

BOARD OF MAYOR AND ALDERMEN
February 25, 2019

The regular meeting of the Board of Mayor and Aldermen was held on Monday, February 25, 2019 at 6 p.m. in the Council Chambers at City Hall.

Mayor Mike Palazzolo was present and presiding.

The following aldermen were present: Scott Sanders, Mary Anne Gibson, Dean Massey, Forrest Owens and Rocky Janda. Staff present: Pam Beasley, Michele Betty, Reynold Douglas, Tony Fischer, Sarah Goralewski, Tim Gwaltney, Richard Hall, Patrick Lawton, Mac McCarroll, Bo Mills, Lisa Piefer, Sheila Pounder, Cameron Ross, Emily Rozar, John Selberg and Steve Wilensky.

Call To Order

The Mayor called the meeting to order.

Invocation

Pam Beasley gave the invocation.

Pledge of Allegiance

Scout Troop 86 from Second Presbyterian Church led the Pledge of Allegiance.

Set Agenda

During the executive session, the Board unanimously agreed to move to the regular agenda item 9f – Professional Services Agreement – Germantown Country Club Appraisal and to move to the consent agenda item 10 – Appointments to Commissions.

Motion by Mr. Massey, seconded by Mr. Sanders, to add discussion regarding limits on debate and the parliamentary.

ROLL CALL: Sanders-yes, Gibson-yes, Massey-yes, Owens-no, Janda-no. Motion approved.

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

ROLL CALL: Sanders-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 regular meeting held February 11, 2019.

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

Citizens to be Heard

No citizens came forward.

Special Recognition – Proclamation – Arbor Day

The Mayor proclaimed Friday, March 1, 2019 as the 147th anniversary celebration of Arbor Day.

Alderman Liaison Reports

The Aldermen reported on their commission activities.

CONSENT AGENDA

Contract Extension - Collection Agency Services

For the past four years, the City has utilized the services of Automated Collection Services, Inc. (ACSI) to collect outstanding receivables owed to the City for ambulance transportation services, utility services, court services

and non-sufficient fund checks. In February of 2015, the City and ACSI entered into a three-year contract with the option of two additional, one-year extensions for a maximum of five years.

MOTION: To extend existing contract with Automated Collection Services, Inc. for collection services of outstanding receivables for an additional period of twelve (12) months at the City's option.

Donations – Animal Shelter

The animal shelter received a donation from the Friends of the Germantown Animal Shelter in the amount of \$8,995.00. The donation is to be used for renovations at the shelter not included in renovations made in 2015.

MOTION: To approve a donation made to the Germantown Animal Shelter in the amount of \$8,995.00 from The Friends of the Germantown Animal Shelter and to approve Budget Adjustment No.19-52.

Donations - Fire Department

The Fire Department received donations for the purchase of emergency medical supplies for the Fire Department totaling \$1,550.00. The 100 Club of Memphis donated \$1,500.00 and Clarence and Lorraine Heist donated \$50.00.

MOTION: To accept donations to the Fire Department to use for the purchase of emergency medical supplies for the Fire Department totaling \$1,550.00 and to approve Budget Adjustment No. 19-58.

PEG Disbursement To GMSD – 2nd Quarter

The City receives Public, Education and Government (PEG) funding from Comcast and AT&T based upon the number of subscribers on a quarterly basis. The funds are redirected to the PEG designated station by the City to the Germantown Municipal Television Station. The funds from the second quarter of fiscal year 2019 are from October 1, 2018 through December 30, 2018.

MOTION: To authorize the disbursement of Public, Education and Government funding collected by the City to Germantown Municipal School District in the amount of \$42,181.30.

Professional Services Agreement – Farmington Park Playground Renovation Phase II

Phase I of a two-year renovation project to expand and update the playground and adjacent recreation spaces was recently completed. The FY19 budget included \$430,000.00 of funding to advance Phase II of the project. Funding to advance the Parks and Recreation Master Plan, which calls for reinvestment in neighborhood parks as priority, will provide the balance of the money needed to complete this project. This funding request addresses development of the construction documents necessary to bid the Phase II project.

MOTION: To authorize the Mayor to execute an agreement with Dalhoff Thomas Design Studio for professional services for the development of construction documents and provide construction administration for Phase II of the Farmington Playground Project in the amount of \$30,000.00.

Appointments to Commissions

Design Review Commission

There is one vacancy on the commission due to the passing of Mr. Neil Sherman. Mrs. Pat Sherman has expressed her interest to serve on this commission. The term of this appointment expires on December 31, 2019.

MOTION: To approve the appointment of Mrs. Pat Sherman to serve on the Design Review Commission with a term ending December 31, 2019.

Parks and Recreation Commission

There is one vacancy on the commission due to the resignation of Ms. Brittany Pellegra. Mrs. Kimberly Sanders has expressed her interest to serve on this commission. The term of this appointment expires on December 31,

2019.

MOTION: To approve the appointment of Mrs. Kimberly Sanders to serve on the Parks and Recreation Commission with a term ending December 31, 2019.

Retirement Plan Administration Commission-OPEB

There is one vacancy on the commission. Mr. Jeffrey Lewis has expressed his interest to serve on this commission. The term of this appointment expires on December 31, 2019.

MOTION: To approve the appointment of Mr. Jeffrey Lewis to serve on the Retirement Plan Administration Commission-OPEB with a term ending December 31, 2019.

Purchase - Annual Fire Alarm Protection Services

Last year the Board approved services to City-owned buildings that are equipped with fire alarm systems and fire sprinkler systems due for annual inspections and testing as required by State law. Johnson Controls, our current local vendor, has the Technology, Security and Communications cooperative contract with Sourcewell, formerly NJPA.

MOTION: To approve annual fire alarm protection services provided by Johnson Controls based on established unit pricing from the Sourcewell Cooperative Contract # 031517-SGL in the amount of \$10,710.85 for a one year period.

Purchase - Non-Inventory Janitorial Items

Janitorial items that are not inventoried which have significant impact for providing services and safety in City buildings include entrance mats, dust mops, shop towels, along with towels and wash cloths for jail services. These items are scheduled to be replenished every week. Due to the ongoing use of these items, it is more cost effective to have a full-service rental of these items through Sourcewell cooperative pricing. UniFirst Corporation has the cooperative janitorial supply contract with Sourcewell.

MOTION: To approve annual services provided by UniFirst Corporation based on established unit pricing from the Sourcewell Cooperative Contract # 062415-UFC in the annual amount of \$14,548.56 for a one year period.

Reimbursement - Fire Department - FEMA AFG Grant

The Fire Department successfully applied for and received a grant through the FEMA AFG Program to obtain power lift systems and power cots for five ambulances. This grant was previously approved by the Board of Mayor and Aldermen. The equipment was purchased and installed; and the Fire Department submitted the request for reimbursement.

MOTION: To recognize reimbursement from FEMA AFG Grant in the amount of \$225,370.00 and approve Budget Adjustment No.19-56.

Reimbursement - Fire Department - TN Task Force One

The Germantown Fire Department has numerous personnel that serve as members of Tennessee Task Force One (TN-TF1), a Federal Emergency Management Agency (FEMA) Urban Search and Rescue Team. During 2018, Fire Department personnel deployed with TN-TF1 to Hurricanes Olivia (Hawaii), Florence (Virginia and East Coast), and Michael (Florida). Through our Memorandum of Agreement with TN-TF1 as a participating member, Germantown receives reimbursement for the backfill costs to cover the vacancies of deployed personnel, or reimbursement for their direct salaries if their position is not backfilled, such as for some staff personnel. This reimbursement from TN-TF1 (via FEMA) is made through the sponsoring agency, the City of Memphis.

MOTION: To recognize reimbursement from the City of Memphis for salary reimbursement and backfill costs for personnel deployed with Tennessee Task Force One to hurricane deployments in 2018 in the total amount of \$40,432.32 and approve Budget Adjustment No. 19-57.

Motion by Mr. Janda, seconded by Ms. Gibson, to approve the items on the consent agenda as read.

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

REGULAR

Contract - Winchester Road Resurfacing Project

The project limits are from Forest Hill Irene Road to the eastern city limits. The surface asphalt is experiencing heavy cracking as well as pot holes. Public Works crews have been making spot repairs through the years, but the time has come for a complete mill and overlay. Knowing that this lone project would take Public Works' entire annual mill/overlay (resurfacing) budget, the City requested and received Surface Transportation Program (STP) funds through the Memphis-Metropolitan Planning Organization. STP funds are 80% reimbursable, meaning the City will be responsible for 20% of the project cost. The City entered into TDOT Local Programs contract on December 20, 2016 in order to proceed with the project. Fisher & Arnold completed the design and construction documents for the project in 2018.

Motion by Mr. Sanders, seconded by Mr. Janda, to approve a contract with Standard Construction Company in the amount of \$1,480,339.85 for the resurfacing of Winchester Road from Forest Hill Irene Road to the eastern city limits and to approve Budget Adjustment No. 19-53.

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

Supplement No.1 – Construction Engineering and Inspection Services - Winchester Road Resurfacing Project

Winchester Road from Forest Hill-Irene to the eastern city limits is in need of a complete mill & overlay. Knowing that this lone project would take Public Works' entire annual mill/overlay budget, the City requested and received Surface Transportation Program funds through the Memphis-Metropolitan Planning Organization.

On March 13, 2017, the City entered into a professional services agreement with Fisher & Arnold, Inc. to provide engineering services for this project in the amount of \$97,521.00 for the environmental and construction document preparation phase, which were completed in late calendar year 2018. At the March 13, 2017 BMA meeting, the BMA was informed that staff would be returning to request that CEI services, in the amount of \$142,500.00, be added to Fisher & Arnold's contract at the time the project is ready to proceed to construction. In addition to this amount, TDOT charges a fee to provide materials engineering and testing. For this project, TDOT's fee is \$14,300.00. Both of these items are 80% reimbursable and are budgeted in the City's FY19 Capital Improvement Program.

Motion by Ms. Gibson, seconded by Mr. Janda, to approve Supplement No.1 in the amount of \$142,500.00 to an existing professional services agreement with Fisher & Arnold, Inc. for Construction Engineering and Inspection Services and TDOT engineering services fee in the amount of \$14,300.00 for the Winchester Road Resurfacing Project.

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

Development Contract No. 1226 and Final Site Plan for New Cell Tower - Madonna Learning Center (7007 Poplar Ave.)

This project will include the construction of a new 140' tall cell tower for 3-4 carriers to be placed in the side yard. On behalf of Tower Ventures (for T-Mobile, a service provider tenant), Prime Development Group is

requesting a new wireless transmission facility (cell tower) to be located at Madonna Learning Center. Contract No. 1226 is a standard project development contract. The request is for a new 140' tall cell tower for 3-4 carriers to be placed approximately 15' from the west side property line, approximately 75' west of the existing school building and 150' from the curb of Poplar Ave. A 21 ft. by 80 ft. equipment compound around the tower, enclosed by a 6' wood fence, would be 10' from the west side property line. The neighbor to the west is Millstone Nursery and the neighbor to the east is a single-family house. There are no adjoining neighbors to the immediate north or south.

Motion by Mr. Janda, seconded by Mr. Sanders, to approve Project Development Contract No. 1226 and final site plan for a new cell tower at Madonna Learning Center (7007 Poplar Ave.).

Motion by Mr. Massey, seconded by Mr. Sanders, to postpone this agenda item to allow time for the Design Review Commission to review the application for further consideration of the shape and design of the tower.

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

Motion by Mr. Sanders, seconded by Ms. Gibson, to amend the motion by inserting the words "monopine"

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

ROLL CALL: On original motion by Mr. Janda, seconded by Mr. Sanders, to approve Project Development Contract No. 1226 and final site plan for a new cell tower at Madonna Learning Center (7007 Poplar Ave.).

Sanders-yes, Gibson-yes, Massey-no, Owens-yes, Janda-yes. Motion approved.

Ordinance No. 2019-5 - Amendments to Zoning Ordinance Chapter 23 – Smart Code: Site Standards - Third and Final Reading

An application for a zoning text amendment was filed at the request of the Planning Commission to clarify language in the Smart Code. The Planning Commission approved the revised language to Sections 23-793(A)(1) and 23-793(A)(3) to clarify the minimum width of a vehicle entrance from a designated frontage street in the "T5 & T6" Zoning District and to clarify the minimum driveway width permitted in all Smart Code Zoning Districts.

Motion by Mr. Owens, seconded by Mr. Janda, to approve on third reading Ordinance 2019-5, amendments to Chapter 23 of the Municipal Code, Germantown Smart Code Ordinance Site Standards related to Driveways.

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

Ordinance No. 2019-6 - Amendments to Zoning Ordinance Chapter 23 – Wireless Transmission Facility – Third and Final Reading

An application for a zoning text amendment has been filed at the request of the Planning Commission to update the language in the City Code to modify Chapter 23-86 (Wireless Transmission Facility) of the Municipal Code to update the existing regulations pertaining to the review process of wireless transmission facilities and to ensure conformance with changes recently adopted by the Federal Communication Commission and the state legislative bodies (Public Charter No. 819).

Motion by Mr. Sanders, seconded by Ms. Gibson, to approve on third reading Ordinance 2019-6, amendments to the Germantown Ordinance related to Wireless Transmission Facilities.

Motion by Mr. Massey, no second, to postpone the vote and have the amendments sent back to the Planning Commission. The motion failed.

Motion by Mr. Sanders, seconded by Ms. Gibson, to approve on third reading Ordinance 2019-6, amendments to the Germantown Ordinance related to Wireless Transmission Facilities, as amended.

ROLL CALL: Sanders-yes, Gibson-yes, Massey-abstain, Owens-yes, Janda-yes. Motion approved.
Motion by Mr. Sanders, seconded by Mr. Janda, to strike 16” in diameter and replace it with 18” in diameter.

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

Motion by Mr. Massey, seconded by Mr. Sanders, to postpone the vote until staff and the City Attorney can bring forward a redline version of the third and final reading.

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

ROLL CALL: Motion by Mr. Sanders, seconded by Ms. Gibson, to approve on third reading Ordinance 2019-6, amendments to the Germantown Ordinance related to Wireless Transmission Facilities, as amended two times.

Sanders-yes, Gibson-yes, Massey-no, Owens-yes, Janda-yes. Motion approved.

Ordinance No. 2019-7 - Amendment to Subdivision Ordinance Chapter 17-60 – Parkland Dedication – First Reading

An application for an ordinance text amendment has been filed at the request of the Planning Commission. The Planning Commission recommended approval of the proposed changes to the ordinance at their meeting on January 8, 2019. Planning Division staff has worked with the Parks and Recreation Department staff on the proposed text amendments, and they were presented to the Parks and Recreation Commission on August 23, 2018 at their regular meeting. The approval of these proposed text amendments will make three specific changes to the existing parkland dedication ordinance: All new residential projects shall be required to contribute to parkland dedication, payment in-lieu of parkland dedication fees may be used for parks on a city-wide level and the Parks Director reviews preliminary design plans. The City attorney has reviewed the proposed ordinance amendments and finds that the amendments are acceptable as written.

Motion by Ms. Gibson, seconded by Mr. Janda, to approve on first reading Ordinance 2019-7, amendments to Section 17-60 (parkland dedication) of the Subdivision Ordinance in the Municipal Code, and set the Public Hearing for March 25, 2019.

ROLL CALL: Sanders-yes, Gibson-yes, Massey-no, Owens-yes, Janda-yes. Motion approved.

Ordinance No. 2019-8 - Amendment to the Vegetation Ordinance Chapter 22 – Tree Preservation and Planting Requirements – First Reading

An application for an ordinance text amendment has been filed at the request of the Planning Commission. The approval of these proposed text amendments will make two specific changes to the existing tree preservation and planting ordinance as administered by the Design Review Commission. The changes are to establish the option of a payment in-lieu of tree dedication fee to a new City tree replacement (and maintenance of those trees) account and establish the option of a cap to the payment in-lieu of dedication fee. The City attorney has reviewed the proposed ordinance amendments and finds that the proposed text amendments are acceptable as written.

Motion by Mr. Owens, seconded by Ms. Gibson, to approve on first reading Ordinance 2019-8, amendments to Sections 22-107 and -108 (tree preservation and planting requirements) of the Vegetation Ordinance in the Municipal Code, and set the Public Hearing for March 25, 2019.

ROLL CALL: Sanders-yes, Gibson-yes, Massey-no, Owens-yes, Janda-yes. Motion approved.

Ordinance No. 2019-9 – Amendments to Chapter 2, Article VI, Division 2 – Purchasing – First Reading

The Procurement Department works with all City departments to complete an annual review of current procurement policies, processes and procedures. This review considers the actual cost of delivering the required services, the existing methods of delivering services, and new laws, procedures and technology that can be used to enhance service delivery. These evaluations assist the City in providing services and purchases in the most effective and efficient manner possible.

Sec. 2-328 Purchasing Expenditures: Since 2015, when the state law changed, City staff has been monitoring the purchase thresholds to determine if the City would need to implement the new thresholds permitted by state law. Staff researched best practices in comparable cities in the area and across the state to see what cities had increased their thresholds. Staff also utilized the Tennessee Association for Public Purchasing Agency Benchmark Survey which indicated that “most entities are within the norm as to bid thresholds and have moved to the highest level permitted by State law (\$25,000.00).” It is the recommendation of staff to increase the limit for public advertisement and competitive sealed bids or proposals from the current threshold of \$10,000.00 to \$25,000.00 and to increase the current threshold for three written quotations from \$4,000.00-\$9,999.99 to \$ 10,000.00-\$24,999.99.

Sec. 2-331 Contract Change Orders: The change in the amount from \$2,500 to \$10,000.00 is in line with ordinances from other comparable agencies and has been changed in conjunction with Sec.2-328.

Sec. 2-337 Methods of Disposal: The rules for governmental accounting defining the dollar amount of assets changed from \$500 to \$5,000 in 2010. The City implemented internal processes to address the change; but did not update the ordinance..

Sec 2-338 Competitive Sealed Proposals: The T.C.A. identified in the existing ordinance language is incorrect. It should be T.C.A. 12-3-1207

Per T.C.A 12-3-1212, the final step in this process is to adopt by resolution the City’s administrative policies and procedures for procurement. Staff will present the resolution to the BMA for approval at the third and final reading, provided the proposed ordinance is approved. The City attorney has assisted with the review of the ordinances and approved the amendments.

Motion by Mr. Janda, seconded by Ms. Gibson, to approve Ordinance 2019-9 with the proposed amendments to modify Chapter 2, Article VI, Division 2 – Purchasing of the Germantown Code of Ordinances and set the second reading and public hearing for March 25, 2019.

Motion by Mr. Sanders, seconded by Mr. Massey, to amend the motion by inserting the words “at the next available Board meeting” to the end of Section 2-328(c)4 and Section 2-331(5) words “by the next available Board meeting.”

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

ROLL CALL: On motion by Motion by Mr. Janda, seconded by Ms. Gibson, to approve Ordinance 2019-9 with the proposed amendments to modify Chapter 2, Article VI, Division 2 – Purchasing of the Germantown Code of Ordinances and set the second reading and public hearing for March 25, 2019, as amended.

Sanders-yes, Gibson-yes, Massey-no, Owens-yes, Janda-yes. Motion approved.

Professional Services Agreement – Germantown Country Club Appraisal

In January of 2019, the Germantown Country Club announced that it will be closing its doors at the end of February 2019. The nearly 180-acre property has been placed in a trust and is being managed by a Trustee. Shortly after the sale of the property was announced, the City expressed to the Trustee a strong interest in

acquiring the property. Considering the fiduciary responsibility of the Trustee, a request for proposals (RFP) process will be followed in order to maximize the property's return for the trust. On February 9, 2019, the Parks and Recreation Commission met to discuss whether or not the City should acquire the property and shared some initial thoughts for its potential use. The commission recommended that the City move forward with making an offer to acquire the property.

Motion by Ms. Gibson, seconded by Mr. Janda, to approve a professional services agreement with Bouldin & Associates in the amount of \$12,000.00 for property appraisal services related to the Germantown Country Club, and approve Budget Adjustment No. 19-59.

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

Limits on Debate and Parliamentarian

Motion by Ms. Gibson, seconded by Mr. Janda, to reconsider adding this item to the agenda.

ROLL CALL: Sanders-no, Gibson-yes, Massey-no, Owens-yes, Janda-yes. Motion approved.

Mayor called for a vote on favor to add the discussion regarding limits on debate and discussion regarding a parliamentarian to the agenda.

ROLL CALL: Sanders-yes, Gibson-no, Massey-yes, Owens-no, Janda-no. Motion approved.

The Mayor adjourned the Board of Mayor and Aldermen and reconvened as the Beer Board.

BEER BOARD

Beer Board Hearing – Suspension/Revocation of Beer License – The Fresh Market – 9375 Poplar Avenue

On December 27, 2018, the Germantown Police Department conducted an undercover sting investigation of beer permit holders in Germantown. On that date, a 19-year-old cooperating individual (CI), working with the Germantown Police Department, was sold beer by the defendant. The defendant did not check the CI's identification. Officer K. Rothenberger did witness the transaction and issued the defendant a misdemeanor citation. This incident is a direct violation of the Germantown Beer Ordinance Section 3-82 through 3-89 of selling beer illegally to any person less than twenty-one years of age. The Beer Board has the authority to issue a civil penalty of up to \$2,500 or suspend or revoke the beer permit if it deems appropriate (Section 3-84). The Germantown Police Department served notice of this hearing to The Fresh Market on January 14, 2019.

Motion by Mr. Janda, seconded by Mr. Sanders, to find The Fresh Market, located at 9375 Poplar Avenue, guilty of a violation of the Germantown Beer Ordinance regarding selling beer to a minor.

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

Motion by Ms. Gibson, seconded by Mr. Sanders, to fine The Fresh Market a \$1,500.00 civil penalty in lieu of suspension of beer permit.

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

Meeting adjourned.

Mike Palazzolo, Mayor

Michele Betty, City Clerk/Recorder