

## **BOARD OF MAYOR AND ALDERMEN**

**August 9, 2010**

A regular meeting of the Board of Mayor and Aldermen was held on August 9, 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, George Brogdon, Andy Pouncey, Kristen Geiger, Tom Cates, Chief Richard Hall, Pam Beasley, Jerry Cook, Bo Mills, Lisa Piefer, Ralph Gabb, Butch Eder, Tim Gwaltney, Tim Bierdz and Dotty Johnson.

### **Call to Order**

Mayor Goldsworthy called the meeting to order at 6:10 p.m.

### **Invocation**

Community Services Division Director George Brogdon gave the invocation.

### **Pledge of Allegiance**

Alderman Mike Palazzolo led the Pledge of Allegiance.

### **Approval of Agenda**

Mayor Goldsworthy noted that staff had requested item number 12, Purchase of Property – 7726 Southern Ave. be deferred.

Staff had requested an Add-On, Resolution 10R14 authorizing the condemnation of land and easement owned by Walid A.W. Sakaan in connection with extension of Wolf River Blvd. and Trails and Nature Area. The Board agreed to add this to the agenda after item #11.

Alderman Drinnon stated he would be voting on the consent agenda but would abstain from the vote on item b. – Managers and Supervisory Quality Training – Union University.

Alderman Chism asked to Add-On to the agenda an item that would revisit the Shakespeare Theatre and see what could be cut out of the costs so that it could be built and still be within budget.

Mayor Goldsworthy noted that the Board's previous action was to refer this to the Parks and Recreation Commission for its consideration and recommendation and Mr. Pouncey was to work with Parks and Recreation Commission and others in looking at how the project might address this.

Alderman Chism stated that this might be the way the Board considered but he felt that nothing was being done and a solution needs to be found soon and he made this in the form of a motion.

Mayor Goldsworthy stated the question was as to whether it was the will of the Board to add this to the agenda.

Alderman Drinnon stated that the Board had previously recommended that a master plan be prepared for that whole area including the road system rather than to just plan for one feature.

Mayor Goldsworthy restated the question was to whether the Board would want to place this item on tonight's agenda.

Motion by Mr. Chism, seconded by Mr. Billingsley, to add to the agenda for discussion regarding how further development of the public gathering area should advance.

Alderman Drinnon stated he had made a motion to refer this item to the Parks Commission for a master plan and he did not understand why this was being brought up for discussion.

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

Alderman Drinnon asked Mr. Pouncey if any master plan had been developed for this area and if so, when they took bids for the road and the amphitheatre, was this taken into consideration.

Mr. Pouncey stated there was a master plan.

Mayor Goldsworthy stated there would be a chance for discussion when the item was brought before the Board later in the meeting.

Alderman Palazzolo asked to move item 10, Uncollectable Personalty Tax, to the Consent Agenda.

The Board unanimously agreed to move the item.

Motion by Ms. Hinely, seconded by Mr. Palazzolo, to adopt the agenda as amended.

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

### **Approval of Minutes**

There were no corrections or additions to the minutes.

Motion by Mr. Chism, seconded by Mr. Palazzolo, to approve the minutes of the Board of Mayor and Aldermen meeting held July 26, 2010 as amended.

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

### **Citizens to be Heard**

No citizens came forward.

Mayor Goldsworthy recessed the Board of Mayor and Aldermen meeting and convened as a Beer Board.

### **BEER BOARD**

#### **Public Hearing – Beer Permit – Noodles Asian Bistro**

City Administrator Patrick Lawton explained that Mr. Gen Lam and Ms. Sara Lam the owners of Noodles Asian Bistro had applied for a beer permit for on-premise consumption. The Police Department had done a background check and found no records or outstanding warrants on either applicant.

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

Motion by Mr. Palazzolo, seconded by Ms. Hinely, to approve the request from Gen Lam and Sara Lam, owners of Noodles Asian Bistro for a permit to sell beer for on-premise consumption.

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

Mayor Goldsworthy adjourned the Beer Board and reconvened as the Board of Mayor and Aldermen.

**BOARD OF MAYOR AND ALDERMEN**

**Ordinance 2010-7 – Amendment to the Stormwater Management and Pollution Control Ordinance  
First Reading**

Mr. Lawton stated this was essentially a housekeeping item in that it will be to move the original code that was adopted in 2004 from the Zoning section into the Utility section of the Code. The change will call for the establishment of a Stormwater Management Local Hearing Board to hear appeals relating to management civil penalties and any questions that might arise regarding the stormwater user fees.

The Board will consist of five members including the director and one alderman designated by the Board of Mayor and Aldermen. The other three members shall be professionally qualified in the fields of engineering or landscape design and will be appointed by the Board of Mayor and Aldermen.

In response to a question from Alderman Palazzolo, Mr. Lawton stated there had been trials in working with the software vendor in putting in place the appropriate billing mechanism. It is hoped it will be in place by September.

Motion by Ms. Hinely, seconded by Mr. Drinnon, to approve on first reading Ordinance No. 2010-7, an ordinance to amend Chapter 21 (Utilities) and Chapter 23 (Zoning) of the Code of Ordinances of the City of Germantown to adopt certain provisions related to stormwater management on first reading and to set Monday, September 13 as the second reading and public hearing.

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

**Resolution 10R13 – Digital L.E.D Gas Signs**

Mr. Pouncey stated this resolution will authorize the Mayor, on behalf of the City, to take all necessary action to revoke the improperly granted approvals or permits so as to cause such L.E.D. gasoline price signs to be removed. The resolution stated that the appropriate City staff, as designated by the Mayor, enter into negotiations with the permit holders to attempt to reach agreements that will result in such price signs being removed and the approvals or permits therefore revoked, which agreements may have as a component the City reimbursing the permit holders for the cost of the price signs – any such agreement to first be presented for consideration and approval or rejection by the Board of Mayor and Aldermen; and that if no such agreement can be tentatively (subject to Board of Mayor and Aldermen approval) reached within 60 days of the approval of this Resolution by the Board, the Mayor be, and she is hereby authorized to retain counsel to take legal action to cause such Price Signs to be removed and the approvals of permits therefore revoked.

Motion by Mr. Chism, seconded by Mr. Drinnon, to authorize the Mayor on behalf of the City to take all necessary action to revoke the improperly granted approvals or permits so as to cause such L.E.D. gasoline price signs to be removed.

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

**Uncollectable Personalty Tax – MOVED TO CONSENT**

**Settlement Agreement – Stephanie Hill**

Mr. Lawton stated the Board was asked to consider a settlement agreement with Stephanie Hill for a lawsuit filed by Ms. Hill against the City of Germantown. On July 26, 2010, Police Chief Richard Hall,

Attorney Ed McKinney, a representative from the Tennessee Municipal League and Mr. Lawton met in the judges room of mediation in an attempt to mediate the lawsuit filed against the City by Ms. Hill. At the conclusion of the mediation, City staff and our attorney reached a tentative settlement agreement with Ms. Hill. At the time the tentative agreement was agreed to it was expressly understood that the ultimate decision regarding the settlement of this matter would be brought back to the Board of Mayor and Aldermen for their action.

Motion by Mr. Billingsley, seconded by Mr. Chism, to settle the pending lawsuit brought by Stephanie Hill against the City, and all other possible claims of Stephanie Hill, in general accordance with the proposed Settlement Agreement presented to the Board of Mayor and Aldermen and to authorize the Mayor to execute and carry out the terms of such Settlement Agreement on behalf of the City.

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

**Purchase of Property – 7726 Southern Ave. - DEFERRED**

**ADD-ON – Resolution No. 10R14 authorizing condemnation of land and easement owned by Walid A. W. Sakaan in connection with extension of Wolf River Boulevard and Trails and Nature Area.**

Community Development Director Mr. Jerry Cook stated this was the fourth and final acquisition for the Wolf River Blvd. project. The Board had previously approved acquisitions for three other properties, the KRA Holdings, LLC (Germantown Country Club), the LMP Wolf River I, LLC (Medical Office Buildings), and the Farmington Group adjacent to the Country Club.

This property is owned by Walid Sakaan and is the eastern most property acquisition for the Wolf River Blvd. property. It adjoins the City owned property of Cameron Brown Park. The total cost of the right-of-way and easements for this property is \$198,000.00 and the value of \$10,156.00 was established in the appraisal for all the land north of the proposed roadway to the Wolf River, the total compensation to the property owner is \$208,156.00 including damages.

All the properties were appraised by Trotz Real Estate Services, Inc. and a review of the appraisals was conducted by Bouldin and Associates.

The property acquisition is being proposed by eminent domain and condemnation. The City has not been able to produce an agreement with the property owner for the purpose of pricing the property and therefore staff is recommending that we proceed with the condemnation of the property so the project can continue to move forward.

Mr. Cates stated that when the court authorizes the condemnation suit, you pay the money the court determines is fair market value of the property.

Motion by Ms. Hinely, seconded by Mr. Chism, to approve the City of Germantown acquiring by eminent domain from Walid Sakaan the property and interests in property described in Exhibit A by exercise of the right of eminent domain vested in the City, in the amount of \$208,156 for the Wolf River Boulevard Road Improvements Project and to approve Budget Adjustment No. 11-14, and Resolution No. 10R14.

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

**ADD-ON – Revisit Shakespeare Theatre project**

Alderman Chism stated the Board had been discussing this for a long time and when the bids came in for the project, they were much higher than had been anticipated. He felt at that point the Board gave up and

asked the Parks and Recreation to take over. In the meantime, this project had been approved by Parks and Recreation and he agreed that we should at least give someone the opportunity to see if the Theatre structure could be done for the amount of money the Board had agreed to spend.

Motion by Mr. Chism, seconded by Ms. Hinely, for the Board of Mayor and Aldermen to ask Mr. Pouncey to go back and revisit the bidding process for the Shakespeare Theatre located in Morgan Woods. Mr. Pouncey would be solely responsible to work with contractors to bring the project within the budget.

Alderman Palazzolo asked for friendly amendment to the motion to change the name of Shakespeare Theatre to Public Assembly Area because the area was not for just one project but for several.

Alderman Chism agreed to the amendment.

A discussion followed by all the aldermen with staff regarding who the stakeholders in the project would be, the master plan for the whole area, the responsibility of the Parks and Recreation Commission and the time frame required.

Mr. Pouncey stated that the FY11 CIP has \$447,000.00 designated for the public assembly area so that when budget is brought up, this is the amount we have to work with. He stated they had talked with Dan McCleary at the last meeting and he was told the direction that Parks and Recreation Commission was taking and he seemed very supportive of the master plan.

Alderman Chism called the motion to question.

Mayor Goldsworthy asked for roll call.

Alderman Palazzolo asked for the motion to be repeated.

Alderman Chism withdrew his motion.

## **CONSENT AGENDA**

### **Annual Maintenance Fee for Public Water System**

In 1991, the State of Tennessee implemented a Public Water Facility Maintenance Fee based on the type of facility and the number of service connections. The fee provides funds for a technical staff that consults with local utility officials on water system issues. The City's maintenance fee payment of \$17,209.40 is based on the number of service connections.

**MOTION:** To approve the annual payment to the Tennessee Department of Environment and Conservation, in the amount of \$17,209.40 for the State Facility Maintenance Fee.

### **Managers and Supervisory Quality Training – Union University**

Under this proposal 108 managers and supervisors will be trained in the development of employee development plans and how to link these plans to departmental business plans and the overall vision and mission of the City. The training will also involve the development of personal and professional performance measures and how they translate into improved service delivery to our residents. The cost of the two days of quality service employee training will be \$25,704.00.

**MOTION:** To authorize the Mayor to enter into a contract with Union University for two days of quality service employee training in the amount of \$25,704.00.

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

**Uncollectible Personalty Tax – MOVED FROM REG. AGENDA**

The City had established an agreement with Shelby County Trustee to assist in the collections of real and personalty delinquent tax accounts. The Shelby County Trustee had determined that six tax parcels, totaling \$851.12, had been determined uncollectable.

MOTION: To request authorization from the Board of Mayor and Aldermen to remove the six tax parcels the Shelby County Trustee has determined uncollectable totaling \$851.12.

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

Mr. Drinnon stated he would abstain from voting on Managers and Supervisory Quality Training – Union University because of his affiliation with Union University.

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

Mayor Goldsworthy announced that the Charter Commission on Metropolitan Government had concluded its work today by approving the proposal that will be delivered to the Election Commission tomorrow. The Board of Mayor and Aldermen went on record last fall of being opposed to Metro Government or Consolidation as it is popularly known. She stated that after observing all the meetings first hand and with the other suburban mayors had repeatedly given input to the commission regarding our concerns during the process. She felt the Board’s original position of opposition stands a very good place as a recommendation to the broader community.

Aldermen Drinnon and Palazzolo expressed their appreciation to the Mayor and Patrick for spending so much of their time in Charter Commission meetings and they had represented our citizens well.

Alderman Palazzolo asked the City Attorney to please distribute the “Sunshine Law” to the aldermen.

**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