

## CITY COUNCIL RESOLUTION

WHEREAS, the Memphis City Council has worked diligently with the Administration to recruit police officers to the City of Memphis; and

WHEREAS, the Mayor convened a task force comprised of representatives from the private sector and City of Memphis government; and

WHEREAS, many ideas and strategies came out of this group to assist the Memphis Police Department in its recruitment efforts; and

WHEREAS, the Memphis City Council feels it is necessary to explore all options to ensure that every opportunity is exhausted to recruit the best people to fill these vacant positions; and

WHEREAS, implementing a hiring bonus, offering relocation expenses and loan forgiveness would provide an extra incentive in recruiting officers.

NOW, THEREFORE, BE IT RESOLVED That the Memphis City Council requests Human Resources in conjunction with Police Services to hereby provide the following incentives:

Hiring Bonuses: Total \$10,000.00 to be disbursed as follows:

- \$2,500 – completion of academy
- \$2,500 – 6 months after completion of academy
- \$2,500 – completion of 1<sup>st</sup> year
- \$2,500 – completion of 18 months

College: Loan Forgiveness

Up to \$5,000

Officer will receive upon completion of third year after probation with Police Services.

Relocation Expenses:

Up to \$3,500 to move within Shelby County (must provide receipts)

Up to \$5,000 to move with the City of Memphis (must provide receipts)

BE IT FURTHER RESOLVED That should any officer receiving these incentives work for less than five years after probation he shall be required to pay back a prorated amount of all incentives received to the City of Memphis.

BE IT FURTHER RESOLVED That such incentives will cease to be offered once Police Services reaches its approved complement.

Bill Morrison

**ORDINANCE NO: \_\_\_\_\_**

**AN ORDINANCE TO AMEND CHAPTER 2, ARTICLE XI, CODE OF ORDINANCES, CITY OF MEMPHIS, SO AS TO CHANGE THE REPORTING REQUIREMENTS FOR SMALL BUSINESSES**

**WHEREAS**, the Memphis City Council believes that employees should receive a living wage especially in these tough economic times; and

**WHEREAS**, the Memphis City Council has established a living wage ordinance requiring contractors with the City of Memphis to pay a living wage; and

**WHEREAS**, that ordinance outlines how companies should report compliance to the City of Memphis; and

**WHEREAS**, the Memphis City Council recognizes that the reporting requirements for small businesses is cumbersome and excessive.

**NOW, THEREFORE,**

**SECTION 1. BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS**, That Chapter 2, Article XI, Code of Ordinances, City of Memphis be amended as follows:

**Sec. 2-410. Required records – payroll reports**

(e) Locally owned small businesses with 10 full-time employees or less company-wide shall not be required to submit payroll reports but must have same available for public inspection during regular business hours.

- (1) Contractors and subcontractors that fall under this designation shall provide an affidavit indicating that the employees working on any project meet the City's Living Wage requirements. Said letter shall be signed by the owner and employees working on the project.
- (2) Contractors and subcontractors shall provide an annual update affidavit no later than July 10 of each year until completion of the contract.
- (3) Violations reported for companies under this subsection will be investigated and upon validation of the complaint will be subject to the penalties as defined in section 2-413.

**SECTION 2. BE IT FURTHER ORDAINED,** That the provisions of this Ordinance are hereby severable. If any of these sections, provisions, sentences, clauses, phrases or parts are held unconstitutional or void, the remainder of this Ordinance shall continue in full force and effect.

**SECTION 3. BE IT FURTHER ORDAINED,** That this Ordinance shall take effect from and after the date it shall have been passed by the council, signed by the chairman of the council, certified and delivered to the office of the mayor in writing by the comptroller and become effective as otherwise provided by law.

BILL MORRISON  
BARBARA SWEARENGEN WARE  
Council Members

MYRON LOWERY  
Chairman of the Council

Attest:

Patrice Thomas, Comptroller.

## RESOLUTION

**WHEREAS**, the Council of the City of Memphis approved Loosahatchie Interceptor, project number SW04008 as part of the Public Works Fiscal Year 2009 Capital Improvement Budget; and

**WHEREAS**, bids were taken on November 21, 2008 for the Loosahatchie Interceptor and Force Mains Phase 2 with the lowest complying bid of eight bids being \$3,803,597.00 submitted by Nelson, Inc; and

**WHEREAS**, it is necessary to transfer the revenue allocation of \$4,183,957.00 within Loosahatchie Interceptor, project number SW04008, from Sewer Revenue Bonds to State Revolving Loan Funds; and

**WHEREAS**, it is necessary to amend the Fiscal Year 2009 Capital Improvement Budget by appropriating \$4,183,957.00 within Loosahatchie Interceptor, project number SW04008, in State Revolving Loan Funds as follows:

Contract Amount	\$3,803,597.00
Project Contingencies	<u>\$ 380,360.00</u>
Total	\$4,183,957.00

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Memphis that the Fiscal Year 2009 Capital Improvement Budget be and is hereby amended by transferring the revenue allocation for Loosahatchie Interceptor, project number SW04008, from Sewer Revenue Bonds to State Revolving Loan Funds.

**BE IT FURTHER RESOLVED**, that there be and is hereby appropriated the sum of \$4,183,957.00 within Loosahatchie Interceptor, project number SW04008, in State Revolving Loan Funds.

ORDINANCE NO. \_\_\_\_\_

**ORDINANCE AMENDING CHAPTER 12-52 OF THE CODE OF ORDINANCES TO BAN THE USE OF PLASTIC CARRIER BAGS DURING PARADES AND PUBLIC ASSEMBLIES; REQUIRE RECYCLE BINS OR BAGS; AND ENCOURAGE USE OF RECYCLED OR RECYCLABLE PRODUCTS**

**WHEREAS**, the existing City Code of Ordinances, Chapter 12-52 does not address the use of plastic carrier bags or recycling during parades and at public assemblies; and

**WHEREAS**, it is deemed appropriate and in the best interest of the citizens and the environment to amend said Chapter 12-52 to ban the use of plastic carrier bags and require recycle bins or bags during parades and at public assemblies.

**SECTION 1, NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS**, that Section 12-52-1 is hereby amended by adding the definition of "plastic carrier bag" as follows:

"Plastic carrier bag" is any plastic bag used to convey goods from a business establishment to a home.

**SECTION 2, BE IT FURTHER ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS**, that Section 12-52-1 is hereby amended by adding the definition of "recycle bins or bags" as follows:

"Recycle bins or bags" is any receptacle to hold recyclable products.

**SECTION 3, BE IT FURTHER ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS**, that Section 12-52-15 is hereby amended to the following language:

G. The parade or public assembly chairman or other person heading such activity shall agree to not allow the distribution or sale of plastic carrier bags during the event.

**SECTION 4, BE IT FURTHER ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS**, that Section 12-52-14 is hereby amended to add the following language:

C. The permittee shall place recycle bins or bags along the parade route or at the public assembly if food, drink, or paper is distributed or sold. The permittee is also encouraged to use recycled and recyclable products.

**SECTION 5, BE IT FURTHER ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS**, that the provisions of this Ordinance are hereby severable. If any of these sections, provisions, sentences, clauses, phrases, or parts are held nconstitutional or void, the remainder of this Ordinance shall continue in full force and effect.

**SECTION 6, BE IT FURTHER ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS**, that this ordinance shall take effect from and after the date it shall have been passed by the Council, signed by the Chairman of the Council, certified and delivered to the Office of Mayor in writing by the comptroller and become effective as otherwise provided by law.

**JIM STRICKLAND**  
Council Member

**MYRON LOWERY**  
Council Chair

## RESOLUTION

**WHEREAS**, the City of Memphis Division of Housing and Community Development has received grant funds in the amount of Two Hundred Twenty Thousand and Five Hundred dollars (\$ 220,500.00) from the U.S. Department of Housing and Urban Development; and

**WHEREAS**, these funds will be used by the Memphis Housing Authority for demolition and planning as part of the University Place HOPE VI Revitalization Project; and

**WHEREAS**, it is necessary to accept the grant funding and amend the Fiscal Year 2009 Operating Budget to establish funds for the FY09 Economic Development Initiative Special Project Grant; and

**WHEREAS**, it is necessary to appropriate the FY09 grant funds in the amount of Two Hundred Twenty Thousand and Five Hundred dollars (\$ 220,500.00) for the University Place Demolition and Planning Grant.

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the City of Memphis that the University Place Demolition and Planning Grant funds in the amount of Two Hundred Twenty Thousand and Five Hundred dollars (\$22,500.00) be accepted by the City of Memphis.

**BE IT FURTHER RESOLVED**, that the Fiscal Year 2009 Operating Budget be and is hereby amended by appropriating the Revenues and Expenditures for the University Place Demolition and Planning Grant in the amount of Two Hundred Twenty Thousand and Five Hundred (\$ 220,500.00) as follows:

**REVENUES**

U.S. Department of Housing and Urban Development	<u>\$220,500.00</u>
Total	\$220,500.00

**EXPENDITURES**

Demolition and Related Remediation	<u>\$220,500.00</u>
Total	\$220,500.00

## Resolution

**WHEREAS**, the Foundation for the Library entered into contract # N13871, with the City of Memphis on April 13, 1999, in order to memorialize the Foundation's pledge to provide funding for the construction of the new Central Library located at 3030 Poplar Avenue. The Foundation pledged \$10 million to fund a new Central Library for Memphis and Shelby County, and

**WHEREAS**, under the agreement City and County were to provide public funding and the Foundation pledged to raise through various efforts from private sources funds to be applied to construction costs and future costs of the Library; and

**WHEREAS**, the Foundation's share of the funding for construction was \$6,366,238.00 for building and construction and \$3,633,762.00 for future costs; and

**WHEREAS**, over the course of the years since the inception of the agreement and the Foundation's pledge, the Foundation has raised and paid the pledged amounts directly to the City (\$5,150,000) or directly to the various vendors, artisans and contractors (\$4,850,000) who provided services, goods, equipment and fixtures related to the construction, outfitting and completion of the Library; equaling well in excess of the pledged amounts, and

**WHEREAS**, the parties, having reviewed the record, are in agreement that the Foundation has fully satisfied and paid in full its pledge to raise and provide said funds for the construction and future costs of the Library, and that the City does hereby acknowledge and accept same as fully satisfied and paid; and

**WHEREAS**, the payments made by the Foundation in satisfaction of its pledge and in performance of its obligation as stated herein, may be made directly to the vendor, artisan, contractor or service provider for work, service or products related to the construction of the library and/or the items classified as "future costs" and that appropriate evidence in the form or bills, invoices, cancelled checks or sworn affidavits shall stand as sufficient proof of and satisfaction and credit on the pledged amount," and

**WHEREAS**, the City and the Foundation recognize the sole mission and purpose of the Foundation is to provide continuing support for the library by raising, receiving, accepting, holding, investing and administering gifts and contributions made and that in the future may be made to the Foundation on behalf of the Library. The parties accept and acknowledge that the Foundation shall continue to provide support and aid to the Library consistent with its purpose and mission as set forth in its charter, throughout the and for the duration of its existence. Further it is recognized that it is the intent that any amounts provided to the Library by the Foundation, in excess of those amounts set forth in the initial agreement pledged amount are to be received, applied and understood as such continuing and ongoing support by the Foundation beyond said initial pledged amounts.

**NOW, THEREFORE BE IT RESOLVED**, by the Council of the City of Memphis, that the amount of \$4,850,000 be accepted as direct payments to the vendors on behalf of the Foundation and is hereby waived from obligation of repayment.

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF MEMPHIS PERTAINING TO THE CONTRACTS OF THE MEMPHIS LIGHT, GAS AND WATER DIVISION RELATING TO SETTLEMENT AGREEMENTS UNDER WORKERS' COMPENSATION LAWS.

Whereas, Section 681 of the City's Charter requires Council approval of any MLGW contracts entailing an obligation or expenditure in excess of Five Thousand Dollars; and

Whereas, Section 675 of the Charter requires Council approval of any salaries, fees or other compensation in excess of \$4,000 per annum of any engineers, subordinate officers, employees, auditors, attorneys, consultants and others employed to render extraordinary services to MLGW; and

Whereas, by Home Rule Amendment No. 3054 to the City's Charter, the Council was authorized to increase by ordinance the amount of contracts, salaries and compensation for employees and others that require Council approval; and

Whereas, the Council has by Substitute Ordinance No. 5046 required Council approval prior to execution of all contracts (other than emergency purchases and spot market purchases of natural gas) entailing an obligation or expenditure, including fees or other compensation of any engineers, auditors, attorneys, consultants and others employed to render extraordinary services to MLGW in excess of Twenty Five Thousand Dollars (\$25,000); and

Whereas, the length of time needed to obtain Council approval of settlement agreements between MLGW and employees pursuant to the workers' compensation laws of the State of Tennessee frequently results in delayed payment of settlement costs and, from time to time, imposition of fines against MLGW in connection with those late payments, the Council desires to except from the requirements of Substitute Ordinance No. 5046, settlement agreements arising in connection with the payment of benefits pursuant to the workers' compensation laws of the State of Tennessee, and believes such action to be in the public interest.

NOW THEREFORE BE IT ORDAINED THAT:

SECTION 1. Notwithstanding the provisions of Substitute Ordinance No. 5046 to the contrary, all settlement agreements between MLGW and its employees pursuant to the workers' compensation laws of the State of Tennessee entailing an obligation or expenditure, shall not require City Council approval in advance of execution.

SECTION 2. BE IT FURTHER ORDAINED That the provisions of this Ordinance are hereby severable. If any of these sections, provisions, sentences, clauses, phrases or parts

are held unconstitutional or void, the remainder of this Ordinance shall continue in full force and effect.

SECTION 3. BE IT FURTHER ORDAINED That this Ordinance shall take effect from and after the date it shall have been passed by the City Council, signed by the Chairman of the Council, certified and delivered to the office of the Mayor in writing by the comptroller, and become effective as otherwise provided by law.

Myron Lowery  
Chairman of the Council

Attest:

\_\_\_\_\_, Comptroller

**EXCERPT**  
from  
**MINUTES OF MEETING**  
of  
**BOARD OF LIGHT, GAS AND WATER COMMISSIONERS**  
**CITY OF MEMPHIS**  
held  
**November 20, 2008**

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The President recommended to the Board of Light, Gas and Water Commissioners approval of an "Ordinance To Amend the Code of Ordinances of the City of Memphis Pertaining to the Contracts of the Memphis Light, Gas & Water Division Relating to Settlement Agreements Under Workers Compensation Laws" to be submitted to the Council Of The City Of Memphis for its consideration and adoption.

As set forth in the proposed Ordinance the length of time needed to obtain Council approval of settlement agreements between MLGW and its employees pursuant to the Workers Compensation laws of the State of Tennessee frequently results in delayed payment of settlement costs and, from time to time, imposition of fines against MLGW in connection with those late payments.

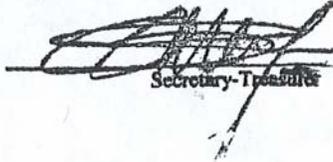
The proposed Ordinance is an amendment to the existing Code of Ordinances of the City of Memphis and will provide for the exception from the requirements for City Council approval of settlement agreements of the Memphis Light, Gas & Water Division entered into with employees pursuant to the Workers Compensation laws of the State of Tennessee.

It was moved by Vice Chairman Cobbins, seconded by Commissioner Wisbnia and unanimously carried:

THAT, "An Ordinance To Amend the Code of Ordinances of the City of Memphis Pertaining to the Contracts of the Memphis Light, Gas & Water Division Relating to Settlement Agreements Under Workers Compensation Laws" (attached herewith) is approved for submittal to the Council Of The City Of Memphis for its consideration; and

THAT, the Council of The City of Memphis is requested to support adoption of the proposed Ordinance.

I hereby certify that the foregoing is a true copy of a resolution adopted by the Board of Light, Gas and Water Commissioners at a regular - special meeting held on 20th day of November, 2008, at which a quorum was present.

  
Secretary-Treasurer

ORDINANCE NO. \_\_\_\_

**AN ORDINANCE TO PROVIDE FOR MINIMUM  
ENERGY EFFICIENCY IN RENTAL PROPERTY**

**WHEREAS**, the State of Tennessee has the nation's highest average electricity use per household, with the City of Memphis mirroring state data. This status can be attributed to several factors, including: substandard housing stock, outdated residential energy codes, limited inspection/enforcement of existing energy codes, historically low cost energy, a relatively stable supply of electricity and few incentives to encourage energy efficiency; and

**WHEREAS**, the City of Memphis has a comparatively high level of residents living at or below the poverty level. Many of these residents live in rental housing. With recent increases in energy costs across the nation, residents are struggling to pay for utilities that now take a much larger portion of their limited incomes; and

**WHEREAS**, some of these residents have found themselves in the difficult situation of having unnecessarily high utility bills due to the condition of the housing or heating and cooling equipment. In many instances, utility customers residing in large but well insulated and sealed homes with efficient equipment have lower utility bills than much smaller rental property with deficiencies in building envelope or equipment efficiency; and

**WHEREAS**, these residents are, in many cases, unable to move to better housing stock, and are also unable to get their landlords to improve their living environment. While extremely high utility usage can come during very cold or very hot weather, it is most important to consider heating equipment which, when not up-to-date or properly maintained, is not only a high energy user, but potentially a threat to safety and health; and

**WHEREAS**, it is expected that inspections will be conducted primarily on a complaint basis and excessive utility consumption will be a factor in identifying other units for inspection. Excessive utility consumption is defined as a unit consuming the highest ten percent of utilities per square foot for units of similar vintage, construction and size. Occupancy of units is a factor to be taken into consideration to determine if the utility consumption is excessive.

**WHEREAS**, MLGW's programs to assist customers in using less energy focus on educating and demonstrating responsible behavior to conserve energy in conjunction with facilitating home energy-related repairs and improvements. While the education and demonstration aspects serve renters well, improvements and repairs are mostly applicable to owner occupied units.

**SECTION 1. NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS,** That Chapter 14, Section 4-2 of the Memphis Housing Code is hereby amended by adding the definition of "residential rental unit" as follows:

"Residential rental unit" means a rented or leased single-family residential building or a rented or leased residential dwelling unit within a single-family or multiresidential building.

**SECTION 2. BE IT FURTHER ORDAINED,** That Chapter 14 of the Memphis Housing Code is amended by adding a new Article 10, Section 4-100 as follows:

**ARTICLE 10** Energy Efficiency in Residential Rental Units

Sec. 14-4-100 Each residential rental unit shall have:

- (a) Envelope: Windows properly glazed, no holes in outside walls, all building penetrations with pipes or wires sealed from the outside, a serviceable roof, insulation in good condition completely filling the area between the ceiling joists of the topmost floor in areas without attic flooring, and all exterior windows, exterior doors, and attic access properly sealed with weather stripping to form an air tight barrier between conditioned and un-conditioned spaces. Confined spaces such as areas under attic flooring or enclosed ceiling vaults will not be subject to this insulation standard.
- (b) Heating and Cooling: A heating and cooling (if applicable and Landlord provided the equipment ) unit that is properly installed, vented, and functional as originally designed. If there are ducts in unconditioned accessible space, the ducts must be connected at all junctions, must not be crushed, must have no significant leaks, and must be insulated. There must be a working thermostat. If there are room air conditioners, the units must be properly installed and, during heating periods, should either be removed or properly covered and sealed to prevent heat loss.
- (c) Plumbing: A plumbing system free from material leaks in piping, water closets, hose bibs, faucets, water heaters and all other fixtures, except when Landlord pays the water and hot water bills.
- (d) Existing equipment shall function according to the manufactured standards at the time of production. However, as worn out equipment is replaced, equipment with the prevailing minimum energy efficiency level as defined by federally mandated manufacturing standards shall be installed. As deficiencies in envelope, heating and cooling, and plumbing are corrected, those corrections shall meet the minimum standards of prevailing energy code (i.e. duct sealing, insulation levels, etc.).

**SECTION 3. BE IT FURTHER ORDAINED,** That Chapter 14, Section 4-7 of the Memphis Housing Code is hereby amended by adding a new subsection 4-7 D. as follows:

D. The Board of Memphis Light, Gas and Water may designate certain employees of Memphis Light, Gas and Water to make or cause to be made inspections to determine the conditions of residential rental units to safeguard the safety, health and welfare of the public under the provisions of Article 10 of the housing code. Pursuant to TCA 7-63-101 et seq., the Board of Memphis Light, Gas and Water, may designate these employees to become special officers, for the purpose of issuance of citations in lieu of arrest of offenders in cases where they have jurisdiction. The designated Memphis Light, Gas and Water employees are authorized to enter any residential rental unit at any reasonable time for the purpose of performing his or her duties under Article 10 of the housing code. The designated Memphis Light Gas and Water employees shall have all powers conferred by Sec. 14-4-23 of the housing code. The Board of Memphis Light, Gas and Water shall establish a schedule of fees that Memphis Light, Gas and

Water shall charge and receive from the owner of any property which is inspected by Memphis Light, Gas and Water employees pursuant to this chapter. The fee shall not exceed \$25 per unit actually inspected nor shall any single unit be charged more than one fee per calendar year.

**SECTION 4. BE IT FURTHER ORDAINED,** That the provisions of this Ordinance are hereby declared severable, and if any of the provisions shall be unconstitutional or invalid, the remainder shall continue in full force and effect, it being the Council's intent now hereby declared that this Ordinance should have been adopted even if such unconstitutional or invalid matter had not been included therein.

**SECTION 5. . BE IT FURTHER ORDAINED,** That this Ordinance shall take effect from and after the date it shall have been passed by the Council, signed by the Chairmen of the Council, certified and delivered to the Office of the Mayor of Memphis in writing by the Comptroller, and become effective as otherwise provided by law.

Chairman of Council

Attest:  
Comptroller

**EXCERPT**  
**from**  
**MINUTES OF MEETING**  
**of**  
**BOARD OF LIGHT, GAS AND WATER COMMISSIONERS**  
**CITY OF MEMPHIS**  
**held**  
**November 20, 2008**

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The President recommended to the Board of Light, Gas and Water Commissioners approval of "An Ordinance To Provide For Minimum Energy Efficiency In Rental Property" to be submitted to the Council Of The City Of Memphis for its consideration and adoption.

As set forth in the proposed Ordinance, the State of Tennessee has the nation's highest average electricity use per household, with the City of Memphis mirroring state data. Furthermore, the City of Memphis has a comparatively high level of residents living at or below the poverty level. Many of these residents live in rental housing. With recent increases in energy costs across the nation, residents are struggling to pay for utilities that now take a much larger portion of their limited incomes. These residents are, in many cases, unable to move to better housing stock, and are also unable to get their landlords to improve their living environment. While extremely high utility usage can come during very cold or very hot weather, it is most important to consider heating equipment which, when not up-to-date or properly maintained, is not only a cause of high energy usage, but potentially a threat to safety and health.

The proposed Ordinance is an amendment to the existing Memphis Housing Code and will allow selected employees of Memphis Light, Gas and Water to enforce the energy efficiency provisions of said ordinance.

It was moved by Vice Chairman Cobbins, seconded by  
Commissioner Wishnia and unanimously carried:

THAT, "An Ordinance To Provide For Minimum Energy Efficiency In Rental Property" (attached herewith) is approved for submittal to the Council Of The City Of Memphis for its consideration; and

THAT, the Council Of The City Of Memphis is requested to support adoption of the proposed Ordinance.

I hereby certify that the foregoing is a true copy of a resolution adopted by the Board of Light, Gas and Water Commissioners at a regular - special meeting held on 20<sup>th</sup> day of November, 2008, at which a quorum was present.

  
Secretary-Treasurer

## CITY COUNCIL RESOLUTION

WHEREAS, the Board of Light, Gas and Water Commissioners at its meeting held November 20, 2008, approved the following amendments to the Memphis Light, Gas and Water Division Retirement and Pension System, as amended and restated effective January 1, 2001 (the "Plan").

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MEMPHIS THAT the Memphis Light, Gas and Water Division Retirement and Pension System, as amended and restated effective January 1, 2001 (the "Plan"), is hereby amended as follows:

1.12 Child shall mean a biological son or daughter born out of wedlock, a legitimate son or daughter, or a legally adopted son or daughter, under eighteen (18) years of age, of a participant. For purposes of the Plan, a biological son or daughter born out of wedlock shall be deemed to be the child of (i) the natural mother, or (ii) the natural father if the natural father acknowledges paternity in one or more of the ways as provided below, in each case unless a decree of adoption terminates or has terminated such natural parent's rights. For purposes of the Plan, "son or daughter born out of wedlock" means a child born to parents who are not married to each other when the child was born. For purposes of the Plan a natural father shall have acknowledged paternity if he has done one or more of the following: (i) acknowledged his paternity in a writing filed under the putative father registry established by the department of children services pursuant to Tennessee Code Annotated §36-2-318 (Acts 1997, ch. 477, §1), as amended, (ii) consented in writing to be named the child's father on the birth certificate, (iii) is obligated to support the child under a written voluntary promise or by court order, or (iv) been adjudicated as the father by a court of competent jurisdiction and such order has become final and nonappealable. The Board's reliance on any of the foregoing, including without limitation the Board's reliance on any court order or the absence of any court order on the date of payment of such benefits, shall be conclusive and binding on all parties for purposes of benefits under this Plan. For purposes of the Plan, "adoption" shall mean voluntary adoption pursuant to an adoption law. "Legitimate" shall mean legitimation by marriage or by order of legitimation or paternity from a duly recognized court of law. A Child legitimized by adoption or court order must have had the final decree of adoption entered at the time of retirement of the Participant; a Child of a Retired Participant must have been adopted or legitimized at least three (3) years before being eligible to receive benefits under the Plan.

For purposes of entitlement to benefits upon the death of a Participant under the terms of the Plan, a Full-Time Student as defined in §1.35 and a Handicapped Child as defined in §1.37 shall be considered a Child even though such person has attained age eighteen (18).

**EXCERPT**  
from  
**MINUTES OF MEETING**  
of  
**BOARD OF LIGHT, GAS AND WATER COMMISSIONERS**  
**CITY OF MEMPHIS**  
held  
**November 20, 2008**

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The Secretary-Treasurer stated that the Pension Board had approved and was recommending to the Board of Commissioners the following amendments to the Memphis Light, Gas and Water Division Retirement and Pension System, as amended and restated effective January 1, 2001 (the "Plan").

It was moved by Vice Chairman Cobbins, seconded by Commissioner Wishnia and unanimously carried:

THAT, Subject to the consent and approval of the Council of the City of Memphis, the Memphis Light, Gas and Water Division Retirement and Pension System is hereby amended as follows:

1.12 Child shall mean a biological son or daughter born out of wedlock, a legitimate son or daughter, or a legally adopted son or daughter, under eighteen (18) years of age, of a participant. For purposes of the Plan, a biological son or daughter born out of wedlock shall be deemed to be the child of (i) the natural mother, or (ii) the natural father if the natural father acknowledges paternity in one or more of the ways as provided below, in each case unless a decree of adoption terminates or has terminated such natural parent's rights. For purposes of the Plan, "son or daughter born out of wedlock" means a child born to parents who are not married to each other when the child was born. For purposes of the Plan a natural father shall have acknowledged paternity if he has done one or more of the following: (i) acknowledged his paternity in a writing filed under the putative father registry established by the department of children services pursuant to Tennessee Code Annotated §36-2-318 (Acts 1997, ch. 477, §1), as amended, (ii) consented in writing to be named the child's father on the birth certificate, (iii) is obligated to support the child under a written voluntary promise or by court order, or (iv) been adjudicated as the father by a court of competent jurisdiction and such order has become final and nonappealable. The Board's reliance on any of the foregoing, including without limitation the Board's reliance on any court order or the absence of any court order on the date of payment of

such benefits, shall be conclusive and binding on all parties for purposes of benefits under this Plan. For purposes of the Plan, "adoption" shall mean voluntary adoption pursuant to an adoption law. "Legitimate" shall mean legitimation by marriage or by order of legitimation or paternity from a duly recognized court of law. A Child legitimized by adoption or court order must have had the final decree of adoption entered at the time of retirement of the Participant; a Child of a Retired Participant must have been adopted or legitimized at least three (3) years before being eligible to receive benefits under the Plan.

For purposes of entitlement to benefits upon the death of a Participant under the terms of the Plan, a Full-Time Student as defined in §1.35 and a Handicapped Child as defined in §1.37 shall be considered a Child even though such person has attained age eighteen (18).

I hereby certify that the foregoing is a true copy of a resolution adopted by the Board of Light, Gas and Water Commissioners at a regular - special meeting held on 20th day of November, 2008, at which a quorum was present.

  
Secretary-Treasurer

## CITY COUNCIL RESOLUTION

**WHEREAS**, the Board of Light, Gas and Water Commissioners at its meeting held November 20, 2008, approved the following amendment to the Memphis Light, Gas and Water Division Retirement and Pension System As Amended and Restated Effective January 1, 2001 (the "Plan").

**NOW THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MEMPHIS THAT ARTICLE III CONTRIBUTIONS – SECTION 3.1 Contributions by Participants (d) Uniformed Service of the Memphis Light, Gas and Water Division Retirement and Pension System As Amended and Restated Effective January 1, 2001 (the "Plan") is hereby amended to incorporate the HEART Act by adding the following paragraph:**

Further, to the extent and in the manner required by the Heroes Earnings Assistance and Relief Tax Act of 2008 (the "HEART Act"), the Plan shall operate in compliance with the HEART Act as required by law.

**EXCERPT**  
from  
**MINUTES OF MEETING**  
of  
**BOARD OF LIGHT, GAS AND WATER COMMISSIONERS**  
**CITY OF MEMPHIS**  
held  
November 20, 2008

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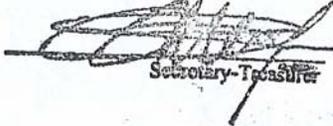
The Secretary-Treasurer stated that the Pension Board had approved and was recommending to the Board of Commissioners the following amendment to the Memphis Light, Gas and Water Division Retirement and Pension System As Amended and Restated Effective January 1, 2001 (the "Plan").

It was moved by Vice Chairman Cobbins, seconded by Commissioner Wishnia and unanimously carried:

THAT, Subject to the consent and approval of the Council of the City of Memphis, ARTICLE III CONTRIBUTIONS – SECTION 3.1 Contributions by Participants (d) Uniformed Service of the Memphis Light, Gas and Water Division Retirement and Pension System As Amended and Restated Effective January 1, 2001 (the "Plan") is hereby amended to incorporate the HEART Act by adding the following paragraph:

Further, to the extent and in the manner required by the Heroes Earnings Assistance and Relief Tax Act of 2008 (the "HEART Act"), the Plan shall operate in compliance with the HEART Act as required by law.

I hereby certify that the foregoing is a true copy of a resolution adopted by the Board of Light, Gas and Water Commissioners at a regular - special meeting held on 20th day of November, 2008, at which a quorum was present.

  
Secretary-Treasurer

## CITY COUNCIL RESOLUTION

**WHEREAS**, the Board of Light, Gas and Water Commissioners at its meeting held November 20, 2008, approved the following amendments to the Memphis Light, Gas and Water Division Retirement and Pension System, as amended and restated effective January 1, 2001 (the "Plan"):

**WHEREAS**, the Internal Revenue Service has issued final regulations under Section 415 of the Internal Revenue Code that set certain limits on the maximum annual benefit that can be provided to a retired participant under a qualified defined benefit plan; and

**WHEREAS**, said final regulations set forth certain rules determining when certain post-separation pay is included with the definition of 415 Compensation, as that term appears in the Pension System, used to apply the limits on the maximum annual benefit; and

**WHEREAS**, such rules affect the definition of 415 Compensation under the Pension System for purposes of determining maximum annual benefits under the Pension System, but do not affect the definition of Benefit Compensation used for purposes of a Participant's Average Compensation under the Pension System

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MEMPHIS THAT** ARTICLE I, DEFINITIONS, Section 1.15 *Compensation*, subparagraph (b) *Code § 415 Compensation*, of the Memphis Light, Gas and Water Division Retirement and Pension System, as amended and restated effective January 1, 2001 (the "Plan"), shall be amended by adding the following subparagraphs to the end of such subparagraph (b):

(1) Section 415 Compensation Paid After Severance from Employment. Effective January 1, 2008, Code § 415 Compensation shall be adjusted, as set forth herein, for the following types of compensation paid after a Participant's severance from employment with the Division. However, such amounts described in subsections (i) and (ii) below may only be included in Code § 415 Compensation to the extent such amounts are paid by the later of two and one-half (2 ½ ) months after severance from employment or by the end of the limitation year that includes the date of such severance from employment. Any other payment of Compensation paid after severance of employment that is not described in the following types of Compensation is not considered Code § 415 Compensation within the meaning of Code § 415(c)(3), even if payment is made within the time period specified above.

(i) Regular Pay. Code § 415 Compensation shall include regular pay after severance of employment if:

(a) The payment is regular Compensation for services during the Participant's regular working hours, or compensation for services outside the Participant's regular working hours (such as overtime or shift differential), commissions, bonuses or other similar payments; and

(b) The payment would have been paid to the Participant prior to a severance from employment if the Participant had continued in employment with the Division.

(ii) Leave Cashouts and Deferred Compensation. Leave cashouts shall be included in Code § 415 Compensation if those amounts would have been included in the definition of Section 415 Compensation if they were paid prior to the Participant's severance from employment, and the amounts are payment from unused accrued bona fide sick, vacation or other leave, but only if the Participant would have been able to use the leave if employment had continued. In addition, deferred compensation shall be included in Section 415 Compensation if the compensation would have been included in the definition of Code § 415 Compensation if it had been paid prior to the Participant's severance from employment, and the compensation is received pursuant to a nonqualified unfunded deferred compensation plan, but only if the payment would have been paid at the same time if the Participant had continued in employment with the Division and only to the extent that the payment is includible in the Participant's gross income.

(iii) Salary Continuation Payments for Military Service Participants. Code Section 415 Compensation does not include payments to an individual who does not currently perform services for the Division by reason of qualified military service (as that term is used in Code § 414(u)(1)) to the extent those payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the Division rather than entering qualified military service.

(iv) Salary Continuation Payments for Disabled Participants. Code § 415 Compensation does not include Compensation paid to a Participant who is permanently and totally disabled (as defined in Code § 22(e)(3)).

(2) Administrative Delay ("The First Few Weeks") Rule. Effective January 1, 2008, Code § 415 Compensation for a limitation year shall not include amounts earned but not paid during the limitation year solely because of the timing of pay periods and pay dates.

**EXCERPT**  
from  
**MINUTES OF MEETING**  
of  
**BOARD OF LIGHT, GAS AND WATER COMMISSIONERS**  
**CITY OF MEMPHIS**  
held  
**November 20, 2008**

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The Secretary-Treasurer stated that the Pension Board had approved and was recommending to the Board of Commissioners the following amendments to the Memphis Light, Gas and Water Division Retirement and Pension System, as amended and restated effective January 1, 2001 (the "Plan"):

WHEREAS, the Internal Revenue Service has issued final regulations under Section 415 of the Internal Revenue Code that set certain limits on the maximum annual benefit that can be provided to a retired participant under a qualified defined benefit plan; and

WHEREAS, said final regulations set forth certain rules determining when certain post-separation pay is included with the definition of 415 Compensation, as that term appears in the Pension System, used to apply the limits on the maximum annual benefit; and

WHEREAS, such rules affect the definition of 415 Compensation under the Pension System for purposes of determining maximum annual benefits under the Pension System, but do not affect the definition of Benefit Compensation used for purposes of a Participant's Average Compensation under the Pension System

NOW, THEREFORE, it was moved by Vice Chairman Cobbins, seconded by Commissioner Wishnia, and carried that the following amendment be adopted to the Pension System:

THAT, Subject to the consent and approval of the Council of the City of Memphis, ARTICLE I, DEFINITIONS, Section 1.15 *Compensation*, subparagraph (b) *Code § 415 Compensation*, shall be amended by adding the following subparagraphs to the end of such subparagraph (b):

(1) Section 415 Compensation Paid After Severance from Employment. Effective January 1, 2008, Code § 415 Compensation shall be adjusted, as set forth herein, for the following types of compensation paid after a Participant's severance from employment with the Division. However, such amounts described in subsections (i) and (ii) below may only be included in Code § 415 Compensation to the extent such amounts are paid by the later of two and one-half (2 ½) months after severance from employment or by the end of the limitation

year that includes the date of such severance from employment. Any other payment of Compensation paid after severance of employment that is not described in the following types of Compensation is not considered Code § 415 Compensation within the meaning of Code § 415(c)(3), even if payment is made within the time period specified above.

(i) Regular Pay. Code § 415 Compensation shall include regular pay after severance of employment if:

(a) The payment is regular Compensation for services during the Participant's regular working hours, or compensation for services outside the Participant's regular working hours (such as overtime or shift differential), commissions, bonuses or other similar payments; and

(b) The payment would have been paid to the Participant prior to a severance from employment if the Participant had continued in employment with the Division.

(ii) Leave Cashouts and Deferred Compensation. Leave cashouts shall be included in Code § 415 Compensation if those amounts would have been included in the definition of Section 415 Compensation if they were paid prior to the Participant's severance from employment, and the amounts are payment from unused accrued bona fide sick, vacation or other leave, but only if the Participant would have been able to use the leave if employment had continued. In addition, deferred compensation shall be included in Section 415 Compensation if the compensation would have been included in the definition of Code § 415 Compensation if it had been paid prior to the Participant's severance from employment, and the compensation is received pursuant to a nonqualified unfunded deferred compensation plan, but only if the payment would have been paid at the same time if the Participant had continued in employment with the Division and only to the extent that the payment is includible in the Participant's gross income.

(iii) Salary Continuation Payments for Military Service Participants. Code Section 415 Compensation does not include payments to an individual who does not currently perform services for the Division by reason of qualified military service (as that term is used in Code § 414(u)(1)) to the extent those payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the Division rather than entering qualified military service.

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(2) Administrative Delay ("The First Few Weeks") Rule. Effective January 1, 2008, Code § 415 Compensation for a limitation year shall not include amounts earned but not paid during the limitation year solely because of the timing of pay periods and pay dates.

i hereby certify that the foregoing is a true copy of a resolution adopted by the Board of Light, Gas and Water Commissioners at a regular - ~~special~~ meeting held on 20th day of November 20 08, at which a quorum was present.

  
Secretary-Treasurer

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE TO ESTABLISH  
MEETING DATES FOR CITY COUNCIL  
MEETINGS IN 2009**

WHEREAS, Referendum Ordinance No. 4274 approved by the qualified voters of the City authorizes the Council to establish by ordinance the Tuesdays of every month on which the Council shall meet; and

WHEREAS, from time to time it becomes necessary to change the meeting dates because of official holidays and other days of great importance, and in the interest of time and efficiency; and

NOW, THEREFORE, BE IT ORDAINED that the Council of the City of Memphis shall meet on the following dates during 2009 at 3:30 p.m. at Council Chambers at City Hall:

JANUARY 6	JANUARY 27
FEBRUARY 3	FEBRUARY 17
MARCH 3	MARCH 17
APRIL 7	APRIL 21
MAY 5	MAY 19
JUNE 2	JUNE 16
JULY 7	JULY 21
AUGUST 4	AUGUST 18
SEPTEMBER 1	SEPTEMBER 15
OCTOBER 6	OCTOBER 20
NOVEMBER 3	NOVEMBER 17
DECEMBER 1	DECEMBER 15