

JOINT RESOLUTION AND ORDINANCE No. 2524

A JOINT ORDINANCE BY THE MAYOR AND CITY COUNCIL OF THE CITY OF MEMPHIS AND RESOLUTION BY THE MAYOR AND THE QUARTERLY COUNTY COURT OF SHELBY COUNTY, TENNESSEE, TO AMEND ORDINANCE NO. 420 ENACTED BY SAID QUARTERLY ON JANUARY 30, 1956, AND SAID CITY ON JANUARY 31, 1956, AS AMENDED, PERTAINING TO THE CREATION OF THE MEMPHIS AND SHELBY COUNTY PLANNING COMMISSION SO AS TO MAKE SUBSTANTIAL CHANGES THEREIN BY CREATING THE MEMPHIS AND SHELBY COUNTY LAND USE CONTROL BOARD AND THE MEMPHIS AND SHELBY COUNTY OFFICE OF PLANNING AND DEVELOPMENT; PRESCRIBED THEIR POWERS AND DUTIES; PROVIDE FOR THE ELECTION OF A CHAIRMAN AND VICE-CHAIRMAN OF THE MEMPHIS AND SHELBY COUNTY LAND USE CONTROL BOARD; PROVIDE FOR A DIRECTOR AND TWO DEPUTY DIRECTORS FOR THE MEMPHIS AND SHELBY COUNTY OFFICE OF PLANNING AND DEVELOPMENT; AUTHORIZING SAID LAND USE CONTROL BOARD UPON JOINT APPROVAL OF SAID CITY AND COUNTY LEGISLATIVE BODIES, TO ESTABLISH RULES FOR THE CONDUCT OF ITS AFFAIRS AND ESTABLISH A FEE SCHEDULE FOR SERVICES PERFORMED; PROVIDE FOR THE DISTRIBUTION OF FUNDS ACCRUING TO SAID OFFICE AND FOR SHARING THE EXPENSE OF OPERATION OF TERMINATION OF THE JOINT OBSERVATION OF ACTIVITY HEREBY CREATED.

PROPOSE STATEMENT - The purpose of this Joint Resolution/Ordinance is to improve the efficiency of the joint administration and coordination of the comprehensive planning and development processes for Memphis and Shelby County by providing for the powers and duties of (1) The Memphis and Shelby County Office of Planning and Development, and (2) The Memphis and Shelby County Land Use Control Board, their administration and the appointment of the necessary personnel to perform the required duties and responsibilities; and

WHEREAS, authority exists in general and private acts of The Tennessee Legislature for cities to combine services and functions with counties in which they are located; specifically as provided by Chapter 222 of the Public Acts of Tennessee for 1939, codified as Tennessee Code Annotated 85-113, and by Chapter 413 of the Private Acts of 1939; and

WHEREAS, the Mayor and Quarterly County Court of Shelby County and the Mayor and City Council of Memphis, do find as a matter of legislative determination that it is their mutual desire and to their mutual advantage to combine and join the zoning and subdivision activities of the Memphis and Shelby County Planning Commission by suspending during the existence of a joint agreement, these powers and duties, and resting same in the Memphis and Shelby County Land Use Control Board created herein; and

WHEREAS, the aforementioned City and County desire to create an Office of Planning and Development, jointly under their funding provisions and executive offices which will consist of (1) a Comprehensive Planning Section and (2) a Land Use Control Section, pursuant to a contract which is attached hereto and incorporation herein by reference, which especially sets forth the powers and duties of the Office of Planning and Development as it relates to comprehensive planning and to land use control, which would provide technical and professional services to, but be administratively separate from the Memphis and Shelby County Land Use Control Board created by this Joint Ordinance/Resolution. There shall be appointed a Director and two (2) Deputy Directors. The Deputy Directors and their staffs shall be under the control of the Director. The qualifications of the Director shall be as follows: The Director must hold a Master's Degree in City or Regional Planning, plus seven (7) years experience in the field of planning; or a Bachelor's Degree in planning, engineering, public administration, architectural or the social sciences, plus ten (10) years professional experience in the field of planning. Experience shall include at least five (5) years in a responsible

administrative or executive capacity, and the Director is encouraged to be an Associate Member of have member status in the American Institute of Planners. The qualifications of the Deputy Directors shall be as follows: The Deputy Directors must hold a Master's Degree in City or Regional Planning or a closely related field, plus five (5) years of experience in the field of planning; or a Bachelor's Degree in planning, engineering, public administration, architectural or the social sciences, plus seven (7) years professional experience in the field of planning. Experience shall include at least four (4) years in a responsible administrative or executive capacity.

NOW THEREFORE,

Section 1. BE IT RESOLVED BY THE MAYOR AND THE QUARTERLY COUNTY COURT OF SHELBY COUNTY AND ORDAINED BY THE MAYOR AND COUNCIL OF MEMPHIS. That the following sections shall become binding laws, resolutions and ordinances affecting the residents of said governmental units; and that as to the City of Memphis, the following sections of the Code Ordinances, be and the same are hereby amended as follows:

ARTICLE II. MEMPHIS AND SHELBY COUNTY LAND USE CONTROL BOARD

Section 28-12. Joint Office of Planning and Development created; assignment to division.

There is hereby created the Memphis and Shelby County Office of Planning and Development consisting of (1) a Comprehensive Planning Section and (2) a Land Use Control Section, which shall be for budgetary purposes of the City of Memphis and the County of Shelby hereby assign to the respective executive offices; and further shall hereafter be operated by contract, attached hereto and expressly incorporation herein by reference.

Section 28-13. Land Use Control Board; membership; terms; qualifications.

The Land Use Control Board is hereby created and shall be composed of a total of ten (10) citizens and two (2) ex officio members as follows:

- (a) The City Council of the City of Memphis upon recommendation of the Mayor, shall appoint five (5) citizen members whose terms shall be for three (3) years expiring with the calendar year. In addition, the said City Council, on the recommendation of the Mayor, shall designate one (1) ex officio member who shall be the Chief Administrative Officer or his designated representative and who shall serve during the term of office in an advisory capacity and without the right to vote.

- (b) The Quarterly County Court of Shelby County, upon the recommendation of the Mayor of Shelby County shall appoint five (5) citizen members whose terms shall be for three (3) years, expiring with the calendar year. In addition, the Quarterly County Court, on recommendation of Shelby County shall designate one (1) ex officio member who shall be the Chief Administrative Officer or his designated representative and who shall serve during the term of in an advisory capacity and without the right to vote.
- (c) All citizen members shall have been residents of Shelby County (either within or without the City of Memphis) for a period of at least one (1) year prior to their appointment.
- (d) All citizen members shall serve without pay and no ex officio shall be entitled to additional pay by reason of membership on said Land Use Control Board. All members shall be entitled to reimbursement for any actual expense incurred in connection with such membership, provided same was authorized in advance by the City and County Chief Administrative Officers.
- (e) The term of all citizen members shall extend until their successors are qualified, provided, however, three (3) successive unexcused or unexplained absences from any regular or special meeting shall be grounds for termination at the will and pleasure of the appointing authority without the necessity of a hearing or notice and their action shall be final.
- (f) All present members of the Memphis and Shelby County Planning Commission are hereby appointed and affirmed as the members of this Memphis and Shelby County Land Use Control Board to serve out their existing terms, at which time the appointment procedures outlined in Subsections (a) and (b) above will become applicable.

Section 28-14. Vacancies; how filled.

Vacancies created by any cause shall be filled for the unexpired term in the same manner and by the same authority as made the original appointment. When the Deputy Director of Land Use Control has reason to believe that a regular member will be absent he may notify the respective Mayor as to that City or County appointee, the respective Mayor may then designate in writing a temporary replacement for the ensuing meeting. Such temporary appointee shall have all the rights and responsibilities of the regular member for the meeting to which appointed.

Section 28-15. Chairman; Vice-Chairman; Secretary; Terms; Vacancies; how filled.

The current Chairman of the Memphis and Shelby County Planning Commission shall be the Chairman of the Memphis and Shelby County Land Use Control Board created herein, and shall serve until the

current Chairmanship expires, and until his/her successor is elected and qualified.

The current Vice-Chairman of the Memphis and Shelby County Planning Commission shall be the Vice-Chairman of the Memphis and Shelby County Land Use Control Board created herein, and shall serve until the current Vice-Chairmanship expires, and until his/her successor is elected and qualified.

Thereafter in even years, the Mayor of Shelby County shall appoint from among the citizen appointees the Chairman of the Land Use Control Board, and in odd years shall appoint the Vice-Chairman in the same manner. In odd years the Mayor of the City of Memphis, shall appoint from its citizen appointees, the Chairman of the Land Use Control Board and in even years shall appoint the Vice Chairman in the same manner. Vacancies created by any cause shall be filled for the unexpired term in the same manner and by the same authority as made the original selection. The Chairman shall preside at all meetings and exercise all the usual rights, duties and prerogatives of the head of any similar organization, except as hereafter restricted.

The Vice-Chairman shall perform the duties of the Chairman in the latter's absence or disability. The Deputy Director of Land Use Control shall be the secretary of the Land Use Control Board. The Secretary shall cause proper minutes and records to be kept of all proceedings of the Land Use Control Board, shall be the official custodian of its records, and shall be responsible for reporting the actions of the Land Use Control Board to the appropriate legislative and administrative bodies.

The Director of Planning and Development shall be responsible for communicating staff recommendations which may or may not agree with the Land Use Control Board to the appropriate legislative bodies.

Section 28-16. Qualifying of Land Use Control Board members; Oath

The said members shall qualify and take an oath to uphold the Constitution of the United States and the State of Tennessee and faithfully discharge the duties of his office

Section 28-17. Powers and Duties.

(a) All former powers and duties of the Memphis and Shelby County Planning Commission shall be delegated to the Memphis and Shelby County Office of Planning and Development created herein, except as otherwise provided hereafter, and shall include but not be limited to the powers and duties as set forth in the Contract between the City of Memphis and County of Shelby which is attached hereto and expressly incorporated herein by reference.

(b) The recommendation to the respective legislative bodies of zoning studies and regulations, the mapping and revision of zoning districts, special permits, planned unit developments, and regulations for the subdivision of land, recommendation as to

subdivisions proposed thereunder, street and alley closings and street name changes, shall be vested in the Memphis and Shelby County Land Use Control Board as created by this Joint Ordinance/Resolution.

For the purpose of this Joint Ordinance/Resolution all subdivisions and zoning powers given to the former planning commission by public or private acts shall be vested in the Memphis and Shelby County Land Use Control Board, except as modified herein.

Section 28-18. Meetings.

The Land Use Control Board shall provide in its rules for its meeting; provided, however, that special meetings shall be called only by the joint action of the Chairman and Vice-Chairman, or in the absence or disability of either, the respective Mayor may appoint a substitute for the Chairman or Vice-Chairman.

Section 28-19. Quorum.

Seven (7) citizen members shall constitute a quorum. A majority vote of the members present shall be required for passage of any matter before the Land Use Control Board.

Section 28-20. Land Use Control Board Staff Services.

All staff services provided for the Land Use Control Board shall be as that specified in the aforementioned Contract, which is attached hereto and expressly incorporated herein by reference.

Section 28-21. Jurisdiction; previous commission; pending matters.

All pending matters before the current Memphis and Shelby County Planning Commission shall be vested in and designated to the respective divisions of the Memphis and Shelby County Office of Planning and Development in compliance with the terms and provisions of this Joint Ordinance/Resolution and the attached contract. All zoning and subdivision applications and studies pending before the Planning Commission are hereby transferred to said Land Use Control Board.

Section 28-22. Rules.

The Land Use Control Board upon joint approval by the respective legislative bodies of the County of Shelby and the City of Memphis, is authorized to promulgate rules for the orderly administration of its affairs.

Section 28-23. Fees; Distribution.

The Land Use Control Board is authorized to set a uniform schedule of fees subject to the approval of respective legislative bodies of the City and County by Resolution. All fees accruing hereunder shall be promptly deposited with the Comptroller of the City of Memphis, who shall cause same to be credited to the account of the Office of Planning and Development and one-half (1/2) shall be further credited to the General Fund revenues of said City, and one-half (1/2) credited to the account of Shelby County and remittance made quarterly.

Section 2. BE IT FURTHER RESOLVED BY THE QUARTERLY COUNTY COURT FOR AND ON BEHALF OF SHELBY COUNTY AND THE COUNCIL OF THE CITY OF MEMPHIS ON BEHALF OF THE CITY OF MEMPHIS. That this Joint Resolution and Ordinance shall continue in full force and effect until such time as it shall be legislatively determined by both the Quarterly County Court and the City Council that same shall be terminated by law.

Section 3. BE IT FURTHER RESOLVED BY THE QUARTERLY COUNTY COURT FOR AND ON BEHALF OF SHELBY COUNTY AND THE COUNCIL OF THE CITY OF MEMPHIS ON BEHALF OF THE CITY OF MEMPHIS. That this Joint Resolution/Ordinance take effect from and after the date it shall have been passed by the Council, signed by the Chairman of the Council, certified and delivered to the office of the Mayor in writing by the Comptroller and become effective as otherwise provided by law, and thereafter shall be treated as in full force and effect by virtue of the joint, concurrent and separate passage thereof by the Quarterly County Court of Shelby County and the City Council of the City of Memphis, the public welfare requiring same.

OSCAR H. EDMONDS, JR.,
Chairman of City Council,
City of Memphis, Tennessee

Attest:

PAUL H. ARNETT, Comptroller
City Comptroller

CHARLES R. PERKINS, Chairman
Quarterly County Court of
Shelby County

Attest:

ROBERT GRAY, Clerk
Quarterly County Court

ROY M. NIXON, Mayor
County of Shelby, Tennessee

CONTRACT BETWEEN THE COUNTY OF SHELBY AND THE CITY OF MEMPHIS FOR THE CONSOLIDATION OF THE MEMPHIS AND SHELBY COUNTY OFFICE OF PLANNING AND DEVELOPMENT.

PURPOSE

The purpose of this contract is to improve the efficiency of the joint administration and coordination of the comprehensive planning and development processes for Memphis and Shelby County by providing for the powers and duties of the Memphis and Shelby County Office of Planning and Development, its administration and the appointment of the necessary personnel to perform the required duties and responsibilities.

This contract entered into this _____ day of _____, 1976, by the City of Memphis (herein called "THE CITY") and the County of Shelby (herein called "THE COUNTY").

WITNESSETH:

WHEREAS:

1.

Authority exists for the Quarterly County Court of Shelby County, Tennessee, and the City of Memphis as a municipality lying within the boundaries of said County to enter into such agreements, compacts, or contractual relations as may be desirable or necessary for the purposes of permitting the said County and said Municipality to conduct, operate, or maintain, either jointly or by one agency for the other, the desirable and necessary services of functions, under such terms as may be agreed upon by the two governmental entities, as provided by Chapter 222 of the Public Acts of Tennessee for 1939, codified as Tennessee Code Annotated 5-113; and

2.

Additional authority is granted to said City to merge its Governmental Corporate Activities with those of Shelby County by Chapter 413 of the Private Acts of 1933 and it specifically said that the City and County are authorized to merge their City and County Planning Activities by Chapter 352 and 353 of the Private Acts of Tennessee for 1953; and

3.

The aforementioned City and County desired to consolidate the aforementioned Planning Functions into a Memphis and County Office of Planning and Development to be composed of a Comprehensive Planning Section and a Land Use Control System with this office to serve both the City and County Governments; and

4.

By Joint Ordinance Resolution No. _____, duly adopted the _____ day of _____, 1976, the City and County created a Joint Land Use Control Board, with this Contract being made a part thereto.

NOW, THEREFORE, it is agreed by and between the parties hereto subject to the approval of the City Council of the City of Memphis and the City Mayor and the Shelby County Quarterly Court and the County Mayor as follows:

A. That the City and the County hereby establish by this Contract a Memphis and Shelby County Office of Planning and Development to be administered jointly under the City and County Executive Offices and funded jointly by the City and County Legislative Bodies.

B. The appropriate duties, functions and staff of the Bureau of Policy Planning and Analysis directly related to the objectives of Memphis and Shelby County Office of Planning and Development shall be included as a part of the Memphis and Shelby County Office of Planning and Development.

C. The powers and duties of the aforementioned Memphis /and Shelby County Office of Planning and Development shall be as follows:

1. Preparation, adoption, periodic revision and recommendation to the respective Administrations and Legislative Bodies of Memphis and Shelby County, of a long range comprehensive plan for the future development of Shelby County. This comprehensive plan shall consist of at least a Land Use Element, a Transportation Element, a Public Facilities Element, a Housing Element, an Economic Development and Budget Impact Element and studies incidental thereto. All data files and analyses shall be maintained on a current basis and said comprehensive plan shall be reviewed in its entirety at least once every five years.

2. Preparation, adoption and recommendation through the respective Administrations and Legislative Bodies of detailed plans for neighborhoods or other appropriate planning areas within the framework of the comprehensive plan.

3. Annual review of the respective administrative five-year Capital Improvement Program (CIP). The CIP will be submitted to the Office of Planning and Development by the Administrations for review 30 days prior to the administrative hearings. The Office of Planning and Development shall review and analyze the CIP to ensure that the program clearly complies with the policies and objectives of the comprehensive plan. The CIP shall be coordinated with capital improvement expenditures by other local governmental agencies, the State of Tennessee and the United States Government. Recommendations on the CIP shall be forwarded to the respective Administrations within thirty days after receipt of the proposed CIP.

4. Advice, consultation and technical assistance to the several municipalities located within Shelby County may be provided upon receipt of request for such services from said municipalities subject to the approval of the Administration by the Joint resolution and ordinance No. 2524.

5. Make such other studies as it may deem necessary or as requested by or through the respective Administrations in the formulation and implementation of the comprehensive plan, elements thereof, land use control, and shall report its findings and recommendations to said Administrations.
 6. All proposals for annexation, the sale of publicly owned tracts larger than one acre in size, public land acquisition, construction of streets, highways and public buildings, utility improvements and required environmental reviews shall be referred to the Office of Planning and Development for review and recommendation.
 7. The respective Mayors shall establish applicable task forces comprised of citizens, which shall include representative from the professional and business community, to assist in carrying out the comprehensive planning and development processes. These task forces shall be established to address specific planning concerns and cease to exist upon completion of the assigned task. Respective Mayors shall notify the City of Memphis Council and Shelby County Quarterly Court as to the assignment of said task forces and names of members.
 8. Provide and all other administrative task related to planning which shall be assigned to it by the respective Administration.
 9. The preparation, revision, analysis, and recommendation to the Memphis and Shelby County Land Use Control Board and he respective Administrative and/or Legislative Bodies of the following:
 - a. Applications for rezonings, special permits, street name changes and planned use developments.
 - b. Applications for subdivisions, street name changes and street closures.
 - c. The content and structure of the Memphis and Shelby County zoning ordinance and subdivision regulations.
 - d. Zoning studies and changes for specific neighborhoods and designated sub-areas of the City and County.
 10. The coordination of the development of appropriate policies relative to the planning process in Memphis and Shelby County, including liaison with the various City and County Divisions, Bureaus, and Agencies.
- D. Said Office shall annually submit a budget for its contemplated operation for the ensuring fiscal year to the respective Administrations, who, after the have reviewed it and made recommendations shall forward same to the legislative bodies for approval and appropriation, on a 50-50 basis. Said budget shall appear in the respective Administration's budget for each ensuring fiscal year.
 - E. For the term beginning July 1, 1976, and for the regular terms thereafter, the Director of Planning and Development shall be selected in the following manner and have the following qualifications: The City and County Mayors shall forward to the legislative bodies for appointment by resolution, either for a term of two (2) years if the recommendation was made for the purpose of filling a regular term, or for an intern term, if the recommendation was made to fill an unexpired term. For all regular terms beginning July 1, 1976, and thereafter, the recommendation of both Mayors shall be made by April 1, and forwarded within fourteen (14) days thereafter. The appointment may be rescinded by the joint action of both Mayors. Should a vacancy occur, the new term of appointment may be extended beyond the unexpired portion of the term to be filled plus one or two years at the discretion of the appointing authorities and subsequent two (2) year terms shall thereafter follow. The Director shall have been deemed appointed when the recommendation of both Mayors is approved by majority vote of the duly constituted legislative bodies of the City and County individually. Said Director shall devote full time to his position, shall carry out all duties assigned to him by the City and County Administration within the limitations of the annual budget of the Office. The Director must hold a Master's Degree in City/County or Regional Planning plus seven (7) years experience in the field of planning; or Bachelor's Degree in planning, engineering, public administration, architectural or the social sciences plus ten (10) years professional experience in the field of planning. Experience shall include at least five (5) years in a responsible administrative or executive capacity and is encouraged to be an Associate Member or have Member status in the American Institute of Planners. The Deputy Directors and their staffs shall be under the control of the Director. The qualifications of the Deputy Directors shall be as follows:

The Deputy Directors must hold a Master's Degree in City or Regional Planning or a closely related field, plus five (5) years of experience in the field planning; or a Bachelor's Degree in planning, engineering, public administration, architectural or the social sciences, plus seven (7) years professional experience in the field of planning.

Experience shall include at least four (4) years in a responsible administrative or executive capacity.

The employees of the Memphis and Shelby County Office of Planning and Development shall be considered for all purposes as County employees. Administating payroll and other day-to-day operational procedures of the Office of Planning and Development shall be the responsibility of Shelby County.

Said Director shall appoint subject to the joint approval of the Chief Administrative Officers of the City and County and subject to concurrence by the joint legislative bodies, a Deputy Director of Comprehensive Planning and a Deputy Director of Land Use Control. The Land Use Control Board at its option, may make its recommendation for a Deputy Director of Land Use Control to said Director of Planning and Development.

JOINT AGREEMENT - MEMPHIS AND SHELBY COUNTY OPERATION OF OFFICE OF PLANNING AND DEVELOPMENT 11-16-76.

Executed on the date first written above, in Memphis, Shelby County, Tennessee.

CITY OF MEMPHIS
Wyeth Chandler, Mayor

Attest:
PAUL N. ARNETT
City Comptroller

Approved as to form:
Clifford D. Pierce, Jr.,
City Attorney

THE COUNTY OF SHELBY
Roy M. Nixon, Mayor

Attest:
James W. Campbell, Jr.,
County Comptroller

Approved as to form:
C. Cleveland Drennon, Jr.,
County Attorney

November 15, 1976.