

MURFREESBORO CITY COUNCIL
AGENDA

August 25, 2016

7:00 p.m.

Council Chambers

PRAYER

MR. RICK LALANCE

PLEDGE OF ALLEGIANCE

CEREMONIAL ITEMS

***PROCLAMATION HONORING RON WASHINGTON**

Consent Agenda

1. A. Request to hang banner across East Main Street from Read to Succeed:
 - a. Literacy Day: July 28-August 7, 2017.
 - b. Reading in the Schools Day: September 8-18, 2017.

Minutes

2. A. July 21, 2016 - Regular Meeting.
B. July 28, 2016 - Special Meeting (Joint Session MED).
C. July 28, 2016 - Regular Meeting.
D. August 11, 2016 - Special Session (Public Comment).
E. August 11, 2016 - Regular Meeting.

Second Readings

3. Consider for passage on second and final reading ORDINANCE 16-OZ-33 to amend the conditions applicable to an area in the Planned Industrial Development (PID) District (Parkway Place) located along Joe B. Jackson Parkway; Joe Swanson, applicant [2016-422].
4. Consider for passage on second and final reading ORDINANCE 16-OZ-34 to rezone an area located along Brinkley Road to Planned Residential Development (PRD) District [2016-425].
5. Consider for passage on second and final reading ORDINANCE 16-OZ-35 to rezone an area located along North Rutherford Boulevard and Old Lascassas Road to Highway Commercial (CH) District [2016-427].

New Business

6. Consider recommendations of the Assistant City Attorney: Proposed Master License Agreement regarding use of City ROW by ZAYO Group, LLC.

Board & Commission Appointments

7. Planning Commission: Appoint Ms. Jennifer Garland.

Beer Permits

Payment of Statements

Other Business from Staff or City Council

Adjourn



August 15, 2016

Dear Mayor McFarland and City Council,

Read To Succeed requests permission to hang a banner across East Main Street for the following dates: Literacy Day Banner July 28th – August 7th 2017 and Reading in the Schools Day Banner Sept 8th – Spet 18th 2017 . These banners help promote our literacy events. I have spoken with Georgia Meshotto and she indicated these dates are available.

Thank you for your consideration of this request.

Sincerely,

Lisa Mitchell
Executive Director
615-738-7323
lisamitchell@readtosucceed.org

READ TO SUCCEED · P.O. Box 12161 · Murfreesboro, TN 37129

Read To Succeed, the community literacy collaborative in Rutherford County, will promote reading, with an emphasis on family literacy. This non-profit initiative supports literacy programs and fosters awareness of the importance of reading. For a complete listing of Council members or information, visit www.readtosucceed.org.

July 21, 2016

The City Council of the City of Murfreesboro, Rutherford County, Tennessee, met in regular session at its regular meeting place in the Council Chambers at City Hall at 7:00 p.m. on Thursday, July 21, 2016, with Mayor Shane McFarland present and presiding and with the following Council Members present and in attendance, to wit:

Rick LaLance
Bill Shacklett
Eddie Smotherman
Ron Washington
Doug Young

Council Member Madelyn Scales Harris was absent and excused from this meeting.

The following representatives of the City were also present:

Robert J. Lyons, City Manager
Jennifer Moody, Assistant City Manager
Melissa Wright, City Recorder/Finance Director
Craig Tindall, City Attorney
David Ives, Assistant City Attorney
Gary Whitaker, Planning Director
Matthew Blomeley, Principal Planner
Margaret Ann Green, Principal Planner
Robert Lewis, Planner
Karl Durr, Chief of Police
Angela Jackson, Assistant Parks & Recreation Director
Sam Huddleston, Assistant City Engineer
Georgia A. Meshotto, Administrative Assistant
City Recorder/City Council

Council Member Ron Washington commenced the meeting with a moment of silent prayer followed by the Pledge of Allegiance.

Mayor McFarland recognized Chief Jeff Hughes from Brentwood, Tennessee who presented the Murfreesboro Police Department with a Certificate of Meritorious Accreditation from the Tennessee Law Enforcement Accreditation Program, the Tennessee Association of Chiefs of Police and its Board of Directors. This Certificate became effective on June 1, 2016 which recognizes the Murfreesboro Police Department as an Accredited Law Enforcement Agency for a period of three years. This is the second award that has been presented to the Murfreesboro Police Department for demonstrating their compliance with the Tennessee Law Enforcement Accreditation Program. Police Chief Karl Durr accepted the Certificate of Meritorious Accreditation on behalf of the agency, giving recognition to its law enforcement officers, civilians and communication dispatchers.

The Consent Agenda was presented to the Council for approval:

- 1) Letter of recommendations from the Senior Center Commission:
 - A. GNRC Options Contract No. 2017-02.
 - B. GNRC Grant Contract No. 2017-23.
 - C. United Way of Rutherford & Cannon Counties Agreement FY 2016-2017.
- 2) Letter of recommendations from the City Recorder/Finance Director:
 - A. Engagement Letter for Annual Actuarial Services of Murfreesboro, Tennessee Employees' Revised Pension Plan for Budget Year 2016-2017.
 - B. Other Post Employment Benefit (OPEB) Calculations.
 - C. State CT-0253 Form for the June 2016 Water & Sewer Refunding Bond Issue.

3) Letter of recommendations from the Facilities Maintenance Superintendent: Amendment to Contract with Hearthstone Properties LLC for City Hall Parking Garage Sweeping/Cleaning Services.

4) Letter of recommendations from the Street Division Superintendent: Purchase of two (2) 2016 Kenworth T370 Dump Trucks under State of Tennessee Statewide Contract Number: 200-46732.

5) Letter of recommendations from the Assistant City Manager:
A. Renewal of Lease Agreement with Main Street and Heritage Center.
B. Amendment No. 2 to Contract with Kendig Keast Collaborative.

6) Letter of recommendations from the Transportation Director:
A. Middle Tennessee Boulevard Improvement Project-Main Street to Greenland Drive, TDOT Agreement 090036-Amendment No. 2.
B. Contract with Mid-Cumberland Human Resource Agency (MCHRA) for Provision of Transit Services for FY 2017.

7) Letter of recommendations from the Assistant City Engineer: Mandatory Referral and Gas Line Easement Grant, Atmos Energy Gas Line Easement for Fountains at Gateway.

8) Letter of recommendations from the Community Development Grant Coordinator: Use of funds through the Affordable Housing Assistance Program for 609 Freedom Court.

9) Letter of recommendations from the Water & Sewer Board:
A. Replacement & Installation of GAC Effluent Valve Actuator.
B. Raw Water No. 1 (Task Order 16-04) and No. 6 (Task Order 16-05) Pump Repairs, Water/Wastewater Systems Mechanical/Electrical Services Contract.
C. Contingency Allowance Allocations for Sinking Creek WWTP-Phase 4D.
D. Sinking Creek Treatment Plant: Installation Services for Three Biosolids Press Replacements & Three Sludge Transfer Pump Replacements.
E. Sewer Connection Fee Approval for Rooms to Go, 2846 Medical Center Parkway.
F. Internal Control Policy.
G. Asphalt Purchases Report.

10) Letter of recommendations from the Chief of Police:
A. Purchase of Replacement Police Vehicles and Equipment.
B. Purchase of Tasers.
C. Contract Amendment with Gemini Communications for Communications Systems & Electronic Equipment Installation, Monitoring, Maintenance & Repair Services.
D. Purchase of Upgrade to Police Records Management System (RMS) Software.
E. Purchase of Electronic Patient Care Reporting Software (ePCR).
F. Payment of Comcast Invoice for Fiber to Fire Station 10.
G. Purchase of Replacement Parking Enforcement Handheld Devices.

11) Letter of recommendations from the Parks & Recreation Director:
A. Acorn Festival.
B. Salsa Making and Salsa Dancing Program.
C. Agreement for Mountain Bike Trail Planning and Design Work.
D. Purchase of Wristbands for Recreational Facilities without obtaining Sealed Bids.
E. Purchase of two (2) Trucksters; two (2) 72" Diesel Mowers; & four (4) 72" Mowers.

12) Letter of recommendations from the Principal Planner: Mandatory Referral [2016-706] for the abandonment of variable width drainage easement located within the Henley Station Phase 2 development along Willow Oak Trail; Joseph Haddix, applicant.

13) Letter of recommendations from the City Engineer:
A. Material Testing for Highland Avenue Police Precinct.
B. Material Testing for Lytle Street Improvement Phase 2.

14) Letter of recommendations from the Information Technology Director: Use of Competitive Sealed Proposal Method of Procurement for the Purchase of Equipment, Installation, Training and Support Services for a Video Surveillance System for Parks & Recreation Buildings.

15) Request from Olive Branch Church to hang a banner across East Main Street from August 8-12, 2016 for the "Stacy B. Windrow 5K Run/Walk".

(Insert letters from the Senior Center Commission, City Recorder/Finance Director, Facilities Maintenance Superintendent, Street Division Superintendent, Assistant City Manager, Transportation Director, Assistant City Engineer, Community Development Grant Coordinator, Water & Sewer Board, Chief of Police, Parks & Recreation Director, Principal Planner, City Engineer and Information Technology Director here.)

Mr. Smotherman made a motion to approve the Consent Agenda in its entirety. Mr. Washington seconded the motion and all members of the Council present voted "Aye".

Vice-Mayor Young made a motion to approve the minutes as written and presented for the regular meetings held on June 2, 2016, June 16, 2016 and June 23, 2016. Mr. Shacklett seconded the motion and all members of the Council present voted "Aye".

The following letter from the Principal Planner was presented to the Council:

(Insert letter dated July 15, 2016 here with regards to ORDINANCE 16-OZ-28.)

The Principal Planner presented the following prohibited uses in the self-storage facility for Lot 1 in the Northfield Village PCD as requested by the adjoining neighbors:

- 1) Playing of any type of musical instrument, radio, TV or other electronic device.
- 2) Repairing or working on cars, motorcycles or any internal combustion engine.
- 3) Sanding, painting, sawing, or operating other power equipment.
- 4) Lodging, sleeping or cooking.
- 5) Housing of any animals or other living creatures.
- 6) Parties, gatherings, meetings for any purpose.
- 7) Garage sales, flea market sales or other public sales (Except as stated in Allowable Uses: On-site auctions of unit contents when the renter of a unit quits paying rent on that unit).
- 8) Storage of any hazardous, flammable or explosive materials.

An ordinance, entitled "ORDINANCE 16-OZ-28 amending the Zoning Ordinance and the Zoning Map of the City of Murfreesboro, Tennessee, as heretofore amended and as now in force and effect, to amend the conditions applicable to approximately 5.6 acres in the Planned Commercial Development (PCD) District located along West Northfield Boulevard and Sulphur Springs Road, as indicated on the attached map; Tarver Properties, Inc., applicant [2016-417]," was read to the Council and offered for passage on first reading upon motion made by Mr. Smotherman, seconded by Vice-Mayor Young. Upon roll call said ordinance was passed on first reading by the following vote:

Aye: Rick LaLance
Bill Shacklett
Eddie Smotherman
Ron Washington
Doug Young
Shane McFarland

Nay: None

Mayor McFarland announced that Item 4A had been removed from the Agenda. Mr. Matthew Blomeley, Principal Planner, explained that this agenda item was removed because it was held on January 7, 2016 to consider the Annexation Petition and Plan of Services for 5.96 acres located along Foxfire Court. Following the closing of that public hearing, Council deferred action on the annexation so that the following conditions could be met that were

essential to the Fire & Rescue Department to provide services: 1) A new driveway must be established off of Maya Drive; 2) new driveway off of Maya Drive must be 15' wide; 3) new driveway must be of sufficient construction to support a fire apparatus and a cross section demonstrating this and sealed by a Civil Engineer to be submitted to the City Engineering Department for review and approval prior to construction; and 4) the address of subject property shall be changed to a Maya Drive address as well. Since the January 7, 2016 public hearing, the status of the property has changed. The developer has the property under contract and has requested a PRD zoning simultaneous with the annexation. Staff recommends that the resolution to adopt the Plan of Services be approved as presented on January 7, 2016. The resolution to annex the property will become effective upon the zoning becoming effective and the four conditions recommended by the Planning Commission being met. The public hearing for zoning will be considered in the next public hearing.

The following RESOLUTION 15-R-PS-66 was read to the Council and offered for adoption upon motion made by Vice-Mayor Young, seconded by Mr. Smotherman. Upon roll call said resolution was adopted by the following vote:

Aye: Rick LaLance
Bill Shacklett
Eddie Smotherman
Ron Washington
Doug Young
Shane McFarland

Nay: None

(Insert RESOLUTION 15-R-PS-66 here to adopt a Plan of Services for approximately 5.96 acres along Foxfire Court [2015-507]; Linda Smith, applicant.)

The following RESOLUTION 15-R-A-66 was read to the Council and offered for adoption upon motion made by Mr. Shacklett, seconded by Vice-Mayor Young. Upon roll call said resolution was adopted by the following vote:

Aye: Rick LaLance
Bill Shacklett
Eddie Smotherman
Ron Washington
Doug Young
Shane McFarland

Nay: None

(Insert RESOLUTION 15-R-A-66 here to annex approximately 5.96 acres along Foxfire Court, and to incorporate the same within the corporate boundaries of the City of Murfreesboro, Tennessee [2015-507]; Linda Smith, applicant.)

Mayor McFarland announced that the next item on the agenda is to conduct a public hearing, pursuant to RESOLUTION 15-R-PH-66.1 adopted by the City Council on June 16, 2016, to consider zoning of approximately 6 acres located along Spike Trail and Maya Drive (Foxfire Court) to Planned Residential Development (PRD) District, simultaneous with

annexation. Notice of said public hearing was published in the July 4, 2016 issue of a local newspaper as follows:

(Insert notice here.)

Ms. Margaret Ann Green, Principal Planner, presented the zoning application for approximately 6 acres located along Spike Trail and Maya Drive. Subject property is part of the Preserve at Indian Creek single-family subdivision and south of the Foxfire Court/Spike Trail intersection. The property consists of one parcel which is developed with a single-family house. Ole South Properties, applicant, has a contract to purchase the property to make it part of the Indian Creek Subdivision. If the zoning for Planned Residential Development (PRD) District is approved, it would allow 70 units on 6 acres for a density of 11.7 dwelling units per acre. None of these units have attached garages but will have surface parking. The applicant is committing to an additional 18 parking spaces in the PRD Program Book. These units will be for sale and not owned by one owner to rent. There was considerable discussion at Planning Commission regarding connectivity. Staff was favorable to connectivity both at Maya Drive and at the intersection of Spike Trail and Foxfire Court as this access would be important to service providers, solid waste providers, school bus drivers, and emergency service providers. The importance of connectivity has been pointed out in several areas of the 2035 Comprehensive Plan. The Planning Commission voted to approve the rezoning request with the exception of one "no" vote. They also recommended that a neighborhood meeting be held which took place this week. Mr. Matt Taylor, SEC, Inc., gave a presentation on the proposed Villas at Indian Creek, Section 4 PRD. Also present were the applicants, Mr. John Floyd and Mr. Dan Bobo of Ole South Properties. There were no questions from the Council at this time.

Mayor McFarland then declared the public hearing open and invited those present who wished to speak for or against the proposed zoning of approximately 6 acres located along Spike Trail and Maya Drive (Foxfire Court) to Planned Residential Development (PRD) District, simultaneous with annexation, do so at this time.

Ms. Belinda Brown, 117 Vassar Court, spoke on behalf of her neighborhood and submitted for the record petitions opposed to this zoning. In the neighborhood meeting, an alternate proposal was presented for which the builder agreed to have an egress onto Maya Drive with an emergency gate at Foxfire Court/Spike Trail; minimum of 35' setback versus the requested 40' setback; pavilion with grills, picnic tables and playground which was in the original plans; and fast growing trees along the perimeter which was in the original plans. However, she said these items do not address the main concerns. She wanted the Council to be aware of current construction going on in the area and questioned if it is the

intent of the City to increase the volume of multi-family units. There are over 600 apartments at two locations currently under construction within 2 miles of the proposed site and, while Council considers the zoning request of PRD, there are also 260 townhomes and 260 single-family homes in the neighboring Villas and the Preserve at Indian Creek Phases 1-3. This proposed 70-unit development is Phase 4. We are saturated with multi-family units in the neighborhood as well as all along Fortress Boulevard from I-24 until it intersects with Old Fort Parkway which will further impact the Blackman School District. She respectfully requested that Council not approve this rezoning request for a PRD and, if annexation is approved, that Council only approve zoning for Residential Single-Family Ten (RS-10) District or greater.

There were no others present who wished to speak for or against the proposed zoning and, after ample time had been given, Mayor McFarland declared the public hearing closed.

An ordinance, entitled "ORDINANCE 15-OZ-66 amending the Zoning Ordinance and the Zoning Map of the City of Murfreesboro, Tennessee as heretofore amended and as now in force and effect to zone approximately 6 acres along Spike Trail and Maya Drive (Foxfire Court) as Planned Residential Development (PRD) District, simultaneous with annexation; Ole South Properties, Inc., applicant [2016-419]," was read to the Council and offered for passage on first reading.

Ms. Margaret Ann Green, Principal Planner, addressed points of ingress/egress; individual ownership; and setbacks. Mr. Matt Taylor, SEC, Inc., addressed access points and would concur with staff's recommendation which is part of the Pattern Book. In the meeting with Ms. Brown, they did not agree to move all of the setbacks off of the property line as they range from 20-25' and some units are more than 35' off of the property line. The applicant's proposal is as outlined in the existing Pattern Book. Council addressed the need for connectivity and configuration of roads, traffic and parking.

Mr. LaLance made a motion to pass said ordinance on first reading. Mr. Washington seconded the motion. Upon roll call said ordinance was passed on first reading by the following vote:

Aye: Rick LaLance
Bill Shacklett
Eddie Smotherman
Ron Washington
Doug Young
Shane McFarland

Nay: None

The following letters of recommendation from the Planning Commission were presented to the Council:

(Insert letters dated July 12, 2016 and July 14, 2016 here requesting to schedule public hearings to consider zoning along New Salem Highway (CF) (RM-12) (RZ) simultaneous with annexation; amend PID (Parkway Place) along Joe B. Jackson Parkway; rezone area along Brinkley Road (PRD) (Wilkerson Downs); rezone area along North Rutherford Boulevard & Old Lascassas Road (CH); and rezone area along Armstrong Valley Road (RS-8).)

The following RESOLUTION 16-R-PH-29.1 was read to the Council and offered for adoption upon motion made by Vice-Mayor Young, seconded by Mr. Shacklett. Upon roll call said resolution was adopted by the following vote:

Aye: Rick LaLance
Bill Shacklett
Eddie Smotherman
Ron Washington
Doug Young
Shane McFarland

Nay: None

(Insert RESOLUTION 16-R-PH-29.1 here to reschedule a public hearing for August 18, 2016 to consider zoning of approximately 74 acres along New Salem Highway to be zoned Commercial Fringe (CF) District (approximately 26.1 acres); Residential Multi-Family Twelve (RM-12) District (approximately 23.1 acres) and Residential Zero-Lot Line (RZ) District (approximately 25 acres), simultaneous with annexation [2016-415].)

The following RESOLUTION 16-R-PH-33 was read to the Council and offered for adoption upon motion made by Vice-Mayor Young, seconded by Mr. Shacklett. Upon roll call said resolution was adopted by the following vote:

Aye: Rick LaLance
Bill Shacklett
Eddie Smotherman
Ron Washington
Doug Young
Shane McFarland

Nay: None

(Insert RESOLUTION 16-R-PH-33 here to schedule a public hearing for August 18, 2016 to consider a proposed amendment to approximately 150.5 acres in the Planned Industrial Development (PID) District (Parkway Place) located along Joe B. Jackson Parkway [2016-422]; Mr. Joe Swanson, applicant.)

The following RESOLUTION 16-R-PH-34 was read to the Council and offered for adoption upon motion made by Vice-Mayor Young, seconded by Mr. Shacklett. Upon roll call said resolution was adopted by the following vote:

Aye: Rick LaLance
Bill Shacklett
Eddie Smotherman
Doug Young
Shane McFarland

Abstain: Ron Washington

Nay: None

(Insert RESOLUTION 16-R-PH-34 here to schedule a public hearing for August 18, 2016 to consider rezoning approximately 13.5 acres located along Brinkley Road from Commercial Fringe (CF) District to Planned Residential Development (PRD) District (Wilkerson Downs) [2016-425]; Robert E. Frances and Jeffrey Gill, applicants.)

The following RESOLUTION 16-R-PH-35 was read to the Council and offered for adoption upon motion made by Vice-Mayor Young, seconded by Mr. Shacklett. Upon roll call said resolution was adopted by the following vote:

Aye: Rick LaLance
Bill Shacklett
Eddie Smotherman
Ron Washington
Doug Young
Shane McFarland

Nay: None

(Insert RESOLUTION 16-R-PH-35 here to schedule a public hearing for August 18, 2016 to consider rezoning approximately 2 acres located along North Rutherford Boulevard and Old Lascassas Road from Commercial Fringe (CF) District to Highway Commercial (CH) District [2016-427]; Eric Lowman, applicant.)

The following RESOLUTION 16-R-PH-36 was read to the Council and offered for adoption upon motion made by Vice-Mayor Young, seconded by Mr. Shacklett. Upon roll call said resolution was adopted by the following vote:

Aye: Rick LaLance
Bill Shacklett
Eddie Smotherman
Ron Washington
Doug Young
Shane McFarland

Nay: None

(Insert RESOLUTION 16-R-PH-36 here to schedule a public hearing for August 18, 2016 to consider rezoning approximately 44 acres located along Armstrong Valley Road from Single-Family Residential Fifteen (RS-15) District to Single-Family Residential Eight (RS-8) District [2016-428]; Cornerstone Development, applicant.)

The following letter of recommendations from the Parks & Recreation Director was presented to the Council:

(Insert letter dated July 21, 2016 here regarding Proposal for Restroom Building Replacements at Manson Pike & Thompson Lane Greenway Trailheads.)

The Assistant Parks & Recreation Director presented this recommendation.

Mr. LaLance made a motion to accept the recommendation of the Parks & Recreation Director to approve the bid from Hunter Knepshield Company in the amount of \$117,590.00 for replacement of two (2) restroom facilities at Manson Pike and Thompson Lane Trailheads, funded from Capital Funds for Greenway Reconstruction. Mr. Shacklett seconded the motion and all member of the Council present voted "Aye".

The City Recorder presented a Special Event Beer Permit Application for Discovery Center at 502 SE Broad Street (Event Dates: 09/16/2016 & 01/12/2017). Beer Permit Applications were presented for approval for the following, pending completion of all building and codes inspections: Sprouts Farmer's Market, 143 Wendelwood Drive (new location); Courtyard by Marriott Nashville SE/Murfreesboro, 1306 Greshampark Drive (new location); and The Gavel, 109 N. Maple Street (ownership/name change).

Vice-Mayor Young made a motion to approve a Special Event Beer Permit for Discovery Center and approve Beer Permits for Sprouts Farmer's Market, Courtyard by Marriott Nashville SE/Murfreesboro and The Gavel upon successful completion of all building and codes inspections. Mr. LaLance seconded the motion and all members of the Council present voted "Aye".

Mayor McFarland indicated there were no Board and Commission Appointments to be made at this time.

The following statement was presented to the Council with the recommendation of the City Manager and City Recorder/Finance Director that its payment be approved:

From Airport Fund:

Eastern Aviation Fuels \$ 59,003.02

Mr. Smotherman made a motion to approve payment of the statement as recommended by the City Manager and City Recorder/Finance Director. Mr. LaLance seconded the motion and all members of the Council present voted "Aye".

Under other business, the following letter of recommendations from the City Manager was presented to the Council:

(Insert letter dated July 21, 2016 here with regards to an
Emergency Purchase Replacement Aerator Impellor.)

Vice-Mayor Young made a motion to accept the recommendation of the City Manager to approve an Emergency Purchase of one (1) Replacement Aerator Impellor from Ovivo USA, LLC in the amount of \$43,394.00, funded from Working Capital Reserves. Mr. Shacklett seconded the motion and all members of the Council present voted "Aye".

Mayor McFarland provided a suggested format for the Council retreat to be held sometime in August.

Mayor McFarland advised the Council of a meeting with Chairman Jean Ann Rogers and General Manager Mr. Steve Sax of MED and the request to hold a joint meeting of City Council and the Power Board to discuss the matter of MED Power Board.

Mayor McFarland reflected on the service providers across the Country in Dallas and Louisiana that lost their lives and expressed his appreciation and thanks for the work and service that our Emergency Service Providers give this community every day.

There being no further business, Mayor McFarland adjourned this meeting at 8:05 p.m.

SHANE MCFARLAND - MAYOR

ATTEST:

MELISSA B. WRIGHT - CITY RECORDER

July 28, 2016

The City Council of the City of Murfreesboro, Rutherford County, Tennessee, met in special joint session with Murfreesboro Electric Department Power Board in Conference Room 218 at City Hall at 5:00 p.m. on Thursday, July 28, 2016, with Mayor Shane McFarland present and presiding and with the following Council Members present and in attendance, to wit:

Madelyn Scales Harris
Rick LaLance
Bill Shacklett
Eddie Smotherman
Ron Washington
Doug Young

The following representatives of the City were also present:

Robert J. Lyons, City Manager
James Crumley, Assistant City Manager
Jennifer Moody, Assistant City Manager
Craig Tindall, City Attorney
Melissa Wright, City Recorder/Finance Director
Georgia Meshotto, Administrative Assistant
City Council/City Recorder

The following representatives of the Murfreesboro Electric Department and Members of the Power Board were also present:

Rick Hardesty, Board Member
Irene Pitts-McDonald, Board Member
Shane McFarland, Board Member
Jean Ann Rogers, Chairman
Steve Sax, General Manager

Power Board Member Richard Stone was not present but participated via conference call.

Mayor McFarland called the meeting of the City Council to order.

Chairman Rogers called the meeting of the Murfreesboro Electric Department Power Board to order.

Mayor McFarland made opening remarks regarding the Power Board and whether it should continue as a final decision-making Board or an Advisory Board. Topics of discussion were accountability and governance and the positives and negatives to MED being governed by the City Council or only by the MED Power Board.

The City Attorney pointed out that MED is run as an enterprise fund; it is self-sustaining; and it does have insurance coverage; however, it is responsible to the citizens of Murfreesboro as it is a department of the City. He commented on concerns with Human Resources and employment practices; City's insurance liability beyond the limit for any catastrophic situations; contracts and real estate in the name of the City; and consistency with respect to contracting and purchasing that need to be addressed whether or not the Board's role changes.

Chairman Rogers noted that MED's accountability is to TVA, safety of employees, keeping the lights on for their customers as well as accountability to the ratepayers which is the City. The relationship to the City is through a liaison. She addressed the biggest issue of communication and trust on both sides and felt there needs to be dialogue and resolution in order to keep the integrity of MED whole.

The proposed ordinance to restructure the Power Board was then discussed. The City Attorney noted that the City chose to use its authority under the Charter in 1947 to run the Electrical Distribution System. The City then elected to constitute a Power Board, which is an option under the Charter, to manage the Electrical Distribution System. The ordinance clarifies that the City, because it is an option to use the Plant Law of 1935, is not going to use the Plant Law but instead constitute the Board under the City's own authority and have an Advisory Board much like the Water & Sewer Board to run the business of the Electrical Distribution System.

The City Manager clarified that there is no question as to accountability within the department; however, the decision-making accountability should be made by the elected officials and not the Power Board.

Power Board Member Rick Hardesty commented on MED's financial success; classified as one of the top 100 utilities in the Country; one of 200 electrical systems that have the RP3 Award which is quality of service out of 2,000 in the Country; advanced beyond other municipalities with underground and types of systems being installed; employees with a unique skill set; and very little employee turnover except for those that retire. He did not feel the Council should go as far as to disband the Board that has been successful and achieved these results for the past 80 years, but he did understand the Council's desire to have more input because it is the City's asset. He was agreeable to MED representation at Council meetings and the General Manager reporting to the City Manager; however, he had concerns with emergency situations being approved by Council in a timely manner whereas presently the General Manager approves it right away.

Mayor McFarland agreed that there needs to be better communication on both sides; however, he addressed the accountability factor in that, if the Power Board made a decision that residents or Council did not agree with, there would be no recourse under the current decision-making Board. This has nothing to do with the General Manager or employees but rather what is going to be good for the next 20 years.

The Mayor and Council concurred that there needs to be more dialogue with the Power Board to discuss accountability and structure as well as the contents of the proposed

ordinance. It was suggested that further input from the Power Board or Council should be submitted to the City Attorney or the City Manager to be discussed at a future meeting.

Mr. Hardesty made a motion to adjourn this special joint meeting of the Power Board. Ms. Irene Pitts-McDonald seconded the motion and all members of the Power Board present voted "Aye".

JEAN ANN ROGERS - CHAIRMAN

Vice-Mayor Young made a motion to adjourn this special joint meeting of the City Council. Mr. Shacklett seconded the motion and all members of the Council voted "Aye".

This special joint meeting of City Council and the Murfreesboro Electric Power Board adjourned at 6:42 p.m.

SHANE MCFARLAND - MAYOR

ATTEST:

MELISSA B. WRIGHT - CITY RECORDER

July 28, 2016

The City Council of the City of Murfreesboro, Rutherford County, Tennessee, met in regular session at its regular meeting place in the Council Chambers at City Hall at 7:00 p.m. on Thursday, July 28, 2016, with Mayor Shane McFarland present and presiding and with the following Council Members present and in attendance, to wit:

Madelyn Scales Harris
Rick LaLance
Bill Shacklett
Eddie Smotherman
Ron Washington
Doug Young

The following representatives of the City were also present:

Robert J. Lyons, City Manager
James Crumley, Assistant City Manager
Jennifer Moody, Assistant City Manager
Melissa Wright, City Recorder/Finance Director
Craig Tindall, City Attorney
David Ives, Assistant City Attorney
Mark Foulks, Fire & Rescue Chief
Sam Huddleston, Assistant City Engineer
Glen Godwin, Director of Human Resources
Georgia A. Meshotto, Administrative Assistant
City Council/City Recorder

Vice-Mayor Young commenced the meeting with a moment of silent prayer followed by the Pledge of Allegiance.

Mr. Glen Godwin, Human Resources Director, recognized 2nd Shift 911 Dispatchers Lindsay Callahan, Cassandra Scott, James Ray, Brianna Dunn, Tim Juneau and Michelle Rowland as the STARS Award recipients nominated by Lieutenant Jimmy Puckett for their endless efforts early in May when a call came through from Texas stating that a subject residing in a Murfreesboro hotel was chatting on live webcast threatening to commit suicide. Several attempts were made to contact the subject and their location; however, all were unsuccessful until they were able to obtain subject's cell phone number after which the subject was located and Officers and EMS dispatched to the location, and the subject's life saved. Mayor McFarland presented a STARS Award Plaque for Outstanding Performance to each of the 2nd Shift 911 Dispatchers.

The Consent Agenda was presented to the Council for approval:

1) Letter of recommendations from the Communications Director: Comcast Franchise Fee Review Settlement for 2012-2014.

2) Letter of recommendations from the City Recorder/Finance Director: Acknowledgement of Receipt of City Manager's approved Budget Amendments for Fiscal Year 2016.

3) Letter of recommendations from the Human Resources Director: Voluntary Employee-Paid Vision Insurance Benefit Renewal with VSP.

4) Letter of recommendations from the Senior Center Commission: Community Development Grant (CDBG) FY 2016-2017.

5) Letter of recommendations from the Transportation Director: Contract with Regional Transportation Authority (RTA) for Provision of Transit Services for FY 2017.

- 6) Letter of recommendations from the Golf Course Director:
 - A. Visage License and Service Agreement.
 - B. Purchase of (75) 2017 Electric Club Car Precedent Golf Cars; (3) 2017 Club Car Electric Carryall 500 Turf Utility Vehicles; (1) 2017 Gas Carryall 500 Turf Vehicle; & (1) 2017 Electric Carryall 300 Turf Utility Vehicle for Public Golf Department.

- 7) Letter of recommendations from the Parks & Recreation Director:
 - A. Purchase of Pickup Truck and 15-Passenger Van.
 - B. Richard Siegel Fence Installation-Change Order No. 1.
 - C. Purchase of Ball Field & Turf Maintenance Equipment.
 - D. Bids for Purchase of Wrist Bands.

- 8) Letter of recommendations from the Chief of Police:
 - A. Contract with St. Rose of Lima School for School Traffic Enforcement Employee.
 - B. Contract with Middle Tennessee Christian School for School Traffic Enforcement Employee.
 - C. Contract with Providence Christian Academy for School Traffic Enforcement Employee.
 - D. Contract Amendment with Strategic Edge, Inc. for Government/Police Firing Range Membership.
 - E. Payment of Trittech Invoice for Public Safety Software.

(Insert letters from the Communications Director, City Recorder/Finance Director, Human Resources Director, Senior Center Commission, Transportation Director, Golf Course Director, Parks & Recreation Director and Chief of Police here.)

Ms. Scales Harris made a motion to approve the Consent Agenda in its entirety.

Vice-Mayor Young seconded the motion and all members of the Council voted "Aye".

Mr. LaLance made a motion to approve the minutes as written and presented for the special joint meeting (2035 Comprehensive Plan-Chapter 8) held on July 20, 2016. Ms. Scales Harris seconded the motion and all members of the Council voted "Aye".

An ordinance, entitled "ORDINANCE 16-OZ-28 amending the Zoning Ordinance and the Zoning Map of the City of Murfreesboro, Tennessee, as heretofore amended and as now in force and effect, to amend the conditions applicable to approximately 5.6 acres in the Planned Commercial Development (PCD) District located along West Northfield Boulevard and Sulphur Springs Road, as indicated on the attached map; Tarver Properties, Inc., applicant [2016-417]," which passed first reading on July 21, 2016, was read to the Council and offered for passage on second and final reading upon motion made by Mr. LaLance, seconded by Mr. Smotherman. Upon roll call said ordinance was passed on second and final reading by the following vote:

Aye: Madelyn Scales Harris
Rick LaLance
Bill Shacklett
Eddie Smotherman
Ron Washington
Doug Young
Shane McFarland

Nay: None

Said ordinance so passed on second and final reading is as follows:

(Insert ORDINANCE 16-OZ-28 here.)

The following letter of recommendations from the City Recorder/Finance Director was presented to the Council:

(Insert letter dated July 21, 2016 here with regards to Fiscal Year 2017 Budget Amendment.)

An ordinance, entitled "ORDINANCE 16-O-31 amending the 2016-2017 Budget (1st Amendment)," was read to the Council and offered for passage on first reading upon motion made by Ms. Scales Harris, seconded by Mr. Shacklett. Upon roll call said ordinance was passed on first reading by the following vote:

Aye: Madelyn Scales Harris
Rick LaLance
Bill Shacklett
Eddie Smotherman
Ron Washington
Doug Young
Shane McFarland

Nay: None

The following letter from the Assistant City Manager was presented to the Council:

(Insert letter dated July 28, 2016 here with regards to ORDINANCE 16-O-32.)

Ms. Jennifer Moody, Assistant City Manager, discussed the high points of the revised ordinance dealing with "food trucks" and answered questions from the Council. Vice-Mayor Young suggested that a public meeting be held to hear from the stakeholders prior to moving forward with this ordinance.

Mr. Smotherman made a motion to defer ORDINANCE 16-O-32. Mr. LaLance seconded the motion and all members of the Council voted "Aye".

The City Recorder/Finance Director presented for approval a Certificate of Compliance for Wine in Retail Stores for Walter Renee Horton at Aldi #41, 1640 Robert Rose Drive and Patrick Trueheart at Sprouts Farmer's Market #581, 143 Wendelwood Drive. Both applications had met all of the requirements.

Vice-Mayor Young made a motion to approve Certificates of Compliance for Wine in Retail Stores for Walter Renee Horton at Aldi #41 and Patrick Trueheart at Sprouts Farmer's Market. Mr. LaLance seconded the motion and all members of the Council voted "Aye".

The following letter of recommendations from the Fire & Rescue Chief was presented to the Council:

(Insert letter dated July 28, 2016 here with regards to a Contract with The Parent Company for relocation of Murfreesboro Fire & Rescue Station No. 4 to Medical Center Parkway.)

Vice-Mayor Young made a motion to accept the recommendation of the Fire & Rescue Chief to approve a Contract with The Parent Company to serve as Construction Manager at

Risk (CMAR) for the relocation of Murfreesboro Fire & Rescue Station No. 4 to Medical Center Parkway. Mr. LaLance seconded the motion and all members of the Council voted "Aye".

The following letter of recommendations from the Assistant City Engineer was presented to the Council:

(Insert letter dated July 28, 2016 here with regards to Asbestos Abatement for the former Franklin Heights Housing Complex and Purchase of 3 Lots at the corner of SE Broad Street and South Church Street.)

The Murfreesboro Fire & Rescue Chief informed the Council that a Letter of Intent had been submitted to purchase Franklin Heights to become the Public Safety Training Facility. He indicated that they are waiting for HUD approval for disposition of the property but, in the meantime, they want to move forward with abatement as they have been asked by Firehouse Expo to host some of the hands on training exercises that will take place through the National Conference to be held in Nashville the third week of October. It is expected that 10-15,000 firefighters will be in Nashville during this time and approximately 200 firefighters will come to Murfreesboro to train along with approximately 200-250 support staff and instructors. Having the abatement done at this time will also give a lot of leeway to begin demolition and get the training center site underway more quickly. The Public Safety Training Facility will not only help the Fire Department and Police Department with training, but it will also provide a significant enhancement to the ISO points and status with ISO. One of the requirements of ISO is to have a fire training facility greater than two acres that is a dedicated site to train in for a minimum of two hours for each firefighter. The Assistant City Engineer reviewed the proposal for abatement and answered questions from the Council.

Vice-Mayor Young made a motion to accept the recommendation of the Assistant City Engineer to approve a Contract with Griggs & Maloney, Inc. in the amount of "not to exceed" \$275,250.00, funded from the 2016 TML Loan, for asbestos abatement for the former Franklin Heights Housing Complex and to include generator and toilet and cabinet removal contingencies, subject to review by the City Attorney and Purchasing Director and an Agreement from MHA to reimburse the City for direct expenses for asbestos abatement in a form acceptable to the City Attorney. Mr. LaLance seconded the motion and all members of the Council voted "Aye".

The Assistant City Engineer addressed the next item to purchase three (3) lots at the corner of SE Broad Street and S. Church Street and requested that it be deferred until the Water & Sewer Board reviews the request.

Vice-Mayor Young made a motion to defer the recommendation to purchase three (3) lots at the corner of SE Broad Street and S. Church Street. Mr. LaLance seconded the motion and all members of the Council voted "Aye".

The following letter of recommendations from the Assistant City Manager was presented to the Council:

(Insert letter dated July 21, 2016 here with regards to
Budget Amendment to the Debt Service Fund.)

Mr. Jim Crumley, Assistant City Manager, addressed questions from Council. He indicated the Budget Ordinance Amendment would come back for approval at the next meeting but requested approval of this Budget Amendment to Debt Service Fund at this time.

Mr. LaLance made a motion to accept the recommendation of the Assistant City Manager and approve increasing the appropriation to Debt Service Fund by \$675,000 with a revenue transfer from General Fund Balance.

The following letter of recommendations from Mayor McFarland was presented to the Council:

(Insert letter dated July 21, 2016 here regarding City Council Retreat.)

Mayor McFarland suggested scheduling the retreat for Monday, August 22, 2016, at 11:30 a.m. at the Murfreesboro Waste Water Treatment Plant, 2032 Blanton Drive, Murfreesboro, Tennessee. Council concurred.

The City Recorder/Finance Director presented a Beer Application for Aldi #41, 640 Robert Rose Drive (new location). Approval is requested pending completion of all required building and codes inspections.

Ms. Scales Harris made a motion to approve a Beer Permit for Aldi #41 subject to successful completion of all building and codes requirements. Mr. LaLance seconded the motion and all members of the Council voted "Aye".

Mayor McFarland indicated there were no Boards and Commission Appointments to be made at this time.

The City Recorder/Finance Director indicated there were no statements to be approved at this time.

The City Manager reminded Council of the opening of Fire Station No. 10 on Sunday, July 31, 2016, followed by the ribbon cutting ceremony to be held Monday, August 1, 2016, at 9:00 a.m. He also announced that National Night Out is scheduled for Tuesday, August 2, 2016.

There being no further business to consider, Mayor McFarland adjourned this meeting at 7:52 p.m.

SHANE MCFARLAND - MAYOR

ATTEST:

MELISSA B. WRIGHT - CITY RECORDER

August 11, 2016

The City Council of the City of Murfreesboro, Rutherford County, Tennessee, met in special session in the Council Chambers at City Hall at 6:30 p.m. on Thursday, August 11, 2016, with Mayor Shane McFarland present and presiding and with the following Council Members present and in attendance, to wit:

Madelyn Scales Harris
Rick LaLance
Bill Shacklett
Eddie Smotherman
Ron Washington
Doug Young

The following representatives of the City were also present:

Rob Lyons, City Manager
James Crumley, Assistant City Manager
Jennifer Moody, Assistant City Manager
Melissa Wright, City Recorder/
Finance Director/City Treasurer
Craig Tindall, City Attorney
David Ives, Assistant City Attorney
Georgia A. Meshotto, Administrative Assistant
City Council/City Recorder

Mayor McFarland announced that this special meeting is being held to hear from the citizens of Murfreesboro. He reviewed the procedures for speaking and invited those present to step up to the podium.

Mr. Richard Baines, 1319 Parkview Terrace, attended the meetings for the Historic Bottoms and Highland Avenue projects. There was discussion regarding traffic on Broad Street and pedestrian bridges which he did not think was a good idea because it did not address crossing for the handicap. There is a need to balance the green space and public entities with opportunity to broaden the tax base in the growth plan. He requested to schedule a meeting with the City Manager and staff to share some logical and practical suggestions.

Mr. Sam Hay signed up to speak but was not present.

There were no others present who wished to speak.

Mayor McFarland adjourned this session of the public comment meeting at 6:35 p.m.

SHANE MCFARLAND - MAYOR

ATTEST:

MELISSA B. WRIGHT - CITY RECORDER

August 11, 2016

The City Council of the City of Murfreesboro, Rutherford County, Tennessee, met in regular session at its regular meeting place in the Council Chambers at City Hall at 7:00 p.m. on Thursday, August 11, 2016, with Mayor Shane McFarland present and presiding and with the following Council Members present and in attendance, to wit:

Madelyn Scales Harris
Rick LaLance
Bill Shacklett
Eddie Smotherman
Ron Washington
Doug Young

The following representatives of the City were also present:

Robert J. Lyons, City Manager
James Crumley, Assistant City Manager
Jennifer Moody, Assistant City Manager
Melissa Wright, City Recorder/Finance Director
Craig Tindall, City Attorney
David Ives, Assistant City Attorney
Darren Gore, Water & Sewer Director
Angela Jackson, Interim Parks & Recreation Director
Sam Huddleston, Assistant City Engineer
Joey Smith, Solid Waste Director
Georgia A. Meshotto, Administrative Assistant
City Council/City Recorder

Mayor Shane McFarland commenced the meeting with a prayer followed by the Pledge of Allegiance.

Mayor McFarland stepped down to the podium to present a Proclamation proclaiming August 11, 2016 as a day to recognize the Siegel Stars High School Baseball Team who had an impressive 34 and 9 record season for 2016 lead by Coach Craig Reavis and his coaching staff and who won the District 7-AAA Championship, Region 4-AAA Championship and the Class AAA State Championship in storybook fashion. Those present were Larry Creasy, Siegel High School Principal; Lead Assistant Chad Phipps; Team Players Carson Simmons, Drew Benefield, Zach Pierson, CJ Murray, Garrett Harvey, Matt McCurry, Seth Petrie, Tad Marks, and Tanner Moss. The team was presented with a key to the City of Murfreesboro.

The Consent Agenda was presented to the Council for approval:

1) Letter of recommendations from the Golf Course Director: Purchase of (6) Toro Greensmaster 1000 Walking Greens Mowers with Headlight Kits, LED Wire Harness, 21" Full Roller ASM, CR Groomer Drive, 21" Groomer, Spring Steel; (2) Toro Greensmaster 3150-Q with 11 Blade Cutting Units & Narrow Wiehle Roller Units; and (1) Kubota Workman HDX 2WD Truckster.

2) Letter of recommendations from the Assistant City Attorney: Consent & Subordination-Fountains at Gateway.

3) Letter of recommendations from the City Manager: Police Headquarters-Package 2 Contract.

4) Letter of recommendations from the Water & Sewer Board:
A. Flow Monitor & Rain Gauge Replacements.
B. Purchase Rockwell Automation TechConnect Support.
C. Streaming Current Charge Analyzer Replacement.
D. Sole Source Purchase of Odor Control Products.
E. Contract Renewal for Parking Lot Sealant.

- 4) Letter of recommendations from the Water & Sewer Board (Continued):
- F. Contract Extension for Aqua Services for Herbicide Treatments of Invasive Plant Parrot Feather at Murfree Spring Wetlands.
 - G. Middle Tennessee Boulevard (MTB): Work Change Directive for Additional 8" Sewer Main to Alumni Gym.
 - H. 2015 Sanitary Sewer Rehabilitation: Change Order No. 2.
 - I. NW Broad Street Pump Station Replacements: Change Order No. 4.
 - J. Spence Creek Watershed Study: 1) Phase 1-Budget Amendment & 2) Phase 2-Proposal FEMA Conditional Letter of Map Revision.
 - K. North Murfreesboro Drainage Study-Basins 1, 2, 23 & 24: Pre-Bid, Bid, & Construction Phase Services.
 - L. Sinking Creek WWTP-Phase 4D: Additional Geotechnical Engineering Services & Materials Testing.
 - M. Murfreesboro Electric Department: Required Power Contracts.
 - N. Biosolids Master Plan-SSR Task Order 14-41-018.1 in Conjunction with the City of Murfreesboro Comprehensive Plan.
 - O. DeJarnette Lane Pump Station No. 13 Replacement: Award of Contract.
 - P. Extension of SSR Task Order 09-47-001.3 (Amendment No. 3) for 2016 East & West Fork Stones River Bio-Assessment Sampling.
 - Q. Purchase GE GlobalCare Support.
 - R. Water Supply in J. Percy Priest Reservoir: Proposal for Services from King & Spalding.
 - S. Asphalt Purchases Report.

5) Letter of recommendations from the City Recorder/Finance Director: Acknowledgement of Receipt of City Manager's approved Budget Amendments for Fiscal Year 2017.

- 6) Letter of recommendations from the Parks & Recreation Director:
- A. Program Restructure for Homeschool PE at Patterson Park Community Center.
 - B. Purchase of Utility Tractor.

- 7) Letter of recommendations from the Community Development Director:
- A. Housing Rehab: 2315 Richmond Avenue, Change Order No. 1.
 - B. Housing Rehab: 1214 Wingate Street, Change Order No. 1.

8) Letter of recommendations from the Community Development Grant Coordinator: Use of funds through the Community Development Affordable Housing Assistance Program for 250 Indian Park Drive and 4139 War Emblem Lane.

9) Letter of recommendations from the Human Resources Director: Revision to Employee Handbook Section 4010 - Uniforms, Shoes & Equipment.

(Insert letters from the Golf Course Director, Assistant City Attorney, City Manager, Water & Sewer Board, City Recorder/Finance Director, Parks & Recreation Director, Community Development Director, Community Development Grant Coordinator, and Human Resources Director here.)

Vice-Mayor Young made a motion to approve the Consent Agenda in its entirety. Ms. Scales Harris seconded the motion and all members of the Council voted "Aye".

The following letter of recommendation from the City Recorder/Finance Director was presented to the Council:

(Insert letter dated August 8, 2016 here with regards to Fiscal Year 2017 Budget Amendment.)

Mr. LaLance made a motion to accept the recommendation of the City Recorder/Finance Director to approve the amendment to Exhibit A of ORDINANCE 16-O-31. Vice-Mayor Young seconded the motion and all members of the Council present voted "Aye".

An ordinance, entitled "ORDINANCE 16-O-31 amending the 2016-2017 Budget (1st Amendment)," which passed first reading on July 28, 2016, was read to the Council and offered for passage on second and final reading, as amended, upon motion made by Mr.

Shacklett, seconded by Mr. LaLance. Upon roll call said ordinance was passed on second and final reading by the following vote:

Aye: Madelyn Scales Harris
Rick LaLance
Bill Shacklett
Eddie Smotherman
Ron Washington
Doug Young
Shane McFarland

Nay: None

Said ordinance so passed on second and final reading is as follows:

(Insert ORDINANCE 16-O-31 here.)

The City Recorder/Finance Director presented for approval a renewal of a Certificate of Compliance for a Retail Liquor Store for Bina Patel, Manish Patel and Kinnari Patel at Stones River Liquors, 208 N. Thompson Lane. All requirements had been met.

Vice-Mayor Young made a motion to approve a Certificate of Compliance for a Retail Liquor Store for Bina Patel, Manish Patel and Kinnari Patel at Stones River Liquors. Mr. LaLance seconded the motion and all members of the Council voted "Aye".

The following letter of recommendations from the Assistant City Engineer was presented to the Council:

(Insert letter dated August 11, 2016 here with regards to the purchase of 3 Lots at the corner of SE Broad Street and S. Church Street.)

The Assistant City Engineer gave a power point presentation on the location and purchase of 3 parcels and answered questions from the Council.

Mr. Shacklett made a motion to accept the recommendation of the Assistant City Engineer and approve the purchase of 3 parcels at the corner of SE Broad Street and S. Church Street in the amount of \$700,000 plus closing costs for an estimated total of \$735,000, funded from Stormwater Capital Reserves and, upon execution of a Purchase Agreement with ADP, authorize earnest money in the amount of \$20,000 for disbursement as required by the anticipated Purchase Agreement and authorize the Mayor to execute the Purchase Agreement, Buyback Agreement and Recordable Buyback Notice along with other necessary property transfer documents, all of which would be subject to review by the City Attorney. Vice-Mayor Young seconded the motion and all members of the Council voted "Aye".

The following letter of recommendations from the Water & Board was presented to the Council:

(Insert letter dated August 5, 2016 here with regards to Septic Tank Effluent Pump (STEP) Design Guidelines for Murfreesboro Water & Sewer Department (MWSD) Service Area affecting TM 126 Parcel 18.00 on Dilton-Mankin Road.)

The Water & Sewer Director gave a power point presentation and answered questions from the Council. It was suggested that language be added to the proposed ordinance that would require any future proposed development interested in becoming a STEP customer inside the City be approved by the Planning Commission.

Mr. LaLance made a motion to accept the recommendation of the Water & Sewer Board to approve the Septic Tank Effluent Pump (STEP) Design Guidelines for Murfreesboro Water and Sewer Department (MWSD) Service Area affecting TM 126 Parcel 18.00 on Dilton-Mankin Road with language added to require Planning Commission approval of future sites for STEP system developments. Vice-Mayor Young seconded the motion and all members of the Council voted "Aye".

The following letter of recommendations from the Assistant City Manager was presented to the Council:

(Insert letter dated August 5, 2016 here with regards to selection of Solid Waste Strategic Plan Consultant.)

Mr. Jim Crumley, Assistant City Manager, recognized Mr. Mac Nolan, County Solid Waste Director, and Mr. Joey Smith, City of Murfreesboro Solid Waste Director. Mr. Mac Nolan confirmed that the Rutherford County Commission had adopted an agreement to share 50% (\$125,050) in the cost to hire a consultant to develop a 20-year strategic plan for disposal of municipal solid waste in Rutherford County.

Mr. LaLance made a motion to accept the recommendation of the Assistant City Manager to approve a Contract with Gershman, Brickman and Bratton in the amount of \$250,100, funded 50% each between Rutherford County and the City of Murfreesboro (\$125,050 each), to develop a 20-year strategic plan for solid waste in Rutherford County. Mr. Shacklett seconded the motion and all members of the Council voted "Aye".

Upon recommendation of Mayor McFarland, Ms. Scales Harris made a motion to reappoint Mr. Mark Nobles and Ms. Alice Nunnery for another three-year term ending 06/30/2019; appoint Mr. Y. T. Vaughn to fill the unexpired term of Ms. Nancy Bryson Vaughn (Term Ending 06/30/2018); Mr. Chantho Sourinho to fill the unexpired term of Mr. Brandon Wallace (Term Ending 06/30/2018); Mr. Christopher Logel to fill the unexpired term of Mr. Greg Lyles (Term Ending 06/30/2017); and Ms. Phyllis Washington to fulfill the term of Mr. Phil Lantz (Term Ending 06/30/2018) on the St. Clair Street Senior Center Commission. Mr. LaLance seconded the motion and all members of the Council voted "Aye" except Mr. Washington voted "Abstain".

Upon recommendation of Mayor McFarland, Vice-Mayor Young made a motion to reappoint Ms. Kathy Jones for another three-year term ending 06/30/2019 on the Planning Commission. Mr. LaLance seconded the motion and all members of the Council voted "Aye".

The City Recorder/Finance Director presented Beer Permit Applications for Aplus #234, 1209 Fortress Boulevard (name change) and Old Chicago, 1835 Old Fort Parkway (ownership change). Approval was requested pending completion of all required building and codes inspections for both applications.

Mr. LaLance made a motion to approve Beer Permits for Aplus #234 and Old Chicago upon successful completion of all building and codes inspections. Vice-Mayor Young seconded the motion and all members of the Council voted "Aye".

The City Recorder/Finance Director indicated there were no statements to consider at this time.

Under other business, Mr. LaLance discussed with Council a temporary hold on any new rezoning to high density that is over 4 units per acre for no longer than six months. He requested that staff do an impact analysis on infrastructure, traffic and the safety of the community as a result of high density zoning and present at the City Council Retreat meeting on Monday, August 22, 2016.

Mr. LaLance made a motion to place a hold on any new rezoning to high density that is over 4 units per acre for up to six (6) months. Mr. Shacklett seconded the motion and all members of the Council voted "Aye".

There being no further business, Mayor McFarland adjourned this meeting at 8:02 p.m.

SHANE MCFARLAND - MAYOR

ATTEST:

MELISSA B. WRIGHT - CITY RECORDER

ORDINANCE 16-OZ-33 amending the Zoning Ordinance and the Zoning Map of the City of Murfreesboro, Tennessee, as heretofore amended and as now in force and effect, to amend the conditions applicable to approximately 150.5 acres in the Planned Industrial Development (PID) District (Parkway Place) located along Joe B. Jackson Parkway as indicated on the attached map; Mr. Joe Swanson, applicant [2016-422].

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MURFREESBORO, TENNESSEE, AS FOLLOWS:

SECTION 1. That the same having been heretofore recommended to the City Council by the City Planning Commission, the Zoning Ordinance and the Zoning Map of the City of Murfreesboro, Tennessee, as herein referred to, adopted and made a part of this Ordinance as heretofore amended and as now in force and effect, be and the same are hereby amended so as to modify the conditions of the Planned Industrial Development (PID) District, as indicated on the attached map, for the purpose of realigning Richard Reeves Drive, revising the list of uses permitted within the PID, modifying the site design for Region 1 and Region 2 of the PID, and adding a wall to the buffer adjacent to the Magnolia Trace subdivision.

SECTION 2. That, from and after the effective date hereof, the area depicted on the attached map shall be subject to all the terms and provisions of said Ordinance applicable to such districts, the plans and specifications filed by the applicant, and any additional conditions and stipulations set forth in the minutes of the Planning Commission and City Council relating to this zoning request. The City Planning Commission be and it is hereby authorized and directed to make such changes in and additions to said Zoning Map as may be necessary to show thereon that said area of the City is zoned as indicated on the attached map. This zoning change shall not affect the applicability of any overlay zone to the area.

SECTION 3. That this Ordinance shall take effect fifteen (15) days after its passage upon second and final reading, the public welfare and the welfare of the City requiring it.

Passed:

1st reading _____

2nd reading _____

Shane McFarland, Mayor

ATTEST:

APPROVED AS TO FORM:

Melissa B. Wright
City Recorder

Craig D. Tindall
City Attorney

SEAL



LIS WESTBROOKS LN

L-I

Joe B Jackson Parkway

PUD

H-I

RICHARD REVE DR

MANNON CT

TENBY DR

MABRY DR

PID

PID Amended



ELAM RD

W GUM RD

MOUNT TABOR RD



Ordinance 16-OZ-33

ORDINANCE 16-OZ-34 amending the Zoning Ordinance and the Zoning Map of the City of Murfreesboro, Tennessee, as heretofore amended and as now in force and effect, to rezone approximately 13.5 acres along Brinkley Road from Commercial Fringe (CF) District to Planned Residential Development (PRD) District (Wilkerson Downs); Robert E. Frances and Jeffrey Gill, applicants [2016-425].

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MURFREESBORO, TENNESSEE, AS FOLLOWS:

SECTION 1. That, the same having been heretofore recommended to the City Council by the City Planning Commission, the Zoning Ordinance and the Zoning Map of the City of Murfreesboro, Tennessee, as herein referred to, adopted and made a part of this Ordinance as heretofore amended and as now in force and effect, be and the same are hereby amended so as to rezone the territory indicated on the attached map.

SECTION 2. That, from and after the effective date hereof, the area depicted on the attached map be zoned and approved as Planned Residential Development (PRD) District, as indicated thereon, and shall be subject to all the terms and provisions of said Ordinance applicable to such districts, the plans and specifications filed by the applicant, and any additional conditions and stipulations referenced in the minutes of the Planning Commission and City Council relating to this zoning request. The City Planning Commission be and it is hereby authorized and directed to make such changes in and additions to said Zoning Map as may be necessary to show thereon that said area of the City is zoned as indicated on the attached map. This zoning change shall not affect the applicability of any overlay zone to the area.

SECTION 3. That this Ordinance shall take effect fifteen (15) days after its passage upon second and final reading, the public welfare and the welfare of the City requiring it.

Passed:

1st reading _____

2nd reading _____

Shane McFarland, Mayor

ATTEST:

APPROVED AS TO FORM:

Melissa B. Wright
City Recorder

Craig D. Tindall
City Attorney

SEAL



MANSON PIKE

CL

RS-15

BRINKLEY RD

CF

COZUMEL CT

RS-12

HEADWATER CT

HAMMOCK DR

RS-10

CLOVERHILL DR

RS-15

PRD

Ordinance 16-OZ-34

Area
Rezoned from
CF to PRD



ORDINANCE 16-OZ-35 amending the Zoning Ordinance and the Zoning Map of the City of Murfreesboro, Tennessee, as heretofore amended and as now in force and effect, to rezone approximately 2 acres along North Rutherford Boulevard and Old Lascassas Road from Commercial Fringe (CF) District to Highway Commercial (CH) District; Eric Lowman, applicant [2016-427].

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MURFREESBORO, TENNESSEE, AS FOLLOWS:

SECTION 1. That the same having been heretofore recommended to the City Council by the City Planning Commission, the Zoning Ordinance and the Zoning Map of the City of Murfreesboro, Tennessee, as herein referred to, adopted and made a part of this Ordinance as heretofore amended and as now in force and effect, be and the same are hereby amended so as to rezone the territory indicated on the attached map.

SECTION 2. That, from and after the effective date hereof, the area depicted on the attached map shall be zoned and approved as Highway Commercial (CH) District, as indicated thereon, and shall be subject to all the terms and provisions of said Ordinance applicable to such districts. The City Planning Commission be and it is hereby authorized and directed to make such changes in and additions to said Zoning Map as may be necessary to show thereon that said area of the City is zoned as indicated on the attached map. This zoning change shall not affect the applicability of any overlay zone to the area.

SECTION 3. That this Ordinance shall take effect fifteen (15) days after its passage upon second and final reading, the public welfare and the welfare of the City requiring it.

Passed:

1st reading _____

2nd reading _____

Shane McFarland, Mayor

ATTEST:

APPROVED AS TO FORM:

Melissa B. Wright
City Recorder

Craig D. Tindall
City Attorney

SEAL

RS-15



PUD

Lascassas Pike

CH



E

NORTHFIELD BLVD

Area
Rezoned from
CF to CH

CF

CL

N-RUTHERFORD BLVD

OLD LASCASSAS RD

RM-12

CL

RM-16

RS-15

Ordinance 16-OZ-35





... creating a better quality of life

August 22, 2016

REGULAR AGENDA

MAYOR McFARLAND AND COUNCIL MEMBERS

Re: Proposed Master License Agreement Regarding Use of City ROW by ZAYO Group, LLC

It is requested that Council approve the referenced Agreement and authorize the Mayor to execute same.

Background. ZAYO Group, LLC, is about to embark on a project to connect all Verizon cell towers in Middle Tennessee by fiber optic cable ("FOC"). ZAYO is registered as a Competitive Local Exchange Carrier ("CLEC" – ie, a telephone company) in Tennessee and as such has a legal right to place facilities in City ROWs.

Most of the FOC will be installed on MED and other utility poles pursuant to Pole Attachment Agreements, and ZAYO is executing a Master Pole Attachment License Agreement with MED. A portion, however, will be installed in conduit installed underground by ZAYO – either by trenching or by directional bore – in the ROW.

The attached proposed Master Agreement is modeled on and substantially the same as an agreement entered into with XO Communications, Inc. in October 2014. After execution of this Master Agreement, ZAYO will submit Applications for Licenses for individual segments of the project to the City Engineering Department, along with proposed schedules and engineered construction plans. After review and approval by appropriate departments, delivery of Performance Bonds and proof of appropriate insurance coverages, a License to commence work will be issued by the City Engineer. Engineering and other departments will inspect as necessary.

Staff had planned to have an Ordinance in place that would cover the procedures and requirements included in this Agreement along with establishing a License Fee to users of the ROW. Drafting the Ordinance has been delayed by the difficulty with establishing a License Fee that would provide a reasonable compensation to the City yet be legally defensible. Under Tennessee state law, the fee a municipality may charge is limited to recovery of a reasonably allocable cost of maintaining the ROW. Murfreesboro has not undertaken a study to attempt to determine overall ROW costs or an appropriate allocation among users and so no ROW License fee is included in this Master Agreement. ZAYO does, however, agree that the City has the right to impose such a fee and that at such time as a fee is established by Ordinance, ZAYO will begin to pay it. In so agreeing, ZAYO reserves the right to contest the fee if it believes the fee is unreasonable.

Finally, ZAYO has agreed to provide the City, for City use but at no cost to the City, with two pair of dark fibers, and to create demarcation points at reasonable locations. At such time as the City adopts a License fee, the reasonable value of the two pair of fibers will apply towards the License fee.

Fiscal Impact. No direct fiscal impact will result from entering into this Agreement. The Engineering and other City Departments will incur costs related to the time to process and review Applications and perform inspections. At least some of these costs will be covered by Application and Inspection Fees. The City will receive an indirect positive fiscal impact by having a more robust and faster voice / data system available to current and prospective businesses and individuals.

Recommendation. It is recommended that Council approve the Master Agreement with ZAYO and authorized the City Manager to execute same.

Concurrences. The Planning Commission has recommended approval of this use City ROW.

Attachments. Proposed Master License Agreement.

Sincerely,



David A. Ives
Assistant City Attorney

**MASTER LICENSE AGREEMENT REGARDING
USE OF CITY RIGHT OF WAY -- ZAYO**

The parties to this Master License Agreement Regarding Use of City Right of Way ("Agreement") are the City of Murfreesboro, Tennessee ("City"), and ZAYO Group, LLC, a Delaware limited liability company qualified to do business in the State of Tennessee ("ZAYO").

WHEREAS the following facts exist:

A. ZAYO is certified by the Tennessee Regulatory Commission as a Competitive Local Exchange Carrier and holds a Certificate of Convenience and Necessity to provide telecommunications utility services in the State of Tennessee.

B. ZAYO has requested permission to install a combination of overhead (including but not limited to, support structures, guys and anchors) and underground fiber optic cable and associated appurtenances and facilities (all together, "FOC") as shown generally on the illustration attached hereto as Exhibit A in and around the City of Murfreesboro (the "Project"), and as expanded subject to the City's permitting process.

C. ZAYO acknowledges that the City, in accordance with applicable law, has proprietary power to grant to ZAYO (and others) the right and ability to place FOC within the right of way ("ROW") owned or controlled by the City, and also has police powers to regulate and control such FOC and the actions of persons or entities within and with respect to the City ROW.

D. ZAYO acknowledges that the City has the right to establish a franchise or license system, in accordance with federal, state and local law, and to charge reasonable non-discriminatory fees to ZAYO (and others) for access to and use of City ROW for FOC, although the City has not charged on-going license fees for FOC in the ROW in the past.

E. ZAYO acknowledges that the City Engineer and the City Traffic Engineer, and designees, have primary responsibility for management of the City ROW.

F. The City is willing to license ZAYO to install such Facilities in its ROW substantially as shown on the attached Exhibit A upon the terms and conditions set forth in this Agreement.

NOW THEREFORE, the parties agree as follows:

Article 1

Scope of Agreement

1.01. City ROW. This Agreement shall apply to all Facilities installed by ZAYO over, under or along any ROW owned or controlled by the City, regardless of whether such FOC is installed above ground, on the ground or under the ground, excepting only that FOC that is installed on MED poles pursuant to a Pole Attachment Agreement with MED. ZAYO specifically agrees that this Agreement shall apply to FOC installed on poles owned by Middle Tennessee Electric Membership Cooperative and others that are located on or in the ROW. This Agreement shall not apply to any "small cell" or "distributed antenna" system or any other such system or to any cabinets or other equipment related to any such system.

1.02. City Powers. The grant to ZAYO of a license to utilize and to occupy a portion of the City ROW is an exercise of the City's proprietary powers. ZAYO agrees that the construction, excavation, installation, use, operation maintenance, expansion, reconstruction and / or removal of all Facilities in connection with the Project shall be subject to all lawful police regulations of the City for the protection of health, safety and welfare, and shall be performed in accordance with all ordinances, resolutions and regulations of the City for utility location, excavation and other work in the ROW presently in effect or hereafter adopted.

1.03. Retention of Powers. ZAYO acknowledges that the City retains full right to exercise its police and / or proprietary power in accordance with applicable law to modify, vacate or transfer, for a public purpose, any ROW being occupied or utilized by ZAYO upon a minimum of one hundred eighty (180) days written notice. The City acknowledges that ZAYO is a public utility under applicable law. For purposes of this Agreement, ZAYO accepts the risk that the City, in retaining and maintaining the predominant right to use its ROW for the City's placement, replacement, expansion, maintenance and repair of public transportation facilities, water lines and facilities, sanitary sewer lines and facilities, storm water lines and facilities, and electric power lines and facilities, may require that some part or portion or all of ZAYO's FOC be

relocated (or removed if there is no mutually suitable alternate location) for the public convenience and necessity and for a public purpose and not to provide any of these entities a competitive advantage in comparable activities or to disadvantage ZAYO competitively. ZAYO's license under this Agreement to utilize or occupy City ROW may be amended whenever such action is necessary and advisable for a public purpose. In such event, ZAYO shall relocate (or remove if there is no mutually suitable alternate location) its FOC at its own expense, and ZAYO shall make no claim against the City for costs or damages caused by or as a result of such relocation (or removal) except to the extent caused by the City's negligence; however, City shall not require ZAYO to relocate the same FOC more than once within a five-year period at ZAYO's expense except in the event of an emergency. If ZAYO fails or refuses to relocate (or remove) its FOC within the designated time period, as same may be extended as ZAYO demonstrates is reasonably necessary, the City may cause such FOC to be relocated at ZAYO's expense, and the City shall have no liability of any kind or character to ZAYO for any damages to ZAYO's FOC. In the event of a required relocation (or removal) pursuant to this Section, the City shall cooperate to the extent reasonably possible in finding an alternate site or route for ZAYO's FOC and in avoiding or minimizing disruption to ZAYO's Facilities and customers. ZAYO agrees that the existence of its FOC within the City ROW, without regard to the duration of such existence or to any amounts paid to the City, does not and shall not create "ownership," "grandfather" or "vested" rights of any kind or character and does not and shall not be deemed to be a waiver of any rights by the City.

1.04. Work by Contractors. The City understands that ZAYO will engage one or more contractors to perform the work contemplated by this Agreement. All provisions of this Agreement applicable to ZAYO shall be equally applicable to all of ZAYO's contractors and subcontractors. ZAYO agrees to assure that all contractors and subcontractors are fully advised as to the terms of this Agreement and the obligations and responsibilities of ZAYO under this Agreement. All contractors and subcontractors shall hold current, appropriate licenses from the State of Tennessee for the work each is performing.

Article 2

Installation, Inspections

2.01. Application for Permits. Upon execution of this Agreement, ZAYO may submit to the City Engineer one or more Applications for a Right of Way Work Permit ("Permit") for the Project or a portion thereof in form substantially as attached hereto. Each application shall be accompanied by a non-refundable Application Fee as set forth in **Exhibit 3**, shall include Construction Plans and Traffic Control Plans (if applicable), and such additional information as the City shall require. A separate application shall be submitted for each separately identifiable segment of a large project. The City shall have the right to require that applications be subdivided, restructured or regrouped to facilitate management and oversight by City staff. All plans and calculations shall be stamped by a Professional Engineer licensed in the State of Tennessee.

2.02. Review, Approval, Issuance of Permit. After review and approval of the detailed construction plans and other materials requested, and after delivery of required Certificates of Insurance and posting of required sureties, and after issuance of the referenced Permit, ZAYO shall be entitled to commence construction / installation of FOC for the Project. In the event of a conflict between the Permit and this Agreement, the provisions of this Agreement shall control.

2.03. Controlled Access Roads. Where ZAYO's FOC is or will be within controlled access ROW (as defined in TCA § 54-16-101 et seq.) within the City, access for servicing such facilities will be by:

- A. frontage roads where provided;
- B. nearby or adjacent public roads or streets; or,
- C. trails along or near the ROW boundary lines.

It is further understood that ZAYO may service such facilities from, and park its vehicles or equipment at, such points within the ROW as may be necessary under extraordinary conditions or under circumstances requiring emergency operations for the safety and welfare of the public. When such service is required, ZAYO shall notify City as soon as practicable.

2.04. No Interference. ZAYO agrees that the Project, including all equipment and appurtenances, shall be located, constructed, installed and maintained so that the

Project shall not:

A. place any conduit and / or cable, vaults, hand holes, junction boxes, amplifiers, power supplies, system monitor test points or other facilities within seven (7) horizontal feet of any water main or sanitary sewer main which is located under a street surface unless the City Water and Sewer Department agrees that the seven-foot requirement is impractical at a particular location. In the event of a need to cross a water main or sanitary sewer main, the City Water and Sewer staff and Engineering staff will work with ZAYO and ZAYO's contractor(s) to create a plan for vertical separation that will protect such water main or sanitary sewer main at a reasonable cost to ZAYO. Contractor shall televise the existing sewer mains and sewer laterals (services) at all crossing locations with a Closed Circuit Television (CCTV) survey by using the National Association of Sewer Service Companies' (NASSCO) Pipeline Assessment and Certification Program (PACP) format and deliver same to the Chief Engineer, Water and Sewer Department. All deliverables shall be submitted electronically in Standard PACP database format, version 6.0 or better and submitted in a Microsoft Access Database in accordance with PACP guidelines. This shall be completed on sewer mains from upstream manhole to the downstream manhole of the line segment that was crossed using the manhole numbers as a reference. This inspection shall be completed on sewer laterals from the building cleanout to the connection at the sewer main;

B. endanger or interfere with the health, safety or lives of persons;

C. interfere with the free and proper use of public streets, alleys, bridges, easements or other public ways, places or property, except to the minimum extent possible during actual construction or repair;

D. interfere with the rights and reasonable convenience of private property or private property owners, except to the minimum extent possible during actual construction or repair; or

E. obstruct, hinder or interfere with any gas, electric, water or telephone facilities or other utilities within the City.

ZAYO shall at all times maintain its FOC in the City ROW in a lawful manner so they are not a risk to public safety.

2.05. Protection of Property. In connection with the construction, use, operation, maintenance, repair or removal of the FOC, ZAYO shall, at its own cost and expense, protect any and all existing structures and improvements, including landscaping and trees belonging to the City and to others, and all designated landmarks. ZAYO shall obtain the prior written approval of the City or other owner before altering, adjusting or relocating any water line, sanitary sewer line, storm water line, gas line, telephone cable, television cable, other communication cable, traffic signal element, or any other municipal, state, federally-owned or privately owned structure or utility. At the option of any such owner, the altering, adjusting or relocating shall be accomplished by ZAYO or its approved contractor at ZAYO's sole cost and expense, or may be accomplished by such owner or such owner's contractor at ZAYO's sole cost and expense. If accomplished by such owner or such owner's contractor, such owner may require ZAYO to prepay an amount equal to the estimated cost of the altering, adjusting or relocating prior to the commencement of work. No permit for any such altering, adjusting or relocating shall be issued until the City Engineer is reasonably satisfied that the requirements of this section have been satisfied.

B. ZAYO understands that the City shall have the right to periodically or continuously inspect the work of ZAYO as work progresses, that the frequency and intensity of such inspections may vary according to the type of work being performed and the sensitivity of the areas within and around which the work is being performed, and that the City may charge reasonable Inspection Fees for such inspections.

C. ZAYO agrees that if the City gives written notice of the requirement for an inspection at a particular time or times or at a particular point or points during the construction activities, ZAYO will notify the City, at a contact point to be provided by the City, when each such time or times or point or points are reached, and that construction activities shall not continue until such inspections have been completed. If construction continues without such inspections having been completed, ZAYO shall uncover such work or otherwise make such non-inspected work available for inspection by the City at ZAYO's sole cost and expense.

2.06. Dangerous Facilities. Upon ten (10) days written notice and request of the City or other authority of competent jurisdiction, ZAYO shall remove, relocate or

abate any portion of the Project or any FOC in connection with the Project that is determined by the City or other authority to be dangerous to life or property. If ZAYO fails or refuses to act within the time specified in such written notice and request, the City may remove, relocate or abate same at the sole cost and expense of ZAYO and without compensation to ZAYO or liability for damage or loss suffered by ZAYO.

2.07. Start and Finish Work. It is agreed that any authority of ZAYO issued under the terms of a Permit issued pursuant to this Agreement shall become void if work contemplated under such authority is not commenced within 120 days and not completed within one year from the approval date, or if any insurance policy or surety relating to any such work is revoked or cancelled without an approved substitution. The City may, at its sole option, extend either the start date or the completion date.

2.08. Special Provisions. It is agreed that in some instances special provisions will need to be designated by City. Such special provisions will be detailed by City when it issues a Permit and ZAYO hereby agrees to abide by such special provisions, which shall be deemed to be incorporated herein by reference.

2.09. As-built drawings. Within 60 days after completion of the Project or of a defined segment of the Project, ZAYO will provide to the City "as built" drawings. Such drawings shall at a minimum include the location, both linear and depth, of conduit and / or cable routings and the location of vaults, hand holes, junction boxes, amplifiers, power supplies, system monitor test points and other facilities that are in, on, across, under or over the ROW. The drawings shall be submitted in both .dwg or .dgn format and in .pdf format with .dwg and .dgn layers identified, and depths at 10 feet intervals, to Gerald Lee, glee@murfreesborotn.gov.

2.10. Replacement or Repair. ZAYO shall replace or repair, in accordance with City's Street Design Specifications and any instructions which may be issued by City, the area located within a City ROW, including but not limited to pavement, shoulder, curb, sidewalk, traffic signal elements or control device, storm drainage way, public utility easement, bridge, that portion of any private driveway in the street ROW, access ramps, trees and other landscaping, hardscape elements, or other parts of a City ROW (all herein referred to as "ROW") which may be damaged or disturbed by ZAYO'S activities, and in the event such replacements or repairs are not made in a

manner reasonably satisfactory to City, ZAYO agrees that City may make additional reasonable replacements or repairs at the expense of ZAYO. Notwithstanding the foregoing, City shall give ZAYO a reasonable time to correct any deficiency unless there is an unreasonably dangerous situation existing that could expose the parties to liability if not promptly corrected. All construction, reconstruction and repairs shall be in conformity with the Americans with Disabilities Act, as amended.

2.11. Warranty of Replacement or Repair. ZAYO agrees to warrant the replacement or repair of City ROW disturbed by ZAYO for a period of twelve (12) months after City inspection and acceptance of the replacement or repair. ZAYO hereby agrees to hold City harmless from and to indemnify City and any of its agents, servants and employees, against all claims of personal injury, property damages, trespass, inverse condemnation or otherwise, together with reasonable attorney's fees and all costs, arising from the acts of omissions of ZAYO, its employees, agents or subcontractors related to this Permit. Notwithstanding the foregoing, ZAYO shall not be required to hold harmless or indemnify City for any claim of personal injury, property damages, trespass, inverse condemnation, reasonable attorney fees and costs which are not proximately caused by the acts or omissions of ZAYO, its employees, agents, contractors or subcontractors.

2.12. One Call. ZAYO, MED and the City Water and Sewer Department are members of the Tennessee One-Call System, described in T.C.A. 65-31-101 et seq, (the "Utility Underground Damage Prevention Act" or "the Act") and are bound by the provisions of the Act, including, but not limited to, the provisions regarding filing requirements, notification, marking, and emergency situations.

2.13. Traffic Signal Elements. **ZAYO has been advised and understands that the City's traffic signal elements are not located with Tennessee One Call. ZAYO agrees that prior to any work being initiated within one hundred (100) feet of any traffic signal it will contact the City's Traffic Engineer for the location of traffic signal elements and will coordinate all aspects of any work within one hundred (100) feet of any traffic signal with the City's Traffic Engineer**

2.14. Road Closures. In the event of a need to close any public street, or any traffic lane or portion thereof within a public street, ZAYO shall submit a Traffic Control

Plan and Work Schedule ("Traffic Plan") to Chris Griffith, City Engineer, City Engineering Department, and to Ram Balachandran, Traffic Engineer, City Transportation Department. No closure or partial closure shall be undertaken until the Traffic Plan is approved by the City.

Article 3

Use Fees, Other Fees

3.01. ROW Use Fees. ZAYO further agrees that at such time as a right of way license ordinance ("License Ordinance," however ultimately denominated) is adopted by the City establishing periodic use and occupancy fees, in accordance with and to the extent permitted by applicable law, said License Ordinance will apply to all then-existing FOC or other Facilities owned by or operated by ZAYO, and any periodic use or occupancy fees required by such License Ordinance will be required from the effective date of such License Ordinance forward for all then-existing ZAYO FOC within the City, regardless of when such FOC was installed. The City warrants that such License Ordinance shall apply to all non-franchised telecommunications providers occupying the public ROW on a competitively neutral and non-discriminatory basis.

3.02. Other Fees. ZAYO understands and agrees that the City has established or will establish a Fee Schedule, a copy of which is or will be attached hereto, regarding Permit Application Fees, Plans Review Fees, and Inspection Fees, and that the amounts of such fees will vary according to the size and complexity of the routes and plans submitted. The City warrants that such Fee Schedule shall apply to all non-franchised telecommunications providers occupying the public ROW on a competitively neutral and non-discriminatory basis.

3.03. Right to Contest Fees. Although ZAYO agrees that the City has the right under Section 4 (14)-(16a) of the City Charter and under state law to establish reasonable, non-discriminatory, initial access or installation fees and reasonable, non-discriminatory use or occupancy fees for or in connection with the issuance of a license for underground utilities within the City ROW, ZAYO does not waive its right to contest the amounts or the methodology of establishing any of such fees.

3.04. City Fibers. From all FOC installed within the City Limits of the City of

Murfreesboro ("City"), or within reasonable proximity of such City Limits, Licensee shall provide two pair of dedicated dark fibers to the City, at no cost to the City, for such governmental use by the City as the City may deem appropriate, provided, however, that the City will not resell, lease or otherwise provide such fibers to any third party, provided that agencies of the City shall not be considered third parties for purposes hereof. Licensee shall create demarcation points for the City fibers as such reasonable locations as the parties may agree. Licensee shall not be required to provide any other facilities in connection with the City fiber or to in any way "light" the City fiber.

In the event that the City in the future establishes by ordinance a franchise or license system, and to charge reasonable, non-discriminatory fees to Licensee (and others) for access to and use of City ROW for FOC, the City agrees that the reasonable value of the City fiber shall be applied toward any such franchise or license fee.

Article 4

Liability, Indemnity, Insurance, Bond

4.01. Liability. ZAYO shall exercise reasonable care to avoid damage to the facilities of the City and to the facilities of other users of City property, and shall be solely responsible for any and all loss, cost, damage, personal injury or other liability arising out of or resulting from its work or from the Project, specifically including but not limited to damage to lawfully and properly located utilities pursuant to the State of Tennessee's 811 law, T.C.A. 65-31-101 et seq., such as water lines, sanitary sewer lines, storm sewer facilities, gas lines, electric, telephone, or other communication lines, and to replace or repair to the original condition any sidewalks, driveways, streets, curbs, irrigation systems, trees, shrubbery and other landscaping or hardscape damaged during the course of construction / installation of the Project.

4.02. Indemnity. ZAYO hereby agrees to hold City harmless from and to indemnify City and any of its agents, servants and employees, against all liability including but not limited to all costs, attorney fees, disbursements, and other proper charges and expenditures that City may incur, solely as a result of ZAYO's negligence or breach of the terms of this Agreement, or the willful or grossly negligent acts of ZAYO, its employees, agents, servants or independent contractors while in the course

of their employment or in the performance of their contract which causes damages to third parties or to the property of third parties, or from any defects in the construction of installation of ZAYO FOC, whether latent or obvious. The agreement to indemnify and save harmless City is conditioned on the following:

A. that City shall give reasonable notice in writing to ZAYO of such a claim;

B. that ZAYO shall have the sole control of the defense of any action on such a claim, and all negotiations for the settlement or compromise of the same;

C. should any situation become, or in ZAYO's opinion be likely to become, the subject of any such claim or action, City shall permit ZAYO, at the option and expense of ZAYO, to take such reasonable action as may be appropriate under the circumstances to avoid such claim, or to effectuate the settlement thereof; and

D. ZAYO shall have no liability to City hereunder for any damages to the extent caused primarily by City, its agents, servants, employees, or independent contractors (other than ZAYO).

E. ZAYO's obligations under this Indemnity provision shall survive until two (2) years after the completion of each section or segment of the Project.

4.03. Insurance Requirements. ZAYO shall carry and keep in force, while the Agreement is in effect, insurance contracts, policies and protection in one or more companies satisfactory to City in amounts and for coverage deemed necessary for its protection by ZAYO, but in no event for amounts or coverage less than the following minimum requirements:

A. Comprehensive general liability insurance and independent contractors insurance, with minimum limits of \$500,000 each occurrence for bodily injury per person, and \$1,000,000 each occurrence. ZAYO shall also maintain a minimum of \$500,000 each occurrence for property damage, including coverage for damage caused by blasting, collapse of structural injury, and/or damage to underground facilities, protecting ZAYO against and in respect to all matters, liabilities, contingencies, and responsibilities created, referred to or touched upon in this Agreement. Further, ZAYO shall maintain contractual liability insurance covering ZAYO obligations under this Agreement with minimum limits of \$500,000 each occurrence for bodily injury per person, and \$500,000 each occurrence and \$1,000,000 aggregate for property damage

to indemnify and to hold City harmless. ZAYO shall also maintain excess umbrella liability insurance in the amount of \$2,000,000 while this agreement is in effect.

B. ZAYO shall also carry and keep in force, while this Agreement is in effect Workers' Compensation insurance in compliance with the laws of this State and employer's liability insurance with minimum limits \$500,000.

C. City and its officers, employees and agents shall be named as additional insureds in all liability policies required under this Agreement. ZAYO shall furnish City with certificates of insurance and copies of appropriate endorsements showing that all required insurance is in force and that it will not be cancelled or modified without thirty (30) days prior written notice to the City Engineer.

D. Neither acceptance nor knowledge (by and of City) of the procurement by ZAYO of insurance protection of lesser scope than that required to be procured by it under this Agreement shall in any manner or for any propose constitute or be deemed a waiver by City of the requirements imposed respecting insurance protection, nor shall any such acceptance or knowledge of insurance protection of lessor scope in any manner or for any purpose lessen or modify or constitute a limiting interpretation of the scope of the matters covered by and obligations of ZAYO under this Agreement.

E. ZAYO agrees that these insurance requirements shall flow through this Agreement to all contractors and subcontractors, and that each such contractor and subcontractor engaged to work on any aspect of the Project shall be required to obtain and maintain the same coverages with the same provisions as required of ZAYO.

4.04. Construction Surety. At the time this Agreement becomes effective, ZAYO shall furnish to City surety in the form of either (1) a bond in a form and with a surety acceptable to City, or (2) an irrevocable letter of credit in a form acceptable to City and from a financial institution insured by the Federal Deposit Insurance Corporation and acceptable to the City, to guarantee the payment of all sums which may at any time become due from ZAYO to City under the terms of this Agreement (except such sums as are covered by the insurance provided under Section 6.3), including, but not limited to, sums due for annual license fees or work performed for the benefit of ZAYO under this Agreement and for the removal of facilities upon termination of this Agreement. Such surety shall be kept in force in the full sum during the life of

this Agreement, without any reduction for payment or payments made thereunder, except that the sum shall be reduced by any payment or payments made on the final termination of this Agreement. The amount of the surety shall be established by City based on the size, scope and complexity of the project, but shall in no event be less than \$100,000.00.

4.04.A. Surety by Others. In the event that the surety required by this provision is to be placed by a contractor of ZAYO, the offering of such surety by such contractor shall constitute a further agreement by such contractor to be bound by all provisions of this Agreement. The City's acceptance of surety placed by a contractor shall in no way release ZAYO from any portion of any liability or responsibility for performance of its obligations under this Agreement.

4.05. Landscape Surety. In addition to the construction surety required by the Permit, ZAYO shall provide one or more separate Landscape Security Cash Deposits to provide for repair, replacement, or compensation, as appropriate, for damage to public or private landscaping that is determined to have been caused or contributed to by any trenching, directional bore or related construction activities for each section or segment of the Project where underground activities are constructed. The amount of the Landscape Security Cash Deposits shall be established by City based on the size, scope and complexity of, and the type and amount of landscaping in reasonable proximity to, each section or segment of the Project, and shall be held by the City, without interest, until two (2) years after completion of each section or segment of the Project. City shall have the right to draw from this deposit in the event that the City determines, on the best information available to it at the time, that a tree or other landscaping located within or adjacent to an area of the ROW in which ZAYO undertook construction activities has died or is in imminent danger of dying as a result of the construction activities. The draw shall be in an amount sufficient to cover the cost of removing the dead / dying tree or other landscaping material and replacing it with a similar product. City shall notify ZAYO of the amount of the draw and ZAYO shall, within 10 days of the date of such notification, deposit additional funds so that the balance on deposit shall return to the original amount of the deposit. The City's notice shall include documentation to support the expenditures. The failure or refusal of ZAYO

to deposit additional funds as required shall constitute a default under this Agreement. Immediately after two (2) years following completion of a section or segment of the Project, provided that ZAYO is not then in default of this provision, City shall refund the remaining balance of said deposit, if any, to ZAYO.

4.06. Consequential Damages. Neither the City nor ZAYO will be liable for special, indirect or consequential damages of any kind, specifically including but not limited to claimed damages from loss of revenue or from interruption of services. Liability, if any, will be limited to the cost of repair or replacement, as appropriate. ZAYO shall fully defend against and hold the City harmless from any such claim by any ZAYO customer asserted against the City arising from any failure of or interruption to service, without regard to the reason or responsibility for such failure or interruption.

Article 5

Cessation of Use

5.01 Removal. At such time as the facilities installed pursuant to this Agreement cease to be used for their intended purpose, ZAYO, for itself, its successors and assigns, agrees that it will at its sole cost and expense remove all FOC from the ROW, excepting only the conduit and handholes installed for such FOC which conduit and handholes shall be deemed abandoned to the City, provided, however, that any FOC that contains City Fiber shall, at the election of the City, remain in place. In the event that ZAYO and / or its successors and assigns fail to remove such FOC and related facilities within a reasonable time (not to exceed one year from the date such facilities cease to be used), and in the further event that the amount of bond then held by the City is not sufficient to cover the cost of such removal, ZAYO, for itself, its successors and assigns, agrees to reimburse the City for the uncovered cost of such removal within 30 days after receipt of an Invoice from the City for such uncovered amount .

Article 6

Miscellaneous

6.01. No Warranty of Title. The City makes no warranty or guaranty as to the City's title to the ROW into which it is agreeing that ZAYO may construct and install the Project. ZAYO shall be solely responsible for obtaining any such additional permits or

easements as may be necessary for ZAYO to undertake and complete its Project.

6.02. Successors and Assigns. This Agreement shall be binding on the parties and their successors, assignees, contractors and subcontractors.

6.03. Law and Venue. This Agreement shall be construed under Tennessee law and applicable federal law. Venue for any dispute between the parties shall be the Circuit or Chancery Courts of Rutherford County, Tennessee. The Permit(s) and any and all other agreements that may be entered into in furtherance of this Agreement shall be deemed to be a part of this Agreement.

6.04. Notice. Any notice hereunder may be given only in writing by Certified or Registered, Return Receipt Requested, United States mail, postage prepaid, or by a generally recognized overnight courier providing proof of delivery.

Any notice so given shall conclusively be deemed to have been served on the third business day following its deposit in the United States mail, or the next business day following its deposit with an overnight courier providing proof of delivery.

If notice to City, addressed to:

City Engineer
City of Murfreesboro
111 West Vine Street
Murfreesboro TN 37130

with a copy to:

City Attorney
City of Murfreesboro
111 West Vine Street
Murfreesboro TN 37130

If notice to Licensee, addressed to:

Zayo Group, LLC
1805 29th Street
Boulder, CO 80301
Attn.: General Counsel - ZPI

with a copy to:

6.05. Partial Invalidity, Survival. If any section, subsection, sentence, clause, phrase, term, provision, condition, covenant or portion of this Agreement is for any reason held invalid or unenforceable by any court of competent jurisdiction, the remainder of this Agreement shall not be affected thereby, but shall be deemed as a separate, distinct and independent provision; any such holding shall not affect the validity of the remaining portions of this Agreement, and each remaining section,

subsection, sentence, clause, phrase, term provision, condition , covenant and portion of this Agreement shall be valid and enforceable to the fullest extent permitted by law:

6.06. Counterparts. This Agreement may be signed in two counterparts, each of which together shall constitute one, single Agreement.

6.07. Corporate Authority. ZAYO represents and warrants that the person signing on its behalf has full corporate authority to enter into this Agreement and that upon execution of this Agreement it will be fully binding on ZAYO, its successors and assigns. By entering into this Agreement, ZAYO releases and waives any claim it may have that the City improperly or unreasonably withheld or delayed granting ZAYO access to the City ROW for ZAYO's Project.

6.08. Council Approval. This Agreement shall have no force or effect until expressly approved and authorized by the Murfreesboro City Council, which shall be evidenced by the City's execution hereof.

IN WITNESS WHEREOF, the parties have caused this Permit to be executed by their duly authorized officials in two (2) original counterpart, and this Agreement shall be effective of the date of the last party to sign.

CITY OF MURFREESBORO

ZAYO GROUP, LLC

By: Rob Lyons, City Manager

Printed name

Wendy Cassity

Its *General Counsel*

Date _____

Date *8/10/16*

Approved as to Form:

[Signature]

City Attorney

APPROVED BY CITY COUNCIL: _____ STATE OF TENNESSEE)

COUNTY OF RUTHERFORD) : ss

Personally appeared before me, the undersigned notary public, **Rob Lyons**, the City Manager of the within bargainer(s), with whom I am personally acquainted (or proved

Inspection Fees Time and materials for equipment, supplies and personnel plus applicable overheads.

Make-Ready Fees: Time and materials for equipment, supplies and personnel plus applicable overheads.

ROW Use / Occupancy Fees \$ TBD by City ordinance.

Application and Right of Way Work Permit

FOR: ZAYO Group, LLC under Master License Agreement dated _____, 2016.

TO: City Engineering Department, 111 W. Vine St., Murfreesboro TN 37130

Applicant: _____.

TN State License: _____.

Submittal Date: _____.

Installation Area: _____
_____.

Installation type: _____.

If Underground: Linear Feet: _____ and Dimensions: _____.

If Above Ground: Facility: _____ Location: _____ Dimensions: _____.

Estimated Start Date: _____ Estimated Completion Date: _____.

Signature Printed Name
Phone _____ FAX _____ email _____

City of Murfreesboro Use Only

___ Application Fee Received (\$ _____).

___ Insurance verified.

___ Bond(s) verified.

Construction Plans Approved: (Date) _____.

Traffic Control Plan Approved (if applicable): (Date) _____.

Permit Issued: _____.

MURFREESBORO CITY ENGINEER

By _____

Printed name _____

Title _____



... creating a better quality of life.

August 25, 2016

Honorable Mayor and Members of City Council

RE: Recommended Appointment – Planning Commission

Board Appointment

As an item for tonight's City Council Agenda, I am recommending that Jennifer Garland be appointed to the Planning Commission to fill the vacancy of Kirt Wade.

Sincerely,

A handwritten signature in blue ink that reads "Shane McFarland". The signature is written in a cursive style.

Shane McFarland
Mayor