

BOARD OF MAYOR AND ALDERMEN

November 10, 2014

A regular meeting of the Board of Mayor and Aldermen was held on Monday, November 10, 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 Rocky Janda. Staff present: Patrick Lawton, Debra Wiles, Captain Mike Griffus, Chief Richard Hall, Chief John Selberg, Daniel Page, Bo Mills, Reynold Douglas, Cameron Ross, Butch Eder, Tim Gwaltney, Ralph Gabb, Phil Rogers, Paul Chandler, Lisa Piefer and Dotty Johnson.

Call to Order

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

Invocation

Public Works Director Bo Mills gave the invocation.

Pledge of Allegiance

Alderman John Drinnon led the Pledge of Allegiance.

Approval of Agenda

During the Executive Session the Board unanimously agreed to Defer No. 6 – Recognition of Donation to Farm Park and replace with an Add-On – Wolf River Boulevard- Settlement Agreement.

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

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

Approval of Minutes

There were no changes to the minutes.

Motion by Mr. Janda, seconded by Mr. Marcom, to approve the minutes of the Board of Mayor and Aldermen meeting held October 27, 2014.

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

Recognition of Donation – Farm Park - DEFERRED

ADD-ON – Wolf River Boulevard – Settlement Agreement

City Administrator Patrick Lawton stated that this action stemmed from a petition for condemnation filed by the City for property for the extension of Wolf River Blvd. based on the City appraiser's view of its fair market value. The property owners also obtained an appraiser who established the value of the property at substantially higher than the City's appraiser resulting in the lawsuit.

Recent efforts at negotiations and mediation between the two sides, with the assistance of the TDOT, produced the settlement agreement presented and discussed earlier with the Board. The Administration recommended approval.

Motion by Mr. Drinnon, seconded by Mr. Owens, to approve the settlement agreement between Walid Sakaan and Farid Akil and the City of Germantown, attached and made a part of this motion for an additional payment in the amount of \$120,000.00 subject to the approval by the State of Tennessee and approve Budget Adjustment No. 15-29.

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

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Citizens to be Heard

Dr. Sunil Malhotra, 9078 Forest Hill/Irene Cove, expressed his concerns regarding the expansion of Forest Hill/Irene Road and the desire of the area residents to preserve the beauty of the area by maintaining all the existing trees and the narrow road that makes it an exclusive area.

Mayor Goldsworthy recessed the Board of Mayor and Alderman meeting and convened the Beer Board.

BEER BOARD

Attorney Mark McDaniel asked all the persons present that planned to give testimony relative to any of the establishments to stand to take an oath to be administered by the City Clerk.

Suspension/Revocation – Beer Permit – Asian Eatery

Attorney Greg Cotten represented the Asian Eatery.

Attorney Mark McDaniel read the charges and asked if there was an admission of guilt. Mr. Cotten stated that his client admitted that the violation occurred.

Germantown Officer Jinny Tibbels gave testimony that she had taken part in a beer sting operation on March 13, 2014. The sting operation utilized a cooperating individual who was 19 years old. Officer Tibbels identified the Mississippi drivers' license of the 19 year old recognizing that the individual was under age of 21. The individual was utilized in all the beer violations that occurred on that date and the same driver's license and a copy of the license was made an exhibit.

Officer Tibbels then gave testimony as what had occurred on that date at the Asian Eatery. She stated that she entered the Asian Eatery and the underage individual ordered a 12 oz Bud Light and the server did not check her ID and served her a beer.

Mr. Cotten asked a question as where they were sitting and could Officer Tibbels could indeed hear. She stated she could hear.

Motion by Mr. Owens, seconded by Mr. Palazzolo, that there was a violation of the beer ordinance by Asian Eatery.

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

Mr. Cotten stated that the owner, Mr. Lam, did not speak English and his niece would interpret. Mr. Cotten stated that they had been in business for four years and had no violations in that time. There were only two present at the time of the sale and one had to leave and the other server had not been trained in alcohol sales. Mr. Lam is the cook and has nothing to do with alcohol sales. They understand the seriousness of the violation and there was a human error but would work to see that this does not happen again.

A discussion followed on how many people worked at the restaurant and what actions would take place to keep the violation from happening again.

Recommendation from counsel was a 30 day suspension or pay a fine in lieu thereof of \$500.

Motion by Mr. Palazzolo, seconded by Mr. Owens, to impose a \$500 fine for this violation. Alderman Palazzolo withdrew the motion.

Motion by Mr. Marcom, seconded by Mr. Palazzolo, to impose a 30 day suspension or a \$500 fine in lieu of the suspension.

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

Suspension/Revocation – Beer Permit – El Porton

Ms. Kelly Hopper representing El Porton came forward. She admitted there was a violation.

Officer Tibbels stated that she had participated in a beer sting at El Porton and had observed the sale of an alcoholic beverage to an underage individual in the city limits of Germantown.

Motion by Mr. Owens, seconded by Mr. Marcom, that there was a violation of the beer ordinance by El Porton Restaurant.

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

Ms. Hopper stated that since this happened they had hired a full-time bartender so there are no longer servers behind the bar and taking chances and the date is on the register as to the date to look for when checking violators.

Recommendation from counsel was a 30 day suspension or pay a \$500 civil penalty in lieu of that suspension.

Motion by Mr. Drinnon, seconded by Mr. Palazzolo, to suspend the beer permit for El Porton for 30 days or pay a \$500 civil penalty in lieu of the suspension.

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

Suspension/Revocation – Beer Permit – Garabaldi's

Alderman Palazzolo recused himself from this hearing.

Mr. Mike Garabaldi, owner of Garabaldi's Pizza, apologized for his business being present. He admitted that there was a violation on March 13, 2014.

Officer Tibbels stated she witnessed the 19 year old being served an alcoholic beverage on that date.

Motion by Mr. Owens, seconded by Mr. Drinnon, that there was a violation of the beer ordinance by Garabaldi's Pizza.

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

Mr. Garabaldi stated they did not totally ignore their responsibility. There were procedures in place and the counter girl checked the ID and she called for the manager on duty. Before the beer was served, the manager asked the girl if she had checked the ID.

Officer Tibbels stated she did not hear the conversation.

Mr. Garabaldi stated that the manager did ask the girl if she checked the ID and she said yes, it was '93. On the driver's license it said '95. The girl followed the procedures, got a manager, checked the ID but made a human error. Mr. Garabaldi stated they do everything in their power for this not to happen but it was human error. He stated the Garabaldi's takes this seriously and hopes that it will never happen again but there is human error.

Recommendation from counsel was a 30 day suspension or pay a \$500 civil penalty in lieu of that suspension.

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Motion by Mr. Drinnon, seconded by Mr. Owens, to suspend the beer permit for Garabaldi's or pay a \$500 fine in lieu of the suspension within seven days.

ROLL CALL: Marcom-no, Drinnon-yes, Palazzolo-recused, Owens-yes, Janda-no. Motion tied. Mayor Goldsworthy declined to vote. Motion failed.

Suspension/Revocation – Beer Permit – Grand Buffet

Attorney Shaun Griffen and Mr. Heping Chen for the Grand Buffet came forward.

Mr. Griffen admitted that his client did admit to the violation.

Officer Tibbels stated she had witnessed the violation.

Motion by Mr. Palazzolo, seconded by Mr. Marcom, that there was a violation of the beer ordinance by Grand Buffet.

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

Mr. Griffen stated that the Grand Buffet had been in business since 2007 and had one other violation in 2013. He felt there was a language barrier and part of it was his fault because of a fundamental misunderstanding in the translation.

Alderman Owens stated his frustration over the violations and his concern for the teenagers in the community.

Recommendation from counsel was a 60 day suspension and the City not be inclined to recommend a civil penalty.

Motion by Mr. Janda, seconded by Mr. Drinnon, to suspend the beer permit for 60 days for the Grand Buffet or pay a \$2500 civil penalty in lieu of the suspension.

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

Suspension/Revocation – Beer Permit – Sakura

Mr. Steven Chun representing the Sakura Japanese Restaurant came forward. He stated he was not present when the violation occurred. He admitted that the violation took place.

Officer Tibbels stated she observed an underage person be served an alcohol beverage in violation of the beer ordinance. The server did not request any identification.

Motion by Mr. Palazzolo, seconded by Mr. Owens, that there was a violation of the beer ordinance by Sakura Japanese Restaurant.

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

Mr. Chun stated the manager had contacted him right after the incident and he had talked with the staff about this serious matter. The server told him she did check the ID but still served. He stated he would take the responsibility of having them check. The server has gone to class and all the servers will now check everyone under 30 years old.

Recommendation from counsel, since this was the first offense, was a 30 day suspension or a \$500 penalty in lieu of the suspension.

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Motion by Mr. Marcom, seconded by Mr. Palazzolo, to suspend the beer permit for 30 days for Sakura Japanese Restaurant or pay a \$500 civil penalty in lieu of the suspension.

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

Attorney McDaniel stated the fines would be due in seven days or the suspension would begin.

The Mayor excused Attorney McDaniel and adjourned the Beer Board and reconvened the Board of Mayor and Aldermen.

BOARD OF MAYOR AND ALDERMEN

Sports Operating Policies

Parks and Recreation Director Pam Beasley stated the management and operation of all youth sports are guided by the Sports Operating Policies which provide standard operating policies and procedures that are fair and consistent and align with the City's mission and values. The last comprehensive evaluation process took place in 2012.

Last spring the Parks and Recreation Commission worked with staff to review and recommend updates/revisions to the sports operating policies. Some of the changes being implemented this year include gaining BMA approval on all applications, strengthening the background check policies and implementing a youth sport concussion policy. Staff created guidelines for park vendors, park sponsorships and signage protocol. The field rental reservation process and the tournament application guidelines were also updated. Designated city youth sport providers currently include soccer, football, baseball and lacrosse.

Ms. Beasley then went over each of the nine changes in more detail and the background check policies.

Motion by Mr. Palazzolo, seconded by Mr. Drinnon, to approve the recommended revisions to Sports Operating Policies as presented.

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

Stop Loss Insurance

Procurement Director Lisa Piefer explained that the Medical Stop Loss Insurance protects the City's self-funded plan from extreme medical expense. The City has used the services of a stop loss carrier for over twenty years.

Of the four bids the City received, only Health Cost Solutions, Inc. with American Fidelity and The Barnett Group with National Union Fire met all the bid requirements. After thorough analysis of the City's medical plan activity this past year and review by staff and the City's Consultant, ESP Inc., staff recommended the City continue its coverage with American Fidelity. Their overall coverage remains the same, as does the deductible and they continue to have an A+ rating. The City's Third Party Administrator, Health Cost Solutions, Inc. worked in conjunction with American Fidelity to provide a cost effective quote. The stop loss will remain at an individual \$115,000 deductible for 2015.

Motion by Mr. Palazzolo, seconded by Mr. Marcom, to authorize the Mayor and Board to enter into a contract policy with American Fidelity in the amount of \$664,644.96 for stop loss insurance coverage for 2015.

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

CONSENT

Donations – Germantown Community Library

Donations were made to the Germantown Regional History and Genealogy Center in the amount of \$344.00 and to the Germantown Community Library in the amount of \$1,896.00.

MOTION: To recognize donations made to the Germantown Community Library in the amount of \$1,896.00 and to the Germantown Regional History and Genealogy Center in the amount of \$344.00 and to approve Budget Adjustment No. 15-24.

Change Order – Animal Shelter

During the renovation of the Animal Shelter, unforeseen site conditions were encountered resulting in additional work being required that could not be anticipated until construction began. This necessitated using equipment that was not anticipated or included in the contractor's bid and resulted in digging the foundation footings significantly deeper than originally planned. The total amount requested for Change Order No. 1 is \$8,659.87.

MOTION: To approve Change Order No.1 for the Animal Shelter Expansion Phase I Project5 increasing the contract amount by \$89,659.7 from \$311,649.00 to \$320,308.87 and approve Budget Adjustment No. 15-14.

Community/Employee Survey

The results of the previous community surveys have led to improvements in areas of concern including internal communication and employee security. On November 25, 2013, the Board approved a contract with one, twelve month extension with NuStats, LLC for completion of the community and employee surveys for 2014. Staff is recommending adding \$800.00 for processing an additional fifty surveys only to be used should the City receive more completed surveys than projects. The total amount of the extension is not to exceed \$16,950.00.

MOTION: To authorize the Mayor to enter into a contract extension with NuStats, LLC in the amount of \$16,950.00 to conduct the Germantown community and employee surveys.

Youth Basketball Uniforms

This is for the purchase of boys and girls basketball uniforms from Teamwear Graphics in an amount not to exceed \$16,000.00.

MOTION: To authorize the purchase of boys and girls basketball uniforms from Teamwear Graphics in an amount not to exceed \$16,000.00.

Tennessee Parks and Greenways Foundation Grant

This grant for \$1,250.00 from the Tennessee Parks and Greenways Foundation will provide the resources to install 911-locator signs on a section of the Germantown Greenway in the Wolf River Nature Area section to benefit the personal safety of our users.

MOTION: To recognize grant funds in the amount of \$1,250.00 from the Tennessee Parks and Greenways Foundation and to authorize the Mayor to enter into an agreement with the organization to install proposed signage at the Germantown Greenway and to approve Budget Adjustment 15-26. The Parks and Recreation Department will coordinate terms of the agreement.

Resolution 14R17 – Amendment to Resolution 14R09 – Change of Effective Date for Germantown Board of Education to Participate in the Tennessee Consolidated Retirement System

Resolution 14R09 approved by the Board and the Germantown Board of Education contained the wrong effective date. The Board is asked to pass a new TCRS resolution indicating that the effective date for participating in the plan is July 1, 2014.

MOTION: To approve Resolution No. 14R17 – Amendment to Resolution 14R09 – change of effective date for the Germantown Board of Education to participate in the Tennessee Consolidated Retirement System.

Motion by Mr. Marcom, seconded by Mr. Owens, 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