

17-00095

Patsy Fulton

From: William C. Bovender <bovender@hsdlaw.com>
Sent: Monday, November 27, 2017 2:46 PM
To: Patsy Fulton
Subject: FW:
Attachments: Ordinance No..pdf; Ordinance No. 6.pdf

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Here is the original 1962 franchise ordinance and the 1992 renewal which extended the franchise to 2016. The 1992 version, through 2016, is the agreement the parties are operating under on a month to month currently. There has never been a franchise fee and there is none sought in the petition before the Commission.

From: Roberta Davis
Sent: Monday, November 27, 2017 3:35 PM
To: William C. Bovender
Subject:

Please see the attached
Thank you

HUNTER·SMITH·DAVIS
SINCE 1916

LLP

Roberta D. Davis

Legal Assistant

P.O. Box 3740

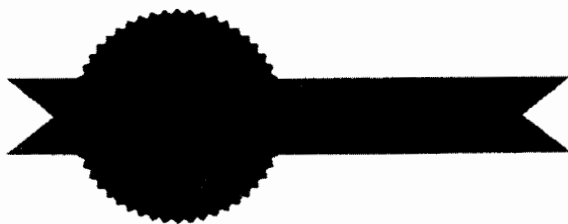
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ORDINANCE NO. 6

AN ORDINANCE of the Town of Mount Carmel, Tennessee, granting to Kingsport Utilities, Incorporated, a corporation, the exclusive right, privilege and franchise for the term of ~~Thirty~~ (30) years to lay, construct, erect, install, operate, maintain, use, repair or replace in, upon, along, across, under or over the streets of the Town or remove from the streets of the Town, the facilities or equipment of said Grantee (1) for the purpose of conducting, transmitting, supplying, distributing and selling electric power or current to the Town and its inhabitants (exclusive of that area within said Town as now constituted and the inhabitants in said area presently being served by the Holston Electric Cooperative, Inc.), for heat, power, light and any and all other purposes for which electric power or current may be used, and (2) for the purpose of conducting, conveying and transmitting electric power or current through the Town for use outside the boundaries of the Town, for heat, power, light and for any and all other purposes for which electric power or current may be used.

BE IT ORDAINED BY THE TOWN OF MOUNT CARMEL AS FOLLOWS:

SECTION 1. Whenever in this ordinance the words or phrases hereinafter in this section defined are used, they shall have the respective meanings assigned to them in the following definitions (unless, in the given instance, the context wherein they are used shall clearly import a different meaning):

(a) The word "Grantee" shall mean Kingsport Utilities, Incorporated, the corporation to which the franchise is granted by this ordinance, and its lawful successors or assigns.

(b) The word "Town" shall mean the Town of Mount Carmel, a municipal corporation of the State of Tennessee, in its present incorporated form, or in any later reorganized, consolidated or reincorporated form, exclusive of that area within said municipal limits as now constituted and presently being served by the Holston Electric Cooperative, Inc.

(c) The word "streets" shall mean the public streets, lanes, alleys, courts, parkways, or other public places in the Town as they now exist or as they may be opened, established or acquired in the Town at any time during the term of this franchise.

(d) The phrase "facilities or equipment" shall mean transformers, poles, towers, wires, cables, conduits, attachments, connections, structures, vaults, machinery, appliances, appurtenances, and any other personal property located or to be located in, upon, along, across, under or over the streets used or deemed by the Grantee to be useful for the purpose of carrying, conducting, transmitting and distributing electric power or current.

SECTION 2. That the exclusive right, privilege, franchise, authority and easement, subject to each and all of the terms and conditions contained in this ordinance, be and the same are hereby granted to Kingsport Utilities, Incorporated, a corporation organized and existing under and by virtue of the laws of the Commonwealth of Virginia, and duly domesticated and authorized to do business in the State of Tennessee, herein referred to as the Grantee, for the term of THIRTY (30) years from and after the effective date hereof, to lay, construct, erect, install, operate, maintain, use, repair or replace in, upon, along, across, under or over the streets of the Town or remove from the streets of the Town its facilities or equipment:

(a) for the purpose of conducting, conveying, transmitting, supplying, distributing and selling electric power or current to the Town and its inhabitants (exclusive of that area within said Town as now constituted and the inhabitants in said

area presently being served by the Holston Electric Cooperative, Inc.), for heat, power, light and any and all other purposes for which electric power or current is now or may hereafter be used, and

(b) for the purpose of conducting, conveying and transmitting electric power or current through the Town for use outside of the boundaries of the Town for heat, power, light and any and all other purposes for which electric power or current is now or may hereafter be used.

All of the rights, privileges, franchises and easements herein granted to the Grantee are hereby expressly made exclusive for said period of THIRTY (30) years against any other person, firm, association, corporation or utility district and against the Town itself, exclusive of that area within said Town as now constituted and presently being served by the Holston Electric Cooperative, Inc.

SECTION 3. All work undertaken or performed, all service rendered, and all facilities or equipment operated, maintained or used pursuant to the provisions of this franchise shall be of the standard required by the laws of the State of Tennessee, by the orders of the Tennessee Public Service Commission or any other body or governmental authority having jurisdiction in the premises, and in accordance with engineering practices generally accepted and employed in the electric industry in the transportation and distribution of electric power or current.

SECTION 4. The placing, laying down, construction,

erection, extension, operation and maintenance by the Grantee of its facilities or equipment in, upon, along, across, under or over the streets of the Town shall be done without unreasonable or unnecessary obstruction of said streets and in such manner as to produce the least practicable inconvenience to the said Town and its inhabitants. In placing, laying down, constructing, erecting, extending, operating, maintaining and repairing any of its said facilities or equipment, the Grantee shall take reasonable precaution against injury to the mains, cables, pipes, wires, conduits or any other property, facilities or equipment of any other corporation, person, firm or association engaged in conducting or transmitting gas, water or any other public utility or in rendering any public service.

SECTION 5. All pavement, macadam, sidewalks, streets or places or grounds of the Town taken up or in any way used or dealt with by the Grantee shall be repaired with the least practicable delay, with like material and left in as good condition in every respect as before the work was begun.

SECTION 6. In constructing, repairing and operating its works, the Grantee shall use reasonable precaution to avoid damage or injury to person or property; and shall protect and save harmless the Town against all damage which may result to the Town on account of the negligence of the Grantee.

SECTION 7. The Grantee shall have the right to trim trees and bushes whenever necessary, said trees and bushes to be trimmed in such manner that none of the branches of same will come in contact with the distribution or transmission lines, wires or

cables of the Grantee; provided, however, that the Grantee shall not trim any tree or bush to a greater extent than necessary.

SECTION 8. No person, firm, association or corporation shall be permitted to make any connection with any of the facilities or equipment of the Grantee, or in any manner to use the poles or any other property of the Grantee, unless authorized in writing by it so to do.

SECTION 9. In consideration of the benefits which in the judgment of the Town will accrue to it by reason of the construction and operation of said electric light, heat and power system and as an inducement to the Grantee to construct, maintain and operate said system, the Town shall not impose any rental, license fee, charge or tax upon the Grantee for the rights hereby granted or the exercise thereof during the life of this franchise. However, the Town expressly reserves the right to levy such ad valorem taxes upon the tangible properties of the Grantee located in said Town as it uniformly levies upon all other tangible properties located therein.

SECTION 10. If, subsequent to the taking effect of this franchise and during the term thereof, the Town shall acquire additional territory by annexation, consolidation or otherwise, all duties, rights and privileges of the Grantee hereunder shall automatically extend to such additional territory.

SECTION 11. All electric power or current transmitted, distributed, supplied and sold by the Grantee under this ordinance shall be furnished and paid for in accordance with and subject to all of the provisions of the applicable tariffs, rates and

schedules of charges and rules and regulations fixed and approved by the Tennessee Public Service Commission, and such change or changes as may be made in said tariffs, terms and conditions of service from time to time.

SECTION 12. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

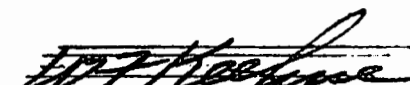
SECTION 13. This franchise shall become effective and all its terms, provisions and conditions binding upon both the Town and Grantee fifteen (15) days after its final passage, provided the Grantee shall within said fifteen (15) days endorse on the original ordinance its acceptance of this franchise in the words and figures following:

"Kingsport Utilities, Incorporated, hereby
accepts this franchise this the ____ day
of _____, 1962.

KINGSPORT UTILITIES, INCORPORATED

By _____
Vice-President

Attest:



Assistant Secretary".

W. J. Marshall
Mayor

Attest:

Henry Hurd
Recorder

Passed on 1st reading JUNE 7, 1962

Passed on 2nd reading JULY 5, 1962

Passed on 3rd reading AUGUST 9, 1962

Kingsport Utilities, Incorporated, hereby accepts
this franchise this the 14TH day of AUGUST, 1962.

KINGSPORT UTILITIES, INCORPORATED

By

James W. [Signature]
Vice-President

Attest:

W. F. [Signature]
Assistant Secretary

AN ORDINANCE of the Town of Mount Carmel, Tennessee, granting to Kingsport Power Company (successor to Kingsport Utilities, Incorporated), a corporation, an extension and amendment to the exclusive right, privilege and franchise until June 8, 2016 to lay, construct, erect, install, operate, maintain, use, repair or replace in, upon, along, across, under and over the streets of the town or remove from the streets of the town, the facilities or equipment of said Grantee (1) for the purpose of conducting, transmitting, supplying, distributing and selling electric power or current to the Town and its inhabitants (exclusive of that area within said Town as of the original grant of the franchise being served by Holston Electric Cooperative, Inc.) for heat, power, light and any and all other purposes for which electric power or current may be used, and (2) for the purpose of conducting, conveying and transmitting electric power or current through the Town for use outside the boundaries of the Town, for heat, power, light and for any and all other purposes for which electric power or current may be used.

BE IT ORDAINED BY THE TOWN OF MOUNT CARMEL AS FOLLOWS:

SECTION 1. That the franchise, authority and easement set forth in Ordinance No. 6 of the Town of Mount Carmel and effective August 24, 1962 for a period of thirty (30) years is hereby extended to June 8, 2016 from and after August 24, 1992.

SECTION 2. All other terms of the original franchise shall remain in full force and effect.

SECTION 3. This extension shall become effective and all its terms, provisions and conditions binding upon both the Town and Grantee fifteen (15) days after its final passage, provided the Grantee shall within said fifteen (15) days endorse on the ordinance its acceptance of this franchise in the words and figures following:

"Kingsport Power Company hereby accepts
this franchise this the 29th day
of May, 1992.

KINGSPORT POWER COMPANY

By: *[Signature]*
President

Attest:

[Signature]

Ronnie L. Davis
Mayor

Attest:

Rita J. Jones

Passed on 1st reading 3-26-92

Passed on 2nd reading 4-23-92

Passed on 3rd reading 5-28-92

Kingsport Power Company hereby accepts the extension of this franchise this the 29th day of May, 1992.

KINGSPORT POWER COMPANY

By:

W. R. Rindberg
President

Attest:

L. S. Bacon
Secretary

HSTAS/3234

Approved as to form:
Mike Faulk
TOWN ATTORNEY

OWN OF MOUNT CARMEL
100 E. MAIN STREET
P. O. BOX 1421
MOUNT CARMEL, TENNESSEE 37645

OPEN BIDS FOR PAVING

Mayor Davis open bids for paving of certain streets within Mount Carmel. The bids are from Sullivan Paving at \$152,561.00; A Pac Tennessee at \$145,680.00; and Pave Well at \$141,825.00. The acceptance or rejection of the bids will take place later in the meeting.

COUNCIL MEETING

The Board of Mayor and Alderman met in a regular session on April 23, 1992 at 7:15 p.m. in the Town Hall.

Invocation was given by Ron Collier.

All members were present except James Evans.

The minutes of the last meeting were read. Terry Fletcher made a motion to accept the minutes as read. Howard Vaughn second. All members voted yes.

MAYOR'S REMARKS

Mayor Davis reported on the Open House for the Sewer Extension. Mayor Davis reported on the possibility of Myer's Pump Company reimbursing the Town on the sewer backups because of malfunctions of the pump.

Mayor Davis reported B.F.I. was doing business inside the city. The Town, at the request of the businesses, started the pickup of commercial trash. The landfill charges to dump commercial trash so the town passes this on to the business. Now B.F.I. has approached the businesses and offer the service for a lower price. The Town will now lose monies and needs to make a decision whether to continue to offer this service to the business.

Mayor Davis reported the Fire Department ordered to much first aid equipment and supplies. Some of these supplies will be issued to other departments. Mayor Davis also reported the Fire Department borrowed maps from the First Utility District and had copies of the water line made for use at the Fire Hall.

Mayor Davis reported on the ballfield at the park were in good shape.

Mayor Davis reported that patching will be done at the pool this year. Mayor Davis also stated he was checking on the price of a liner for the pool. Mayor Davis reported a water line broken and is to be repaired.

Mayor Davis reported from the Planning Commission that Greeneville Oil Company is planning to relocate the gas station between Ace Hardware and Tri-City Bank.

Mayor Davis on the contract with the Department of Transportation for Carter's Valley Road will include the part outside of the city.

Mayor Davis reported on the proposed installation of street lights in Brookshire Hills Subdivision at the cost of \$8.10 per light and approximately 112 lights. Mr. Stephen Harnsberger, Kingsport Power Company, explained the difference in prices for the street lights. Mr. Harnsberger explained the proposal for lighting Independence Ave. from Main Street to Ripley Lane.

ROUTINE REPORTS

The routine reports were given in written form.

ALDERMAN'S REPORTS

James Dean had no report.

James Evans was absent.

Howard Vaughn had no report.

Mildred Ford had no report.

Sharon Reed had no report.

Terry Fletcher reported a call concerning a stop sign at Englewood Ave. and Main Street being faded. Mr. Fletcher reported looking at some mowers.

OLD BUSINESS

SECOND READING ORDINANCE NO. 128 (FRANCHISE KINGSFORT POWER COMPANY)

Terry Fletcher made a motion to pass Ordinance No. 128 on the second reading (Franchise with Kingsport Power Company for 24 years, June 2016). Sharon Reed second. Roll call vote: Ayes: James Dean, Howard Vaughn, Mildred Ford, Sharon Reed, Terry Fletcher. Nays: None. Motion passed.

NEW BUSINESS

FIRST READING ORDINANCE NO. 129 (BUDGET 1992-93)

Sharon Reed made a motion to pass Ordinance No. 129 on the first reading (Budget 1992-93). Mildred Ford second. Roll call vote: Ayes: Howard Vaughn, Mildred Ford, Sharon Reed, Ronnie Davis. Nays: James Dean, Terry Fletcher. Motion passed.

ACCEPTANCE OR REJECTION OF BIDS FOR PAVING

Howard Vaughn made a motion to accept the low bidder of Pave Well Paving at the bid of \$141,825.00. Mildred Ford second. Roll call vote: Ayes: James Dean, Howard Vaughn, Mildred Ford, Sharon Reed, Terry Fletcher. Nays: None. Motion passed.

FIRST READING ORDINANCE NO. 130
RESTRICTING USE OF WALNUT STREET

Howard Vaughn made a motion to pass Ordinance No. 130 on the first reading to restrict the use of Walnut Street. Terry Fletcher made a motion to amend Ordinance No. 130 and add Hammond Ave. Terry Fletcher motion failed to a lack of a second. Terry Fletcher second the first motion. All members voted yes.

FIRST READING ORDINANCE NO. 131
(PROHIBITING PARKING ON NARROW STREETS)

The Board referred Ordinance No. 131 back to the Safety Committee.

The Safety Committee recommended the Police Department Rules and Regulations to the Board of Mayor and Alderman. Terry Fletcher made a motion to refer the Rules and Regulations back to the Safety Committee. James Dean second.

With no further business, Mildred Ford made a motion to adjourn the meeting. Terry Fletcher second. All members voted yes.

Meeting adjourned at 6:10 p.m.

Mayor

City Recorder

TOWN OF MOUNT CARMEL
100 E. MAIN STREET
P. O. BOX 1401
MOUNT CARMEL, TENNESSEE 37645

PUBLIC HEARING ON REZONING

No one approached the Board in opposition against the rezoning certain territory between First Street and Cherry Street from an R-1 to an R-2.

COUNCIL MEETING

The Board of Mayor and Aldermen met in a regular session on March 26, 1992 at 7:15 p.m. in the Town Hall.

Invocation was given by Don Collier.

All members were present.

The minutes of the last meeting were read. James Evans made a motion to accept the minutes as read. Howard Vaughn second. All members voted yes.

VISIT BY

Mr. Fredrick Marshall, Director and Len Davis, Brookshire Hills Division, expressed their concerns about the sewer extension and presented a petition to the Board stating concern about the sewer extension.

Mr. Gary Little, 211/Central Dispatch for Hawkins County, reported on the status of the system and when it will be ready to go into service. Central Dispatch projected service date is September or October 1992.

MAYOR'S REMARKS

Mayor Davis reported the Town is going to ask for an amendment to the Highway Maintenance Contract with the State of Tennessee to include Carter's Valley Road.

Mayor Davis reported street signs have arrived and will be installed soon and the Town will be asking for bids for paving of some streets.

Mayor Davis announced the Open House for the sewer extension plans to held April 11, 1992 in the City Hall from 10:00 a.m. to 2:00 p.m. The engineers will be here to explain locations and make changes that are needed.

ALDERMAN'S REPORTS

James Dean reported Mr. Testerman, Lloyd Chapel Road, sign was missing or needed to be checked.

James Evans had no report.

Howard Vaughn had no report.

Mildred Ford reported on the status of the census.

Sharon Reed had no report.

Terry Fletcher had no report.

OLD BUSINESS
POINT OF RECREATIONAL DIRECTOR

James Evans reported on the committee for appointing a recreational director and the committee recommended John Fleenor. Terry Fletcher made a motion to appoint John Fleenor as the Recreational Director. The appointment is for the period of January 1, 1992 thru December 31, 1992. James Evans second. Roll call vote: Ayes: James Dean, James Evans, Howard Vaughn, Mildred Ford, Terry Fletcher. Nays: None. Abstained: Sharon Reed. Motion passed.

NEW BUSINESS
SECOND READING ORDINANCE NO. 127
(Rezoning R-1 to R-2)

Mildred Ford made a motion to pass Ordinance No. 127 on the second reading (Rezoning R-1 to R-2 between Birch St. and Cherry St.) Terry Fletcher second. All members voted yes. Motion passed.

APPROVAL OF FIRE DEPT. MEMBER

Mildred Ford made a motion to accept John Lord and Anthony Lawson as a fire department member. James Evans second. All members voted yes. Motion passed.

FIRST READING ORDINANCE NO. 128
(FRANCHISE KINGSFORD POWER COMPANY)

James Evans made a motion to pass Ordinance No. 128 on the first reading (Franchise with Kingsford Power Company for 24 years, June 2016). Mildred Ford second. Roll call vote: Ayes: James Dean, James Evans, Howard Vaughn, Mildred Ford, Sharon Reed, Terry Fletcher. Nays: None. Motion passed.

Mayor Davis announced a Safety Committee meeting is scheduled for April 16, 1992 at 7:00 p.m. in City Hall.

Mayor Davis stated the need to set the amount to pay the Recreational Director. Mildred Ford made a motion to pay the Recreational Director \$200.00 per month. Terry Fletcher second. Roll call vote: Ayes: James Dean, James Evans, Howard Vaughn, Mildred Ford, Sharon Reed, Terry Fletcher. Nays: None. Motion passed.

Chief Wayne Alley and Ron Collier, Ron and Randy Collier to be hired as part time officers to fill in during vacation and sick time. Terry Fletcher made a motion to hire the above as part time officer. James Evans second. All members voted yes. Motion passed.

Ron Collier, Chairman of the Safety Committee recommended two ordinances to limit traffic to No Thru Trucks on Walnut Street and No Parking on narrow streets. These ordinance will be ready at the next meeting.

Mr. Jerry Eads, Brookshire Miller, asked about the presented proposal from the residents. Mayor Davis responded, the Board was given the opportunity to take action on the proposal.

Ms Dee Dee Miller, Berkshire Hills, ask whether she can come on her property while she is not at home? Mike Paul, City Attorney answered.

Mr. Ed Wilson, asked when easements were going to be obtained. Mayor Davis stated probably within the next week or so.

With no further business, Terry Fletcher made a motion to adjourn the meeting. Howard Vaughn second. All members voted yes.

Meeting adjourned at 7:20 p.m.

Mayor

City Recorder