SOLAR AMERICA CITIES PROGRAM**

- 11-e.** A Resolution authorizing the Mayor to execute all documents necessary to accept a grant in the amount of \$100,000.00 from the Tennessee Valley Authority (TVA) to be used in accordance with the City of Knoxville’s designation as a 2008 Solar City through the United States Department of Energy’s Solar America Cities Program. (Requested by Department of Policy and Communications)

Councilmember Woodhull made a motion to approve the resolution. Councilmember Pelot seconded the motion. By unanimous voice vote the motion carried. The printed resolution can be found attached to these minutes as Resolution No. R-297-08.

**RE: BASELINE SPORTS CONSTRUCTION – WEST HILLS PARK TENNIS
COURTS RESURFACING**

- 11-f.** A Resolution authorizing the Mayor to execute an agreement with Baseline Sports Construction in an amount not to exceed \$409,273.00, to renovate and resurface the tennis courts located at West Hills Park. (Requested by Department of Parks and Recreation)

Councilmember Pelot made a motion to approve the resolution. Councilmember Bailey seconded the motion. By unanimous voice vote the motion carried. The printed resolution can be found attached to these minutes as Resolution No. R-298-08.

12. ORDINANCES ON FIRST READING

**RE: ELECTRONIC MESSAGE CENTERS – TEMPORARY STOP-GAP
MORATORIUM ON NEW PERMITS**

- 12-a.** An Emergency Ordinance to extend for sixty (60) additional days the temporary stop-gap moratorium upon the issuance of new permits for the erection of electronic message centers within the City of Knoxville pending a review and potential modification of zoning requirements regulating such signs. (Requested by Council)

Councilmember Becker made a motion to approve the emergency ordinance. Councilmember Hultquist seconded the motion.

Councilmember Becker made a motion to amend the ordinance to extend the moratorium ninety (90) days instead of sixty (60) days. Councilmember Hultquist seconded the motion. By unanimous voice vote the motion carried. The amendment was adopted.

By unanimous voice vote the motion to approve the emergency ordinance, as amended to ninety (90) days, was approved. The printed ordinance can be found attached to these minutes as Ordinance No. O-187-08.

RE: OPERATING BUDGET AMENDMENT – FISCAL YEAR 08-09

- 12-b.** An Ordinance to amend the Operating Budget for Fiscal Year 08-09. (Requested by Department of Finance and Accountability)

Councilmember Roddy made a motion to approve the ordinance on first reading. Councilmember Becker seconded the motion.

Councilmember Roddy addressed the Knoxville Area Transit funding provided by this ordinance.

Sam Anderson, Mayor Haslam, Councilmember Hall and Councilmember Pelot addressed the ordinance.

By unanimous voice vote the motion to approve carried. The ordinance was approved on first reading.

RE: STREET CLOSURE – B DRIVE NORTH OF S. NORTSHORE DRIVE – NORTSHORE COMMONS, LLC, APPLICANT

12-c. An Ordinance to close all of B Drive north of S. Northshore Drive, and authorizing the Mayor to execute quitclaim deeds to the adjacent property owners, Northshore Commons, LLC, Applicant. (MPC Approved 13-0) (File No. 10-A-07-SC) (Second District)

Councilmember Pelot made a motion to approve the ordinance on first reading. Councilmember Frost seconded the motion. By unanimous voice vote the motion carried. The ordinance was approved on first reading.

RE: STREET CLOSURE – BADGETT DRIVE – KNOXVILLE’S COMMUNITY DEVELOPMENT CORPORATION, APPLICANT

12-d. An Ordinance to close Badgett Drive from Texas Avenue to California Road, and authorizing the Mayor to execute quitclaim deeds to the adjacent property owners, Knoxville’s Community Development Corporation, Applicant. (MPC Approved 13-0) (File No. 8-A-08-SC) (Fifth District)

Councilmember Becker made a motion to approve the ordinance on first reading. Councilmember Woodhull seconded the motion. By unanimous voice vote the motion carried. The ordinance was approved on first reading.

RE: STREET CLOSURE – BADGETT DRIVE NEAR GOINS DRIVE – KNOXVILLE’S COMMUNITY DEVELOPMENT CORPORATION, APPLICANT

12-e. An Ordinance to close Badgett Drive from Goins Drive southeast to its dead-end, and authorizing the Mayor to execute quitclaim deeds to the adjacent property owners, Knoxville’s Community Development Corporation, Applicant. (MPC Approved 13-0) (File No. 8-B-08-SC) (Fifth District)

Councilmember Becker made a motion to approve the ordinance on first reading. Councilmember Pelot seconded the motion. By unanimous voice vote the motion carried. The ordinance was approved on first reading.

RE: STREET CLOSURE – NINETEENTH STREET – FORT SANDERS REGIONAL MEDICAL CENTER, APPLICANT

12-f. An Ordinance to close Nineteenth Street between Clinch Avenue and Laurel Avenue, and authorizing the Mayor to execute quitclaim deeds to the adjacent property owners, Fort Sanders Regional Medical Center, Applicant. (MPC Approved 13-0) (File No. 8-C-08-SC) (First District)

Councilmember Hultquist made a motion to approve the ordinance on first reading. Councilmember Pelot seconded the motion.

A workshop was scheduled on the ordinance for September 18, 2008.

Arthur Seymour, Jr. agreed to refer his remarks to the workshop.

Dr. Michael Casey, Chief of Staff, Fort Sanders Regional Medical Center, addressed the ordinance.

By voice vote the Council voted as follows on the motion to approve the ordinance on first reading: Councilmembers Bailey, Becker, Brown, Hall, Hultquist, Pelot, Roddy and Woodhull voted "Aye." Councilmember Frost "Abstained." The motion carried. The ordinance was approved on first reading.

RE: REZONING REQUEST OF LANE PROPERTIES

- 12-g.** An Ordinance to rezone property located on the southeast side of Cedar Lane, southwest of Fennel Road, from O-1, Office, Medical, and Related Services District to C-3, General Commercial District, Lane Properties, Applicant. (MPC Approved 13-0) (File No. 8-A-08-RZ) (Fifth District)

Councilmember Becker made a motion to approve the ordinance on first reading. Councilmember Pelot seconded the motion. By unanimous voice vote the motion carried. The ordinance was approved on first reading.

RE: REZONING REQUEST OF JOHN L. SANDERS, AIA

- 12-h.** An Ordinance to rezone property located on the southeast side of W. Jackson Avenue, northeast of N. Broadway, from I-3, General Industrial District/D-1, Downtown Design Overlay to C-2, Central Business District/D-1, Downtown Design Overlay, John L. Sanders, AIA, Applicant. (MPC Approved 13-0) (File No. 8-J-08-RZ) (Sixth District)

Councilmember Woodhull made a motion to approve the ordinance on first reading. Councilmember Becker seconded the motion. By unanimous voice vote the motion carried. The ordinance was approved on first reading.

RE: REOZNING REQUEST OF METROPOLITAN PLANNING COMMISSION – CEDAR LANE NEAR KNOX ROAD

- 12-i.** An Ordinance to rezone property located on the southeast side of Cedar Lane, northeast side of Knox Road, southwest side of N. Broadway, from SC-1, Neighborhood Shopping Center District to PC-1, Retail and Office Park District, Metropolitan Planning Commission, Applicant. (MPC Approved 13-0) (File No. 8-N-08-RZ) (Fifth District)

Councilmember Becker made a motion to approve the ordinance on first reading. Councilmember Bailey seconded the motion. By unanimous voice vote the motion carried. The ordinance was approved on first reading.

RE: COMMUNITY IMPROVEMENT FUND – TENNESSEE STAGE COMPANY

- 12-j.** An Emergency Ordinance of the Council appropriating the sum of \$1,150.00 from the Community Improvement (202) Fund and donating same to the Tennessee Stage Company to defray certain expenses related to their summer play festival production. (Requested by Councilmembers Pelot, Hall, Frost, Becker, Woodhull, and Vice Mayor Brown)

Vice-Mayor Brown made a motion to approve the emergency ordinance. Councilmember Becker seconded the motion. By unanimous voice vote the motion carried. The printed ordinance can be found attached to these minutes as Ordinance No. O-188-08.

RE: COMMUNITY IMPROVEMENT FUND – NORTH HILLS AREA ASSOCIATION

- 12-k.** An Emergency Ordinance of the Council appropriating the sum of \$400.00 from the Community Improvement (202) Fund and donating same to North Hills Area Association to defray certain costs necessary to provide representation, education and various services in the North Hills Area. (Requested by Councilmember Frost)

Councilmember Frost made a motion to approve the emergency ordinance. Councilmember Becker seconded the motion. By unanimous voice vote the motion carried. The printed ordinance can be found attached to these minutes as Ordinance No. O-189-08.

RE: COMMUNITY IMPROVEMENT (202) FUND – MABRY HAZEN FOUNDATION MUSEUM

- 12-l.** An Emergency Ordinance of the Council appropriating the sum of \$1,100.00 from the Community Improvement (202) Fund and donating same to the Mabry Hazen Foundation Museum to be utilized toward certain needed improvements and repairs. (Requested by Councilmembers Pelot, Frost, Becker, Woodhull, and Vice Mayor Brown)

Councilmember Pelot made a motion to approve the emergency ordinance. Councilmember Becker seconded the motion. By unanimous voice vote the motion carried. The printed ordinance can be found attached to these minutes as Ordinance No. O-190-08.

RE: COMMUNITY IMPROVEMENT (202) FUND – SPRING HILL ELEMENTARY SCHOOL

- 12-m.** An Emergency Ordinance of the Council appropriating the sum of \$850.00 from the Community Improvement (202) Fund and donating same to Spring Hill Elementary School to be utilized toward upgrading the surfaces of all playground areas. (Requested by Councilmembers Pelot, Frost, Becker, Woodhull, and Vice Mayor Brown)

Councilmember Frost made a motion to approve the emergency ordinance. Councilmember Bailey seconded the motion. By unanimous voice vote the motion carried. The printed ordinance can be found attached to these minutes as Ordinance No. O-191-08.

13. PUBLIC FORUM

None.

14. ADJOURNMENT

There being no further business to come before City Council, upon motion the meeting adjourned at 9:35 p.m.

Presiding Officer of the Council

Recorder