

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

**AUGUST 11, 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, August 11, 2009. Mayor Bill Haslam was present and presiding officer of the Council.

2. INVOCATION AND PLEDGE OF ALLEGIANCE TO THE FLAG

Councilmember Barbara Pelot led in the Invocation and Councilmember Bob Booker led in the "Pledge of Allegiance" to the Flag.

3. ROLL CALL

Present: Joe Bailey, Bob Booker, Rob Frost, Steve Hall, Joe Hultquist, Barbara Pelot and Chris Woodhull.

Absent: Vice-Mayor Bob Becker and Marilyn Roddy.

4. APPROVAL OF MINUTES

Councilmember Bailey made a motion to approve the minutes from the July 28, 2009 City Council meeting. Councilmember Pelot 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5-a. ITEMS WITHDRAWN (Indicated with "W")

Councilmember Pelot made a motion to withdraw the following resolution from the agenda:

- 11-i. A Resolution authorizing the Mayor to enter into a contract with Tyler Technologies, Inc. to provide a municipal court software system to track and manage court citations as well as establish a system for remote entry of citations for an amount not to exceed \$355,000.00. (Requested by Department of Finance and Accountability)

Councilmember Bailey seconded the motion. By unanimous voice vote the motion carried. The resolution was withdrawn.

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

None.

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 – ARTHUR C. ELY, II d/b/a MIDDLEBROOK PACKAGE STORE

- 6-a.** An application for renewal of a Certificate of Compliance for Arthur C. Ely, II d/b/a Middlebrook Package Store, 7431 Middlebrook Pike, Knoxville, Tennessee, 37909. (Requested by Department of Finance and Accountability)

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

RE: CERTIFICATE OF GOOD MORAL CHARACTER – WALTER PATRICK GANG – FRATERNAL ORDER OF EAGLES #2698

- 6-b.** An application for a Certificate of Good Moral Character for Walter Patrick Gang for the sale of alcoholic beverages at the private club, Fraternal Order of Eagles #2698, 203 Walnut Street, Knoxville, Tennessee, 37902. (Requested by Department of Finance and Accountability)

Councilmember Booker made a motion to approve the Certificate of Good Moral Character. Councilmember Frost seconded the motion. By unanimous voice vote the motion carried. The Certificate was approved.

RE: MAYOR’S REPORT

- Shakespeare on the Square continues through August 16.
- Market Square Farmer’s Market open Wednesdays, 11am to 2pm; Saturdays, 9am to 2pm.
- Parks and Recreation will be holding public meetings at Morningside Park on Wednesday, August 12 and Inskip Park, August 13.
- Old City Live free concert series will continue every Thursday evening until September 24 in the Old City Courtyard.
- Congratulations to Lonsdale Homecoming for another successful event. Next year marks the 25th anniversary of the Homecoming.

7. REPORTS OF COUNCIL MEMBERS OR COMMITTEES

- Cm Frost announced that August 15 will be Happy Hollerpalooza in Happy Holler with activities beginning at 10am and the Street Fare taking place at 4pm
- Cm Pelot announced that Friday, August 21 will be Bearden Heritage Day.
- Cm Hultquist said that the Ridgetop/Slope Task Force has added an additional public meeting to be held August 17 at Farragut Town Hall.
- Cm Frost discussed the recent Guns in Parks issue and asked Council Attorney Charles Swanson to explain a recent ruling on the matter.
- Councilmembers Hultquist, Bailey, Hall and Pelot also addressed the Guns in Parks issue.

A straw poll was taken and the workshop originally scheduled for August 20, 2009 was cancelled until further notice.

8. ELECTIONS AND CONFIRMATIONS

None.

9. ORDINANCES ON SECOND READING

RE: STREET NAME CHANGE – FOREST HILLS BOULEVARD TO VILLAGE ROAD – METROPOLITAN PLANNING COMMISSION, APPLICANT

9-a. An Ordinance to change the street name of Forest Hills Boulevard to Village Road located between the intersection of the present Village Road and Forest Hills Boulevard and the parking lot of Greentree Apartments, Metropolitan Planning Commission, Applicant. (MPC Approved 11-0-2) (File No. 6-B-09-SNC) (Second District)

Councilmember Pelot made a motion to approve the ordinance on second reading. Councilmember Bailey seconded the motion. By unanimous voice vote the motion carried. The ordinance was approved. The printed ordinance can be found attached to these minutes as Ordinance No. O-120-09

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

RE: APPEAL BY PHYLLIS SEVERANCE – 1900 MARTHA BERRY DRIVE (KENNETH MASON PROPERTY)

10-a. An Appeal by Phyllis Severance of the Board of Zoning Appeals' decision to approve the request for variances to reduce the Martha Berry Drive front yard setback from 40 feet to 28 feet, reduce the Ridge Crest Drive front yard setback from 40 feet to 35 feet, and reduce the east side yard setback from 12.5 feet to 10 feet (Knoxville City Code, Appendix B, Article IV, Section 2c. E. 3. a. and 4. a.) as per site plan to construct a residence on a recorded lot in an R-1EN, Established Neighborhood District, property located at 1900 Martha Berry Drive, Parcel 058GA006. (BZA Approved 4-0) (File No. 6-A-09-VA) (Fourth District) (Consider with 11n.)

In conjunction with

11-n. A Resolution approving an appeal by Phyllis Severance of the Board of Zoning Appeals' decision to approve the request for variances to reduce the Martha Berry Drive front yard setback from 40 feet to 28 feet, reduce the Ridge Crest Drive front yard setback from 40 feet to 35 feet, and reduce the east side yard setback from 12.5 feet to 10 feet (Knoxville City Code, Appendix B, Article IV, Section 2c. E. 3. a. and 4. a.) as per site plan to construct a residence on a recorded lot in an R-1EN, Established Neighborhood District, property located at 1900 Martha Berry Drive, Parcel 058GA006. (BZA Approved 4-0) (File No. 6-A-09-VA) (Fourth District) (Consider with 10a.)

Discussion began with Phyllis Severance, Paula Minhinnett and Melissa West speaking in favor of the appeal.

Mr. Kenneth Mason, property owner, spoke in opposition to the appeal.

Mrs. Severance offered rebuttal.

Councilmember Pelot, Anita Cash, Councilmember Hall, Councilmember Frost, Councilmember Hultquist, Councilmember Bailey and Mark Donaldson also spoke to the issue.

Councilmember Hultquist made a motion to postpone the matter four (4) weeks. Councilmember Booker seconded the motion. By voice vote the Council voted as follows on the motion to postpone: Councilmembers Bailey, Booker, Hall, Hultquist, Pelot and Woodhull voted "Aye." Councilmember Frost voted "Nay." The motion carried and the appeal was postponed four (4) weeks.

11. RESOLUTIONS

RE: KNOXVILLE'S COMMUNITY DEVELOPMENT CORPORATION – D & D DEVELOPERS, INC. – EMPOWERMENT ZONE FUNDS

11-a. A Resolution authorizing the Mayor to enter into a contract with Knoxville's Community Development Corporation and D&D Developers, Inc. to provide Empowerment Zone funds in the amount of \$521,500.00 to assist in the construction of neighborhood retail lease spaces and improvements to an existing convenience store and to provide up to \$80,000.00 in additional Empowerment Zone funding for improvements to make the project sustainable and energy-efficient. (Requested by Department of Community Development)

Councilmember Pelot 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-276-09.

RE: KNOXVILLE'S COMMUNITY DEVELOPMENT CORPORATION – TRIPLE M PROPERTY MANAGEMENT, LLC – EMPOWERMENT ZONE FUNDS

11-b. A Resolution authorizing the Mayor to enter into a contract with Knoxville's Community Development Corporation and Triple M Property Management, LLC to provide Empowerment Zone funds in the amount of \$524,200.00 to assist in the construction of a neighborhood commercial and retail center and to provide up to \$80,000.00 in additional Empowerment Zone funding for improvements to make the project sustainable and energy efficient. (Requested by Department of Community Development)

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

Councilmember Frost, Madeline Rogero, Community Development Director, Rogers Doughty of Community Development; Councilmember Hultquist, Debbie Poplin, Law Director, and Don Peterson of KCDC addressed the resolution.

By voice vote on the motion to approve, Councilmembers Bailey, Booker, Hall, Hultquist, Pelot 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-277-09.

RE: TAX INCREMENT FINANCING AMENDMENT - NORTHSIDE WATERFRONT REDEVELOPMENT AND URBAN RENEWAL PLAN – 710 EAST HILL AVENUE

11-c. A Resolution approving a tax increment financing amendment to the Northside Waterfront Redevelopment and Urban Renewal Plan to support the redevelopment of real property located at 710 East Hill Avenue. (Requested by Department of Policy and Communications)

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

Councilmember Hultquist, Councilmember Pelot, Bob Whetsel, Bill Lyons and Jim Bush, 6208 Westland Drive addressed the resolution.

By unanimous voice vote the motion to approve the resolution was adopted. The printed resolution can be found attached to these minutes as Resolution No. R-278-09.

RE: TENNESSEE DEPARTMENT OF TRANSPORTATION - CITYWIDE SIGNAL TIMING HARDWARE UPGRADE – AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA)

- 11-d.** A Resolution authorizing the Mayor to enter into a contract with the Tennessee Department of Transportation for Citywide signal timing hardware upgrade for an estimated project cost of \$666,000.00 to be funded by the American Recovery and Reinvestment Act (ARRA). (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-279-09.

RE: VAUGHN & MELTON, INC. – FIRST CREEK CHANNEL IMPROVEMENTS, PHASE II

- 11-e.** A Resolution authorizing the Mayor to execute Change Order No. 3 to Contract No. C-07-0139 with Vaughn & Melton, Inc. for First Creek Channel Improvements, Phase II, for additional construction phase services, to increase the contract price by \$25,000.00 for a new contract price of \$391,365.00 and to increase the time by 184 days to December 31, 2010. (Requested by Department of Engineering)

Councilmember Becker 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-280-09.

RE: SALE OF MOTOROLA MOBILE RADIOS AND MODEMS – CITY OF MADISON, ALABAMA

- 11-f.** A Resolution authorizing the sale of eight Motorola mobile radios and modems to the City of Madison, Alabama for \$200.00 per unit, for a total of \$1,600.00. (Requested by Police Department)

Councilmember Frost 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-281-09.

RE: BROWN AND BROWN OF TENNESSEE – SECURITY INSURANCE, INC.

- 11-g.** A Resolution authorizing the Mayor to accept a quote from Brown and Brown of Tennessee, formerly Security Insurance, Inc., for property and boiler & machinery insurance, for the annual premium in the amount of \$133,142.00. (Requested by Department of Finance and Accountability)

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-282-09.

RE: FIRE DEPARTMENT EMS MEDICAL DIRECTOR'S SERVICES

- 11-h.** A Resolution authorizing the Mayor to amend Contract No. C-09-0331 expanding the Fire Department EMS Medical Director's services to include the provision of medical triage services during mass casualty incidents or disasters. (Requested by Fire Department)

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-283-09.

RE: KNOXVILLE TRACK CLUB – JOHN DEERE GATOR XUV 620i – GREENWAY RANGER

- 11-j.** A Resolution expressing appreciation to the Knoxville Track Club for the donation of a John Deere Gator XUV 620i, valued at approximately \$10,000.00, for use in maintaining, developing and enhancing City greenways and park spaces and in direct support of the "Greenway Ranger" pilot program. (Requested by Department of Parks and Recreation)

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-284-09.

RE: THE HELEN ROSS MCNABB CENTER, INC. – STATE OF TENNESSEE HOUSE (HOUSING OPPORTUNITIES USING STATE ENCOURAGEMENT) PROGRAM – 1010 AND 1020 COX STREET

- 11-k.** A Resolution authorizing the Mayor to execute an agreement with The Helen Ross McNabb Center, Inc. to provide \$200,000.00 in funding from State of Tennessee HOUSE (Housing Opportunities Using State Encouragement) Program income for the development and operation of permanent supportive housing at 1010 and 1020 Cox Street. (Requested by Department of Community Development)

Councilmember Booker 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-285-09.

RE: KNOXVILLE-KNOX COUNTY COMMUNITY ACTION COMMITTEE – THE HOMELESSNESS PREVENTION AND RAPID REHOUSING PROGRAM – AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

- 11-l.** A Resolution authorizing the Mayor to execute an agreement with Knoxville-Knox County Community Action Committee to provide \$518,000.00 in funding from The Homelessness Prevention and Rapid Rehousing Program, a program funded under the American Recovery and Reinvestment Act of 2009, for a case management program designed to prevent homelessness. (Requested by Department of Community Development)

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-286-09.

RE: "COMPLETE STREETS" POLICY – CITY OF KNOXVILLE

11-m. A Resolution endorsing the creation, adoption and adherence to a "Complete Streets" policy to promote safe, convenient, thoughtfully designed streets within the City of Knoxville. (Requested by Councilmember Hultquist)

Councilmember Hultquist 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-287-09.

12. ORDINANCES ON FIRST READING:

RE: CERTIFIED TAX RATE

12-a. An Ordinance setting a "Certified Tax Rate" as required by T.C.A. § 67-5-1701 and amending Ordinance O-85-09 (tax rate ordinance) to adjust the tax rate from \$2.81 to \$2.46. (Requested by Department of Finance and Accountability)

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 – RAMSEY STREET FROM WESTERN AVENUE TO BLACKSTOCK AVENUE – GARY MITCHELL, APPLICANT

12-b. An Ordinance to close a portion of Ramsey Street from Western Avenue to Blackstock Avenue subject to conditions and authorizing the Mayor to issue quitclaim deeds to the adjacent property owners, Gary Mitchell, Applicant. (MPC Approved 12-0) (File No. 6-A-09-SC) (Sixth District)

Councilmember Booker made a motion to approve the ordinance on first reading. Councilmember Bailey seconded the motion.

Councilmember Frost, Councilmember Hultquist, Councilmember Booker, Councilmember Pelot, Robert Campbell and Gary Mitchell addressed the ordinance.

By voice vote on the motion to approve, Councilmembers Bailey, Booker, Pelot and Woodhull voted "Aye." Councilmember Frost, Hall and Hultquist voted "Nay." The motion did not receive the required majority vote of five, therefore the motion failed and the ordinance was denied.

RE: MAGNOLIA AVENUE CORRIDOR PLAN – CENTRAL CITY SECTOR PLAN – EAST CITY SECTOR PLAN

12-c. An Ordinance adopting the Magnolia Avenue Corridor Plan and amendments to the Central City and East City Sector Plans. (MPC approved 12-0) (File No. 6-A-09-SAP) (Fourth and Sixth Districts)

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

Councilmember Hall, Mark Donaldson of MPC, Steve King of Engineering and Councilmember Hultquist addressed the ordinance.

By voice vote on the motion to approve, Councilmembers Bailey, Booker, Frost, Hultquist, Pelot and Woodhull voted "Aye." Councilmember Hall voted "Nay." The motion carried. The ordinance was approved on first reading.

**RE: REZONING REQUEST OF DELBERT E. AND JANA W. MORGAN –
HOLSTON DRIVE AND GEORGE BOUNDS ROAD**

- 11-d. An Ordinance to rezone property located on the southeast end of Holston Drive, north end of George Bounds Road, southwest side of Holston River from R-1, Low Density Residential District, to RP-1, Planned Residential District, at a density of up to 4 dwelling units per acre, subject to conditions, Delbert E. and Jana W. Morgan, Applicant. (MPC Approved 10-2) (File No. 5-D-09-RZ) (Fourth District)

Councilmember Frost 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: ONE YEAR PLAN AMENDMENT REQUEST OF EDDIE JOE BENNETT

- 12-e. An Ordinance approving the request of Eddie Joe Bennett for a One Year Plan Amendment from Light Industrial to Mixed Use (Light Industrial and Low Density Residential) for property located on the northwest side of Gillespie Avenue, northeast of N. Sixth Avenue. (MPC Approved 12-0) (File No. 7-A-09-PA) (Fourth District)

Councilmember Frost 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 EDDIE JOE BENNETT

- 12-f. An Ordinance to rezone property located on the northwest side of Gillespie Avenue, northeast of N. Sixth Avenue from I-3, General Industrial District, to R-1A, Low Density Residential District, Eddie Joe Bennett, Applicant. (MPC Approved 12-0) (File No. 7-A-09-RZ) (Fourth District)

Councilmember Frost 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: ONE YEAR PLAN AMENDMENT REQUEST OF LLOYD DAVIS, JR.

- 12-g. An Ordinance approving the request of Lloyd Davis, Jr. for a One Year Plan Amendment from Light Industrial to Mixed Use (Light Industrial, Office, and General Commercial) for property located on the southeast side of Middlebrook Pike, northeast side of E. Weisgarber Road. (MPC Approved 12-0) (File No. 7-B-09-PA) (Second District)

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

RE: UNITED WAY OF GREATER KNOXVILLE

- 12-h. An Ordinance appropriating the sum of \$15,000.00 and donating same to the United Way of Greater Knoxville for the purpose of acquiring “grant information” computer software. (Requested by Operations and Efficiency)

Councilmember Frost 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: COMMUNITY IMPROVEMENT (202) FUND – ONE LUV OUTREACH MINISTRIES

- 12-i.** An Emergency Ordinance appropriating the sum of \$400.00 from the Community Improvement (202) Fund and donating same to One Luv Outreach Ministries to offset the cost of hosting a community concert event, recently held at Knox Area Rescue Ministries. (Requested by Councilmember Woodhull and Vice Mayor Becker)

Councilmember Woodhull made a motion to approve the emergency ordinance. 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-121-09

RE: COMMUNITY IMPROVEMENT (202) FUND – NORTH KNOXVILLE BUSINESS & PROFESSIONAL ASSOCIATION

- 12-j.** An Emergency Ordinance appropriating the sum of \$900.00 from the Community Improvement (202) Fund and donating same to the North Knoxville Business & Professional Association to underwrite certain costs of hosting the North Knoxville Street Fair & Annual Happy Hollerpalooza event. (Requested by Councilmembers Pelot, Hall, Woodhull and Vice Mayor Becker)

Councilmember Pelot made a motion to approve the emergency ordinance. 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-122-09

RE: COMMUNITY IMPROVEMENT (202) FUND – ETERNAL LIFE'S RESTORATION OUTREACH

- 12-k.** An Emergency Ordinance appropriating the sum of \$450.00 from the Community Improvement (202) Fund and donating same to Eternal Life's Restoration Outreach to purchase Thanksgiving baskets for disadvantaged families during Harvest Fest 2009. (Requested by Councilmembers Hall, Woodhull and Vice Mayor Becker)

Councilmember Woodhull made a motion to approve the emergency ordinance. 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-123-09

13. PUBLIC FORUM

None.

14. ADJOURNMENT

There being no further business to come before City Council, upon motion the meeting adjourned at 9:10 p.m.

Presiding Officer of the Council

Recorder

