

## **BOARD OF MAYOR AND ALDERMEN**

October 12, 2015

The regular meeting of the Board of Mayor and Aldermen was held on Monday, October 12, 2015 at 6:00 p.m., in the Council Chambers of the Municipal Center.

Mayor Mike Palazzolo was present and presiding.

The following aldermen were present: John Barzizza, Dave Klevan and Rocky Janda. Alderman Mary Anne Gibson and Alderman Forrest Owens were absent. Staff present: Patrick Lawton, Debra Wiles, Chief Richard Hall, Fire Chief John Selberg, Paul Chandler, Ralph Gabb, Reynold Douglas, Daniel Page, Pam Beasley, Cameron Ross, Tony Fischer, Lisa Piefer and Dotty Johnson.

### **Call to Order**

Mayor Palazzolo called the meeting to order.

### **Invocation**

Parks and Recreation Director Pam Beasley gave the invocation.

### **Pledge of Allegiance**

Alderman John Barzizza led the Pledge of Allegiance.

### **Approval of Agenda**

During the Executive Session the Board unanimously agreed to move number 7e to the Regular Agenda.

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

ROLL CALL: Barzizza-yes, Gibson-absent, Klevan-yes, Owens-absent, Janda-yes. Motion approved.

### **Approval of Minutes**

There were no corrections or additions to the minutes.

Motion by Mr. Janda, seconded by Mr. Barzizza, to approve the minutes of the Board of Mayor and Aldermen meeting held September 28, 2015 as written.

ROLL CALL: Barzizza-yes, Gibson-absent, Klevan-yes, Owens-absent, Janda-yes. Motion approved.

### **Citizens to be Heard**

Mr. Ross Boswell an attorney with AutoZone, S. Front St. Memphis and 7699 Farmington Blvd., spoke on behalf of AutoZone. He stated he wanted it noted on the record that they did not have a formal objection at this time and they are working with Kroger. They had concerns regarding possible visibility issues and they do have some lease rights with Kroger. They have been in the process of working things out and truly believe things will be worked out but wanted their concerns noted on record.

Mr. William B. Watt, 2218 Wilderness Cove, stated he was a retired AutoZone employee and had no particular problem with the project across the street as long as AutoZone and the store are protected in the process and the City takes their concerns into account.

### **CONSENT AGENDA**

#### **Contract Extension – Bulk Concrete Mix**

Concrete mix is used primarily for street repairs, utility cuts, curb and gutter replacement, water table repairs and art piece foundations and is funded annually in the State Street Aid Operating Budget. Memphis Ready Mix has provided excellent service and product to the City for many years. This purchase will meet the department's needs for one year at a cost of \$47,000.00.

MOTION: To exercise the first year contract extension option to purchase bulk concrete mix in the amount of \$47,000.00 from Memphis Ready Mix.

### **Computer Upgrades**

Laptop and desktop computers in use throughout the City departments vary from ten years to less than six months in age. This project will replace approximately 25% of the oldest computers and move the City toward a 4-year cycle to keep operating systems and hardware current.

MOTION: To approve the purchase of replacement computers in the amount of \$62,805.39 from CDW Government and declare the replaced computers as surplus.

### **Network Switch Replacements**

This project will replace four network switches with current technology standards including redundancy. Presidio continues to hold the state-wide contract as a certified Cisco product provider. This will be an annual infrastructure refurbishment cycle as seen with City streets and fleet vehicles. The agreement is for replacement and installation of network equipment, a 12-month maintenance agreement to cover the new equipment and declare the replaced equipment as surplus.

MOTION: To authorize the Mayor to enter into an agreement with Presidio Networked Solutions in the amount of \$30,580.29 for replacement and installation of network equipment, a 12-month maintenance agreement for the new equipment and declare the replaced equipment as surplus.

### **IBM Server Maintenance Renewal**

This maintenance contract requires that the City utilize IBM direct or the company that the server was purchased to provide maintenance services. This is a 12-month agreement for the iSeries server and message switch in the amount of \$10,352.00.

MOTION: To authorize the Mayor to enter into a contract with Dynamix Group, Inc. in the amount of \$10,352.00 for a 12-month maintenance contract.

### **Public Safety Uniforms**

Members of the Police and Fire Departments are required to wear designated uniforms in the performance of their duties. Each member of the Police and Fire Departments has an allotted amount for the purchase of the uniforms. This will be an annual contract with MidSouth Uniform Solutions for the purchase of uniforms and accessories for both departments.

MOTION: To approve a contract with MidSouth Uniform Solutions for the purchase of Public Safety uniforms and accessories per the unit prices and discounts specified not to exceed \$115,000.00 for Police, \$41,272.46 for Fire and \$13,409.60 for Ambulance.

### **Orchestra Hydraulic Lift Repairs – GPAC**

The hydraulic lift is often used during some performances and is also used for additional auditorium seating. Recently, the lift has been leaking hydraulic fluid into the orchestra pit. All three jack packing seals are in need of replacement. A new valve assembly installation is also recommended for correct operation and availability of the lift. Also, two electronic solenoids are not readily available for purchase but, are built to order. This repair service contract is with KONE Inc. in the amount of \$25,737.00.

MOTION: To approve a repair service contract with KONE Inc. in the amount of \$25,737.00 for the orchestra hydraulic lift repairs in GPAC.

### **Lobbying Services Agreement**

The City has been very pleased with the law firm of Farris Bobango Branan, PLC for lobbying services over the past eight years. Administration has worked very closely with senior partner in the firm, John

Farris, and his staff in advancing the City's legislative agenda as well as monitoring legislation that could impact the City. This agreement will run from November 1, 2015 and end on October 30, 2016 in the amount of \$42,000.00.

MOTION: To authorize the Mayor to execute a lobbying services agreement with Farris Bobango Branam, PLC Attorneys at Law, for lobbying services on behalf of the City of Germantown beginning November 1, 2015 and ending October 30, 2016 in the amount of \$42,000.00.

**Overtime Reimbursement – Police**

The Germantown Police Department has an officer assigned to the Federal Bureau of Investigation Joint Safe Streets Task Force, the Drug Enforcement Administration Task Force, the Terrorism Task Force and the Secret Service Task Force. The officer usually works overtime in the performance of his duties. The Task Forces reimburse any overtime that the officer receives while carrying out his/her duties.

MOTION: To recognize overtime reimbursement from the Federal Department of Justice, the Department of Homeland Security, Whole Foods and Central Defense Services in the amount of \$11,092.42 and to approve Budget Adjustment No. 16-16.

Motion by Mr. Janda, seconded by Mr. Klevan, to accept the consent agenda as read.

ROLL CALL: Barzizza-yes, Gibson-absent, Klevan-yes, Owens-absent, Janda-yes. Motion approved.

**REGULAR AGENDA**

**Public Hearing – Ordinance 2015-10 – Amendment to Chapter 2, Administration, Article V; Division 16- Education Commission – Second Reading**

City Administrator Patrick Lawton stated there are currently 12 voting members with a term limit of one year. With the establishment of our school district, the Education Commission felt it was imperative to have a representative from the Germantown Board of Education to serve in a non-voting capacity.

Mayor Palazzolo opened the public hearing. Having no one come forward to speak, the public hearing was closed.

Motion by Mr. Janda, seconded by Mr. Klevan, to approve Ordinance 2015-10, an ordinance to amend the Germantown Education Commission membership, on second reading.

ROLL CALL: Barzizza-yes, Gibson-absent, Klevan-yes, Owens-absent, Janda-yes. Motion approved.

**Amendment to the Germantown Crossing Shopping Center General Plan Conditions**

Economic Development Director Cameron Ross stated there were three conditions on the Germantown Crossing Center when it was originally approved in 1975 that are now being asked to be removed. The conditions are: Condition 1 – required a 100 foot building setback along Farmington Rd.; Condition 2 – required access drives to be reviewed and approved by the DRC; and Condition 4 - prohibited service stations and motels. Kroger is requesting the removal of conditions 1 and 4 in order to allow the construction of a fuel center, with the canopy to be located 50 feet from Farmington Blvd.

Motion by Mr. Klevan, seconded by Mr. Janda, to approve the proposed amendments to the Germantown Crossing Shopping Center General Plan.

ROLL CALL: Barzizza-yes, Gibson-absent, Klevan-yes, Owens-absent, Janda-yes. Motion approved.

**Acceptance of FEMA AFG Grant**

Fire Chief John Selberg explained that this grant is for \$165,870.00. With the assistance of Grant Coordinator Alexa Robinson, the Fire Department applied for and was awarded this grant. The grant is

for Fire Fighter Wellness and Fitness and will include about \$78,000.00 for fitness equipment for the Fire Stations, \$20,000.00 to train more firefighters as Peer Fitness Coordinators, and \$67,000.00 for full physical exams for all fire fighters. The total grant is for \$165,870.00. The Federal share of the grant is \$150,791.00 and the City's matching amount of 10% or \$15,079.00 that will come from reserve funds.

Motion by Barzizza, seconded by Mr. Janda, to authorize the acceptance of an Assistance to Fire Fighters Grant from the Federal Emergency Management Agency (FEMA) for \$165,870.00, of which the City will provide 10% matching amount.

ROLL CALL: Barzizza-yes, Gibson-absent, Klevan-yes, Owens-absent, Janda-yes. Motion approved.

### **ADJOURNMENT**

Mayor Palazzolo adjourned the Regular Board of Mayor and Aldermen meeting.

### **BEER BOARD**

Mayor Palazzolo convened the Beer Board.

Assistant Prosecuting Attorney Mark McDaniel had the City Clerk swear in all those who would be giving any statement to the Board on behalf of any of the violators of the ordinance.

### **Suspension/Revocation – Beer Permit – Chili's Restaurant**

Attorney James Curry and Mr. Ram Rampersant representing Chili's came forward.

Mr. McDaniel explained that on July 26, 2015, the Germantown Police Department (GPD) conducted an undercover sting investigation of beer permit holders in the City of Germantown and on that date, a cooperating individual (CI) working with the GPD, who was 18 years of age, entered Chili's and purchased a beer from the waitress. The waitress did check the identification of the CI before selling the beer. Officer Henderson of the GPD witnessed this transaction and the waitress was issued a misdemeanor citation for selling beer to a minor.

Mr. Curry stated on behalf of Chili's they were going to admit that the violation took place. He stated that Chili's takes selling alcohol to a minor very seriously and understands the danger and concern in the communities. They appreciate the opportunity to run a restaurant in Germantown and do not want to sacrifice the privilege they have. The waitress was fired immediately. He explained the training that Chili's has in place before they are allowed to work.

In response to a question from Alderman Klevan, Mr. Rampersant stated they have daily reminders with the date.

Motion by Mr. Klevan, seconded by Mr. Janda, to find Chili's, located at 7810 Poplar Ave., guilty of a violation of the Germantown Beer Ordinance regarding selling beer to a minor.

ROLL CALL: Barzizza-yes, Gibson-absent, Klevan-yes, Owens-absent, Janda-yes. Motion approved.

Motion by Mr. Barzizza, seconded by Mr. Janda, to suspend Chili's beer permit for 45 days or pay the civil penalty of \$1,000.

ROLL CALL: Barzizza-yes, Gibson-absent, Klevan-yes, Owens-absent, Janda-yes. Motion approved.

### **Suspension/Revocation – Beer Permit – Elfo's**

Attorney Sam Fargotstein and Alex Grisanti came forward to represent Elfo's.

Mr. McDaniel stated that on July 27, 2015, a Cooperating Individual, working with the Germantown Police Department, who was 18 years of age, entered Elfo's and purchased a beer from the waiter. The waiter did not check the identification of the individual before selling the beer. Officer Sternberger witnessed the transaction and the waiter was issued a citation for selling beer to a minor.

Mr. Fargotstein stated there was an admission of guilt that this did take place.

Alderman Barzizza suggested that it be mandated the waiter attend a new Tripps Training program for a refresher course.

Mr. Grisanti stated that the waiter was already attending the course.

Motion by Mr. Janda, seconded by Mr. Klevan, to find Elfo's located at 2285 S. Germantown Rd., guilty of a violation of the Germantown Beer Ordinance regarding selling beer to a minor.

ROLL CALL: Barzizza-yes, Gibson-absent, Klevan-yes, Owens-absent, Janda-yes. Motion approved.

Mr. McDaniel stated for the record that the Cooperating Individual working with the Police Department, has a license which clearly states she was born in 1997.

Motion by Mr. Klevan, seconded by Mr. Janda, to suspend Elfo's beer permit for 14 days or pay the civil penalty of \$500.

ROLL CALL: Barzizza-no, Gibson-absent, Klevan-yes, Owens-absent, Janda-yes. Motion approved.

#### **Suspension/Revocation – Beer Permit – Maui Brick Oven Pizza**

Mr. McDaniel called for representatives of Maui Brick Oven Pizza to come forward. Having no one present, Mr. McDaniel called Officer Sternberger to the podium. After being sworn in, Officer Sternberger stated while being employed by the Germantown Police Department he participated in a beer sting in the City of Germantown, he did witness a Cooperating Individual (CI) who was 18 years of age in that process. He identified the driver's license of the CI and he witnessed the CI make a beer purchase from a server who did ask for and received identification.

Alderman Klevan asked if the business was not present and the sign on the establishment states they are out of business, could the Board just proceed to a revocation of the license.

Mr. McDaniel stated first the Board must find them guilty or not guilty.

Motion by Mr. Janda, seconded by Mr. Barzizza, to find Maui Brick Oven Pizza located at 7850 Poplar Ave. #6, guilty of a violation of the Germantown Beer Ordinance regarding selling beer to a minor.

ROLL CALL: Barzizza-yes, Gibson-absent, Klevan-yes, Owens-absent, Janda-yes. Motion approved.

Motion by Mr. Klevan, seconded by Mr. Janda, to revoke Maui Brick Oven Pizza's beer permit.

ROLL CALL: Barzizza-yes, Gibson-absent, Klevan-yes, Owens-absent, Janda-yes. Motion approved.

#### **Suspension/Revocation – Beer Permit – Petra Café**

Mr. Saliman Noordin, Financial Officer for Petra Café, came forward.

Mr. McDaniel stated that on July 27, 2015, a Cooperating Individual, working with the Germantown Police Department, who was 18 years of age, entered Petra Café and purchased a beer from the waitress. The waitress did check the identification of the individual before selling the beer. Officer Sternberger witnessed the transaction and the waitress was issued a misdemeanor citation for selling beer to a minor.

Mr. Noordin admitted that this did happen. Mr. Noordin went over their policy for checking before serving. He stated the employee was fired and they have a no tolerance policy. He apologized for his employee's actions.

Motion by Mr. Barzizza, seconded by Mr. Klevan, to find Petra Café located at 6641 Poplar Ave., guilty of a violation of the Germantown Beer Ordinance regarding selling beer to a minor.

ROLL CALL: Barzizza-yes, Gibson-absent, Klevan-yes, Owens-absent, Janda-yes. Motion approved.

Motion by Mr. Janda, seconded by Mr. Klevan, to suspend Petra Café's beer permit for 45 days or in lieu thereof, pay the civil penalty of \$1,000.

ROLL CALL: Barzizza-yes, Gibson-absent, Klevan-yes, Owens-absent, Janda-yes. Motion approved.

**Suspension/Revocation – Beer Permit – Soul Fish Café**

Attorney Jim Curry and Mr. Chuck Smith, manager of Soul Fish, at this location, came forward.

Mr. McDaniel stated that on July 26, 2015, a Cooperating Individual, working with the Germantown Police Department, who was 18 years of age, entered Soul Fish Café and purchased a beer from the waitress. The waitress did check the identification of the individual before selling the beer. Officer Henderson witnessed the transaction and the waitress was issued a misdemeanor citation for selling beer to a minor.

Mr. Curry had previously indicated that Soul Fish Café was entering a plea of guilty. The waitress that served the beer had been with the company for four years and was a valued employee and did not let her go. The waitress was going to attend a "Responsible Servers Class".

Motion by Mr. Klevan, seconded by Mr. Janda, to find Soul Fish Café, located at 3160 Village Shops Dr., guilty of a violation of the Germantown Beer Ordinance regarding selling beer to a minor.

ROLL CALL: Barzizza-yes, Gibson-absent, Klevan-yes, Owens-absent, Janda-yes. Motion approved.

Motion by Mr. Janda, seconded by Mr. Klevan, to suspend Soul Fish Café's beer permit for 45 days or pay the civil penalty of \$1,000 in lieu thereof.

ROLL CALL: Barzizza-abstain, Gibson-absent, Klevan-yes, Owens-absent, Janda-yes. Motion approved.

**Adjournment**

Mayor Palazzolo adjourned the Beer Board.

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Mike Palazzolo, Mayor

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Dotty Johnson, City Clerk/Recorder