

BOARD OF MAYOR AND ALDERMEN

July 12, 2010

A regular meeting of the Board of Mayor and Aldermen was held on July 12, 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, Tom Cates, Chief Richard Hall, Pam Beasley, Jerry Cook, Bo Mills, Lisa Piefer, Butch Eder, Tim Gwaltney, and Dotty Johnson.

Call to Order

Mayor Goldsworthy called the meeting to order at 6:00 p.m.

Invocation

Director of Community Services Bo Mills gave the invocation.

Pledge of Allegiance

Alderman Carole Hinely led the Pledge of Allegiance.

Approval of Agenda

Mayor Goldsworthy asked to move item 14b of the Consent Agenda (Recognition of Donation – Suburban Garden Club) to the Regular Agenda.

Alderman Palazzolo asked to move 14g on the Consent Agenda (Recognition of Donation – Riverdale Playground Project) to the Regular Agenda.

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

Alderman Billingsley noted there was a correction to be made on page 2, third paragraph, the name Elmere was misspelled, and should be spelled Elmire.

Motion by Mr. Billingsley, seconded by Mr. Chism, to approve the minutes of the Board of Mayor and Aldermen meeting held June 28, 2010 as amended.

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

Citizens to be Heard

Jim Schmiedicke of 3085 Poplar Grove Lane came forward and asked the Board to consider the Street Conversion Policy as soon as possible.

Brent Davis of 3037 Forest Hill-Irene came forward and spoke on behalf of the Board of Directors of the Germantown Community Theatre. He gave an update on their season and stated they had a 110% overall increase in net income over last year. He expressed their thanks to the Board and wanted to illustrate to the Board that they were being good stewards of the money the City provided to them.

Mr. Davis stated they had two performances of their “Play in the Park” and had over 500 people to attend in the Municipal Park. He invited all to the production of “Alice in Wonderland” to be held from July 30 – August 8.

Dan McCleary of 6996 Stillbrook came forward and gave an overview of the performances and projects the Shakespeare Company had held this year and how it had benefited all the children in schools in Shelby County.

Recognition of Donation – Suburban Garden Club

City Administrator Patrick Lawton stated the Suburban Garden Club of Germantown, Inc. had recently donated \$1,000.00 to landscape the base of the Central Park/Germantown Civic Club Complex. He introduced Jackie Clift and Melissa Jones representing the Suburban Garden Club.

Motion by Ms. Hinely, seconded by Mr. Drinnon, to recognize a donation from the Suburban Garden Club of Germantown, Inc., made to Public Services in an amount totaling \$1,000.00 for landscaping on Melanie Smith Lane.

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

Appointments to the Education Commission

Mr. Lawton read the names of ten citizens who had applied for the Education Commission.

Alderman Hinely stated she had received another application after the packets had gone out and that was for Ms. Debbie Dafferner and she would like for her to be appointed also.

Alderman Palazzolo recused himself because of his relationship to one of the appointees. He left the dais.

Alderman Billingsley stated he would abstain from the vote because he is employed by Methodist/LeBonhuer Healthcare along with Ms. Dafferner. He too left the dais.

Motion by Ms. Hinely, seconded by Mr. Drinnon, to approve the appointment of the following applicants to the Education Commission: David Compton, Vicki Gandee, Bonnie Lee, Laura Meanwell, Paul Mormon, Rodolfo Palazzolo, Eleanor Purdy, Robyn Rudisill, Teresa Schwartz, Stephanie VanArsdale and Debbie Dafferner.

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

Resolution 10R11 – Bank Signature Card for Police Federal Asset Forfeiture

Mr. Lawton stated this resolution would authorize the City to establish a separate bank account for funds deposited by the federal government on assets sold for cash. The Federal Government will sell assets that have been seized and sold. These funds will be deposited in a separate bank account as required by the Federal Government so as not to be commingled with the municipality funds.

In response to a question from Alderman Drinnon, the account will require two signatures on each check.

Motion by Ms. Hinely, seconded by Mr. Billingsley, to request authorization to establish a bank account for funds received from the Federal Assets Forfeiture.

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

Alderman Palazzolo returned to the dais.

Wolf River Boulevard Right-of-way Acquisition – KRA Holdings, LLC (Germantown Country Club)

Jerry Cook explained that the Wolf River Boulevard project was now at the right-of-way acquisition phase. He gave a brief history of the many aspects of the project. The appraisal of the right-of-way and easements was performed by Trotz Real Estate Services, Inc. and a review of the appraisals was conducted by Bouldin and Associates. The cost of all rights-of-way and easements, as presented in the appraisal, plus the sum necessary to acquire an additional 16.197 acres north of the proposed right-of-way which will be used consistent with the City's plan for a proposed greenbelt, is \$585,800.00. In addition, the property owner is requesting an additional 10% of the appraisal amount for compensation lost for future development of the golf course property. Total compensation sought by the owner is \$644,380.00. If no agreement can be reached with the owner, the City will be required to condemn the property.

The cost of the right-of-way will be split between federal, state and the City with the federal and state portion is 80% and the City's share is 20%.

Alderman Drinnon made a statement for the record that this project was to begin the later part of the current year.

Mayor Goldsworthy noted that this was the first of four property acquisitions that the Board would be asked to consider.

In response to a question from Alderman Hinely, Mr. Cook stated the other right-of-way acquisitions and the construction costs would also be an 80/20% split

Motion by Mr. Drinnon, seconded by Ms. Hinely, to approve the right-of-way acquisition from KRA Holdings, LLC, (Germantown Country Club) in the amount of \$644,380.00 for the Wolf River Boulevard Improvement Project.

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

Purchase of Evidence Collection Vehicle from State Drug Fund

Police Chief Richard Hall stated that presently the evidence collection materials were stored in various sites in the City. The proposed collection vehicle will be equipped with all the current crime scene materials and will give the investigators quicker access to equipment and crime scenes have all needed materials at one location.

The Ford E-250 Econoline van will be outfitted by Sirchie and is the single and sole source supplier of the evidence collection vehicle. The vehicle conversion is completed by Sirchie and does not utilize outside suppliers for any manufacturing. Sirchie provides certified factory training on the vehicle and equipment and the training of two officers is included with the purchase of the vehicle. The cost of the vehicle will be paid for out of the State Drug Fund.

Motion by Mr. Billingsley, seconded by Mr. Chism, to authorize the purchase of a Ford Evidence Collection Vehicle utilizing State Drug Funds and to approve Budget Adjustment 11-01.

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

Howard Rd./Mimosa Gardens Improvements – Construction Contract

City Engineer Tim Gwaltney explained that in May of this year the City received official notification from Neibel Construction's surety Company, North American Specialty Insurance Company (NAS) that Neibel Construction was not able to perform its obligations under the original contract for the completion of the Howard Rd./Mimosa Gardens Improvements Project and had issued a voluntary default notice.

Recognizing its obligations to perform the original contract requirements, NAS began discussions with another contractor, Madden-Phillips, Inc. to complete the project. If Madden-Phillips' cost estimate to complete the project is in excess of the original contract price NAS will pay the difference between the original contract amount and the new contract amount. The City will enter into a new contract with Madden-Phillips which will be bonded and insured in accordance with City procedures.

City Attorney noted that the City will be accepting a check in the amount of approximately \$130,000 from NAS which is the difference between the original contract and the contract with Madden-Phillips.

In response to a question from Alderman Palazzolo, Mr. Gwaltney stated the project will hopefully begin the first week in August.

Motion by Mr. Drinnon, seconded by Mr. Palazzolo, to approve a new construction contract and authorize the Mayor to execute same with Madden-Phillips, Inc. for the completion of the Howard Rd./Mimosa Gardens Improvements Project and to approve related documents with North American Specialty Insurance Company (NAS). All such agreements to be reviewed and approved as to form and substance by the Director of Economic and Community Development, the City Engineer and the City Attorney.

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

Public Assembly Area Construction Contract

Mr. Pouncey stated this item was to accept or reject the low bid for the installation of seating and electrical infrastructure for the construction of an outdoor amphitheatre located within the Public Assembly Area in Morgan Woods.

There were four contractors that submitted bids and the low bid from Rose Construction, Inc. was \$319,955.00 which was significantly higher than the construction estimate and the budget established for this project.

Staff believes this is a viable project, but not at the bid price submitted. Staff recommends rejection of the bids and modification of the design under the direction of the Parks and Recreation Commission to ensure the project can be constructed in the City's established budget.

Motion by Mr. Billingsley, seconded by Ms. Hinely, to reject the low bid of \$319,955.00 for the installation of seating and electrical infrastructure necessary for the construction of an outdoor amphitheatre located within the Public Assembly Area.

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

Professional Services Agreement – Obsidian Public Relations

Curt Cromis, the Business Manager for the Germantown Athletic Club explained this was a renewal of a contract with Obsidian Public Relations for media relations. He asked the Board to approve it for a term of six months at a rate of 30 hour per month for a total amount of \$16,200.00. He stated the City had a

very good working relationship with the Obsidian and they had worked very closely with the former Marketing Coordinator.

Obsidian is used in the recruitment of new members, seeking an expanded list of corporate relationships for the membership and coordination of communications with the members.

Alderman Billingsley asked if there was a sense of urgency to pass this item now in advance of the Marketing Manager being hired.

Mr. Cromis stated it was not a sense of urgency but a sense of appropriateness. When the new manager is hired there will be time between when he/she is hired and when they can get settled into the job. The six months would be a good learning curve period where they can re-evaluate what would be appropriate after the six month period.

Alderman Billingsley asked if there could be a coordination of services or leverage of marketing dollars between GAC, GPAC and the Great Hall.

Mr. Lawton stated there was a marketing firm approved by the Board for the Great Hall, but GPAC does not have a marketing company, all of their work is done in-house by staff.

Alderman Billingsley asked if it would make sense to use the company that was hired for the Great Hall and coordinate both of the endeavors in order to leverage our marketing dollars.

Mr. Lawton stated that would necessitate going back out and looking at another round of service or giving other bidders the opportunity to participate because the scope of service would be different from the original RFP.

Alderman Billingsley asked if staff would in the next six months look into the benefits of leveraging our dollars and better coordinating all the marketing under one billing. He felt there should be a larger vision for the Great Hall, GPAC and GAC and better team work among these three entities and not seen as individual endeavors. There should be a person to bridge the gap between all three of those entities. He stated with the limited money the City has for marketing it would be good to combine these three.

Mr. Lawton stated he would look into working more closely for the entire building.

Motion by Ms. Hinely, seconded by Mr. Drinnon, to authorize the Mayor to execute a professional services agreement with Obsidian Public Relations for a term of six months at the expense of \$16,200.00.

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

Recognition of Donation – Riverdale Playground Project – Moved from Consent Agenda

Kristen Geiger stated this was accounting treatment recognition. On March 22, 2010, the Board of Mayor and Aldermen approved and accepted contributions from two private donators for new “NatureGrounds” play equipment at Riverdale Park, the value totaling \$300,000.00 (\$150,000.00 of playground equipment from PlayCore and another \$150,000.00 of equipment from the Baptist Memorial Healthcare Foundation Grant). The Foundation has requested that the City accept a check in the amount of \$151,432.50 from their organization to pay for the equipment.

Alderman Palazzolo stated he asked for this agenda item to be moved to the regular agenda so the accounting procedure could be explained.

Motion by Mr. Drinnon, seconded by Mr. Palazzolo, to recognize a contribution of \$151,432.50 from the Baptist Memorial Healthcare Foundation to purchase new playground equipment from the PlayCore Company in the amount of \$151,432.50 for the Riverdale Park project and to approve Budget Adjustment 11-02.

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

CONSENT AGENDA

Living Legacy Tree Purchase

The Germantown “Living Legacy” tree fund is a plan to implement a coordinated landscape design for public areas in the City through contributions and donations. A donation of \$452.00 is to be recognized from the Germantown “Living Legacy” fund to purchase two trees.

MOTION: To recognize a donation for funds in the amount of \$452.00 from the Germantown “Living Legacy” fund to purchase two trees and to approve Budget Adjustment 10-148.

Purchase – Turf Aerator

This is a request to purchase a model year 2010 turf aerator at a cost of \$14,573.60. This new machine is driven by the PTO system of the tractor which drives the hydraulic system on the aerator driving the coring tines to greater depths. The Grounds Maintenance Department will use this machine on a regular basis during the summer months. The athletic fields will remain the focus of use of this machine, however, other turfs in the City will benefit from this aeration process.

MOTION: To authorize the purchase of model year 2010 turf aerator from Jerry Pate Turf & Irrigation in the amount of \$14,573.60.

Purchase – Bulk Water Chemicals

The purchase of fluoride and sodium hexamethaphosphate is used at both the Southern Ave. and Johnson Road Water Treatment Plants. The Tennessee Division of Water Quality governs the type of chemicals and at what concentrations are applied to the water prior to distribution. The total amount of purchase is \$31,040.00.

MOTION: To purchase fluoride from Harcros Chemicals, Inc. in the amount of \$11,500.00 and sodium hexamethaphosphate from Shannon Chemical in the amount of \$19,540.00 for a total amount of \$31,040.00.

Police Department Ammunition

Ammunition is used for State required firearm qualifications, duty ammunition and training ammunition and will be purchased from the Tennessee Statewide Contract for a total amount of \$35,370.00.

MOTION: To purchase ammunition for qualifications, duty ammunition and training ammunition for the Police Department.

Pool Chemicals

The Germantown Athletic Club utilizes a tablet or briquette form of chlorine to maintain the balance and quality of the water in the indoor and outdoor pools. This purchase reflects the estimated amount of chlorine to be used for the next ten to twelve months.

MOTION: To approve the purchase of chlorination chemicals for the Germantown Athletic Club’s pools from Duffield Inc. in the amount of \$19,380.00.

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

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

Alderman Billingsley asked where we were with the Ordinance on the existing digital signs and was that something the Board should further consider.

Mr. Lawton stated the changes to the DRC ordinance included the digital sign item as well and it will be presented back to the Board in its entirety at some point. He will get with staff and put together a calendar and bring it back to the Board.

He asked if it would be more appropriate to address the digital sign issue separately versus the variances for consideration so the Board could make a decision on the one issue.

City Attorney Tom Cates responded that the reason they were held together for consideration was because the DRC had proposed the amendments which would permit digital price signs in the future. There is no reason why the position could not be that the signs that had been granted could stay. This would not enforce the ordinance. Or we would ask the people to take them down and in absence of them taking them down, we start a lawsuit. One of the variables that we don't know and probably won't know is what the signs cost. The applicants did not do anything wrong. Our DRC had no authority to grant it though. Now we have taken the position that they should be taken down, it was his judgment that the Courts would require the City to pay for them. We have done a substantial amount of investigation to determine what they should cost because what the applicants say they cost \$70,000.00 to \$80,000.00 per sign. But until we get into litigation and are able to attest that cost, we really won't know what their actual cost is.

Mayor Goldsworthy stated it was her understanding, if there is a will of the Board to consider the signs separate, then we should proceed with consideration now and ask staff to set up the appropriate information and action for consideration of the Board separate from the DRC ordinance overall.

Mr. Cates stated that would be a resolution to either bring suit as necessary to have the sign removed or if the resolution is not passed, we leave the signs alone.

Alderman Billingsley stated he did not like to leave things undone and if the Board had an interest in pursuing this it should not be left undone.

Motion by Mr. Drinnon, seconded by Ms. Hinely, that the issue of the gas price signs be presented to the Board within the next six weeks.

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

Mayor Goldsworthy commented on the Family Fourth was a huge success and she thanked all the staff involved and the many volunteers that helped.

Mayor Goldsworthy announced that plans were proceeding with “Everybody’s Playhouse” and all those interested in volunteering to help this Saturday to get in touch with the Parks and Recreation Division to sign up. People with all skill levels were invited to participate Saturday from 7 a.m. to 7 p.m. and on Sunday from 12 noon to 4 p.m. The dedication will be at 4:00 p.m.

In response to a question from Alderman Chism, Mr. Pouncey stated he would be working with Parks and Recreation Director on the design of the seating for the Shakespeare Theatre. It will be taken to the Parks and Recreation Commission along with the stakeholders, GHSTV and Mr. McCleary. They will all work together in the redesigning of the area.

ADJOURNMENT

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

Sharon Goldsworthy, Mayor

Dotty Johnson, City Clerk/Recorder