

BOARD OF MAYOR AND ALDERMEN

June 12, 2023

The regular meeting of the Board of Mayor and Aldermen was held on Monday, June 12, 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, Reynold Douglas, Tony Fischer, De’Kisha Fondon, Richard Hall, Jason Huisman, Mac McCarroll, Bo Mills, Lisa Piefer, Sherry Rowell, Adrienne Royals, Natalie Ruffin, Andy Sanders, Ethan Skaggs and Emily Zimmer.

Call to Order

The Mayor called the meeting to order.

Mayor Palazzolo stated the Board of Mayor and Aldermen met in a closed session, at 5:30 p.m., in the Lawton Conference Room, to discuss pending litigation.

Invocation

The invocation was led by Ethan Skaggs.

Pledge of Allegiance

Alderman Jon McCreery 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 June 12, 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 22, 2023.

Motion by Mr. McCreery, seconded by Mr. Ueleke, to approve the minutes of the Board of Mayor and Aldermen Regular Meeting held May 22, 2023, as amended.

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

Citizens to be Heard

Tasha Marsh, 8227 Mer Rouge, came forward regarding code violations.

CONSENT AGENDA

Contract – Duntreath Ditch Repairs – Phase 1

Over the years, intense rainfall has led to severe erosion of the earthen portion of the ditch above the concrete sidewalls. The impact of extreme storm events has allowed stormwater to pass underneath the concrete-lined ditch bottom and side panels, undermining the infrastructure and exacerbating the overall deterioration of the concrete. This has adversely impacted stormwater conveyance and led to the greater deterioration of this infrastructure. Phase 1 will include the replacement of damaged sections of the channel bottom and walls, bank stabilization, pipe tie-ins and weep hole installation for approximately 890 linear feet of the conveyance.

MOTION: To approve a construction contract with Encor, LLC in the amount of \$1,896,194.50 for repairs to the Duntreath Ditch.

Contract – Nashoba Lake and Miller Farms Asphalt Recreational Trail Resurfacing

The FY23 Public Works IRP Budget provides funding for overlaying of existing greenway recreation trail with an asphalt surface and crushed limestone shoulders. This project is part of annual preventive maintenance for

existing trails. There are two sections of greenway that are proposed for this overlay. A 560 linear foot section of existing greenway is proposed beginning at the pedestrian bridge north of Nashoba Lake and continuing east along the lake. A 980 linear foot section of the existing greenway trail will cover the area between the Wolf Park medical district north to Wolf River Blvd.

MOTION: To approve a contract with Cantrell Construction for asphalt resurfacing of Nashoba Lake and the Miller Farms Recreation Trail in the amount of \$45,217.20.

Contract – Riverdale Road Box Culvert Improvements

Two existing reinforced concrete box culverts (RCBC) and one 18-inch culvert pipe adjacent to Riverdale Road and the Monterrey Villa Subdivision were built prior to 1972. The outlet end of the RCBC at the intersection of Riverdale Road at Toro Cove and Rico Cove has settled and separated from the rest of the structure, causing road failures along Riverdale Road.

MOTION: To approve a construction contract with Bluff City Construction Co., LLC in the amount of \$328,809.00 for box culvert improvements at Riverdale Road, and to approve a 10% contingency in the amount of \$33,000.00.

Contract - PIN119768.00 Wolf River Blvd./Germantown Rd. Intersection Improvements

The intersection of Wolf River Boulevard and Germantown Road (S.R. 177) is one of the most heavily congested intersections in Shelby County. Excessive delays at all times of the day prompted the City to request federal funding for improvements to add capacity and increase the efficiency of this intersection.

The City requested funding for the project utilizing Surface Transportation Program (STP) funds through the Memphis-MPO. The project ranked sufficiently high to be funded in the (2014-2017) Transportation Improvement Program. Typically, STP projects are 80% federal/ 20% local responsibility. However, since the bulk of the project is on a state route, TDOT agreed to cover the 20% local match requirement. Therefore, the City is being reimbursed 100% of project expenditures. The COVID pandemic delayed the project. The City received the Notice to Proceed to Construction from TDOT on March 7, 2023.

MOTION: To approve a construction contract in the amount of \$11,190,539.60 with Madden Phillips Construction, Inc. for the intersection improvement project at Wolf River Blvd. and Germantown Rd.

Emergency Purchase – Fox Hill Circle East

On May 19, 2023, the Engineering Department was notified of significant sinkholes occurring within a public drainage easement located adjacent to the Fox Hill Circle East roadway. The findings were that several sections of the pipe had catastrophically failed. This failure was determined to compromise the integrity of adjacent public and private property, other underground utility systems and the quality of effluent water in the City's storm sewer system.

MOTION: To ratify the emergency purchase for repairs to a section of 72-inch corrugated metal stormwater pipe (CMP) within a public drainage easement adjacent to the Fox Hill Circle East by Encor, LLC. in the amount of \$99,512.50 and the approval of Budget Adjustment No. 23-172.

Professional Services Agreement - PIN119768.00 Wolf River Blvd./Germantown Rd. Intersection Improvements Project

The intersection of Wolf River Boulevard and Germantown Road (S.R. 177) is one of the most heavily congested intersections in Shelby County. Excessive delays at all times of the day prompted the City to request federal funding for improvements to add capacity and increase the efficiency of this intersection.

The scope of services include: project administration, construction inspection, progress payments and change order initiation, shop drawings and submittal review and approval, material testing and acceptance, and distribution of correspondence. This project will require substantial communication and coordination of roadway

work zone activity and lane closures. Bi-weekly construction meetings, public notification, and project coordination will be ongoing and frequent for the lifecycle of this 24 to 30-month construction project.

MOTION: To approve a Professional Services Agreement with Fisher & Arnold, Inc. in the amount of \$856,109.90 for construction engineering and inspection services for the Wolf River Blvd at Germantown Rd. intersection improvements project.

PEG Disbursement to GMSD – 3rd Quarter

The City receives Public, Education and Government (PEG) funding from Comcast and AT&T based upon the number of subscribers on a quarterly basis. The funds are redirected to the PEG designated station by the City to the Germantown Municipal Television Station. These funds will ensure that quality equipment will be purchased and used by the students.

MOTION: To authorize the disbursement of PEG funding collected by the City to the Germantown Municipal School District in the amount of \$29,769.09.

Purchase – Public Safety Software Annual Maintenance

Tyler New World Systems is the integrated software suite that is used by the Fire and Police personnel to manage their departmental response and operations. A few of the major software modules supported under the agreement are Computer Aided Dispatch, Law Enforcement Records, Mobile Management, Jail Bookings, and Reporting software.

MOTION: To approve the annual software maintenance with Tyler Technologies, Inc. in the amount of \$168,606.87.

Resolution 23R08 – CIP Sunset Provision

The “sunset provision” referenced in the CIP Policy implies that if project funding is not encumbered within the fiscal year budgeted, the funding will not be available in the next fiscal year. The request to approve of a resolution “lifting” the sunset provision for a CIP project is an uncommon request from staff. In adopting this resolution, changes to Automated Meter Reading, Miller Farms Ditch and Duntreath Ditch will be made to the FY24 CIP. Only projects with exceptional circumstances warrant such consideration; staff believes these three projects meet the criteria for such a request and are in alignment with the intention of the policy.

MOTION: To adopt Resolution 23R08, waiving the enforcement of the “sunset provision” for three projects in the FY23 Capital Improvement Program, and amending the FY24 Capital Improvement Program.

Supplement Amendment No. 1 – PIN 129993.00 Forest Hill Irene Rd. Improvements from Poplar Avenue to Wolf River Blvd.

The City requested funding for the project utilizing Surface Transportation Program (STP) funds through the Memphis-MPO. The project ranked sufficiently high to be funded in the (2020-2023) Transportation Improvement Program and funding has been allocated with 80% federal/20% local responsibility. Project improvements include clearing of large trees and other obstructions immediately adjacent to the edge of asphalt and widening to accommodate shoulders/bike lanes on each side of FHI and a center-turn lane. The segment of roadway from Farmoor Rd. to Wolf River Blvd. will consist of lane modifications and traffic calming measures that will reduce the number of vehicular travel lanes and add bike lanes.

On November 22, 2021 the BMA approved a PSA with BDS in the amount of \$258,967.82 for the environmental phase of the project, survey and geotechnical services. This supplemental agreement will execute the second phase of engineering and design services for this project. This supplemental amendment to the PSA in the amount of \$387,803.40 will result in a total agreement amount of \$646,771.22. Completion of the scope of work within this supplemental agreement will carry this project to the subsequent right-of-way and construction phases, in accordance with the federal and state guidelines for execution.

MOTION: To approve a Supplement Amendment to the Professional Services Agreement (PSA) with Barge Design Solutions, Inc. (BDS) in the amount of \$387,803.40 for engineering and design services for the Forest Hill Irene Rd. Improvements project from Poplar Avenue to Wolf River Blvd.

Supplement Amendment No. 2 – Riverdale Rd. Box Culvert Improvements

Two reinforced concrete box culverts (RCBC) and one 18-inch culvert pipe adjacent to Riverdale Road and the Monterrey Villa Subdivision were built prior to 1972. These existing drainage structures serve as the outfall structures that convey stormwater from the subdivision and the entire stormwater basin upstream. These existing RCBCs and concrete pipe convey the stormwater from approximately 340 acres of land. The outlet end of the RCBC at the intersection of Riverdale Road at Toro Cove and Rico Cove has settled and separated from the rest of the structure, causing road failures along Riverdale Road. This project consists of engineering, design, and construction for the culverts at the intersection of Riverdale Road, Toro Cove, and Rico Cove.

Supplement Amendment No. 2 to the existing professional services agreement (PSA) with HDR Engineering, Inc. (HDR) is to provide construction engineering inspection services. HDR will execute construction project administration, material testing and inspection, initiate progress payments, and monitor day to day on site construction activity as the owner’s representative during the life of the construction project

MOTION: To approve Supplement Amendment No.2 to a PSA with HDR Engineering, Inc. in the amount of \$70,974.00 for the construction engineering and inspection services for the Riverdale Rd. Box Culvert Improvements Project.

Supplement Amendment No. 3 – Duntreath Ditch

Over the years, intense rainfall has led to severe erosion of the earthen portion of the ditch above the concrete sidewalls. The impact of extreme storm events has allowed stormwater to pass underneath the concrete-lined ditch bottom and side panels, undermining the infrastructure and exacerbating the overall deterioration of the concrete. This has adversely impacted stormwater conveyance and led to the greater deterioration of this infrastructure.

Supplement Amendment No. 3 requests additional funding for CEI services for the Duntreath Ditch Repair project. This amendment will increase the total PSA amount from \$372,414.00 to \$639,464.00. The construction of the first phase of these repairs and improvements is funded in the FY23 CIP. EnSafe will provide construction administration, engineering inspection, erosion prevention sediment control measure and permit inspection, materials testing, initiate progress payments and monitor day to day onsite construction activity as the owner’s representative during the life of the construction project.

MOTION: To approve Supplement Amendment No. 3 to a Professional Services Agreement, in the amount of \$267,050.00, with EnSafe for CEI services to the Duntreath Ditch Repair – Phase 1 project.

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

Ordinance 2023-1 – Ordinance to Adopt the FY2024 Budget – Second Reading and Public Hearing

The FY24 Proposed Budget takes into consideration the Policy Agenda developed by the Board. The Financial Advisory Commission (“FAC”) has held several meetings with the staff to review each component of the budget including the financial policies, the entire General Fund, the Enterprise Funds, the Special Revenue Funds and the Capital Improvements Program. The FAC has reviewed and approved the budget.

Mayor Palazzolo opened the floor for the public hearing. Chairman Michael McLaughlin came forward to confirm the Financial Advisory Commission supports the FY2024 Budget. Having no one else come forward, Mayor Palazzolo closed the public hearing.

Motion by Mr. McCreery, seconded by Mr. Sanders, to increase Computer Maintenance Equipment (2630) within the Information Technology budget (010-1510-416) by \$30,000.00 for the addition of more cameras to the Flock Safety agreement.

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

Motion by Mr. Ueleke, seconded by Mr. McCreery, to approve Ordinance 2023-1 on second reading, tentatively approving the FY24 Proposed Budget.

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

Ordinance 2023-2 – Year-End Budget Adjustments – Second Reading and Public Hearing

Typically, at year-end, a number of budget adjustments are made to the various City funds, which realign operating expenses/expenditures accounts with actual activity. These budget adjustments recognize various overruns, underruns, project acceleration and deferrals that have already received the Board of Mayor and Aldermen’s approval.

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

Motion by Mr. Ueleke, seconded by Ms. Gibson, to approve Ordinance 2023-2 for year-end budget adjustments on second reading.

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

Ordinance 2023-3 – Real and Personalty Property Taxes – Second Reading and Public Hearing

Concurrent with the adoption of the FY24 Budget, the Board is asked to approve the FY24 property tax rate on second reading. During in-depth discussions with the Financial Advisory Commission and the Board concerning the FY24 Budget, an increase to the property tax rate has been recommended for the upcoming budget year. After six years at the same or equalized rate, the FY24 general fund includes a \$0.165 property tax increase. With inflation being its highest in more than 20 years, the cost of materials, supplies and wages has increased to the point that necessitates a property tax increase. Therefore, the property tax rate adjusts from \$1.6732 to \$1.8382. It is anticipated that this new tax rate will last for the planning period of two years and will assist in maintaining fund balance levels. This year the proposed tax rate would be \$1.8382 per \$100.00 of assessed value for property in the City of Germantown.

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

Motion by Mr. Ueleke, seconded by Ms. Gibson, to approve Ordinance 2023-3 on second reading, adopting the certified property tax rate of \$1.8382 per \$100.00 of assessed property value.

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

Ordinance 2023-4 – Germantown Municipal School District Year-End Budget Adjustments – Second Reading and Public Hearing

At the end of the fiscal year, year-end budget adjustments are made in order to avoid budget and fund overruns in the various funds for the Germantown Municipal School District (GMSD). The GMSD yearly budget

adjustments have been approved by the Germantown Municipal School Board. However, the GMSD is a Special Revenue Fund of the City and will appear in the Comprehensive Annual Financial Report. Therefore, the Board of Mayor and Alderman must approve yearly budget adjustments. Any adjustments made are following the State of Tennessee Guidelines for school districts and adhere to generally accepted accounting principles guidelines.

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

Motion by Mr. Ueleke, seconded by Ms. Hicks, to approve Ordinance 2023-4 on second reading for the Germantown Municipal School District year-end budget adjustments.

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 Ordinance – Third and Final Reading

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 Ms. Hicks, to approve, on third and final reading, Ordinance 2023-7, an amendment to Chapter 3 - Alcoholic Beverages, Article II, Div. 3, Sec. 3-57.

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 – Third and Final Reading

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 Mr. McCreery, seconded by Ms. Gibson, to approve, on third and final 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.