

REGULAR MEETING
BOARD OF MAYOR AND ALDERMEN
NOVEMBER 13, 2012

REFERENCE VIDEO DATED NOVEMBER 13, 2012

The Board of Mayor and Aldermen of the City of Fayetteville, Lincoln County, Tennessee, met in open, public session at the regular meeting place of said Board in the Municipal Building of said City at 5:00 p.m. on November 13, 2012. Mayor John Ed Underwood, Jr. was present and presiding. The following named Aldermen were present:

Danny Bryant, Pat Fraley, Marty Pepper, Dorothy Small, Michael Stewart, and Thomas Young, Sr.

Also present was James H. Lee, City Administrator and Johnny D. Hill, Jr., City Attorney.

The prayer was lead by Alderman Pepper and the pledge by Alderman Fraley.

Approval of Minutes:

1. Motion was made by Pat Fraley, seconded by Dorothy Small, to approve the minutes of the Public Hearing held on Tuesday, October 9, 2012. Upon roll call, the following voted:

Aye

Danny Bryant, Thomas Young, Sr., Dorothy Small, Pat Fraley, Michael Stewart, and Marty Pepper

Nay

None

Mayor Underwood declared the Public Hearing Minutes approved.

2. Motion was made by Pat Fraley, seconded by Michael Stewart, to approve the minutes of the October 2012 Meeting. Upon roll call, the following voted:

Aye

Thomas Young, Sr., Dorothy Small, Pat Fraley, Marty Pepper, Michael Stewart, and Danny Bryant

Nay

None

Mayor Underwood declared the October Minutes approved.

Reports:

Fire Report:

Fire Chief Danny Travis reported that the Fire Department had 65 calls for service with 43 medical calls, and 5 accidents with injuries.

Police Report:

Police Chief Doug Carver reported that there were 217 incidents with 68 arrests, 47 crashes and 47 citations for a total of 1,492 events.

Recreation Report:

Ricky Honey, Recreation Director, reported that the Stone Bridge Park channel will be stocked with trout during the month of December. The annual Christmas Parade will be on Saturday, December 15, 2012, at 5:00 p.m., with applications currently being accepted.

Public Works:

Eddie Plunkett, Public Works Director, reported that 245 tons of residential trash was picked up, along with 290 tons of brush and 30 tons of leaves for the month of October. Mr. Plunkett stated that 125 feet of sidewalk was replaced during October.

Planning and Zoning Report:

Ryan Tyhuis, City Planner, reported that for the month of September there were eight (8) building permits issued for approximately Two Million, Three Hundred Sixty-Two Thousand, Twenty-Nine Dollars and 40/100 (\$2,362,029.40) in work to be done, with the fees being One Thousand, Four Hundred Thirty-One Dollars and 36/100 (\$1,431.36). Mr. Tyhuis stated that twenty-three (23) new notices of violations were issued, with thirty-three (33) complied, two (2) contacted or granted extensions, one (1) summoned to court which was dismissed, and one (1) property was cleaned by the City, with an invoice sent to the property owner for the work that was done.

Administrator's Report:

Mr. Lee explained that the City has received Four Hundred Eighty-Eight Thousand Dollars (\$488,000.00), including matching funds, from various grant thus far in 2012. Mr. Lee informed the public that the property tax notice were sent by the State Department, in which many people have not received their notices due to unknown reasons; however property owners are still liable for their property taxes. Mr. Lee stated the Organizational Meeting for the New Board of Mayor and Alderman will be held Tuesday, November 20, 2012, at 5:00 p.m., to swear in the new City School Board Officials and Alderman.

Changes in the E911 By-Laws:

Motion was made by Danny Bryant, seconded by Pat Fraley, to adopt the suggested changes to the By-Laws of the Joint Emergency Communication Committee paragraph 7, subparagraph 4, sections a and b. Upon roll call, the following voted:

Aye

Dorothy Small, Pat Fraley, Michael Stewart, Marty Pepper, Danny Bryant, and Thomas Young, Sr.

Nay

None

Mayor Underwood declared the motion approved.

1812 Celebration Pledge for the 2013 Budget:

Motion was made by Marty Pepper, seconded by Danny Bryant, to approve a letter pledging Five Thousand Dollars (\$5,000.00). Upon roll call, the following voted:

Aye

Pat Fraley, Michael Stewart, Marty Pepper, Danny Bryant, Thomas Young, Sr., and Dorothy Small

Nay

None

Mayor Underwood declared the motion approved.

Resolution R-12-10:

Resolution R-12-10, a resolution entitled, “A Resolution Authorizing And Providing For The Financing Of The Construction Of A Wastewater Facilities Project, Including Authorizing The Execution Of Applications, Contractual Agreements, And Other Necessary Documents, And Making Certain Representations, Certifications, And Pledges Of Certain Revenue In Connection With Such Financing”, (\$1,272,360.0) was considered. Said Resolution is as follows:

AUTHORIZING RESOLUTION R-12-10

RESOLUTION AUTHORIZING AND PROVIDING FOR THE FINANCING OF THE CONSTRUCTION OF A WASTEWATER FACILITIES PROJECT, INCLUDING AUTHORIZING THE EXECUTION OF APPLICATIONS, CONTRACTUAL AGREEMENTS, AND OTHER NECESSARY DOCUMENTS, AND MAKING CERTAIN REPRESENTATIONS, CERTIFICATIONS, AND PLEDGES OF CERTAIN REVENUE IN CONNECTION WITH SUCH FINANCING.

WHEREAS, the City of Fayetteville is a public and governmental body in Fayetteville, Tennessee (the "Local Government"); and

WHEREAS, the Local Government has determined that it is necessary and desirable to undertake certain activities or tasks in connection with a wastewater facilities project, Department of Environment and Conservation Number **CW0 2013-315** (the "Project"), in and for the Local Government; and

WHEREAS, Tennessee Code Annotated, Section 68-221-1001 *et. seq.*, provide for the lending of moneys in the wastewater facilities Revolving Loan Fund to Local Governments for the purpose of providing funds for Project Loans; and

WHEREAS, the local Government has determined that it is necessary and advisable to borrow funds for the Project pursuant to these sections.

NOW, THEREFORE, be it resolved as follows:

Section 1. Local Government hereby approves the creation of indebtedness on behalf of the Local Government in the principal amount of ONE MILLION TWO HUNDRED SEVENTY TWO THOUSAND THREE HUNDRED SIXTY DOLLARS (\$1,272,360.00) by the obtaining of a Project Loan.

Section 2. The execution and delivery of the Application for a Project Loan in the principal amount of ONE MILLION TWO HUNDRED SEVENTY TWO THOUSAND THREE HUNDRED SIXTY DOLLARS (\$1,272,360.00) for the purpose of funding all or a portion of the total estimated cost of the Project ONE MILLION TWO HUNDRED SEVENTY TWO THOUSAND THREE HUNDRED SIXTY DOLLARS (\$1,272,360.00), by John E. Underwood, Jr., the Mayor of the Local Government, is hereby ratified and approved in all respects.

Section 3. The form, terms, and provisions of the agreement for the Project Loan among the Local Government, the Tennessee Department of Environment and Conservation and the Tennessee Local Development Authority (the "Loan Agreement"), as presented at this meeting, are hereby approved

Section 4 The Local Government hereby agrees to honor and accept the method of financing as may be determined by the Authority pursuant to the Loan Agreement.

Section 5. The Local Government hereby agrees to make the monthly payments on the Project Loan in accordance with the Payment Schedule to be attached to the Loan Agreement.

Section 6. The Local Government hereby agrees to levy fees, rates or charges for services provided by the Project and/or to levy ad valorem taxes sufficient to pay the interest on and principal of the Project Loan in accordance with the Loan Agreement. The Local Government also agrees to levy fees, rates, or charges and/or ad valorem taxes sufficient to pay the cost of operation and maintenance of the wastewater system of which the Project is a part, which cost shall include depreciation and all other debt service expense of the system.

Section 7. The Local Government assigns and pledges its State-Shared Taxes to the State and consents to the withholding and application of State-Shared Taxes in the event of failure by the Local Government to remit monthly payments in accordance with the terms of the Loan Agreement, as the Loan Agreement may be supplemented or amended from time to time.

Section 8. The Local Government hereby agrees that there are no local pledges of State-Shared Taxes other than those disclosed.

Section 9. The Local Government hereby agrees to obtain alternative methods of financing for all costs necessary for the completion of the Project, which are in excess of the combined financing provided by any agency of the United States Government and by the Tennessee Local Development Authority.

Section 10. The Mayor of the Local Government is authorized and directed to execute the Loan Agreement, and any amendments or supplements to the Loan Agreement, in the name and behalf of the Local Government; to deliver such documents to the other parties to such documents, such execution and delivery to be conclusive proof of the approval of the Local Government of such documents; and to take such further action and to execute and deliver such further instruments or documents as such officer may consider necessary or advisable in connection with the Loan Agreement. Provided, however, this resolution shall not be deemed to grant authority to the named officer to approve any increase in the amount of the Project Loan.

Section 11. All orders, resolutions, or ordinances in conflict with this resolution be and the same are repealed insofar as such conflict exists. This resolution shall become effective immediately upon its passage.

Duly passed and approved this 13th day of November, 2012.

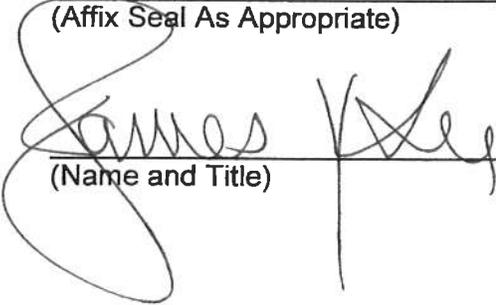




John E. Underwood, Jr., Mayor

WITNESS:

(Affix Seal As Appropriate)



(Name and Title)

Motion was made by Danny Bryant, seconded by Marty Pepper, to approve Resolution R-12-10. Upon roll call, the following voted:

Aye

Michael Stewart, Marty Pepper, Danny Bryant, Thomas Young, Sr., Dorothy Small, and Pat Fraley

Nay

None

Mayor Underwood declared the Resolution approved.

Resolution R-12-11:

Resolution R-12-11, a resolution entitled, "A Resolution Authorizing And Providing For The Financing Of The Construction Of A Wastewater Facilities Project, Including Authorizing The Execution Of Applications, Contractual Agreements, And Other Necessary Documents, And Making Certain Representations, Certifications, And Pledges Of Certain Revenue In Connection With Such Financing", (\$4,000,000.00) was considered. Said Resolution is as follows:

AUTHORIZING RESOLUTION R-12-11

RESOLUTION AUTHORIZING AND PROVIDING FOR THE FINANCING OF THE CONSTRUCTION OF A WASTEWATER FACILITIES PROJECT, INCLUDING AUTHORIZING THE EXECUTION OF APPLICATIONS, CONTRACTUAL AGREEMENTS, AND OTHER NECESSARY DOCUMENTS, AND MAKING CERTAIN REPRESENTATIONS, CERTIFICATIONS, AND PLEDGES OF CERTAIN REVENUE IN CONNECTION WITH SUCH FINANCING.

WHEREAS, the City of Fayetteville is a public and governmental body in Fayetteville, Tennessee (the "Local Government"); and

WHEREAS, the Local Government has determined that it is necessary and desirable to undertake certain activities or tasks in connection with a wastewater facilities project, Department of Environment and Conservation Number CG1 2013-316 (the "Project"), in and for the Local Government; and

WHEREAS, Tennessee Code Annotated, Section 68-221-1001 *et. seq.*, provide for the lending of moneys in the wastewater facilities Revolving Loan Fund to Local Governments for the purpose of providing funds for Project Loans; and

WHEREAS, the local Government has determined that it is necessary and advisable to borrow funds for the Project pursuant to these sections.

NOW, THEREFORE, be it resolved as follows:

Section 1. Local Government hereby approves the creation of indebtedness on behalf of the Local Government in the principal amount of FOUR MILLION DOLLARS (\$4,000,000) by the obtaining of a Project Loan.

Section 2. The execution and delivery of the Application for a Project Loan in the principal amount of FOUR MILLION DOLLARS (\$4,000,000) for the purpose of funding all or a portion of the total estimated cost of the Project FOUR MILLION DOLLARS (\$4,000,000), by John E. Underwood, Jr., the Mayor of the Local Government, is hereby ratified and approved in all respects.

Section 3. The form, terms, and provisions of the agreement for the Project Loan among the Local Government, the Tennessee Department of Environment and Conservation and the Tennessee Local Development Authority (the "Loan Agreement"), as presented at this meeting, are hereby approved.

Section 4. The Local Government hereby agrees to honor and accept the method of financing as may be determined by the Authority pursuant to the Loan Agreement.

Section 5. The Local Government hereby agrees to make the monthly payments on the Project Loan in accordance with the Payment Schedule to be attached to the Loan Agreement.

Section 6. The Local Government hereby agrees to levy fees, rates or charges for services provided by the Project and/or to levy ad valorem taxes sufficient to pay the interest on and principal of the Project Loan in accordance with the Loan Agreement. The Local Government also agrees to levy fees, rates, or charges and/or ad valorem taxes sufficient to pay the cost of operation and maintenance of the wastewater system of which the Project is a part, which cost shall include depreciation and all other debt service expense of the system.

Section 7. The Local Government assigns and pledges its State-Shared Taxes to the State and consents to the withholding and application of State-Shared Taxes in the event of failure by the Local Government to remit monthly payments in accordance with the terms of the Loan Agreement, as the Loan Agreement may be supplemented or amended from time to time.

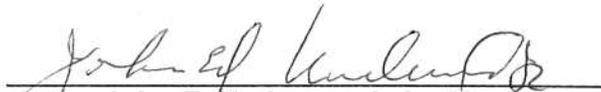
Section 8. The Local Government hereby agrees that there are no local pledges of State-Shared Taxes other than those disclosed.

Section 9. The Local Government hereby agrees to obtain alternative methods of financing for all costs necessary for the completion of the Project which are in excess of the combined financing provided by any agency of the United States Government and by the Tennessee Local Development Authority.

Section 10. The Mayor of the Local Government is authorized and directed to execute the Loan Agreement, and any amendments or supplements to the Loan Agreement, in the name and behalf of the Local Government; to deliver such documents to the other parties to such documents, such execution and delivery to be conclusive proof of the approval of the Local Government of such documents; and to take such further action and to execute and deliver such further instruments or documents as such officer may consider necessary or advisable in connection with the Loan Agreement. Provided, however, this resolution shall not be deemed to grant authority to the named officer to approve any increase in the amount of the Project Loan.

Section 11. All orders, resolutions, or ordinances in conflict with this resolution be and the same are repealed insofar as such conflict exists. This resolution shall become effective immediately upon its passage.

Duly passed and approved this 13th day of November, 2012.

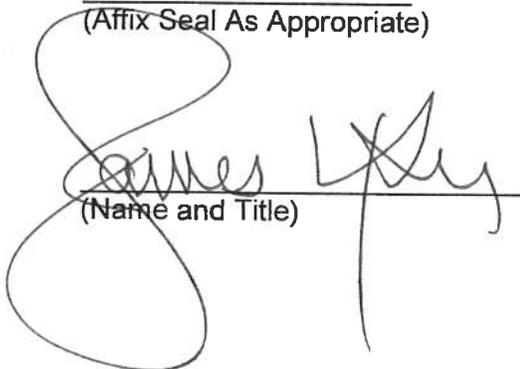


John E. Underwood, Jr., Mayor

WITNESS:



(Affix Seal As Appropriate)



(Name and Title)

Motion was made by Marty Pepper, seconded by Danny Bryant, to approve Resolution R-12-11. Upon roll call, the following voted:

Aye

Marty Pepper, Danny Bryant, Thomas Young, Sr., Dorothy Small, Pat Fraley, and Michael Stewart

Nay

None

Mayor Underwood declared the Resolution approved.

Water and Sewer City Code – Title 18, Chapters 1-3:

Motion was made by Danny Bryant, seconded by Dorothy Small, to postpone this matter until the next regular schedule Board of Mayor and Alderman Meeting. Upon roll call, the following voted:

Aye

Danny Bryant, Thomas Young, Sr., Dorothy Small, Pat Fraley, Michael Stewart and Marty Pepper

Nay

None

Mayor Underwood declared the motion approved.

Achievement Signs For State/National Winners:

Motion was made by Dorothy Small, seconded by Marty Pepper, to approve the Achievement Sign Policy for State and National Winners. Upon roll call, the following voted:

Aye

Thomas Young, Sr., Dorothy Small, Pat Fraley, Michael Stewart, Marty Pepper, and Danny Bryant

Nay

None

Mayor Underwood declared the motion approved.

Ordinance No. 2012-17:

Ordinance No. 2012-17, an ordinance entitled, “An Ordinance Amending The Annual Budget And Capital Program Of The City Of Fayetteville, Tennessee, For Fiscal Year 2012”, was considered. Said Ordinance is as follows:

ORDINANCE NO. 2012 – 17

AN ORDINANCE AMENDING THE ANNUAL BUDGET AND CAPITAL PROGRAM OF THE CITY OF FAYETTEVILLE, TENNESSEE, FOR FISCAL YEAR 2012,

WHEREAS, the Board of Mayor and Alderman has established a program to encourage efficient budget management by returning 50% of budgeted savings to departments; and

WHEREAS, Tennessee Code Annotated requires these items to be budgeted expenditures;

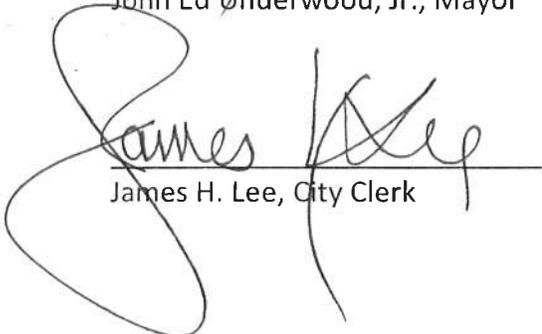
NOW, THEREFORE BE IT ORDAINED by the Board of Mayor and Alderman of the City of Fayetteville, Tennessee, that the following amounts be added to the budgeted amounts set forth for fiscal year 2013 in Ordinance No. 2012 – 12.

City Court	\$ 3,861
Administration	\$ 2,828
Information Technology	\$ 1,150
Purchasing	\$ 493
Fire	\$ 5,263
Planning & Codes	\$ 3,888
Street	\$ 14,912
Garage	\$ 12,668

This ordinance shall take effect upon its passages, the public welfare requiring it. All ordinances or parts of ordinances in conflict with any provision of this ordinance are hereby repealed.

Nov. 13, 2012
Date


John Ed Underwood, Jr., Mayor


James H. Lee, City Clerk

Motion was made by Danny Bryant, seconded by Pat Fraley, to approve Ordinance 2012-17. Upon roll call, the following voted:

Aye

Dorothy Small, Pat Fraley, Michael Stewart, Marty Pepper, Danny Bryant, and Thomas Young, Sr.

Nay

None

Mayor Underwood declared the motion approved.

Public Hearing:

1. Motion was made by Danny Bryant, seconded by Pat Fraley, to call for a Public Hearing to rezone a portion of Hedgemont Avenue, owned by Willie Jennings, from R-3 to C-3. Upon roll call, the following voted:

Aye

Pat Fraley, Michael Stewart, Marty Pepper, Danny Bryant, Thomas Young, Sr., and Dorothy Small

Nay

None

Mayor Underwood declared the motion approved.

2. Motion was made by Marty Pepper, seconded by Michael Stewart, to call for a Public Hearing to rezone 206 North Main Avenue, owned by Evelyn Huggins, from C-3 to R-2. Upon roll call, the following voted:

Aye

Michael Stewart, Marty Pepper, Danny Bryant, Thomas Young, Sr., Dorothy Small, and Pat Fraley

Nay

None

Mayor Underwood declared the motion approved.

3. Motion was made by Michael Stewart, seconded by Dorothy Small, to call for a Public Hearing to rezone 31 East College Street, owned by Jay and Julie Pilzer, from C-3 to R-2. Upon roll call, the following voted:

Aye

Marty Pepper, Danny Bryant, Thomas Young, Sr., Dorothy Small, Pat Fraley, and Michael Stewart

Nay

None

Mayor Underwood declared the motion approved.

Motion was made, seconded, and unanimously adopted to adjourn.

Mayor

Clerk