

## **BOARD OF MAYOR AND ALDERMEN**

**May 10, 2010**

A regular meeting of the Board of Mayor and Aldermen was held on May 10, 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, Kristen Geiger, Tom Cates, Chief Richard Hall, Jerry Cook, Pat McConnell, Bo Mills, Lisa Piefer, Ralph Gabb, Butch Eder, Tim Gwaltney, and Dotty Johnson.

### **Call to Order**

Mayor Goldsworthy called the meeting to order.

### **Invocation**

Director of Development Jerry Cook gave the invocation.

### **Pledge of Allegiance**

Alderman Ernest Chism led the Pledge of Allegiance.

### **Approval of Agenda**

Alderman Drinnon asked that item 16c – Declaration of Surplus Property on the Consent Agenda be moved to the Regular Agenda.

Motion by Mr. Chism, seconded by Mr. Billingsley, to approve the agenda as amended.

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

### **Approval of Minutes**

There were no corrections or additions to the minutes.

Motion by Mr. Drinnon, seconded by Ms. Hinely, to approve the minutes of the Board of Mayor and Aldermen meeting held April 26, 2010.

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

### **Recognition of Arbor Day Poster Contest Winners**

Parks and Recreation Director Pam Beasley on behalf of the Beautification Commission recognized the Arbor Day Poster Contest Winners whose poster will participate in the statewide contest. The students who participated were all fifth graders. The theme this year was *Trees are Terrific....and Energy Wise!*

Ms. Sara Justice who attends Farmington Elementary won the second place medal for her poster and Ms. Camille Branning who attends Dogwood Elementary won the first place medal and a \$50 gift card to Hobby Lobby.

### **Proclamation – National Public Works Week**

Public Services Director Bo Mills came forward and gave an overview of Community Services Department all they are responsible for. Some of their responsibilities include Grounds Maintenance which includes athletic field and parkland maintenance which covers 850 acres, 21 playgrounds, 30

athletic fields, disc golf, 26 tennis courts and roller hockey and over 5,000 trees. Streets which is over 250 miles of roadways, thousands of signs and miles of pavement markings. Stormwater includes 20.3 miles of earthen ditches, 14 miles of concrete lined ditches, 120 miles of stormwater pipes, and 5,300 catch basins. Animal Control includes shelter and domestic animal assistance. They handled 422 animals last year and 215 adoptions and returned many to owners. Water includes water production of two water plants with 24 million gallons per day capacity, 14,000 meters, 2,000 hydrants, 4,000 valves and 220 miles of mains. The Sanitary Sewer division handles collection systems to Memphis outfall lines, 26 lift stations, 210 miles of mains, and 14,000 service lines. In total there are 73 City employees that work through this division.

Public Services also administers outsourced maintenance for landscaping/irrigation system maintenance for 223,000 sq. ft. of beds and 27 sprinkler systems, 76 acres of right of way and 192 acres of parkland, lake and fountain maintenance for 11 lakes and 10 water features and weekly, monthly and bi-monthly street sweeping routes as well as three city-wide sweeps.

He introduced the following members of his staff and read some of the letters he had received from citizens who had written notes expressing their gratitude for the extraordinary responses they had received by these men and the department:

Willie Ragland, Crew Supervisor, Water  
Kinney Spray, Assistant Superintendent of Streets and Drainage  
Billy Barnes, Crew Supervisor, Streets  
James Poole, Crew Supervisor, Parks  
Brad Smith, Crew Supervisor, Sewer

Mr. George Brogdon the Community Services Division Director came forward and stated this was a true TEAM that provided A+ service 24/7.

Mayor Goldsworthy read a proclamation declaring May 16 – 22 as Public Services Week.

### **Citizens to be Heard**

Mr. Mark Herr from 5511 Melvin Road, Memphis came forward and asked the Board to grant an exception for the use of the Great Hall on July 4<sup>th</sup> from 3:00 p.m. to 6:30 p.m. for a reception. He realized the area would be closed due to the July 4<sup>th</sup> Celebration but since the fireworks would not go off until around 9:00 he asked he be allowed the use of the Great Hall until 6:30 on that day.

Mayor Goldsworthy replied that staff would take his request into consideration and respond later.

### **PUBLIC HEARING - Ordinance 2010 – 3 - Amendment to the Code of Ordinances – Chapter 23, Zoning, Regarding the Age Restriction and Parking Requirements of Congregate Housing within the R-H (Retirement Housing) Zoning District –Third and Final Reading**

Economic and Development Services Director Andy Pouncey stated this amendment would remove the age restriction and alter the parking requirements within the Retirement Housing zoning district. Staff was advised by the City Attorney that a zoning district based on an age restriction was unconstitutional. The parking requirements had been changed from two parking spaces to one parking space per unit when another amendment was made to another section of the ordinance. This will return the ordinance to its original form.

Mayor Goldsworthy opened the public hearing. Having no one come forward, the public hearing was closed.

Motion by Mr. Drinnon, seconded by Ms. Hinely, to approve Ordinance No. 2010-3 on third and final reading.

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

**Ordinance 2010-2 – Establishment of the Great Hall Advisory Commission – Third and Final Reading**

Mr. Brogdon explained that the Great Hall Task Force had recommended forming a five-member advisory commission. Notices have gone out to publicize the acceptance of applications for this commission and staff will bring forward candidates to the Board for approval at a future meeting.

Motion by Ms. Hinely, seconded by Mr. Billingsley, to approve Ordinance 2010-2 establishing a Great Hall Advisory Commission on third and final reading.

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

**Ordinance 2010-4 – An Ordinance to Adopt the Fiscal Year 2011 Budget – First Reading**

City Administrator Patrick Lawton stated the consideration and adoption of the budget by the Board of Mayor and Aldermen is probably the single most important action taken by the Board on an annual basis. It authorizes the allocation of resources and establishes the direction for programs and services for our triple-A rated city for the coming year and during the 5-year planning period. The budget is based on the strategic planning initiative as identified by the Board. This will be the seventh year in a row without a property tax increase.

The budget for all funds totaled \$92,731,615 and the General Fund Operating Budget, which is the largest fund in the City's budget, totals \$36,611,122. The City now has five enterprise funds and the operating funds for those enterprise funds total \$15,629,004. Special Revenue Funds total \$2,240,489 and the Capital Improvements Program this year totals \$38,251,000. The budget represents hundreds of hours of review and analysis by City departments and key business units and the Financial Advisory Commission.

In response to a question from Alderman Billingsley, Mr. Lawton stated that early in the budget process the various civic support groups were approached and asked them for a 15% cut in all their respective areas and they all agreed and the budgets they submitted indicated that cut.

Mr. Lawton also responded to a question from Alderman Billingsley regarding the 2% raise in payroll. Working closely with the Personnel Advisory Commission, staff settled on an adjustment that amounts to a 2% of payroll which amounts to about \$1000 per employee in terms of pay adjustment. Depending on where an employee is on the pay scale, this might translate into a larger percentage.

Alderman Drinnon commented, as liaison to the Personnel Advisory Commission, there had been comments from some of the Commission members that we should try and increase the salaries more than the amount mentioned. He commended Mr. Lawton and the administration for asking Civic Support recipients to be understanding and receive a less amount than they previously received so the employees could get an increase in compensation.

Alderman Billingsley stated it was his understanding that GHS-TV had asked to not be considered under Civic Support and to be contracted by the City. He understood that Mr. Lawton had asked GHS-TV for a business plan but in evaluating what GHS-TV. He stated he felt GHS-TV provides a service to the Board and the citizens of Germantown as a pass through. He stated the other civic support groups were either special event oriented or sponsorship in nature. He asked for GHS-TV to be thought of as a service with a contract.

Mr. Lawton stated that in talking with Mr. Bluestein regarding the business plan it had been hard for him to dedicate the time to put this together but he had recently received the plan and would be able to talk about it in more detail after he had thoroughly reviewed it.

A discussion followed on whether a contractual arrangement could be worked out with GHS-TV.

Mayor Goldsworthy stated the Board might also want to look at the City's relationship with Germantown Community Theatre. When the City began the financial relationship with the Theatre it was specifically for the purpose of providing children's theatre programming which had previously been under Parks and Recreation. The monies granted by the City were for very specific and defined services.

Motion by Mr. Drinnon, seconded by Ms. Hinely, to approve on first reading Ordinance No. 2010-4 establishing the FY11 Proposed Budget and set Monday, June 14, 2010 for second reading and public hearing.

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

**Ordinance 2010-5 – Real and Personalty Property Taxes – First Reading**

Finance Director Ralph Gabb explained that the certified tax rate is \$1.425 per \$100 of assessed value. The "Certified Tax Rate" contained a state authorized four and a half cent buffer that must be reexamined and evaluated the following year it went into effect. The State Board of Equalization requires a "Recapture Tax Rate" be calculated. The recapture rate takes into consideration the use of the provided buffer. Should the entire amount of the buffer not be required for appeals heard to-date, the recapture rate, when approved, would result in a lower tax rate than the prior year's "Certified Tax Rate". It has been determined by staff and discussed with the FAC that the potential usage of the remaining buffer may be required to address outstanding appeals by residential and commercial property owners. It is therefore the recommendation of staff and the FAC that the property tax rate remain at \$1.425 per \$100.00 of assessed valuation.

Motion by Mr. Chism, seconded by Mr. Drinnon, to approve Ordinance No. 2010-5 on first reading and to set Monday, June 14, 2010 for the second reading and public hearing date.

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

**Ordinance 2010-6 – An Ordinance for Year-End Budget Adjustments – First Reading**

Financial and General Services Division Director Kristen Geiger explained that at the end of the fiscal year, a number of year-end budget adjustments are required to be made to the various City funds, which realign operating expense/expenditure accounts with actual activity. They recognize various overruns, underruns, project acceleration and deferrals that have already been brought to the Board's attention and gained their approval. Accounting transactions may cross separate funds and consequently require approval by ordinance.

Motion by Mr. Drinnon, seconded by Mr. Billingsley, to approve Ordinance No. 2010-6 for year-end budget adjustments on first reading and set Monday, June 14, 2010 for the second reading and public hearing date.

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

**Award of Construction Contract – Farmington Blvd. Reconstruction Phase I (ARRA)**

City Engineer Tim Gwaltney reported that on February 2010 TDOT approved the construction documents for the reconstruction of Farmington Blvd. The American Recovery and Reinvestment Act (ARRA) of

2009 is providing the funds to invest in this existing infrastructure. These ARRA funded projects are 100% reimbursable and must be managed by the local jurisdictions. It was decided for bidding purposes to divide the project into a Base Bid – 500' west of Wolf River Blvd to Cordes, Alternate 1 – Cordes to Allenby Court and Alternate 3 – Allenby Court to Allenby Road.

Seven bids were opened and read on April 8, 2010. Ferrell Paving Inc. provided the lowest responsive bid for the base bid plus alternate 1. Phase II which will include Alternate II will be funded through Surface Transportation Program funds and is scheduled for FY11.

Mr. Gwaltney stated the project should start the beginning of June and will be a four month project, hopefully completed by September.

Motion by Mr. Drinnon, seconded by Ms. Hinely, to authorize the approval of a construction contract with Ferrell Paving, Inc. for the base bid plus alternate 1 in the amount of \$1,537,824.15 for the Farmington Boulevard Reconstruction project and approve Budget Adjustment No. 10-139.

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

#### **Lateral D Cost Sharing Agreement**

The CIP Manager Butch Eder stated this was a Cost Sharing Agreement with the Department of Army (Corps of Engineers) to complete a feasibility study for reducing the threat of damage caused by bank and streambed erosion on Lateral D at the box culvert under Farmington Blvd.

During the feasibility phase it was determined that the cost of complete feasibility study will be \$232,000.00 resulting in a cost to the City of \$66,200.00. This amount has been included in the FY11 CIP Budget request. The City's participation in the Cost Sharing Agreement will allow the Corps to complete the feasibility and design phase and prepare construction documents to bid the Farmington Boulevard Culvert Protection Project. The estimate construction cost to protect the Farmington Road culver is \$1,137,900.00 with the City's 35% share being \$418,095.00. This amount is being proposed in the FY12 CIP Budget.

In response to a question from Alderman Drinnon, Mr. Eder stated the project would be underway in about 10 1/2 months after the study is done and then the construction will begin. This is under the FY12 Budget.

Motion by Mr. Billingsley, seconded by Mr. Chism, to authorize the Mayor to enter into a Cost Sharing Agreement with the Department of Army (Corps of Engineers) to complete a feasibility study for reducing the threat of damage caused by bank and streambed erosion on Lateral D at the box culvert under Farmington Boulevard with the City of Germantown's share being \$66,100.00.

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

Alderman Billingsley asked the Board to approve of moving 16b on the Consent Agenda to the Regular Agenda for discussion due to the ramifications. The Board unanimously agreed.

#### **Declaration of Surplus Property – MOVED FROM CONSENT AGENDA**

Mr. Lawton stated that as equipment is replaced that is obsolete, no longer in service or no longer has useful life the property must be declared surplus. There has been an arrangement since 2009 with GovDeals auction site to dispose of this City property. To date, the City has generated revenues in the amount of \$173,154.00 from over one hundred fifteen items sold on GovDeals.

Motion by Ms. Hinely, seconded by Mr. Drinnon, to declare the list of equipment as surplus property for the sale of disposal of such items.

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

**Ordinance No. 2009-19 – Amendment to Chapter 2, Administration; Chapter 6, Building and Building Regulations and Chapter 14, Signs-Authority of Design Review Commission to Grant Exceptions – Set date for Public Hearing – MOVED FROM CONSENT AGENDA**

Mr. Cook stated that the proposal to amend the Sign Ordinance deals with three specific areas: 1) housekeeping items; 2) the DRC had recommended to the Board of Mayor and Aldermen that deal with granting the DRC permission to grant exceptions to the sign ordinance and 3) the use of illuminated signs that use LED illumination for their gas prices. The ordinance that deals with the illuminated signs says that the gas price signs cannot be illuminated but the DRC had given exception to those two or three that are using the LED illuminated gas price signs.

Based on the architectural style of the building, and the facade that it was going to be placed, the DRC Commission, looking at the overall appearance did grant exceptions to the size and location of signs that are put on store fronts and facade.

Alderman Billingsley stated that he intended to vote to set the public hearing for this item but he had grave concerns about a majority of the items to be amended. He felt that people come to Germantown because of the excellent way the City has held to the sign ordinance. He respected the work of the DRC but with the recent concerns of the approval of the LED gas price signs he was not in favor of allowing the DRC to grant these types of allowances.

Motion by Mr. Drinnon, seconded by Ms. Hinely, to set June 14, 2010 as the date of the public hearing and second reading on Ordinance 2009-19.

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

**CONSENT AGENDA**

**Recognition of Safety Grant**

The TML Risk Management Pool has awarded a “Safety Partners” Matching Grant of \$20,000.00 to the City for safety-related purchases in fiscal year 2010.

MOTION: To recognize the receipt of \$1,000 in FY10 Revenue for the grant awarded to the City from the TML Risk Management Pool “Safety Partners” Matching Grant Program and to offset the cost of safety equipment.

**Ordinance No. 2009-19 – Amendment to Chapter 2, Administration; Chapter 6, Building and Building Regulations and Chapter 14, Signs-Authority of Design Review Commission to Grant Exceptions – Set date for Public Hearing – MOVED TO REGULAR AGENDA**

**Declaration of Surplus Property – MOVED TO REGULAR AGENDA**

**Recognition of overtime reimbursement and approve Budget Adjustment No. 10-135**

The Germantown Police Department has an officer assigned to the FBI Joint Safe Streets Task Force and the Secret Service Task Force. The officer usually works overtime in the performance of his duties and the FBI SSTF and the Secret Service reimburses any overtime that the officers receive while carrying out his duties. The amount to be reimbursed is \$5,294.00.

MOTION: To recognize overtime reimbursement from the Federal Department of Justice and the Department of Homeland Security and to approve Budget Adjustment No. 10-135.

**Recognition of Donation – Germantown Youth Commission from Comcast Cable**

Comcast Cable donated funds in the amount of \$1,200.00 to sponsor the 17<sup>th</sup> Annual Germantown Youth Leadership Conference.

MOTION: To recognize donation made to the Germantown Youth Commission for the 17<sup>th</sup> Annual Germantown Leadership Conference in the amount totaling \$1,200.00 and to approve Budget Adjustment No. 10-138.

**Resolution 10R03 – A resolution to approve the co-location of a Clear Wireless wireless transmission facility onto an existing SBA, Inc. tower at 1926 S. Germantown Road, on the Germantown Police Building**

This resolution will allow a co-location of additional Clear Wireless wireless cell antennas on the existing SBA, Inc. tower on the Germantown Police Building located at 1926 S. Germantown Rd.

MOTION: To approve Resolution 10R03 for the co-location of Clear wireless transmission facilities at 1926 S. Germantown Road.

**Resolution 10R07 - Co-location of Clear Wireless wireless transmission facilities at 8151 Poplar Avenue**

This resolution will allow a co-location of additional Clear Wireless cell antennas on the approve Tower Ventures tower on the ground of OLPH Church at 8151 Poplar Ave.

MOTION: To approve Resolution 10R07 for the co-location of Clear Wireless wireless transmission facilities at 8151 Poplar Avenue.

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

ROLL CALL: Billingsley–yes, Chism–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