

**STATE OF TENNESSEE
COUNTY OF HAMBLLEN
CORPORATION OF MORRISTOWN
SEPTEMBER 15, 2009**

The City Council for the City of Morristown, Hamblen County, Tennessee met in regular session at the regular meeting place of the City Council in the Morristown City Center at 4:00 p.m., Tuesday, September 15, 2009 with Honorable Frank McGuffin, Mayor-Pro-Tem, presiding and the following named Councilmembers present: Gene Brooks, Claude Jinks, William Rooney and Kay Senter. Absent: Mayor Barbara C. "Sami" Barile and Councilmember Bob Garrett.

Councilmember Rooney made a motion to approve the September 1, 2009 minutes as circulated; Councilmember Senter seconded the motion and upon roll call, all voted "aye".

Mayor Pro-Tem McGuffin read and presented representatives from Regency Retirement Village with a Proclamation recognizing September 13 – 19 as "National Assisted Living Week".

A public hearing was held on the following captioned Ordinance No. 3371. Councilmember Rooney made a motion to adopt said Ordinance on second and final reading; Councilmember Senter seconded the motion and upon roll call, all voted "aye".

**Ordinance No. 3371
Entitled an Ordinance to amend the Fiscal Year 2009
Budget by providing for appropriations from revenue
and expenditure accounts on an individual fund and line
item basis.**

Councilmember Senter made a motion to award the bid for roll out sanitation carts to CMI in the amount of \$30,500 (500 @ \$61 each). Councilmember Jinks seconded the motion and upon roll call, all voted "aye". *{Councilmember Senter asked that consideration of the purchase of recycling carts with the remaining funds be placed on the next Finance Committee Agenda.}*

Councilmember Jinks made a motion to adopt the following Resolution No. 23-09; Councilmember Rooney seconded and upon roll call, all voted "aye".

**RESOLUTION NO. 23-09
A RESOLUTION OF THE CITY OF MORRISTOWN URGING
THE ADOPTION OF LEGISLATION EXPANDING THE
AUTHORIZATION OF MUNICIPAL ELECTRIC SYSTEMS TO
EXPAND FIBER OPTIC NETWORKS AND TO PROVIDE
COMPETITIVE BROADBAND SERVICES OUTSIDE THEIR
RESPECTIVE ELECTRIC SYSTEM AREAS.**

WHEREAS, certain municipal electric systems in Tennessee have made substantial investments in state-of-the-art fiber optic networks that provide direct fiber optic connections to residential, commercial, industrial, governmental and other customers; and

WHEREAS, municipal electric systems have led the State in the deployment of fiber optic connections to end use residential customers; and

WHEREAS, the communities that these electric systems serve have benefitted from the investment in fiber optic networks in many ways; and

WHEREAS, these fiber optic networks have provided competitively priced, reliable and high quality broadband services; and

WHEREAS, these fiber optic networks have improved electric system operations and have created new economic development, health care and educational opportunities within their respective communities; and

WHEREAS, current law does not permit municipal electric systems to provide retail broadband Internet or video services outside of their electric system service area; and

WHEREAS, current law allows the City of Morristown to extend said services under Pilot Program designation into but restricted to the confines of Hamblen County; and

WHEREAS, there are current opportunities to expand these fiber optic networks outside of the electric systems' service areas in order to provide these and other broadband services; and

WHEREAS, it is in the best interest of the State to permit these municipal electric systems to provide Internet and video services over fiber optic networks outside of their electric system service areas as business conditions warrant and as the local governing boards of these electric systems may deem appropriate.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MORRISTOWN, TENNESSEE, THAT:

The General Assembly of the State of Tennessee is encouraged to adopt legislation endorsed by the Tennessee Fiber Optic Communities and the Tennessee Municipal Electric Power Association to allow municipal electric systems to provide a full range of competitive broadband services outside of their current electric systems service areas; and A copy of this resolution be sent to Lieutenant Governor Ron Ramsey, Speaker of the House Kent Williams, Senator Steve Southerland and Representative John Litz.

ADOPTED: September 15, 2009.

Mayor

ATTEST:

Acting City Administrator

Councilmember Rooney made a motion to adopt the following Resolution No. 24-09; Councilmember Senter seconded the motion and upon roll call, Councilmembers Rooney, Senter and Mayor Pro-Tem McGuffin voted "aye"; Councilmembers Brooks and Jinks "passed".

RESOLUTION NO. 24-09

A RESOLUTION ACCEPTING THE PROPOSAL OF THE TENNESSEE DEPARTMENT OF TRANSPORTATION TO CONSTRUCT A PROJECT DESIGNATED AS FEDERAL PROJECT NO. STP-66(33), STATE PROJECT NO. 32006-1226-14, S.R. 66 FROM NORTH OF I-81 AT S.R. 341 IN JEFFERSON COUNTY TO S.R. 160 IN MORRISTOWN, HAMBLÉN COUNTY, TENNESSEE.

WHEREAS, The Tennessee Department of Transportation has presented a Proposal to the City of Morristown, Tennessee, concerning Federal Project No. STP-66(33), State Project No. 32006-1226-14, S.R. 66 from North of I-81 at S.R. 341 in Jefferson County to S.R. 160 in Morristown, Hamblen County, Tennessee; and

WHEREAS, the Morristown City Council has determined that the above referenced project will benefit the City of Morristown and the citizens thereof; and

WHEREAS, the Morristown City Council wishes to cooperate with the State of Tennessee, Department of Transportation in making road improvements in the City of Morristown; and

WHEREAS, said Proposal is incorporated herein by reference, the same as if copied herein verbatim, with a copy of said Proposal attached hereto; and

WHEREAS, the terms and conditions of said Proposal to the City of Morristown as submitted by the State of Tennessee, Department of Transportation, are accepted and approved by the Morristown City Council, and the City of Morristown shall fulfill all obligations concomitant thereto;

NOW, THEREFORE, BE IT RESOLVED, by the Morristown City Council that this Resolution is duly passed and approved and shall take effect from and after its passage.

PASSED this 15th day of September 2009.

Mayor

ATTEST:

Acting City Administrator

Councilmember Jinks made a motion to adopt the following Resolution No. 25-09; Councilmember Rooney seconded the motion and upon roll call, all voted "aye".

RESOLUTION NO. 25-09

INITIAL RESOLUTION AUTHORIZING THE CITY OF MORRISTOWN, TENNESSEE, TO BORROW FUNDS AND INCUR INDEBTEDNESS IN AN AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED \$8,500,000 BY OBTAINING A LOAN FROM A PUBLIC BUILDING AUTHORITY IN TENNESSEE UNDER A LOAN AGREEMENT TO PROVIDE FUNDING FOR CERTAIN WATER SYSTEM PROJECTS, AND TO FUND THE INCIDENTAL AND NECESSARY EXPENSES RELATED THERETO.

WHEREAS, it is necessary and in the public interest of the City of Morristown, Tennessee (the "Municipality"), to borrow funds and incur indebtedness (the "Indebtedness"), through the execution with The Public Building Authority of the City of Clarksville, Tennessee or The Public Building Authority of the County of Montgomery, Tennessee (collectively, the "Authority"), of a loan agreement (the "Loan Agreement"), for the purpose of financing certain public works projects, as hereinafter more fully described.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MORRISTOWN, TENNESSEE, AS FOLLOWS:

SECTION 1. For the purpose of financing all or a portion of the costs of certain public works projects, consisting of the construction, extension, renovation, and improvement of the water system of the Municipality (the "Water System"), the acquisition of all other property real and personal appurtenant thereto and connected with such work, and to pay all legal, fiscal, administrative, planning, and engineering costs incident thereto, reimbursement for expenditures related to the foregoing projects, and costs incident to incurring the Indebtedness (collectively, the "Project"), the Municipality is hereby authorized to borrow funds and incur Indebtedness in the amount of not to exceed Eight Million Five Hundred Thousand Dollars (\$8,500,000) for the financing of the Project through the execution of a Loan Agreement. The rate of interest payable pursuant to the provisions of a Loan Agreement shall be a fixed rate of interest which rate shall not exceed the maximum rate of interest permitted under the laws of the State of Tennessee.

SECTION 2. The indebtedness evidenced by the Loan Agreement shall be payable from any and all funds of the Municipality legally available therefor, including, but not necessarily limited to, ad valorem taxes to be levied for such purpose on all taxable property within the corporate limits of the Municipality, without limitation as to time, rate, and amount and for the punctual payment of said principal of, premium, if any, and interest on, the Loan Agreement, the full faith and credit of the Municipality will be irrevocably pledged. The indebtedness evidenced by the Loan Agreement shall be additionally payable from the revenues of the Water System, subject only to the payment of reasonable and necessary costs of operating, maintaining, repairing, and insuring the Water System and to a prior pledge of such revenues in favor of other obligations of the Municipality payable from revenues of the Water System.

SECTION 3. The Loan Agreement shall be executed pursuant to the provisions of Title 9, Chapter 21, Tennessee Code Annotated, as amended (the "Act"), and Title 12, Chapter 10, Tennessee Code Annotated, as amended.

SECTION 4. After the adoption of this Resolution, the City Recorder is directed to cause this Resolution, with the notice prescribed by the Act, as set forth below, to be published in full once in a newspaper published and having general circulation in the Municipality.

SECTION 5. This Resolution shall take effect from and after its adoption, the welfare of the Municipality requiring it.

Adopted and approved this 15th day of September 2009.

MAYOR

ATTEST:

CITY RECORDER

NOTICE

The foregoing Resolution has been adopted. Unless within twenty (20) days from the date of publication hereof a petition, signed by at least ten percent (10%) of the registered voters of the City of Morristown, Tennessee, shall have been filed with the City Recorder of the City of Morristown, Tennessee, protesting the incurrence of the Indebtedness by

the execution of the Loan Agreement with the Authority, the Loan Agreement will be executed, as proposed.

STATE OF TENNESSEE)
COUNTY OF HAMBLLEN)

I, Ralph C. Fielder, hereby certify that I am the duly qualified and acting City Recorder of the City of Morristown, Tennessee (the "Municipality"), and, as such official, I further certify as follows: (1) that attached hereto is a copy of a resolution excerpted from the minutes of the meeting of the City Council (the "Council") of said Municipality held on September 15, 2009; (2) that I have compared said copy with the original minute record of said meeting in my official custody; (3) that said copy is a true, correct, and complete transcript from said original record insofar as said original record relates, to, among other matters, the incurring of indebtedness in the amount of not to exceed \$8,500,000 by said Municipality; (4) that the actions by said Council including the aforementioned, at said meeting were promptly and duly recorded by me in a book kept for such purpose; and, (5) that a quorum of the members of said Council was present and acting throughout said meeting.

WITNESS my official signature and the seal of said Municipality this 15th day of September, 2009.

City Recorder

(SEAL)

Councilmember Rooney made a motion to adopt the following Resolution No. 26-09; Councilmember Jinks seconded the motion and upon roll call, all voted "aye".

**RESOLUTION NO. 26-09
RESOLUTION AUTHORIZING A LOAN UNDER A LOAN AGREEMENT BETWEEN THE CITY OF MORRISTOWN, TENNESSEE, AND A TENNESSEE PUBLIC BUILDING AUTHORITY IN AN AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED \$8,500,000; AUTHORIZING THE EXECUTION AND DELIVERY OF SUCH LOAN AGREEMENT AND OTHER DOCUMENTS RELATING TO SAID BORROWING; PROVIDING FOR THE APPLICATION OF THE PROCEEDS OF SAID LOAN AND THE PAYMENT OF SUCH INDEBTEDNESS; AND, CONSENTING TO THE ASSIGNMENT OF THE CITY'S OBLIGATION UNDER SUCH LOAN AGREEMENT.**

WHEREAS, the City Council (the "Council") of the City of Morristown, Tennessee (the "Municipality"), has determined that it is necessary to finance the costs of certain "public works projects", as defined in Title 9, Chapter 21, Tennessee Code Annotated, as from time to time amended and supplemented, consisting of the construction, extension, renovation, and improvement of the water system of the Municipality (the "Water System"), the acquisition of all other property real and personal appurtenant thereto and connected with such work, and to pay all legal, fiscal, administrative, planning, and engineering costs incident thereto, reimbursement for expenditures related to the foregoing project, and paying costs incident to incurring such indebtedness, by obtaining a loan from either The Public Building Authority of the City of Clarksville, Tennessee or The Public Building Authority of the County of Montgomery, Tennessee (the "Authority");

WHEREAS, it has been determined by the Council of the Municipality to be in the best interests of the Municipality to finance the Project through The Tennessee Municipal Bond Fund loan program;

WHEREAS, the Authority has been established pursuant to the provisions of Title 12, Chapter 10, Tennessee Code Annotated, as amended (the "Act"), and is authorized pursuant to the provisions of the Act to issue its bonds from time to time, in one more series (the "Bonds"), and to loan the proceeds thereof to the Municipality for the above described purposes;

WHEREAS, the Authority will issue its Bonds in the aggregate principal amount of not to exceed Eight Million Five Hundred Thousand Dollars (\$8,500,000), and loan the proceeds thereof to the Municipality pursuant to a Loan Agreement, between the Municipality and the Authority (the "Loan Agreement"),

WHEREAS, the Municipality has adopted an Initial Resolution authorizing the borrowing of funds and the incurring of indebtedness for the purpose of financing the Project in the amount of not to exceed \$8,500,000, and such Initial Resolution has been or will be published together with the Notice required by Section 9-21-206 of Tennessee Code Annotated, as amended, by the City Recorder of the Municipality;

WHEREAS, the indebtedness evidenced by the Loan Agreement shall be payable from any and all funds of the Municipality legally available therefor, including, but not necessarily limited to, ad valorem taxes to be levied for such purpose on all taxable property within the corporate limits of the Municipality, without limitation as to time, rate, and amount and for the punctual payment of said principal of, premium, if any, and interest on, the Loan Agreement, the full faith and credit of the Municipality will be irrevocably pledged. The indebtedness evidenced by the Loan Agreement shall be additionally payable from, but not secured by, the revenues of the Water System, subject only to the payment of reasonable and necessary costs of operating, maintaining, repairing, and insuring the Water System and to a prior pledge of such revenues in favor of other obligations of the Municipality payable from revenues of the Water System; and,

WHEREAS, the Bonds are to be secured by and contain such terms and provisions as set forth in an Indenture of Trust, as from time to time supplemented (the "Indenture"), entered into between the Authority and The Bank of New York Mellon Trust Company, N.A., as trustee (the "Trustee").

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MORRISTOWN, TENNESSEE:

Section 1. Approval of the Loan. (a) For the purpose of providing funds to finance the Project and to pay costs incident to the issuance and sale of the Bonds, the loan to the Municipality from the Authority is hereby authorized in the principal amount of not to exceed \$8,500,000.

(b) The Bonds to be issued by the Authority shall bear interest at a fixed rate to be determined at the time of the issuance of the Bonds, as provided in the Indenture and the Loan Agreement. The Mayor and the City Recorder are authorized to enter into the Loan Agreement, such Loan Agreement to bear interest at a fixed rate, as the Mayor and City Recorder shall determine is in the best interest of the Municipality. The Municipality shall make payments of interest and principal in the amounts and on the dates set forth in the Loan Agreement and the Indenture. The final rate of interest payable on the Loan Agreement shall not to exceed the maximum rate of interest permitted by applicable law. The final maturity date of the Loan Agreement shall not exceed twenty-five years from the date of issuance of the Bonds. The final principal and interest payment dates, final interest rate payable, amortization of principal amounts of the loan evidenced by the Loan Agreement, and prepayment provisions of such Loan Agreement, may be established by the Mayor and the City Recorder, at the time of the sale of the Bonds and the execution and delivery

of the Loan Agreement, as shall be determined to be in the best interests of the Municipality, in accordance with the terms of this Resolution and the Loan Agreement.

Section 2. Approval of Loan Agreement. The form, terms, and provision of the Loan Agreement, presented at this meeting, are in the best interest of the Municipality and are hereby approved and the Council hereby authorizes the Mayor and the City Recorder of the Municipality to execute and deliver such Loan Agreement, such Loan Agreement to be in substantially the form of the Loan Agreement presented to this meeting, the execution of such Loan Agreement by the Mayor and City Recorder to evidence their approval of any and all changes to such Loan Agreement, and any related documents necessary to the consummation of the transactions contemplated by the Loan Agreement.

To the extent the Loan Agreement can be designated as a "qualified tax-exempt obligation" pursuant to Section 265 of the Internal Revenue Code of 1986, as amended (the "Code"), it shall be so designated in the Loan Agreement.

Section 3. Fulfillment of Obligations. The Council of the Municipality is authorized and directed to fulfill all obligations of the Municipality under the terms of the Loan Agreement.

Section 4. Tax Levy. There shall be levied and collected in the same manner as other ad valorem taxes of the Municipality on all taxable property within the corporate limits of the Municipality without limitation as to time, rate, or amount, to the extent necessary in the event funds of the Municipality legally available to pay the indebtedness evidenced by the Loan Agreement are insufficient, a tax sufficient to pay when due the amounts payable under the Loan Agreement, as and when they become due, and to pay any expenses of maintaining and operating the Project required to be paid by the Municipality under the terms and provisions of the Loan Agreement. For the prompt payment of the Loan Agreement, both principal and interest, as the same shall become due, the full faith and credit of the Municipality are irrevocably pledged. The indebtedness evidenced by the Loan Agreement shall be additionally payable from, but not secured by, the revenues to be derived from the operation of the Water System, subject to the payment of reasonable and necessary costs of operating, maintaining, repairing, and insuring the Water System, and to any pledge of such revenues in favor of other obligation of the Municipality.

Section 5. Approval of Bonds. For the purpose of providing funds to make the loan to the Municipality evidenced by the Loan Agreement, as provided herein and in the Loan Agreement, and to pay legal, fiscal, and administrative costs incident thereto, including costs incident to the issuance and sale of the Bonds related to the Loan Agreement, the issuance and sale of the Bonds by the Authority in connection with the Loan Agreement is hereby approved and the allocation of such Bonds to the Municipality for purposes of Section 265 of the Code is hereby accepted and approved.

Section 6. Disposition of Proceeds. An amount necessary to pay costs of issuance of the Loan Agreement and the Bonds shall be deposited to the Cost of Issuance Fund of the Borrower held by the Trustee under the Indenture and used to pay such Cost of Issuance.

The remaining proceeds of the Bonds shall be held in the Loan Fund, or such other fund established pursuant to the Indenture for the benefit of the Borrower, and used for the purpose of financing the costs of the Project.

Section 7. Consent to Assignment. The Municipality hereby consents to the assignment, pursuant to the Indenture, of all of the Authority's right, title, and interest in and to the Loan Agreement as security for the Bonds to which such Loan Agreement relates, except for certain reserved rights of the Authority.

Section 8. Reimbursement Provisions. The Municipality may have made or may hereafter make expenditures with respect to the Project from a source of funds other than proceeds of the loan from the Authority under the Loan Agreement, such expenditures occurring prior to the execution and delivery of the Loan Agreement. The Municipality reasonably expects that it will reimburse such original expenditures with proceeds of the loan from the Municipality made pursuant to the Loan Agreement to the extent permissible under Treasury Regulation 1.150-2.

Section 9. Miscellaneous Acts. The Mayor, the City Administrator, the City Recorder, and all other appropriate officials of the Municipality are hereby authorized, empowered, and directed to do any and all such acts and things, and to execute, acknowledge, and deliver all such documents, instruments, and certifications, in connection with the execution of the Loan Agreement and the issuance of the Bonds by the Authority, in addition to those acts, things, documents, instruments, and certifications hereinbefore authorized and approved, as may in their discretion, be necessary or desirable to implement or comply with the intent of this Resolution; or any of the documents herein authorized and approved.

Section 10. Captions. The captions or headings in this Resolution are for convenience only and shall in no way define, limit, or describe the scope or intent of any provision hereof.

Section 11. Severability. Should any provision or provisions of this Resolution be declared invalid or unenforceable in any respect by final decree of any court of competent jurisdiction, the invalidity or unenforceability of such section, paragraph, ordinance, or provisions shall not affect the remaining provisions of such Resolution.

Section 12. Repeal of Conflicting Resolutions. All resolutions or parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed.

Section 13. Effective Date. This Resolution shall take effect upon its adoption, the welfare of the Municipality requiring it.

Adopted this 15th day of September, 2009.

MAYOR

(SEAL)

ATTEST:

CITY RECORDER

(STATE OF TENNESSEE
COUNTY OF HAMBLLEN)

I, Ralph C. Fielder hereby certify that I am the duly qualified and acting City Recorder of the City of Morristown, Tennessee (the "Municipality"), and, as such official, I further certify as follows: (1) that attached hereto is a copy of a resolution excerpted from the minutes of the meeting of the City Council (the "Council") of said Municipality held on September 15, 2009; (2) that I have compared said copy with the original minute record of said meeting in my official custody; (3) that said copy is a true, correct, and complete transcript from said original record insofar as said original record relates, to, among other matters, the incurring of indebtedness in the amount of not to exceed \$8,500,000 by said Municipality; (4) that the actions by said Council including the aforementioned, at said meeting were promptly and duly recorded by me in a book kept for such purpose; and, (5) that a quorum of the members of said Council was present and acting throughout said meeting.

WITNESS my official signature and the seal of said Municipality this 15th day of September, 2009.

City Recorder

(SEAL)

Councilmember Jinks made a motion to adopt the following captioned Ordinance No. 3370 on second and final reading; Councilmember Senter seconded the motion and upon roll call, all voted "aye".

**Ordinance No. 3370
Being an Ordinance for the City of Morristown,
Tennessee to adopt by reference State Traffic
Offences and Rules of the Road.**

Councilmember Jinks made a motion to reappoint Doug McDonald to the Civil Service Board for a three-year term to expire 10/1/12. Councilmember Senter seconded the motion and upon roll call, all voted "aye".

Councilmember Senter made a motion to appoint Rosemary Moody to the Industrial Development Board to fill the remainder of Breck Habegggers's term which expires 7/1/12. Councilmember Rooney seconded the motion and upon roll call, all voted "aye".

Councilmember Jinks made a motion to reappoint Barbara Garrett and Debra Williams to the Tree Board for three year terms to expire 9/18/12. Councilmember Rooney seconded the motion and upon roll call, all voted "aye".

City Council convened as the Beer Board.

Councilmember Rooney made a motion to grant an On-Premise Beer Permit to AGCO, Inc. for Hillside Grill, located at 3614 West Andrew Johnson Highway. Councilmember Senter seconded the motion and upon roll call, all voted "aye".

Mayor Pro-Tem McGuffin adjourned the September 15, 2009 City Council meeting.

Mayor

ATTEST:

Acting City Administrator