

BOARD OF MAYOR AND ALDERMEN
May 22, 2023

The regular meeting of the Board of Mayor and Aldermen was held on Monday, May 22, 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, Sarah Goralewski, Richard Hall, Jason Huisman, Caleb Marcum, Mac McCarroll, Bo Mills, Lisa Piefer, Sheila Pounder, Cameron Ross, Andy Sanders and Ethan Skaggs.

Call to Order

The Mayor called the meeting to order.

Invocation

The invocation was led by Andy Sanders.

Pledge of Allegiance

Scout Troop 270, from Germantown Presbyterian Church, 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. McCreery, to approve the May 22, 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 May 8, 2023.

A typographical error in the minutes was noted prior to the meeting and corrected on the City website.

Motion by Mr. Sanders, seconded by Mr. Ueleke, to approve the minutes of the Board of Mayor and Aldermen Regular Meeting held May 8, 2023, as amended.

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

Memphis Oral School for the Deaf, located at 7901 Poplar Avenue, is the recipient of the May 2023 Beautification Award.

Grant – Books from Birth

As part of the FY23 Budget, a \$12,135.00 grant was included in the Civic Support budget to support the Shelby County Books from Birth program. The City has provided funds to the program since fiscal year 2017. Porter-Leath assumed operation of the Shelby County Books from Birth program on July 1, 2017. A representative from Porter-Leath was in attendance to accept the check.

Proclamation – National Safe Boating Week

Mayor Palazzolo proclaimed May 20-26, 2023 as National Safe Boating Week. Representatives from the Coast Guard were in attendance.

Proclamation – Public Works Week

Mayor Palazzolo proclaimed May 21-27, 2023 as Public Works Week.

American Public Works Association Top Ten Public Works Leaders of the Year Award

The American Public Works Association (APWA) has announced its 2023 Top Ten Public Works Leaders of the Year. In its 64th year, this award is one of APWA's highest honors and is based on a lifetime of professional contributions. Recipients of the awards are chosen by past Top Ten recipients and embody professionalism, expertise, and personal dedication to improving the quality of life in their communities through the advancement of public works services and technology.

Public Works Director Bo Mills has been selected for this award. Director Mills has spent his entire career with the City and has served as department director since 2004.

Mr. Stan Brown, Immediate Past President of APWA, presented the award to Director Mills. Prior to the Board meeting, a reception was held on People Street in honor of Director Mills. Many friends, family members and coworkers attended. Mr. Mills will be recognized nationally in San Diego this August.

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 Germantown Association, Inc. - DEFERRED

The Germantown Association temporary beer permit application has been pulled by the applicant. The association will resubmit the application and come before the Beer Board in late spring or early summer.

Public Hearing – Temporary Beer Permit – On-premise Application – The Grand Krewe of RaMet

The City has received a request from the Grand Krewe of RaMet for a temporary beer permit to sell beer for on-premise consumption, at their RaMet Clubroom, to be held on June 4, 2023.

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 Mr. Ueleke, to approve the request of The Grand Krewe of RaMet for a temporary permit to sell beer for on-premise consumption on Sunday, June 4, 2023, from 7 to 11 pm at the Great Hall & Conference Center, located at 1900 S. Germantown Rd.

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

Change Order No. 1 – Asphalt Milling and Paving

Forest Hill Irene Road from Poplar Avenue to Farmoor Road was one of the roadways that suffered significant damages due to the freezing temperatures this past winter. Public Works contacted our current asphalt milling and paving contractor, VuCon, LLC. The contractor and staff agreed that spot milling and repaving would be the best solution to address the numerous failures.

MOTION: To approve Change Order No. 1 to the annual FY23 Asphalt Milling and Paving Program with VuCon, LLC, adding \$148,000.00 to address roadway failures on Forest Hill Irene Rd.

Change Order No. 2 – Landscaping / Irrigation and Mowing Contract

On April 24, 2023, the BMA authorized the “in-lieu of” tree mitigation fees to be applied toward the purchase of tree replacement and/or maintenance. Change Order No. 2 modifies the City’s existing landscaping/irrigation and mowing contract with Brightview Landscape Services, Inc. by utilizing tree mitigation funds for tree maintenance and replacement in street medians and parks.

MOTION: To authorize Change Order No. 2 for tree replacement and maintenance with Brightview Landscape Services, Inc. for the total not-to-exceed \$43,000.00.

Contract – Comprehensive Plan Phase 1 – PlanningNEXT

The City’s Comprehensive Plan will be a city-wide document that incorporates existing studies and plans, addressing land use, housing, transportation and infrastructure. The long-term vision outlined in this plan will set the direction for the City’s growth and development in the coming decades. Contracted services for Phase 1 include the following tasks: 1) Review and assessment of all adopted relevant planning documents and implementation to date; 2) Preparation of a housing needs assessment; and 3) Preparation of a utilities needs assessment (water, sanitary sewer, and stormwater).

MOTION: To approve a contract with PlanningNEXT for the Comprehensive Plan Phase 1 in the amount of \$148,261.00 for contract services, plus travel and on-ground expenses up to \$12,000.00.

Contract – Johnson Road Park Lacrosse Field Sod Installation

The park serves as a community park with two lighted and irrigated lacrosse fields. The City has a user agreement with the Houston Lacrosse Club giving the club priority and full access to two athletic fields during the fall and winter/spring seasons. Both natural grass fields at the park have out-performed their life expectancy and can no longer be adequately maintained by routine maintenance practices.

MOTION: To authorize a construction contract with A&B Construction in the amount of \$216,539.00 for the Johnson Road Park (JRP) lacrosse field sod installation.

Contract – Johnson Road Park Lacrosse Field Fencing

In April of this year, these two fields were bid for construction. The project bid over budget and was rejected by the BMA at the meeting on April 24, 2023. Staff met to discuss alternatives and priorities for this improvement project. City staff agreed to focus on the grassing and fencing portions of this project, which falls within the approved project budget.

MOTION: To authorize the execution of a construction contract with West Memphis Fence, in the amount of \$48,600.00, for the Johnson Road Park (JRP) lacrosse field fencing.

Emergency Purchase – Lift Station Repair at 7701 Old Village Cv.

The homes along Old Village Cove are provided sanitary sewer service via a sewer lift station located at 7701 Old Village Cove. This station was installed in the mid-1960s and is a vacuum-style pump station. During a routine inspection on May 1, staff noted the station was not performing correctly. Staff called in Tencarva Machinery, the local pump maintenance company for this type of mechanical sewage pump station. The company’s technician deemed one of the two pumps that operate the station as having irreparable damage and the second pump was only operating at 50% efficiency.

MOTION: To authorize an emergency sewer lift station replacement at 7701 Old Village Cove with Gulf States Engineering supplying the lift station mechanical parts at a cost of \$67,871.00 and Chris-Hill

Construction performing the installation at an amount not-to-exceed \$73,075.00, for a total replacement cost of \$140,946.00.

Purchase – Network Annual Maintenance

The City has maintenance contracts for internet firewalls, network hardware and phone system licensing that provides connectivity to various City facilities. Current hardware in place was installed between 2010 and 2019 and included a first-year maintenance contract. The contract provides support in maintaining the system’s functionality and integrity should there be a software or hardware failure.

MOTION: To authorize the renewal of a maintenance contract with CDW Government in the amount of \$30,426.02 for the City’s network hardware and phone system licensing.

Purchase – Public Administration Software Annual Access

CentralSquare Technologies, is the integrated software suite used throughout the City to manage departmental operations such as HR, Payroll, Finance, Code Enforcement and Work Orders.

MOTION: To authorize funding for the Public Administration Software annual access fee with CentralSquare Technologies in the amount of \$266,687.63.

Motion by Mr. Ueleke, 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

Revised Final Plan – Crestwyn Behavioral Health Hospital Patient Unit Addition

The applicant, Acadia Health Care partnering with Baptist Health Care, wishes to expand the behavioral health hospital to accommodate a one-story, 20,655 s.f. addition for another 48 beds. Approval of this revised final plan was recommended by the Planning Commission on March 7, 2023, and by the Design Review Commission on April 25, 2023.

Motion by Mr. McCreery, seconded by Ms. Hicks, to approve the revised final plan for the Crestwyn Behavioral Health Hospital Patient Unit Addition (48 additional beds) - Phase 9A (Part of Phase 9 Revised) of the Forest Hill Heights Amended Planned Development (P.D.).

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

Ordinance 2023-5 – Chapter 11 – Neighborhood and Community Preservation and Amend Chapters 6,9,12 and 15 – Third and Final Reading

This amendment modifies the language within the City’s municipal code to create a new Chapter 11, Neighborhood and Community Preservation, and amend Chapters 6, 9, 12 and 15. Economic and Community Development 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.

Alderman McCreery motioned to amend Chapter 11, Section 11-51 to add a subsection (d) to read as follows:

- (d) Prior to a property owner placing a tenant’s personal property onto any exterior portion of a residential property due to an eviction, the property owner must have a bulk waste container delivered and placed on the property. Said container shall be large enough to contain all of the tenant’s personal property

items, and shall remain on the property until all items have been removed from the property, but not more than 72 hours after the eviction.

And to amend Chapter 11, Section 11-36 to add a subsection (d) to read as follows:

(d) *Sidewalk Inspection Permit.* Prior to the transfer of any property; within the City, an approved sidewalk inspection permit must be obtained from the ECD Director or his designee.

1. At least one week prior to the closing date for the sale of any real property located within the City, real property owners shall make application for a sidewalk inspection, to the ECD department. The administrative fee therefor shall be established by the Board of Mayor and Aldermen in the adopted Resolution of Revenues.

2. Prior to closing, property owners shall be notified, per the sidewalk inspection permit, that sidewalks abutting or adjacent to their property are in need of repairs in conformance with Chapter 16, Article III, Division 2 of the City Code.

3. The ECD department shall provide to the Finance Department a record of damaged sidewalks that are repaired by the City due to failure of the property owner to repair per the applicable provisions of the City Code. Such notice shall be filed on the tax records for the property and will provide a notification of such to all parties requesting tax data during the sale of transfer of the property.

4. *Right of appeal.* The board of mayor and aldermen shall appoint a committee to hear and determine protest, appeals or hardship cases. The code appeals board shall have the power to waive administrative costs in the event a hardship is proven by the property owner. The remedies and procedure set forth there in shall be without prejudice to the City rights to seek recourse in municipal court.

Motion was approved without objection.

Alderman Sanders motioned to amend Chapter 11, Section 11-2 Definitions, to add the following amendment: *Construction* means the on-site erection, fabrication, installation, alteration, demolition, or removal of any structure, facility, or addition thereto, including all related activities, but not restricted to, clearing of land, earth moving and landscaping.

Motion was approved without objection.

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

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

Ordinance 2023-7 – Amendments to Chapter 3, Article II, Division 3 – Alcoholic Beverages – Second Reading and 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.

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 2023-7, an amendment to the Alcoholic Beverages Ordinance.

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 – Second Reading and 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.

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

Motion by Mr. McCreery, seconded by Ms. Gibson, to approve, on second reading, Ordinance 2023-9, amending the Air Pollution Control section in Chapter 9, Article II.

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

Alderman McCreery recused himself from the next item and left the dais.

Ordinance 2023-11 – Rezoning of 9224 Poplar Pike (“R” Low-Density Single-Family Residential to “O” Office) – First Reading and Set Public Hearing

The subject property was built in 1950. It was originally developed as a 1,397-sq.ft. single-family residential dwelling. The immediately surrounding area developed as “SC-1” Shopping Center to the west, “C-2” General Commercial to the north, and “O-51” Office to the east. Across the street on the south side of Poplar Pike and the railroad tracks, the zoning designation is “R” Low-Density Single-Family Residential.

The applicant wishes to rezone the 0.31-acre parcel from “R” Low-Density Single-Family Residential district to “O” Office district, in order to construct a small office building. The use is consistent with the surrounding uses. The conceptual site plan submitted with the application demonstrates that this property would comply with the “O” Office zoning regulations. The Planning Commission recommended approval of this rezoning on May 2, 2023.

Motion by Ms. Hicks, seconded by Mr. Ueleke, to approve Ordinance 2023-11 on first reading and set the second reading and public hearing for June 26, 2023.

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

Mike Palazzolo, Mayor

Michele Betty, City Clerk/Recorder