

**ORDINANCE 16-O-26** amending the Murfreesboro City Code, Chapter 11 – Electricity, Sections 11-1, 11-2, and 11-3, dealing with the Murfreesboro Electric Department.

**WHEREAS**, the City is authorized by its Charter to acquire by purchase, condemnation or in other lawful manner; construct, own, operate, maintain; or sell, lease, mortgage, pledge or otherwise dispose of, among other utility services, electric generating plants, electric distribution systems, and street lighting systems;

**WHEREAS**, on May 12, 1939, the City, within the authority granted by its Charter, Chapter 429, Private Acts, 1935, purchased the existing electric system serving the City; created an electric department; and under that department, began operating the electric generating plant, purchasing electricity from the Tennessee Valley Authority, operating the electric distribution system, and operating the City's street lighting system;

**WHEREAS**, since creating the electric department, the City has financed the improvement, operation, and maintenance of the electric system through the collection of rate payments and the issuance of revenue bonds to meet demand for electric power and to provide a high level of electric service to the City's electric customers;

**WHEREAS**, on May 16, 1946 the Murfreesboro City Council ("Council") resolved to create the Board of Public Utilities, the name of which on January 9, 1986 was changed to the "Murfreesboro Electric Department," and to appoint a governing Board, commonly known as the "Power Board," consistent with the Municipal Electric Plant Law of 1935, Chapter 32, Public Acts, 1935, for the general supervision and control of the improvement, operations, and maintenance of the electric system; the Power Board, with modifications, has served the City continually since its creation;

**WHEREAS**, in light of the growth of the electric department, the expansion of the electric system, and the current and projected demand for additional service, the Council deems it in the best interest of the rate payers and the citizens of Murfreesboro, within and solely with respect to the authority granted by its Charter, to dissolve the Power Board as constituted and to reconstitute the Power Board under authority of the Charter in order to further integrate the electric department into the City's management structure and assure continued effective and efficient improvement, operation, and maintenance of the electric system.

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

**SECTION 1.** The Murfreesboro Electric Power Board, created by Resolution of the Council on May 16, 1946, and formerly known as the Board of Public Utilities, is hereby dissolved and re-established as set forth herein.

**SECTION 2.** Section 11-1 of the Murfreesboro City Code is hereby amended by deleting the section in its entirety and substituting in lieu thereof the following:

**SECTION 11-1 DEPARTMENT CREATED.**

(A) Consistent with the City's Charter, in 1939 the City purchased the electric generating plant and distribution system serving the City and created the City's electric department as a department of the City government having jurisdiction over the electric generating plant, electric distribution system, and street lighting system (collectively, the "electric system") within and outside the City.

- (B) Notwithstanding anything to the contrary that may be expressed or implied in this article, it is hereby expressly provided as follows:
- (1) the Council reserves full and complete power and authority to adopt the budget for the electric department and the electric system in such amounts as it determines upon consideration to the recommendations of the Power Board as to any proposed budget and in adherence to the City's agreement with the Tennessee Valley Authority;
  - (2) with the exception of safety policy and procedures related to specialized work on the electric system, all City employment policy and procedures will be adopted and implemented by the electric department unless variances are approved by Power Board.

SECTION 3. Section 11-2 of the Murfreesboro City Code is hereby amended by deleting the section in its entirety and substituting in lieu thereof the following:

**SECTION 11-2 POWER BOARD CREATED.**

- (A) *Manner of creation.* The Council, having purchased the electric system within the authority of its Charter, elects not to appoint a board of public utilities under T.C.A. § 7-52-107, and alternatively appoints a board for the electric system consistent with the Charter and this section.
- (B) *Board creation.* There is hereby created a "Power Board" of the City, to have and to exercise general supervision and control of the operation, maintenance, improvement, and extension of the electric system of the City including, without limitation by reason of enumeration, to exercise the powers and the performance of the duties hereinafter conferred upon the Power Board by the Council. The Power Board's authority and responsibilities are subject to the terms and provisions of this article.
- (C) *Board; term of office.* The Power Board shall be composed of five members, four citizen members and one Council member.
- (1) The four citizen members shall be residents of the City appointed by the Mayor with the approval of the Council and serve four-year, staggered terms. For the initial appointment upon adoption of this Ordinance, the Mayor shall designate two citizen members to serve two years and two members to serve four years. Thereafter, each appointment will be for four years. Appointments made to fill vacancies will fill only the uncompleted term of the member vacating the Power Board.
  - (2) The fifth member shall be a Council Member appointed by the Mayor and whose term shall be coterminous with that Council member's current term of office at the time of appointment.
  - (3) Members of the Power Board serve at the will of the Council and may be removed from the Power Board by the Council without cause.
- (D) *Oath; bond.* Each member of the Power Board shall qualify by taking the same oath of office as prescribed for Council members, and give such bond, if any, as may be required by resolution of the Council.
- (E) *Vacancies.* Vacancies in the membership of the Power Board occur upon the death or resignation or removal of a member, or upon a member ceasing to be a resident of the City. Vacancies shall be filled in the same manner as appointments and the new member so appointed shall fulfill the remainder of the term of the vacating member.
- (F) *Organization.* After the initial appointment of the Power Board members and at the first meeting after July 1<sup>st</sup> of each subsequent year, as its first order of business, the Power Board shall elect its chair, its vice-chair, and a secretary. Upon election, the chair shall preside for the remainder of the meeting and for thereafter during the elected member's term. The Power Board may elect to designate an employee of the electric department to serve as secretary of the Power Board. In the event the chair is unavailable for any reason, the vice-chair shall preside at the meeting, and in the event the chair and vice-chair are both unavailable for any reason, the longest serving member of the Power Board shall preside at the meeting.
- (G) *Quorum.* A majority of the required members of the Power Board constitutes a quorum for that meeting and the Power Board shall act by majority vote of the members present at any meeting attended by a quorum. Vacancies in the

Power Board shall not affect its powers and authority so long as a quorum remains.

(H) *Meetings.*

- (1) *Regular Meetings.* The Power Board shall hold public meetings as often as may be necessary, but at least once per month, at such regular time and place as the Power Board may determine. All Power Board regular meetings and notice thereof shall comply with T.C.A. § 8-44-101 *et seq.* Changes in the time and place of regular meetings shall be made known to the public as far in advance as practicable. Any regular meeting may be adjourned from time to time by appropriate entry upon the minutes of the Power Board.
- (2) *Special Meetings.* The Power Board may hold special meetings at such regular place of meeting at such times and as often as may be deemed necessary upon the call of the chair, the vice-chair, or a majority of the Power Board at a duly noticed meeting, the General Manager, the Council member serving on the Power Board, or Council. All Power Board special meetings and notices thereof shall comply with T.C.A. § 8-44-101 *et seq.* Such call for a special meeting shall designate with specificity the reason for the meeting and shall be posted, at least twelve hours prior to the time fixed for the holding of such meeting, at the principal office of the department and City Hall, and, when practicable, upon giving oral or written notice thereof to the members not calling or participating in the call of the particular special meeting.
- (l) *Compensation.* All members of the Power Board shall serve as such without compensation or benefit but they shall be allowed necessary traveling and other expenses while engaged in the business of the Power Board, including an allowance not exceeding three hundred dollars (\$300) per month for attendance at meetings, such expenses to constitute a cost of operation and maintenance of the City's electric system.

SECTION 4. Section 11-3 of the Murfreesboro City Code is hereby amended by deleting the section in its entirety and substituting in lieu thereof the following:

**SECTION 11-3      POWER BOARD POWERS AND DUTIES.**

- (A) *Generally.* In addition to and incidental to the powers and duties conferred upon or vested in the Power Board by the provisions of this Section, the Power Board shall have and perform the following powers and duties, to wit:
- (1) study and analyze the operations of the electric department and of the electric system and direct the General Manager to make improvements for a more efficient and economical operation thereof, including the development and implementation of rules and regulations pertaining to the provision of electric service to customers and as approved by the Tennessee Valley Authority;
  - (2) consider the need for and direct the General Manager with reference to the maintenance, improvement, and extension of the electric system and the method or methods of financing same;
  - (3) study and analyze the financial requirements of the electric system, including funds required (i) to pay all operating costs and expenses necessary to pay the principal of and interest on the bonds payable solely from the revenues and income of the electric system or payable from such revenues and income; (ii) to pay, in the event of a deficiency of such revenues and income, from unlimited ad valorem taxes levied on all the taxable property within the City necessary to pay the principal of and interest on any other bonds issued by the City for electric system purposes which are not expressly payable from such revenues and income, but by the terms thereof are payable solely from the levy of such taxes necessary to provide the sinking funds required to be set aside for the payment of any such bonds by the resolution or resolutions authorizing such bonds; (iii) to provide for the necessary and appropriate maintenance, improvement, and extension of the electric system;
  - (4) study the financial requirements of the electric system and create the

- necessary schedule of rates and charges which the Power Board considers necessary to meet such financial requirements;
- (5) study and secure the necessary insurance to protect the assets of the electric department and the electric system and to protect the City against any reasonable liability related to operation of the electric department and the electric system;
  - (6) study and make recommendations to the General Manager as to the personnel required for the economical and efficient operation, maintenance, improvement, and extension of the electric system, including recommendations on the salary, other compensation, and the terms and conditions under which such personnel shall be employed or work, provided such personnel are provided for in the budget for the electric department and electric system for the current fiscal year; or, if not so provided for, when the employment of such person or persons is specifically authorized by the Council through a budget amendment;
  - (7) subject to Council approval of funds budgeted therefore, authorize the General Manager to contract for all services, supplies, equipment, and machinery required in the operation, maintenance, improvement, and extension of the electric system, provided, however, (i) that the General Manager shall have the authority to let contracts obligating the electric plant on purchase orders without prior approval by the Power Board in an amount set by resolution of the Power Board; and (ii) all emergency purchases by the General Manager shall be subject to procedures set forth in Section 2-10 of the Code, substituting therein the General Manager for the City Manager;
  - (8) subject to Council approval of funds budgeted therefore, make any expenditure for the current fiscal year for the operation, maintenance, improvement, and extension of the electric system;
  - (9) subject to Council budget approval and consistent with the City's contract with the Tennessee Valley Authority, lower, raise, or otherwise change any rate or charge for electric service or other services furnished by the electric department and the electric system; and
  - (10) appoint and, subject to the budget of the electric department, fix the salary of the General Manager of the electric department, who shall (i) be qualified by training and experience for the general superintendence of the acquisition, improvement, and operation of the electric plant; (ii) have the authority and responsibility for the general superintendence of the acquisition, improvement, and operation of the electric plant; (iii) commit to regularly communicating, collaborating, and conferring with the City Manager regarding the operation of electric department and electric system to assure the citizens and businesses of the City are best served; and (iv) in the event of a declared emergency and with the consent of Council shall be subject to the direct authority of the Mayor.
- (B) *Limitations.* Notwithstanding anything to the contrary in this article that may be expressly or impliedly provided, nothing in this article shall be held or construed to:
- (1) empower the Power Board to borrow money on the faith and credit of the City or on the faith and credit of the electric system or the income and revenues therefrom or the properties thereof or otherwise, or to give and execute any evidence(s) of any such indebtedness; provided that nothing in this clause hereof shall be held or construed to prevent the Power Board from authorizing or making any expenditure (not previously authorized and made), provision for which is made in the budget for the current fiscal year adopted by the Council for the electric department and for the operation, maintenance, improvement, and extension of the electric system;
  - (2) authorize the Power Board in its own name to purchase, hold, or encumber any real property;
  - (3) prevent the Council from reducing or eliminating any item(s) of expenditures provided for in said budget to the extent not theretofore already encumbered or made; or
  - (4) affect in any manner or way any contract or obligation of the City with respect to the electric system or the income or revenues therefrom or the properties thereof, nor with respect to any bonds issued in connection with

the electric system or obligations assumed with respect to such bonds.

(C) *Budget.* On or before May 15th of each year, unless such time be extended by the Council, the Power Board shall submit to the City Manager, for submission to and consideration by the Council, the budget for the electric department for the operation, maintenance, improvement, and extension of the electric system for the ensuing fiscal year, which shall be prepared in cooperation with the City Manager and which shall set forth under appropriate headings:


- (1) the recommended itemized expenditures required for the operation, maintenance, improvement, and extension of the electric system during such ensuing year;
- (2) the amounts to pay principal of and interest on bonds payable in whole or in part from the revenues and income from the electric system and maturing during such ensuing year and the amount or amounts required by the resolution or resolutions authorizing such bonds to be set aside in reserve or sinking funds for such bonds during such ensuing year and including any recommended expenditures to be made from the proceeds of bonds which the Power Board may recommend to be issued by the City or from tax or other funds which the Council may be requested to provide;
- (3) set forth a detailed estimate of the income and revenues to be derived from the electric system during such ensuing year, supported by a detailed summary of the actual income and revenues from the electric system during the current and the preceding fiscal years and of the actual expenditures made from such income and revenues during such current and preceding fiscal years for the operation, maintenance, improvement, and extension of the electric system; and
- (4) a detailed statement of the proceeds from bonds and of other funds made available by the Council or otherwise to, and actually expended for, the operation, maintenance, improvement, and extension of the electric system during the current and preceding fiscal years.

Nothing herein contained shall be held or construed to prevent the City Manager from commenting upon or providing additional information for consideration by the Council with respect to the budget for the electric department and for the operation, maintenance, improvement, and extension of the electric system during such ensuing fiscal year.

(D) *Reports to Council.* The Power Board shall make an annual report for each fiscal year of the operations, receipts, and expenditures of the electric department and of the electric system to the Council and, if and so long as requested by the Council, quarterly reports of such operations, receipts, and expenditures, reflecting total income and revenues of the electric department and of the electric system and, under headings corresponding with the items in the budget for the current fiscal year of the electric department and electric system, the expenditures authorized and made during the period covered by such reports.

SECTION 5. 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.

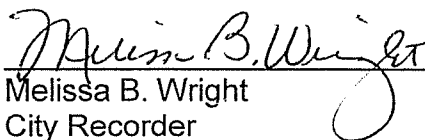
Passed:

  
Shane McFarland, Mayor


1<sup>st</sup> reading January 19, 2017

2<sup>nd</sup> reading January 26, 2017

ATTEST:

  
Melissa B. Wright  
City Recorder

APPROVED AS TO FORM:

  
Craig D. Tindall  
City Attorney

SEAL