MINUTES OF REGULAR MEETING OF THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF MILLINGTON, TENNESSEE
HELD ON DECEMBER 3, 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 December 3, 2012. The meeting was called to order at 6:00 p.m. and was opened with a prayer by Mr. Barger. 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 November 5, 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 the month of November, 2012 for the departments listed below had been delivered to all the Aldermen prior to meeting:

1. Fire Department;
2. Arts and Recreation Department; and
3. City Court.

Upon motion by Mr. Lowry, seconded by Mr. Morgan, the Board voted unanimously to accept the reports.

REPORT ON LIBRARY BY SUE NAN HARTLEY

Sue Nan Hartley, Chair of the Millington Public Library Board, reported that the Board has recommended that the contract with LSSI for operation of the library be terminated and that the City take over operation of the library. She introduced Library Director Brian Miller. The Board set a special called meeting for Friday, December 14 at 2 p.m. to receive public input and to give the Aldermen time to consider the issues and look at a proposed one-year budget for a City-operated library.

CONSIDERATION OF RESOLUTION 46-2012

The next order of business was consideration of Resolution 46-2012, as follows:

RESOLUTION 46 -2012
RESOLUTION ELECTING LORRIE BETH LEACH TO SERVE AS CITY CLERK

WHEREAS, Section 7.01 of the Charter of the City of Millington provides that the Mayor shall nominate and Board of Aldermen shall elect a City Clerk, who shall be responsible for keeping and preserving the City seal and all records of the Board of Aldermen, and for other duties as provided by law; and

WHEREAS, current City Clerk Carolyn Conley has requested that she be replaced, and the Mayor desires to nominate and the Aldermen desire to elect Lorrie Beth Leach to serve as City Clerk beginning on December 4, 2012 and continuing through December 31, 2012 or until such later date as she or her successor shall be nominated and elected as City Clerk;

NOW, THEREFORE, BE IT RESOLVED by the Board of Mayor and Aldermen of the City of Millington, Tennessee, that Lorrie Beth Leach is hereby elected and confirmed to serve as Millington City Clerk, to perform the duties set out therein and in the Millington Municipal Code, and as otherwise directed in accordance with the Charter and Code of the City, for a term beginning on December 4, 2012 and ending on December 31, 2012 or such later date on which the Board of Mayor and Aldermen that takes office on January 1, 2013 shall elect Leach or her successor as City Clerk.

This Resolution is adopted as of the 3rd day of December, 2012.

Upon motion by Mr. Morgan, seconded by Mr. Barger, the Board voted unanimously to approve Resolution 46-2012.

CONSIDERATION OF ORDINANCE 2012-22

The next order of business was consideration of Ordinance 2012-22, Ordinance Amending the City of Millington Position Control Budget and Compensation Policy for Fiscal Year 2012-2013, a copy of which is attached to these minutes as **Exhibit A.** Upon motion by Mr. Caruthers, seconded by Mr. Lowry, the Board voted unanimously to approve Ordinance 2012-22 on third reading.

CONSIDERATION OF ORDINANCE 2012-25

The next order of business was consideration of Ordinance 2012-25, as follows:

ORDINANCE 2012-25

ORDINANCE AMENDING SECTIONS 3-101, 3-204 AND 3-206 OF THE MILLINGTON MUNICIPAL CODE REGARDING CITY COURT JUDGE AND CITY COURT CLERK

WHEREAS, Sections 11.07 and 11.08 of the Charter of the City of Millington provides that there shall be popular election of the City Court Judge for terms of eight (8) years, and that the Judge serving at the time of adoption of the Charter shall continue in office until expiration of his current term; and

WHEREAS, the term of the currently serving City Court Judge will expire in 2014, and the Board of Mayor and Aldermen desires to provide for election of the City Court Judge in accordance with the Charter; and

WHEREAS, Section 11.11 of the Charter of the City of Millington provides that the City Court Clerk shall be elected by the voters for terms of four years and that the Board of Mayor and Aldermen may by ordinance provide that the election of the City Court Clerk shall coincide at every other election with the election of the City Judge; and

WHEREAS, the Board desires to provide for election of the City Court Clerk for terms of four (4) years, beginning at the time of the next election for City Judge in 2014;

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

1. Section 3-101, Judge to be elected, of the Millington Municipal Code is amended by numbering existing Section 3-101 as Section 3-101 (a) and by adding new Section 3-101 (b) to read as follows:

   "Section 3-101 (b). Qualified voters of the City shall elect a Municipal Judge to serve terms of eight years, beginning at the time of the August, 2014 general state and county election. At each such election, the candidate who receives the largest number of votes shall be declared elected. The Judge's term of office shall begin on the first day of September following the Judge's election. All subsequent elections for Municipal Judge shall be held in accordance with Article 7, Section 5 of the Tennessee Constitution."

2. Section 3-204, Municipal court clerk, of the Millington Municipal Code is deleted in its entirety and replaced with new Section 3-204, as follows:

   "3-204. City Court Clerk. (a) The City Court Clerk shall be elected by qualified voters of the City; provided, however, that the City Court Clerk serving as of the date of adoption of this Ordinance shall serve until the first election for City Court Clerk in 2014.

   (b) A City Court Clerk shall be elected at the time of the next election for City Court Judge, at the time of the August, 2014 general state and county election, for a term of four years. Thereafter, there shall be an election for City Court Clerk at the same time as the August general state and county elections every fourth year. The candidate who receives the largest number of votes shall be declared elected.

   (c) The elected City Court Clerk's term of office shall begin on the first day of September following the Clerk's election."

BE IT FURTHER ORDAINED that Section 3-206, Vacancy occurring in office of clerk, of the Millington Municipal Code is deleted in its entirety and replaced with new Section 3-206, as follows:

"3-206. Vacancy in Office of City Court Clerk. In the event of a vacancy in the office of City Court Clerk by death, resignation or removal from office, the Board of Mayor and Aldermen shall appoint a person to serve as City Court Clerk until the next August state election, at which time a City Court Clerk shall be elected by the voters to fill the remainder of the unexpired term of the previously elected City Court Clerk."

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. Lowry, seconded by Mr. Barger, the Board voted unanimously to approve Ordinance 2012-25 on second reading. The public hearing on this Ordinance was set for January 7, 2013.

CONSIDERATION OF ORDINANCE 2012-26

The next order of business was consideration of Ordinance 2012-26, as follows:

ORDINANCE 2012-26

ORDINANCE AMENDING SECTION 14-1003 (2)
OF THE MILLINGTON MUNICIPAL CODE

WHEREAS, the City of Millington has previously adopted Title 14, Chapter 10, Flood Damage Prevention, of the Millington Municipal Code; and

WHEREAS, the Federal Emergency Management Agency (FEMA) requires that the City amend said Chapter 10 so that the City's floodplain management regulations meet the standards of Paragraph 60.3(d) of the National Flood Insurance Program (NFIP) regulations not later than February 6, 2013; and

WHEREAS, the Board of Mayor and Aldermen desire to amend Section 14-1003 of the Millington Municipal Code in to adopt the current effective Flood Insurance Study (FIS) report and Flood Insurance Rate Map (FIRM) to which the NFIP regulations apply and other modifications made by this map revision;

NOW, THEREFORE, BE IT ORDAINED by the Board of Mayor and Aldermen of the City of Millington, Tennessee, that in order to comply with the FEMA requirements described above, Section 14-1003 (2), Basis for establishing the areas of special flood hazard, of the Millington Municipal Code is deleted in its entirety and is replaced by the following new Section 14-1003 (2):

"14-1003(2) Basis for establishing the areas of special flood hazard. The areas of special flood hazard identified on the City of Millington, Tennessee, Federal Emergency Management Agency, Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM), community Panel Numbers 47157C0180F, 47157C0170F, 47157C0160F, 47157C0065F, 47157C0155F, and 47157CIND0A dated February 6, 2013, along with all supporting technical data, are adopted by reference and declared to be a part of this chapter. These shall be incorporated into the Millington, Tennessee Zoning Map."

BE IT FURTHER ORDAINED that except as expressly amended hereby, Title 14, Chapter 10 of the Millington Municipal Code remains in full force and effect as previously adopted.

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 2012-26 on second reading. The public hearing on this Ordinance was set for January 7, 2013.

CONSIDERATION OF RESOLUTION 45-2012

The next order of business was consideration of Resolution 45-2012, as follows:

RESOLUTION 45 -2012
RESOLUTION DISMISSING UNCOLLECTIBLE PERSONAL PROPERTY TAXES AND AUTHORIZING REMOVAL OF PARCELS FROM TAX ROLLS

WHREAS, the City has determined based on information from the Shelby County Trustee 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;

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 3rd day of December, 2012.

Upon motion by Mr. Lowry, seconded by Mr. Ford, the Board voted unanimously to approve Resolution 45-2012.

CONSIDERATION OF RIGHT OF WAY PERMITS

Planning Director Darek Baskin discussed two proposed construction and occupancy permits requested by the Zayo Group. He said there were changes needed to permit # 3, so consideration of that permit was postponed until the December 14th meeting. Upon motion by Mr. Lowry, seconded by Mr. Brown, the Board voted unanimously to approve requested permit # 2.

REPORT ON JUDGE MAYS' RULING

Mayor Carter read a summary of Judge Mays' ruling in the municipal schools lawsuit. Judge Mays ruled that Chapter 905 is void under the Constitution of the State of Tennessee because it violates the prohibition of legislation that is "local in effect" to one particular county. This means that the municipal school referenda and school board elections are void and without effect, and the suburban municipalities cannot swear in their school board members. Judge Mays requested addition time to rule on whether the other two statutes, Chapter 1(b)(3) and Chapter 970, adopted by the Tennessee General Assembly are legal under the State Constitution, and he postponed the racial discrimination trial that had been set for January 3, 2013.

BUSINESS FROM THE FLOOR

There was no business from the floor.

ADJOURNMENT

There being no further business, upon motion by Lowry, seconded by Mr. Brown and the unanimous vote of the Aldermen, the meeting was adjourned at 6:51 p.m.

Terry Jones, Mayor

Lorrie Leach, City Clerk