

**SPECIAL CALLED MEETING
MARTIN BOARD OF MAYOR AND ALDERMEN**

NOVEMBER 28, 2011 NOON CITY COURTROOM

BE IT REMEMBERED a special called meeting of the Board of Mayor and Aldermen for the City of Martin, Tennessee, was held Monday, November 28, 2011, at Noon in the City courtroom, when the following was held to wit:

MEMBERS PRESENT: HONORABLE RANDY BRUNDIGE, MAYOR
 HONORABLE DANNY NANNEY, ALDERMAN WARD I
 HONORABLE BILL HARRISON, ALDERMAN WARD I
 HONORABLE DAVID BELOTE, ALDERMAN WARD II
 HONORABLE JOHNNY TUCK, ALDERMAN WARD II
 HONORABLE TERRY HANKINS, ALDERMAN WARD III
 HONORABLE RANDY EDWARDS, ALDERMAN WARD III

MEMBERS ABSENT: NONE

Also present: City Recorder Chris Mathis, Police Chief David Moore, Human Resources Director Celeste Taylor, Fire Chief Russell Schwahn, Fireman Robert Gertsch and family member, and members of the Media, Mr. David Fisher and Ms. Sabrina Bates

CALL TO ORDER

MAYOR RANDY BRUNDIGE

Mayor Brundige called the November 28th special called meeting of the City of Martin Board of Mayor and Aldermen to order.

AGENDA:

1. Request from Fireman Robert Gertsch

2. Second and final reading and public hearing of Ordinance O2011-04: An ordinance of the Martin, Tennessee Board of Mayor and Aldermen amending updated and revised portions of the City of Martin's Personnel Policies and Procedures Manual

REQUEST FROM FIREMAN ROBERT GERTSCH

Mayor Brundige introduced and presented for consideration a request from Fireman Robert Gertsch. This is a continuation of a hearing from November 14, 2011. Tennessee Consolidated Retirement System (TCRS) is the city's retirement conduit.

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Mayor Brundige further asked Mr. Gertsch to address the board and explain exactly what his request was.

Mr. Gertsch spoke, "First, I would like to qualify a few things and then I, actually, if everything is understood, the board does not even have to vote on it."

Mayor Brundige explained, "We are going to vote today and we are going to...."

Mr. Gertsch spoke, "The board has already voted on this actually."

Mayor Brundige asked, "The board has voted on what?"

Mr. Gertsch spoke, "The board voted on this policy. The policy states..."

Mayor Brundige stated, "I know what the policy states. The board voted on the resolution which supersedes the policy."

Mr. Gertsch spoke, "When did they vote on something that supersedes the number of sick leave?"

Mayor Brundige explained, "They voted on the resolution, the retirement resolution which supersedes the policy."

Mr. Gertsch spoke, "That is not my question."

Mayor Brundige asked, "What is your question?"

Mr. Gertsch spoke, "In fact, last meeting, I said because it was clear that wasn't going to be approved and I do want you all to understand I did not approach any firefighters saying hey, can you donate me leave and this kind of stuff. It was offered to me. Okay? Last meeting, if you recall, I said I can even withdraw that request because the book that was adopted by this board states members of the fire department who work twenty-four on and forty-eight off. A firefighter working this shift will be charged one day of sick leave for each twelve hours absent, two days for twenty-four hours."

Mayor Brundige stated, "Correct."

Mr. Gertsch spoke, "So."

Mayor Brundige stated, "In that case anytime you use sick leave what we have been doing is taking twenty-four hours, will only take one day. And, in that case, firefighters lose time they will lose a day for ever sick day they take."

Mr. Gertsch spoke, "Sir, I don't want to argue."

Mayor Brundige stated, "I don't either, but that is the way the policy is. It (city policy) was done when police and firemen were under Public Safety and was not administratively corrected when we went to the new policy for firemen and policemen. But that had no basis because of what we

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have continuously done in the past. We paid for twenty-four hours off not twelve hours taking a day. We are giving you one full day on twenty-four instead. When you take twenty-four off you are supposed to be charged two days absent, sick days. Up in the upper part of your policy it shows how many days you get or how many hours of sick time or how your sick time is accumulated. Down there it shows how it is spent, two different sections. The spent time was what was not corrected so; in essence you would be taking time away from firefighters. Your time up here is correct.”

Mr. Gertsch asked, “May I address the board and continue.”

Mayor Brundige answered, “I am going to give you three minutes to address the board and then we are going to vote.”

Mr. Gertsch spoke, “First off, we work more hours and accumulate more leave. This is correct. You all have in front of you that a firefighter just taking a twelve hour day loses one-third of his sick leave. (Hand-out was presented by Mr. Gertsch.) The example I gave you of my hours, I showed you a normal employee and I showed you a firefighter. Then I showed what the board voted on which is I still lose one-third of my leave but I still have enough time to be vested. The second I made copies of our leave paperwork, we don’t take a day off sick leave. We don’t take a day off for vacation or annual leave. We take our leave by the hour. The only place those days are used in this book under the sick leave thing and when it is turned into the state. The board has already voted and passed and has this book saying that we will be charged one day for twelve hours. All the state wants is the city of Martin personnel to do is send them how many days I have got. And by what you gentlemen put into effect when you voted this book in, I’ve got ample time. Now, I know you don’t want to pay the money. I know you don’t care if I get vested or not but this is messing up every firefighter that has any time since everything, when we take leave, whether it is sick leave or annual and annual leave does not have anything to do with this. But sick leave, even by the form of the City of Martin to take time nowhere on that form does it equate how many days it says equates to how many hours. Days are only actually used when it comes toward this retirement. Now, sure, we say okay hey I want to take Tuesday off, take the whole day but we might say we only want to take shift off or we want, you know, go hunting or whatever. We just want to take two or three hours off but when we fill that paperwork out it says hours. Nowhere on the city request form for sick leave or vacation leave is day mentioned and there was a discrepancy mentioned last time. I said firefighters worked ten days a month for 240 hours; I have outlined on that last page what we have been scheduled to work. Yes, we get paid overtime twice a quarter and yes, we get two Kelly days, excuse me, we get overtime pay twice a year because of our work hours and we get a Kelly Day off twice the hours because of our work hours, which you are talking compensation monetarily for two months and compensation for being having two days off for two months. That doesn’t cover the twelve months. A Martin firefighter is scheduled, not counting, or however you want to call it, my shift works or is scheduled for eleven days next month, eleven days in July. A shift, I think, this year worked three eleven day shifts. B shift worked one. The only exception is February. I have only got twenty-eight or twenty-nine days so some shifts only work none and B shift happen to work ten. The sick leave is something that I have earned. And every firefighter and every city employee of Martin, law enforcement and everyone earned sick leave and it is computes more for a firefighter because of the hours we put in. Even as at what you gentlemen approved I am losing one-third of that time and I don’t have a problem with that it is black and white and that is the way you set it up and I accepted these terms when I accepted this position. Now, and I understand you have

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always done it that way. Well, it has been done wrong. You gentlemen are that ones that voted twelve hours equals one day and that is what needs to be reported to the state. It shouldn't even have to be voted on. You have already voted on it and put it in black and white. Did you all contact the city attorney?"

Mayor Brundige stated, "Oh Yes."

Mr. Gertsch asked, "Why would he not be here?"

Mayor Brundige stated, "He chose not to be because I talked to him right before the meeting and he said he thought we were on solid ground."

Mr. Gertsch spoke, "Well, I have contacted an attorney and they said, well it is clear you have looked at it. I don't know how much you gentlemen know about me, ah, ah I was a probation officer for almost thirteen years. I sat in court and watched how that stuff goes and I don't want this to go to litigation. There is no need for it to because you have already voted and said twelve hours equals one day for a firefighter. I am just asking you to uphold what you voted on. And, I don't care if for ten years in the past they have done it wrong, once you realize something is being done wrong, you correct, make corrective action. Ms. Taylor, last time said that this was done before she had her job and then she said that that twelve hours were for police officers. Police officers are nowhere even mentioned in this sick leave article or portion of this book. No mention of police officers at all. I accepted this position in good faith and have dedicated everything I can to the people in the City of Martin. I've had outstanding evaluations. I was Firefighter of the Year the second year I was there. I will work until I can't work anymore and I realize that my last scheduled day is today. But, right is right and wrong is wrong and if you deny me my sick leave then it is wrong."

Mayor Brundige asked, "What you are requesting is your sick leave?"

Mr. Gertsch stated, "I am requesting to be for my sick"

Mayor Brundige stated - I need what you are requesting, so I can proceed.

Mr. Gertsch stated, "I am telling you, I am requesting that my sick leave for the number of days be calculated according to this book where it says twelve hours equals one day."

Mayor Brundige asked, "Is there any kind of motion from the board?"

Mayor Brundige again asked, "Any kind of motion?"

Mayor Brundige stated, "Call for one more motion, of any kind, died for lack of a motion. So, this will be as the policy says."

Mr. Gertsch stated, "The policy says..."

Mayor Brundige stated, "I am not going to argue with you anymore, Robert. I believe you are interpreting it the wrong way"

Mr. Gersch stated, "You, know, I was a technical writer for the United States Air Force for many years, for many courses and part of that is we had to write courses to a certain level. There is a formula that you figure out and I used it before I looked at this book. You know this book is written to the sixth grade level. And a sixth grader can read that and say twelve hours equals one day. I have talked to two lawyers and a judge. What's the problem? I said I don't think there should be a problem. But, I will tell you this that your book says eleven, or excuse me, that twelve hours equals one day and I should be vested and it should not be a problem. Now, going with that, if the City of Martin intentionally shows a criminal act, you have to prove intent. If they fraudulently report to the State retirement system the number of days just for the City of Martin to save money that could be criminal."

Mayor Brundige stated, "Okay. Thank you."

Director Taylor attached the email received from TCRS concerning the cost to the City of Martin if Fireman Gertsch is allowed to be vested.

INTRODUCTION AND PRESENTATION FOR THE SECOND AND FINAL READING AND PUBLIC HEARING OF ORDINANCE 2011-04: AN ORDINANCE OF THE MARTIN, TENNESSEE BOARD OF MAYOR AND ALDERMEN AMENDING UPDATED AND REVISED PORTIONS OF THE CITY OF MARTIN'S PERSONNEL POLICIES AND PROCEDURES MANUAL

Mayor Brundige introduced and presented for consideration the second and final reading and the public hearing of Ordinance 2011-04: An ordinance of the Martin, Tennessee Board of Mayor and Aldermen amending updated and revised portions of the City of Martin's Personnel Policies and Procedures Manual. This is a recommendation from the Human Resources department.

Recorder Mathis read Ordinance O2011-04. A copy was available to members of the news media and any interested citizens. A copy follows:

ORDINANCE 2011-04

AN ORDINANCE OF THE MARTIN, TENNESSEE BOARD OF MAYOR AND ALDERMEN AMENDING UPDATED AND REVISED PORTIONS OF THE CITY OF MARTIN'S PERSONNEL POLICIES AND PROCEDURES MANUAL

WHEREAS, The City of Martin Board of Mayor and Aldermen on February 9, 2004 adopted a personnel rules and regulations policy for the City of Martin which included policies and

WHEREAS, The Board of Mayor and Alderman now desire to amend said personnel policy

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF MARTIN AS FOLLOWS:

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Section 1. The Martin Board of Mayor and Aldermen does hereby adopt and implement the attached document marked as:

Personnel Rules and Regulations
City of Martin

Section 2. BE IT FURTHER ORDAINED that this ordinance shall become effective immediately upon its Passage, **THE PUBLIC WELFARE REQUIRING IT.**

Date Passed First Reading

Date Passed Second Reading

Date of Public Hearing

ATTESTED:

APPROVED:

Chris Mathis, CPA
City Recorder

Randy Brundige,
Mayor

Public Hearing:

Mayor Brundige stated – This is the second and final reading and public hearing of Ordinance O2011-04. I will open the public hearing. Is there anyone here wishing to speak for or against the ordinance?

No one spoke.

Mayor Brundige closed the public hearing.

Reconvene Special Called Meeting:

Mayor Brundige explained – There was no comment from the public hearing and you have heard the reading of Ordinance O2011-04, is there a motion to adopt on the second and final reading?

Alderman Hankins made the motion to approve the second and final reading Ordinance O2011-04: An ordinance of the Martin, Tennessee Board of Mayor and Aldermen amending updated and revised portions of the City of Martin’s Personnel Policies and Procedures Manual, seconded by Alderman Tuck.

Mayor Brundige explained – we have a motion and second to approve the second and final reading, is there any discussion? There was none, therefore a roll call vote was requested and follows:

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FOR: ALDERMAN NANNEY
ALDERMAN HARRISON
ALDERMAN BELOTE
ALDERMAN TUCK
ALDERMAN HANKINS
ALDERMAN EDWARDS
AGAINST: NONE
ABSENT: NONE

Mayor Brundige declared the ordinance approved on the second and final reading

A copy of the revised personnel policy is on file in the Human Resources office.

ADJOURN

Mayor Brundige asked – is there a motion to adjourn?

Alderman Nanney made the motion to adjourn, seconded by Alderman Hankins.

VOTE: UNANIMOUS VOICE VOTE OF APPROVAL

ATTEST: SIGNED:

Chris Mathis, CPA
City Recorder

Randy Brundige,
Mayor

RB: CM/bh