

BOARD OF MAYOR AND ALDERMEN

January 25, 2010

A regular meeting of the Board of Mayor and Aldermen was held on January 25, 2010 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: Mark Billingsley, Ernest Chism, John Drinnon, Carole Hinely and Mike Palazzolo. Staff present: Patrick Lawton, Andy Pouncey, Kristen Geiger, George Brogdon, Tom Cates, Debbie Wiles, Chief Richard Hall, Bo Mills, Chief Dennis Wolf, Pam Beasley, Tim Gwaltney, Ralph Gabb, Michael Stoll, Melody Pittman and Dotty Johnson.

Invocation

Community Services Division Director George Brogdon gave the invocation.

Pledge of Allegiance

Boy Scout Troop 368 from Farmington Presbyterian presented the Colors and led the Pledge of Allegiance.

Approval of Agenda

The agenda was approved as presented.

Motion by Mr. Drinnon, seconded by Ms. Hinely, to approve the agenda as presented.

ROLL CALL: Chism-yes, Billingsley-yes, Drinnon-yes, Hinely-yes, Palazzolo-yes. Motion approved.

Approval of Minutes

There were no corrections or additions to the minutes.

Motion by Mr. Drinnon, seconded by Mr. Palazzolo, to approve the minutes of the meeting held January 11, 2010.

ROLL CALL: Chism-yes, Billingsley-yes, Drinnon-yes, Hinely-yes, Palazzolo-yes. Motion approved.

Citizens to be Heard

Ron Poe of 7581 Lawton Trail expressed his public safety concerns regarding pedestrian traffic crossing Wolf River Parkway near Kimbrough where the Greenbelt crosses the street. He asked the City to consider a yield crossing light for pedestrians where the Greenbelt crosses Wolf River Parkway.

Bob Bean of 2197 Prestwick Dr., Vice President of the Germantown Baseball League, the new providers of baseball for the City. He gave an update on what had taken place. They had launched registration and presently have over 200 registered. They have a logo and a web site where one can register on-line. He stated they were a group of volunteer parents who after hearing of the City's decision not to move forward with GYAA as a sports provider, went about the process to assemble a process for their children to play baseball. He stated there were four competitive teams playing under the new league. They plan to have about 800 to 900 children to play on the league side. There will be about 4 teams on the tournament side and about 70 teams on the league side. They have spent about \$25,000 from the registration fees to buy equipment and things necessary to play.

Several men came forward asking the City to consider giving practice time on the fields at Cameron Brown for the Germantown Giants and Sox. They spoke on the benefits and life changing attitudes and skills the boys had learned.

The following people came forward to speak on behalf of the Germantown Giants and Sox organization:

Brian White of 9741 Lipsey Cove
Fred Sala of 8783 Knob Oak Cove, president of Germantown
Monte Manguno of 2035 Dogwood Grove Cove
Jeff Wright of 9617 Dove Meadow Cove
David East of 3065 Devonshire Way
Craig Martin of 9443 Gwynn Brook Cove
Jason Thompson of 8307 Mossy Creek Dr.
Dr. James Adams of 9345 Dogwood

Mr. Kevin Young of 3143 Penmont and the Parks and Recreation Commission chairman came forward and stated there had been some misunderstandings between the two parties but he felt they could reach a solution for all parties involved if they would sit and talk it out. The Commission and Parks and Recreation are always open to talk with any person or group.

Alderman Billingsley asked the City Attorney Tom Cates to confirm the action taken by the Parks and Recreation Commission if it is within their purview under Policy #33 in regard to the preferred provider agreement and the team residency requirements. He also asked the City Administrator Patrick Lawton, Kevin Young the Parks and Recreation Commission Chairman and himself as Alderman Liaison to the Parks and Recreation Commission to meet with the preferred provider Germantown Baseball League to review a service agreement and our commitment under the terms of that agreement. He asked the Germantown Baseball League to review their practice schedule in good faith to see what field space may be available for rental by the Germantown Giants organization.

He asked the Germantown Giants organization to explain in detail the City's position in regard to Policy Letter 33 the current agreement in place with GBL in regard to the use of our fields and also listen to their concerns about practice space and at that time what may be available for rental when it comes available.

Motion by Mr. Billingsley, seconded by Mr. Drinnon, to include the following four steps:

1. To review with legal counsel to assure that all actions in the Parks and Recreation Commission are consistent with policy.
2. The City Administrator, Chairman of Parks and Recreation Commission, and Alderman Billingsley, the liaison to the commission, to meet with the Germantown Baseball League to review the provider agreement.
3. To ask the League to review its practice schedule to determine if there is excess field space.
4. To meet with Germantown Giants Baseball Organization to review the requirements of Policy 33 and the circumstances of the practice field.

ROLL CALL: Chism-yes, Billingsley-yes, Drinnon-yes, Hinely-yes, Palazzolo-yes. Motion approved.

Mayor Goldsworthy adjourned the meeting for five minutes.

Mayor Goldsworthy again called the meeting to order.

Fiscal Year 2011 Budget Calendar

Finance Director Ralph Gabb stated this calendar was developed for the Fiscal Year 2011 Budget. Each year Administration and the Financial Advisory Commission develop a budget calendar for the timely completion of the City's annual operating and Capital Improvements Program budget for the forthcoming fiscal year. The purpose of the calendar is to highlight key dates for the Financial Advisory Commission and the Board of Mayor and Aldermen for the completion of the budget prior to June 30, 2010.

Motion by Mr. Chism, seconded by Mr. Billingsley, for the Board of Mayor and Aldermen to approve the Fiscal Year 2011 Budget Calendar.

ROLL CALL: Chism-yes, Billingsley-yes, Drinnon-yes, Hinely-yes, Palazzolo-yes. Motion approved.

PUBLIC HEARING – Ordinance 2009-18 – Amendment to Chapter 23 – Article VI – Stormwater Management – Second Reading

City Administrator Patrick Lawton asked the Board to consider the adoption on second reading of Ordinance No. 2009-18 establishing a user fee for our stormwater management program.

Over the past several months the Board of Mayor and Aldermen and the Financial Advisory Commission had several work sessions to consider the establishment of a stormwater management program and a user fee structure to address the federal unfunded mandate regarding the treatment of the quantity and quality of our stormwater that enters the Wolf River and Nonconnah Creek. Cities across the country are granted permits known as National Pollution Discharge Elimination System permits which allow them to discharge stormwater into the Nation's rivers and streams. To stay in compliance with these rules and regulations from the federal government and the EPA, the City of Germantown must identify and demonstrate its compliance with a variety of stormwater management control issues that address the severity of the stormwater through our various conveyance systems as well as the pollutants that are transferred along with the stormwater. Our cost for compliance with this regulation has increased dramatically from the time the City received its first permit in 2003.

The stormwater management ordinance was deferred for consideration at the second reading in November 2009. The Board took this action to allow the Administration additional time to review and present for consideration alternative methods for calculating the stormwater user fee and to incorporate those methods into the ordinance and make any changes as the ordinance stood on first reading. Since the deferral of this ordinance, staff has had meetings with stakeholders in our community consisting of residents, the business community and not for profit groups, meetings with the Financial Advisory Commission to review the funding mechanism necessary for the stormwater utility program and a review of an alternative rate structure and its associated methodologies.

The proposed new rate structure incorporated in this ordinance is in compliance with Tennessee State law; provides equity across the board for all users who contribute to the stormwater runoff; and is based on solid technical engineering derived from an understanding of the hydrology and stormwater runoff for individual properties.

The ordinance before the Board incorporates this new methodology for calculating the stormwater user fee and is based upon the gross area and intensity of development for all properties located within the city of Germantown. The user fee as identified is in direct proportion to the amount of runoff a particular property contributes to our maintenance of the stormwater system. The user fees being considered also take into consideration the comparable differences between residential and other developed property through the use of a runoff coefficient ratio.

The ordinance is in compliance with the federal mandate and with Tennessee State law. The ordinance provides definitions for the various terms that I have just mentioned including gross surface area, residential property and other developed property, and it sets forth how the fees will be collected under this fund and how they will be utilized. In addition, the ordinance identifies the process by which adjustments may be made to the stormwater user fee based upon the inclusion of an educational program for ages K-12 or programs that retain the amount of stormwater runoff on an individual property.

Alderman Billingsley asked questions regarding the power of the Board since the amendment points to it being an administrative function.

Mr. Lawton stated with the adoption of the credit manual, it will give administration the ability to make decisions as to property area and type of development as questioned by the development community or not for profit community in terms of the size the fee is based on. It will give administratively the ability to go in and make administrative decisions as opposed to having to bring back each one of them to the Board. The parameters will be based on what the Board sets by adoption of the manual.

In response to a question from Alderman Billingsley, Mr. Lawton stated if a homeowner brought the appeal to Administration and it was not satisfied with that answer they could next appeal to City Engineering staff. There is a time line within the manual which the City would have to act.

City Engineer Tim Gwaltney stated for commercial, once the fee is enacted, they will have three months to submit to the Engineering Department documentation that substantiates or justifies the use of a lower run-off. If the department received the paperwork within the 90 day period and everything is approved, the fee reduction would be retroactive back to day one. The credit must be applied for annually. An entity must reapply for credits annually.

If the amount of the fee reduction is not accepted, then they have the right to appeal to the City Administrator. If still not satisfied, then they can appeal to Court.

Alderman Billingsley stated if we have the ability to impose the tax, then the Board should have the same authority to review.

A discussion followed on the cap for the credits being 15%.

Alderman Billingsley asked staff to be sure and look at some of the suggestions that private businesses offered in detail.

A discussion then followed on how the quality of stormwater is measured and how the FAC is involved.

In response to a question from Alderman Drinnon, Mr. Lawton again went into detail to distinguish the difference and the reason why it is a user fee instead of a tax. He stated the Attorney General had handed down an opinion that it was a user fee because it is proportionately based across the community and therefore all users who contribute to the stormwater runoff would be required to pay this fee. Not for profit and tax exempt entities must also pay this fee because it is not a tax.

In response to a question from Alderman Palazzolo, Mr. Lawton stated this fee will be operated as an enterprise fund and the fee structure will be reviewed periodically along with all budget items.

Mayor Goldsworthy opened the public hearing.

Jim Schmiedicke of 3085 Howard Rd. felt the ordinance did not provide for equity among users. He referred to the section "Credits to stormwater user fees".

Sidney Kuehn of 8779 Tree Chimneys Drive West was concerned about senior citizens and the impact this user fee will have on the citizens at this time with the economy down. He was also concerned with the PUD's in the area and what they will have to pay even though they have ponds to take care of their stormwater. Mr. Kuehn suggested the final appeal by a citizen should not be sent to the City Administrator as the final decision maker when there are elected officials that should be the ones to hear the final appeal rather than go through the courts.

Mr. Kuehn was also concerned with what the money was going to be spent on and asked the citizens to look at the line item budget and where the money will be spent.

Having no other citizens come forward, the public hearing was concluded.

Motion by Mr. Drinnon, seconded by Ms. Hinely, to approve on second reading Ordinance No. 2009-18 Stormwater User Fees.

ROLL CALL: Chism-yes, Billingsley-yes, Drinnon-yes, Hinely-yes, Palazzolo-yes. Motion approved.

Landscape Management and Mowing Services

Mr. Bo Mills explained this was a three year contract for landscape management and mowing contract with Landscape Services Group. There was a mandatory pre-bid meeting held at City Hall on December 16, 2009. Ten contractors were in attendance. The athletic turf mowing will be done by the City. By combining the services of landscaping maintenance, biannual planting, irrigation system maintenance and mowing of the common areas and right of ways the city realized over \$60,800 in savings over the previous year's actual contract costs.

Motion by Ms. Hinely, seconded by Mr. Palazzolo, to enter into a three-year contract with Landscape Services Group for the landscape management & mowing services in the annual amount of \$376,409.20.

ROLL CALL: Chism-yes, Billingsley-yes, Drinnon-yes, Hinely-yes, Palazzolo-yes. Motion approved.

Johnson Road Pumping Station Renovation - DEFERRED

Civic Support – Germantown Community – Television Foundation Amendment

Community Services Division Director George Brogdon explained that the Board had approved a grant for \$280,000.00 for four HDTV cameras. GHS-TV is asking to modify the grant and the requests to allow them to allow \$109,850.80 for the four cameras, with the remaining money for the cameras coming from ComCast. The remainder of the City's funds (\$170,149.20) will be used for operating expenses for the GHS-TV Foundation.

In response to a question from Alderman Palazzolo, Mr. Brogdon stated the dollars the Foundation receives from ComCast must go toward capital so those dollars will go for capital expenses and the remaining dollars the City gives them will go for operating expenses.

Motion by Hinely, seconded by Drinnon, to amend the Germantown Community Television Foundation grant of \$280,000.00 to be used to purchase 4 HDTV cameras in the amount of \$109,850.80 and the remainder of the funds, \$170,149.20 for operating expenses.

ROLL CALL: Chism-yes, Billingsley-yes, Drinnon-yes, Hinely-yes, Palazzolo-yes. Motion approved.

CONSENT AGENDA

Subdivision Development Contract No. 356 – Resubdivision of Lot 5, Johnson Road S/D – Refund of Interest for Fees Paid to City – Steve McCabe

The owner has requested interest to be paid on the balance of funds from 1996 to 2008, when the fees were fully refunded. In 1996, the Board approved a partial refund to the owner that included interest on the fees paid to the City. The interest to be paid the developer on the balance of \$5,438 at 5% annually for 12 years is \$3,262.80.

MOTION: To approve a payment to Steve McCabe (owner) for the amount of \$3,262.80, the amount of interest to be paid in conjunction with Subdivision Development Contract No. 356.

Subdivision Development Contract No. 284, 290 and 368 – Forest Hill Grove S/D, Forest Hill Cove S/D and Forest Hill Grove S/D, Resubdivision D, Lot 3 – Refund of Interest for Fees Paid to City – Norman Brown, Jr. - REMOVED

Recognition of Overtime Reimbursement – Police Department

The Germantown Police Department has an officer assigned to the FBI Joint Safe Streets Task Force. The officer usually works overtime in the performance of his duties. The BI SSTF reimburses any overtime that the officers receives while carrying out his duties.

MOTION: To recognize overtime reimbursement from the Federal Department of Justice and to approve Budget Adjustment #10-74.

Germantown Youth Competitive Soccer – Budget Adjustment

In the spring of 2009, the Parks and Recreation Department implemented a top quality soccer experience for players in the Germantown area that emphasizes fun and de-emphasizes winning at all costs. To date, staff has collected \$12,000 in registration fees. Participants are required to pay half of the cost up front and the second half by January 28. The season is scheduled to begin the last week in February. The money will be spent for uniforms and equipment. This program is self-sustaining.

MOTION: To establish the Germantown Youth Soccer Competitive program under the auspices and management of the Parks and Recreation Department, accept money from registration fees in the amount of \$12,000.00 as revenue for the program and to approve Budget Adjustment No. 10-77.

Acceptance of Grant – Department of Energy

The City has received funding from the Department of Energy for the conversion of existing incandescent traffic signal heads to energy Light Emitting Diode (LED) traffic signal heads at a cost of approximately \$139,600.00. In addition, \$30,000.00 has been made available to the development of a Sustainable Energy Program and the establishment of a Green Council. The total grant is \$169,600.00.

MOTION: To accept a Grant in the amount of \$169,600.00 from the Department of Energy for creating and implementing energy conservation strategies to reduce energy consumption within the City and to approve Budget Adjustment No. 10-76.

Delinquent Accounts

The City established an agreement with the Shelby County Trustee to assist in the collections of delinquent accounts. The Shelby County Trustee has determined that eight tax parcels with a total personalty property tax base of \$1,846.71 are out of business and recommend their removal from the tax rolls.

MOTION: To request of approval of the Board of Mayor and Aldermen to remove from collection, delinquent personalty property tax accounts totaling \$1,846.71.

Appointment of Commission Chairmen

The Board of Mayor and Aldermen in 2009 amended the ordinance regarding the appointment of commission chairmen. In December 2009 the Board appointed all of the commission chairmen with three exceptions.

MOTION: To approve the appointment of Donna Newman as chairman of the Telecommunications Commission, Joe Skelley as chairman of the Environmental Commission and Lillie Kay Mitchell as chairman of the Public Safety Education Commission.

Appointment to Financial Advisory Commission

Staff is recommending Mr. Mark Kooker to fill the vacancy on the Financial Advisory Commission.

MOTION: To approve the appointment of Mr. Mark Kooker to serve on the 2010 Financial Advisory Commission.

Appointment to Beautification Commission

Staff is recommending Mr. Donald Herring to fill the vacancy on the Beautification Commission.

MOTION: To approve the appointment of Mr. Donald E. Herring to serve on the 2010 Beautification Commission.

Motion by Mr. Chism, seconded by Ms. Hinely, to accept the consent agenda as presented.

ROLL CALL: Chism-yes, Billingsley-yes, Drinnon-yes, Hinely-yes, Palazzolo-yes. Motion approved.

ADJOURNMENT

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

Sharon Goldsworthy, Mayor

Dotty Johnson, City Clerk/Recorder