

## **BOARD OF MAYOR AND ALDERMEN**

**February 22, 2010**

A regular meeting of the Board of Mayor and Aldermen was held on February 22, 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, Chief Richard Hall, Bo Mills, Chief Dennis Wolf, Pam Beasley, Katie Graffam, Lisa Piefer, Ernie Moretta, Tonya Moskalenko, Carrie Corbett, Deni Hirsh, Tim Gwaltney, Tim Bierdz, Butch Eder, Ralph Gabb, Michael Stoll, and Dotty Johnson.

### **Invocation**

Financial and General Services Division Director Kristen Geiger gave the invocation.

### **Pledge of Allegiance**

Alderman Carole Hinely led the Pledge of Allegiance.

### **Approval of Agenda**

Mayor Goldsworthy asked to add a proclamation for Arbor Day.

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

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. Palazzolo, seconded by Ms. Hinely, to approve the minutes of the meeting held January 25, 2010 as read.

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

### **Youth Excellence Award**

Mayor Goldsworthy along with Alderman Hinely, Dr. Dino Palazzolo and Ms. Bonnie Lee, members of the Education Commission, presented Mr. Hayden Asquith with the award for the month of January. Mr. Asquith is a senior at Germantown High School and a member of the first graduating class of International Baccalaureate Program. Traditions sponsored his plaque.

### **Teacher of the Month Award**

Mr. Ken Carter was presented the award for the month of January. Mr. Carter is a special education and resource specialist educator for fourth and fifth grade students at Dogwood Elementary. Mayor Goldsworthy read his many skills and talents in educating our young students. Mr. Paul Mormon from Eye Care East presented him with a check.

### **Beautification Commission Business Award**

Alderman Palazzolo presented the Beautification Business Award to Mr. Row Rhett a parishioner and the landscaper for River Oaks Presbyterian Church.

**Add-On – Proclamation – Arbor Day**

Mayor Goldsworthy read a proclamation establishing March 5, 2010 as Arbor Day in the City of Germantown and encouraged all citizens to plant trees to gladden the heart and promote the well-being of this and future generations.

**Recognition of Donation – AT&T – GPAC**

Mr. Chuck Thomas from AT&T presented the Executive Director of GPAC Ms. Tania Moskalenko, GPAC Development Director Deni Hirsh and GPAC Marketing & P.R. Manager Carrie Corbett representing the GPAC Foundation, with a check for \$5,000.00 as a sponsor for the season presentation of “The Rat Pack Is Back”.

**Citizens to be Heard**

Mr. Jim Schmiedicke, 3085 Poplar Grove Lane came forward and expressed his desire for the City to take on the responsibilities of all PUD’s, such as the streets and water systems both sewer and water. Presently the PUD is responsible for these things and he felt it was time for the City to take on the responsibility. He also felt that the stormwater user fee was not equitable and asked the City to amend the ordinance on page six in the first sentence labeled “Credits for Stormwater User Fees”, it lays out how the credits will be established and then states “have been completed after final adoption of this ordinance”. It excludes relief to those people who have already built stormwater retention in their areas, allowing only for those who build in the future. He felt that was unfair. He asked the Board if this ordinance passes to amend it and remove those nine words.

Ms. Lisa Parker, 1649 Kimbrough, stated she was speaking because she felt the Board was not treating the City fairly. As a former alderman she had served under a board that was not effective for two years and it was not pleasant for the staff or the citizens. She stated she was ashamed of the Board’s behavior and the way the Board does business. She stated that campaign contributions, employers, and conflicts of interest had come to play in the Board’s decisions with the stormwater fee. Ms. Parker stated we had the best and the brightest volunteers in the City of Germantown to create and design and implement programs and projects and then the Board appointed one citizen who had done nothing but criticize everyone who works for the City from the City Attorney down. She asked the Board to not make promises they could not keep.

Mr. Richard Walton, 23 Sanders Ridge Cove stated he did not presently live in Germantown but he owned a lot in Germantown. He commended the City for providing excellent services to the citizens.

Mr. Julius Moody, 2100 Knoll Lane came forward and spoke as chairman of the FAC. He reported that the FAC had spent a lot of time on the stormwater issue. With the budget shortfall, they did the best they could, to do what was fair and equitable with the unfunded mandate from the government on the stormwater. He stated it was hard to impose any sort of fee in this economic environment but the methodology that is being used now in this ordinance is the most accurate. The quality factor was put there by the FAC and it was done as a way to not rewrite the book each year.

Alderman Billingsley asked the Board to move 15b-(Competitive Sealed Proposal Authorization – Great Hall Marketing and Promotional Services) on the Consent Agenda to the Regular Agenda to be voted on separately.

Alderman Palazzolo asked the Board to move 15e- (Germantown Baseball Club Field Usage) on the Consent Agenda to the Regular Agenda to be voted on separately.

The Board unanimously consented to move these two items.

Mayor Goldsworthy recessed the Board of Mayor and Aldermen meeting to convene the Beer Board.

### **BEER BOARD**

#### **Temporary Beer Permit – Birthright – OLPH Birthright Ball**

Alderman Palazzolo asked to be recused due to the fact he is a members of OLPH Catholic Church. Alderman Palazzolo left the dais.

City Administrator Patrick Lawton stated that Birthright and OLPH had requested a temporary beer permit in conjunction with their Annual Birthright Ball to be held on April 24, 2010. The necessary record checks had been completed and the application was in compliance with the City's ordinance.

Mayor Goldsworthy opened the public hearing and having no one come forward she closed the public hearing.

Motions by Mr. Chism, seconded by Mr. Billingsley, to approve a temporary beer permit allowing the sale of beer at OLPH on Saturday, April 24, 2010.

ROLL CALL: Chism-yes, Billingsley-yes, Drinnon-no, Hinely-yes, Palazzolo-recused. Motion approved.

Alderman Palazzolo returned to the dais.

Mayor Goldsworthy closed the Beer Board hearing and reconvened the regular board meeting.

### **BOARD OF MAYOR AND ALDERMEN**

#### **Ordinance 2009-18 – Amendment to Chapter 23 – Article VI – Stormwater Management and Adoption of Stormwater Credit Manual – Third and Final Reading**

Mr. Lawton explained the Board was being asked to consider the adoption on third reading of Ordinance No. 2009-18 establishing a user fee for our stormwater management program. The Board is also asked to adopt the adjustment and credit manual.

The Board and the Financial Advisory Commission (FAC) had several work sessions over the past few months 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 into the ordinance any necessary changes as the ordinance stands on first reading. Since the deferral of this ordinance, staff has had two 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 as 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 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. Any adjustment to the fee structure in this proposed ordinance will be reviewed by the FAC and Board of Mayor and Aldermen and changed only by amending this ordinance on three readings.

This third and final reading incorporates the following changes:

1. We have clarified many of the definitions at the front of the ordinance for consistency.
2. We have included the formula and method for calculating the stormwater fee for those properties that fall under the definition of "other developed property".
3. And finally, we have included the provision of a local hearing board to hear appeals from the city administrator if there is a disagreement over his decision regarding the fee calculation of fee credits.

The City's existing stormwater ordinance adopted in 2003 will need to be amended to accommodate a local hearing board and will be presented for first reading on February 25, 2010.

The Board is also asked to adopt the adjustment and credit manual to support many of the requirements in this ordinance specifically as it relates to adjustments to the user fee and credits. The primary changes to the adjustment and credit manual include the elimination of the reference to impervious surface methodology and the inclusion of the local hearing board referenced in my earlier comments.

In response to a question from Alderman Hinely regarding who would make the decision to increase the fee. Mr. Lawton responded that if the ordinance was passed tonight, any changes to the fee, because it is established by an ordinance, would have to go back through the three reading process. Because of the budgetary impact, if an adjustment is necessary, the FAC would review it prior to taking it to the Board.

Alderman Drinnon commented that he resented the unfunded mandates that are required by the government. He commended the City Administrator and the staff for making themselves available to the different groups that were concerned about the stormwater fee. He had availed himself to all the concerned groups. He also commended the FAC for their work.

Motion by Mr. Drinnon, seconded by Ms. Hinely, to approve on third reading Ordinance No. 2009-18 Stormwater User Fees and to adopt the stormwater adjustment and credit manual for the City of Germantown.

In response to a question from Aldermen Palazzolo, Mr. Lawton stated the establishment of a Hearing Board, its content and appointments will come at a later time.

Alderman Palazzolo also asked about using the money generated from this fee for capital projects and Mr. Lawton stated there was a provision written into the ordinance that at some point and time if the fund is

healthy enough to be able to sustain debt on its own then the City would have the ability to use that money but at this point, the money has been identified for purely operational costs.

Mr. Lawton responded to a question from Alderman Palazzolo that anyone who applies for a credit must do so on an annual basis and each will be reevaluated at that time.

Alderman Billingsley stated he appreciated Mr. Lawton and Mr. Moody answering all his questions over the past months. He stated he did not necessarily agree with the stormwater fee but felt we had come a long way relative to our churches, businesses and citizens.

ROLL CALL: Chism-yes, Billingsley-no, Drinnon-yes, Hinely-yes, Palazzolo-yes. Motion approved.

**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 – First Reading and Set Public Hearing Date**

Economic and Development Services Director Andy Pouncey stated that because of the desire of the citizens, some rules and regulations and a definition had to be developed for a farmers market. Applications will be handled through the Department of Economic Development. There will be a fee of \$50.00 and will be solely based on one location. The market will be open from 7:00 a.m. to noon on Saturdays only.

Alderman Hinely stated as liaison to the Economic Development Commission, the Commission fully supported this ordinance.

Motion by Mr. Billingsley, seconded by Mr. Chism, to approve Ordinance No. 2010-1 on First Reading and set a public hearing date for March 22, 2010.

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

**Johnson Road Pumping Station Renovation**

Public Services Director Bo Mills explained he was requesting permission to contract with Ensco, LLC for renovation to the Johnson Road Sanitary Sewer Lift Station in the amount of \$163,650.00 and the contract with MLG&W for the installation of a new transformer, not over \$10,000.00.

With the growth of this area as well as the addition of a couple of schools onto the station had caused a tremendous work load on Public Services to keep this pump going.

At first they had looked at relocating the pumping station to the Wolf River Blvd. area but engineering projections of the costs and trouble securing easements they decided to go back and look at the existing station to see if there was a way to make it work. Allen and Hoshall did the design work and came up with a solution. They decided to go with a submersible pump that is fairly new technology.

There were nine potential bidders that came to the pre-bid meeting with four who submitted bids.

In response to a question from Alderman Drinnon, Mr. Mills stated they had experience with the contractor who came in with the low bid. Ensco had done work for the City before and they had done good and bad jobs before but we would be saving \$67,350.00 and we plan to have dual inspections and pretty active pre-construction meetings where definite parameters will be set.

Motion by Mr. Drinnon, seconded by Ms. Hinely, to approve a contract with Encsor, LLC for structural renovations to the Johnson Road Sewer Lift Station in the amount of \$163,650.00 and to contract with Memphis Light, Gas and Water for the installation of a new transformer in an amount not to exceed \$10,000.00.

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

### **Renewal of Stop Loss Contract**

Mr. Lawton thanked Human Resources Director Pat McConnell and Ernie Moretta the Benefits Administrator for their work in brining this item forward. The Board is being asked to authorize the mayor to execute a contract with SwissRe for the City's stop loss insurance coverage.

The City of Germantown provides health insurance to its employees by self insuring as opposed to participating in a group insurance plan. Under this arrangement the City has established a fund that it uses to pay the medical claims of our employees and their covered family members. Cash flow into the fund comes in the form of City and employee contributions.

As efficient and as effective we feel our self insurance plan may be, there are some risks involved. If a number of employees were to get seriously ill in a time frame or several catastrophic medical cases appeared, the medical bills incurred could actually eat into our medical plan and fund. To help guard against this risk, the City secures the services of a stop loss insurance company. The stop loss insurance will pay our employees medical bills after they have reached our deductible limits. Under this renewal before the Board this evening, the Administration is recommending that we raise our deductible to \$85,000.00. This recommendation is based upon our knowledge of the health plan, past experience and anticipated claims. The stop loss provider will pay up to 1 million dollars on any single claim above the \$85,000.00.

Barnett Benefits Group shopped the City's stop loss insurance renewal. Three viable proposals were reviewed. The recommended provider SwissRe is our current stop loss carrier. Staff has been pleased with their customer service and responsiveness. This new contract and higher deductible will provide a net annual savings to the City of \$71,000.00.

In response to a question from Alderman Drinnon regarding an aggregate, Ms. McConnell responded the aggregate amount was \$1 million.

Mr. Moretta stated there was an aggregate after we reach a certain number of all claims. Once it passes an aggregate level, then we can be reimbursed on that amount. There is an aggregate in this contract.

Motion by Mr. Palazzolo, seconded by Mr. Drinnon, to authorize the Mayor to execute a contract with Swiss Re Insurance Company to provide Stop Loss Insurance for the City of Germantown effective March 1, 2010.

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

### **Competitive Sealed Proposal Authorization – Great Hall Marketing and Promotional Services – Moved from Consent**

Alderman Billingsley recused himself from discussion of this item.

Community Services Division Director George Brogdon stated the Great Hall Task Force had met and came up with some great ideas on marketing the Great Hall. In discussions with the Purchasing Officer Lisa Piefer it was decided that the best way to secure a firm for developing these marketing, advertising,

promoting sales and branding for the Great Hall would be to use the Competitive Sealed Proposal bid process. The sum of \$40,000.00 was budgeted for marketing the Great Hall for FY10.

Alderman Chism asked if there were anything else on the agenda to proceed with such as architectural renderings or anything else.

Mr. Brogdon stated there was nothing else on this agenda but there were other things the Task Force had discussed to bring forward in the future.

Motion by Mr. Chism, seconded by Ms. Hinely, to authorize the use of the competitive sealed proposal process to procure a marketing/advertising firm for developing marketing, advertising, promoting sales, and branding for the Great Hall.

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

Alderman Billingsley returned to the dais.

#### **Germantown Baseball Club Field Usage – Moved from the Consent Agenda**

Mr. Lawton stated at the January 11<sup>th</sup> Board meeting there were a number representatives present from the two primary baseball teams in the area, one the cities current preferred provider, the Germantown Baseball League and the other were representatives of the Germantown Baseball Club. At that time, the Board passed a motion that directed Mr. Lawton, the chairman of the Parks Commission and Alderman Billingsley to sit down with representatives of the Germantown Baseball League and the Club to discuss field usage and how the two teams might be able to accommodate the other organization.

The meetings were very productive and the City made it very clear that the Germantown Baseball League was the City's preferred provider organization but that once the master schedule had been put together that perhaps that could accommodate some of the needs of the Germantown Baseball Club. Both groups agreed that they would try and work out those differences and hopefully have a master schedule that could accommodate at least some of the needs of the Germantown Baseball Club.

The motion before the Board tonight would amend the current policy as identified in Policy Letter 33 and it says that “during this spring season, if there are fields available for rental, they be made available and reserved for rent by the Germantown Baseball Club. This is an exception to the policy letter only for this season.

Alderman Palazzolo stated he had asked that this be pulled from the Consent Agenda because he had some questions.

Parks and Recreation Director Pam Beasley stated the Parks Department had a rental service that is available for any independent team as space is available. The policy has a priority system in rentals so that any independent team in Germantown that is not participating in the City's program can apply for rental space. If a team comes in and they have 100% Germantown residents and another team comes in and they only have 50% residents on their roster and there is only one field available, the field is rented to the Germantown team. This variance does not provide any residency requirement for the GBC.

Motion by Mr. Billingsley, seconded by Ms. Hinely, to approve a variance from the current provisions of Policy Letter 33 relating to Sports Operating Procedures to permit Germantown Baseball Club to reserve and rent baseball field space from the City for baseball practice by teams

which are a part of Germantown Baseball Club on those fields not required to be used by Germantown Baseball League, the current provider to the City relative to spring baseball in 2010, such rental schedule to be determined for the period from February, 2010 through June, 2010; with all rental fees and charges of the City to be paid by Germantown Baseball Club for such rented fields.

ROLL CALL: Chism-yes, Billingsley-yes, Drinnon-yes, Hinely-yes, Palazzolo-no. Motion approved.

### **CONSENT AGENDA**

#### **Recognition of Donation – Parks & Recreation**

Donations totaling \$300.00 have been made to the Parks & Recreation Department for special events and programming.

MOTION: To recognize donations made to the Parks and Recreation Department for special events and programs totaling \$300 and to approve Budget Adjustment No. 10-93.

#### **Recognition of Donation – Germantown Youth Commission**

Leadership Germantown Alumni Association donated \$500.00 and Germantown Woman's Club donated \$300.00 to the Germantown Youth Commission for their annual Youth Leadership Conference.

MOTION: To recognize donations made to the Germantown Youth Commission for their 17<sup>th</sup> Annual Germantown Leadership Conference in the amount totaling \$800 and to approve Budget Adjustment No. 10-78.

#### **Recognition of Donation – Education Commission – Battle of the Brains**

Monetary donations were made in the amount of \$1,300.00 to the Germantown Education Commission Battle of the Brains Math and Science Competition. Service Master donated \$1,000.00 and Drs. Roy and Stephanie Van Arsdale donated \$300.00. Expenses for the event were covered by donations.

MOTION: To recognize donations made to the Germantown Education Commission Battle of the Brains competition totaling \$1,300 and to approve Budget Adjustment No. 10-87.

#### **Overtime Reimbursement – Police Department**

The Germantown Police Department has an officer assigned to the FBI Joint Terrorism Task Force. The FBI JTTF 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 #10-86.

#### **Annual Maintenance Contract – Network**

This is a four-year maintenance agreement with Coleman Technologies, Inc. for the City's network system. Coleman Technologies is the only provider for Smartnet the City's current system.

MOTION: To approve authorization to enter into an agreement with Coleman Technologies, Inc. to contract for a 4-year maintenance agreement for the City's network system in the amount of \$52,591.81.

#### **Recognition of Revenues – Shop Germantown Newsletter**

The Shop Germantown Newsletter was developed by the Economic Development Cabinet as a way to promote local shopping and increase local sales tax revenues. Businesses advertise in the newsletter and pay \$330 each to fund the printing each month.



MOTION: To recognize revenue generated by the Shop Germantown newsletter totaling \$3,960 and to approve Budget Adjustment No. 10-88.

**Recognition of Youth Softball Registration Fees**

The Parks & Recreation Department will be implementing the Germantown Youth Softball program including a middle school competitive program under department management this spring. Staff has collected money for participant fees which include fees for officials, uniforms, equipment, trophies and insurance in the amount of \$10,000.00.

MOTION: To establish the Germantown Youth Softball program under the auspices and management of the Parks and Recreation Department, accept money from registration fees in the amount of \$10,000.00 as revenue for this program and to approve Budget Adjustment No. 10-94.

**Public, Educational and Government (PEG) Revenue and Disbursement**

The Cable Television Franchise Agreement states that the company shall pay to the City funds to support the capital needs of public educational and governmental access and the facilities and equipment. On a quarterly basis the subscriber fee, based on the number of subscribers, will be remitted to the Germantown Community Television Foundation. The amount for this quarter is \$42,537.30.

MOTION: To approve budget adjustment number 10-90 increasing the Cable Vision Grant in the amount of \$42,537.30 for FY10 and the payment to the Germantown Community Television Foundation in the amount of \$42,537.30.

Motion by Mr. Chism, seconded by Mr. Palazzolo, 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.

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Sharon Goldsworthy, Mayor

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Dotty Johnson, City Clerk/Recorder