



**JIM STRICKLAND**  
**MAYOR**

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TENNESSEE

Martavius Jones, Chairman  
Memphis City Council  
125 N. Main St., Room 515  
Memphis, Tennessee 38103

RE: Ordinance Nos. 5848-5853; and 5881

Dear Chairman Jones:

As you know, I have declined to sign each of the above-referenced ordinances. I did not veto the ordinances because a veto would have been futile given the Charter provision allowing a simple majority vote of the Council to override the mayor's veto. However, as the outgoing mayor, I feel obliged to address the reasons that I declined to sign the ordinances and to clearly express my concerns about what I believe is a dangerous, and perhaps unlawful, incursion into the authority of the mayor vested in that office by the citizens of Memphis in 1966.

I will begin by pointing out that I am not the first to sound this alarm. Mayor Willie W. Herenton in a failed veto expressed a similar objection to Ordinance 5219 which supplanted the authority of the mayor over personnel and the right to contract. I have attached a copy of that veto.

Prior to 1966, the City functioned under a Board of Commissioners which had both administrative and legislative authority. The citizens of Memphis decided to abandon this form of government in favor of the present Mayor-Council system. The adopted form divided the administration of government from the legislative function. The Mayor-Council form of government favors a strong mayor, as evidenced by the vesting the mayor with the sole contracting authority for the City. Referendum Ordinance 1852, It is my view that Ordinance 5881 runs afoul of the amended Charter, by purporting to vest City Council with contracting authority which it simply does not have under the Charter. It is not difficult to foresee that

the conflict between Ordinance 5881 and the Charter could lead to tension and discord in the future.

Further, the Mayor-Council form of government adopted by the citizens of Memphis reserved the operation of the City to the mayor through the administrative divisions set forth in the Charter. Referendum Ordinance 1852, Section 1 provides:

There is hereby established a "Council of the City of Memphis." The legislative power of the City shall be vested in the Council which shall have all legislative powers heretofore exercised by the Board of Commissioners, including but not limited to, the right to fix the tax rate and to approve and adopt all budgets. The Council members shall be subject to the same restrictions and prohibitions as heretofore provided for Commissioners. The Council shall be vested with all other powers of the City not specifically vested in some other officer or officers of the City. The Council shall not, however, exercise executive or administrative powers nor interfere in the operation of the administrative divisions.

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The Mayor shall be responsible to the Council for the administration of all units of the City government under his jurisdiction and for carrying out policies adopted by the Council. Except for the purposes of inquiry or investigation, the Council and its members shall deal with the administrative officers under the Mayor's direction and the employees of the administrative departments solely through the Mayor's office. Neither the Council nor any member thereof shall give orders directly to the Mayor's subordinates or otherwise interfere with the operation of the administrative departments through such means as directing or requesting the appointment or removal of any of the Mayor's subordinates, or by suggesting or promoting the

making of particular purchases from, or contracts with, any specific organization, or by applying for special services not available to all citizens. The office of any Councilman violating any provision of this section shall immediately become vacant upon his conviction of such type of misconduct in a court of competent jurisdiction.

Section 4 of that Ordinance provides:

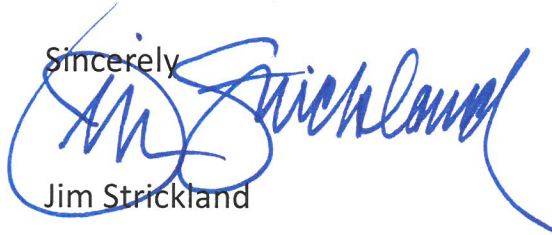
BE IT FURTHER ORDAINED, that the Chief Executive Officer of the City of Memphis shall be the Mayor, who shall be vested with and exercise the executive and administrative power of the City, shall be authorized to administer, supervise and control all divisions, boards, agencies, offices and employees of the City and shall see that the ordinances and provisions of the Charter are observed, except as otherwise specifically provided. Such administration shall be conducted by and through divisional directors under the supervision and control of the Mayor, as provided herein. He shall devote his entire time and attention to the duties of his office.

Nothing in the Charter allows for the intervention or interference of the Council in the administration of personnel matters or other executive matters such as the policies and operations of the Memphis Police Department. Nevertheless, Council passed Ordinances 5848-5853, all of which deal with the policies, training, and job execution by Memphis police officers. In many instances, the Ordinances purport to direct officers how to do their jobs, and what they can and cannot do. There is absolutely no authority vested in the Council to direct the activities of the Division of Police Services in the manner set forth in those ordinances.

As stated by then Mayor Herenton, "With the adoption of Home Rule, the mayor was designated Chief Executive Officer of the City and was vested with and exercises the executive and administrative powers of the City. The mayor is authorized to administer, supervise, and control all divisions, boards, agencies, officers and employees of the City."

The actions of the Council as evidenced in Ordinances 5848-5853 and more recently Ordinance 5881 violates the Charter of the city.

Ordinances 5848-5853, regardless of their salutary goals, illegally interfere with the authority given to the Mayor under the Charter. The Council seeks to dictate the administration, supervision, and control over the Division of Police Services. Such action is not within the legislative authority, and our administration has not been operating in accordance with the ordinance. If Council presumes to direct police operations by ordinances, why not engineering, fire services or any other division. A not too veiled suggestion was made in a recent council proceeding directing the Division of Solid Waste to work out operations with the union or Council would take action as a body. This is a usurpation of the authority which cannot be allowed.

Sincerely  
  
Jim Strickland

cc: Mayor-elect Paul Young  
Chairman Martavius Jones  
Councilman JB Smiley, Jr.  
Councilwoman Rhonda Logan  
Councilman Frank Colvett  
Councilwoman Patrice Robinson  
Councilwoman Jana Swearngen-Washington  
Councilman Worth Morgan  
Councilman Edmund Ford, Sr.  
Councilwoman Michalyn Easter-Thomas  
Councilwoman Cheyenne Johnson  
Councilman Chase Carlisle  
Councilman J. Ford Canale  
Councilman Dr. Jeff Warren  
Chief Administrative Officer Brooke Hyman