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865-215-2075**

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

**December 30, 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 on Tuesday, December 30, 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 Councilmember Woodhull led in the "Pledge of Allegiance" to the Flag.

3. ROLL CALL

The following 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 Bailey made a motion to approve the minutes from the December 16, 2008 City Council meeting. Councilmember Pelot seconded the motion. By unanimous voice vote the motion carried. The minutes were approved.

5. ANNOUNCEMENTS AND EXTRAORDINARY MATTERS, ADOPTION OF AGENDA

5-a. ITEMS WITHDRAWN (Indicated with "W")

None.

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

None.

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

Vice-Mayor Brown made a motion to place the following resolution on the agenda by motion:

- 8-c.** A Resolution appointing Councilmembers Chris Woodhull, Marilyn Roddy and Joe Hultquist to the Task Force on Permanent Supportive Housing Siting Considerations. (Requested by Vice Mayor Brown)

Councilmember Hultquist seconded the motion. By unanimous voice vote the motion carried. (See "Elections and Confirmations").

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

Councilmember Roddy made a motion to approve resolutions 11h through 11m on the consent agenda. Vice-Mayor Brown seconded the motion. By unanimous voice vote the motion carried. The resolutions were approved. (See “Resolutions”).

6. MAYOR’S REPORT

- Christmas in the City has been huge success and the celebration continues with ice skating on Market Square until January 4; and
- December 31 the First Night New Year Celebration will take place all through downtown.
- City Recorder Cindy Mitchell will celebrate her birthday January 3, 2009.

7. REPORTS OF COUNCIL MEMBERS OR COMMITTEES

None.

8. ELECTIONS AND CONFIRMATIONS

RE: BARBARA PELOT – CITY PENSION BOARD

- 8-a.** A Resolution reappointing Barbara Pelot to serve as City Council’s representative on the City Pension Board. (Requested by Vice Mayor Brown)

Vice-Mayor Brown made a motion to approve the resolution. Councilmember Roddy seconded the motion. By unanimous voice vote the motion carried. The printed resolution can be found attached to these minutes as Resolution No. R-428-08.

RE: ART CARMICHAEL, III AND JOHN SIBLEY – KNOXVILLE TRANSPORTATION AUTHORITY BOARD

- 8-b.** A Resolution confirming the reappointment of Art Carmichael, III and John Sibley to serve as members of the Knoxville Transportation Authority Board. (Requested by Mayor)

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-429-08.

RE: COUNCILMEMBERS CHRIS WOODHULL, MARILYN RODDY AND JOE HULTQUIST – TASK FORCE ON PERMANENT SUPPORTIVE HOUSING SITING CONSIDERATIONS

- “M” **8-c.** A Resolution appointing Councilmembers Chris Woodhull, Marilyn Roddy and Joe Hultquist to the Task Force on Permanent Supportive Housing Siting Considerations. (Requested by Vice Mayor Brown)

Vice-Mayor Brown addressed the resolution and thanked Councilmembers Woodhull, Roddy and Hultquist for serving on the Task Force.

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-430-08.

9. ORDINANCES ON SECOND READING

RE: CITY CODE AMENDMENT – SECTION 2 – DRUG & ALCOHOL TESTING

- 9-a.** An Ordinance to amend Section 2-546 of the Knoxville City Code regarding drug and alcohol testing policy. (Requested by Law Department)

Councilmember Roddy made a motion to approve the ordinance on second reading. Councilmember Woodhull seconded the motion. By unanimous voice vote the motion carried. The printed ordinance can be found attached to these minutes as Ordinance No. O-240-08.

RE: CITY CODE AMENDMENT – CHAPTER 6, ARTICLE V – GRAY WATER RECYCLING SYSTEMS – INTERNATIONAL PLUMBING CODE

- 9-b.** An Ordinance amending Chapter 6, Article V, § 6-107 of the Knoxville City Code to adopt Appendix C, Gray Water Recycling Systems, and to amend certain provisions of the International Plumbing Code, as adopted by the City of Knoxville, regarding pipe identification. (Requested by Department of Plans Review and Building Inspections)

Councilmember Roddy made a motion to approve the ordinance on second reading. 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-241-08.

RE: CITY CODE AMENDMENT – CHAPTER 6 – 2006 EDITION OF THE INTERNATIONAL EXISTING BUILDING CODE – EXISTING BUILDING CODE OF THE CITY OF KNOXVILLE

- 9-c.** An Ordinance amending Chapter 6 of the Knoxville City Code to add a new Article IIC; adopting the 2006 Edition of the International Existing Building Code as provided in this Ordinance, as the Existing Building Code of the City of Knoxville, regulating the repair, alteration, change of occupancy, addition and relocation of existing buildings in the City of Knoxville; providing for the review of plans, inspections, and the issuance of permits and collection of fees therefor; providing penalties for the violation of said Existing Building Code. (Requested by Department of Plans Review and Building Inspections)

Councilmember Pelot made a motion to approve the ordinance on second reading. Councilmember Roddy seconded the motion. By unanimous voice vote the motion carried. The printed ordinance can be found attached to these minutes as Ordinance No. O-242-08.

RE: CITY CODE AMENDMENT – APPENDIX B, ZONING REGULATIONS – PARKING IN FRONT YARDS

- 9-d.** An Ordinance to amend the Knoxville City Code, Appendix B, “Zoning Regulations”, regarding parking in front yards, including driveway requirements. (MPC forwarded all four options with no option recommended for approval (14-0)) (File No. 2-C-08-OA)

Discussion ensued on the ordinance. The following persons spoke: James Pierce, Old North Knoxville, in favor of ordinance; Jim Bletner, 3819 Glenfield Drive, in favor of ordinance; Boyce McCall, in opposition, presented documents for the record; Harold Kline, in opposition to ordinance; John “Speedy” Hatton, in opposition to ordinance; Councilmember Hall; Councilmember Becker; Councilmember Roddy.

Councilmember Pelot made a motion to approve the ordinance on second reading. Councilmember Becker seconded the motion. By voice vote the Council voted as follows: Councilmembers Bailey, Becker, Brown, Frost, Hultquist, Pelot, Roddy and Woodhull voted "Aye." Councilmember Hall voted "Nay." The motion carried. The printed ordinance can be found attached to these minutes as Ordinance. O-243-08.

RE: ONE YEAR PLAN AMENDMENT REQUEST OF MIDDLEBROOK PIKE UNITED METHODIST CHURCH

- 9-e.** An Ordinance approving the request of Middlebrook Pike United Methodist Church for a One Year Plan Amendment from Low Density Residential (limited to Low Density Exclusive Residential) to Low Density Residential for property located on the southeast side of Middlebrook Pike, east of Vanosdale Road. (MPC Approved 13-0-1) (File No. 10-B-08-PA) (Second District).

Councilmember Pelot made a motion to approve the ordinance on second reading. Councilmember Frost seconded the motion. By unanimous voice vote the motion carried. The printed ordinance can be found attached to these minutes as Ordinance No. O-244-08.

RE: REZONING REQUEST OF MIDDLEBROOK PIKE UNITED METHODIST CHURCH

- 9-f.** An Ordinance to rezone property located on the southeast side of Middlebrook Pike, east of Vanosdale Road, from R-1E, Low Density Exclusive Residential District to R-1, Low Density Residential District, Middlebrook Pike United Methodist Church, Applicant. (MPC Approved 13-0-1) (File No. 10-B-08-RZ) (Second District).

Councilmember Pelot 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-245-08.

RE: ONE YEAR PLAN AMENDMENT REQUEST OF PAUL TRAUSCH

- 9-g.** An Ordinance approving the request of Paul Trausch for a One Year Plan Amendment from Medium Density Residential to Office for property located on the northwest side of Essary Drive, southwest of Glenhaven Road. (MPC Approved 13-0-1) (File No. 10-C-08-PA) (Fourth District).

Councilmember Frost made a motion to approve the ordinance on second reading. Councilmember Roddy seconded the motion. By unanimous voice vote the motion carried. The printed ordinance can be found attached to these minutes as Ordinance No. O-246-08.

RE: REZONING REQUEST OF PAUL TRAUSCH

- 9-h.** An Ordinance to rezone property located on the northwest side of Essary Drive, southwest of Glenhaven Road from R-2, General Residential District to O-1, Office, Medical, and Related Services District, Paul Trausch, Applicant. (MPC Approved 13-0-1) (File No. 10-C-08-RZ) (Fourth District).

Councilmember Frost 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-247-08.

RE: ONE YEAR PLAN AMENDMENT REQUEST OF KNOXVILLE HABITAT FOR HUMANITY, INC.

- 9-i.** An Ordinance approving the request of Knoxville Habitat for Humanity, Inc. for a One Year Plan Amendment from General Commercial to Mixed Use (General Commercial/Office/Low Density Residential) for property located on the southeast side of Linden Avenue, east of Nash Road. (MPC Approved 13-0-1) (File No. 10-D-08-PA) (Sixth District).

Vice-Mayor Brown made a motion to approve the ordinance on second reading. 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-248-08.

RE: REZONING REQUEST OF KNOXVILLE HABITAT FOR HUMANITY, INC.

- 9-j.** An Ordinance to rezone property located on the southeast side of Linden Avenue, east of Nash Road, from C-3, General Commercial District to R-1, Low Density Residential District, Knoxville Habitat for Humanity, Inc., Applicant. (MPC Approved 13-0-1) (File No. 10-D-08-RZ) (Sixth District).

Vice-Mayor Brown made a motion to approve the ordinance on second reading. 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-249-08.

RE: REZONING REQUEST OF KENT AND STEVE COPELAND

- 9-k.** An Ordinance to rezone property located on the northwest side of Hillwood Drive, north of Dexter Lane, from C-3, General Commercial District to RP-3, Planned Residential District, Kent and Steve Copeland, Applicants. (MPC Approved 13-0-1) (File No. 10-E-08-RZ) (First District).

Councilmember Hultquist made a motion to approve the ordinance on second reading. Councilmember Roddy seconded the motion. By unanimous voice vote the motion carried. The printed ordinance can be found attached to these minutes as Ordinance No. O-250-08.

RE: ONE YEAR PLAN AMENDMENT REQUEST OF NOLAN PROPERTIES, LLC

- 9-l.** An Ordinance approving the request of Nolan Properties, LLC for a One Year Plan Amendment from Office to General Commercial for property located on the north side of Old Callahan Drive, northwest of Callahan Drive. (MPC Approved 13-0-1) (File No. 10-G-08-PA) (Third District).

Councilmember Hall made a motion to approve the ordinance on second reading. Councilmembers Pelot and Roddy seconded the motion. By voice vote the Council voted as follows: Councilmembers Bailey, Brown, Frost, Hall, Pelot, Roddy and Woodhull voted "Aye." Councilmembers Brown and Hultquist voted "Nay". The motion carried and the printed ordinance can be found attached to these minutes as Ordinance No. O-251-08.

RE: REZONING REQUEST OF NOLAN PROPERTIES, LLC

- 9-m.** An Ordinance to rezone property located on the north side of Old Callahan Drive, northwest of Callahan Drive, from O-1, Office, Medical, and Related Services District to C-4, Highway and Arterial Commercial District, Nolan Properties, LLC, Applicant. (MPC Approved 13-0-1) (File No. 10-I-08-RZ) (Third District).

Councilmember Hall made a motion to approve the ordinance on second reading. Councilmember Pelot seconded the motion. By voice vote the Council voted as follows: Councilmembers Bailey, Brown, Frost, Hall, Pelot, Roddy and Woodhull voted "Aye." Councilmembers Brown and Hultquist voted "Nay". The motion carried and the printed ordinance can be found attached to these minutes as Ordinance No. O-252-08.

RE: REZONING REQUEST OF JOHN THOMAS

- 9-n.** An Ordinance to rezone property located on the east and west sides of Sherrod Road from the intersection with Millers Avenue, and south and east to 2676 Sherrod Road, from R-1, Low Density Residential District, R-1A, Low Density Residential District, and R-2, General Residential District to R-1/NC-1, Low Density Residential District/Neighborhood Conservation Overlay, R-1A/NC-1, Low Density Residential District/Neighborhood Conservation Overlay, and R-2/NC-1, General Residential District/Neighborhood Conservation Overlay, and Design Guidelines, John Thomas, Applicant. (MPC Approved 13-0-1) (File No. 11-C-08-RZ) (First District).

Councilmember Hultquist made a motion to approve the ordinance on second reading. Councilmember Roddy seconded the motion. By unanimous voice vote the motion carried. The printed ordinance can be found attached to these minutes as Ordinance No. O-253-08.

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

None.

11. RESOLUTIONS

RE: JUDGE RICHARD R. BAUMGARTNER – KNOX COUNTY DRUG COURT

- 11-a.** A Resolution honoring, congratulating and thanking Judge Richard R. Baumgartner and the Knox County Drug Court upon the milestone graduation of the 100th graduate of the Drug Court Program. (Requested by Council)

Councilmember Frost made a motion to approve the resolution. Councilmember Woodhull seconded the motion. By unanimous voice vote the motion carried. The printed resolution can be found attached to these minutes as Resolution No. R-431-08.

RE: METROPOLITAN PLANNING COMMISSION – HISTORIC ZONING COMMISSION – HISTORIC OVERLAY DISTRICT – CERTIFICATE OF APPROPRIATENESS FOR FENCES

- 11-b.** A Resolution requesting and encouraging the Executive Director and members of the professional planning staff of the Metropolitan Planning Commission, as well as the members of the Historic Zoning Commission, to consider whether the provision of the Zoning Code related to the creation of an historic overlay district should be amended so as to require a certificate of appropriateness when a property owner elects to erect a fence located in an area in an historic overlay district where other improvements would require a certificate of appropriateness. (Requested by Councilmember Frost)

Councilmember Frost made a motion to approve the resolution. Councilmember Hultquist seconded the motion.

Discussion ensued with the following persons addressing the resolution: Councilmember Frost; Vice-Mayor Brown and Councilmember Hultquist.

By unanimous voice vote the motion carried. The printed resolution can be found attached to these minutes as Resolution No. R-432-08.

RE: RICH CONSTRUCTION, INC. – SAFETY CITY PARK

11-c. A Resolution authorizing the Mayor to execute an agreement with Rich Construction, Inc. for the provision and installation of playground equipment and surface cushioning material for Safety City Park, for a total contract price not to exceed \$230,833.00. (Requested by Police Department)

Councilmember Roddy 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-433-08.

RE: KNOXVILLE-KNOX COUNTY COMMUNITY ACTION COMMITTEE – EMPOWERMENT ZONE – WORKFORCE CONNECTIONS PROGRAM

11-d. A Resolution authorizing the Mayor to execute an agreement with Knoxville-Knox County Community Action Committee to provide Empowerment Zone funding in an amount not to exceed \$128,320 for the Workforce Connections program. (Requested by Department of Community Development)

Councilmember Becker made a motion to approve the resolution. Councilmember Pelot seconded the motion.

Discussion ensued with the following persons addressing the resolution: Vice-Mayor Brown; Vaughn Smith, CAC; Councilmember Pelot; Councilmember Frost; Madeline Rogero; Councilmember Roddy.

By voice vote the Council voted as follows: Councilmembers Bailey, Becker, Brown, Hall, Hultquist, Pelot, Roddy and Woodhull voted “Aye.” Councilmember Frost voted “Nay”. The motion carried. The printed resolution can be found attached to these minutes as Resolution No. R-432-08.

RE: PUBLIC BUILDING AUTHORITY OF THE COUNTY OF KNOX AND THE CITY OF KNOXVILLE – WORLD’S FAIR PARK – LOWER SECOND CREEK GREENWAY

11-e. A Resolution authorizing the Mayor to execute an amendment to the Operating Contract between the City of Knoxville and the Public Building Authority of the County of Knox and the City of Knoxville, Tennessee with respect to the management of World’s Fair Park to add management services for the Lower Second Creek Greenway. (Requested by Operations and Efficiency)

Discussion began with the following persons speaking: Councilmember Hultquist; Mayor Haslam; Steve King, Director of Public Works; Councilmember Becker.

Councilmember Hultquist made a motion to postpone the resolution two (2) weeks at the request of Mayor Haslam. Councilmember Becker seconded the motion. By unanimous voice vote the motion carried. The resolution was postponed two (2) weeks.

RE: BURCHTOWN, LLC – 122 GAY STREET – FIXED AWNING ENCROACHMENT

11-f. A Resolution authorizing the Mayor to execute an encroachment agreement with Burchtown LLC to permit a fixed awning to encroach over the sidewalk at 122 Gay Street, CLT #094-E-G-039. (Requested by Department of Engineering)

Councilmember Pelot 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-435-08.

**RE: LE PARIGO RESTAURANT – ENCROACHMENT AGREEMENT –
416 CLINCH AVENUE**

- 11-g.** A Resolution authorizing the Mayor to execute an encroachment agreement with LeParigo restaurant to permit a deck and canopy on a portion of the sidewalk at 416 Clinch Avenue, CLT #094-L-G-010. (Requested by Department of Engineering)

Councilmember Pelot made a motion to approve the resolution. Councilmember Bailey seconded the motion.

Discussion ensued. The following persons addressed the resolution: Councilmember Hultquist; Debbie Poplin, Law Director; Councilmember Bailey; Steve King, Director of Public Works; Councilmember Roddy; Councilmember Pelot; Councilmember Frost; Councilmember Becker; Dr. Bill Lyons, Director of Policy and Communications.

By voice vote the Council voted as follows on the motion to approve: Councilmembers Bailey, Becker, Brown, Hall, Hultquist, Pelot, Roddy and Woodhull voted “Aye”. Councilmember Frost voted “Nay.” The motion carried. The printed resolution can be found attached to these minutes as Resolution No. R-436-08.

The following pension resolutions were approved unanimously on first and final reading under the consent agenda:

- Approved: R-437-08**
“*” h. A Resolution granting a pension of \$1,596.86 per month to Charles J. Burnett, an employee of the Knoxville General Government. (Requested by Pension Board)

- Approved: R-438-08**
“*” i. A Resolution granting a pension of \$139.54 per month to Christopher D. Lindsay, an employee of the former Knoxville City School System. (Requested by Pension Board)

- Approved: R-439-08**
“*” j. A Resolution granting a pension of \$75.31 per month to Nancy Decosta, an employee of the former Knoxville City School System. (Requested by Pension Board)

- Approved: R-440-08**
“*” k. A Resolution granting a pension of \$2,973.72 per month to Larry D. Pickard, an employee of the Knoxville Police Department. (Requested by Pension Board)

- Approved: R-441-08**
“*” l. A Resolution granting a pension of \$3,480.46 per month to William Mark Pressley, an employee of the Knoxville Police Department. (Requested by Pension Board)

- Approved: R-442-08**
“*” m. A Resolution granting a pension of \$1,577.67 per month to Danny E. Stallings, an employee of the Knoxville General Government. (Requested by Pension Board)

12. ORDINANCES ON FIRST READING

RE: CITY CODE AMENDMENT – SECTION 2-477 – HOLIDAY PAY

- 12-a.** An Emergency Ordinance to amend Section 2-477 of the Knoxville City Code regarding holiday pay. (Requested by Civil Service)

Councilmember Roddy made a motion to approve the emergency ordinance. Councilmember Woodhull seconded the motion.

Discussion began with the following persons addressing the ordinance: Vice-Mayor Brown; Debbie Poplin, Law Director; Larry Martin, Deputy Mayor; Councilmember Becker; Anita Cash, City Employee League representative; Councilmember Roddy.

By voice vote the Council voted as follows on the motion to approve: Councilmembers Bailey, Becker, Frost, Hall, Hultquist, Pelot, Roddy and Woodhull. Vice-Mayor Brown voted "Nay". The motion carried. The printed ordinance can be found attached to these minutes as Ordinance No. O-254-08.

RE: CITY CODE AMENDMENT – APPENDIX B, ZONING REGULATIONS – SOUTH WATERFRONT DISTRICT – STREETScape STANDARDS

- 12-b.** An Ordinance amending the Knoxville City Code, Appendix B, "Zoning Regulations", Article 4, "South Waterfront District", providing new street section designations in Chapter 3 (the Regulating Plan), and creating new street standards within Chapter 6 (Streetscape Standards). (MPC Approved 13-0) (File No. 12-A-08-OA) (First District)

Councilmember Hultquist 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 (202) FUND - KNOXVILLE-KNOX COUNTY COMMUNITY ACTION COMMITTEE

- 12-c.** An Emergency Ordinance appropriating the sum of \$1,500.00 from the Community Improvement (202) Fund and donating same to Knoxville-Knox County Community Action Committee for the benefit of the Beardsley Community Farm work-study program. (Requested by Councilmembers Pelot, Hall, Frost, Becker, Woodhull, and Vice Mayor Brown)

Councilmember Woodhull 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-255-08.

13. PUBLIC FORUM

None.

14. ADJOURNMENT

There being no further business to come before Council, upon motion the meeting adjourned at 8:43 p.m.

Presiding Officer of the Council

Recorder

