

MINUTES OF REGULAR MEETING OF THE BOARD OF MAYOR AND
ALDERMEN OF THE CITY OF MILLINGTON, TENNESSEE
HELD ON MAY 7, 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 May 7, 2012. The meeting was called to order at 6:00 p.m. and was opened with a prayer by Mr. Morgan. 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 MEETINGS

The minutes of the regular meeting held on April 2, 2012, and the special called meeting held on April 19, 2012 had previously been given to the Aldermen. Upon motion by Mr. Brown, seconded by Mr. Lowry, the Board voted unanimously to approve the minutes.

MONTHLY REPORTS

Reports for April, 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 USA Stadium; and
5. The City Court.

Upon motion by Mr. Caruthers, seconded by Mr. Barger, the Board voted unanimously to approve the reports.

EMPLOYEE COMMENDATIONS

Mayor Carter expressed gratitude to three employees of the Department of Public Works. Greg Johnson, Glenn Taylor and Tim Johnson witnessed a domestic violence situation in progress while on their route. They protected two women from a man until police arrived on the scene.

RELAY FOR LIFE PROCLAMATION

Mayor Carter presented a Relay for Life Proclamation to Jimmy and Kathy Pike and proclaimed May 19, 2012 Relay for Life Day in Millington. Relay for Life supports cancer research.

CAPTAIN FIMPLE

Captain Stephen Fimple, Commanding Officer, Naval Support Activity Mid-South,

announced three events:

1. A tornado exercise using the new Giant Voice System to be conducted on the base on Wednesday, May 9th;
2. The Navy 10 Nautical Miler on Sunday, June 3 at 6:00 a.m.; and
3. The Flag City Freedom Celebration on July 3.

CONSIDERATION OF RESOLUTION 19-2012

The next order of business was consideration of Resolution 19-2012, as follows:

RESOLUTION 19 - 2012

RESOLUTION APPROVING CHAPTER NO. 58 OF THE PRIVATE ACTS OF 2012, AS ADOPTED BY THE TENNESSEE GENERAL ASSEMBLY AND SIGNED BY THE GOVERNOR, TO ADOPT NEW PRIVATE ACT CHARTER FOR THE CITY OF MILLINGTON

WHEREAS, at the request of the City of Millington, the General Assembly of the State of Tennessee enacted Chapter No. 58 of the Private Acts of 2012 for the purpose of rewriting in its entirety the existing private act charter of the City established by Chapter 238 of the Private Acts for 1903, as amended (the "Old Charter"), to adopt the new private act charter for the City of Millington as set out in Private Chapter No. 58; and

WHEREAS, the Governor of the State of Tennessee signed Chapter No. 58 on April 27, 2012; and

WHEREAS, the Board of Mayor and Aldermen of the City of Millington desires to approve Chapter No. 58 and the adoption of the new private act charter set out therein, in accordance with Tennessee Code Annotated Section. 8-3-202;

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF MILLINGTON, TENNESSEE that Chapter No. 58 of the Private Acts of 2012, as adopted by the General Assembly of the State of Tennessee and signed by the Governor, which rewrites in its entirety the Old Charter to adopt the new private act charter for the City of Millington as set out therein, be, and the same hereby is, approved.

BE IT FURTHER RESOLVED that the Mayor be, and she hereby is, authorized to proclaim approval of this Resolution and provide for its certification to the Tennessee Secretary of State upon adoption of this Resolution, in accordance with Tennessee Code Annotated Section 8-3-202.

BE IT FURTHER RESOLVED that this Resolution shall take effect upon its adoption, the public welfare requiring it.

This Resolution is adopted the 7th day of May, 2012.

Upon motion by Mr. Lowry, seconded by Mr. Pike, the Board voted unanimously to approve Resolution 19-2012.

PUBLIC HEARING ON ORDINANCE 2012-4

Mayor Carter announced that the public hearing on Ordinance 2012-4 was open and asked if there were any questions or comments. Douglas Dakin asked about use of the increased tax proceeds. Mayor Carter said that the citizens should trust the Board to make good decisions, and City Attorney Barbara Lapidés said that it would be possible for the Board of Mayor and Aldermen to repeal the tax increase without the need for another referendum.

There being no further comments or questions, upon motion by Mr. Caruthers, seconded by Mr. Lowry, the Board voted unanimously to close the public hearing.

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 to furnish services; and

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

WHEREAS, a public hearing before the Board of Mayor and Aldermen on Ordinance 2012-4 was held on May 7, 2012, pursuant to notice thereof being published in a newspaper of general circulation within the City of Millington on April 26, 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. 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 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 _____

Against the Ordinance _____

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. 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 upon its passage on third and final reading, the health, safety and welfare of the citizens requiring it.

Adopted this 7th day of May, 2012.

Upon motion by Mr. Lowry, seconded by Mr. Ford, the Board voted unanimously to approve Ordinance 2012-4 on third reading.

PUBLIC HEARING ON ORDINANCE 2011-7

Mayor Carter announced that the public hearing on Ordinance 2011-7 was open and asked if there were any comments or questions. Ms. Louise Kennon asked if this Ordinance will apply to cleaning up overgrown lots and places where people dump trash, and Mayor Carter said it would.

There being not further comments or questions, upon motion by Mr. Lowry, seconded by Mr. Morgan, the Board voted unanimously to close the public hearing.

CONSIDERATION OF ORDINANCE 2011-7

The next order of business was consideration of Ordinance 2011-7, as follows:

ORDINANCE 2011-7
AN ORDINANCE TO AMEND THE MILLINGTON MUNICIPAL CODE,
TITLE 13, BY DELETING EXISTING SECTION'S 13-105 AND 13-106
AND REPLACING THEM WITH NEW PROVISIONS REGARDING REMOVAL
OF VEGETATION AND DEBRIS FROM OVERGROWN AND DIRTY LOTS
AND PENALTIES FOR VIOLATION

WHEREAS, Title 13 of the Millington Municipal Code establishes rules regarding property maintenance; and

WHEREAS, *Tennessee Code Annotated*, § 6-54-113 grants municipalities the right to require owners to keep their property free of growth of trees, vines, grass, underbrush, flowers, plants or any landscaping material and/or the accumulation of debris, trash, litter, or garbage or any combination of the preceding elements that would endanger the health, safety or welfare of other citizens, or encourage the infestation of insects, reptiles, rats and other harmful animals; and

WHEREAS, the Board of Mayor and Aldermen of the City of Millington wishes to exercise its rights granted under *Tennessee Code Annotated* § 6-54-113 and to set guidelines for enforcement; and

WHEREAS, the Board of Mayor and Aldermen desires to require lessees of real property to keep their property free of **excessive** growth of trees, vines, grass, underbrush, flowers, plants or any landscaping material and/or the accumulation of debris, trash, litter, or garbage or any combination of the preceding elements that would endanger the health, safety or welfare of other citizens, or encourage the infestation of insects, reptiles, rats and other harmful animals;

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

SECTION 1. Sections 13-105 and 13-106 of the Millington Municipal Code are deleted in their entirety and replaced by the following new sections:

“13-105. Overgrown and Dirty Lots.

(1)Prohibition. Pursuant to the authority granted to municipalities under Tennessee Code Annotated, § 6-54-113, **and as provided in Section 301 of the 2006 International Property Maintenance Code as adopted by the City**, it shall be unlawful for any owner of record of real property to create, maintain, or permit to be created or maintained on

such property the growth of trees, vines, grass, underbrush, flowers, plants or any landscaping material and/or the accumulations of debris, trash, litter, or garbage or any combination of the preceding elements so as to endanger the health, safety, or welfare of other citizens or to encourage the infestation of insects, reptiles, rats and other harmful animals. **For purposes of this prohibition, grass of any kind (including monkey or mondo grass) that exceeds ten (10) inches in height on occupied property and that exceeds eighteen (18) inches in height on unoccupied property, whether residential or commercial, and shall be deemed to violate this Section.**

(2)Designation of public officer or department. The City's Board of Mayor and Aldermen shall designate an appropriate department or person to enforce the provisions of this Section 13-105. Unless otherwise designated, this Section shall be enforced by the City's Office of Codes Enforcement **under the supervision of the Director of Economic Development and Planning.**

(3)Notice to property owner. It shall be the duty of the department or person designated by the Board of Mayor and Aldermen to enforce this section to serve notice upon the owner of record in violation of subsection (1) above, a written notice in plain language to remedy the condition within ten (10) days; **provided, however, that if the owner of record is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials, the notice period shall be twenty (20) days, excluding Saturdays, Sundays and legal holidays.** The notice shall be sent by registered or certified United States Mail, addressed to the last known address of the owner of record, or hand delivered with the deliverer obtaining the owner's signature confirming receipt of the notice. The notice shall state that the owner of the property is entitled to a hearing before the City's Director of Economic Development and Planning and shall, at the minimum, contain the following additional information:

(a) A brief statement that the owner is in violation of § 13-105 of the Millington Municipal Code, which has been enacted under the authority and that **if the owner does not clean up the property within the time allotted,** the property of such owner may be cleaned up by the City or its agent at the expense of the owner and a lien placed against the property to secure the cost of the clean-up;

(b) **Such notice shall also state that in addition to the placing of a lien, the City may file suit in a court of competent jurisdiction to recover its costs of clean up and also cite the offender to City Court as set out in Subsection (9) below.**

(c) The person, office, address, and telephone number of the department or person giving the notice;

(d) A cost estimate for remedying the noted condition, which shall be in conformity with the standards of cost in the City; and

(e) The name, office address and telephone number of the City's Director of Economic Development and Planning wherein the notified party may return a copy of the notice and indicate the desire for a hearing.

(4)Clean-up at property owner's expense. If the property owner of record fails or refuses to remedy the condition or to request a hearing before the Director of Economic Development and Planning within ten (10) days after receiving the notice (twenty (20) days **as described above** if the owner is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), the department or person designated to enforce the provisions of this Section shall immediately cause the condition to be remedied or removed at a cost in conformity with reasonable standards **in the City of Millington,** and the costs thereof shall be assessed against the owner of the property. The City may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The City may bring one action for debt against more than one or all of the owners of properties against whom such costs have been assessed, and the fact that multiple owners have been joined in one action shall not be considered by the court as a misjoinder of parties. Upon the filing of the notice with the office of the register of deeds in Shelby County, the costs shall be a lien on the property in favor of the City, second only to liens of the state, county, and municipality for taxes, any lien of the City for

special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be placed on the tax rolls of the City as a lien and shall be added to property tax bills to be collected at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes.

(5)Clean-up of owner-occupied property. When the owner of an owner-occupied residential property fails or refuses to remedy the condition within ten (10) days after receiving the notice, the department or person designated by the Board of Mayor and Aldermen to enforce the provisions of this section shall immediately cause the condition to be remedied or removed at a cost in accordance with reasonable standards in the **City of Millington**, with these costs to be assessed against the owner of the property. The provisions of subsection (4) shall apply to the collection of costs against the owner of an owner-occupied residential property, except that the City must wait until cumulative charges for remediation equal or exceed five hundred dollars (\$500.00) before filing the notice with the register of deeds and the charges becoming a lien on the property. After this threshold has been met and the lien attaches, charges for costs for which the lien attached are collectible as provided in subsection (4) for these charges. **The City shall not, however, be required to wait until cumulative charges for remediation equal or exceed five hundred dollars (\$ 500.00) before it files suit to collect such costs or cites the offender to City Court.**

(6)Appeal/Hearing. The owner of record who is aggrieved by the determination and order of the Codes Enforcement Officer or other person designated to enforce this ordinance may appeal the determination and order to the Director of Economic Development and Planning. The appeal shall be filed with Director of Economic Development and Planning within ten (10) days following the receipt of the notice issued pursuant to subsection (3) above. The failure to appeal within this time shall, without exception, constitute a waiver of the right to a hearing.

(7)Judicial review. Any person aggrieved by an order or act of the enforcement officer or the Director of Economic Development and Planning may seek judicial review of the order or act. The time period established in subsection (3) above shall be stayed during the pendency of judicial review.

(8)Supplemental nature of this Section. The provisions of this Section 13-105 are in addition and supplemental to, and not in substitution for, any other provision in the City's Charter, the Millington Municipal Code (including property management codes adopted by the City), or other applicable law which permits the City to proceed against an owner, tenant or occupant of property who has created, maintained, or permitted to be maintained on such property the growth of trees, vines, grass, weeds, underbrush and/or the accumulation of the debris, trash, litter, or garbage or any combination of the preceding elements.

(9)Violations/Penalty. In addition to the liability for costs of remedy or removal of any condition described in this Section 13-105, any property owner who violates this ordinance may be cited to City Court, and shall be subject to a civil penalty of \$ 50.00 plus court costs for each separate violation of this ordinance. Each day the violation continues after delivery of written notice to the property owner in accordance with this Section shall be considered a separate violation.

SECTION 2. The following new section is added to the Millington Municipal Code as Section 13-106:

“13-106. Overgrown and Dirty Lots/Lesseees.

(1) Prohibition. It shall **also** be unlawful, **to the same extent set out in Section 13-105(1)**, for any lessee of real property to create, maintain, or permit to be maintained on the leased property the **excessive** growth of trees, vines, grass, underbrush, flowers, plants, or any landscaping materials and/or the accumulations of debris, trash, litter, or garbage or any combination of the preceding elements so as to endanger the health, safety, or welfare of other citizens or to encourage the infestation of insects, reptiles, rats and other harmful animals. **For purposes of this prohibition, grass of any kind**

(including monkey or mondo grass) that exceeds ten (10) inches in height on occupied property and that exceeds eighteen (18) inches in height on unoccupied property, whether residential or commercial, and shall be deemed to violate this Section.

(2) Designation of public officer or department. Unless otherwise designated, this Section 13-106 shall be enforced by the City's Office of Codes Enforcement under the supervision of the Director of Economic Development and Planning.

(3) Notice to Lessee. It shall be the duty of the department or person designated by the Board of Mayor and Aldermen to enforce this Section to serve notice upon a lessee in violation of Section 13-106 (1) a written notice in plain language to remedy the condition within ten (10) days; **provided, however, that if the lessee is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials, the notice period shall be twenty (20) days, excluding Saturdays, Sundays and legal holidays.** The notice shall be sent by registered or certified

United States Mail, addressed to the last known address of the lessee, or hand delivered with the deliverer obtaining the signature of the lessee or, if the lessee is a corporation or other legal entity, a representative of the lessee, confirming receipt of the notice. The notice shall state that the lessee is entitled to a hearing before the City's Director of Economic Development and Planning and shall, at the minimum, contain the following additional information:

(a) A brief statement that the lessee is in violation of § 13-106 of the Millington Municipal Code, **describing the violations with specificity**, and stating that the property leased to such lessee may be cleaned up by the City or its agent at the expense of the lessee **if the lessee fails to do so within the allotted time;**

(b) That the City may file suit against the lessee in a court of competent jurisdiction to recover its costs of clean up and may also cite the lessee to City Court as provided in subsection (5) below;

(c) The person, office, address, and telephone number of the department or person giving the notice;

(d) A cost estimate for remedying the noted condition, which shall be in conformity with the standards of cost in **the City of Millington;** and

(e) The name, office address and telephone number of the City's Director of Economic Development and Planning wherein the notified party may return a copy of the notice and indicate the desire for a hearing.

(3) **Clean-up at lessee's expense.** If the lessee fails or refuses to remedy the condition or to request a hearing within ten (10) days after receiving the notice (twenty (20) days if the lessee is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), the department or person designated to enforce the provisions of this Section shall immediately cause the condition to be remedied or removed at a cost in conformity with reasonable standards **in the City of Millington**, and the costs thereof shall be assessed against such lessee.

(4) **Notice to Owner/Obligation of Owner. If the lessee fails to clean up the property as required by the City, in addition to exercising its remedies against the lessee set out in this Section 13-106, the City may give notice of the violation(s) to the property owner and require the property owner to clean up the property, in accordance with Section 13-105.**

(5) **Violations/Penalty.** In addition to the liability for costs of remedy or removal of any condition described in this Section 13-106, any lessee of real property who violates this ordinance shall be subject to citation to City Court and to a civil penalty of \$ 50.00 plus court costs for each separate violation of this ordinance. Each day the violation continues after delivery of written notice to the **lessee** in accordance with this Section shall be considered a separate violation."

SECTION 3. Severability. Each section, subsection, paragraph, sentence and clause of this ordinance is declared to be separable and severable. The invalidity of any section, subsection, paragraph, sentence or clause shall not affect the validity of any other provision of the ordinance.

SECTION 4. Repeal. All ordinances and parts of ordinances which are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

This Ordinance shall take effect **upon** its final adoption, the public welfare requiring it.

Mayor Carter pointed out the proposed amendments, which are shown in bold type. City Planning Director Darek Baskin asked if there are provisions that will allow the City to start the process of cleaning up if an owner or lessee refuses to accept the notice. City Attorney Barbara Lapidès suggested deleting the requirement that notice be sent by registered or certified mail and replacing it with a statement that “Notice will be sent by first class U.S. mail, and delivery will be presumed to have occurred by the third day after the notice is deposited in the mail with proper first class postage attached.” It was also suggested that the amendment should provide for the posting of notice on the property.

Upon motion by Mr. Brown, seconded by Mr. Lowry, the Board voted unanimously to accept the amendments and to approve Ordinance 2011-7 as amended.

PUBLIC HEARING ON ORDINANCE 2012-7

Mayor Carter announced that the public hearing on Ordinance 2012-7 was open and asked if there were comments or questions. City Finance Director John Trusty said that the amendment will combine gas inspection fees with the State Street Aid Fund. There being no comments or questions, upon motion by Mr. Lowry, seconded by Mr. Caruthers, the Board voted unanimously to close the public hearing.

CONSIDERATION OF ORDINANCE 2012-7

The next order of business was consideration of Ordinance 2012-7, Ordinance Amending the Fiscal Year 2012 Budget for 2010 Capital Outlay Notes Project Fund to Approve Costs in connection with Roof Replacement at the Police and Courts Building and for the Capital Improvement Fund for Street Lights and Road Projects and to Combine the Gas Inspection Fee Fund with the State Street Aid Fund, a copy of which is attached to these minutes as Exhibit A. Upon motion by Mr. Caruthers, seconded by Mr. Barger, the Board voted unanimously to approve the amendments. Upon motion by Mr. Brown, seconded by Mr. Ford, the Board voted unanimously to approve Ordinance 2012-7 as amended on third reading.

PUBLIC HEARING ON ORDINANCE 2012-8

Mayor Carter announced that the public hearing on Ordinance 2012-8 was open and asked if there were any comments or questions. There being none, upon motion by Mr. Lowry, seconded by Mr. Morgan, the Board voted unanimously to close the public hearing.

CONSIDERATION OF ORDINANCE 2012-8

The next order of business was consideration of Ordinance 2012-8, as follows:

ORDINANCE 2012- 8
ORDINANCE AMENDING SECTION 5-103 OF THE MILLINGTON MUNICIPAL
CODE TO INCREASE SERVICE CHARGE FOR BAD CHECKS IN EXCESS OF \$
2,000.00

WHEREAS, the Board of Mayor and Aldermen desires to amend the Millington Municipal Code to increase the service charge for bad checks given to the City for payment of water department fees, City taxes and other City charges, including checks paid to the City Court Clerk, as permitted by state law;

NOW, THEREFORE, BE IT ORDAINED by the Board of Mayor and Aldermen of the City of Millington, Tennessee, as follows:

Section 1. Section 5-103 of the Millington Municipal Code, Service Charge on bad checks, is deleted in its entirety and replaced by the following:

"5-103.Service Charge for Bad Checks. All collecting agents for the City water department and general City government, including the City Court Clerk, are hereby authorized to assess and collect a service charge for every check that is returned for non-payment because of insufficient funds in the drawer's account or for any other legitimate reason that payment in good funds is not made. The amount of such service charge shall be as follows:

1. For each payment due to the City in the amount of \$ 2,000.00 or less, the service charge shall be \$ 20.00.
2. For each payment due to the City in amounts in excess of \$ 2,000.00, the service charge shall be one percent (1%) of the amount of such payment.
3. This service charge applies to all checks paid to any arm or division of City government, including but not limited to payments for taxes, fees, permits and checks to City Court."

Section 2. This Ordinance shall take effect upon its adoption on third and final reading, the public welfare requiring it.

Ms. Lapidis said that the Ordinance had been revised to state that it takes effect upon its adoption third reading. Upon motion by Mr. Lowry, seconded by Mr. Ford, the Board voted unanimously to approve the amendment. Upon motion by Mr. Caruthers, seconded by Mr. Barger, the Board voted unanimously to approve Ordinance 2012-8 as amended on third reading.

CONSIDERATION OF ORDINANCE 2012-9

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

ORDINANCE 2012- 9
ORDINANCE REPEALING ORDINANCES 2009-17 AND 2010-1
AND TERMINATING EXISTENCE OF MILLINGTON SPORTS AUTHORITY

WHEREAS, the Board of Mayor and Aldermen (the "Board") adopted Ordinances 2009-17 and 2010-1 pursuant to which it established the Millington Sports Authority as a volunteer board to assist the City in the management, operations and marketing of the USA Stadium property and adjacent property and to establish it as a department of City government; and

WHEREAS, the Board has now determined that the Millington Sports Authority should be terminated as a separate entity;

NOW, THEREFORE, BE IT ORDAINED by the Board of Mayor and Aldermen of the City of Millington, Tennessee that Ordinances 2009-17 and 2010-1 are hereby repealed in their entirety, and the existence of the Millington Sports Authority as a separate entity is terminated.

BE IT FURTHER ORDAINED that any and all funds, contracts, bills, statements, invoices and any other City property which may be in the possession or control of the Millington Sports Authority shall be delivered to the City, together with a written explanation of the source, use or proposed use or reason for such items.

This Ordinance shall take effect upon its passage on third and final reading, the public welfare requiring it.

Upon motion by Mr. Barger, seconded by Mr. Morgan, the Board voted unanimously to approve Ordinance 2012-9 on first reading.

CONSIDERATION OF ORDINANCE 2012-12

The next order of business was consideration of Ordinance 2012-12, as follows:

ORDINANCE 2012 - 12

AN ORDINANCE TO ANNEX TERRITORY GENERALLY KNOWN AS THE TOWN OF LUCY WHICH IS ADJACENT TO THE CURRENT CITY LIMITS, AND TO INCORPORATE SAID TERRITORY WITHIN THE CORPORATE BOUNDARIES OF THE CITY OF MILLINGTON, TENNESSEE

WHEREAS, Tennessee Code Annotated Sec. 6-51-102 authorizes the City of Millington to extend its corporate limits by ordinance; and

WHEREAS, the Board of Mayor and Aldermen of the City held a public hearing on _____, 2012 regarding the proposed annexation of the area generally known as the town of Lucy, which is more particularly described below, pursuant to notice thereof published in *The Millington Star* as required by Tennessee Code Annotated Sec. 6-51-102(a)(1); and

WHEREAS, it appears that the prosperity of the City of Millington and the territory herein described will be materially retarded and the safety and welfare of the inhabitants and property thereof endangered if such territory is not annexed into the City of Millington; and

WHEREAS, the annexation of such territory is deemed necessary for the welfare of the residents and property owners thereof and the welfare of the City of Millington as a whole;

NOW, THEREFORE, BE IT ORDAINED by the Board of Mayor and Aldermen of the City of Millington, Tennessee, as follows:

Section 1. Pursuant to authority conferred by Tennessee Code Annotated Sections 6-51-101 to 6-51-113, the following described area adjoining the present corporate boundaries of the City of Millington, Tennessee is hereby annexed into the City and incorporated within the corporate boundaries thereof:

Beginning at a point at the intersection of the eastern r.o.w. of Hwy 51 N and the north r.o.w. of Sykes Rd thence 100' +/- southeasterly along Sykes Rd r.o.w. to a point, thence southeasterly 300' +/- , thence continuing along said r.o.w. 7000' +/- to the intersection of said r.o.w. and the eastern r.o.w. of Canadian National Railroad. Thence southwesterly along CN-RR said r.o.w. 2500' +/- to the intersection of the north r.o.w. of Pleasant Ridge Rd, thence southeasterly for a distance of 500' +/- along said r.o.w. to a point. Thence southwesterly along parcel line 675' +/- to a point thence northwesterly along parcel line 910' +/- to the intersection of the CN-RR eastern r.o.w. Thence southwesterly along said r.o.w. 400' +/- to a point thence in a southerly direction 1800' +/- along the southwestern corporate limits of the City of Millington to a point, then continuing 390' +/- westerly along said corporate limits to a point, thence northeasterly 250' +/- along said corporate limits to a point, thence northwesterly 220' +/- along said corporate limits to a point, thence southwesterly 390' +/- along said corporate limits to a point, thence northwesterly 670' +/- along said corporate limits to a point at the intersection of the CN-RR eastern r.o.w. Thence southwesterly for a distance of 1900' +/- - along said eastern r.o.w. of the CN-RR being the same as the existing corporate limits of the City of Millington to a point, thence 270' +/- in a southwesterly direction along

said corporate limits to a point, thence 2600' +/- to a point on the eastern r.o.w. of Amherst Rd, thence north along said r.o.w. a distance of 350', thence northeast along parcel line a distance of 320' +/-, thence northeasterly along parcel line and current City of Millington corporate limits a distance of 1470' +/-, thence southeasterly along parcel line and existing corporate limits a distance of 2150' +/- to a point intersecting the eastern r.o.w. of Raleigh Millington Rd, thence southwesterly a distance of 2050' +/- along the eastern r.o.w. of Raleigh-Millington Rd to a point intersecting the north r.o.w. of Amherst Rd. Then northwesterly 1900' +/- along the north r.o.w. of Amherst Rd and the southeast City of Millington corporate limits to a point intersecting the east r.o.w. of Amherst Rd. Thence continuing northwesterly along existing corporate limits to a point intersecting the east r.o.w. of the CN-RR for a distance of 2600' +/-, thence in a northwesterly direction a distance of 4500' +/- following existing parcel lines to a point, thence following existing parcel lines northeasterly for a distance of 1600' +/- to a point, thence northwesterly along existing parcel line a distance of 1350' +/- to the intersection of the eastern r.o.w. of Hwy 51 N. Thence northeasterly along the eastern r.o.w. of Hwy 51 N for a distance of 5000' +/- to the point of beginning. Said area measuring approximately 974 acres +/-.

Section 2. This Ordinance shall take effect thirty (30) days following its passage on third and final reading, the public welfare requiring it.

Upon motion by Mr. Caruthers, seconded by Mr. Barger, the Board voted unanimously to approve Ordinance 2012-12 on first reading.

CONSIDERATION OF RESOLUTION 20-2012

The next order of business was consideration of Resolution 20-2012, as follows:

RESOLUTION 20 -2012 RESOLUTION DISMISSING UNCOLLECTIBLE PERSONAL PROPERTY TAXES AND AUTHORIZING REMOVAL OF PARCELS FROM TAX ROLLS

WHEREAS, the City has determined that the businesses listed on Exhibit A to this Resolution are out of business, that the personal property taxes listed on Exhibit A are uncollectable; and that said taxes should be dismissed and the businesses listed on Exhibit a should be removed from the tax rolls; and

NOW, THEREFORE, BE IT RESOLVED by the Board of Mayor and Aldermen of the City of Millington, Tennessee, that the personal property taxes for the parcels shown on Exhibit A to this Resolution, and all interest, penalties and cost related thereto are dismissed as to each of the taxpayers listed on Exhibit A;

BE IT FURTHER RESOLVED, that the Mayor be, and she hereby is, authorized to perform such acts and give such notice to the County Assessor, County Trustee or other tax collector necessary to dismiss the taxes set out on Exhibit A, together with all interest, penalties and costs related thereto, and to remove the tax parcels listed on Exhibit A from the tax rolls.

This Resolution is adopted this 7th day of May, 2012.

Upon motion by Mr. Lowry, seconded by Mr. Brown, the Board voted

unanimously to approve Resolution 20-2012.

CONSIDERATION OF RESOLUTION 21-2012

The next order of business was consideration of Resolution 21-2012, as follows:

RESOLUTION 21-2012
RESOLUTION AUTHORIZING REFUND OF \$ 400.00 FEE TO SHERRY KEITHLEY
FOR IRRIGATION METER THAT IS NOT BEING INSTALLED

WHEREAS, on Friday, April 20, Ms. Sherry Keithley paid the sum of \$ 400.00 to the City for installation of an irrigation meter at 7720 Tecumseh, and on the next business day, Ms. Keithley notified the City that the meter was not needed, as the irrigation line was not going to be installed, and she has requested a refund of the meter fee;

NOW, THEREFORE, BE IT RESOLVED by the Board of Mayor and Aldermen of the City of Millington, Tennessee, that a refund of the fee paid for the irrigation meter at 7720 Tecumseh in the amount of \$ 400.00 be paid to Sherry Keithley.

This Resolution is adopted as of the 7th day of May, 2012.

Upon motion by Mr. Lowry, seconded by Mr. Ford, the Board voted unanimously to approve Resolution 21-2012.

CONSIDERATION OF RESOLUTION 22-2012

The next order of business was consideration of Resolution 22-2012, as follows:

RESOLUTION 22-2012
RESOLUTION CREATING DEPARTMENT OF ARTS, RECREATION AND
PARKS, TO BE COMPRISED OF FORMER ARTS AND RECREATION
DEPARTMENT AND USA STADIUM COMPLEX, AND ESTABLISHING
MILLINGTON ARTS, RECREATION AND PARKS ADVISORY BOARD

WHEREAS, the Board of Mayor and Aldermen desires to create the Department of Arts and Recreation as the Department of Arts, Recreation and Parks (the "Department"), and to include within the duties assigned to the Department the oversight, management and operation responsibilities for the USA Stadium Complex, as defined below; and

WHEREAS, the Board desires to create the Millington Arts, Recreation and Parks Advisory Board as a volunteer advisory board to assist and advise the Department on matters related to arts, recreational and sports amenities and activities in the City;

NOW, THEREFORE, BE IT RESOLVED by the Board of Mayor and Aldermen of the City of Millington, Tennessee, as follows:

1. There is hereby created the Department of Arts, Recreation and Parks, a department of City government (the "Department"), which replaces the department of City government formerly called Arts and Recreation and incorporates all duties, activities, events and employees that were part of the Arts and Recreation Department.
2. The Director of the Department of Arts, Recreation and Parks ("Director"), in addition to his or her other duties, shall be responsible for oversight, management and operation of the USA Stadium and the other properties which together with the USA Stadium have been known as the Millington Sports Complex, both as such facilities now exist and as they may in the future exist (the "Complex"), and for the management and direction of all City employees who work for or at such facilities.

3. All compensation for employees of the City who work for or at the Department of Arts, Recreation and Parks of the City of Millington, including the Complex, shall be set by the Board of Mayor and Aldermen in accordance with normal City procedures.
4. There is hereby established the Millington Arts, Recreation and Parks Advisory Board (the "Advisory Board") as a volunteer board to assist and advise the Director and the City in the management, operations and marketing of the Complex and, as may be determined from time to time, on matters related to arts, recreational and sports amenities and activities in the City.
5. There shall be seven (7) members of the Advisory Board, who shall be appointed by the Mayor and approved by the Board of Aldermen. Advisory Board members **shall** be residents of the City of Millington or the City's reserve area. Advisory Board members shall serve three (3) year terms, provided however that in order to provide for staggered terms, of the members first appointed, two shall serve a one (1) year term; two shall serve a two (2) year term; and three shall serve a three (3) year term. Thereafter, each member shall be appointed to a three year term, except when appointed to fill the remainder of an unexpired term in the event of a vacancy.
6. The Advisory Board shall have a chairman, a vice-chairman and a secretary, who shall be elected for one year terms by members of the Advisory Board. Provided, however, that the initial officers of the Advisory Board shall be appointed by the Mayor and approved by the Board of Aldermen. In the absence of the chairman, the vice-chairman shall conduct all meetings.
7. The Advisory Board shall meet at least monthly, at a regular time and place to be established by the Advisory Board and the Director. Special meetings may be called by the Director, the chairman or any three (3) members. Public notice of Advisory Board meetings shall be given in accordance with normal City procedures. Any member who fails to attend two-thirds (2/3) of the meetings in any year may be removed from the Advisory Board by majority vote of the members.
8. The Advisory Board shall undertake such duties and activities as may be requested by the Director or the Mayor. In addition to any other duties, the Advisory Board shall advise the City with regard to requirements for compliance with Tree City designation and with regard to grants which may be available to or for the benefit of the Complex or any other part of the Department, and for grant eligibility.
9. The Advisory Board shall report to the Director and shall deliver written minutes stating the matters discussed and the action taken at each meeting to the Director within one week after each meeting.

This Resolution is adopted as of the 7th day of May, 2012 and shall take effect upon its adoption.

It was recommended that the word "may" in Paragraph 5 be revised to read "shall," and Ms. Lapidés pointed out a typographical correction in Paragraph 3. Upon motion by Mr. Brown, seconded by Mr. Caruthers, the Board voted unanimously to approve the changes. Upon motion by Mr. Lowry, seconded by Mr. Ford, the Board voted unanimously to approve Resolution 22-2012 as revised.

CONSIDERATION OF REPAIRS AT POLICE AND COURTS BUILDING

The next order of business was consideration of repairs at the Police and Courts building, as a result of leaks in the Courts area prior to replacement of the roof. Upon motion by Mr. Lowry, seconded by Mr. Caruthers, the Board voted unanimously to approve acceptance of the low bid of Carpet Spectrum, in the amount of \$ 3,508.00, for replacement of carpet in the courtroom and the hallway. The remainder of the necessary

work will be performed by City employees at a cost of \$ 692.00.

CONSIDERATION OF CONTRACT WITH MLGW FOR STREET LIGHTS

The next order of business was consideration of a contract with Memphis Light, Gas & Water for installation of eleven street lights on West Union, at a cost of \$22,374.80. Mr. Trusty reported that money is in the Capital Improvement Fund for this project. Upon motion by Mr. Brown, seconded by Mr. Lowry, the Board voted unanimously to approve the contract.

CONSIDERATION OF FY09 JAG BYRNE GRANT

The next order of business was consideration of acceptance of a JAG Byrne Grant in the amount of \$ 18,308.48 for radios and \$ 28,000.00 for 2-4 person seat ATV's for the Police Department. Chief Ray Douglas said this grant money must be spent by the City and submitted for reimbursement by September 30, 2012. Upon motion by Mr. Caruthers, seconded by Mr. Lowry, the Board voted unanimously to approve the grant and the purchases.

CONSIDERATION OF BID FOR HANDICAP-ACCESS DOORS FOR MILLINGTON PUBLIC LIBRARY

One bid was received, in the amount of \$ 9,280.00, from Stanley Access Technologies, d/b/a Mid South Automatic Door for purchase and installation of handicap-access door for the Millington Public Library. Upon motion by Mr. Lowry, seconded by Mr. Morgan, the Board voted unanimously to accept the bid.

REPORTS BY DAREK BASKIN

City Engineer Darek Baskin reported on the status of Veterans Parkway and the sewer plant work.

MAYOR'S ANNOUNCEMENTS

Mayor Carter announced that there would be special called meetings of the Board on Tuesday, May 15th and Monday, May 21st. She said there will be a budget meeting on Tuesday, May 8th at 4 p.m.

BUSINESS FROM THE FLOOR

Kenneth Barbee addressed the Board about changes in the fees the City will pay for towing. Mayor Carter said she would set up a meeting with Mr. Barbee and other towing company representatives during the next week.

ADJOURNMENT

There being no further business, upon motion made by Mr. Lowry, seconded by Mr. Caruthers, and the unanimous vote of the Aldermen, the meeting was adjourned at 7:38 p.m.

Linda L. Carter, Mayor

Carolyn K. Conley, City Clerk

