

## **BOARD OF MAYOR AND ALDERMEN**

May 8, 2017

The regular meeting of the Board of Mayor and Aldermen was held on Monday, May 8, 2017, at 6 p.m. in the Council Chambers of City Hall.

Mayor Mike Palazzolo was present and presiding.

The following aldermen were present: John Barzizza, Mary Anne Gibson, Dean Massey, Forrest Owens and Rocky Janda. Staff present: Pam Beasley, Michele Betty, Rodney Bright, Paul Chandler, Reynold Douglas, Butch Eder, David Harris, Patrick Lawton, Bo Mills, Daniel Page, Lisa Piefer, Phil Rogers, Cameron Ross, John Selberg, Paul Turner and Steve Wilensky.

### **Call To Order**

The Mayor called the meeting to order.

### **Invocation**

Reynold Douglas gave the invocation.

### **Pledge of Allegiance**

Alderman Janda led the Pledge of Allegiance.

### **Approval of Agenda**

During the executive session, the Board unanimously agreed to move #14 Resolution No. 17R08 Carter Mixed Use Planned Unit Development Outline Plan to immediately following Approval of the Minutes; and to move the following to the Consent Agenda: #15 Contract - Pool Deck Resurfacing; #16 - Resolution 17R09 Authorization for Lease of Fitness Equipment; and #18 Wireless Transmission Facility Co-Location New Antennas and Equipment on an Existing Wireless Transmission Facility.

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

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

### **Approval of Minutes**

There were no corrections to the minutes.

Motion by Mr. Janda, seconded by Ms. Gibson, to approve the minutes of the Board of Mayor and Aldermen meeting held April 24, 2017.

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

### **Resolution 17R08 – Carter Mixed Use Planned Unit Development (PUD) Outline Plan - DEFERRED**

Mr. Ross stated the Carter Mixed Use PUD is to be a multi-phased, mixed used development of retail, office, hotel, multi-family and civic uses. The president and CEO of Carter, Mr. Scott Taylor, asked the Board to defer the agenda item to allow Carter to have more conversations with the adjoining property owners.

The item was deferred and no action was taken by the Board.

### **Special Recognition**

#### **Eagle Scout Arboretum Project**

Ms. Beasley asked Eagle Scout Ricky Paller to come forward to be recognized for completing the tree marker requirements for the Oaklawn Garden Arboretum. In order to have Oaklawn Garden designated as a certified

arboretum by the State of Tennessee, all of the trees must be labeled with both common and scientific names. Ricky secured funding for sign frames from Pickle Iron, valued at over \$1,600.00, designed and delivered them to Oaklawn Garden. He organized several work days to attach the tree markers to the frames and installed them at the correct tree locations. Family, friends and the scouts from Troop 450 were there to assist.

Motion by Mr. Barzizza, seconded by Mr. Owens, to recognize Ricky Paller and the members of Boy Scout Troop 450 for their efforts in completing the tree marker requirements for the Oaklawn Garden Arboretum.

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

### **Patron of the Arts Award**

The Patron of The Arts award winners are revealed each year at the annual GPAC Gala. The award is given to an individual or a couple who have demonstrated exemplary efforts in supporting the performing and visual arts. This year, Germantown residents Sharon and Lee Grinspan received the 2017 Patron of the Arts Award on April 22 at the GPAC Gala celebrating Memphis music. Mr. Chandler asked Sharon and Lee Grinspan to come forward to be recognized.

### **Donation – Germantown Community Library**

Mr. Page stated the library held a silent auction this year which raised \$1,219.00 for Books from Birth.

Motion by Ms. Gibson, seconded by Mr. Janda, to accept donations made to the Germantown Community Library in the amount of \$1,219.00 and to approve Budget Adjustment No. 17-78.

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

### **Alderman Liaison Reports**

The Aldermen reported on their commission activities.

### **Citizens to be Heard**

Mr. Doug Dugard, of 3050 Cross Country, came forward to express his concern about traffic increase and speed between Germantown Road and Hacks Cross Road in the Germantown Park subdivision.

Mr. Michael Mosteller, of 7875 Cross Village, also came forward regarding the traffic increase and speed between Germantown Road and Hacks Cross Road in the Germantown Park subdivision. He presented to the Board a petition signed by residents in subdivision.

Mr. Herschel Freeman, of 7684 Apahon Lane, came forward regarding potential development in the Owens triangle. He stated the parcel of land serves as a natural buffer and asked the Board to exclude the sale of alcohol in this parcel of land.

Mr. Jim Jacobs, of 7684 Apple Valley Road, came forward regarding T4 zoning and the Owens triangle. He requested the Board change the zoning to provide residential transition and landscape buffer.

Ms. Sarah Freeman, of 7684 Apahon Lane, requested the Board repeal Article 4 of Ordinance 2016-10. She stated 2017-6 does not remedy 2016-10.

Ms. Natalie Williams, of 8049 Neshoba Road, came forward to express her appreciation to the Board and staff for hosting the Farmington Elementary School field trip to City Hall.

**Recording of Board of Mayor and Aldermen Executive Sessions**

Mr. Lawton stated the Board, at the meeting on April 25, 2017, voted to discuss and consider on May 8 the recording of the executive sessions.

Alderman Massey stated he did not have a preference as to how the executive session was recorded, either by audio tape or video. Mr. Barzizza stated that the executive session is only 30 minutes and he did want the recordings to be transcribed. Mr. Janda stated his vote would be “no” if minutes are taken. Alderman Owens stated he did not want minutes taken since it would make for more work for City staff. He stated electronic recording is above and beyond what is required. Ms. Gibson stated audio recording would be sufficient and she did not want minutes taken.

Motion by Ms. Gibson, seconded by Mr. Barzizza, to consider the recording of the Board of Mayor and Aldermen executive sessions prior to the regularly scheduled and published meetings of the Board of Mayor and Aldermen.

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

Mayor Palazzolo recessed the Board of Mayor and Aldermen and reconvened as the Beer Board.

**BEER BOARD**

**Public Hearing – Beer Permit On-Premise – Blue Honey Bistro**

Mr. Lawton stated the City received a request from Courtney Bryan and Drew Bryan for a permit to sell beer for on-premise consumption at Blue Honey Bistro, located at 9155 Poplar Avenue, Suite 17. According to the police report, nothing was found to discredit the applicants.

Motion by Mr. Barzizza, seconded by Mr. Janda, to approve the request of Courtney Bryan and Drew Bryan for a permit to sell beer for on-premise consumption at Blue Honey Bistro, located at 9155 Poplar Avenue, Suite 17.

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

**Public Hearing – Beer Permit Off-Premise – Circle K 3660 - DEFERRED**

The City received a request from Betty Watts for a permit to sell beer for off-premise consumption at Circle K #3660, located at 1351 Germantown Road. Circle K Stores, Inc. will be transferring ownership and operations to its sister company, Mac’s Convenience Stores, LLC, on or about May 11, 2017. According to the police report, nothing has been found to discredit the representative or the local manager.

**Public Hearing – Beer Permit Off-Premise – Circle K 3662 - DEFERRED**

The City received a request from Betty Watts for a permit to sell beer for off-premise consumption at Circle K #3662, located at 9113 Winchester Road. Circle K Stores, Inc. will be transferring ownership and operations to its sister company, Mac’s Convenience Stores, LLC, on or about May 11, 2017. According to the police report, nothing has been found to discredit the representative or the local manager.

Mayor Palazzolo recessed the Beer Board and reconvened as the Board of Mayor and Aldermen.

**CONSENT**

**Contract – Club Group Fitness Programming**

Les Mills International offers virtual and live pre-choreographed group fitness classes to health club members

around the world. All Les Mills class formats, live and virtual, are updated every three months with new exercise content and music. In addition to offering world-leading live group fitness classes, partnering with Les Mills International gives Athletic Club staff the ability to provide virtual classes at any time of the day. This flexibility is attractive to those members who may not be able to attend during peak times, which is often the times live classes are offered.

MOTION: To authorize the Mayor to enter into a contract with Les Mills United States Trading Inc. in the amount of \$10,673.00 to provide the ability to teach and use licensed pre-choreographed group fitness class formats to members.

**Contract – Ambulance Billing Service**

On June 30, 2017, the current ambulance billing service contract with Credit Bureau Systems, Inc. dba Ambulance Medical Billing will expire. The billing and collection of ambulance transportation fees is a complicated and manpower intensive process. It is advantageous to have a professional billing company provide this service and other ambulance services report a significantly higher revenue collection rate when using this type of service. In addition to the basic billing service, the agreement will include a web-based application for real-time analysis and reporting along with an electronic patient care reporting system. The data provided will also be available to the emergency departments of area hospitals during medical incidents as well as link to the Fire Department's incident reporting system.

MOTION: To authorize the Mayor to enter into a three (3) year contract with Credit Bureau Systems, Inc. dba Ambulance Medical Billing to provide ambulance billing services with pricing established through the Savvik Buying Group Cooperative Agreement #2017-030.

**Contract – Poplar Estates Bridge Replacement**

The pedestrian bridge at Poplar Estates Park is over 25 years old and in disrepair due to the overall decay of the wood framing and bridge piers. Due to the location adjacent to the playground, the bridge is used as a high volume crossing point on the ditch and for a popular staging area for park sponsored events and neighborhood community gatherings. The scope of the contract is to provide all the labor, equipment and construction materials for demolition, material disposal and reconstruction of the existing structure.

MOTION: To contract with Nickson General Contractors, Inc. for replacement of the pedestrian bridge at Poplar Estates Park in the amount of \$24,568.75 and approve Budget Adjustment No. 17-75.

**Contract – Well #7 Repair Johnson Road Water Treatment Plant**

Public Works awarded a contract to National Water Services, LLC (NWS) for the annual utility well and pump inspection and analysis. The reports revealed areas of concern due to lack of water production. The motor, the column assembly and the check valve were pulled and transported to a specialty shop to break down and determine the cause of mechanical problems. NWS discovered that several internal parts and machine work are required prior to the reinstallation at the well site. Due to the seasonal increase in consumption and the reduction of pumping capabilities, staff requested the award of a service contract to NWS to make the necessary repairs identified in the scope of this contract and then to reinstall the motor. This contract includes all materials, machine shop labor, crews and equipment expense.

MOTION: To contract with National Water Services, LLC for repairs to well #7 at the Johnson Road well field in the amount of \$30,315.00.

**Purchase – Annual Cured in Place Pipe**

The sewer division performs preventive maintenance, flushing, video inspection and repairs on over 212 miles

of sanitary sewer mains annually. Cured in place pipe rehabilitation has been utilized within the city for 22 years to restore pipe integrity, improve sewer and storm water flows and seal out ground water infiltration with minimum disruption of work sites and little to no interruption of services to the citizens and customers. The primary focus for pipe lining each year is the older infrastructure within the city system or traditional repetitive problem areas where excavation would be cost prohibitive.

MOTION: To authorize the Mayor to enter into a contract with Insituform Technologies, LLC in an amount not to exceed \$50,000.00 for the FY17 annual storm water cured in place pipe utility contract.

**Donation – Germantown Education Foundation Fill the Fountain**

The Germantown Education Foundation was established in 2006 and is an independent, 501(c)3, not-for-profit corporation that raises funds to directly support the public education of children in Germantown. The mission of the foundation is to mobilize community resources to support and benefit schools and educational programs in the City of Germantown. This is the eighteenth presentation and request to the Board of Mayor and Aldermen to remit funds collected on behalf of the Germantown Education Foundation through the Fill the Fountain campaign. This program has no budgetary impact on the City as the money is collected from citizens through their monthly utility bill.

MOTION: To approve the transfer of funds collected by the City from residents and others to the Germantown Education Foundation in the amount of \$4,197.00.

**Donation – Police**

The Police Department was contacted by the Executive Director Jesse W. Samples of the Tennessee Health Care Association informing the Police Department of the \$150.00 donation in the name of Senator Brian K. Kelsey. The donation will be placed into the general fund.

MOTION: To recognize a donation received from the Tennessee Health Care Association in the amount of \$150.00.

**Appointment – Public Safety Education Commission**

There is currently a vacancy on the Public Safety Education Commission. Mr. Roel Smit has expressed a desire to serve on the board.

MOTION: To approve the appointment of Mr. Roel Smit to serve on the Public Safety Education Commission for the remainder of the 2017 calendar year.

**Contract – Pool Deck Resurfacing**

In November 2007, the Board of Mayor and Aldermen approved the refinishing of the indoor swimming pool deck with Prime Contractors, Inc. in the amount of \$91,000.00. AJR Industrial Services, Inc. was the sole subcontractor that performed the original overlay coating. The indoor swimming pool deck received a glazed cement to cover the entire original ceramic floor tile, while the pool was closed for repairs. The approved project achieved better safety, maintenance and cleaning. However, due to normal use, the non-slip overlay coating and lettering has worn off and is in need another overlay coating.

MOTION: To authorize the Mayor to enter into a contract with AJR Industrial Services, Inc. for the overlay coating of the Germantown Athletic Club indoor swimming pool deck in the amount of \$38,372.00.

**Resolution 17R09 – Authorization for Lease of Fitness Equipment**

Procurement staff has utilized the cooperative purchasing process to purchase vehicles, ambulances, fire trucks, billing services, generators, software, computers and heavy equipment. Each cooperative has general requirements for participation from on-line registration to master agreements. The City can join the master agreement by adopting a resolution accepting the terms of the master agreement. Staff has prepared a resolution authorizing the use of the master lease agreement with Leasing Servicing Center Inc. dba National Cooperative Leasing. Approval of this resolution provides the authorization, negotiation, execution and delivery of lease with the Leasing Servicing Center Inc. dba National Cooperative Leasing.

MOTION: To adopt Resolution 17R09 authorizing the use of the Master Agreement for negotiation, execution, and delivery of Lease No. 001-0718549-100 between the City of Germantown and Lease Servicing Center, Inc. dba National Cooperative Leasing.

**Wireless Transmission Facility Co-Location – New Antennas and Equipment on an Existing Wireless Transmission Facility (WTF) Attached to a City Water Tank at 7610 Poplar Pike**

The applicant is requesting approval, under their existing lease with the City, to add three new antennas, along with its associated equipment, on an existing WTF that is attached to a water tank currently owned and operated by City. The zoning ordinance allows for the approval of WTF co-locations and the replacement or addition of new equipment by service providers on existing towers via a streamlined approval process that includes a review by Community Development staff to ensure that all Ordinance and technical requirements have been met and by approval of the Board. The proposed request would grant the approval necessary for Sprint to obtain a building permit and install the antennas and equipment on the existing tower within the existing compound.

MOTION: To approve the request allowing the addition of three new antennas and associated equipment for Sprint on an existing WTF attached to a water tank, located at 7610 Poplar Pike.

Motion by Mr. Barzizza, seconded by Mr. Owens, to accept the consent agenda as read.

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

**REGULAR**

**Lease Agreement – Club Cardio Fitness Equipment**

Mr. Rogers stated the City’s goal to provide quality health and fitness services, as well as quality customer service, relies heavily on quality fitness equipment and maintenance. Leasing of equipment ensures that the facility has high quality cardio equipment with a built-in maintenance cost. Also, appearance and layout of new equipment will increase the efficiency of space, traffic flow, and potential of maintaining and increasing membership. Technology and trends in the fitness industry are constantly evolving and changing. The leasing aspect of equipment is the best option to stay current and abreast with the industry standards.

Motion by Mr. Massey, seconded by Mr. Barzizza, to authorize the Mayor to enter into a thirty-six (36) month operating lease agreement for cardiovascular equipment with Leasing Servicing Center Inc. dba National Cooperative Leasing in the annual amount of \$233,515.08 and a twelve (12) month contract with two (2) twelve month extensions at the City’s option with Direct Fitness Solutions to provide preventative maintenance in the annual amount of \$2,500.00 for leased equipment for the Germantown Athletic Club.

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

**Ordinance No. 2017-7: Rezoning of Part of Lot 2, Wolf River Center – Phase 1, 1<sup>st</sup> Addition from “C-2” (General Commercial) to “R-H” (Retirement Housing) – First Reading and Set Public Hearing**

Mr. Ross stated the rezoning of the subject property from “C-2” (General Commercial) to “R-H” (Retirement Housing) is being proposed in order to develop an independent living retirement community. Per Section 23-66 of the Municipal Code, changes in zoning districts are permitted “whenever the public necessity, convenience, general welfare or good zoning practice justify such action.” The area surrounding the subject property has been transformed from a commercial area to a thriving and robust medical gateway for the City of Germantown. Proximity to medical care, retail shopping opportunities, and the parks and greenbelt system in Germantown make this site viable for retirement housing zoning.

Motion by Mr. Janda, seconded by Mr. Barzizza, to approve on first reading ordinance 2017-7, the rezoning of 5.284 acres of Part of Lot 2, Wolf River Center – Phase 1, 1<sup>st</sup> Addition, from “C-2” (General Commercial) to “R-H” (Retirement Housing), and set a Public Hearing on June 12, 2017.

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

**Ordinance No. 2017-6: Amending Chapter 3, Article IV (Manufacture, Sale, Storage, Transportation and Distribution of Alcoholic Beverages) of Germantown Code of Ordinances, Third and Final Reading**

Mr. Harris stated the proposed revisions to the City’s Alcoholic Beverages Ordinance clarify restrictions on the locations of retail alcohol selling establishments. Under Germantown Code of Ordinances Section 3-21, “Retailer” (liquor store) means “a person who sells alcoholic beverages in sealed containers for consumption, and not for resale.” A “Retail Food Store” (grocery store) is defined by State law as “an establishment that is open to the public that derives at least twenty percent (20%) of its sales taxable sales from the retail sale of food and food ingredients for human consumption taxed at the rate provided in § 67-6-228(a) and has retail floor space of at least one thousand two hundred square feet (1,200 sq. ft.).” Tenn. Code Ann. § 57-3-802(1).

On November 28, 2016, the Board passed a number of amendments to the City’s Alcoholic Beverages Ordinance. Included in those amendments were changes to Section 3-114, which restricts the sale of alcoholic beverages near churches, schools, other public institutions and residential property. The language of Section 3-114 was changed to align with similar restrictions regarding beer selling establishments found in Section 3-81(b)(1). These revisions removed Section 3-114’s restriction on the sale of alcoholic beverages within 200 feet of any residential zoned property. However, it does not appear that the Board’s intent was to remove this 200 feet restriction as it applies to Retailers (liquor stores). Therefore, the proposed amendment to Section 3-114 reasserts the 200 feet restriction for Retailers.

In addition, the November 28, 2016 amendments made changes to Section 3-116 by including additional zoning districts in which retail establishments may be located. These additions were made to accommodate the change in State law to allow Retail Food Stores (grocery stores) to sell wine. In making these additions, however, the ordinance did not distinguish between Retail Food Stores and Retailers. Accordingly, the proposed amendments to Section 3-116 clarify the zoning districts in which Retailers may be located and the zoning districts in which Retail Food Stores may sell wine.

The proposed amendment to Section 3-114 restores the restriction that the Board may forbid the sale, storage, distribution or manufacture of alcoholic beverages at location within 200 feet of any residential zoned property by Retailers.

The proposed amendments to Section 3-116 clarify that Retailers (liquor stores) may only be located within the C-2 Commercial, SC-1 Shopping Center, T-5 Urban Center (subject to the approval of a warrant) and T-6 Urban Core Zone (subject to the approval of a warrant) classifications of the zoning ordinances of the City.

Retail Food Stores (grocery stores) shall be permitted to sell wine in the city at grocery store locations within the C-1 Commercial, C-2 Commercial, OG Old Germantown, SC-1 Shopping Center, T-4 General Urban Zone, T-5 Urban Center and T-6 Urban Core Zone classifications of the zoning ordinances of the City.

Based on comments from the Board at its March 27, 2017 meeting, references to “wholesalers” have been deleted, as wholesalers are not permitted to be located in the City under Tennessee Code Section 57-3-203, and the capitalized term “Retailers” has been added to Section 3-116(a) for the sake of clarity. Based upon the amendment offered by Alderman Barzizza at the April 24, 2017 second reading, a restriction prohibiting Retailers from being located within 200 feet of another Retailer has been added to Sec. 3-114(c).

Motion by Mr. Owens, seconded by Mr. Janda, to call the question.

ROLL CALL: Barzizza-no, Gibson-no, Massey-no, Owens-yes, Janda-yes. Motion failed.

Motion by Ms. Gibson, seconded by Mr. Owens, to make an amendment to the ordinance to delete T-4 General Urban Zone from Section 3-116.

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

Motion by Mr. Janda, seconded by Mr. Owens, to approve Ordinance 2017-6, amending the City of Germantown Alcoholic Beverages Ordinance on third reading.

ROLL CALL: Barzizza-no, Gibson-yes, Massey-yes, Owens-yes, Janda-yes. Motion approved as amended.

Meeting adjourned.

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Mike Palazzolo, Mayor

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Michele Betty, City Clerk/Recorder