

SPECIAL CALLED COUNCIL MEETING – COLUMBIA, TENNESSEE

September 24, 2009 – 5:30 p.m.

Mayor Gentner read the notice of the Special Called Meeting.

Council Member Martin moved to spread the Special Called Meeting upon the Minutes. Council Member Matthews seconded the motion. All Council Members present voted aye.

Mayor William E. Gentner called the Special Called Council Meeting to order, pursuant to proper notice having been given. Recording Secretary Liz Bermudez called the roll. Present were Mayor William E. Gentner, Council Members Debbie Matthews, Christa Martin, Dean Dickey and Susan Stephenson; City Manager Paul C. Boyer, Jr.; City Attorney Tim Tisher; and Liz Bermudez, Recording Secretary. Vice Mayor Kennedy, Council Member McCullen and City Recorder Betty Modrall were absent.

Council Member Martin offered the invocation followed by the Pledge of Allegiance led by Council Member Dickey.

ORDINANCES:

ORDINANCE NO. 3824 - AN ORDINANCE TO CORRECT WARD  
BOUNDARIES OF THE CITY OF  
COLUMBIA – GRANTS AND  
FIRST CONSIDERATION PLANNING DEPARTMENT.

Council Member Martin moved to approve Ordinance No. 3824 on first consideration. Council Member Matthews seconded the motion. Council Member Stephenson asked if on the first page of the Ordinance under Section 1 it could be clarified as to who found the errors and then verified the errors. Council Member Stephenson asked the City Manager what he thought about adding that to the Ordinance. City Manager Boyer advised he doesn't see a problem with it but he doesn't know who at the Election Commission found the errors. Council Member Stephenson said she thought on Monday Mr. Baxter said he and staff had actually found the errors. City Manager Boyer advised for the City's records he could not verify that because he wasn't at the meeting on Monday. Council Member Stephenson moved to amend the Ordinance to have Section 1 read "errors found by Election Commission Staff and the errors were then verified by

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City Staff including the City Manager, City Attorney, Planning Director and Planning Associate”. Motion to amend failed due to a lack of a second. Council Member Matthews said the City is correcting some typographical errors that were found and doing some cleanup. Council Member Matthews said the discrepancy and the movement of the line between Ward 2 & 3 in the Fall election of 2007 was not an error at any time in the written Ordinance or on the original maps that were handed out. Council Member Matthews advised the information they are correcting tonight is something else that was found along the way. Council Member Matthews said the original text and boundaries were correct by the City for the correct boundaries between Wards 2 & 3. Council Member Martin asked the City Attorney if it is necessary for what Council Member Stephenson requested to be in the Ordinance. Council Member Martin said that what Council Member Stephenson said is important but she didn't know if it needed to be in the Ordinance in that format. City Attorney Tisher advised it isn't mandatory, there is no harm in showing where the errors were discovered. City Attorney Tisher advised there isn't anything inappropriate if it is in the Ordinance but it isn't mandatory for it to be in the Ordinance. Council Member Stephenson advised she was puzzled as to why no one would second her amendment. Council Member Stephenson said her concern is for when someone in the future looks at the document then they will not see who found the errors or when they found the errors. Council Member Stephenson said most of the Members of Council on Monday heard the Election Commission say that staff found the errors. Council Member Stephenson said the City verified the errors. Council Member Stephenson advised she wanted who found the errors and who verified the errors to be a part of the record. Mayor Gentner advised her concern will be on the record because it will be in the Minutes. Council Member Stephenson said she understands that the meeting and Minutes will be a matter of record, but if it isn't documented then it didn't happen. Council Member Stephenson said it is all right to have it in the Minutes but for some reason Council doesn't want to put it in the document for other Councils. Council Member Stephenson said when it just says “errors found” it doesn't really explain much. Mayor Gentner asked the City Manager to go over why the Special Called Meeting was called. City Manager Boyer advised the City received a communication from the Election Commission on September 14, 2009 pointing out some discrepancies in the legal descriptions for four of the five Wards and some issues on the maps that accompany the legal descriptions.

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City Manager Boyer said the primary reason for this meeting was to try to get these issues corrected in time for the information to be used in the Election. City Manager Boyer said that, since that time, he has been told by Mr. Anderson of the Election Commission that the Election Commission is of the opinion that the changes will not impact anyone's voting precinct site. City Manager Boyer advised the November Election is for two at-large-seats on City Council, which means everyone in the City votes for the two seats. City Manager Boyer said since the Election Commission doesn't believe anyone's precinct will be changed as a result; they don't think the Ordinance needs to be adopted by the deadline for the November 3<sup>rd</sup> Election. City Manager Boyer said he doesn't know if they can make the deadline because early voting is in about two weeks. City Manager Boyer advised the Election Commission and their staff are under the belief that none of the precincts have been changed as a result of the corrections. Mayor Gentner asked if he was correct in that with early voting people go to the Election Commission to vote instead of in their precinct. City Manager Boyer advised that is correct but the voting rolls cannot be altered once early voting starts regardless of the reason, so any changes need to be implemented before early voting begins. Council Member Matthews said the Election Commission is still of the opinion that a voter's registration can be changed at anytime when they find an error. Council Member Matthews advised her understanding is if early voting has started and there is an error, then the error has to remain until the election is over. City Manager Boyer said he is not an expert on the State's Election Laws, which is what the Election Commission is required to follow; the TCA controls and the Election Commission should understand what is in the TCA. City Attorney Tisher advised he hasn't researched the issue but his understanding was once the voting started an error cannot be fixed. Council Member Dickey said they are voting on boundaries and he has a problem on how the boundaries were changed and the ability to change them back quickly. Council Member Dickey said at the meeting with the Election Commission, the Election Commission said they don't create the maps and they only post what is sent to them by the City. Council Member Dickey said if they approve the Ordinance the question is still out there on how they got two maps. Council Member Dickey said they need an answer so they can go on with other business. City Manager Boyer advised Council has a communication from the Election Commission from Tuesday saying they have concluded their investigation and one of their findings is after

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extensive research no one can explain to them how the two maps came into being. City Manager Boyer advised he has discussed this at length with staff and staff did not create two maps. Staff has one map and has working drafts of the maps, but they never left staffs' office. City Manager Boyer advised he is going to try to pursue the issue so that this can be prevented from happening in the future. City Manager Boyer said a way needs to be found to lock down the maps once they are in place. Council Member Dickey advised he is a firm believer that every question has an answer. Council Member Matthews advised she concurs with Council Member Dickey. Council Member Matthews said she doesn't understand the process where Mr. Baxter gave maps to people running for office in 2007 and then a week into early election one of the candidates came in with a map that was much larger, different and was highlighted in yellow. Mr. Baxter looked at that map and said he must have made a mistake and, instead of looking at the computer where the correct maps were or going to the filing cabinet and getting the Ordinance or calling the City, he looked at the one map and changed voters from one Ward to another one week into early election. Council Member Matthews said if someone had presented a map then the computer, Ordinance or the City should have been looked at or contacted. Council Member Matthews advised she spoke to Mr. Baxter in January and that in July, instead of calling the City to advise they had two maps, Mr. Baxter changed the boundaries back. Council Member Matthews asked if City staff was contacted about the two maps in July. Council Member Matthews said if there are two maps she would like to know the creation date and modification dates for those files. Council Member Matthews said she thinks there is more than one person in the City who has access to uploading maps. Council Member Matthews said the errors they are going through tonight are clerical but she would like a protocol so that after the next census when the boundaries are redone, that the County double check things there and both entities sign-off that everything has been delivered correctly. Council Member Matthews said the performance of how the boundary changes happened is concerning. Council Member Martin said they all received the letter from the Election Commission dated September 21<sup>st</sup> and she still has the same concerns from the last two times they have discussed this matter. Council Member Martin said they need to make sure they assure the people that the process is consistent, legal and verified. Council Member Martin said she hopes that no one can walk into the Election Commission and request a change and it be done without some

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verification, which is Step 5 in the letter from the Election Commission. Council Member Martin said she agrees that the outcome of the Election hadn't been affected by the boundary change, but the process was affected. Council Member Martin said it doesn't take much for a person to decide not to vote, so she hopes all Council's questions are answered. Council Member Martin said this issue should not have happened and it should not happen again. Council Member Stephenson said it concerns her that the Election Commission took the initiative when the issue was brought up to review all the descriptions and maps for all the Wards and City staff didn't take that initiative to double check those legal descriptions and maps. Council Member Stephenson said it troubles her that someone else found errors on the City's legal descriptions and maps. Council Member Matthews reiterated that the errors found by the Election Commission were errors other than the one that occurred with the boundary change for Ward 2 and 3. Council Member Matthews said the discrepancy that they had in the 2007 Election was not an error in the City's descriptions. What happened from that did not come from the City staff error. City Manager Boyer advised he is going to do an internal review but his review cannot address any of the questions Council has for the Election Commission. City Manager Boyer said if Council has additional questions, then they need to come to an agreement on a letter that they want to send to the Election Commission in response to the September 21<sup>st</sup> letter. City Manager Boyer said in his internal review he will try to further establish what the City has maintained throughout, that the City never supplied two versions of the map. Mayor Gentner said he would appreciate if staff would catalog all the questions that have been asked and he will attempt to draft a letter and send it to the Election Commission. Council Member Matthews asked if someone should ask Ms. Floyd where she got the map since she is involved in this as of the record from the Election Commission. Mayor Gentner said he doesn't have a problem with that. All Council Members present voted aye with the exception of Council Member Stephenson who voted no.

There being no further business, the meeting adjourned at 6:02 p.m.

APPROVED:

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WILLIAM E. GENTNER, MAYOR

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ATTEST:

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BETTY MODRALL, CITY RECORDER