

MINUTES OF REGULAR MEETING OF THE BOARD OF MAYOR AND ALDERMEN
OF THE CITY OF MILLINGTON, TENNESSEE
HELD ON MARCH 8, 2012

CALL TO ORDER, PLEDGE OF ALLEGIANCE AND PRAYER

The Board of Mayor and Aldermen of the City of Millington, Tennessee met in regular session at Millington City Hall on March 8, 2012. The meeting was called to order at 6:00 p.m. and was opened with a prayer by Mr. Ford. Mayor Carter led the Pledge of Allegiance.

ROLL CALL AND QUORUM DETERMINATION

The following members were present:

Mayor Linda L. Carter
Keith D. Barger
James O. Brown
Michael E. Caruthers
D. Christopher Ford
Donald L. Lowry
Brett A. Morgan
Jimmy E. Pike

A quorum being present, the following proceedings were held:

MINUTES OF PRIOR MEETING

The minutes of the regular meeting held on February 6, 2012, and the special called meetings held on February 20, 2012 and February 28, 2012 had previously been given to the Aldermen.

Upon motion by Mr. Barger, seconded by Mr. Lowry, the Board voted unanimously to approve the minutes.

MONTHLY REPORTS

Reports for February, 2012 for the departments listed below had been delivered to all the Aldermen prior to meeting:

1. The Police Department;
2. The Fire Department;
3. The Public Works Department;
4. The Arts and Recreation Department; and
5. The City Court.

Mr. Caruthers asked if USA Stadium reports would be included in Arts and Recreation Department Reports. Mr. Lowry asked for some understanding of why court fines and collections never seemed to catch up. Mayor Carter said City Arts and Recreation Director Todd Goode will begin to include the USA Stadium in his reports reports, and that she would ask for the information on fines and collections from the court.

Mayor Carter introduced Captain Stephen Fimple, Commanding Officer, Naval Support Activity Mid-South, who had asked to speak. Captain Fimple announced that during the week of March 19 – 24, NSA Mid-South would be participating in Exercise Solid Curtain Citadel Shield, a routine annual event the Navy conducts in installations around the world to test their ability to respond to a variety of threats. It is not a response to any specific threat to NSA Mid-South or any installation. He said that local traffic patterns might be affected and there might be some visual activity on base. He wanted to alleviate any fears or concerns that might arise in connection with this exercise.

CONSIDERATION OF ORDINANCE 2012-3

The next order of business was consideration of Ordinance 2012-3, as follows:

ORDINANCE 2012-3

AN ORDINANCE TO ADD TITLE 1, CHAPTER 5, TO AMEND THE MILLINGTON MUNICIPAL CODE TO AUTHORIZINGE THE CREATION AND FUNDING OF A MUNICIPAL SCHOOL DISTRICT IN THE CITY OF MILLINGTON AND TO SUBMIT THE PROPOSED ORDINANCE TO THE QUALIFIED VOTERS OF THE CITY OF MILLINGTON AT A SPECIAL REFERENDUM TO BE HELD ON _____, AUGUST 2, 2012 OR OTHER APPROPRIATE DATE

- WHEREAS, a special referendum in the City of Memphis conducted on March 8, 2011 and certified on March 17, 2011 transferred the administration of Memphis City Schools to the Shelby County School System, with the transfer taking effect at the beginning of the 2013-2014 school year;
- WHEREAS, the Tennessee Legislature passed Chapter One of the 2011 Public Acts to Tennessee Code Annotated § 49-2-502(b), which removed the restrictions imposed by Tennessee Code Annotated § 6-58-112(b) on the creation of municipal school districts by certain municipalities, including the City of Millington;
- WHEREAS, Section 9 (10) of the Charter of the City of Millington gives the City of Millington the right to provide for the acquisition, construction, building, operation and maintenance of educational institutions and facilities;
- WHEREAS, Section 9 (1) of the Charter of the City of Millington gives the City of Millington the right to levy and collect taxes for corporate purposes upon all property and privileges taxable by law for state purposes;
- WHEREAS, Section 9 (4) of the Charter of the City of Millington gives the City of Millington the right to authorize the expenditure of money for any municipal purpose;
- WHEREAS, State Board of Education Rule 0520-1-8-.01(5) provides that a municipal school system must spend each fiscal year for the current operation of its public schools an amount of money in addition to the amount required to be raised by the county at least equal to that which a fifteen cents (\$.15) tax increase levy on each One Hundred Dollars (\$100.00) of taxable property for the current year in the municipal school district if the same were all collected;
- WHEREAS, State Board of Education Rule 0520-1-8-.01(6) provides that no municipal school system shall be created unless it furnishes certain information to the State Board of Education, including the certified results of a referendum election indicating the willingness of the people of the city to meet the standards of adequacy set forth by Rule 0520-1-8-.01 and to provide the necessary local funds to do so, after the municipal school system's share of the state and other school funds has first been applied;
- WHEREAS, Tennessee Code Annotated § 49-2-106(b)(3) states that the State Board of Education, in establishing standards, should consider the expressed willingness of the people of the city or special school district, as indicated by a majority of its legal voters in a referendum, to raise local funds, which, together with school funds received from the state and other sources, shall be sufficient to provide adequate educational opportunities for their children;
- WHEREAS, the Board of Mayor and Aldermen desires to create and fund a municipal school district for the City of Millington, to take effect at the beginning of the 2013-2014 school year or as soon thereafter as practical, such school district being deemed necessary to promote the education, health, safety,

and morals of the residents of the City of Millington;

WHEREAS, it is the intent of the Board of Mayor and Aldermen to enact an ordinance calling for an August 2, 2012 municipal special referendum on the creation and funding of a municipal school district in the City of Millington;

WHEREAS, a public hearing before the Board of Mayor and Aldermen on this Ordinance was held on _____, 2012, pursuant to notice thereof being published in a newspaper of general circulation within the City of Millington on _____.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF MILLINGTON, TENNESSEE, THAT:

Section 1. A municipal special referendum on the creation and funding of a municipal school district in the City of Millington shall be held on August 2, 2012 or other appropriate date that submits the following question to the qualified voters of the City of Millington:

QUESTION:

Shall the City of Millington create a municipal school district that shall meet the standards of adequacy established by applicable State law and regulation, which standards include raising and spending each year the required amount of local funds for the operation of the municipal school district that, for calculation purposes only, would at least be equal to the amount that would be raised through a fifteen cents (\$.15) tax levy on each One Hundred Dollars (\$100.00) of taxable property for each year if all such taxes were collected?

YES: _____

NO: _____

Section 2. The City of Millington, in accordance with State law, shall file this Ordinance with the Shelby County Election Commission with a request that the referendum question be placed on the ballot for a municipal special referendum on August 2, 2012., not less than sixty (60) days prior to that date.

Section 3. If the Shelby County Election Commission cannot hold the municipal special referendum on August 2, 2012, the municipal special referendum shall be held on a date within the time prescribed by applicable State law.

Section 43. BE IT FURTHER ORDAINED that this Ordinance shall take effect ten days after its passage on third and final reading, the health, safety and welfare of the citizens requiring it.

Mayor Carter read the amendments that City Attorney Barbara Lapedes had made to this Ordinance, which were housekeeping amendments to set the referendum date for August 2, 2012 or another appropriate date.

Upon motion by Mr. Lowry, seconded by Mr. Morgan, the Board voted unanimously to approve Ordinance 2012-3 as amended on second reading.

CONSIDERATION OF ORDINANCE 2012-4

The next order of business was consideration of Ordinance 2012-4, as follows:

ORDINANCE 2012-4
ORDINANCE TO RAISE THE SALES AND USE TAX IN THE CITY OF MILLINGTON
FROM 2.25% TO 2.75% AND TO REQUEST A REFERENDUM OF THE PEOPLE TO

APPROVE THE ORDINANCE

WHEREAS, Tennessee Code Annotated, § 67-6-701 *et seq.* authorizes municipalities to set local option sales tax rates up to 2.75% on the first \$1,600.00 of any single article of personal property; and

WHEREAS, through a previous referendum and ordinance, the City of Millington has set the local option sales tax rate at 2.25%; and

WHEREAS, the City of Millington is in need of funding for furnishing servicesto establish and operate a new municipal school district; and

WHEREAS, Tennessee Code Annotated, § 67-6-706 requires the voters of the City of Millington to approve in an election this Ordinance and the subsequent sales tax increase; and

WHEREAS, a public hearing before the Board of Mayor and Aldermen on Ordinance was held on _____, 2012, pursuant to notice thereof being published in a newspaper of general circulation within the City of Millington on _____, 2012;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF MILLINGTON, TENNESSEE, as follows:

Section 1. Under the authority of Tennessee Code Annotated, § 67-6-701 *et seq.*, the sales tax of the City of Millington is increased from 2.25% to 2.75%, except where different sales tax rates for particular goods and services are set by statute and are not subject to variation by ordinance.

Section 2. The City of Millington shall furnish a certified copy of this Ordinance to the State Department of Revenue in accordance with regulations prescribed by the Department of Revenue. The Department of Revenue shall collect the sales tax and interest and penalty for delinquencies. Interest and penalty for delinquencies shall be imposed and collected in the same manner as the interest and penalty is imposed and collected by and for the State of Tennessee. The State of Tennessee rules and regulations as promulgated and as may be amended, changed, added or rescinded by the Commissioner of Revenue for the State of Tennessee sales tax shall apply to the local option sales tax and the administration of the local option sales tax.

Section 3. The City of Millington designates the mayor to receive any notice of a payment made under protest to the Commissioner of Revenue. As required by Tennessee Code Annotated, § 67-6-710(d)(2), the City of Millington designates the mayor as the municipal officer against whom suit can be filed for the recovery of sales taxes illegally assessed or collected by the Commissioner of Revenue.

Section 4. That the City Clerk shall submit this ordinance to the Shelby County Election Commission with a request that the following question be placed on the ballot in an appropriate special called election:

Shall Millington Ordinance No. 2012-4, which increases the municipality's sales tax from 2.25% to 2.75% except where the sales tax rate is limited or modified by statute, be approved?

For the Ordinance (YES) _____
Against the Ordinance (NO) _____

Section 5. If a majority of those voting in the election required by Tennessee Code Annotated, Section 67-6-706 vote for the increase in the tax imposed by this Ordinance, collection of the increased tax levied by this Ordinance shall begin on the first day permitted under the applicable laws of the State of Tennessee of the month occurring thirty (30) or more days after the County Election Commission makes its official canvass of the election returns. If a majority of those voting in the election votes against this Ordinance, the increase in sales tax will not take effect.

Section 6. BE IT FURTHER ORDAINED that this Ordinance shall take effect ten days after its passage on third and final reading, the health, safety and welfare of the citizens requiring it.

Mayor Carter read the amendments that City Attorney Barbara Lapidés had made to the ordinance. Upon motion by Mr. Lowry, seconded by Mr. Brown, the Board voted unanimously to approve Ordinance 2012-4 as amended on second reading.

PUBLIC HEARING ON ORDINANCE 2012-5

Mayor Carter announced that the public hearing on Ordinance 2012-5, Ordinance Amending the Fiscal Year 2012 Budget for the General Fund for Police and Fire Donations, 2010 Capital Outlay Notes Project Fund to Correct Previous Amendment, DEA Fund for Additional Shared Runds and Sanitation Fund for Truck Purchase was open and asked if there were any comments or questions. There being none, upon motion by Mr. Ford, seconded by Mr. Lowry, the Board voted unanimously to close the public hearing.

CONSIDERATION OF ORDINANCE 2012-5

The next order of business was consideration of Ordinance 2012-5, a copy of which is attached to these minutes as **Exhibit A**. Upon motion by Mr. Barger, seconded by Mr. Lowry, the Board voted unanimously to approve Ordinance 2012-5 on third reading.

PUBLIC HEARING ON ORDINANCE 2012-6

Mayor Carter announced that the public hearing on Ordinance 2012-6 was open and asked if there were any comments or questions. Ross Landrum asked whether this ordinance addressed adjusting the limitations on how close residential property could be to the tower. There being no further questions, upon motion by Mr. Caruthers, seconded by Mr. Brown, the Board voted unanimously to close the public hearing.

CONSIDERATION OF ORDINANCE 2012-6

The next order of business was consideration of Ordinance 2012-6, as follows:

ORDINANCE 2012- 6
ORDINANCE AMENDING SECTION 14-1204(9) OF THE ZONING ORDINANCE
OF THE CITY OF MILLINGTON REGARDING THE DISTANCE BETWEEN
PROPERTY ZONED FOR RESIDENTIAL USE AND THE LOCATION OF A
COMMERCIAL MOBILE COMMUNICATIONS SERVICE TOWER

WHEREAS, Sections 13-7-201 through 13-7-210 of the Tennessee Code Annotated empowered the City of Millington to enact the Zoning Ordinance of Millington, Tennessee and provide for its administration and enforcement; and

WHEREAS, the Board of Mayor and Aldermen deems it necessary, for the purpose of promoting health, safety, morals and general welfare of the City to amend Section 14-1204 (9) of the Zoning Ordinance to adopt a clear and workable standard for the distance required between a Commercial Mobile Communications Service Tower (a “CMCS” or “cell tower”); and

WHEREAS, the Millington Planning Commission has reviewed the proposed amendment set out herein pursuant to Sections 13-7-203 and 13-7-204 of the Tennessee Code Annotated and recommends such amendment to the Board of Mayor and Aldermen; and

WHEREAS, the Board of Mayor and Aldermen has given due public notice of a hearing on the proposed amendment and has held a public hearing thereon; and

WHEREAS, all the requirements of Section 13-7-201 through 13-7-210 of the Tennessee Code Annotated, with regard to the amendment of a zoning ordinance have been met;

NOW, THEREFORE, BE IT ORDAINED by the Board of Mayor and Aldermen of the City of Millington, Tennessee, that Section 14-1204(9) of the Zoning Ordinance of the City of Millington, which reads as set out below, is amended by deleting said Section in its entirety:

“14-1204 (9) The edge of the lot line the tower is locating on shall not be closer than 500

feet from any property zoned for residential use.”

BE IT FURTHER ORDAINED that new Section 14-1204 (9) is adopted, as follows:

“14-1204 (9) The center of any CMCS tower, measured radially from the center of the tower, shall be at least five hundred (500) feet from the nearest property line of any real property that is zoned for residential use at the time the location of the CMCS tower is approved by the Board of Zoning Appeals, provided the CMCS tower is constructed at the approved location within 180 days following such approval.”

This Ordinance shall take effect ten (10) days after its passage on third and final reading, the public welfare requiring it.

Upon motion by Mr. Morgan, seconded by Mr. Lowry, the Board voted unanimously to approve Ordinance 2012-6 on third reading.

CONSIDERATION OF CONTRACT WITH ALLEN & HOSHALL FOR ARCHITECTURAL AND ENGINEERING SERVICES FOR REPLACEMENT OF ROOF AT WATER TREATMENT PLANT

City Planning Director Darek Baskin explained that proposals had been received from three consulting firms and based on the review, Allen & Hoshall was selected. Two proposals were submitted; one for a single ply roofing and the other for a standing seam metal roof that is pitched. Mr. Baskin recommended the metal roof. A copy of the proposals is attached to these minutes as **Exhibit B**.

Upon motion by Mr. Morgan, seconded by Mr. Brown, the Board voted unanimously to accept the proposal for architectural and engineering services for the standing seam metal roof at a cost of \$8,200.00.00. The estimated cost of the roof is \$68,000.00.

CONSIDERATION OF RESOLUTION 9-2012

The next order of business was consideration of Resolution 9-2012, as follows:

RESOLUTION 9 - 2012
RESOLUTION APPROVING AWARD OF BID FOR RESIDENTIAL REFUSE
COLLECTION TRUCK TO SCRUGGS EQUIPMENT COMPANY

WHEREAS, the Sanitation Department is in need of a new residential refuse collection truck, since it is operating a total of four trucks, the oldest of which are 17 and 12 years old; and

WHEREAS, funding is included in the FY12 budget of the Sanitation Fund for the purchase of a new truck; and

WHEREAS, bids were received on January 19, 2012 at 10:00 AM as follows:

- Scruggs Equipment Co – International 7400 SBA 6x4 with 25 yard Newway 25RL Cobra trash body **\$140,490.00**
- Scruggs Equipment Co – International 7400 SBA 6x4 with 25 yard Leach 2R111 trash body **\$142,184.00**
- Scruggs Equipment Co – International 7400 SBA 6x4 with 25 yard Newway Cobra Magnum trash body **\$144,472.00**
- TAG Truck Center – Freightliner M2 106 with Heil Formula 5000 trash body **\$154,559.30**
- Diamond International – International 7400 SBA 6x4 with Heil Formula 5000 trash body **\$158,559.30**

WHEREAS, the Sanitation Department has reviewed the bids and determined that the

lowest bid did not meet specifications, and that the lowest and best bid is the bid of Scruggs Equipment Co. in the amount of \$ 142,184.00, which bid is from the same vendor as the lowest bid, but with different equipment;

NOW, THEREFORE, BE IT RESOLVED by the Board of Mayor and Aldermen of the City of Millington, Tennessee, that the purchase of a new residential refuse collection truck from Scruggs Equipment for the purchase price of \$142,184.00 is hereby approved and the bid awarded to said company.

BE IT FURTHER RESOLVED that a Purchase Order for said truck shall be issued from account no. 131-43201-942, Sanitation Fund - Truck Purchases in the amount of \$142,184.00 to Scruggs Equipment Co.

This Resolution is adopted as of the 8th day of March 2012.

Upon motion by Mr. Lowry, seconded by Mr. Ford, the Board voted unanimously to accept the bid of Scruggs Equipment Company in the amount of \$ 142,184.00.

CONSIDERATION OF RESOLUTION 10-2012

The next order of business was consideration of Resolution 10-2012, Resolution to Approve Purchase of Trim Mower from Greenville Turf and Tractor Company, a copy of which is attached to these minutes as **Exhibit C**. Upon motion by Mr. Caruthers, seconded by Mr. Lowry, the Board voted unanimously to approve Resolution 10-2012 to purchase said mower for a purchase price not to exceed \$ 10,650.00.

CONSIDERATION OF RESOLUTION 11- 2012

The next order of business was consideration of Resolution 11-2012, Resolution to Approve Additional Cost of \$ 200.00 for Purchase of a Spotlight for the First Police Car Received from Chevrolet Buick GMC Cadillac of Murfreesboro, a copy of which is attached to these minutes as **Exhibit D**. Upon motion by Mr. Lowry, seconded by Mr. Ford, the Board voted unanimously to approve the Resolution.

ADDITIONS TO AGENDA

With consent of the Aldermen, the following items were added to the agenda:

CONSIDERATION OF RESOLUTION 13-2012 – APPROVING APPOINTMENT OF PAT BRYANT AND JOHN PERALES TO THE MILLINGTON MUNICIPAL AIRPORT AUTHORITY

The next order of business was consideration of Resolution 13-2012, Resolution Approving Appointment of Pat Bryant and John Perales to Millington Municipal Airport Authority, a copy of which is attached to these minutes as **Exhibit E**. Upon motion by Mr. Brown, seconded by Mr. Lowry, the Board voted unanimously to approve Resolution 13-2012.

COMMENDATION OF DAVID DUNN

Mayor Carter commended David Dunn, Supervisor of the Millington Wastewater Treatment Plant, and his operators for receiving a Certificate of Quality for Proficiency Testing for 2011 from Resource Technology Corporation (RTA). RTA is an EPA-approved lab that provides testing services. Mr. Dunn said the certificate shows that the Millington Wastewater Treatment Plant successfully completed all federally required tests for 2011 with an acceptance rate of 100%.

PUBLIC MEETINGS ANNOUNCED

Mayor Carter announced dates for a series of public meetings related to the feasibility of creating a municipal school district in Millington. The meetings will be held at the Millington Civic Center at 6:30 p.m. on each of March 19, 20, 27, and 29. She said that the SES consultants who presented the feasibility study would be at City Hall on Thursday, March 15 at 4 p.m. to brief the Board. Mayor Carter encouraged anyone who has questions to e-mail them to her office at City

Hall. She said the Executive Summary of the SES report would be posted on the City's website.

VETERANS PARKWAY UPDATE

City Engineer Darek Baskin was asked to give an update on Veterans Parkway. He briefly described what has been done up to this point and said the contractor had stated that the next priority would be to get West Union connected back to Highway 51, and that it would take about three weeks before that connection could be ready for traffic. He responded to other questions from the Board.

BUSINESS FROM THE FLOOR

Mayor Carter asked if there was any business from the floor.

Ross Landrum had questions concerning the city manager and mayor if the new charter is adopted. Mayor Carter responded to those questions.

Rhonda O'Dell thanked Jeremy Rochell and the community for the response to the trees given away at the Farmers Market. She said they gave away a thousand trees.

Frankie Dakin asked if the SES school report could be published on the website. Mayor Carter responded that it was too large, but the Executive Summary would be posted on the website.

ADJOURNMENT

There being no further business, upon motion by Mr. Lowry, seconded by Mr. Morgan, and unanimous vote of the Aldermen, the meeting was adjourned at 6:59 p.m.

Linda L. Carter, Mayor

Carolyn K. Conley, City Clerk