

BOARD OF MAYOR AND ALDERMEN

June 28, 2010

A regular meeting of the Board of Mayor and Aldermen was held on June 28, 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, Inspector Frank Hester, Pam Beasley, 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 at 6:00 p.m.

Invocation

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

Pledge of Allegiance

Alderman John Drinnon led the Pledge of Allegiance.

Approval of Agenda

Mayor Goldsworthy asked the Board to approve an agenda change, to move #8 – Ordinance 2010-4 to follow #13 Resolution 10R10 – CIP Resolution, to put things in order. The Board unanimously agreed.

Alderman Drinnon asked that item 19c – Amendment to Subdivision Development Contract #490, be moved from the Consent Agenda to the Regular Agenda for discussion.

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 Mr. Chism, to approve the minutes of the Board of Mayor and Aldermen meeting held June 14, 2010.

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

Proclamation – Parks and Recreation

Mayor Goldsworthy read a proclamation honoring the Parks & Recreation Department and proclaiming the month of July as Parks and Recreation Month.

Parks and Recreation Director Pam Beasley came forward and introduced her staff along with Public Services staff and the Parks and Recreation Commission Chair. She thanked the Board and the Executive Staff who supported the work and activities of Parks and Recreation.

Citizens to be Heard

Mr. Dick Vosburg of 8365 Silverthorn Cove came forward and gave a report on the Germantown Farmer's Market. The Market has been open for eight weeks and had 10 vendors and a good response from the community. Most of the vendor's sell out just about every week. The Market is open on Saturday mornings only in the parking lot at Germantown Hardware. There are four general produce vendors, one of which handles organic produce; one tomato specialist; a bee keeper who offers honey; two berry growers; and two bakers.

James and Susan Danielik of 8351 Westfair Circle South came forward and presented a flag that had flown at Phoenix Base International Zone in Baghdad. Mr. Danielik serves as an advisor in Iraq for Dyncor International. He thanked the City for keeping his family safe while he is away.

Elmire Phillips of 2975 Station Hill Road asked the Board to consider postponing the "road to nowhere". She expressed her disapproval of the Public Assembly project and felt money was being considered for this project over the other grant recipients who had cut their budgets by 15%.

Donald Nobert of 8625 Edenfield Cove expressed his opposition to the Board spending this money on a project (Public Assembly) that was not in the best interest of the City and the best use of our resources. It was his understating that the road to the amphitheatre was going to encroach on other parks and a road would go through Cloyes Park. He suggested other places for the Amphitheatre.

PUBLIC HEARING - Ordinance 2010-5 – Real and Personalty Property Taxes – Third and Final Reading

Finance Director Ralph Gabb stated the recommended property tax rate on third and final reading for the FY11 Budget is \$1.425 per \$100.00 of Assessed Valuation.

The Shelby County Assessor completed the 2009 countywide reappraisal of property and as a result, municipalities were required to calculate a state "certified tax rate" or roll back rate that produced a "tax neutral" effect for the current taxpayers.

For the FY10 operating budget, 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.

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

Motion by Mr. Palazzolo, seconded by Mr. Chism, to approve Ordinance No. 2010-5 on third and final reading.

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

Ordinance 2010-6 – An Ordinance for Year-End Budget Adjustments – Third and Final Reading

Finance and General Services Division Director Kristen Geiger stated at the end of the fiscal year, a number of year-end budget adjustments are required to be made in order to avoid budget and fund

overruns in the various funds. All the expenditures being funded by the budget adjustments were approved under the City's purchasing policies.

Typically at year-end, a number of budget adjustments are 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. The budget adjustments affect the General Fund, Automated Enforcement, Capital Projects, Utility, Recreation, Athletic Club, Great Hall, Stormwater and OPEB funds.

Ms. Geiger described each of the adjustments and which fund they would be affecting.

In response to a question from Alderman Palazzolo, Ms. Geiger stated there was one change since the public hearing and that was \$53,000.00 in the General Fund in the Fire Department for an ICMA study.

Motion by Mr. Chism, seconded by Mr. Drinnon, to approve Ordinance No. 2010-6 for year-end budget adjustments on third and final reading.

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

Resolution on Revenues – 10R06

Ms. Geiger stated that since the codification of the City's Code of Ordinances several years ago, ordinances have been drafted to exclude dollar amounts of fees and rates. Rather, ordinances indicate amounts will be set by resolution of the Board of Mayor and Aldermen. This resolution will consolidate all revenue authorizations into a single document. The resolution is expected to be revised and adopted each year concurrent with the adoption of the annual budget.

While every effort has been made to include all amounts charged by the City, the exclusion of any amounts is not intended to cause such amounts to be unlawful. Any oversights subsequently discovered will be included in future revisions and updates of this resolution.

Ms. Geiger stated that staff had recommended lowering the sanitation fee in the upcoming fiscal year from \$24.90 to \$24.50 for single-family homes and from \$14.90 to \$14.65 per month for multi-units.

Mr. Cook answered a question from Alderman Palazzolo regarding the Traffic Impact Analysis (TIA). It is a new fee that will be charged to developers. Previously the City had incurred that cost.

Motion by Mr. Drinnon, seconded by Mr. Palazzolo, to adopt the Resolution on Revenues – 10R06, establishing the rates, fines and fees in the various funds of the City of Germantown for the FY11 Operating Budget.

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

CIP Policy Resolution – 10R09

Mr. Lawton stated there are two methods for re-budgeting projects that will not be encumbered in the intended fiscal year. The first would be to reapply for the CIP during the annual budgeting process. The second method is to request the Board to adopt a resolution per the CIP Policy.

There are two projects that face the sunset provision this year, the Public Assembly Area and the Skate Board Park. In adopting this resolution, the Public Assembly Area Amphitheatre project will be increased by \$222,000.00. The remaining FY10 Budget of \$197,000.00 will be re-budgeted for FY11 along with \$25,000.00 for design modification. The Skate Park-Houston Levee project will be funded at \$100,000.00 in FY11, the same amount requested in FY10 and FY09.

Motion by Mr. Chism, seconded by Mr. Billingsley, to adopt Resolution 10R09 to the Capital Improvements Program Policy in regard to the enforcement of the “sunset provision” in FY10.

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

Capital Improvements Program Resolution 10R10

Mr. Lawton stated the FY11 portion of this Capital Improvements Program will be adopted within the FY11 Budget Ordinance. The CIP for subsequent years is recommended for approval in order to establish a plan by which Administration can schedule its activities to ensure that the CIP projects are accomplished in accordance with the Board of Mayor and Aldermen direction.

The total CIP for the next six years, FY11-16, totals \$71.7 million. The FY11 portion totals \$29.5 million.

Mr. Lawton pointed out to the Board that in FY11, Administration was recommending \$210,000.00 be allocated to the purchase of land for the expansion of Public Services Building and an additional \$95,000.00 be allocated in the General Fund for a capital improvements plan for air handlers in the Police Department. Also, there is \$190,000.00 under major roads for Devonshire Gardens; additional \$400,000.00 to Southern Avenue Water Plant refurbishment for seismic work and the two projects previously approved, Skate Park (\$100,000.00) and Amphitheatre (\$222,000.00).

In response to a question from Alderman Palazzolo, Ms. Geiger stated the \$400,000.00 for the Southern Avenue Plant will come from the reserves in the Utility Fund.

Alderman Palazzolo stated for the record that he had been outspoken on the parking lot of the Great Hall project that had been on the CIP and with the design work that had come forward earlier in the year. The project that would be approximately \$300,000.00 and hoped the project would not be over budget. He felt that in these economic times and with \$428,000.00 in drainage projects that were in the CIP for the FY11, it would not be the best use of funds to add additional parking spots for what is mainly considered an amenity for the City.

Alderman Billingsley asked to bring to the citizens attention and to the Board’s attention that in the CIP under the “Other” category, there is a signal light that is going in at Methodist Hospital and he wanted it clear to everyone that there was a relationship there because he was employed by Methodist Hospital and he wanted it to be noted.

Motion by Mr. Palazzolo, seconded by Mr. Drinnon, to adopt Resolution 10R10, establishing a Capital Improvements Program for fiscal years ending June 30, 2011 to 2016.

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

Ordinance 2010-4 – An Ordinance to Adopt the Fiscal Year 2011 Budget – Third and Final Reading

Mr. Lawton stated this was the third and final reading of the FY11 Proposed Budget. The FY11 Proposed Budget takes into consideration the Policy Agenda developed by the Board. In addition, the Financial Advisory Commission (FAC) had held several meetings with the staff to review each component of the

budget including the financial policies, the entire General Fund, the Enterprise Fund and the CIP. The FAC endorsed the budget and recommended its adoption to the Board.

There will be no property tax increase proposed in FY11. This will be the eighth year without an increase in the City of Germantown. The Budget for all funds totals \$94,048,615.00. The General Fund Operating Budget totals \$36,611,122.00; the Enterprise Funds total \$15,629,004.00. Special Revenue Funds total \$2,340,489.00 and the Capital Improvements Program for FY11 is \$39,468,000.00.

Since the first reading of the FY11 Budget, changes were made, some of which had already been discussed and mentioned in the discussion of the CIP. The funding for GHS-TV and the Germantown Community Theatre had previously been allocated to Civic Support but had now been moved to the Administration's budget under Professional Services and staff will be working to establish a service provider agreement that will be presented to the Board in the near future.

The changes in the Capital Improvements Plan such as the land purchase, the air handlers in the Police Department, the Skate Board Park, the Public Assembly Area, the road subsurface at Devonshire and the retrofitting necessary at the Water Treatment Plant are now included in the CIP for FY11. Also, we have a police officer assigned to work with the secret service and there might be some assets in cash that might be seized and we need to create a special revenue fund to address these assets that may come to the City. The Administration is recommending the creation of a Secret Service Fund to address the various assets and seizures that come before the City.

Mr. Lawton thanked the FAC for all their hard work, the Mayor and Board for their direction, the Vision 2020 and the goals and objectives, and the staff who put in a tremendous amount of time in not only developing the budget but also putting the document together.

Alderman Palazzolo stated that he had brought forward a couple of proposals that the Great Hall be considered for a managed competition analysis. The Great Hall is operated at a deficit and we are forecasting or projecting approximately \$1.92 million over the next four fiscal years in operating transfers to the Great Hall. He asked the Board and staff to look over the next fiscal year at going through the practice of putting the Great Hall under the analysis. He asked that each and every alternative be looked at and explored for the Great Hall, which would not cost the City any money.

Alderman Chism stated that Germantown volunteers have made Germantown what it is today because of their volunteer work on all the commissions.

In response to a question from Alderman Drinnon, Ms. Geiger stated the Germantown Athletic Club is making progress. It is an aging facility and it does need asset improvements which were put into the budget and we are working toward that goal. Also the completion of several capital projects that happened during the year also aided in turning this "big ship" around. There is a strong marketing effort that is taking place and there was a tremendous outpouring of new memberships last month and are continuing into June.

Ms. Geiger responded to a question from Alderman Drinnon about what type of profit or loss is the City facing this year and what is predicted for next year. She stated that this year the estimate from the Athletic Club is \$700,000.00 and next year, there is no operating transfer forecasted because the capital investment for the chiller. There is \$810,000.00 in the CIP for that and along with some other projects that are capital investments in the facility.

Alderman Drinnon stated the reason he brought this up was because of the plans and requests for things the City wants or needs and we have enterprises that are losing \$700 to a million dollars a year and we need to look at them.

Mr. Lawton assured the Board that the City was trying to be as efficient as possible at not only the Great Hall but also the Germantown Athletic Club. We are doing everything possible to make the revenues line-up with the expenditures.

Alderman Drinnon stated he was not being critical of the department heads but when there is continually a loss in something that is for the benefit of the people and they don't realize the City is underwriting the loss, he wanted all the Aldermen to be reminded of this when we are making a decision.

Motion by Mr. Palazzolo, seconded by Mr. Chism, to approve on third and final reading Ordinance No. 2010-4 establishing the FY11 Proposed Budget.

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

Special Permit for Methodist LeBonheur Balloon Sign

Economic and Development Services Director Andy Pouncey stated Methodist LeBonheur Healthcare is a sponsor of the Race for the Cure to be held on October 30, 2010. The event will have a tent in the Expo area in the parking lot of the Shops of Saddle Creek and Methodist proposed to identify their tent with an inflatable sphere with their logo. The sphere is to be 7-feet in diameter and will fly above their tent, no more than 35 feet above the ground.

Signs which consist of balloons or similar materials and devices are classified as “prohibited signs” by the Code of Ordinances but can be allowed by special permit by the Board of Mayor and Aldermen.

Alderman Billingsley recused himself and left the dais because of his employment relationship with Methodist LeBonheur Hospital Foundation.

Motion by Mr. Drinnon, seconded by Mr. Palazzolo, to approve a Special Permit for a temporary inflatable sphere for the Methodist LeBonheur Healthcare tent at the Race for the Cure Expo on October 30, 2010.

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

Alderman Billingsley returned to the dais.

Air Handling Unit Replacements – Germantown Police Department

Ms. Geiger stated there are two air-handling units that provide cooling for the first floor and second floor administration offices in the police department. A third air-handler unit serves the indoor gun range and is used only as needed. These units were installed during the addition of the police department in 1986. Two of the air-handling units are beyond efficient and useful life causing frequent downtime for repairs to be performed. Parts must now be fabricated for the units because parts are no longer being made.

Eight vendors attended the mandatory pre-bid walk through on April 8, 2010. Three bid packets were received. The low bid was \$93,400.00. This is a FY11 capital project.

Motion by Mr. Billingsley, seconded by Mr. Drinnon, to approve contract authorization with Mid-South Mechanical Contractors in the amount of \$93,400.00 to provide turnkey installation of HVAC equipment as specified in the bid packet.

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

Great Hall Public Relations and Marketing RFP Project

Community Services Division Director George Brogdon explained that on February 8, 2010, the Board approved the competitive sealed proposal process for procuring a marketing/advertising firm for developing marketing, advertising, promoting sales, and branding for the Great Hall. The City received five submittals and a team of staff interviewed each of the firms. After careful consideration, the team decided to recommend the Brand Squad. This action by the Board will encumber \$29,000.00 for the first phase from the FY10 Budget for this work. Phase 2 will be included in the FY11 Budget and brought to the Board at a later date.

In response to a question from Alderman Palazzolo, Mr. Brogdon stated that \$80,000.00 is budgeted for marketing the Great Hall in FY11.

Motion by Mr. Drinnon, seconded by Ms. Hinely, to authorize the Mayor to enter into a contract in the amount of \$29,000.00 with the Brand Squad to provide marketing, public relations, strategic sales, branding and an advertising campaign to promote the Great Hall.

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

Comprehensive Data and Operational Analysis of Fire Services

Fire Chief Dennis Wolf stated this was an agreement with International City/County Management Association (ICMA) to provide a team of consultants to conduct a comprehensive data and operational analysis of the Germantown Fire Department at a cost not to exceed \$53,000.00.

Though the department benchmarks effort and output through performance measures, staff believes that the insight provided by an outside, unbiased agency through analysis of workload and current services will assist staff in monitoring operations for continuous improvement and in making the best decisions possible concerning Germantown's future fire service needs. The ICMA provides the type and level of consulting services desired through a team of consultants with backgrounds in public service, public administration, public policy, fire and EMS services, and data and statistical analysis. ICMA's team conducts a thorough data analysis of past responses and will look at, among other items, response times, the response time for the second arriving apparatus, distribution of calls, and fire in residences. The team will also look at communication within the department, dispatch, prevention activities, risk assessment and planning, quality assurance programs, policies and procedures, department education and testing, wellness and human resources, strategic planning, and integrated risk management.

The fee for this study is \$48,000.00, plus travel expenses, which are projected to not exceed \$5,000.00, and ICMA will work with staff to keep travel expenses to a minimum. The timeframe for completion is 120 to 180 days from the date the agreement is signed.

In response to a question from Alderman Drinnon regarding a possible merger of the Germantown Fire Department with Shelby County, Chief Wolf stated there would not be a merger of the two fire departments; there could be a merger between the Memphis Fire Department and the Shelby County Fire Department with consolidation. Germantown would not be directly affected. However, there is a lot of mutual aid with Shelby County and we follow Shelby County for mutual aid resources so a merger between the Memphis Fire Department and Shelby County Fire Department would have an effect on Germantown's ability for all mutual aid resources.

Motion by Mr. Drinnon, seconded by Mr. Billingsley, to approve a professional services agreement with the International City/County Management Association for a comprehensive data and operational analysis of the Germantown Fire Department, in an amount not to exceed \$53,000.00.

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

Bid Rejection – Public Assembly Area Seating

Alderman Billingsley stated the Board was going to have a work session on this item at 7:00 a.m. on Wednesday morning and it was his understanding that a decision did not have to be made right now and he asked for this item to be deferred.

Motion by Mr. Billingsley, seconded by Ms. Hinely, to defer this item until a future date.
Alderman Billingsley asked staff to alert the Mayor and Board to the definitive date for how long the bid was good for.

Alderman Palazzolo stated that since all the staff members were present and there were people in the audience that had spoken on this project earlier and people watching on the TV that now would be a good time to discuss this item openly with debate. He stated that over the years there had been comments that work sessions were held so early in the morning or during the middle of the day that the general public could not come to observe. He stated that the City did not take notes, minutes, video tape or take action at the work sessions so in the spirit of transparency, he suggested since everyone was already here that it be done in full light of the people in Germantown. He respectfully asked the motion to table be withdrawn and it be discussed now.

Alderman Billingsley stated he would also like for this meeting to be as transparent as possible and if the 7:00 a.m. meeting was not suitable for Alderman Palazzolo that it be scheduled at another time. He would be happy to give more notice to the citizens. He expressed that his concern was about a lot of details and with the exception of the staff there were only about 15 people in attendance and did not represent a great number of the citizens. He would also like to invite as many users of the site as possible to attend the meeting.

Alderman Palazzolo stated that Alderman Billingsley had some very valid points. This is a very complex project and there were a lot of stake holders involved. He suggested a town hall or public meeting.

A discussion followed regarding the amount of time needed to post a work session.

Alderman Billingsley called to question.

Mayor Goldsworthy stated there had been a call to question.

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

Amendment to Subdivision Development Contract #490, Glen Echo Subdivision – Moved from the Consent Agenda

Mr. Cook stated the original development contract for the Glen Echo Subdivision was with Welch Realty Company. Most of the infrastructure associated with the subdivision was completed before becoming insolvent. The mortgagee bank, First Citizens National Bank foreclosed on the property and is now the owner/developer of the property. The revised contract is a standard development contract between the City and the new owner of the property. The property is located on the east side of Forest Hill-Irene, north of Poplar Avenue.

Alderman Drinnon stated that First Citizens National Bank was now the owner of the property and banks do not develop property themselves. He felt the Board would be approving a developer that would be developing the property for the bank.

Mr. Cook stated that typically that statement was correct but presently there are 5 or 6 subdivisions that had been taken over by banks, received contract amendments, hired construction managers and a contractor to finish the subdivision under the watchful eyes of our Engineering Department. Recently there had been contracts brought back to the Board where the banks had actually been the owner/developer.

City Attorney Tom Cates stated our contracts had always been set up to define the owner of the property. Ninety-five percent of the time the developer is the owner. The rarity here is that the financial institutions are having to take over the properties but they are the owner of the property and they are serving as the developer of the property. The City bonds them with bonds from other banks, and they are treated simply as the owner.

Motion by Mr. Billingsley, seconded by Mr. Chism, to approve amended Subdivision Development Contract No. 490 for the development of Glen Echo Estates Subdivision.

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

CONSENT AGENDA

Recognition of Donation – Parks and Recreation

A donation of \$404.00 was made to the Parks and Recreation Department for the Special Recreation program from the Germantown Kiwanis Club.

MOTION: To recognize the donation made to the Parks and Recreation Department for a community program totaling \$404.00 and to approve Budget Adjustment No. 10-155.

Civic Support Grant – Germantown Arts Alliance

FY10 marks the 17th year of funding by the City of Germantown for the Germantown Arts Alliance. This is the second installment for FY10. The first installment of \$30,000.00 was made in October, 2009. This second installment is for \$10,000.00.

MOTION: To award a Civic Support Grant to the Germantown Arts Alliance in the amount of \$10,000.00.

Recognition of Donation – Public Safety Education Commission

The Public Safety Education Commission made a donation of \$2,355.00 to the City for Safety City. The Commission collects money throughout the year to promote safety awareness for children of ages 5 and 6.

Alderman Palazzolo asked if there was anyone on the Board that represented the Arts Alliance.

Mayor Goldsworthy stated that there was a place for a liaison from the Board on the Arts Alliance but no one had been selected to do that.

MOTION: To recognize a donation from Public Safety Education Commission and Budget Adjustment No. 10-153.

Motion by Mr. Palazzolo, seconded by Mr. Drinnon, to accept the consent agenda as read.

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

Mayor Goldsworthy invited all to come and enjoy the Family Fourth of July on Sunday, July 4.

ADJOURNMENT

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

Sharon Goldsworthy, Mayor

Dotty Johnson, City Clerk/Recorder