

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

MAY 19, 2009 - 7:00 PM
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, May 19, 2009.
Mayor Bill Haslam was present and presiding officer of the Council.

2. INVOCATION AND PLEDGE OF ALLEGIANCE TO THE FLAG

Councilman Barbara Pelot led in the Invocation and Councilman Robert Booker led in the "Pledge of Allegiance" to the Flag.

3. ROLL CALL

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

4. APPROVAL OF MINUTES

Councilmember Roddy made a motion to approve the minutes from the May 5, 2009. Councilmember Woodhull 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5-a. ITEMS WITHDRAWN (Indicated with "W")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")

Vice-Mayor Becker made a motion to postpone the following items for two (2) weeks:

12-b. An Ordinance to amend Section 17-74 of the Knoxville City Code, entitled, "Traffic Violator School" so as to provide for the provision of such schools or courses consistent with the provisions of current state law. (Requested by Vice Mayor Becker)

11-a. A Resolution expressing City Council's willingness to participate in the convenient voting pilot project. (Requested by Vice Mayor Becker)

Councilmember Roddy seconded the motion. By unanimous voice vote the motion carried. The items were postponed two (2) 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

Recognition of Public Works Week May 17-23, 2009.
Sundown in the City, Thursday, May 21, 2009 on Market Square

7. REPORTS OF COUNCIL MEMBERS OR COMMITTEES

Cm. Frost announced that Memorial Day will be Honor Fountain City Day with festivities taking place at Fountain City Lake, Noon-6 pm.

Cm. Booker attended the Centennial Celebration at Arthur St. Fire hall yesterday; and stated it was great event with a lot of history.

Vice Mayor Becker announced that Legislative Budget Hearings will be held May 20 at 8:30 am, in the Small Assembly Room and June 1 in the Main Assembly Room. On June 1 the Public Hearings on the budget will begin at 5:00 p.m. and a Public Hearing on Convenience Voting will take place immediately following.

8. ELECTIONS AND CONFIRMATIONS

RE: BARBARA RAY – KNOX COUNTY TAX EQUALIZATION BOARD

8-a. A Resolution appointing Barbara Ray to the Knox County Tax Equalization Board. (Requested by Mayor)

Councilmember Frost 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-146-09.

RE: BOB BOOKER – PUBLIC PROPERTY NAMING COMMITTEE

8-b. A Resolution reappointing Bob Booker as a member of the Public Property Naming Committee. (Requested by Vice Mayor Becker)

Vice-Mayor Becker 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-147-09

RE: PUBLIC PROPERTY NAMING COMMITTEE – MARK DONALDSON

8-c. A Resolution appointing Mark Donaldson to serve as a member of the Public Property Naming Committee. (Requested by Councilmember Bailey)

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

Victoria DeFreese spoke in opposition to the resolution.

By unanimous voice vote the motion carried. The printed resolution can be found attached to these minutes as Resolution No. R-148-09.

9. ORDINANCES ON SECOND READING

RE: CITY CODE AMENDMENT – HOURLY/EVENTS PAYROLL RATES

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

Councilmember Roddy 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-72-09.

RE: ALLEY CLOSURE NEAR BLUFF AVENUE – BETHANY MISSIONARY BAPTIST CHURCH, APPLICANT

- 9-b.** An Ordinance to close an unnamed alley from Bluff Avenue to the southwest property line of Parcel 081EL007, and authorizing the Mayor to execute quitclaim deeds to the adjacent property owners, Bethany Missionary Baptist Church, Applicant. (MPC Approved 12-0-1) (File No. 4-A-09-AC) (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-73-09.

RE: REZONING REQUEST OF FLENNIKEN HOUSING, L. P. – (TEN YEAR PLAN TO END CHRONIC HOMELESSNESS)

- 9-c.** An Ordinance to rezone property located on the northeast side of Flenniken Avenue, southeast side of Maryville Pike, northwest of Martin Mill Pike from C-3, General Commercial District, to O-1, Office, Medical, and Related Services District, Flenniken Housing, L.P., Applicant. (MPC Approved 11-2) (File No. 7-L-08-RZ) (First District)

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

Discussion ensued with the following persons addressing the ordinance: Victoria DeFreese, opposed to ordinance; Nancy Miller, 129 Henry Avenue, in opposition to ordinance; Orin Mudrich, 206 Flenniken Avenue, in opposition to ordinance; Councilmember Roddy; Ginny Weatherstone, Volunteer Ministry Center, in favor of ordinance; Councilmember Frost; Buz Johnson, MPC; Councilmember Becker; Jon Lawler, Ten Year Plan; Mayor Haslam; David Arning; Councilmember Bailey; Councilmember Pelot.

By voice vote on the motion to approve, Councilmembers Bailey, Becker, Frost, Pelot, Roddy and Woodhull voted “Aye”. Councilmembers Booker, Hall and Hultquist voted “Nay”. The motion carried. The ordinance was approved on second reading. The printed ordinance can be found attached to these minutes as Ordinance No. O-74-09.

RE: ONE YEAR PLAN AMENDMENT REQUEST OF GARY MITCHELL

- 9-d.** An Ordinance approving the request of Gary Mitchell for a One Year Plan Amendment from Mixed Uses (Heavy Industrial & General Commercial) to Mixed Uses (Light Industrial, General Commercial, and Central Business District) for property located on the southeast side of Blackstock Avenue, north side of Western Avenue, west side of Ramsey Street. (MPC Approved 12-0-1) (File No. 4-A-09-PA) (Sixth District)

Councilmember Booker made a motion to approve the ordinance on second reading. 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-75-09.

RE: REZONING REQUEST OF GARY MITCHELL

- 9-e.** An Ordinance to rezone property located on the southeast side of Blackstock Avenue, north side of Western Avenue, west side of Ramsey Street from C-3, General Commercial District, to C-2, Central Business District, Gary Mitchell, Applicant. (MPC Approved 12-0-1) (File No. 4-A-09-RZ) (Sixth District)

Councilmember Booker 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-76-09.

RE: ONE YEAR PLAN AMENDMENT REQUEST OF THE METROPOLITAN PLANNING COMMISSION

- 9-f.** An Ordinance approving the request of the Metropolitan Planning Commission for a One Year Plan Amendment from Medium Density Residential to Low Density Residential for property located on the north and south sides of Washington Avenue, west side of N. Bertrand Street, east of Winona Street. (MPC Approved 12-0-1) (File No. 4-B-09-PA) (Sixth District)

Councilmember Booker made a motion to approve the ordinance on second reading. Vice-Mayor 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-77-09.

RE: REZONING REQUEST OF THE METROPOLITAN PLANNING COMMISSION WASHINGTON AVENUE – N. BERTRAND STREET – WINONA STREET

- 9-g.** An Ordinance to rezone property located on the north and south sides of Washington Avenue, west side of N. Bertrand Street, east of Winona Street from R-2, General Residential District/H-1, Historic Overlay, to R-1A, Low Density Residential District/H-1, Historic Overlay, Metropolitan Planning Commission, Applicant. (MPC Approved 12-0-1) (File No. 4-B-09-RZ) (Sixth District)

Councilmember Booker made a motion to approve the ordinance on second reading. 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-78-09.

RE: REZONING REQUEST OF CEDAR SPRINGS PRESBYTERIAN CHURCH

- 9-h.** An Ordinance to rezone property located on the north side of Brandon Road, northwest side of Clearfield Road from R-1E, Low Density Exclusive Residential District, to R-1, Low Density Residential District, Cedar Springs Presbyterian Church, Applicant. (MPC Approved 12-0-1) (File No. 4-C-09-RZ) (Second District)

Councilmember Pelot made a motion to approve the ordinance on second reading. Councilmember Booker seconded the motion. By unanimous voice vote the motion carried. The printed ordinance can be found attached to these minutes as Ordinance No. O-79-09.

RE: REZONING REQUEST OF ABIDING GLORY MINISTRIES

- 9-i.** An Ordinance to rezone property located on the northeast side of Midpark Road, south side of Beard Drive from I-3, General Industrial District, to C-6, General Commercial Park District, Abiding Glory Ministries, Applicant. (MPC Approved 12-0-1) (File No. 4-D-09-RZ) (Third District)

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

Councilmember Hall made a motion to amend the ordinance to make it take effect immediately upon passage. Councilmember Pelot seconded the motion. By unanimous voice vote the motion carried. The amendment was adopted.

By unanimous voice vote the motion to approve the ordinance, as amended to take effect immediately, was adopted. The printed ordinance can be found attached to these minutes as Ordinance No. O-80-09.

RE: ONE YEAR PLAN AMENDMENT REQUEST OF KNOXVILLE'S COMMUNITY DEVELOPMENT CORPORATION

- 9-j.** An Ordinance approving the request of Knoxville's Community Development Corporation for a One Year Plan Amendment from Low Density Residential to Medium Density Residential for property located on the southeast side of Bethel Avenue, southwest side of McConnell Street. (MPC Approved 12-0-1) (File No. 4-D-09-PA) (Sixth District)

Councilmember Booker 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-81-09.

RE: REZONING REQUEST OF KNOXVILLE'S COMMUNITY DEVELOPMENT CORPORATION

- 9-k.** An Ordinance to rezone property located on the southeast side of Bethel Avenue, southwest side of McConnell Street from R-1, Low Density Residential District, to RP-1, Planned Residential District, at a density up to 24 dwelling units per acre, Knoxville's Community Development Corporation, Applicant. (MPC Approved 12-0-1) (File No. 4-I-09-RZ) (Sixth District)

Councilmember Booker 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-82-09.

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

- 10-a.** An Appeal by Babelay Farm, LLC of a decision by the City of Knoxville Board of Zoning Appeals to deny variances to increase the maximum driveway width from 30 feet to 37 feet and the maximum driveway curb cut length from 60 feet to 90 feet (Article V, Section 7.B.3.c. of the Zoning Regulations), as per site plan, to construct a three lane entrance to an apartment development from Washington Pike, located at 5304 McCampbell Drive. (BZA Denied) (File No. 3-F-09-VA) (Fourth District) (Consider with 11h.)

in conjunction with

- 11-h.** A Resolution approving an appeal by Babelay Farm, LLC of a decision by the City of Knoxville Board of Zoning Appeals to deny variances to increase the maximum driveway width from 30 feet to 37 feet and the maximum driveway curb cut length from 60 feet to 90 feet (Article V, Section 7.B.3.c. of the Zoning Regulations), as per site plan, to construct a three lane entrance to an apartment development from Washington Pike, located at 5304 McCampbell Drive. (BZA Denied) (File No. 3-F-09-VA) (Fourth District) (Consider with 10a)

Discussion began with the following persons addressing the appeal: Arthur Seymour, Jr., attorney representing Babelay Farm, LLC; Harold Cannon of Cannon and Cannon Engineers; Councilmember Pelot; Councilmember Roddy; Steve King, Director of Public Works; Councilmember Frost; Vice-Mayor Becker; Bob Wolfenbarger, opposed to appeal; Councilmember Hultquist; Councilmember Bailey.

Councilmember Frost made a motion to deny the appeal. Councilmember Roddy seconded the motion. By voice vote the Council voted as follows on the motion to deny: Councilmembers Bailey, Becker, Booker, Frost, Hall, Hultquist, Roddy and Woodhull voted "Aye". Councilmember Pelot voted "Nay." The motion carried. The appeal and resolution were denied.

11. RESOLUTIONS

RE: ROGERS GROUP, INC. – 2009 RESURFACING PROJECT

- 11-b.** A Resolution authorizing the Mayor to execute an agreement with Rogers Group, Inc. for the 2009 Resurfacing Project, No. 09W-P-0466, in an amount not to exceed \$4,351,313.90. (Requested by Department of Engineering)

Councilmember Becker 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-149-09.

RE: PROPERTY ACQUISITION - 3124 MORRIS AVENUE – NOLA ANN BRUMMITT – LORAIN STREET PUBLIC WORKS COMPLEX PROJECT

- 11-c.** A Resolution authorizing the Mayor to execute all documents on behalf of the City of Knoxville necessary to acquire, in fee simple, the property located at 3124 Morris Avenue, CLT #094P-C-010, owned by Nola Ann Brummitt, for the Loraine Street Public Works Complex Project, for \$42,000.00. (Requested by Department of Public Service)

Councilmember Roddy 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-150-09.

RE: EAST TENNESSEE COMMUNITY DESIGN CENTER – COMMUNITY DEVELOPMENT BLOCK GRANT FUNDING

- 11-d.** A Resolution authorizing the Mayor to execute an amendment to Agreement No. C-09-0064 with East Tennessee Community Design Center for construction design and technical assistance for community improvement projects to increase the total amount of Community Development Block Grant funding provided under the agreement by \$15,000.00. (Requested by Department of Community Development)

Councilmember Hultquist 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-151-09.

RE: ORPAK USA, INC. – FUEL MANAGEMENT SYSTEM – CITY OF KNOXVILLE FLEET DEPARTMENT

- 11-e.** A Resolution authorizing the Mayor to execute an amendment to the agreement with Orpak USA, Inc. to provide a new fuel management system for the City of Knoxville Fleet Services Department to revise the contract price to include funding of \$10,000.00 per year for the maintenance services to be provided during years two through five of the contract term. (Requested by Department of Fleet Services)

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-152-09.

RE: KNOXVILLE UTILITIES BOARD - IN LIEU OF TAX PAYMENTS FOR THE ELECTRIC AND GAS SYSTEMS

- 11-f.** A Resolution setting the in lieu of tax payments for the electric and gas systems of the Knoxville Utilities Board for the fiscal year beginning July 1, 2008 and providing for the allocation and distribution of such payments to the affected taxing jurisdictions. (Requested by Department of Finance and Accountability)

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

Vice-Mayor Becker and Charles Swanson addressed the resolution.

By unanimous voice vote the motion carried. The printed resolution can be found attached to these minutes as Resolution No. R-153-09.

RE: VAUGHN & MELTON, INC. – GAY STREET STREETSCAPES PROJECT

- 11-g.** A Resolution authorizing the Mayor to approve Change Order No. 2 to Contract No. C-07-0137 between the City of Knoxville and Vaughn & Melton, Inc. for the Gay Street Streetscapes Project for environmental testing, analysis of existing columns and design services which will increase the contract price by \$56,800.00 for a new contract price of \$395,840.00. (Requested by Department of Engineering)

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-154-09.

12. ORDINANCES ON FIRST READING

RE: CITY CODE AMENDMENT – TAXIS, SHUTTLES AND LIMOUSINES

- 12-a.** An Ordinance amending Section 26-91(b) and deleting Section 26-94 of the Knoxville City Code so as to provide that the issuance of certificates of public convenience and necessity for taxis, shuttles and limousines will occur in January of each year instead of July and to extend the current certificates and registration stickers from June 30, 2009 until December 31, 2009. (Requested by Police Department)

Councilmember Pelot 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: FY 2010 – 2015 KNOXVILLE CAPITAL IMPROVEMENT PROGRAM

12-c. An Ordinance to approve and adopt the FY2010-2015 Knoxville Capital Improvement Program, including the FY2010 Capital Improvement Budget. (MPC Approved 14-0) (File No. 5-A-09-OB)

Councilmember Roddy 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 – SOUTH-DOYLE MIDDLE SCHOOL

12-d. An Emergency Ordinance of the Council appropriating the sum of \$200.00 from the Community Improvement (202) Fund and donating same to South-Doyle Middle School to be utilized toward the purchase of certain materials to advance the science department program. (Requested by Councilmembers Hultquist and Woodhull)

Councilmember Hultquist made a motion to approve the emergency ordinance. 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-83-09.

13. PUBLIC FORUM

None.

14. ADJOURNMENT

There being no further business to come before City Council, upon motion, the meeting adjourned at 8:34 p.m.

Presiding Officer of the Council

Recorder