

**BOARD OF MAYOR AND ALDERMEN**  
**November 14, 2022**

The regular meeting of the Board of Mayor and Aldermen was held on Monday, November 14, 2022, at 6 pm in the Council Chambers at City Hall.

Mayor Mike Palazzolo was present and presiding.

The following aldermen were present: Scott Sanders, Mary Anne Gibson, Sherrie Hicks, Brian Ueleke and Jon McCreery. Staff present: Michele Betty, Taylor Cates, Tony Fischer, Mike Fisher, Jason Huisman, Mac McCarroll, Bo Mills, Cathryn Perdue, Lisa Piefer, Cameron Ross, Natalie Ruffin, Andy Sanders and Courtney Taylor.

**Call to Order**

The Mayor called the meeting to order.

**Invocation**

The invocation was led by Cameron Ross.

**Pledge of Allegiance**

Alderman Ueleke led the Pledge of Allegiance.

**Set Agenda**

The Board is asked to set the agenda for the meeting. Any changes are to be made at this time.

Motion by Ms. Gibson, seconded by Mr. Sanders, to approve the November 14, 2022 agenda.

ROLL CALL: Sanders-yes, Gibson-yes, Hicks-yes, Ueleke-yes, McCreery-yes. Motion approved.

**Approval of Minutes**

Approval is requested of the minutes of the regular meeting held October 24, 2022.

Motion by Ms. Hicks, seconded by Mr. Ueleke, to approve the minutes of the regular meeting held October 24, 2022.

ROLL CALL: Sanders-yes, Gibson-yes, Hicks-yes, Ueleke-yes, McCreery-yes. Motion approved.

**Citizens to be Heard**

No citizens came forward.

**SPECIAL RECOGNITION**

**Germantown Education Commission Teacher of the Month – October 2022**

The October 2022 Teacher of the Month Award winner is Ms. Susan Berry, a third-grade math and science teacher at Dogwood Elementary.

**Germantown Education Commission Youth Excellence Award – October 2022**

The October 2022 Youth Excellence Award winner is St. Agnes Academy Senior Taylor Warne.

**CONSENT AGENDA**

**Donation – Neighborhood Preservation Commission**

The Tour of Remodeled Homes took place on September 25, 2022, with six homes showcasing a variety of remodeling projects. The following organizations contributed a total of \$1,650.00 to the event through monetary or in-kind sponsorships:

- Presenting Sponsor (\$500.00): Robbins Constructions

- Gold Level Sponsors (\$250.00): Allyson Avera with Crye-Leike, Bluff City Exteriors, Michelle Shaver with Crye-Leike and Success Real Estate School
- Silver Level Sponsor (\$150.00): Gerald Wilson
- In-kind Sponsor: Holliday Flowers

MOTION: To approve donations of \$1,650.00 to Neighborhood Preservation Commission and to approve Budget Adjustment No. 23-31.

#### **Purchase – Mobile Data Terminals**

Mobile data terminal systems allow Fire, Police and Utility Locate personnel to use computer technology in daily field operations. The use of this equipment enhances the department's ability to respond to calls for service, take offense reports, utilize internet law enforcement sites, and is considered to be another component of employee safety. These in-car/apparatus computer systems are replacement units of outdated computers which have reached end-of-life.

MOTION: To purchase fifteen (15) mobile data terminal systems and associated equipment in the amount of \$78,010.00 from Brite Computers on Synnex National Cooperative Purchasing Alliance Contract No. 01-97, and declare replaced equipment as surplus.

#### **Purchase – Printing and Mailing Services – Utilities**

On January 12, 2015, the Board approved the use of Sevierville, Tennessee's Production Agreement with DataProse for printing, stuffing and mailing City of Germantown utility bills. On September 12, 2016, the Board approved the addition of printing, stuffing and mailing services for City tax bills. The Production Agreement with DataProse identifies pricing for goods and services in addition to monthly electronic billing, bill printing and mailing. Printing services for additional inserts mailed with the City's monthly utility bill are included in this agreement as a means to streamline services and increase efficiency.

MOTION: To authorize the use of the City of Sevierville, Tennessee's Production Agreement with DataProse for electronic billing, printing, stuffing and mailing utility bills in an amount not to exceed \$137,160.00.

#### **Purchase – UPS Replacements – Radio Sites**

The Uninterruptable Power Supply (UPS) systems installed in 2012 have reached end of life and are out of date with current technology. This project will replace the current UPS systems with new units to support the City's Public Safety Radio System. The 2-year warranty will provide next day on site service response coverage to the UPS system and cover battery outages. An extended maintenance agreement will be purchased once the system has been installed adding a layer of protection to the investment the City has already made in the radio system.

MOTION: To purchase replacement Uninterruptable Power Supply systems to support the City's Public Safety Radio System radio sites from CDW Government in the amount of \$84,910.00, and declare the replaced equipment as surplus.

#### **Renewal – Property & Casualty Insurance**

The City manages various risks of doing business by obtaining insurance coverage for excess property losses, workers compensation claims and general tort liability claims. For more than two decades, this coverage has been provided by Public Entity Partners (PEP), a professionally operated, non-profit, captive arrangement risk sharing pool for Tennessee municipalities. This cooperative risk sharing arrangement was made possible due to the Governmental Tort Liability Act of 1973 which limits the liability of Tennessee municipalities.

MOTION: To approve the renewal of insurance coverage and payment of premiums (less the related dividends) to Public Entity Partners in the total amount of \$1,122,188.00 per the renewal information for property, workers compensation, and general liability policies.

**Resolution 22R13 – Amendment No. 4 to Cash Balance Pension Plan**

Since its adoption in 2013, the Cash Balance Plan has been amended three times as follows:

- Amendment No. 1, approved by the BMA in January of 2016, amended Section 4.4 to allow terminated participants to continue to earn interest on their account balance until they withdraw the balance of their account or commence retirement benefits. Non-vested terminated participants, who do not complete withdrawal paperwork to release contributions, leave a balance that continues to earn compound interest at the end of each plan year.
- Amendment No. 2, approved by the BMA in January of 2016, added Qualified Domestic Relation Orders.
- Amendment No. 3, approved by the BMA in November of 2021, increased the interest rate to 6% effective in the plan year beginning July 1, 2022. This increase would also apply to terminated employees who are not contributing during that plan year, but still have a balance in their account.

This proposal plan amendment was approved by the Retirement Plan Administrative Commission on September 7, 2022. As outlined in the attached resolution referencing Amendment No. 4, this action will accomplish the following:

- Stops the accrual of interest for terminated participants who are not vested in the Cash Balance Plan and was drafted with clarification to the current language in Section 9.3 that states that non-vested employees will not continue to earn interest after their date of termination. Vested participants will continue to accrue interest after termination.

MOTION: To adopt Resolution 22R13, Amendment No. 4 to the Cash Balance Plan.

**Sport Provider Agreements – Germantown Baseball League, Germantown Legends, Houston Lacrosse and Germantown Rugby Club**

Each year, the City partners with local youth sport organizations to provide athletic programming on athletic fields that the Parks and Recreation Department makes available. These programs are organized, scheduled and operated on behalf of the Parks and Recreation Department by the City's designated Sport Providers in conjunction and cooperation with the City.

MOTION: To approve the extension of the provider agreements with the Germantown Legends to be the Youth Soccer Provider; with the Houston Lacrosse Club to be the Youth Lacrosse Provider; with the Germantown Baseball League to be the Youth Baseball and Softball Provider; and with the Germantown Rugby Club to be the Youth Rugby Provider for the City of Germantown for the period of January 1, 2023 through December 31, 2023.

Motion by Ms. Gibson, seconded by Mr. Ueleke, to approve the consent agenda as presented.

ROLL CALL: Sanders-yes, Gibson-yes, Hicks-yes, Ueleke-yes, McCreery-yes. Motion approved.

**REGULAR**

**ORDINANCE 2022-7 – Amendment to Chapter 2, Article V, Division 15 of the City Code to Rename the Environmental Commission and Set Forth the Qualifications and Duties of the Natural Resources Commission – Third and Final Reading**

At the BMA Visioning Session on August 1, 2022, Alderman Jon McCreery brought forth a request to amend the existing Environmental Commission to become the Natural Resources Commission in order to broaden the purpose of the commission and to better align the commission's efforts with the Forward 2035 Strategic Plan.

The primary responsibility of the Natural Resources Commission is to serve in an advisory capacity and respond to requests from the departments of Parks and Recreation, Engineering, Public Works and Administration and the BMA on matters pertaining to natural resources management and environmental conservation, ecosystem integrity and habitat biodiversity and water resources protection and conservation.

Motion by Mr. McCreery, seconded by Ms. Gibson, to approve Ordinance 2022-7, amending Chapter 2 Administration, Article V, Division 15 on the third and final reading.

ROLL CALL: Sanders-yes, Gibson-yes, Hicks-yes, Ueleke-yes, McCreery-yes. Motion approved.

Mayor Palazzolo adjourned the Board of Mayor and Aldermen and reconvened as the Beer Board. Present from the police department were Tyler Catterton, Richard Cordo, Davis Herndon, Katie O'Brien and Joe Seboldt.

**BEER BOARD**

Due to Attorney Jay Patterson representing the defendants who own both of the convenience stores and the charges being the same, it was agreed by all parties to hear City Prosecutor Taylor Cates present his case for both charges at the same time.

**Beer Board Hearing – Suspension/Revocation of Beer License – Exxon Food Mart – 1300 S. Germantown Road**

The underlying basis for the suspension or revocation being the violation of Section 3-82(a) of the Germantown City Ordinance pertaining to gambling and Section 39-17-503, 39-17-505 of the Tennessee Code Annotated pertaining to Gambling Promotion, possession of Gambling Device or Record Forfeiture.

On July 26, 2022, Germantown Police Officer Catterton went into 1300 S. Germantown Rd in an undercover capacity, and observed three Torch Brand gambling machines inside. Officer Catterton inserted a five dollar bill into one of the machines and gambled until no balance remained. Officer Catterton then inserted a one dollar bill into the machine and won eight dollars. Upon winning more money than was lost, he printed a Torch Ticket from the machine indicating a payout of eight dollars. Officer Catterton presented the winning ticket to the attendant and the attendant gave him eight dollars from the register. At that time Officer Catterton issued the attendant a misdemeanor citation for Gambling Promotion (T.C.A. 39-17-503.) Officer Catterton issued the onsite store manager a misdemeanor citation for Gambling Promotion (T.C.A. 39-17-503) and Possession of Gambling Device and Record Forfeiture (T.C.A. 39-17-505.) This incident is a direct violation of the Germantown City Ordinance Section 3-82(a) pertaining to gambling.

The Germantown Police Department served notice of this hearing to Exxon Food Mart on September 8, 2022. The notice states a hearing date of October 24, 2022. The City Prosecutor, Taylor Cates, and counsel for the respondents agreed to the later date. City Prosecutor, Taylor Cates, will represent the City at this hearing.

The Exxon Food Mart received its beer permit on February 11, 2019 and does not have any prior beer ordinance violations.

The Beer Board has the authority to issue a civil penalty of up to \$1,000.00 or suspend or revoke the beer permit if it deems appropriate (Section 3-84).

Prosecutor Cates recommended that the defendants be found guilty and be fined \$1,000.00.

Motion by Mr. Sanders, seconded by Mr. Ueleke, to find the Exxon Food Mart, located at 1300 S. Germantown Road, guilty of a violation of the Germantown Beer Ordinance (City Code of Ordinances, Chapter 3) regarding Gambling (Section 3-82(a)).

ROLL CALL: Sanders-yes, Gibson-yes, Hicks-yes, Ueleke-yes, McCreery-yes. Motion approved.

Motion by City Prosecutor Taylor Cates to fine the defendant \$1,000.00.

Amendment to the motion by Mr. McCreery, seconded by Ms. Gibson, to suspend for 90 days the defendant's beer permit for Exxon Food Mart, located at 1300 S. Germantown Road.

ROLL CALL: Sanders-yes, Gibson-no, Hicks-no, Ueleke-no, McCreery-yes. Motion failed.

ROLL CALL for original motion by City Prosecutor Taylor Cates to fine the defendant \$1,000.00:

Sanders-yes, Gibson-yes, Hicks-yes, Ueleke-yes, McCreery-yes. Motion approved.

**Beer Board Hearing – Suspension/Revocation of Beer License – Poplar Food Mart #1 – 7616 Poplar Avenue**

The underlying basis for the suspension or revocation being the violation of Section 3-82(a) of the Germantown City Ordinance pertaining to Gambling Promotion.

On July 26, 2022, Germantown Police Officer O'Brien went into 7616 Poplar Avenue in an undercover capacity, and observed four Torch Brand gambling machines inside. Officer O'Brien put in the first nine dollars and lost. On the tenth one dollar, he won five dollars and printed the Torch Ticket. He then put in one dollar and won one dollar and then printed a Torch Ticket from the machine indicating a payout of one dollar. Officer O'Brien presented the winning tickets to the attendant and the attendant gave him six dollars from the register. At that time Officer issued the attendant a misdemeanor citation for Gambling Promotion (T.C.A. 39-17-503.) Officer O'Brien issued the store manager a misdemeanor citation for Gambling Promotion (T.C.A. 39-17-503) and Possession of Gambling Device and Record Forfeiture (T.C.A. 39-17-505.) This incident is a direct violation of the Germantown City Ordinance Section 3-82(a) pertaining to gambling.

The Germantown Police Department served notice of this hearing to the Poplar Food Mart #1 on September 8, 2022. The notice states a hearing date of October 24, 2022. The City Prosecutor, Taylor Cates, and counsel for the respondents agreed to the later date. City Prosecutor, Taylor Cates, will represent the City at this hearing.

The Poplar Food Mart #1 received its beer permit on January 14, 2019 and does not have any prior beer ordinance violations.

The Beer Board has the authority to issue a civil penalty of up to \$1,000.00 or suspend or revoke the beer permit if it deems appropriate (Section 3-84).

Prosecutor Cates recommended that the defendants be found guilty and be fined \$1,000.00.

Motion by Ms. Hicks, seconded by Mr. Sanders, to find the Poplar Food Mart #1, located at 7616 Poplar Avenue, guilty of a violation of the Germantown Beer Ordinance (City Code of Ordinances, Chapter 3) regarding Gambling (Section 3-82(a)).

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ROLL CALL: Sanders-yes, Gibson-yes, Hicks-yes, Ueleke-yes, McCreery-yes. Motion approved.

Motion by Mr. Ueleke, seconded by Ms. Gibson, to fine the defendant \$1,000.00.

ROLL CALL: Sanders-yes, Gibson-yes, Hicks-yes, Ueleke-yes, McCreery-yes. Motion approved.

Meeting adjourned.

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Mike Palazzolo, Mayor

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Michele Betty, City Clerk/Recorder