

BOARD OF MAYOR AND ALDERMEN

March 8, 2010

A regular meeting of the Board of Mayor and Aldermen was held on March 8, 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, George Brogdon, Debbie Wiles, Inspector Frank Hester, Jerry Cook, Bo Mills, Chief Dennis Wolf, Lisa Piefer, Tim Gwaltney, Tony Ladd, Ralph Gabb, Michael Stoll, and Dotty Johnson.

Call to Order

Mayor Goldsworthy called the meeting to order.

Alderman Chism was absent when the meeting was called to order.

Invocation

Economic and Development Services Director Andy Pouncey gave the invocation.

Pledge of Allegiance

Alderman John Drinnon led the Pledge of Allegiance.

Alderman Chism entered the Council Chambers.

Approval of Agenda

Alderman Palazzolo asked to move from the Consent Agenda items 15a and 15g to the regular agenda.

Mayor Goldsworthy asked to add to the agenda some information she would like to share with the citizens regarding the Shelby County Health Department funding.

Motion by Mr. Drinnon, seconded by Ms. Hinely, to accept the agenda as amended.

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

Approval of Minutes

Alderman Palazzolo stated on page two of the minutes under Citizens to be Heard, the fourth paragraph, third sentence, the sentence should read "they did *the* best they could."

Alderman Billingsley stated on page five of the minutes, the second paragraph, second sentence the words "*his problems with the stormwater fee had not been about every aspect of the fee and*" should be omitted and should read "He stated he did not necessarily agree with the stormwater fee -----."

Motion by Mr. Palazzolo, seconded by Mr. Billingsley, to accept the minutes of the February 22, 2010 meeting as amended.

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

Youth Excellence Award

Mayor Goldsworthy, Alderman Hinely and members of the Education Commission came forward to present Ms. Elizabeth Stagich with the award for February. Ms. Stagich is a member of Germantown High School's first graduating class of International Baccalaureate students. Her award was sponsored by Traditions.

Teacher of the Month Award

The Teacher of the Month for February was presented to Ms. Linda Riggan, a counselor at Houston High School. Mayor Goldsworthy read her many accomplishments and presented her with a check from this month's sponsor, Mellow Mushroom.

Presentation by Memphis Metropolitan Planning Organization

Director of Development Jerry Cook came forward and introduced Mr. Brett Roler from the Memphis Metropolitan Planning Organization (MPO). Mr. Roler made a presentation concerning an upcoming transportation planning initiative as a precursor to the next Long Range Transportation Plan (LRTP) for the MPO planning area. He stated the MPO was currently gathering data and preparing for the public participation planning process. This process will integrate transportation and land use decision making for the selection and implementation of transportation projects.

Citizens to be Heard

Mr. Chris Thomas of 9292 Ace Dr, Lakeland came forward and introduced himself to the Board and the citizens of Germantown. Mr. Thomas was formerly the Probate Court Clerk since 1994 and he is currently running for County Commission.

Ordinance 2010 – 1 – Amendment to Chapter 7, Businesses, and Chapter 23, Zoning of the Germantown Code of Ordinances to allow Temporary, Outdoor Sales of Vegetables, Fruit, Produce and Baked Goods in the “C-1” Neighborhood Commercial, “C-2” General Commercial and “SC-1” Shopping Center Zoning Districts – Second Reading

Economic and Development Services Director Andy Pouncey stated this was the second reading of this ordinance. There had been a number of citizens and businesses that had asked for this ordinance. There will be rules and regulations that have been outlined. The market will require applications to the Department of Economic and Community Development. The market will be open between April 1 and November 30. Each market will be open between 7 a.m. and 12 noon on Saturdays only.

In response to a question from Alderman Hinely, Mr. Pouncey stated the third reading and public hearing will be held in two weeks and then it will be ready to go.

Alderman Billingsley questioned why the early hours.

Mr. Pouncey stated markets are usually held during these times primarily because the vendors want it early and they sell out early and can get ready for the next day sales.

Alderman Billingsley asked what was being done to make sure it did not become a garage sale or junk sale.

Mr. Pouncey stated the ordinance states is it limited to the sale of vegetables, fruit, produce and baked goods.

Mr. Lawton stated this ordinance is an amendment to the existing Chapter 7 - Peddlers, Transient Vendors and Mobile Frozen Dessert Vendors and this ordinance is very restrictive. The ordinance will remain intact; this amendment will just be a revision that will allow this market.

In response to a question from Alderman Palazzolo, Mr. Pouncey stated a Code Compliance officer will check for compliance and if there is an infraction, the applicant will be restricted or denied to sell in the future.

Alderman Palazzolo also requested that a time be set when the vendors could set-up.

Motion by Ms. Hinely, seconded by Mr. Billingsley, to approve Ordinance No. 2010-1 on Second Reading.

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

PUBLIC HEARING – Appeal of Planning Commission Decision: Sanders Ridge PUD – northern terminus of Cedar Ridge Drive, north of Poplar Pike – Request amendment to the PUD for the installation of gates. - DEFERRED

Engineering Services for the McVay Road Interceptor Replacement Project

City Engineer Tim Gwaltney explained that in 1999, Phase 1 of the Howard/McVay Road Drainage Improvements was completed. This consisted of the McVay Park detention facility and approximately 1,300 feet of drainage pipe ranging in diameter from 36” to 54”. The pipe material used on the project, thin-walled, corrugated High Density Polyethylene (HDPE) is a material that is no longer allowed for use on City projects within the right-of-way. Recent inspections of the existing pipe have revealed that a total of approximately 800 feet of HDPE pipe is in need of replacement.

The design contract under consideration will provide for all necessary field data collection, preparation of construction documents, engineer’s construction cost estimate and assistance in award of construction contract. The pipe will be replaced with reinforced concrete pipe (RCP). The construction contract will be brought to the Board for approval in August of this year.

In response to a question from Alderman Palazzolo, Public Services Director Bo Mills stated the pipe had completely collapsed in numerous places and had shown stress fractures where future collapses will occur in the 800 ft. section. He stated the pipe was large enough for crawl space but he would not put a man in there because it was so dangerous. They had used the sewer camera for inspection.

Mr. Gwaltney stated the work had been done in 1999 and staff had been in touch with the original company and they had offered to replace the pipe with a light pipe but staff felt this was not suitable. Staff is in the process of pursuing the matter.

It is projected that the cost of replacement will be approximately \$150,000.00.

Motion by Mr. Billingsley, seconded by Mr. Palazzolo, to authorize the approval of a Professional Services Agreement with Gresham Smith and Partners in the amount of \$18,820.00 for the design and construction documents preparation related to the McVay Road Interceptor Replacement, and approve Budget Adjustment 10-109.

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

Construction Engineering and Inspection (CEI) Services for Farmington Blvd. Reconstruction Phase I (our ARRA project).

Mr. Gwaltney stated this was for Phase 1 (Allenby Road to Wolf River Blvd.) for construction engineering and inspection services related to the Farmington Blvd. reconstruction project.

In 2009, the City submitted this project for funding consideration through the 2009 American Recovery and Reinvestment Act (ARRA). The Memphis MPO determined that the project met the ARRA funding requirements and subsequently set aside \$1,650,000.00 for the project. ARRA funded projects are Locally Managed and 100% reimbursable.

The design and construction documents have been completed, reviewed and approved by staff and sent to TDOT for final review and approval. TDOT has indicated their approval of the construction documents by providing the City a "Notice to Proceed" to the Construction Phase of the project.

Phase II (Allenby Road to Germantown Road) will be funded through Surface Transportation Program funds.

It is expected that staff will bring the construction contract back to the Board in late May.

Motion by Mr. Drinnon, seconded by Ms. Hinely, to authorize the approval of a Professional Services Agreement with The Pickering Firm, Inc. in the amount of \$123,520.00 for Construction Engineering and Inspection services related to Farmington Boulevard Reconstruction Phase I.

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

Professional Services Agreement – Southern Avenue Water Plant Refurbishment

Public Services Director Bo Mills stated since 1977 the Southern Avenue Water Treatment Plant had served as the City's primary water production facility. With the completion of the Johnson Road Plant of the Southern Avenue Plant can now be refurbished without any interruption of service to the residential and commercial customers in the City.

Allen & Hoshall, Inc. has provided water and sewer professional services for the City for nearly 45 years. They were the original designers of the Plant and have advised the City on many of the water system improvements.

Motion by Ms. Hinely, seconded by Mr. Drinnon, to authorize the Mayor to enter into a Professional Services Agreement with Allen & Hoshall, Inc., for the design and reengineering services, construction administration and inspection of the improvements to the Southern Avenue Water Treatment Plant in an amount not to exceed \$90,100.00.

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

Supplement to Germantown Public Assembly Design Contract – Dalhoff Thomas Daws – Moved from Consent

Economic & Development Services Director Andy Pouncey stated this was a request for a supplement that would cover two areas. First, additional services (\$4,900.00) previously performed but not within the original scope, including the coordination of additional survey information, coordination and meetings on-site with the arborist to determine the scope of work and conditions of trees, and coordination with the conceptual designer and the product manufacturers as alternatives and customization was explored.

Additional services (\$3,200.00) are also anticipated in order to finalize the plans and reduce construction costs. These include coordination with the geotech and reporting for use by the structural and product engineers, additional design for the structural integrity of the stage and a detail for the boardwalk. The total for these services will total \$8,100.00.

In response to a question from Alderman Palazzolo, Mr. Pouncey stated the original agreement was around \$32,000.00 and this will bring it up to around \$40,000.00. This project was allotted \$250,000.00 for FY10. This \$40,000.00 will come out of the \$250,000.00.

Motion by Ms. Hinely, seconded by Mr. Drinnon, to authorize the approval of a supplement to Germantown Public Assembly Design Contract with Dalhoff Thomas Daws in the amount of \$8,100.00 for services related to the design of improvements to the public assembly area of Morgan Woods Park.

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

Subdivision Development Contract No. 448 – Resubdivision of Lot 6, Johnson Road Subdivision – Refund of Payment in Lieu of Developments to Duntreath Road – David Wright, Applicant – Moved from Consent

Mr. Pouncey stated this was a request by Dr. David Wright for a refund of the money he paid to the City and the interest gained, since others along Duntreath Road who have paid the City money in lieu of improvements have been refunded their fees. Also, on the east side of Duntreath Road, across the street from Dr. Wright's property and Mr. McCabe's property, the developer of Waldon Woods Subdivision was given a refund for payment in lieu of improvements.

As part of the development contract requirements for the subdivision, the City required Dr. Wright to pay a fee in lieu of making the street improvements to Duntreath Road. At a rate of \$28.18 per linear foot of road improvements, Dr. Wright was responsible for 132.53 linear feet, for a total of \$3,734.70.

In response to a question from Alderman Palazzolo, Mr. Pouncey stated he did not foresee any more requests for refunds.

Alderman Drinnon asked for the Board to be brought up to date on the rules governing the money paid for street improvements and a designated period of time for these improvements to be made. He felt it was not fair for the residents to pay that money and the City not make the improvements.

Mr. Pouncey stated there was not a designated period of time established and they would take a look at this request.

Motion by Ms. Hinely, seconded by Mr. Drinnon, to approve a payment to Dr. David Wright (owner) for 1) the amount of \$3,734.70, equal to the amount of payment in lieu of developments that was paid in conjunction with Subdivision Development Contract No. 448, and 2) the amount of \$663.41, equal to the amount of interest earned on the payment in lieu of funds, totaling \$4,398.11 for both reimbursements.

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

CONSENT AGENDA

Fireworks Display – July Family Fourth Event

Each year, the City contracts with a fireworks company to provide an electronically fired aerial fireworks display for the July Family Fourth event held at Municipal Square Park. The contract was awarded in FY09 in the amount of \$15,000.00 for the 2009 show, with an option to extend the contract for two additional years at the same price. The City would like to exercise that option and recommend using the contractor through 2010.

MOTION: To authorize the Mayor to extend the contract agreement with Pyro Shows, Inc. for one additional year for the July 4, 2010 fireworks display in the amount of \$15,000.00.

Tennis Professional Services Contract

The City received three proposals from qualified individuals interested in providing a comprehensive community tennis program to be operated at City tennis facilities and to provide retail services at the pro shop. Kevin Essary has been recommended by the citizen task force and staff.

MOTION: To authorize the Mayor to enter into a new contract agreement, a described in the document, with Kevin Essary, Innovative Athletics, to become the City's Tennis Professional subject to the approval of the City Attorney.

Germantown Youth Competitive Soccer

The Parks and Recreation Department has implemented a competitive division within the Germantown Youth Soccer Program. Staff is handling all administrative functions including program administration, financial management and responsibility for program operations and delivery. This program is self-sustaining.

MOTION: To accept money from registration fees in the amount of \$6,956.00 as revenue for the Germantown Youth Soccer Competitive Program and to approve Budget Adjustment No. 10-103.

Public, Educational and Government (PEG) Revenue and Disbursement FY10-AT&T

AT&T remits to the City two checks on a quarterly basis. One is the franchise fee and the other is a check issued to the City to support the capital needs of public, educational and governmental access and the facilities and equipment for such access (PEG). This is the second quarter check for PEG received from AT&T.

MOTION: To approve budget adjustment number 10-97 increasing the Cable Vision Grant in the amount of \$1,557.40 for FY10 and the payment to the Germantown Community Television Foundation in the amount of \$1,557.40.

Appointment to IDB Board

Mr. Charles McCraw has been recommended to fill the term of Mr. Don Lee who passed away in February. His appointment will expire in 2011. Two members of the Board, Mr. Richard Vosburg and Frank Markus, have term appointments that expired in 2009 and are seeking re-appointment.

MOTION: To approve the appointment of Charles McCraw until 2011, Frank Markus and Richard Vosburg until the year 2015 to serve as members of the Germantown Industrial Development Board.

Motion by Mr. Drinnon, 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.

Mayor's Comments

Mayor Goldsworthy commented on the situation between the suburban mayors and the Health Department that occurred at a meeting held here at City Hall last week.

All eight of the suburban mayors met with Interim Shelby County Mayor Joe Ford, members of his staff and representatives of the Memphis/Shelby County Health Department including its Director Yvonne Madlock. Previously, the mayors had asked for information about revenues from MLGW users for vector control, the 75¢ per month fee that all MLG&W users are paying to deal primarily with mosquitoes and rats. The question was how much money was coming from each of the suburbs and how it was being used by the Health Department.

The Health Department responded with a power point presentation intended to identify all the costs of the Health Department and how its services were allocated across the county, not just for vector control. Shelby County has for years substantially funded locally by Shelby County government with supplemental revenues from the City of Memphis. The best understanding of the arrangement, Memphis provided the extra funding because individual services provided by the health department were disproportionately used by the citizens of Memphis.

In the Spring of last year, Shelby County Commission negotiated away that agreement or obligation of the City of Memphis, leaving the local burden fully on Shelby County government. Further, the agreement provided that the City of Memphis would provide an extra \$2 million for FY11, if the suburban municipalities also contributed. None of the mayors were notified of that contingency, before or after it was adopted by the County Commission.

The resolution was shared with all the communities and the county staff really pushed for a response and given the concern regarding equity of distribution of services, the suburban mayor's respectfully declined to make any decision.

The information that was provided by the Health Department was not helpful to the discussion regarding equity in how the services are provided. Regrettably, the information was based on population and zip code data that was not consistent with what the Mayor's knew about their municipalities. The population numbers were old. It was pointed out that the zip codes take in a lot of area that is not part of the municipality such as the zip code 38139 also takes in a part of Collierville.

The Health Department was uncertain as to whether they could fine tune the client addresses to better define who lives in a municipality or in unincorporated Shelby County. Another problem with the data was the health department presented percentages that calculated the number of persons receiving services against their own town's population. That speaks to the issue of reasonable and rational equity for us as county taxpayers.

This is all similar to the current push for single-source funding for schools. Memphis has historically provided extra funding for Memphis City School system. A recent court decision affirms the obligation of Memphis to continue the funding. Some county commissioners are promoting single-source funding in which all the local burden for schools would fall on county taxpayers. Assuming that the current Memphis contribution would be reassigned to county taxpayers, the impact would be even larger. Just as the county tax revenues are divided between the two systems on a per student basis, equity would require that a proportional amount be added for the Shelby County Schools.

Both the discussions are being conducted outside the Charter Commission tasked with the proposal of a new metro government. The provisions of the new metropolitan government would transfer the responsibility of local school funding and the health department funding wholly to county taxpayers. The suburban Mayor's representing their Boards and citizens have made that question an issue very clear to the Charter Commission.

The concern now is that some of the commissioners of the County Commission are promoting what amounts to defacto consolidation of school and health department funding without adequate and full disclosures to the taxpayers. There is a meeting in a few weeks of the ad hoc committee of County Commission on school funding and the Mayor's will make sure that our concerns are again reported to the commission.

ADJOURNMENT

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