

BOARD OF MAYOR AND ALDERMEN

April 14, 2014

A regular meeting of the Board of Mayor and Aldermen was held on Monday, April 14, 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, Rocky Janda and Forrest Owens. Staff present: Patrick Lawton, Debra Wiles, George Brogdon, Tim Gwaltney, Susan Hopson, Chief John Selberg, Chief Richard Hall, Wade Morgan, Lisa Piefer, 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

Public Services Director Bo Mills gave the invocation.

Pledge of Allegiance

Alderman Rocky Janda led the Pledge of Allegiance.

Approval of Agenda

During the Executive Session of the Board of Mayor and Aldermen, the Board agreed to move items 14, 15, 16, 17, 18 and 19 to the consent agenda.

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

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

Approval of Minutes

The minutes of the March 24, 2014 Board meeting and the Special Called Meeting held on April 2, 2014 were approved as printed.

Motion by Mr. Drinnon, seconded by Mr. Marcom, to approve the minutes of the Board of Mayor and Aldermen meeting held March 24, 2014 and minutes from the Special Called Meeting held on April 2, 2014 as printed.

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

Teacher of the Month Awards

Alderman Janda and Education Commission member Dr. Stephanie Van Arsdale presented the teachers of the month with an engraved apple award and each received a check for \$100 from Wolfchase Toyota.

Mrs. Tracy Tickle, a second grade teacher at Riverdale School was presented with the Teacher of the Month Award for the month of March.

The Teacher of the Month for April award was presented to Mr. Carlos Saulsberry, a seventh grade science teacher at Houston Middle School.

Youth Excellence Awards

Alderman Janda and Dr. Van Arsdale presented The Youth Excellence Award for the month of March to Mr. Alec Manuel Carro, a senior at Memphis University School.

The Youth Excellence Award for the month of April was presented to Ms. Natalie Sakaan, a senior at Germantown High School.

Citizens to be Heard

A number of citizens came forward to speak on Ordinance 2014-4 – the Western Gateway, third and final reading and regarding the flood plain and Lateral G.

Ray Gill, 1365 Yorkshire who owns the property next to Nottoway subdivision came forward and showed several examples of hedges and trees used to screen the area from the Nottoway subdivision.

David Baker, 9180 Crestwyn Hills, came forward and explained that he works for Fisher and Arnold and is landscape architect that Mr. Gill will be using with the Western Gateway. He had surveyed the area around the subdivision and showed some alternatives that could be used to screen the buildings in the Western Gateway.

Greg Fletcher of 1889 Wellton Dr., and president of the Nottoway Homeowners Association, came forward and stated he was speaking on behalf of the Nottoway Subdivision. Nottoway's objection to the Western Gateway plan focuses on the proposed rezoning of Kirby Farms, not the plans as whole. The objection is centered on the excessive building permitted under the plan in close proximity to Nottoway which is a single family residential subdivision. He suggested a compromise which is stair stepped to the maximum building heights, east to west across Kirby Farms. He suggested that to stair step the building heights. He stated the drawing that were shown were misleading and inaccurate. He suggested the plan should be sent back to the Planning Commission for further consideration.

R. Hunter Humphreys, an attorney for Nottoway who works for Glankler Brown PLLC Law Firm stated the materials he handed out and shows the screening does nothing to block the office building.

The following people gave their time to the representatives of Nottoway:

Betha Gill 1365 Yorkshire Dr.
Patty Bullock, 8130 Macon Station Ste 114
Lee Karins, 1479 Wolf Park Rd.
Jenna Stewart, 8130 Macon Station
Carolyn Fletcher, 1889 Wellton
Lavell Hays, 1924 Chatsworth

The following people came forward to speak regarding the Lateral G Flood area.

Charles Hurst, 9676 Gotten Cove,

David Lowrance 2092 Spring Hollow Lane, stated legislation was passed last year that was supposed to help the existing problem but it did not work and they increased the premiums. They have now passed an Affordable Act which does not solve the problem either. The issue has not been resolved by the Federal Government. FEMA says they cannot solve the problem but the cities can.

Lisa Janz, 9627 Mourning Dove Cove, stated that FEMA had given the City two years to solve this problem and it has not. The City is not even reactive.

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William Johns, 9675 Gotten Cove, said this was a major impact on their property values of 10 to 20%. His next door neighbor had his house up for sale for two years but cannot sell. It is time for the City to get things fixed. He brought pictures from behind his house and of the practice football field.

Sherrie Hicks, 2040 Spring Hollow Lane, stated she had learned that Lateral G had been an ongoing problem since 1990. She gave a short report on events that had been going on for several years and the City had not solved the problem.

Lee Hulett, 2087 Spring Hollow, stated the City had always responded to the needs of its citizens but he could not understand why no progress had been made on Lateral G.

David Leon 9668 Gotten Cove stated he was a new neighbor and had done his due diligence in trying to figure out what was going on. He had bought his house one year ago and would have never had bought that home had he known it was in the flood zone. His property is losing its value and he asked for some action on Lateral G.

Rees Hodges, 2128 Spring Hollow Lane, stated he was a local real estate attorney and he understood what it was like to have to juggle a budget but the City had known about this issue for over 10 years and it was time do something. If it is not fixed now, the costs will continue to go up. The problem could affect hundreds of homes because of their values.

Stan Olson, 1889 Hazelton Dr., spoke on the Western Gateway project. He felt the notification process to citizens who were affected by changes in zoning. He complained that he had made trips to meetings to get his issues heard and could not find where the meetings were held. He felt this was being done to keep people from being heard.

Mayor Goldsworthy recessed the Board and convened as a Beer Board.

BEER BOARD

Temporary Beer Permit – Germantown Festival

Mr. Lawton stated this request was for a temporary beer permit for the Germantown Festival Association which will be held on Saturday and Sunday, September 6 and 7. This temporary permit would allow the sale of beer on publicly owned property pursuant to Section 3-89, subsection (g) of the City of Germantown Code of Ordinances. The Festival requires each food vendor to have as a partner, a recognized Germantown area religious or charitable organization, which, in some cases, becomes the main source of income for the organization.

In response to a question from Alderman Marcom, Mr. Lawton stated this request was from the Festival for a permit.

City Attorney Debra Wiles stated the permit allows the sale of beer on publicly owned property. The Festival is the one with the permit which would allow several vendors.

Mayor Goldsworthy stated it had been the practice in the past that the Festival reaches an agreement for a single vendor to sell beer.

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

Motion by Mr. Marcom, seconded by Mr. Owens, to issue a Temporary Beer Permit to Germantown Festival.

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

Mayor Goldsworthy reconvened the Board of Mayor and Aldermen.

Public Hearing - Ordinance 2014-06 – Closure of Portion of McVay Road, North of North Street – Third and Final Reading

Economic and Community Development Director Cameron Ross explained that the Saddle Creek South PUD site plan proposes the closure of McVay Rd. as a public thoroughfare and the incorporation of the former right-of-way into Buildings W and S, access drives to those buildings and the detention area for the shopping center. Mr. Ross stated this was the third and final reading on this ordinance and no changes had been made since the second reading.

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 on third reading Ordinance 2014-06, which will close as a public street that portion of McVay Road north of North Street and abutting Lots 1, 2 and 3 of the Boyd Arthur Homplace Subdivision and Lot 4, Section C of the Schaeffer Subdivision, as shown on the Saddle Creek South final site plan and subject to the approval of a private development agreement satisfactory to all parties.

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

Public Hearing Ordinance 2014 – 07 - Amendment to Regulations on Permanent Signs – Third and Final Reading

Economic and Community Development Director Cameron Ross stated this amendment would change the definition to what is referred to as the wall sign area. This will change the sign size of signs allowable from 0.5 sq. ft. of sign area for every one foot of building wall length to 1.0 sq. ft. of sign area for every one foot of building wall length. Tenant spaces over 10,000 sq. ft. in area will be allowed a sign that could be as large as 125 sq. ft., based on the length of building wall on which the sign erected and with DRC approval. Signs will be limited to no more than 75% of the central portion of the horizontal lease space. The Design Review Commission recommended approval of the amendment.

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

Motion by Mr. Marcom, seconded by Mr. Drinnon, to approve on second reading Ordinance 2014-7, which will amend the regulation in Section 14 of the City Code on permanent signs.

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

Ordinance 2014-04 – Western Gateway – Third and Final Reading

Alderman Marcom recused himself and left the dais.

Mr. Ross stated this was the third and final reading on this ordinance regarding the rezoning of the area within the Western Gateway Small Area Plan. This plan is part of the “Smart Growth Plan”. This is our strategic calculated look at ways to develop the city to move it forward in strategic areas of identified and calculated density.

Mr. Ross went over the development strategies for 43 acres. Fifteen acres had been removed as part of the Planning Commission process over Fountain Square development. The plan is to create new areas for

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complete and walkable streets. The plan recommends that the Kirby Farms property and all property adjacent to Poplar Pike be rezoned to the T-5 District.

This reading is for a regulating plan for both the streets to create those opportunities for inner connectivity in connection throughout the site and throughout the rest of Germantown as well as a change in zoning to the T-5 portion of the Smart Code and T-6. The T-6 District allows higher building heights, as appropriate along Poplar Ave.

Alderman Owens stated he felt since he was on the Planning Commission he felt the plan had been thoroughly vented and it is an excellent plan. He did have some concerns to the property adjacent to the Nottoway Subdivision. He felt it needed further study.

Motion by Mr. Owens, seconded by Mr. Palazzolo, to remand the ordinance amendment as approved by the Planning Commission to reconsider the rezoning of the properties within the Western Gateway planning area, as set forth in Ordinance 2014-04.

Alderman Palazzolo stated he felt there was not harmony between the neighborhood and the potential developer. Since the City is the applicant and there will be other “gateways” in the future, this should be done right. He said he hopes after going back to the Planning Commission there can be something that will benefit the entire city and the gateway.

Mayor Goldsworthy asked for clarification on the motion: the motion sends back to the Planning Commission, the ordinance changes that were addressed in this proposal and would not include the 15 acres. Alderman Palazzolo stated that was what was intended.

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

Alderman Marcom returned to the dais.

Award of Construction Contract for Laterals D & E

City Engineer Tim Gwaltney stated laterals D, E, F & G are major natural earthen tributaries of the Wolf River with a combined drainage area of roughly 5,500 acres that flows south to north to the Wolf River. A characteristic of natural earthen drainage ditches in the West Tennessee area is highly erodible banks. Public Services crews had been maintaining the slopes as best they could to keep the banks from eroding onto private property. The rate of the erosion has become so bad that the general maintenance activity could no long keep up.

The specific area of concern for the first repair to Lateral D is approximately 1,250 feet north of Farmington Blvd. And adjacent to Brookside Office Centre. The second repair to Lateral D is approximately 200 feet south of the Wolf River Blvd. bridge over and adjacent to Glenbuck Street. The stream banks at each location are severely eroding and encroaching on private property.

Motion by Mr. Marcom, seconded by Mr. Palazzolo, to authorize the Mayor to enter into a construction contract with Barnes and Brower, Inc. in the amount of \$1,228,820.00 for construction of repairs to Laterals D & E.

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

Street Repairs Payment – Enclave Green Lane East – Moved to Consent

Closeout of Professional Services Agreement for Shady Creek Spillway Repair – Moved to Consent

Closeout of Professional Services Agreement for Poplar Pike Drainage Improvements – Moved to Consent

Wolf River Boulevard Mill & Overlay – Professional Services Agreement – Moved to Consent

Tennis Professional Services Contract Agreement - Moved to Consent

File Server Upgrade – Moved to Consent

CONSENT

Greenbelt and Poplar Estates Walking Trail Paving

The original trail has deteriorated due to age and root damage. The walking trail at Poplar Estates is constructed of crushed limestone and requires constant maintenance of spraying weeds and replenishing material. Overlaying with asphalt will make the trail handicap accessible and provide easier access for parents with strollers. Two qualified bids were received and staff recommends the low bid of \$26,111.40 with Cantrell Construction Company, Inc.

MOTION: To contract with Cantrell construction Company, Inc. for overlaying 2,155 linear feet of asphalt trail in the amount of \$26,111.40.

Post and Rail Fencing – Repair and Installation

The post and round rail fencing was approved on April 13, 2008 to replace the existing split rail system at seven designated parks. The FY14 IRP Budget provides funding for continued replacement of existing split rail fence or new installation in the designated areas. As single rail system will be installed at Cameron Brown Park and Johnson Road Park and a double rail system will be installed along Cross Country Road as a safety precaution for pedestrian traffic near Germantown Elementary and Middle Schools. There were two qualified bids and staff recommends the lowest bid of \$38,944.00 with Langford Fence Co. Inc.

MOTION: To contract with Langford Fence Co. Inc. for the purchase and installation of post and rail fencing in the amount of \$38,944.00.

Memorandum of Understanding – Family Safety Center

The Germantown Police Department has had a working relationship with the Family Safety Center since November 2009, helping to provide services to victims of domestic violence. The primary role of the Germantown Police Department will be to provide transportation to and from the center as a “safe place”. They will also provide access to on-call officers.

MOTION: To accept and recognize the Memorandum of Understanding between the Family Safety Center and the Germantown Police Department.

Street Repair Contract for Enclave Green Lane East

Enclave Green Lane East was established as the haul route used during construction of the repairs to Lateral F. Knowing street repairs may be needed as a result of this project, the contract did have a line item for repairs to the Enclave Green Lane East if needed. After completion of the Lateral F bank stabilization repairs, the visible street failures and curb and gutter damage were made at that time. Additional street failures began to appear on Enclave Green Lane East approximately two months after completion and subsequent closure of the CIP Lateral F bank stabilization project.

MOTION: To authorize payment to Rose Construction, Inc. in the amount of \$17,566.00 for street repairs to Enclave Green Lane East.

Professional Services Agreement Invoice –Shady Creek Spillway Repair Closeout

Included in the original Professional Services Agreement scope of services with Askew Hargraves and Harcourt (A2H) was Construction Administration during construction and the preparation of “as-builts” after the project was constructed. As-builts are a standard requirement on all City of Germantown projects and provide the City a level of comfort that the project was done right and reduces the City’s risk. A2H completed their task of as-builts and billed us \$1,650.00 to close out their contract at 100% completion.

MOTION: To approve final payment in the amount of \$1,650.00 and closeout of a professional services agreement with A2H related to the Shady Creek Spillway repair project and approve Budget Adjustment Number 14-77.

Professional Services Agreement - Poplar Pike Drainage Improvements Closeout

Included in the original Professional Services Agreement (PSA) scope of services with Fisher & Arnold (F&A) was Construction Administration during construction and the preparation of “as-builts” after the project was constructed. As-builts consist of a final project survey verifying vertical and horizontal control points and declaration that the project was constructed as designed. F&A completed their task of as-builts and billed us \$639.00 to close out their contract at 100% completion. However, the project had been inadvertently closed, meaning there were insufficient funds to pay F&A their final invoice. FY14 CIP contingency will be used to cover the \$639.00.

MOTION: To approve final payment in the amount of \$639.00 and closeout of a professional services agreement with Fisher and Arnold related to the Poplar Pike Drainage Improvement project and approve Budget Adjustment Number 14-79.

Wolf River Boulevard Mill & Overlay – Professional Services Agreement

TDOT issued the City a notice to proceed to the Preliminary Engineering/Environmental Phase of the project on Feb. 5, 2014 at which point the City immediately publicly advertised for engineering and inspection services with a due date of Feb. 25, 2014 for statements of qualifications (SOQ’s) from interested firms. The SOQs from interested firms were received by the due date.

MOTION: To authorize the Mayor to enter into a professional services agreement with Fisher & Arnold, Inc. in the amount of \$44,320.00 for preliminary engineering and environmental services for the Wolf River Boulevard Mill & Overlay project.

Tennis Professional Services Agreement

The contract with innovative Athletics will end on May 24, 2014. The City received a proposal from a qualified individual interested in providing a comprehensive community tennis program to be operated at City tennis facilities and to provide retail services at the Pro Shop. After checking references and meeting with the applicant, staff concluded that the proposal submitted by Carla Brangenberg of Smashin Aces Tennis, LLC would provide our community with a high quality tennis program with professional standards.

MOTION: To authorize the Mayor to enter into a professional services agreement, as described in this document, with Smashing Aces Tennis, LLC to provide Tennis Professional Services.

File Server Upgrade

This project will add a file server based on current technology and provide all City staff with a secure location for file storage. The price of \$20,817.80 from Presidio Networked Solutions, Inc. includes hardware, delivery, installation, staff training and a three-year warranty. The current file server will be used as a secondary storage point.

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MOTION: To approve the purchase of a file server from Presidio Networked Solutions, Inc. in the amount of \$20,817.80, and declare the old servers as surplus.

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

ROLL CALL: Marcom-yes, Drinnon-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