

BOARD OF MAYOR AND ALDERMEN
November 23, 2009

A regular meeting of the Board of Mayor and Aldermen was held on November 23, 2009 at 6:00 p.m. in the Council Chambers of the Municipal Center.

Mayor Sharon Goldsworthy was present and presiding.

The following Aldermen were present: Mark Billingsley, Ernest Chism, John Drinnon, and Mike Palazzolo. Alderman Carole Hinely was absent. Staff present: Patrick Lawton, Andy Pouncey, Kristen Geiger, George Brogdon, Tom Cates, Debbie Wiles, Jerry Cook, Chief Richard Hall, Pat McConnell, Bo Mills, Chief Dennis Wolf, Melody Pittman, Josh Whitehead, Michael Saddler, Butch Eder, Tim Gwaltney, Tim Bierdz, Ralph Gabb, Pam Beasley and Dotty Johnson.

Invocation

Assistant City Administrator Andy Pouncey gave the invocation.

Pledge of Allegiance

Alderman Mike Palazzolo led the Pledge of Allegiance.

Approval of Agenda

Administration requested that item #9 – Public Hearing on Ordinance 2009-18 – Amendment to Stormwater Management be deferred to enable staff to re-evaluate the fee structure.

City Administrator Patrick Lawton stated a great amount of time had been spent with the Board and various commissions and committees discussing the stormwater management fee. A great deal of support had been given for the development of this fee and the implementation of the stormwater management program. He stated the Mayor had recommended the deferral of this ordinance on second reading in an effort to revisit the rate structure used in calculating the impervious surface area for residential and non-residential properties. She also asked to analyze their proportional differences. He asked the Board to allow staff to reevaluate the entire stormwater fee structure to make sure that equity is built into all aspects of the program and the rate structure.

Prior to the ordinance and the policy being presented to the Board, Administration will seek the input and meet with various stakeholders in our community that will be impacted by this user fee. Staff will also work with the FAC, the Environmental Commission, and various tax exempt organizations and properties and representatives from our commercial establishments.

Motion by Mr. Drinnon, seconded by Mr. Palazzolo, to defer the public hearing on Ordinance 2009-18 until January 25, 2010.

A discussion followed on why the Board had not been notified before the meeting of the request from Administration to defer this agenda item.

ROLL CALL: Billingsley–yes, Chism–yes, Drinnon–yes, Palazzolo–yes. Motion approved.

Mayor Goldsworthy asked to add to the agenda after the approval of the minutes, the recognition of Police Chief Richard Hall.

The Board unanimously agreed.

Alderman Palazzolo asked the Board to consider having a traffic analysis or study for Dogwood Creek. The City through Planning and Economic Development had outlined the process that neighborhoods could go through to study their traffic patterns, speeding, safety, etc. He stated that some citizens had come to him and requested to bring this forward.

Motion by Mr. Palazzolo, seconded by Mr. Drinnon, to add to the agenda a specific traffic analysis that is outlined by the City for Dogwood Creek.

Point of clarification...Mr. Cates stated that with the policy that was adopted earlier, things could be added to the agenda for purposes of discussion on that night but no formal action could be taken. This procedure could be followed and could be added to the next agenda for a vote. In order to take action tonight there would have to be a waiver of the rules.

Motion by Mr. Billingsley, seconded by Mr. Drinnon, to waive the usual procedure and take action on the item tonight.

ROLL CALL: Billingsley–yes, Chism–yes, Drinnon–yes, Palazzolo–yes. Motion approved.

Vote on previous motion:

ROLL CALL: Billingsley–yes, Chism–yes, Drinnon–yes, Palazzolo–yes. Motion approved.

Motion by Mr. Drinnon, seconded by Mr. Palazzolo, to approve the agenda as amended.

ROLL CALL: Billingsley–yes, Chism–yes, Drinnon–yes, Palazzolo–yes. Motion approved.

Approval of Minutes

Alderman Palazzolo noted on page 5, part of the last paragraph was missing. On page 7, the third paragraph, the word *developments* should be singular.

Motion by Mr. Drinnon, seconded by Mr. Billingsley, to approve the minutes of the Board of Mayor and Aldermen meeting held November 9, 2009 as amended.

ROLL CALL: Billingsley–yes, Chism–yes, Drinnon–yes, Palazzolo–yes. Motion approved.

Mayor Goldsworthy asked Police Chief Richard Hall to present the special recognitions.

Chief Hall thanked the Board for allowing him to publicly commend the officers and dispatchers for their actions in regards to the armed robbery that occurred in the City on November 15 at approximately 10:05 p.m. at McDonald's. The dispatchers took the call and quickly put the call out in a calm manner. The officers were on the scene in seconds capturing two suspects as they tried to walk out of the restaurant. They recovered a handgun used in the commission of the crime, the money that was stolen from the restaurant and a vehicle that was running behind the restaurant which was from a carjacking in another jurisdiction.

He called each officer to be publicly recognized: Officers Kile Sathongnhoth, Nick Iacobucci, Davis Herndon, Brett Pinkington, Ken Overall, Nathan Edwards, Lt. Bill Stemmler, Robert Freidel, Kevin Simpson, Mike Rogers, Christian Jefferson, Andy Nutt, Dispatcher Liz Coleman, and Dispatcher Lana Taylor.

Chief Hall noted the robbery happened during shift change and officers were present that were about to get off work and officers that just started their shift. The quick and rapid response of all kept injuries at a minimum. He stated he was very proud of all his officers and dispatchers.

Beautification Commission Business Agenda

Alderman Palazzolo stepped forward to present the November Business Award to the Bank of Tennessee. Mr. Jeanne Hamilton, Bank Manager, was present to receive the award.

Citizens to be Heard

Mr. Clinton Hardin, 8373 Poplar Pike, stated he had served on the Financial Advisory Commission and his commission and subcommittee had spent some time on the stormwater fee. He stated that he would not speak on the subject at this time since it had been deferred and he would speak on this issue when it is back on the agenda.

Mr. Jim Schmiedicke, 3085 Poplar Grove Lane, was also concerned about the stormwater fee. He asked the Board to pull the amendment because of timing with inflation, it was inappropriate, it is risky for the community and he felt it was arrogant.

Resolution 09R15 – Consolidation

Mr. Lawton stated at the last meeting the Board voted to bring forth a resolution against consolidation. Both Collierville and Lakeland has responded to the consolidation issue and responded with either a vote or a resolution against consolidation.

This resolution describes historically what had happened with consolidation since 1953 when it was enacted. It specifically looks at the City's position. It offers recommendations that could be implemented that would help support greater efficiencies within the county without consolidation. It also describes that even though the City of Germantown would not need to give up its local government charter, it does point out that looking at some opinions issued by Metro Davidson County and their legal staff that there appears an over arching intent by the part of the metro government to supersede in some cases the local authority granted under general law charters and that was a concern of this Board.

At the request of Alderman Billingsley, Patrick Lawton read the entire resolution.

Alderman Palazzolo asked staff to elaborate on problems metro counties have encountered.

Mr. Lawton stated there were two specific instances that he was aware of and that involved the mission of a new service and putting in a new fee. In 2001, the community of Forest Hill in Davidson County attempted to put in place a franchise fee for the local cable operator. When they attempted to do so, the legal staff in Metro Davidson informed the city that they could not impose the franchise fee because they did not have that fee at the time of consolidation. The way the Metro Charter is written, it states you have to be the same in terms of your service delivery as before consolidation. The same thing happened in July of 2009 when they tried to put in place a Police Department in their community and were told by Metro Davidson County that they could not because the service was not in place before Consolidation in 1962.

Motion by Mr. Billingsley, seconded by Mr. Drinnon, to approve Resolution 09R15 in opposition to consolidation.

ROLL CALL: Billingsley–yes, Chism–yes, Drinnon–yes, Palazzolo–yes. Motion approved.

Ordinance 2009-17 – Amendment to Chapter 14, Signs – Revisions to the Regulations of Project Directory Signs – Third and Final Reading

Planning Division Director Josh Whitehead stated this amendment would create two categories of Permanent Project Directory Signs, Major Retail Center and Medium Retail Center.

During the second reading and public hearing the architect for BELZ requested the ordinance be changed specifically in its proportion devoted to the shopping center name. The request was taken to the DRC and they requested that BELZ put together a rendering of what a sign would look like under their proposed language. The subcommittee of the DRC rejected most of the proposals by Belz but they did compromise on some and they are incorporated in the ordinance.

Motion by Mr. Palazzolo, seconded by Mr. Billingsley, to approve Ordinance 2009-17 on third reading.

ROLL CALL: Billingsley–yes, Chism–yes, Drinnon–yes, Palazzolo–yes. Motion approved.

PUBLIC HEARING - Ordinance 2009-18 – Amendment to Chapter 23 – Article VI – Stormwater Management - First Reading/Set Public Hearing Date. - DEFERRED

Ordinance 2009-19 – Amendment to Chapter 2, Administration; Chapter 6, Building and Building Regulations and Chapter 14, Signs – Authority of Design Review Commission to Grant Exceptions – First Reading/Set public Hearing Date

Mr. Whitehead stated this ordinance was drafted in response to a request by the City Attorney that the instances in which the DRC allows flexibility in their arranging of approvals be placed throughout the sign ordinance in which they are granting these allowances. The changes recommended can be classified into two groups, those related to exceptions, and those that are housekeeping items related to the granting of exceptions. The changes in this ordinance amendment reflect variances granted by the Commission in the past.

Mr. Cates explained how this all came about and why there were lighted signs advertising gas prices when there was an ordinance that said under no circumstances would there be any lighted gas signs. By adopting this amendment, it would authorize future lighted gas price signs. If the amendment were not adopted, the City could require these stations to take down the signs.

Alderman Palazzolo stated he was liaison to the DRC and would be meeting with them on Tuesday night to get their feedback.

Alderman Drinnon stated that with all due respect he was not sure it mattered what the opinion of the DRC was because there were legal matters that need to be addressed.

Motion by Mr. Palazzolo, seconded by Mr. Drinnon, to approve Ordinance 2009-19 on First Reading and set January 11, 2010, as the public hearing date.

Alderman Billingsley shared the concerns of the other aldermen and stated he would vote yes to move forward and would scrutinize it on second reading.

ROLL CALL: Billingsley–yes, Chism–yes, Drinnon–yes, Palazzolo–yes. Motion approved.

In response to a question from Alderman Billingsley, Mr. Cates stated in regard to insurance covering the City, if the Board elected to revoke the permit, and they sued, we would have to pay the first \$5,000.00 to defense costs to the TML lawyer. We are covered for damages but he did not see how there would be any damages. It would be an issue of whether we could make them take the signs down.

Mobile Command Trailer

Chief Hall came forward and explained this Mobile Command Trailer would be utilized during emergency situations such as natural disasters, SWAT call outs, hostage/barricade situations and any Police function where a mobile command center is needed. Because this type of purchase is not reoccurring in nature, and not budgeted, we can use restricted drug funds for this purchase.

Specifications were emailed to 14 regional trailer dealers and five bids were received and opened and Pro Pac Inc. was the low bidder that met specifications.

Motion by Mr. Billingsley, seconded by Mr. Palazzolo, to authorize the purchase of Police Mobile Command Trailer, and to approve Budget Adjustment #10-55 and declare the current trailer as surplus property.

ROLL CALL: Billingsley–yes, Chism–yes, Drinnon–yes, Palazzolo–yes. Motion approved.

Public Educational and Government (PEG) Revenue and Disbursement FY09

Finance Director Ralph Gabb gave a brief history of the cable franchise agreement. He stated that ComCast Cable historically remits to the City two checks on a quarterly basis. One check is the franchise fee and there is a separate check for public, educational and governmental access. During the FY09 year's audit of the Germantown Community Television Foundation books and a review of the Franchise Agreement it was determined the City should be recording and depositing both checks. In order to correct the oversight, the City will record the PEG check into revenue as well as the distribution of funds for PEG capital contribution.

Mr. Lawton noted that this was for fiscal year '09.

Motion by Mr. Palazzolo, seconded by Mr. Drinnon, to approve budget adjustment number 09-239 increasing the Cable Vision Grant in the amount of \$174,112.00 for FY09 and the payment to the Germantown Community Television Foundation in the amount of \$174,112.00.

ROLL CALL: Billingsley–yes, Chism–yes, Drinnon–yes, Palazzolo–yes. Motion approved.

Public Educational and Government (PEG) Revenue and Disbursement FY10

Mr. Gabb stated this was for the disbursement from the PEG station in the amount of \$42,537.30 for FY10 as outlined in the franchise agreement.

Motion by Mr. Palazzolo, seconded by Mr. Billingsley, to approve budget adjustment number 10-56 increasing the budget in the amount of \$42,537.30 for FY10 and to remit to the PEG station, Germantown Community Television Foundation, a payment as outlined in the franchise agreement in the amount of \$42,537.30. Also, to allow the City in the future to remit the PEG payment received from ComCast to the Germantown Community Television Foundation, PEG station, for Capital Contribution via City check without requiring approval of the Board.

ROLL CALL: Billingsley–yes, Chism–yes, Drinnon–yes, Palazzolo–yes. Motion approved.

ADD-ON – Traffic Study of Dogwood Creek area.

Alderman Palazzolo stated several citizens had come forward and sent e-mails to the Board requesting some relief in Dogwood Creek. The City had adopted a plan where neighborhoods could come forward with a request for a traffic analysis study or survey for the neighborhood that was more detailed and he asked to move forward with this analysis for this neighborhood.

In response to a question from Alderman Chism, the Mayor stated the work would be done in-house.

Community Director Jerry Cook stated the process that was referred to by Alderman Palazzolo would provide a homeowners association or homeowners group be responsible for most of the work. Under the policy that was referred to and in this particular case, staff had already assembled a considerable amount of information about the subdivision and that information could be utilized in the study.

Alderman Billingsley asked if there had not been a formal letter request from the neighborhood association that staff should not request this on their behalf.

Alderman Palazzolo agreed that the neighborhood association membership should send a formal letter of request.

Motion by Mr. Drinnon, seconded by Mr. Palazzolo, to direct staff to contact the neighborhood association representing Dogwood Creek to inform, advise, and invite them to begin the process working with the City on a formal traffic evaluation of the neighborhood.

ROLL CALL: Billingsley–yes, Chism-yes, Drinnon-yes, Palazzolo–yes. Motion approved.

CONSENT AGENDA

Project Development Contract Number 1175 – Landmark Bank

Landmark Bank will be renovating a building and site in the Old Germantown zoning district at 2241 S. Germantown Road. Significant architectural work will be done to the existing building both interior and exterior as well as site work. The parking lot will be repaved and bounded by curbs and gutters, and new driveway aprons and sidewalks will be constructed within the right-of-way.

MOTION: To approve Project Development Contract Number 1175 for Landmark Bank.

Renewal of Life, AD&D and Long Term Disability Insurance

The life insurance covers all full-time employees at three (3) times their annual salary with accidental death benefits of six (6) times annual salary. Retirees receive a \$15,000 death benefit. The disability insurance also covers all fulltime employees up to age 65 that become permanently disabled.

MOTION: To authorize the Mayor to renew the City’s Life, AD&D and Long Term Disability with UNUM Insurance Company effective January 2010.

Recognition of Donation – Education Commission – Battle of the Brains

Monetary donations were made to the Germantown Education Commission for the Battle of the Brains Math and Science Competition totaling \$760.00.

MOTION: To recognize donations made to the Germantown Education Commission Battle of the Brains competition totaling \$760 and to approve Budget Adjustment 10-57.

Motion by Mr. Drinnon, seconded by Mr. Billingsley, to accept the consent agenda as presented.

ROLL CALL: Billingsley–yes, Chism–yes, Drinnon–yes, Palazzolo–yes. Motion approved.

ADJOURNMENT

There being no further business to be brought before the Board, the meeting was adjourned.

Sharon Goldsworthy, Mayor

Dotty Johnson, City Clerk/Recorder