

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

**SEPTEMBER 22, 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, September 22, 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

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 Frost made a motion to approve the minutes from the September 8, 2009 City Council meeting. Vice-Mayor Becker 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5-a. ITEMS WITHDRAWN (Indicated with "W")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")

None.

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

None.

5-d. CONSENT ITEMS (Indicated with "*")

Councilmember Roddy made a motion to approve resolutions 11o through 11q on the consent agenda. Councilmember Frost seconded the motion. By unanimous voice vote the motion carried. The resolutions were adopted. (See "Resolutions").

6. MAYOR'S REPORT

- *311 should receive their 1,000,000th call tomorrow. Congratulations to Russ Jensen & Staff
- *Downtown North Task Force will meet Sept. 24 at St. John's Cathedral at 6:00 pm
- *City received award on its Knoxville LEED Gold Housing

7. REPORTS OF COUNCIL MEMBERS OR COMMITTEES

- *Cm. Hultquist stated that the city election is going on now and encouraged all to vote
- *Vice Mayor Becker announced meeting with Council Members Re: Transition; wants outgoing members to be involved
- *Vice Mayor Becker announced that Wayfinding Workshop set for Oct. 15; and that Recycling Workshop still needs some Council members to respond

8. ELECTIONS AND CONFIRMATIONS

None

9. ORDINANCES ON SECOND READING

RE: OPERATING BUDGET AMENDMENT AND CAPITAL PROJECT FUND AMENDMENT – MORNINGSIDE PARK – INSKIP PARK

- 9-a.** An Ordinance to amend the Operating Budget for Fiscal Year 2009/2010 and the budget of the Capital Projects Fund for improvements to Morningside Park and Inskip Park. (Requested by Department of Finance and Accountability)

Vice-Mayor Becker 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-134-09.

RE: CITY CODE AMENDMENT – CHAPTER 26 – TAXIS, SHUTTLES AND LIMOUSINES

- 9-b.** An Ordinance to amend Chapter 26, Articles I through III of the Knoxville City Code regarding taxis, shuttles, and limousines. (Requested by Police Department)

Councilmember Pelot 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-135-09.

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

- 9-c.** 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) (Motion to Reconsider by Councilmember Frost)

Councilmember Pelot made a motion to approve the ordinance on second reading. Councilmember Booker seconded the motion. By voice vote on the motion to approve, the City Council voted as follows: Councilmembers Bailey, Becker, Booker, Frost, Hall, Pelot, Roddy and Woodhull voted "Aye." Councilmember Hultquist voted "Nay."/ The motion carried. The printed ordinance can be found attached to these minutes as Ordinance No. O-136-09.

RE: REZONING REQUEST OF ASSOCIATION OF LADIES OF CHARITY

- 9-d.** An Ordinance to rezone property located on the southeast side of W. Baxter Avenue, southwest of N. Central Street from I-2, Restricted Manufacturing and Warehousing District, to C-3, General Commercial District, Association of Ladies of Charity, Applicant. (MPC Approved 11-0) (File No. 8-B-09-RZ) (Fourth District)

Councilmember Frost 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-137-09.

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

None

11. RESOLUTIONS

RE: CERTIFICATE OF COMPLIANCE – POP’S WINE & LIQUOR

- 11-a.** A Resolution issuing a certificate of compliance to Pop’s Wine & Liquor relative to its application to the Tennessee Alcoholic Beverage Commission to renew its license to operate a liquor store in the City. (Requested by Department of Finance and Accountability)

Vice-Mayor Becker made a motion to approve the resolution. Councilmember Booker seconded the motion. By unanimous voice vote the motion carried. The printed resolution can be found attached to these minutes as Resolution No. R-319-09.

RE: CERTIFICATE OF COMPLIANCE – BOB’E PACKAGE STORE, INC.

- 11-b.** A Resolution issuing a certificate of compliance to Bob’s Package Store, Inc. relative to its application to the Tennessee Alcoholic Beverage Commission to renew its license to operate a liquor store in the City. (Requested by Department of Finance and Accountability)

Councilmember Pelot made a motion to approve the resolution. Vice-Mayor 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-320-09.

RE: CENTRAL BUSINESS IMPROVEMENT DISTRICT ANNUAL BUDGET FISCAL YEAR 2009-2010

- 11-c.** A Resolution approving the annual budget of the Central Business Improvement District for Fiscal Year 2009-2010. (Requested by Department of Policy and Communications)

Councilmember Pelot addressed the resolution.

Councilmember Frost made a motion to approve the resolution. Councilmembers Booker and 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-321-09

- 11-d.** ***

RE: SHARP CONTRACTING, INC. – VALLEY VIEW DRIVE ROADWAY IMPROVEMENTS PROJECT

- 11-e.** A Resolution authorizing the Mayor to execute Change Order No. 1 to Contract No. C-09-0243 with Sharp Contracting, Inc. to create a sediment basin during the project and to remove any unsuitable soils for the Valley View Drive Roadway Improvements Project and to increase the contract amount by \$57,900.00 for a new total of \$942,376.58. (Requested by Department of Engineering)

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-322-09.

RE: TYLER TECHNOLOGIES, INC. – MUNICIPAL COURT

- 11-f.** 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 \$360,166.00. (Requested by Department of Finance and Accountability)

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-323-09.

RE: TENNESSEE DEPARTMENT OF TRANSPORTATION – SOUTH WATERFRONT PEDESTRIAN BRIDGE

- 11-g.** A Resolution authorizing the Mayor to execute an agreement with Tennessee Department of Transportation necessary to accept a grant in the amount of \$533,520.00 to provide funding for preliminary design and environmental permitting of the South Waterfront Pedestrian Bridge, with a City match of \$133,380.00. (Requested by South Waterfront Development)

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

Councilmember Roddy, Councilman Hultquist and Dave Hill 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-324-09.

RE: SOUTHERN CONSTRUCTORS, INC. – WEST BLOUNT AVENUE – CITYVIEW DEVELOPMENT

- 11-h.** A Resolution authorizing the Mayor to execute an agreement with Southern Constructors, Inc. for the reconstruction of West Blount Avenue fronting the Cityview Development between Henley Street and Hawthorn Avenue for a cost not to exceed \$1,544,815.00. (Requested by South Waterfront Development)

Councilmember Hultquist made a motion to approve the resolution. Councilmember Booker seconded the motion. By unanimous voice vote the motion carried. The printed resolution can be found attached to these minutes as Resolution No. R-325-09.

RE: ENVIRONMENTAL PROTECTION AGENCY – PHASE I AND PHASE II ENVIRONMENTAL ASSESSMENTS – SOUTH WATERFRONT

- 11-i.** A Resolution amending Resolution No. R-361-08, authorizing the Mayor to accept additional grant funds in the amount of \$200,000.00, for a total of \$400,000.00, from the Environmental Protection Agency to be used for Phase I and Phase II environmental assessments within the South Waterfront Redevelopment area and to execute any and all documents necessary to accept such a grant award. (Requested by South Waterfront Development)

Councilmember Hultquist made a motion to approve the resolution. Councilmember Booker seconded the motion. By unanimous voice vote the motion carried. The printed resolution can be found attached to these minutes as Resolution No. R-326-09.

RE: PUBLIC BUILDING AUTHORITY OF THE COUNTY OF KNOX AND THE CITY OF KNOXVILLE, TENNESSEE – GATEWAY PAVILION BUILDING

- 11-j.** A Resolution authorizing the Mayor to execute the second amendment to the Operating Contract with the Public Building Authority of the County of Knox and the City of Knoxville, Tennessee for the maintenance of the Gateway Pavilion Building. (Requested by Operations and Efficiency)

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

Councilmember Roddy, Councilmember Frost and Deputy Mayor Larry Martin addressed the resolution.

By unanimous voice vote the motion to approve the resolution carried. The printed resolution can be found attached to these minutes as Resolution No. R-327-09.

RE: U.S. DEPARTMENT OF JUSTICE, BUREAU OF JUSTICE ASSISTANCE – PROJECT SAFE NEIGHBORHOODS INITIATIVE IN EAST TENNESSEE

- 11-k.** A Resolution authorizing the Mayor to execute any and all documents necessary to accept a grant award of \$107,790.00 from the U.S. Department of Justice, Bureau of Justice Assistance, for continued funding of the Project Safe Neighborhoods Initiative in East Tennessee. (Requested by Police Department)

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-328-09.

RE: CITY OF WINCHESTER, TENNESSEE – WINCHESTER POLICE DEPARTMENT – INTERNET CRIMES AGAINST CHILDREN TASK FORCE – U. S. DEPARTMENT OF JUSTICE UNDER THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

- 11-l.** A Resolution authorizing the Mayor to execute any and all documents necessary to award a grant of \$84,518.00 to the City of Winchester, on behalf of the Winchester Police Department, for the Internet Crimes Against Children Task Force Program pursuant to a grant from the U.S. Department of Justice under the American Recovery and Reinvestment Act of 2009. (Requested by Police Department)

Councilmember Roddy made a motion to approve the resolution. Councilmember Frost seconded the motion. By unanimous voice vote the motion carried. The printed resolution can be found attached to these minutes as Resolution No. R-329-09.

RE: TENNESSEE CONGRESSIONAL DELEGATION – NORWOOD BRANCH OF THE UNITED STATES POST OFFICE

11-m. A Resolution requesting and encouraging the Tennessee Congressional Delegation to take any and all action necessary to prevent the closure of the Norwood Branch of the United States Post Office. (Requested by Councilmembers Frost and Hall)

Councilmember Hall made a motion to approve the resolution. Councilmember Frost seconded the motion. By unanimous voice vote the motion carried. The printed resolution can be found attached to these minutes as Resolution No. R-330-09.

RE: TENNESSEE CONGRESSIONAL DELEGATION

11-n. A Resolution urging the Tennessee Congressional Delegation to take any and all steps necessary to seek the repeal of \$8.708 billion in rescissions of unobligated balances from state departments of transportation. (Requested by Councilmember Hultquist)

Councilmember Hultquist made a motion to approve the resolution. Vice-Mayor 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-331-09.

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

APPROVED R-332-09
" **11-o. A Resolution granting a pension of \$2,092.12 per month to Gary R. Broyles, an employee of the Knoxville General Government. (Requested by Pension Board)

APPROVED R-333-09
" **11-p. A Resolution granting a pension of \$283.63 per month to Philip Akers, an employee of the former Knoxville City School System. (Requested by Pension Board)

APPROVED R-334-09
" **11-q. A Resolution granting a pension of \$313.79 per month to Barbara Golec, an employee of the former Knoxville City School System. (Requested by Pension Board)

12. ORDINANCES ON FIRST READING

RE: CITY CODE AMENDMENT – SECTION 20-60 – PROHIBITING THE USE OR POSSESSION OF FIREARMS OR WEAPONS WITH CITY PARKS

12-a. An Ordinance to amend Section 20-60 of the Knoxville City Code so as to delete therefrom the provisions prohibiting the use or possession of firearms or weapons within City parks. (Requested by Councilmember Hall)

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

Mayor Haslam stated that more than three persons have signed up to speak per side. He stated that, if agreeable with City Council, he would allow all speakers to be heard if they agreed to keep within the 15 minute time limit allowed per side.

City Council agreed to hear all speakers; keeping the time limit to 15 minutes per side.

The following persons spoke in favor of the ordinance: Richard Smith; Mike Mollenhour; Liston Matthews; Doug Dutton; Chris Kerr; John Sparks.

The following persons spoke in opposition to the ordinance: Carol Evans, Legacy Parks Foundation; Kyle Tharp; Betty Schohl; Eleanore Ripley.

Mike Mollenhour gave the two minute rebuttal.

The following City Council Members addressed the ordinance: Councilmember Frost; Vice-Mayor Becker; Councilmember Hall; Councilmember Woodhull; Councilmember Booker; Councilmember Bailey; Councilmember Hultquist.

Councilmember Hultquist made a motion to table the ordinance.

The motion failed due to a lack of a second to the motion.

Discussion continued with Councilmember Roddy; Councilmember Hultquist; Councilmember Pelot addressing the ordinance.

Mayor Haslam made the following comments:

Mayor Bill Haslam: Well, thank everyone for a great discussion, both the people who spoke from the audience and here. The Second Amendment, like the First Amendment and the rest of the Constitution is the law of the land. It is what it is. And, I guess, Councilman Booker, if I might disagree with you, I think what the Supreme Court said is it's not just a reference to state militias, in their recent rulings; it is an individual right. So, if ... I think the other thing ... what I struggle all through this is what a lot of you all referenced. If a carry permit holder can legally walk down Gay Street or Market Street and all of a sudden cuts through Krutch Park extension, now they're in violation of the law, something feels not right about that. That being said, I understand the concern about guns in parks, with playgrounds and ball fields.

You know, one of the differences in local government and other forms of government is we have to deal with implementation. We don't get to do government at thirty thousand (30,000) feet and say, "Here's the policy." We have to look at it. So, for us, this isn't Somebody said, "How did..." I guess Joe said, "Well how did it get to be guns in parks and guns in bars?" For us, it really becomes more specific; it becomes, you know, guns at little league fields and parks used by Knox County Schools. And, we all looked at ... I think in the workshop we talked about, "Well, can you separate those out where it's legal in some and not legal in others, and greenways, legal in some and not legal in others." And, we started playing all through that and we even made lists. You know, somebody asks, "Can the Administration make lists?" So, we made lists saying "Parks used by Knox County Schools" and ones with ball fields, et cetera. And, then we started talking about ... And, the greenways, which ones intersected and schools, and then realized that gets to be an incredibly difficult thing, but that's what local government does. We have to deal with implementation; we don't just get to deal with theory. It's what makes our job both great, because we can make a difference, but hard, because it's about real life things on the street.

I'm afraid if we monkey with the situation we have right now with the existing ordinance, we could end up in a situation where you have criminal penalties in some parks and no penalties in others, because, I think once you amend the existing ordinance, it loses its grandfather status, and then you go back to, well, if you're going to have them some and others, then you go to a situation where criminal penalties are in play. And, I think it's important that criminal liabilities are removed from all of our parks. I think the best course of action is kind of what I think I hear Council is going, is to keep the city ordinance we have and to take no further action to reinstate criminal penalties under state law. If we do that, Knoxville will be the only large city in Tennessee to have eliminated the application of criminal sanctions to those legal permit holders who carry in our parks.

Upon roll call on the motion to approve the ordinance, Councilmembers Bailey, Hall and Hultquist voted "Aye." Councilmembers Becker, Booker, Frost, Pelot, Roddy and Woodhull voted "Nay." The motion failed. The ordinance was denied.

RE: CENTRAL BUSINESS IMPROVEMENT DISTRICT – CITY COUNCIL MEMBER AS EX-OFFICIO MEMBER OF THE BOARD OF DIRECTORS

- 12-b.** An Ordinance to amend Ordinance No. O-515-92 entitled “An Ordinance of the Council of the City of Knoxville to create a Central Business Improvement District for the City of Knoxville and to appoint a corporation to act as an advisory board to the District with the necessary powers and authority to carry out the purposes and intent of the District” so as to add a member of the City Council to serve as an ex-officio member of the Board of Directors of the Central Business Improvement District Management Corporation and as a liaison between that Board and the City Council. (Requested by Councilmember Hultquist)

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

Discussion ensued with the following persons speaking: Vice-Mayor Becker; Councilmember Pelot; Patrick Hunt, CBID Chairman of Board; Councilmember Hultquist; Councilmember Roddy.

Upon roll call on the motion to approve the ordinance on first reading, Councilmembers Bailey, Frost, Hultquist and Woodhull voted “Aye.” Councilmembers Becker, Booker, Hall, Pelot and Roddy voted “Nay.” The motion failed. The ordinance was denied.

13. PUBLIC FORUM

None.

14. ADJOURNMENT

There being no further business to come before City Council, upon motion the meeting adjourned at 8:39 p.m.

Presiding Officer of the Council

Recorder