

MINUTES OF REGULAR MEETING OF THE BOARD OF MAYOR AND  
ALDERMEN OF THE CITY OF MILLINGTON, TENNESSEE  
HELD ON AUGUST 6, 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 August 6, 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 July 2, 2012, and the special called meetings held on July 10 and July 19, 2012 had previously been given to the Aldermen. Upon motion by Mr. Lowry, seconded by Mr. Caruthers, the Board voted unanimously to approve the minutes.

MONTHLY REPORTS

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

1. Finance Department
2. Police Department;
3. Fire Department;
4. Arts and Recreation Department and USA Stadium; and
5. City Court.

Darek Baskin, Director of Planning and Economic Development, gave an update on Veterans Parkway, including the noise wall being installed at Jordan's Crossing and the bridge over the railroad tracks; and on the status of the water treatment plant roof, Millington Housing Authority drainage improvements in the Greenhill/North End area, improvements at the Navy Road/Church Street intersection, public works and Old Town lighting. He also reported that his office is pursuing several grant opportunities through Shelby County Housing. Upon motion by Mr. Morgan, seconded by Mr. Lowry, the Board voted unanimously to accept the reports.

APPRECIATION/COMMENDATION RE USA STADIUM EVENTS

Mayor Carter read emails expressing appreciation for the State Farm/Shelby County All Star baseball games held at USA Stadium and commended City employees Johnny Ray, Ernie Bennett and Tommy Rogers for their work in managing events at USA Stadium.

SHELBY COUNTY TRUSTEE

Shelby County Trustee David Lenoir made a presentation regarding tax collections for

the City of Millington and Shelby County.

#### CHARLES GULOTTA

Charles Gulotta, President and CEO of the Chamber of Commerce and Executive Director of the Millington Industrial Development Board, and Teri Flanagan, Chamber of Commerce Director of Operations, reported on activities of both entities.

#### REMARKS BY CAPTAIN FIMPLE

Captain Stephen Fimple, Commanding Officer, NSA Mid-South, announced that National Night Out will be on October 2<sup>nd</sup> and said that everyone was encouraged to participate.

#### INTRODUCTION OF ALDERMEN

Mayor Carter introduced and congratulated the Aldermen elected at the August 2<sup>nd</sup> election:

Bethany Huffman – Position 1  
Hank Hawkins – Position 2  
Frankie Dakin – Position 3  
Larry Dagen – Position 4  
Thomas McGhee – Position 5  
Chris Ford – Position 6  
Mike Caruthers – Position 7

#### REPORT ON STATUS OF LUCY ANNEXATION

City Attorney Barbara Lapidés described the lawsuit that was filed by Claiborne Ferguson to challenge the ordinance annexing the Lucy community on grounds that the annexation was unreasonable. She said that the filing of the lawsuit stayed the annexation pending resolution of the lawsuit, so that residents of the Lucy area are not citizens of the City of Millington and were not eligible to vote in the August 2<sup>nd</sup> Millington elections. She reported that the Board of Mayor and Aldermen is going to repeal the ordinance annexing Lucy, and that she expects the lawsuit will then be dismissed because it will be moot. She said the Board of Mayor and Aldermen is going to pass a resolution calling for a referendum for annexation on November 6<sup>th</sup>, in which the residents of the Lucy area will vote. If a majority of the Lucy voters approve the annexation in that election, the Lucy area will be annexed into the City of Millington thirty days after certification of the election.

Ms. Lapidés also said that the City had discovered that voters in the Lucy-1 precinct had been given ballots on August 2<sup>nd</sup> that included the Millington election. She said that because the referendum to increase the Millington sales tax failed by only three votes, the City was going to file suit against the Election Commission to contest the erroneous voting.

#### CONSIDERATION OF ORDINANCE 2012-20

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

#### ORDINANCE 2012-20 ORDINANCE REPEALING ORDINANCE 2012-12, ORDINANCE ANNEXING INTO THE CITY OF MILLINGTON THE TERRITORY GENERALLY KNOWN AS THE TOWN OR COMMUNITY OF LUCY

WHEREAS, on June 14, 2012, the Board of Mayor and Aldermen adopted Ordinance 2012-12 on third reading for the purpose of annexing into the corporate boundaries of the City of Millington the territory described therein, which territory is generally known as the unincorporated town or community of Lucy; and

WHEREAS, the Board of Mayor and Aldermen has determined that it is not in the best interest of the City of Millington to continue this annexation by ordinance;

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

Section 1. That Ordinance 2012-12 be, and the same hereby is, repealed and made null and void, and shall be of no further force and effect to annex into the City of Millington the territory described therein, which territory is described as follows;

Beginning at a point at the intersection of the eastern right of way (hereafter abbreviated as "r.o.w.") of Hwy 51 N and the north r.o.w. of Sykes Rd; thence 100' +/- southeasterly along the north r.o.w. of Sykes Rd to a point; thence southeasterly 300' +/-; thence continuing along said r.o.w. 7000' +/- to the intersection of said r.o.w. with the eastern r.o.w. of Canadian National Railroad ("CNRR"); thence southwesterly along said CNRR r.o.w. 2500' +/- to its intersection with the north r.o.w. of Pleasant Ridge Rd; thence southeasterly a distance of 500' +/- along said north r.o.w. of Pleasant Ridge Rd. to a point; thence southwesterly along the east property line of parcel no. D0126 00259, as identified in the records of the Shelby County Assessor, 675' +/- to a point; thence northwesterly along the east property line of parcel no. D0126 00259 910' +/- to its intersection with the eastern r.o.w of CNRR; thence southwesterly along said CNRR r.o.w. 400' +/- to a point; thence in a southerly direction 1800' +/- along the existing 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 with the eastern r.o.w. of CNRR; thence southwesterly a distance of 1900' +/- along said eastern r.o.w. of CNRR, 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 eastern r.o.w. of Amherst Rd. a distance of 350'; thence northeast along the north property line of parcel no. D0125 00407 in said Assessor's records a distance of 320' +/-; thence northeasterly along said north property line and the existing City of Millington corporate limits a distance of 1470' +/-; thence southeasterly along the north property line of parcel no. D0125 00648 in said Assessor's records, and the existing City of Millington 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.; thence northwesterly 1900' +/- along the north r.o.w. of Amherst Rd. and the southeast City of Millington existing corporate limits to a point intersecting the east r.o.w. of Amherst Rd.; thence continuing northwesterly along the existing City of Millington corporate limits to a point intersecting the east r.o.w. of CNRR for a distance of 2600' +/-; thence in a northwesterly direction a distance of 4500' +/- following the south property line of parcel no. D0125 00603 to a point; thence following the east property line of parcel no. D0125 00593 northeasterly a distance of 1600' +/- to a point; thence northwesterly along the north property line of parcel no. D0125 00593 a distance of 1350' +/- to its intersection with the eastern r.o.w. of Hwy 51 N; thence northeasterly along the eastern r.o.w. of Hwy 51 N a distance of 5000' +/- to the point of beginning. Said area measuring approximately 974 acres +/-.

BE IT FURTHER ORDAINED that notwithstanding the repeal of Ordinance 2012-12, this Ordinance 2012-20 does not repeal or nullify the Plan of Services for the Lucy community that was adopted by the Board of Mayor and Aldermen on June 14, 2012 by Resolution 24-2012, and said Plan of Services remains in full force and effect.

BE IT FURTHER ORDAINED that this Ordinance shall take effect upon its adoption on third and final reading, the public welfare requiring it.

Upon motion by Mr. Caruthers, seconded by Mr. Lowry, the Board voted unanimously to approve Ordinance 2012-20 on first reading.

ITEM ADDED TO AGENDA:

Upon consent of the Aldermen, the following matter was added to the agenda:

CONSIDERATION OF RESOLUTION 37-2012

The next order of business was consideration of Resolution 37-2012, as follows:

RESOLUTION 37-2012

RESOLUTION AUTHORIZING CITY OF MILLINGTON TO FILE SUIT AGAINST  
SHELBY COUNTY ELECTION COMMISSION TO CHALLENGE AUGUST 2, 2012  
REFERENDUM FOR INCREASE OF SALES TAX IN WHICH PERSONS NOT  
CITIZENS OF THE CITY OF MILLINGTON WERE ALLOWED TO VOTE

WHEREAS, pursuant to Ordinance 2012-4, the City of Millington requested the Shelby County Election Commission to hold a referendum election at which the question to be voted on by citizens of the City of Millington was “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?”; and

WHEREAS, said sales tax increase referendum election was held on August 2, 2012, and the referendum failed by three (3) votes; and

WHEREAS, the City has learned that residents of the Lucy community who were not citizens of the City of Millington and therefore were not eligible voters in Millington elections were given ballots to vote and did vote at the precinct known as Lucy-1 in the Millington sales tax referendum election; and

WHEREAS, the City believes that the sales tax increase would have been approved by citizens and eligible voters of the City of Millington had there not been irregularities that allowed non-citizens of the City to vote, so that the true results of the referendum cannot be determined;

NOW, THEREFORE, BE IT RESOLVED by the Board of Mayor and Aldermen of the City of Millington, Tennessee that the City is authorized to file suit against the Shelby County Election Commission to contest the sales tax increase referendum in accordance with TCA Sec. 2-17-101 *et seq.* and any other applicable law;

BE IT FURTHER RESOLVED that the Mayor of the City, in consultation with the City Attorney, is authorized to engage counsel to represent the City in such lawsuit.

This Resolution is adopted as of the 6<sup>th</sup> day of August, 2012.

Upon motion by Mr. Ford, seconded by Mr. Barger, the Board voted unanimously to approve Resolution 37-2012.

ANNOUNCEMENT OF SPECIAL CALLED MEETINGS

Mayor Carter announced that there will be special called meetings of the Board on August 20<sup>th</sup> at 7:00 p.m. and on August 27<sup>th</sup> at 6:00 p.m. to consider Ordinance 2012-20 and the resolutions regarding annexation of the Lucy and Kerrville areas.

CONSIDERATION OF RESOLUTION 31-2012

The next order of business was consideration of Resolution 31-2012, as follows:

RESOLUTION 31-2012

RESOLUTION TO AUTHORIZE AND APPROVE GIVING POLICE DEPARTMENT  
DOG “THING” TO ITS HANDLER

WHEREAS, the Police Department of the City of Millington is the owner of a dog by the name of “Thing,” which dog has been used for approximately the last three years as a Police dog; and

WHEREAS, the Police Department no longer needs to keep said dog and desires to give it to its handler;

NOW, THEREFORE, BE IT RESOLVED by the Board of Mayor and Aldermen of

the City of Millington, Tennessee, that upon execution of an appropriate acceptance, agreement by the City and Degreaun Frazier, the handler of the dog "Thing," the Police Department is authorized to give and deliver said dog to Mr. Frazier.

This Resolution is adopted as of the 6th day of August, 2012.

Upon motion by Mr. Ford, seconded by Mr. Barger, the Board voted unanimously to approve Resolution 31-2012.

#### CONSIDERATION OF BID # 2013-1 FOR SLUDGE APPLICATION VEHICLE

One bid was received for a sludge application vehicle. Jim Cox of Fisher & Arnold, Inc. recommended acceptance of the bid from Field Gymmy, Inc. in the amount of \$232,626.00. Upon motion by Mr. Lowry, seconded by Mr. Morgan, the Board voted unanimously to accept the bid.

#### CONSIDERATION OF BID # 2013-3 FOR NINETY-FIVE GALLON ROLL-OUT CARTS

Three bids were received. Upon motion by Mr. Lowry, seconded by Mr. Caruthers, the Board voted unanimously to approve the low bid of Rehrig Pacific Company for 486 roll-out carts for \$ 49.00 each, for a total price of \$ 23,814.00.

#### CONSIDERATION OF BID # 2013-4 FOR FOUR-WHEEL ALL TERRAIN VEHICLES

One bid, in the amount of # 25,398.20, was received from Polaris of Memphis for two ATV's. Upon motion by Mr. Brown, seconded by Mr. Ford, the Board voted unanimously to accept the bid.

#### CONSIDERATION OF RFP FOR ACTUARIAL SERVICES

Three bids were received in response to the request for proposals for actuarial services. Upon motion by Mr. Caruthers, seconded by Mr. Lowry, the Board voted unanimously to accept the low bid with CapRisk Consulting Group for provision of an actuarial valuation of "other post-retirement benefits" for June 30, 2012, June 3, 2014 and June 0, 2014, in the amount of \$ 3,450.00 for each listed year.

#### CONSIDERATION OF FIREHOUSE SOFTWARE CONTRACT

Fire Chief Gary Graves presented a contract that will add connectivity and other benefits to Fire Department software capabilities. He said the annual cost now is \$ 1,332.00, and the new annual cost would be \$ 2,367.00, and he said the additional benefits the City will get is well worth the additional cost. Upon motion by Mr. Barger, seconded by Mr. Brown, the Board voted unanimously to approve the five-year agreement with Firehouse Software, as approved by the City Attorney.

#### CONSIDERATION OF AGREEMENT WITH SHELBY COUNTY FOR COMMUNITY DEVELOPMENT BLOCK GRANT FOR ENVIRONMENTAL STUDY

Mr. Baskin asked for the Board's approval of an agreement with Shelby County for a \$ 15,000.00 Community Development Block Grant for an environmental study required in connection with installation of Newport Channel Flood Pumps. Upon motion by Mr. Lowry, seconded by Mr. Morgan, the Board voted unanimously to approve the agreement.

#### CONSIDERATION OF AGREEMENT WITH SHELBY COUNTY FOR COMMUNITY DEVELOPMENT BLOCK GRANT FOR DITCH IMPROVEMENTS

Mr. Baskin asked for approval of an agreement with Shelby County for a \$ 15,000.00 Community Development Block Grant for Newport Channel ditch improvements. He said this grant is for an environmental study that is required for this project. Upon motion

by Mr. Lowry, seconded by Mr. Caruthers, the Board voted unanimously to approve the agreement.

MATTERS ADDED TO AGENDA:

Upon consent of the Aldermen, the following matters were added to the agenda:

CONSIDERATION OF VETERANS PARKWAY CHANGE ORDER # 38

Mr. Baskin presented change order # 38 for the Veterans Parkway project. Upon motion by Mr. Caruthers, seconded by Mr. Brown, the Board voted unanimously to approve the change order.

CONSIDERATION OF RESOLUTION 36-2012

The next order of business was consideration of Resolution 36-2012, as follows:

RESOLUTION 36 -2012

RESOLUTION APPOINTING MEMBERS TO THE MILLINGTON  
MUNICIPAL SCHOOL TRANSITION COMMITTEE

WHEREAS, the Board of Mayor and Aldermen of the City of Millington desires to establish the Millington Municipal School Transition Committee (the Committee); and

WHEREAS, the term of the Committee shall be one year, beginning August 6, 2012 and expiring August 6, 2013;

NOW, THEREFORE, BE IT RESOLVED by the Board of Mayor and Aldermen of the City of Millington, Tennessee, that Brenda Barber, Oscar Brown, Mike Caruthers, Sue Nan Hartley, and Bruce Rasmussen, are hereby appointed to serve as members of the Millington Municipal School Transition Committee, for one year terms beginning August 6, 2012 and ending August 6, 2013.

This Resolution is adopted as of the 6th day of August, 2012.

Upon motion by Mr. Brown, seconded by Mr. Lowry, the Board voted with six “ayes” to approve Resolution 36-2012. Mr. Caruthers abstained.

BUSINESS FROM THE FLOOR

Ms. Louise Kennon, County Commissioner Terry Roland, Thomas McGhee, Oscar Brown, and Gregg Ritter addressed the Board regarding school issues.

ADJOURNMENT

There being no further business, upon motion by Mr. Brown and the unanimous vote of the Aldermen, the meeting was adjourned at 8:00 p.m.

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Linda L. Carter, Mayor

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Carolyn K. Conley, City Clerk