

## **BOARD OF MAYOR AND ALDERMEN**

January 13, 2014

A regular meeting of the Board of Mayor and Aldermen was held on Monday, January 13, 2014 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: Greg Marcom, John Drinnon, Mike Palazzolo, Forrest Owens and Alderman Janda. Staff present: Patrick Lawton, Debra Wiles, George Brogdon, Tim Gwaltney, Bo Mills, Susan Hopson, Chief John Selberg, Chief Richard Hall, Pam Beasley, Reynold Douglas, Butch Eder, Ralph Gabb, Lisa Piefer and Dotty Johnson.

### **Call to Order**

Mayor Goldsworthy called the meeting to order at 6:00 p.m.

### **Invocation**

Public Services Director Bo Mills gave the invocation.

### **Pledge of Allegiance**

Alderman Mike Palazzolo led the Pledge of Allegiance.

### **Play Like a Champion**

The Mayor recognized the Play Like a Champion class who, as part of their program, must attend a Board of Mayor and Aldermen meeting.

### **Approval of Agenda**

The Board agreed to move the following agenda items to the Consent Agenda: #14 – Supplement 1 – FY14 On-Call Professional Services Agreement – Kimley-Horn & Associates; and #15 – Supplement 4 – Wolf River Blvd. CEI Supplement.

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

ROLL CALL: Marcom-yes, Drinnon-yes, Palazzolo-yes, Owens-yes, Janda -yes. Motion approved.

### **Approval of Minutes**

There was one correction on the minutes by Mr. Janda. On the December 16 meeting page 5 Personnel Advisory Commission, the chairman should be Scott Williams.

Motion by Mr. Drinnon, seconded by Mr. Owens, to approve the minutes of the Board of Mayor and Aldermen meeting held December 9, and the special called meeting held December 16, 2013.

ROLL CALL: Marcom-yes, Drinnon-yes, Palazzolo-yes, Owens-yes, Janda -abstain. Motion approved.

### **Youth Excellence Award**

Alderman Janda asked Education Commission members Dr. Palazzolo, Susan Sharp, Leigh Packard and Natalie Williams to come forward to help with the presentation. Dr. Palazzolo presented Ms. Brittany Parmenter with the Youth Excellence Award. Ms. Parmenter is a senior in the International Baccalaureate Program at Germantown High School.

### **Teacher of the Month**

Ms. Sharp presented Ms. Cathi Degloma, a fourth grade teacher at Our Lady of Perpetual Help Catholic School, with the Teacher of the Month award. Ms. Degloma was presented with a check for \$100 from Wolfchase Toyota. Ms. Degloma thanked the Board and all who had helped her along the way.

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**Citizens to be Heard**

No citizens came forward.

Mayor Goldsworthy recessed the Board of Mayor and Aldermen meeting and opened the Beer Board.

**BEER BOARD**

**Public Hearing – Permit to Sell Beer for On-premise Consumption – Huey’s – 7677 W. Farmington Blvd.**

City Administrator Patrick Lawton stated that the owners of Huey’s, a new restaurant that will be opening soon, have applied for a Beer Permit to sell beer for on-premise consumption. They have complied with all requests and nothing has been found to discredit any of the owners.

Mayor Goldsworthy opened the public hearing. Having no one come forward, the public hearing was closed.

Motion by Mr. Janda, seconded by Mr. Marcom, to approve the request from Huey’s Germantown LLC for a permit to sell beer for on-premise consumption at Huey’s located at 7677 W. Farmington Blvd.

ROLL CALL: Marcom-yes, Drinnon-yes, Palazzolo-yes, Owens-yes, Janda -yes. Motion approved.

**Temporary Beer Permit – Leadership Germantown**

Mr. Lawton stated that Leadership Germantown has requested approval of a temporary beer permit to sell beer at their annual fundraiser Trivia Night at the Great Hall and Conference Center on Saturday, February 15, 2014. This is a 501(c)3 organization and the money will be used as a fundraiser for different organizations in Shelby County.

Alderman Drinnon stated he hated to see our City had made wonderful decisions making this city a fine place to raise a family and it is unfortunate that we have commissions such as this that want to sell alcohol and this does not speak to who he hopes we are.

Mayor Goldsworthy opened the public hearing. Having no one come forward, the public hearing was closed.

Motion by Mr. Owens, seconded by Mr. Palazzolo, to approve a temporary beer permit allowing the sale of beer on publicly owned property at the Great Hall and Conference Center on Saturday, February 15, 2014.

ROLL CALL: Marcom-yes, Drinnon-no, Palazzolo-yes, Owens-yes, Janda -abstain. Motion approved.

Mayor Goldsworthy closed the Beer Board and reconvened the Board of Mayor and Aldermen.

**BOARD OF MAYOR AND ALDERMEN**

**Public Hearing - Ordinance 2013-15– Amendment to Section 3 – 116 (Alcoholic Beverages – Location of Establishments) regarding zoning districts - Second Reading**

This is an amendment to the City’s regulations on zoning for places that sell alcoholic beverages. This is not a part of the Zoning Regulations, but it does relate to the required zoning of places that sell alcoholic beverages and to the provisions of the Smart Code. Currently, Section 3-116 limits places that sell alcoholic beverages to the C-2 (General Commercial) zoning district. When Smart Code and associated districts were adopted, Section 23-804 permitted Liquor Selling Establishments to be located in T-5 districts, subject to the approval of a warrant. Staff recommends that Section 3-116 be amended to include the SC-1 district as a permitted district, and the T-5 district as a permitted district, subject to the approval of a warrant.

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Alderman Drinnon stated that the City sponsors a program called "Alive at Twenty-five" and is taught in 9<sup>th</sup> grade prior to the children getting their drivers license. He felt we were just making exceptions for more liquor stores when that is what we are teaching against.

Alderman Owens stated he felt they should also add the T-6 district.

Alderman Drinnon asked if there were some developers pushing for this change.

Mr. Morgan stated there had been some that have showed some interest in locating a liquor store in Germantown Square.

Alderman Owens stated his purpose was to get the Alcoholic Beverage Ordinance in line with the liquor zoning. This was his entire intent.

Mayor Goldsworthy opened the public hearing.

Mr. Alex Jeckels, 2219 S. Germantown Road, stated that the newspapers had stated that the reason for this proposed change was to make the original ordinance whole to achieve two of the goals, to make the zoning for a liquor store behind Pier One as well as other locations in Germantown. He continued to read the article. He said it was really fishy that a liquor store was turned down because of the zoning and all of a sudden the zoning laws are up to be changed.

Mr. Mark Alexander, 2159 Gorham Place, stated he stated he was for this amendment because it would give more competition in the market. Right now we have limited competition. We are down from about 4 or 5 and as a consumer, there is just not much choice in Germantown.

Mr. Jason Gaia, 8394 Creek Ridge Drive, stated he lives and shops in Germantown. He asked that the Board pass this amendment. He brought several letters from citizens asking to support this ordinance. Realistically, this ordinance opens two additional places where liquor stores could go in. One is across the street where Germantown Liquor Store once operated for over 40 years. The main opponents to this ordinance are just trying to keep out competition. He asked that the Board vote yes for the amendment.

Mr. John Dewalt Jr, 8930 Calumet Cove, spoke in favor of the ordinance. He is a small business owner and if there is anything the City can do to encourage small business to open he is for it. He thought it would be a good thing for the City.

Mrs. Lacy Dougher, 3725 Classic Dr. South and owner of The Winery, she stated that she welcomed competition and is not acting to be protected from future competition. However, Germantown is truly doing this because of leaking out revenue up to the north and to the west. There are empty legal C2 spaces that are empty right now and that would stop that if you think they are leaking out to the north or west. She did not understand why you would open up more areas in one area and not use what is already there. She felt it was a bad idea to try and broker revenue with liquor stores. It does not promote the image the town wants.

Mayor asked for anyone that wanted to make a comment to step forward. Having no one step forward, the public hearing was concluded.

Motion by Mr. Marcom, seconded by Mr. Owens, to approve on second reading Ordinance 2013-15, which will amend Section 3-116 (Alcoholic Beverages- Location of Establishments).

Alderman Palazzolo asked Mr. Morgan if he had a breakdown of the SC-2 areas.

Mr. Morgan stated there were a total 152 acres within the SC-1 district. 74 ½ acres of that is within the T-5 overlay district. There is an additional 77.6 that are currently zoned the SC-1 outside the central

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business district. There are 162 acres with the C-2 zoning district that are outside the central business district. There are a total of 365 acres within T-5 and subject to a warrant and to a development that meets the Smart Growth requirements a liquor store could be located in there with a warrant but would have to be under some type of development that met T-5 Smart Growth requirements.

Alderman Palazzolo asked if this included T-6.

Mr. Morgan stated this does not include the proposed T-6 areas. The addition has been created but there is no area zoning T-6 at the present time. That will come about with the approval of the Western Gateway rezoning.

Alderman Palazzolo asked if there had been anyone turned down.

Mr. Morgan stated to his knowledge, no, but there had been discussions about one in Germantown Village Square but no formal application.

ROLL CALL: Marcom-yes, Drinnon-no, Palazzolo-yes, Owens-yes, Janda -no. Motion approved.

**Public Hearing - Ordinance 2013-16 – Amendment to Chapter 23 – (Zoning Regulations) regarding accessory buildings structures - Second Reading**

Various conflicts, unclear language and similar issues have been identified by staff as they implement the regulations on subdivisions business and dwellings. In some cases, the current regulations cause unnecessary delays and expenses to property owners, and can be confusing to staff, residents and business owners. This amendment addresses accessory building placement on double frontage lots.

Mayor Goldsworthy opened the public hearing. Having no one come forward, the public hearing was closed.

Motion by Mr. Owens, seconded by Mr. Janda, to approve on second reading Ordinance 2013-16, which will amend Sections 23-187 (R-E District), 23-212 (RE-1 District), 23-236 (R District), 23-261 (R-1 District), 23-286 (R-2 District) and 23-311 (R-3 District) of the Zoning Regulations.

ROLL CALL: Marcom-yes, Drinnon-yes, Palazzolo-yes, Owens, Janda -yes. Motion approved.

**Public Hearing - Ordinance 2013-17 – Amendment to Chapter 17 – (Subdivision Regulations) regarding Minor Subdivision Revisions - Second Reading**

This is an amendment to the City's regulations on land uses and land use approval processes. The proposed amendment can be best described as "clean-up" amendments to address oversights, clarifications, and less-than-clear language. The amendment would add the word "revision" to the description, to make clear the intent relates to modifications to existing subdivisions, and not to the creation of new lots.

Mayor Goldsworthy opened the public hearing. Having no one come forward, the public hearing was closed.

Motion by Mr. Owens, seconded by Mr. Marcom, to approve on second reading Ordinance 2013-17, which will amend Section 17-1 (Policies) of the Subdivision regulations.

ROLL CALL: Marcom-yes, Drinnon-yes, Palazzolo-yes, Owens – yes, Janda -yes. Motion approved.

**CONSENT**

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**Email System Annual Renewal**

Using email as a method of communication between citizens, staff and elected officials has allowed the City to adapt to current technology. This is an annual renewal of the maintenance and licensing of this Google software.

MOTION: To authorize the renewal of the annual maintenance and licensing for Google Apps for Government in the amount of \$22,003.80 from Onix Networking.

**Appointments to Historic Commission**

There were two vacancies on the Historic Commission and these two appointments will complete the membership requirements.

MOTION: To approve the reappointments of Mr. Chuck Baker and Mr. Warren Travis to the Germantown Historic Commission.

**Appointment to Neighborhood Preservation Commission**

With the appointment of Mr. Patrick Mahoney the vacancy on the Neighborhood Preservation Commission will be filled.

MOTION: To approve the appointment of Mr. Patrick Mahoney to the Neighborhood Preservation Commission.

**Appointment to Industrial Development Board**

The Industrial Development Board is appointed by the Mayor and approved by the Board. The term is for six (6) years. Mr. Mike Harless and Mr. Henry Evans have reapplied to serve. There is one position left vacant with a term that ends in 2017 that will be filled at a later date.

MOTION: To approve the appointments of Mr. Henry Evans and Mr. Michael Harless to serve on the Industrial Development Board until the year 2019.

**Recognition of Donation – Education Commission**

The following donated funds are to be used to cover Battle of the Brains event expenses and as cash awards for the winning students: Dr. and Mrs. Dino Palazzolo - \$300.00, English Meadows Neighborhood Assoc. - \$500.00, The Butcher Shop - \$200.00, Dr. Roy and Dr. Stephanie Van Arsdale - \$300.00, Skip Hobbs Construction - \$50.00, and Lucite International - \$300.00.

MOTION: To recognize donations to the Germantown Education Commission, totaling \$1,650.00, and approve Budget Adjustment Number 14-41.

**Non-Inventory Janitorial Items**

Janitorial items that are not inventoried but have significant impact for providing services and safety in City buildings include: entrance mats, dust mops, shop towels, towels and wash cloths for jail services. Due to the ongoing use of these items, it is more cost effective to have a full-service rental agreement than to purchase these items in the amount of \$13,553.28 to provide service for non-inventory janitorial items in City buildings.

MOTION: To approve the contract with UniFirst Corporation in the amount of \$13,553.28 to provide services for non-inventory janitorial items in City buildings.

**Budget Calendar**

Each year a budget calendar is developed for the timely completion of the City's annual operating and capital budgets for the forthcoming fiscal year. Three readings and public hearing are scheduled during May and June with final adoption scheduled for June 23, 2014.

MOTION: To approve the Fiscal Year 2015 Budget Calendar.

**Supplement 1 – FY14 On-Call Professional Services Agreement – Kimley-Horn & Associates Inc. – Moved from Reg. Agenda**

Kimley-Horn & Associates (KHA) has provided excellent and consistent on-call services for the City since 2006. Staff requested the Board to allow that relationship to continue through FY14. The Board previously approved the FY14 on-call contract for an amount not to exceed \$20,000.00.

We are half way through FY14 and have completely exhausted the budgeted amount. Each of the development applications has been relatively large in scale requiring a significant amount of traffic impact analyses and traffic signal plans review. Also, the City Traffic Engineer recently resigned his position. Both of these factors have resulted in heavier reliance on the on-call service contract. Staff is requesting approval of a supplement that will increase the FY14 on-call services contract to an amount not to exceed \$40,000.00.

MOTION: To approve Supplement 1 in the amount of \$20,000.00, increasing the ceiling to \$40,000.00 for the FY14 On-call Professional Services Agreement with Kimley-Horn Associates, Inc.

**Supplement 4 - Wolf River Blvd. CEI Supplement – Moved from Reg. Agenda**

This supplement involves additional services related to the monitoring and reporting of wetland areas impacted by roadway construction. Construction of the roadway negatively impacted approximately 4 acres of wetlands. TN Dept. of Environment and Conservation (TDEC) regulations dictate a 2:1 mitigation factor. For every 1 acre of wetlands disturbed, 2 acres of wetlands must be created. The City was required to create a total of 8 acres of wetlands on and off-site.

As per federal and state regulations, mitigated wetland areas must be monitored by a licensed biologist for a five year period. Staff recommends approval of Option 2 which is bi-annual reports for the first two years, and if sites are unsuccessful, bi-annual monitoring and reporting for next three years, totaling ten reports at a cost of \$33,430.33.

MOTION: To approve Supplement 4 adding Wetland Mitigation Monitoring and Reporting services in an amount not to exceed \$33,430.33 to the CEI contract with Smith Seckman Reid, Inc., increasing the contract amount from \$3,203,919.30 to \$3,237,349.63.

Motion by Mr.Drinnon, seconded by Mr. Palazzolo, to accept the Consent Agenda as amended.

ROLL CALL: Marcom-yes, Drinnon-yes, Palazzolo-yes, Janda -yes. Motion approved.

**ADJOURNMENT**

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

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Sharon Goldsworthy, Mayor

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Dotty Johnson, City Clerk/Recorder