

## **BOARD OF MAYOR AND ALDERMEN**

**April 24, 2023**

The regular meeting of the Board of Mayor and Aldermen was held on Monday, April 24, 2023 at 6 p.m. 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, Richard Hall, Jason Huisman, Mac McCarroll, Bo Mills, Cameron Ross, Natalie Ruffin and Andy Sanders.

### **Call to Order**

The Mayor called the meeting to order.

### **Invocation**

The invocation was led by Andy Sanders.

### **Pledge of Allegiance**

Alderman Hicks 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 April 24, 2023 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 April 10, 2023.

Motion by Mr. McCreery, seconded by Mr. Ueleke, to approve the minutes of the regular meeting held April 10, 2023.

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

### **Citizens to be Heard**

No citizens came forward.

### **SPECIAL RECOGNITION - Beautification Commission Business Award**

Our Lady of Perpetual Help Catholic Church is the recipient of the April Beautification Commission Business Award.

Mayor Palazzolo recessed the Board of Mayor and Aldermen and reconvened as the Beer Board.

### **BEER BOARD – Public Hearing – Temporary Beer Permit – On-premise Application – The Memphis Oral School for the Deaf – Speech and Hearing Center of the MidSouth**

The City has received a request from the Memphis Oral School for a temporary permit to serve beer at their 12<sup>th</sup> Annual Speakeasy to be held at the Great Hall, on April 29, 2023, from 6:30 to 10:30 pm.

Mayor Palazzolo opened the floor for the public hearing. Having no one come forward, Mayor Palazzolo closed the public hearing.

Motion by Mr. Sanders, seconded by Ms. Gibson, to approve the request of The Memphis Oral School for the Deaf – Speech and Hearing Center of the Midsouth for a temporary permit to sell beer for on-premise

consumption on Saturday, April 29, 2023, from 6:30 p.m. to 10:30 p.m. at The Great Hall & Conference Center, located at 1900 S. Germantown Road.

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

Mayor Palazzolo recessed the Beer Board and reconvened as the Board of Mayor and Aldermen.

### **CONSENT AGENDA**

#### **Agreement – Wireless Transmission Facility – DISH Wireless, LLC**

The Board of Mayor and Aldermen approved a Wireless Transmission Facility (WTF) lease at City Hall in July of 1998 with SBA Properties, LLC. The lease provided ground space for a WTF tower and compound to house equipment that supports the facility. In August of 2016, an amendment to the lease was approved by to extend the renewal terms through September 2043. This Agreement is for additional ground space needed to support WTF equipment for DISH Wireless that will co-locate on the existing tower.

MOTION: To approve a new 25-year lease agreement with DISH Wireless, LLC. for access to City property for a Wireless Transmission Facility (WTF) at City Hall.

#### **Bid Rejection – Johnson Road Park Lacrosse Fields**

Both of the turf fields at Johnson Road Park have outperformed their life expectancy. These fields have reached a point where field conditions can no longer be adequately maintained by routine maintenance practices. Park crews do not have the resources necessary to improve the field conditions to sustain the level of play that is required; therefore, a capital project was submitted for a contractor to re-grade the fields, improve drainage conditions and the overall durability of the playing surface. The lowest acceptable bid for refurbishment is \$263,137.00 over the estimated budgeted cost. In rebidding this item, staff will work with the CIP Manager and Procurement team to change the scope of work

MOTION: To reject all bids for the refurbishment of the two lacrosse fields at Johnson Road Park.

#### **Recognition – Tree Mitigation Funds for Replacement and Maintenance**

Parks and Recreation staff, including the Grounds and Natural Resources Division, along with the guidance and direction of the City Arborist, plan to utilize \$43,000.00 from the tree replacement and maintenance fund to primarily perform maintenance to the existing tree canopy along City medians in order to increase visibility and sight distance and for replacing trees inventoried as damaged, diseased or dangerous in medians.

MOTION: To recognize “in-lieu of” tree mitigation fees in the tree replacement and maintenance account, to authorize expenditures in the amount of \$43,000.00 for the purchase of tree replacement and/or maintenance, and to approve Budget Adjustment No. 23-105.

Motion by Ms. Hicks, seconded by Mr. McCreery, to approve the consent agenda as presented.

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

### **REGULAR AGENDA**

#### **Ordinance 2023-5 – Chapter 11 – Neighborhood and Community Preservation and Amend Chapters 6,9,12 and 15 – Second Reading and Public Hearing**

At a Vision Session, the BMA asked Economic and Community Development to review the municipal code and recommend changes that addressed property maintenance concerns around the City. The Department went through each chapter of the code that addressed anything regarding property maintenance (structural and property areas). This resulted in proposed amendments to Chapters 6, 9, 12, 15 and 22 and consolidating the sections into one new chapter, Chapter 11. The Neighborhood Preservation Commission discussed and recommended approval of these proposed changes to the property maintenance code. The BMA held a work

session on February 14, 2023 to discuss the items, which included property maintenance, as well as safety and standards for noise in residential areas.

At the first reading, the BMA voted to amend Chapter 11, Article III, Sec. 11-61(c)(1)(15) Landscape contractors time from 7 a.m. to 8 a.m. in residential zoning for landscape work.

Mayor Palazzolo opened the floor for the public hearing.

The following citizens came forward regarding standards for noise in residential areas:

Janice Bogott, Doug Yancey, Robert Sloan, Chuck Kantor and Kerry Stockslager.

Having no one else come forward, Mayor Palazzolo closed the public hearing.

Motion by Mr. McCreery, seconded by Ms. Gibson, to amend Article III, Sec. 11-60 and 11-61:(c) 3), (8), (13), (14), and (15) to read the residential and commercial activity is allowed to start at 7 a.m. on weekdays and 8 a.m. on Saturdays, with none on Sundays with the exception of owners cutting their yards may begin on Sundays after 8 a.m. All the termination times will remain the same as written.

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

Motion by Mr. McCreery, seconded by Ms. Gibson, to approve Ordinance 2023-5 on second reading, creating Chapter 11, Neighborhood and Community Preservation and amending Chapters 6, 9, 12 and 15, as amended above.

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

**Ordinance 2023-6 – Amendments to Chapter 22 Vegetation – Second Reading and Public Hearing**

At a Vision Session on July 15, 2021, a request was made to update the Vegetation Ordinance. On October 21, 2021, a work session was held with the BMA, representatives from the Design Review Commission, Parks and Recreation Commission and Planning Commission about the proposed ordinance changes to be completed in a two-step process. On January 24, 2022, the BMA adopted the first set of amendments recommended by staff. On April 12, 2022, staff presented the second set of currently proposed amendments to the Tree Board for review. Economic and Community Development staff has worked with Parks and Recreation Department staff and the City Attorney’s office on preparing this second ordinance update. The City Attorney’s office has reviewed and recommends the proposed ordinance amendments for approval.

Mayor Palazzolo opened the floor for the public hearing.

Having no one come forward, Mayor Palazzolo closed the public hearing.

Motion by Mr. Sanders, seconded by Ms. Gibson, to approve, on second reading, Ordinance 2023-6, amending the Vegetation Ordinance (Chapter 22).

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

**Ordinance 2023-8 – Amendment to the Senior Citizen Advisory Commission Chapter 2, Article V, Division 19 – Second Reading and Public Hearing**

Last fiscal year, members of the Commission brought forth a request to amend the City’s ordinance aligning the overall purpose with the current actions and responsibilities of the Commission. In addition, a request was made to broaden the scope of the membership requirements which included lowering the age and removing “Citizen” from the title.

Mayor Palazzolo opened the floor for the public hearing.

Having no one come forward, Mayor Palazzolo closed the public hearing.

Motion by Ms. Hicks, seconded by Mr. McCreery, to approve, on second reading, Ordinance 2023-8, amending the Senior Citizen Advisory Commission in Chapter 2, Article V, Division 19.

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

**Ordinance 2023-7 – Amendments to Chapter 3, Article II – Alcoholic Beverages Ordinance – First Reading and Set Public Hearing**

Every business that sells alcoholic beverages for consumption on the premises is exercising a taxable privilege. This privilege tax is to be paid to the City annually. There are two amendments that will bring the Alcoholic Beverages Ordinance into alignment with T.C.A. 57-4-301 - Privilege Taxes.

The privilege tax amount for businesses selling liquor by the drink is based on type of establishment and/or seating capacity. The taxes to be paid annually in Germantown are restaurants according to seating capacity, private clubs, hotels and theatres. Businesses selling wine by the drink, not alcohol, are to pay annually a privilege tax based solely on seating capacity.

Per T.C.A. 57-4-301(b)(1) “Each county or municipality within which such privilege is exercised is authorized to levy and collect the privilege tax separately. However, such privilege tax collected by the county or municipality will remain at the 2003 level and any monetary increase of the privilege tax in fiscal years beginning July 1, 2004, and thereafter, as provided in this subsection (b) will be solely used for the purpose of the administration and enforcement of the duties, powers, and functions of the Tennessee alcoholic beverage commission;”. Therefore, Ordinance 2023-7 amends the City’s privilege tax rate to the July 2003 fee structure.

Motion by Mr. Sanders, seconded by Mr. Ueleke, to approve, on first reading, Ordinance 2023-7, an amendment to the Alcoholic Beverages Ordinance, and to set May 22, 2023 as the second reading and public hearing date.

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

**Ordinance 2023-9 – Amendment to Chapter 9, Article II – Air Pollution Control Code – First Reading and Set Public Hearing**

On October 17, 2022, the Shelby County Commission amended the Code of Ordinances of Shelby County, which sets the annual emission fees from non-motor vehicle sources for emission released in calendar year 2021 and adjusts Title V permit fees beginning in 2023. In order to remain in compliance with all federal, state and county air pollution regulations, the City must modify its code to reflect these changes.

Motion by Ms. Hicks, seconded by Mr. Ueleke, to approve Ordinance 2023-9, on first reading, an amendment to Chapter 9, Article II – Air Pollution Control and to set the second reading and public hearing date for May 22, 2023.

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

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Mike Palazzolo, Mayor

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Michele Betty, City Clerk/Recorder