

MARTIN BOARD OF MAYOR AND ALDERMEN

MARCH 19, 2012 5:30 PM CITY COURTROOM

BE IT REMEMBERED the regular meeting of the Board of Mayor and Aldermen for the City of Martin, Tennessee, was held Monday, March 19, 2012, at 5:30 pm 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 RANDY EDWARDS, ALDERMAN WARD III
 HONORABLE TERRY HANKINS, ALDERMAN WARD III

MEMBERS ABSENT: NONE

Also present: City Recorder Chris Mathis, Human Resources Director Celeste Taylor, Director of Parks and Recreation Brian Moore, Fire Chief Russell Schwahn, Building Inspector Billy Stout, Public Works Director Billy Wagster, Police Captain Don Teal, Mr. David Sudberry, Representatives from Ameresco Mr. Frank Banks, and Mr. Ben Buckner, TML Attorney Fred Collins, City Attorney Kirk Moore, CPA Jack Reese, Eric Spencer, and member of the media Mr. Matt Hubbard

CALL TO ORDER AND INVOCATION

Mayor Brundige called the March 19th regular meeting of the City of Martin Board of Mayor to order. Aldermen Belote gave the invocation.

PLEDGE OF ALLEGIANCE

Mayor Brundige led the group in the Pledge of Allegiance to our flag.

APPROVAL OF MINUTES

FEBRUARY 13, 2012

Mayor Brundige introduced and presented for consideration the minutes of the February 13th regular meeting as written and asked if there were any additions or deletions. There were none.

Alderman Hankins made the motion to approve the minutes of the February 13, 2012 regular meeting of the City of Martin Board of Mayor and Aldermen as written, seconded by Alderman Tuck.

VOTE: UNANIMOUS VOICE VOTE OF APPROVAL

DEPARTMENT HEAD REPORTS:

BUILDING DEPARTMENT

INSPECTOR BILLY STOUT

Inspector Stout was present and asked if there were any questions. There were none.

PUBLIC WORKS

DIRECTOR BILLY WAGSTER

Director Wagster was present and asked if there were any questions. There were none. Copies of the Public Works' monthly reports are attached to the minutes.

FIRE DEPARTMENT

FIRE CHIEF RUSSELL SCHWAHN

Chief Schwahn presented the Fire Department's monthly reports and asked if there were any questions. There were none. A copy of the report is attached to the minutes.

PARKS AND RECREATION

DIRECTOR BRIAN MOORE

Director Moore presented Parks and Recreation's monthly reports and asked if anyone had any questions. There were none. Copies of these reports are attached to the minutes.

POLICE DEPARTMENT

CAPTAIN DON TEAL

Captain Teal presented the Police Department's monthly reports and asked if there were any questions. There were none. Copies of these reports are attached to the minutes.

COMMUNITY DEVELOPMENT

DIRECTOR BRAD THOMPSON

Director Thompson was not present.

HUMAN RESOURCES

DIRECTOR CELESTE TAYLOR

Director Taylor was present and asked if there were any questions. There were none.

ADMINISTRATION

CITY RECORDER CHRIS MATHIS

Recorder Mathis was present and asked if there were any questions, there were none.

LIBRARY

DIRECTOR ROBERTA PEACOCK

Director Peacock was not present. The Library's monthly reports are included in board packets.

OLD BUSINESS:

**DISCUSSION OF PENDING LITIGATION IN CHANCERY COURT,
APPROVE OR DISAPPROVE SETTLEMENT OF PENDING LITIGATION**

Mayor Brundige introduced the discussion of pending litigation in Chancery Court, approve or disapprove settlement of pending litigation explaining he was moving this item of business from new business to old business because that was the proper place. Our attorneys are with us tonight, TML Attorney Fred Collins and City Attorney Kirk Moore. Attorney Collins will explain the Weakley County Municipal Electric System mediation settlement.

Attorney Collins spoke – “Mayor and members of the Board, thank you for letting me appear here tonight and go over this mediation we had back several days ago, February 15, 2012. I was glad to see the city open this meeting with a prayer because sometimes things like this require a lot of prayerful thought and consideration. So, I am glad to see the City started like that tonight. This involves litigation between the City of Martin and Weakley County where the City of Martin passed an annexation ordinance to annex Weakley County Municipal Electric System building and some acreage that goes with it outside the City limits and it was done by what I will refer to, for lack of a better term, as *Corridor Annexation* where the city line was run down the highway and the Weakley County property was brought in at the end of that. Four public hearings are required by the statute. There was a public hearing before the Planning Commission and it was determined that this property is within the City of Martin Urban Growth area which may be annexed. After the public hearings and the reading of the ordinance on two occasions the annexation ordinance was passed bringing that property into the city, the county filed suit against the City of Martin over here in Chancery Court in Dresden. And, so, in order to try to resolve the issues arising out of this annexation, the parties engaged in what is called *Mediation* on February 15, 2012. Present at the mediation were Mayor Brundige, Johnny Tuck, Celeste Taylor, Chris Mathis, City Attorney Kirk Moore, myself and the County had their attorney, and representatives of the county and the electric board, and Municipal Electric System Public Works Department there. The Mediator met with all of us and we discussed our prospective positions. Of course mediation is a way we have in Tennessee and it is called Alternative Dispute Resolution. It is a way to try to resolve issues without the expense of going through full blown litigation and this would have been full blown and costly litigation. And mediation procedures work because in Tennessee only two percent of the cases which are ever filed actually see the light of day as far as a trial is concerned. So, mediation is a useful

procedure. The County and the City went back and forth for several hours on this to try to reach some sort of agreement and at the end of the day an agreement was reached. But, this agreement is subject to this board's approval as any agreement like this is and it is subject to the approval of the Weakley County Utility District Board of Directors and the Weakley County Commission. The terms of the agreement are as follows. And, we had an executive session where Kirk and I met with the members of this board and the mayor to go over the terms of this agreement to just set out what they are and discuss the legal ramifications and the legal issues involved in this litigation. But the terms of the agreement, subject to this board's approval are as follows:

1. The City will agree to pay Weakley County Municipal System the sum of \$181,000.00 in two payments. The first payment on July 01, 2016 and the second payment on July 01, 2017. Those payments represent the cost to the county for installing a hook-up to the city's sewer system.
2. The effective date of the annexation will be June 30, 2014. And, the first payment the Weakley County Electric System will make to Martin for an In-Lieu of Taxes will be due on or before June 30, 2016 which coincides with the first payment due from the City of Martin for the sewer hook-up.
3. Effective with the date of the approval, this settlement that happens today with the concurrence of this board and the county commission, the Weakley County Electric System will transfer ownership of its sewer line to Martin who shall then assume all responsibility for the line.
4. If Martin agrees with this charge, it can charge Weakley County for the sewer service at the standard sewer rate for similar customers.
5. Martin agrees, if requested by Weakley County, to rezone the property to a zoning classification consistent with the use of the property. Right now, it is zoned R-1. Obviously, it is not R-1 or residential. Like in all annexations they start out in an R-1 zone and are later changed to the appropriate zone. So, that is not unusual in this case.
6. Approval of this settlement requires the approval of the Weakley County Commission, Weakley County Board of Public Utilities, and the Board of Mayor and Aldermen of the City of Martin.
7. The parties, that is, the county and the city, will be responsible for their attorney fees and mediation costs.

Tennessee Municipal League Risk Management Pool has paid and is paying and will continue to pay all of my fees in this. The City of Martin will not be out any attorney's fees to me. As far as our part of the mediation costs we occurred as the results of this mediation, Tennessee Municipal League Risk Management Pool has agreed to provide or agreed to pay the city's portion of that mediation expense which was \$1,800.00 or \$1,900.00, I believe. So, the city is not going to be out anything on that. If the city and the County and the Weakley County Municipal Electric System all agree to this then we are going to order a consent judgment in this case which will set forth the terms of this agreement. The case will be dismissed as far as having to go forward with any trial and the City will be responsible for the court costs. Again, Tennessee Municipal League Risk Management Pool will pay those court costs which I don't anticipate being more than \$250.00 to \$300.00. But, being as it may, the Municipal League is going to take care of that so the City is not going to be out any money. As I told you, there were a lot of issues discussed

in the mediation with the County and the City. This was a Corridor Annexation. The courts in Tennessee have not specifically ruled that these annexations are invalid per se but they are looked at with close scrutiny by the courts and there are a lot of things that have to be shown in order to uphold the validity of such annexations. The City has a right to annex property adjacent to its boundary that is in its Urban Growth Area, but a question was raised about running this line down the right-of-way for quite a distance and then trying to bring in the Electric System property as a result of this. There are certain standards that have to in annexation, not that the city did not meet those standards, but you can't annex property simply for tax motivation in order to get revenue. I told this Board, quite frankly, you know, as an attorney, I can't guarantee results. I can't guarantee we will win or we will lose this case. I am not going to stand up here in this public meeting and tell you we will win or lose this case. There are a lot of negatives. There are some positives to this. But, you know, it is my opinion and I have talked with Kirk here about this that this settlement ought to be approved by the Board. I think this is a good settlement for all parties. You may disagree with me and that is your prerogative. You are the City Board. You have authority to say thumbs up or thumbs down. If you say thumbs down we will proceed with litigation and let the chips fall where they may. The downside with going to court other than the fact that you may lose is if you do lose and the case goes up on appeal then when the appellate process is exhausted then the city can't attempt to annex this property for two years from the date of the decision in the appeals case. That is somewhat for its development of this area out there. But with these dates reflected of 2016 and 2017, you know, the county is going to start paying In-Lieu of Taxes to go along with your first two payments for the reimbursement for the connection on the city sewer. Then after that, the county will agree and has agreed to continue to pay In-Lieu of Taxes throughout the rest of the time, whenever that maybe. But, again, I am here today to present this to the Board. I have discussed some other issues with you in executive session. I have looked at this and like I say, Kirk and I and the Mayor were there and some other people there and heard the negotiations that went on and it is my recommendation that this be approved. But, again, that is your call. You represent the taxpayers of the City and you have to do what is in the best interest of the citizens of Martin, Tennessee, and I leave that in your sole discretion and however you tell me or what you want me to do after this, I will do it. I take my marching orders from you. But, at this time if you all have any questions, I will be glad to entertain any questions."

Mayor Brundige asked – Are there any questions? There were none.

Mayor Brundige further stated – Thank you Attorney Collins. Do I have a motion to approve the settlement of the pending litigation in Chancery Court with Weakley County?

Alderman Belote made the motion to approve the mediation settlement of the pending litigation in Chancery Court with Weakley County, seconded by Alderman Hankins.

Mayor Brundige asked – Is there any further discussion? There was none, therefore a roll call vote was requested and follows:

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

Mayor Brundige declared the motion approved by a unanimous roll call vote. I think this is a good solution. Both the County and the City are giving a little. Thank you all very much.

INTRODUCTION AND PRESENTATION FOR THE SECOND AND FINAL READING AND PUBLIC HEARING OF ORDINANCE 2012-01: AN ORDINANCE TO REZONE PROPERTY IN THE CITY OF MARTIN, TENNESSEE, WITH THE PROPERTY TO RECEIVE A ZONING DESIGNATION OF R-3 (HIGH DENSITY RESIDENTIAL) FROM A PREVIOUS ZONING DESIGNATION OF B-1 (GENERAL COMMERCIAL): PROPERTY REFERRED TO AS THE WANDA LAMB PROPERTY LOCATED AT 101 ST. CHARLES STREET

Mayor Brundige introduced and presented for consideration the second and final reading and public hearing of Ordinance O2012-01: An ordinance to rezone property in the City of Martin, Tennessee, with the property to receive a zoning designation of R-3 (High Density Residential) from a previous zoning designation of B-1 (General Commercial): property referred to as the Wanda Lamb property located at 101 St. Charles Street and asked Recorder Mathis to read the ordinance. The ordinance was published in the Weakley County Press February 23, 2012.

Recorder Mathis read Ordinance O2012-03. A copy was provided for all members of the press and interested citizens. A copy of this resolution follows:

ORDINANCE O2012-01

AN ORDINANCE TO REZONE PROPERTY IN THE CITY OF MARTIN, TENNESSEE, WITH THE PROPERTY TO RECEIVE A ZONING DESIGNATION OF R-3 (HIGH DENSITY RESIDENTIAL) FROM A PREVIOUS ZONING DESIGNATION OF B-1 (GENERAL COMMERCIAL): PROPERTY REFERRED TO AS THE WANDA LAMB PROPERTY LOCATED AT 101 ST. CHARLES STREET

WHEREAS, pursuant to *Tennessee Code Annotated* Sections 13-7-201 through 13-7-211 a municipal zoning ordinance has been adopted for the City of Martin; and,

WHEREAS, pursuant to *Tennessee Code Annotated* Section 13-7-203, the Martin Municipal-Regional Planning Commission has recommended the following amendment to the

Zoning Map to zone said properties R-3 (High Density Residential) from B-1 (General Business); and,

WHEREAS, pursuant to *Tennessee Code Annotated* Section 13-7-203, a public hearing was held, the time and place of which was published with fifteen days advance notice;

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

SECTIONS 1. That the Martin Municipal Zoning Map be amended by providing that the following identified property be rezoned from B-1 (General Business) to R-3 (High Density Residential):

Parcel 10.01, Tax Map 73L, Group F

SECTION 2. **BE IT FURTHER ORDAINED**, that this Ordinance shall become effective upon final reading and publication in a newspaper of general circulation, the public welfare so requiring it.

Approved and adopted by the Board of Mayor and Aldermen, Martin, Tennessee.

1st Reading _____ February 13, 2012 _____.

2nd Reading _____.

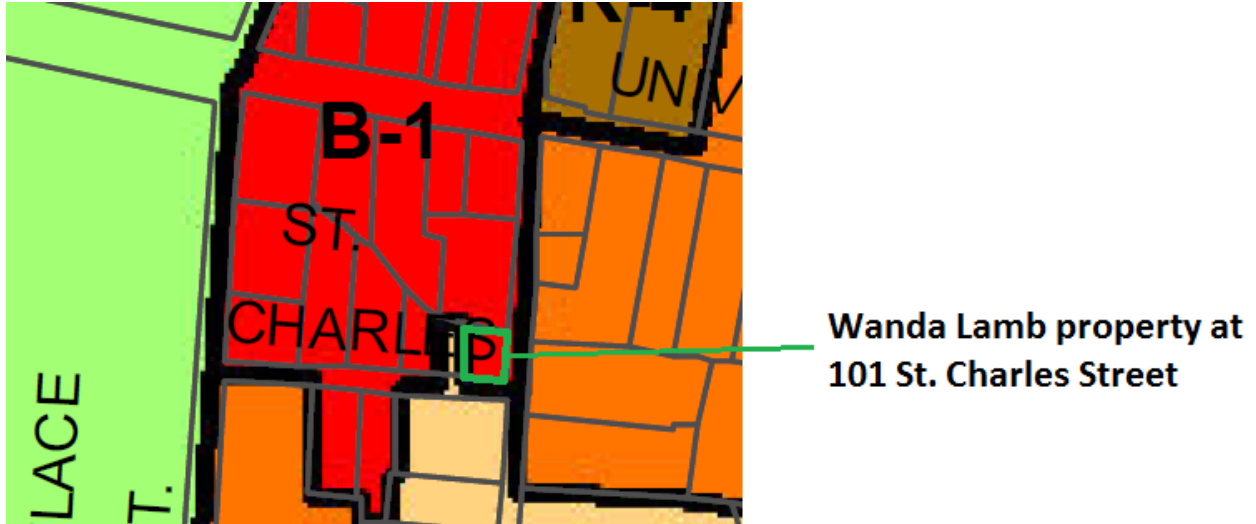
Public Notice Date _____.

Attest:

Signed:

Chris Mathis, CPA
City Recorder

Randy Brundige,
Mayor



PUBLIC HEARING OF ORDINANCE O2012-01

Mayor Brundige opened the public hearing for Ordinance O2012-01: An ordinance to rezone property in the City of Martin, Tennessee, with the property to receive a zoning designation of R-3 (High Density Residential) from a previous zoning designation of B-1 (General Commercial): property referred to as the Wanda Lamb property located at 101 St. Charles Street and asked if there was anyone present wishing to speak for or against the ordinance.

No one spoke.

Mayor Brundige closed the public hearing and reopened the regular meeting.

PUBLIC HEARING CLOSED AND REGULAR MEETING RECONVENED

Mayor Brundige stated – You have heard the second and final reading and witnessed the public hearing of Ordinance O2012-01. Do I hear a motion to adopt the ordinance?

Alderman Harrison made the motion to approve the second and final reading of Ordinance O2012-01: An ordinance to rezone property in the City of Martin, Tennessee, with the property to receive a zoning designation of R-3 (High Density Residential) from a previous zoning designation of B-1 (General Commercial): property referred to as the Wanda Lamb property located at 101 St. Charles Street, seconded by Alderman Hankins.

Mayor Brundige asked – Is there any discussion? There was none, therefore a roll call vote was requested and follows:

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

Mayor Brundige declared Ordinance O2012-01 approved on the second and final reading.

NEW BUSINESS:

ACCEPTANCE OF THE INDEPENDENT AUDITOR'S REPORT FOR THE FISCAL ENDED JUNE 30, 2011 AUDITED BY COWART REESE SARGENT, CPAs

Mayor Brundige presented for discussion and acceptance the independent City of Martin auditor's report for the fiscal ended June 30, 2011 audited by Cowart Reese Sargent, CPAs and introduced Mr. Jack Reese and Mr. Eric Spencer representing the CPA firm. I will ask Mr. Reese or Mr. Spencer to speak.

Mr. Reese spoke – I would like to thank the City Board for allowing my firm the opportunity to perform the audit. I want to also thank Recorder Mathis and his staff who were very cooperative and furnished us with anything we requested or needed in the performance of the audit.

Mr. Reese further explained – Cowart Reese Sargent, CPA Firm issued an unqualified opinion which is a good report. We did not find anything against generally accepted auditing procedures or practices. I will not bore you all with a bunch of numbers, but as you all study the audit and have questions, please feel free to contact this office. We will be glad to discuss any of the audit report with you. I would like to point out on page 11 the city's net assets do exceed all of the net liabilities significantly. We are proud of that. The City appears to be in good financial shape. We issue findings and recommendations in the audit report. All prior findings had been corrected with the exception of this same finding and that is the Solid Waste Fund has a negative fund balance. Now, this time the fund did not run in the red because of rate increases made in December 2010 which appears to be taking care of the problem. The fund has a positive profit for the audit year which will correct the fund in a few years.

Mayor Brundige stated – The negative balance has been on the books for ten to twelve years.

Mr. Reese stated – I do not have anything else to report. Area there any questions?

Mayor Brundige thanked Mr. Reese for his presentation.

SELECTION OF COWART REESE SARGENT, CPA FIRM TO AUDIT THE CITY'S FINANCIAL RECORDS FOR THE FISCAL YEAR ENDING JUNE 30, 2012

Mayor Brundige introduced and recommended the selection of Cowart Reese Sargent, CPA Firm to audit the city's financial records for the fiscal year ending June 30, 2012 and asked for a motion to approve.

Alderman Edwards made the motion to appoint Cowart Reese Sargent, CPA Firm to audit the city's financial records for the fiscal year ending June 30, 2012, seconded by Alderman Hankins.

Mayor Brundige asked for a voice vote of approval which follows:

VOTE: UNANIMOUS VOICE VOTE OF APPROVAL

Mayor Brundige declared the motion approved.

APPOINT MS. SANDRA KOCH TO THE MARTIN BEAUTIFUL COMMITTEE, TERM TO EXPIRE MAY 31, 2014

Mayor Brundige presented a request from the Martin Beautiful Committee to appoint Ms. Sandra Koch to their committee with the term to expire May 31, 2014.

Alderman Nanney made the motion to appoint Ms. Sandra Koch to the Martin Beautiful Committee, term to expire May 31, 2014, seconded by Alderman Hankins

Mayor Brundige asked for a voice vote of approval which follows:

VOTE: UNNAIMOUS VOICE VOTE OF APPROVAL

Mayor Brundige declared the motion approved.

ENERGY SAVING PRESENTATION FROM MR. FRANK BANKS, AMERESCO ACCOUNT EXECUTIVE

Mayor Brundige introduced Mr. Frank Banks, an account executive representing Ameresco and his associate Mr. Ben Buckner, who will give us a presentation on energy saving.

Mr. Banks and his associate Mr. Buckner, gave a power point presentation proposing to do an energy saving study for the City of Martin. A study would be done on all aspects of energy usage such as electrical, equipment, gas, and so forth with the goal to improve the city's energy consumption along with saving money.

Mayor Brundige thanked Mr. Banks and Mr. Buckner for their presentation.

DATE FOR CITY BOARD MEETING

Mayor Brundige announced – The Informal City Board Meeting will be Tuesday, April 03 and the regular City Board will meet Monday, April 09, 2012 at 5:15 pm in the City’s courtroom.

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