

## **BOARD OF MAYOR AND ALDERMEN**

**August 12, 2019**

The regular meeting of the Board of Mayor and Aldermen was held on Monday, August 12, 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, Rodney Bright, Paul Chandler, Reynold Douglas, Jody Dwyer, Dr. Jay Earheart-Brown, Jason Huisman, Patrick Lawton, Mac McCarroll, Bo Mills, Joe Nunes, Daniel Page, Lisa Piefer, Phil Rogers, Cameron Ross, Adrienne Royals, Emily Rozar, Andy Sanders and John Selberg.

### **Invocation**

Pam Beasley led the invocation.

### **Pledge of Allegiance**

Alderman Janda led the Pledge of Allegiance.

### **Set Agenda**

During the executive session, the Board unanimously agreed to move Item #16 Resolution 19R08 – Apartment Moratorium to the beginning of the regular agenda.

Motion by Mr. Janda, seconded by Ms. Gibson, to move Item #15 Change Order No. 9 – GPAC Grove Outdoor Venue to the preliminary agenda.

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

Motion by Mr. Sanders, seconded by Mr. Massey, to move Item # 9k Purchase – Repair to Well No. 9 to the regular agenda.

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

Motion by Mr. Sanders, seconded by Mr. Janda, to approve the August 12, 2019 agenda as amended.

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

### **Approval of Minutes**

Approval is requested of the minutes of the regular meeting held July 22, 2019.

Motion by Mr. Sanders, seconded by Ms. Gibson, to approve the July 22, 2019 minutes as written.

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

### **Citizens to be Heard**

Lorraine Hall, 7932 Cross Ridge Dr., came forward regarding park rules during school hours.

David Clark, 2158 W. Cumberland, and Frank Uhlhorn, 8559 Dogwood Rd., came forward regarding the sprinkler ordinance.

Woods Weathersby, 1000 Ridgeway Loop, Pauline Latham, 6958 Country Road, and Sandy Davis, 2857 Old Elm Ln., came forward regarding the apartment moratorium resolution.

### **Special Recognition - Donation – East Shelby Republican Club**

Following the June 7 flood, the City, Shelby County Government and many businesses and individuals came

forward with financial assistance for the flood victims. All funds contributed were provided to the Kiwanis Club of Germantown for distribution.

Motion by Ms. Gibson, seconded by Mr. Janda, to accept a donation in the amount of \$500.00 from the East Shelby Republican Club and approve Budget Adjustment No. 20-5.

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

#### **Alderman Liaison Reports**

The Aldermen reported on their commission activities.

#### **PRELIMINARY AGENDA**

##### **Annual Funding for Houston High School Field House**

On October 8, 2018, the BMA approved a memorandum of understanding between the City and the Germantown Municipal School Board of Education outlining the conditions under which the City would make a financial contribution “for projects benefiting the arts and/or athletics programs at HHS.” The City has partnered with the Board of Education, the Houston High School Athletic and Arts Foundation and a number of private donors to provide the necessary funding to commence with the construction of a field house adjacent to the football field.

MOTION: To approve the annual funding amount of \$200,000.00 to the Germantown Municipal School Board of Education for the cost of constructing a new field house on the campus of Houston High School.

##### **Contract – GPS Contract One Year Extension**

On April 13, 2015, the Board approved a two-year contract with LB Technology, Inc. that provided the necessary GPS hardware and monitoring services for 180 City vehicles. This system now monitors a total of 202 City vehicles. This GPS system provides the ability to identify unnecessary idle time, unauthorized vehicle use, and real time location of vehicles; to identify under-utilized vehicles, assist drivers in emergency situations, monitor risky driving habits such as harsh braking, fast acceleration and speeding, and possibly reduce insurance cost and other liability situations.

MOTION: To approve a one (1) year extension for the GPS annual service fee with LB Technology, Inc. utilizing the Tennessee SWC 199 in the amount of \$46,631.70.

##### **Contract Extension - Decorative Street Signs**

The decorative street sign program provides for a cost sharing between the City and the neighborhoods where the neighborhood shares in the cost of the initial installation of the decorative signposts by paying 50% of the street signpost cost. The City pays 100% of the costs associated with the regulatory (stop) signposts and installation along collector roads. After installation, future maintenance of both the street signs and the regulatory signs are the responsibility of the City.

MOTION: To approve an extension of the contract with West Tennessee Ornamental Door for the manufacture of decorative street and regulatory signposts through January 21, 2020 and authorize the purchase of signposts in an amount not to exceed \$40,000.00.

##### **Payment – Storm Debris Expenses**

Early in the morning of June 7, 2019, the city experienced a major storm that generated significant amounts of rainfall in a short period of time resulting in the flooding of numerous homes. The flooding caused significant damage to property resulting in a large amount of debris that required immediate response. Administration authorized the collection of storm generated debris on an emergency basis. Waste Pro responded quickly with removal of flood related debris.

MOTION: To approve payment to Waste Pro in the amount of \$36,340.90 for the emergency collection, disposal and cart replacement expenses incurred as a result of the June 7, 2019 storm.

**Purchase – Air Compressor**

Air compressors are used in the day-to-day operations by the Public Works, Water, and Sewer departments. The replacement of this equipment is based on current operating hours, age, condition and maintenance costs. Normal life cycle on this type of equipment is fifteen to twenty years.

MOTION: To approve the purchase of one new 2019 Doosan portable air compressor model P250/HP210WDO-T4F in the amount of \$28,948.00 from Williams Equipment and Supply and declare unit 929 as surplus property.

**Purchase – Asphalt Rejuvenation**

Public Works utilizes this technology on an annual basis to extend surface pavement life cycles. The process is a maintenance function used to restore the natural pavement oils that erode due to traffic volume, direct sunlight, extreme temperatures and moisture, thus extending the life of the street approximately 5-7 years.

MOTION: To approve Pavement Technology, Inc. for the annual pavement rejuvenation program services in an amount not to exceed \$140,000.00.

**Purchase - Bulk Concrete**

Concrete mix is used primarily for street maintenance repairs, utility cuts, curb, gutter and water table repairs and storm water maintenance projects. Public Works will make the request to the vendor to be delivered to the job site as needed for immediate application. This purchase should meet street maintenance concrete needs for approximately one year.

MOTION: To approve the purchase of 500 cubic yards of 4000 PSI Standard Aggregate concrete mix with MMC Materials, Inc in the amount of \$59,800.00.

**Purchase – Combination Sewer Cleaner**

The 2020 Freightliner 108SD combination sewer flush/vacuum truck purchased under this authorization is utilized for maintenance of sewer and storm drainage systems. The flushing components allow staff to jet sewer piping, sewer service laterals and storm drain mains, which may have become restricted, through the use of high pressure water jetting. The vacuum portion provides by-pass pumping of blocked sewer systems.

MOTION: To approve the purchase of one 2020 Freightliner 108SD equipped with a Vactor 2103 Combination unit from Environmental Products Group in the amount of \$281,324.11, approve Budget Adjustment No. 20-2, and declare unit 648, a 2004 Ford F-750, as surplus property.

**Purchase – Compact Asphalt Roller**

The City utilizes a compact asphalt roller mainly for the ease of maneuverability. The small drum width allows for use in tight areas such as driveways, bike paths and small street failure repairs. The current compactor has exceeded its dependable life cycle and parts availability has become a problem due to the age of this machine, which is no longer being manufactured.

MOTION: To approve the purchase of one new 2018 Caterpillar Asphalt Roller, Model CB1.8, from Thompson Machinery Company in the amount of \$30,474.77 and declare unit 908, a 1980 Kohler K5825 Asphalt Roller, as surplus property.

**Purchase – Manhole Lining Emergency Sewer Repair**

The existing receiving sanitary sewer manhole for the 36-inch sanitary sewer main that collapsed was found to be deteriorated to a point that it would be unwise to reintroduce sewer into this manhole without protecting it from further deterioration. Thus, CTR Coatings was contacted to provide this service so that the emergency repair could be completed without risking further damage.

MOTION: To approve CTR Coatings, Inc. for manhole lining of the emergency sanitary sewer repair project in the amount of \$25,000.00.

**Purchase - Replacement Diesel Exhaust System**

Diesel exhaust includes many known or suspected carcinogenic substances (benzene, arsenic and formaldehyde), as well as other harmful pollutants, such as nitrogen oxides. This risk is increased in fire stations where the living areas are attached to the apparatus bays. Studies have shown that the cancer rate among fire fighters is exceptionally high, and higher than the general population. To reduce this risk to our fire fighters, Germantown began installing diesel exhaust ventilation systems in the apparatus bays of existing fire stations and included them with the construction of new stations. The exhaust system at the fire station has numerous issues and is in need of replacement. The work will include removal of the old system and the installation of the new system.

MOTION: To authorize the purchase of a replacement diesel exhaust system for Fire Station No. 1 from Industrial Air Purification, Inc. in the amount of \$44,858.32 and approve Budget Adjustment No. 20-3.

**Change Order No. 9 - GPAC Grove Outdoor Venue**

This change order involves Fire Marshal required modifications to the existing dressing rooms adjacent to the restroom renovation and addition. Funding for this project is included in the FY20 CIP Budget. In June 2019, the GPAC Foundation received a grant from the State of Tennessee for construction of the Grove. All change orders will be reimbursed to the City by the GPAC Foundation.

MOTION: To approve Change Order No. 9 in the amount of \$21,682.56 increasing the construction contract with Grinder Taber & Grinder, Inc. for the GPAC Grove outdoor venue from \$3,980,162.11 to \$4,001,844.67.

Motion by Mr. Janda, seconded by Mr. Owens, to approve preliminary agenda as read.

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

**REGULAR**

**Resolution 19R08 – Apartment Moratorium**

On January 8, 2018, the Board of Mayor and Aldermen (BMA) adopted Resolution No. 18R03, placing an 18-month moratorium on new apartment and apartment building development in the Smart Code Zoning Districts. The purpose of the moratorium was to allow time for the City to study the impacts and nature of any future apartment and apartment building development in the Smart Code Zoning Districts.

On May 16, 2019, City staff members presented a 355-page report to the BMA. In determining the likely impact of apartments and apartment buildings on City services, the report focused on four key areas of concentration: Infrastructure, Police, Fire/EMS, and the Germantown Municipal School District (GMSD). An extensive amount of data pertaining to public safety call volume and residential student enrollment figures was used to project the impact of apartments and other residential types on City services through 2028.

On July 8, 2019, the 18-month moratorium expired and an administrative hold was placed on the acceptance of new apartment development applications until the BMA takes formal, definitive action on the subject. On July 29, 2019, staff members provided an abbreviated version of the initial presentation. The BMA held a work session and discussed a moratorium on standalone apartment development while the Planning Commission

considers amendments to Chapter 23 Zoning based on the findings of the report. Staff will work with the Planning Commission during a six month moratorium period as they consider the policy modifications for new apartment and apartment building development in the Smart Code zoning districts.

Motion by Mr. Janda, seconded by Mr. Owens, to adopt Resolution 19R08.

Motion by Mr. Sanders, seconded by Mr. Massey, in paragraph 7, strike through the words “for stand-alone, single-use apartment developments in the Smart Code Zoning Districts” AND insert the words “and the processing of applications for apartment and apartment building development (including any locations within mixed use projects or planned developments) in the Smart Code Zoning Districts.” In paragraph 10, strike through the words “for stand-alone, single-use apartment developments in the Smart code Zoning Districts” AND insert the words “and the processing of applications for apartment and apartment building development (including any locations within mixed use projects or planned developments) in the Smart Code Zoning Districts.”

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

Motion by Mr. Sanders, seconded by Mr. Massey, in paragraph 9, within bullet point #2, strike through or delete the words “or as a component of an integrated mixed-use development appropriately designed and scaled to its surroundings.”

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

Motion by Mr. Sanders, seconded by Mr. Massey, in paragraph 9, on the second page, insert #4. Define stand-alone and single-use apartment developments.”

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

Motion by Mr. Massey, seconded by Mr. Sanders, to adopt the language of the original moratorium, as a substitute resolution, and extend it until February 12, 2020.

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

Motion by Mr. Janda, seconded by Mr. Owens, to adopt Resolution 19R08 as amended.

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

**Ordinance No. 2019-11 - Amendment to Fire Prevention Ordinance Chapter 10 – Third and Final Reading**

Chapter 10 of the Code of Ordinances contains the fire prevention code for the City. Article I contains specific requirements for Germantown and Article II contains the adopted standard fire prevention code and amendments. The City’s fire code must be within seven years of the State of Tennessee adopted Fire Code to allow the City to be exempt from State inspections for occupancies with the exception of State owned buildings, educational occupancies, daycare centers, and occupancies requiring an inspection by the State Fire Marshal for initial licensure.

Motion by Ms. Gibson, seconded by Mr. Janda, to approve on third and final reading Ordinance 2019-11, amendment to Chapter 10 of the Municipal Code, Germantown Fire Prevention Ordinance.

Motion by Mr. Owens, seconded by Mr. Janda, to approve on third and final reading Ordinance 2019-11 amendment to Chapter 10 of the Municipal Code, Germantown Fire Prevention Ordinance, with the following exception:

SEC. 503.2.5 Dead Ends - “Dead end fire apparatus access roads in excess of 150 feet in length shall be provided with a cul-de-sac 90 feet in diameter of unobstructed width.”

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

Motion by Mr. Owens, seconded by Mr. Janda, to approve on third and final reading Ordinance 2019-11 amendment to Chapter 10 of the Municipal Code, Germantown Fire Prevention Ordinance, with the following exception:

SEC. 503.2.51 Dead End Maximum Length be amended as follows – Dead end streets shall be no longer than 750 feet unless homes on said street are protected with fire sprinkler systems and/or an alternate access road is provided up to 1,200 feet. In addition, for one and two family residential developments not more than 30 dwelling units shall be permitted on a dead end street.”

SEC. 502 Appendix D – Fire Apparatus Access Roads shall be amended as to match this language: Any additional portions of the code not mentioned but that conflict with the above shall be amended to match this language.

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

Motion by Ms. Gibson, seconded by Mr. Janda, to approve on third and final reading Ordinance 2019-11, amendment to Chapter 10 of the Municipal Code, Germantown Fire Prevention Ordinance as amended.

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

**Ordinance No. 2019-12 - Amendment to Fire Prevention Ordinance Chapter 10 - Residential Sprinklers - Third and Final Reading**

Chapter 10 of the City Code of Ordinances contains the fire prevention code for the City. Article I, Section 10-12, contains specific requirements for residential sprinkler systems. In accordance with Tennessee Code Annotated 68-120-101, the adoption of residential sprinkler requirements for one-family and two-family dwellings shall be adopted under separate ordinance. The City has had residential sprinkler requirements for one-family and two-family dwellings since May 14, 1990. This ordinance will update the existing residential sprinkler requirements.

Motion by Ms. Gibson, seconded by Mr. Janda, to approve on third and final reading the amendment to the Fire Prevention Ordinance, Chapter 10 of the Municipal Code, Section 10-12, Residential Sprinkler Requirements for One-family and Two-family Dwellings.

Motion by Mr. Owens, seconded by Mr. Massey, to approve on third and final reading the amendment to the Fire Prevention Ordinance, Chapter 10 of the Municipal Code, Section 10-12, Residential Sprinkler Requirements for One-family and Two-family dwellings, with the following exceptions:

Section 10-12 Residential Sprinkler Requirements for One-family and Two-family dwellings:

- a) Approved automatic sprinkler system shall be provided for the following one-and two-family dwellings:
  - 1. All buildings exceeding ~~5,000~~ 5,500 square feet finished floor area, excluding garages and attic space.

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

Motion by Ms. Gibson, seconded by Mr. Janda, to approve on third and final reading the amendment to the Fire Prevention Ordinance, Chapter 10 of the Municipal Code, Section 10-12, Residential Sprinkler Requirements for One-family and Two-family Dwellings as amended.

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

**Ordinance No. 2019-13 - Amendment to Subdivision Ordinance Chapter 17- Section 17-56 (Streets) – Second Reading Vote**

This agenda item, to approve amendments to Chapter 17 (Subdivision) Article III (Minimum Design Standards) Section 17-56 (Streets), of the subdivision regulations, was presented to the Board at the second reading and public hearing on Monday, July 22, 2019. At that time, the Board moved to postpone their vote for the second reading until Monday, August 12, 2019.

Motion by Mr. Owens, seconded by Mr. Janda, to approve the second reading of Ordinance 2019-13, amendment to Section 17-56 (Streets) of the Subdivision Ordinance in the Municipal Code.

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

**Change Order No. 1 & 2 – Emergency Sanitary Sewer Repair**

Due to this project being an emergency repair, not all of the factors could be planned and denoted on the original contract. Change Order No. 1 was required to cover the cost of re-routing of the original bypass pumping to a 24-inch force main, locating and excavation of the existing concrete vault for tie-in at the 24-inch force main, saw cutting of the vault for tie-in, installation of a holiday hatch on the existing vault, grading and repair of disturbed areas, sodding of the disturbed areas, removal of fence, installation of new 8 ft. fence, installation of a 10-inch plug and an additional 10-inch bypass pump. Change Order No. 2 was required to cover the cost of cutting a hole into side of the existing manhole for new pipe installation, pouring a new concrete bottom into the manhole, constructing a new invert for the sewer manhole, and building a wall to ready the manhole to be lined.

Motion by Mr. Janda, seconded by Ms. Gibson, to approve two change orders with White Construction and Associates for the emergency repair of the 36-inch sanitary sewer main and soil stabilization of the area leading to the Kimbrough Road Lift Station in the amount of \$43,471.00 for Change Order No. 1 and \$14,725.00 for Change Order No. 2 for a total amount of \$58,196.00 increasing the contract amount from \$287,800.00 to \$345,996.00.

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

**Emergency Purchase – Kimbrough Pumping Station Debris Removal**

This emergency project is necessary due to a 100 ft portion of 36-inch sanitary sewer main deteriorating to the point of the top portion of the pipe collapsing causing a sinkhole to occur on July 3. The debris in these pipes and connected wet well is caused by the infiltration of soils when the 36-inch sanitary sewer failed which created the expansive sinkhole. Debris must be removed prior to returning normal flow through the Kimbrough Pumping Station via the repaired 36-inch sewer outfall.

Motion by Ms. Gibson, seconded by Mr. Sanders, to approve an emergency purchase with Performance Contracting, Inc. for debris removal from the Kimbrough Pumping Station in the amount of \$193,526.00 and for a year-end budget adjustment from Utility Reserves to cover the cost of this emergency repair.

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

**Purchase – Repair to Well No. 9 at the Johnson Road Water Treatment Plant**

This item is to request authorization for National Water Services (NWS) to repair Well No. 9 at the Johnson Road

Water Treatment Plant in the total amount of \$71,869.00. The City's Annual Well and Pump Maintenance Report indicated that Well No. 9 at the Johnson Road Water Treatment Plant was in need of repair. After the well was pulled and inspected, it was discovered that several internal parts, machine work, bearings and the shaft were in need of repair prior to the reinstallation of the well.

Motion by Mr. Janda, seconded by Ms. Gibson, to authorize National Water Services to repair Well No. 9 at the Johnson Road Water Treatment Plant in the amount of \$71,869.00.

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

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

### **BEER BOARD HEARINGS**

#### **Suspension/Revocation of Beer License - Stoney River Steak House – 7515 Poplar Avenue, Suite 101**

On May 31, 2019, the Germantown Police Department conducted an undercover sting investigation of beer permit holders in Germantown. On that date, an 18-year-old Cooperating Individual (CI), working with the Germantown Police Department, was sold beer by the defendant. The defendant did check the CI's identification. Officer L. Wright did witness the transaction and issued the defendant a misdemeanor citation.

Motion by Mr. Sanders, seconded by Mr. Janda, to find Stoney River Steakhouse – 7515 Poplar Avenue, Suite 101, 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. Owens, to impose a fine of \$750.00 in lieu of suspension or revocation of beer license.

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

#### **Suspension/Revocation of Beer License - Swankys Taco Shop – 6641 Poplar Avenue, Suite 109**

On May 31, 2019, the Germantown Police Department conducted an undercover sting investigation of beer permit holders in Germantown. On that date, an 18-year-old Cooperating Individual (CI), working with the Germantown Police Department, was sold beer by the defendant. The defendant did check the CI's identification. Officer J. Doleac did witness the transaction and issued the defendant a misdemeanor citation.

Motion by Mr. Owens, seconded by Mr. Sanders, to find Swankys Taco Shop, located at 6641, Poplar Avenue, Suite 109, 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 Mr. Sanders, seconded by Ms. Gibson, to impose a fine of \$750.00 in lieu of suspension or revocation of beer license.

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

Meeting adjourned.



