

BOARD OF MAYOR AND ALDERMEN

February 24, 2014

A regular meeting of the Board of Mayor and Aldermen was held on Monday, February 24, 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, Mike Palazzolo, Rocky Janda and Forrest Owens. Alderman John Drinnon was absent. Staff present: Patrick Lawton, Debra Wiles, George Brogdon, Tim Gwaltney, Bo Mills, Susan Hopson, Chief John Selberg, Chief Richard Hall, Wade Morgan, Pam Beasley, Reynold Douglas, Cameron Ross, Butch Eder, Ralph Gabb and Dotty Johnson.

Call to Order

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

Invocation

Community Services Division Director George Brogdon gave the invocation.

Pledge of Allegiance

Alderman Mike Palazzolo led the Pledge of Allegiance.

Approval of Agenda

The Board had discussed the agenda during the Executive Session and suggested to defer #10 – Ordinance 2013-15 – third reading on Amendment to Section 3-116 Regarding Zoning Districts and to move #14 – Mobile Data Terminals to the Consent Agenda.

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

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

Approval of Minutes

There were no corrections to the minutes.

Motion by Mr. Marcom, seconded by Mr. Palazzolo, to approve the minutes of the Board of Mayor and Aldermen meeting held February 10, 2014.

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

Proclamation

Mayor Goldsworthy read a proclamation proclaiming Friday, March 7, 2014 as Arbor Day and urged all citizens to celebrate and to support efforts to protect our trees and woodlands, and urged all citizens to plant trees to gladden the heart and promote the well-being of this and future generations.

Citizens to be Heard

No citizens came forward.

Certificate of Compliance – Wingman Wines & Spirits

Mr. Brian Kelly Dougher has requested a Certificate of Compliance which is a part of an application for a retail liquor license. The store, if approved, will be located at 2021 S. Germantown Road, Suite 1. The applicant completed the necessary City retail liquor license application and paid the required processing fee. The Germantown Police Department found no criminal records or active warrants to discredit the applicant.

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Motion by Mr. Owens, seconded by Mr. Palazzolo, to issue a Certificate of Compliance to Brian Kelly Dougher, for a retail liquor store located at 2021 S. Germantown Rd., Suite #1.

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

Certificate of Compliance – Forest Hill Wine Merchants

A Certificate of Compliance has been requested from the Forest Hill Wine Merchants located at 9087 Poplar Ave., Ste 101. State law requires the holder of liquor store permits must receive a Certificate of Compliance issued by the local municipality every two years. The appropriate background checks have been performed and the Certificate of Compliance is in order.

Motion by Mr. Palazzolo, seconded by Mr. Owens, to issue a Certificate of Compliance to Oates Investments, LLC, for a retail liquor store located at 9087 Poplar Ave., Suite 101.

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

Ordinance 2013-15 – Amendment to Section 3-116 (Alcoholic Beverages – Location of Establishments) Regarding Zoning Districts – Third and Final Reading - DEFERRED

Public Hearing – Ordinance 2014-4 – Western Gateway – Second Reading

Alderman Marcom recused himself from hearing this agenda item and left the dais.

Community Development Director Cameron Ross stated this is the second reading on this ordinance. He felt with the adoption of the Western Gateway Small Area Plan, continuity and cohesiveness is developed that will contribute to the financial, environmental and economic sustainability of the City. He showed what the area looks like now and with the adoption of the ordinance what the area would look like if built the way it is designed to be when the build-out is completed.

The area constitutes 58 acres less the 13 acres that will not be rezoned around Fountain Square, strategically positioned to play a significant role in the future of Germantown’s economic growth and vitality. The plan recommends that the Kirby Farms property and all property adjacent to Poplar Pike be rezoned to the T-5 District. To allow higher building heights, as appropriate along Poplar Ave., the plan recommends the rezoning of most of the Westminster townhomes property, the Bank of Bartlett property, the Medical office condos, most of the Carrefour shopping center and the Poplar Woods outparcel (Walker property) to the T-6 District.

As redevelopment of the properties occurs, it is critical to provide for appropriate transitions, particularly between higher density, multi-story developments and lower density, single family residential neighborhoods to ensure that new commercial and/or mixed use buildings are good neighbors. Within the study area, an important transition is the space between the Kirby Farm site and the existing Nottoway neighborhood.

Mr. Ross turned the meeting over to Wade Morgan who talked about existing conditions and the details of the area that could be developed.

Mayor Goldsworthy opened the public hearing.

Greg Fletcher of 1889 Wellton Drive, stated he was the president of the board of directors of the Nottoway homeowners association and spoke on behalf of the association. He stated the area had been zoned OG when he bought his house and felt it would stay that way and now it is being changed and not to the neighborhood’s advantage. “If the Western Gateway Plan, as it affects Kirby Farms, tips the balance excessively in favor of high density development and fails to provide an appropriate transition

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between single family residential homes and multi-story commercial development.” He asked to keep this new commercial development height restriction on Kirby Farms at three stories or to send it back to the Planning Commission to examine further a sight line that would be applicable to a five story, four-story or other multi story structure on the property. Seventy-four residents of Nottoway have prepared and signed a petition of that effect and this petition contains the site-line drawings that show the intrusive commercial shadow that would be cast over Nottoway by a five story structure.

Diane Bowen of 1842 Oak Hill Rd, stated she had not been notified and if an eight-storey building is built, it will be directly in front of her house. She felt it would depress the value of her home. Her neighborhood does not have an association to represent her.

Jean Henson of 1927 Chatsworth Drive, stated he had relied on a history of the City supporting homeowners. He felt he would be protected. He asked to send the ordinance back to the Planning Commission for further study.

Pat McClerkin of 1939 Hazelton Drive, showed pictures of the back of her house to the aldermen. From the outside of the house, one could see the property and what it would look like if the taller buildings were allowed to build.

Peter Felsenthal of 1901 Hazelton, stated his house backs up to Kirby Farms and he will be looking at buildings that are taller than his house. He submitted some photographs which show the view toward Kirby Farms. He asked the Ordinance be sent back to the Planning Commission and consider a larger set-back.

Walker Taylor of 1605 Chesney, stated it would decrease home values and the city should protect the homeowners. He stated he knew the property needs to be commercial but he asked that the City do it and protect the homeowners in the process.

Craig Strickland of 1919 Wellton, stated he was the founding pastor of Hope Church and when they were building a \$25 million dollar sanctuary at Hope, they had to get an exception from the City of Memphis in order to raise the height 17 ft. for the sanctuary. The City approved it. The neighborhood association across the street sued the City, named Hope in the lawsuit. The Church hired two law firms and spent about 18 months thinking how they would approach this suit as a church. At the end of the day, the Church withdrew the plan. It cost over \$1 million to make that adjustment and they put the sanctuary on the back of the building. The neighbors main complaint was how that sanctuary would look facing their houses. It was necessary to be in good faith and to listen to the neighbors.

Stan Olson of 1889 Hazelton, stated he was not worried about what happens to the property that Mr. Gill has but what will happen when the next owner takes over and what they might do and how it could decline. He felt the beeping of the garbage truck, burglar alarms, any recreational parking that might take place after hours, etc. He asked for consideration.

Having no other citizens step forward, the Mayor closed the public hearing.

Motion by Mr. Owens, seconded by Mr. Palazzolo, to approve on second reading Ordinance 2014-4, the rezoning of the properties within the Western Gateway Small Area Plan encompassing the properties located between Poplar and Poplar Pike between the eastern boundary of 6755 Poplar (Ray Gill property) and the western boundary of the City of Germantown.

A discussion followed with questions from the Aldermen regarding how the set-back is calculated.

Mr. Lawton described the Lawrence Group and the work they had done with the City and the Charret process. They had also been hired to develop the planning of Western Gateway Small Area Plan Rezoning.

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Alderman Owens stated in order to change this ordinance it must pass this reading. He was sympathetic with those neighbors and he asked if Mr. Gill and the neighborhood could get together and compromise and come up to a conclusion to both parties advantage.

Alderman Mr. Janda stated he would be voting 'yes', in hopes that between now and the next reading there could be some kind of progress making the plan more acceptable to both parties.

Alderman Palazzolo stated if the City keeps our residential bedroom community in place with Smart Growth, Smart Code, Western Gateway that development will have as little impact as possible in those areas because they are close to the commercial district. There will be a certain amount of harmony and disharmony between neighborhoods and future development.

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

The Mayor recessed the meeting for a few minutes.

Public Hearing - Ordinance 2014-5 – Closure of Pete Mitchell Road – Second Reading

Alderman Marcom recused himself from hearing this agenda item.

Chief Planner Wade Morgan stated there are two changes to the ordinance. One is to tie the actual closure to a date of June 1, 2014 in conjunction with the purchase of the property by Cyprus Realty, the developers of the property. This gives ample time to negotiate the closure and consider all the actions that are required of that development.

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

Motion by Mr. Janda, seconded by Mr. Owens, to approve on third reading Ordinance 2014-5, which will close as a public street that portion of Pete Mitchell Road between Poplar Avenue and an emergency access gate to be constructed as shown on the Whole Food Market final site plan.

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

Alderman Marcom returned to the dais.

CEI Supplement No. 5 – Greenway Trail

City Engineer Tim Gwaltney explained this was Supplement No. 5 for \$295,159.63 for construction engineering inspection contract with Smith Seekman and Reid, Inc. (SSR) for Wolf River Blvd. increasing the contract by additional CEI service contract for the Greenway Trail by \$295,159.63 resulting in increasing the contract amount to \$3,532,509.26.

The design phase of the Greenway is now complete and the limits are known. The limits are from the western trailhead to Cameron Brown Park. Now that the limits are known, staff requested SSR to provide a fee proposal for the trail.

Motion by Mr. Palazzolo, seconded by Mr. Owens, to approve Supplement No.5 adding CEI services for construction of the Germantown Greenway Trail in the amount of \$295,159.63 to the CEI contract with Smith Seekman Reid, Inc., increasing the contract amount from \$3,237,349.63 to \$3,532,509.26.

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

Mobile Data Terminals - MOVED TO CONSENT

CONSENT

Fire Protection Contract Extension

The City-owned fire protection systems are due for annual inspections and testing as required. The cost of the original three year contract was \$12,768.00 annually with the option to extend the service agreement up to two years. This will be the first year of the contract extension in the amount of \$13,023.00

MOTION: To authorize the Mayor to enter into a contract extension with Simplex Grinnel, LP to inspect and test all City-owned fire protection systems in the amount of \$13,023.00.

Mobile Data Terminals

This request is to purchase eight mobile data terminal systems to replace units of outdated Panasonic CF-30 computers in the amount of \$28,990.24. The Brite computer system will utilize the latest technology for in-car- computers with touch screen and removable key boards.

MOTION: To approve the purchase of mobile data terminal systems from Brite Computers in the amount of \$28,990.24, and declare the old Panasonic CF-30 mobile data terminals as surplus.

Motion by Mr. Marcom, seconded by Mr. Owens, to accept the Consent Agenda as amended.

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

ADJOURNMENT

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

Sharon Goldsworthy, Mayor

Dotty Johnson, City Clerk/Recorder