

BOARD OF MAYOR AND ALDERMEN

October 25, 2010

A regular meeting of the Board of Mayor and Aldermen was held on October 25, 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, Debbie Wiles, Inspector Frank Hester, Assistant Chief John Selberg, Jerry Cook, Ralph Gabb, Lisa Piefer, Andy Pouncey and Dotty Johnson.

Call to Order

Mayor Goldsworthy called the meeting to order at 6:00 p.m.

Invocation

Economic and Development Services Director Andy Pouncey gave the invocation.

Pledge of Allegiance

Boy Scout Troop 257 from Central Church presented the colors and led the Pledge of Allegiance.

Approval of Agenda

Mayor Goldsworthy announced that item 8 – Certificate of Compliance has been deferred.

Alderman Hinely asked that item 13d – Property & Casualty Insurance Renewal be moved to the regular agenda.

Alderman Drinnon asked that after Citizens to be Heard that a report from of the Financial Advisory Commission be added.

Alderman Palazzolo asked to move item 10 – Authorization for Competitive Sealed Proposal Process be moved to the Consent Agenda.

Alderman Billingsley asked to move item 13a – Recognition of Donation, to the Regular Agenda.

The Board unanimously agreed to the changes in the agenda.

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

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

Approval of Minutes

There were no corrections or additions to the minutes.

Motion by Mr. Palazzolo, seconded by Ms. Hinely, to approve the minutes of the Board of Mayor and Aldermen meeting held October 11, 2010.

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

Beautification Commission Business Award

Alderman Palazzolo presented the Beautification Business award to Keith Collins with the Keith Collins Company who manages Corporate Gardens, located on the northwest corner of Poplar Pike and Forest

Hill-Irene at 3036 Centre Oak Way. He recognized them for their beautiful and well maintained landscaping.

Citizens to be Heard

Sidney Kuhn of 8779 Three Chimneys Dr. West came forward and spoke regarding the amendment to the sign ordinance that was on the agenda. He felt the amendment was in conflict with Ordinance 2009-10.

Certificate of Compliance – CORK IT! – 6645 Poplar – DEFERRED

Report from Financial Advisory Commission

The Vice Chairman of the Financial Advisory Commission Mr. Russell Johnson came forward and read a letter to the Board advising them of a meeting of the 2010 Financial Advisory Commission that occurred on Wednesday, October 20. He stated that this meeting included a review of the first quarter FY11 financial results as compared with FY11 budget for the major funds. Staff updated the Commission on stormwater, sanitation, property tax assessments, and the financial audit of the City.

Because of a lack of a quorum, Mr. Johnson stated no official business was conducted. However, those in attendance unanimously agreed that the City continues to be financially sound and stable. The City is watchful of its Triple-A bond ratings and continues to take measures to preserve those ratings along with other awards presented to the City. He also stated that the FAC, as with prior years, takes great pride in the City's continuing financial stability, sound investor ratings, and prudence in its financial operation.

Alderman Drinnon stated that over the years there had been very capable people to serve on the FAC and the Board takes comfort when recommendations come forth from this commission and know that it has been evaluated carefully and the Board appreciates the commission and the work it has done.

Alderman Drinnon then had some personal comments regarding a political flyer that had been sent out to the citizens of Germantown.

Ordinance 2010-9 – Amendment to Chapter 2, Administration and Chapter 14, Signs – Signs for Churches and Schools – Second Reading

Director of Development Jerry Cook stated this amendment deals specifically with churches and schools and pertains to signs that are committed for those facilities. The amendment would allow public schools, private schools and churches to have a ground-mounted sign identifying the name of the church or school, a 25-square foot wall-mounted sign identifying the name of the church or school, and an 18-square foot wall-mounted sign identifying the name or purpose of each building.

The public hearing will be held on the third reading along with a public hearing on Ordinance 2009-19.

A discussion followed on the two ordinance amendments and why one must be passed before the other in order for the exceptions to the amendments to follow the intent of the Board.

Alderman Billingsley asked to clarify a statement that was made regarding his being a member of OLP Church and school and the amendment to the ordinance and he wanted the citizens to know that he no longer attends that church or school. Had he been an active member of the church or school he would not have voted on the ordinance.

Motion by Ms. Hinely, seconded by Mr. Palazzolo, to approve Ordinance 2010-09 on second reading.

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

Authorization for Competitive Sealed Proposal Process – Electronic Notification System – MOVED TO CONSENT AGENDA

Purchase of Self Contained Breathing Apparatus (SCBA)

Assistant Fire Chief John Selberg explained that the Fire Department's current SCBA equipment is approximately 15 years old and does not meet the current National Fire Protection Association (NFPA) Standards. SCBA are the air masks that fire fighters use when fighting fires and other emergencies. This purchase will provide new SCBA for all fire department vehicles along with training at a cost of \$415,349.60. The Fire Department has been approved for a FEMA Assistance to Fire Fighters Grant that will reimburse the City for most of this purchase. The actual cost to the City will be \$179,814.96.

Six bids had been received. The bid evaluation process included a review of how well the vendor could meet the bid specifications, the overall cost and discount offered, and a physical evaluation of the SCBA by the Fire Department SCBA Committee that included field testing. The bid from Draeger is recommended as it is the lowest bid that best meets the needs of the Fire Department.

Motion by Mr. Chism, seconded by Ms. Hinely, to approve the purchase of self contained breathing apparatus from Draeger Safety, inc. in the total amount of \$415,349.60.

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

GHS-TV Access Together Contract

City Administrator Patrick Lawton stated this was a three year agreement between the City of Germantown, Shelby County Schools and the Germantown Community Television Foundation to operate the GHS-TV local studio at the Germantown High School campus. Earlier this year with the adoption of the FY11 budget, the Board of Mayor and Aldermen asked that the funding to be appropriated to GHS-TV for operational support be moved from civic support and placed into the budget of City administration so that we could clearly identify a contract for service between the City, the school and the foundation. Patterned after the original Access Together Agreement to support public educational governmental programming (PEG) in our community, this agreement is in an effort to capture the scope of services to be provided by the television foundation and Shelby County Schools for PEG channel and PEG programming and then the services to be paid for by the City for this effort.

The agreement is a three year agreement commencing July 1 of this year and expiring in 2013. This year's programming fee has a base rate of \$238,000 which is consistent with what was allocated in this year's budget. The subsequent years have a five percent adjustment in FY12 and FY13.

Under the term of this agreement, GHS-TV Foundation will provide certain activities for the City of Germantown. These include all of the locally accessed together programming, broadcasting of city hall meetings including the Board of Mayor Aldermen meeting, Design Review Commission, Planning Commission and other specific events including election night coverage and any other city hall special events.

One of the areas the Board was concerned about was the value the City would be receiving in exchange for services rendered. To that end, Mr. Lawton contacted a cable consultant, Dr. Barry Orton, who the City had worked with in the past to determine if the programming requirements called for in the Access Together Agreement and other information regarding the services were equivalent in terms of the value of programming provided for on GHS-TV. At the conclusion of Dr. Orton's analysis, he is confident that the City of Germantown and the community at large are receiving full value for what they are paying for public educational and governmental channels.

If the Board of Mayor and Aldermen approve the Access Together Agreement this evening it will then be submitted to Shelby County Schools for their consideration and then for adoption by the Germantown Community Television Foundation.

This agreement had been reviewed by the Telecommunications Commission and they were supportive of the Agreement and the new Access Together Contract. Attorney Debbie Wiles had drafted the agreement and was present to answer any questions.

This is a three-year access together agreement between Shelby County Schools, the City and the foundation and to appropriate this year's funding. This agreement will clearly identify the programming and other services the City is receiving for its operating support and will identify the roles and responsibilities of all three major players in the delivery of the PEG programming.

A discussion followed regarding the three parties that were involved and their approval of the contract and special event programming.

Ms. Wiles stated that the audit provision in the contract is consistent with the agreement with the City and Comcast as it relates to capital contributions so the City can meet its obligations with the Comcast rights. This concerns the rights of the City to audit the records of the Foundation as they relate to the expenditures of capital performance. This is the right for the City to audit and it would be an expense to the City.

In reference to a question regarding AT&T and their complying with the franchise and state law, Mr. Lawton stated the City was still trying to communicate with AT&T and there were difficulties in getting them to comply.

At the request of Alderman Billingsley, the Board unanimously permitted Mr. Frank Bluestein to speak on this subject.

Mr. Bluestein came forward and thanked Mr. Lawton and the attorneys who worked so diligently in constructing the agreement. He commented that the Germantown Community Television Foundation is the non-profit 501c3 that receives all the money from the City. The City has a representative on the Foundation and the Foundation does a yearly audit that is independent of Shelby County schools. Shelby County schools does an audit. The Foundation funds an audit that is paid for by the Foundation and presented to the City each year.

Mr. Bluestein discussed the programming and the special events programming. The only restrictions they have in covering an event is that it must be in the Council Chambers because of the wiring.

Motion by Mr. Billingsley, seconded by Mr. Drinnon, to authorize the mayor to execute the Access Together Agreement between the City of Germantown, Shelby County Schools and the Germantown Community Television Foundation and to appropriate to the Germantown Community Television Foundation the annual PEG service fee for FY11 in the amount of \$238,000.00.

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

Property & Casualty Insurance Renewal – Moved from Consent Agenda

Treasurer/Risk Manager Michael Stoll stated this item is an insurance coverage renewal with the TML Risk Management Pool. The coverage includes property, liability and workers compensation insurance. The TML Pool provides the City with all necessary claim services, loss control programs and ready access to risk management products. The TML Pool is a non-profit risk sharing pool that is

professionally operated for governmental and non-profit entities. Mr. David McDonnell of McDonnell Insurance which is the agency that represents the TML Insurance Pool was present for questions. Mr. McDonnell and his firm provides the City with professional advice, access to industry resources and organizational backup for our risk management functions.

The TML insurance policy includes \$10 million of earthquake coverage for a total of \$15 million coverage. The net TML premium totals about \$843,406.00 which is about \$9,000.00 less than last year.

Motion by Mr. Drinnon, seconded by Mr. Billingsley, to approve the renewal of insurance coverage and payment of premiums (less the related dividends) to TML Risk Management Pool for property, workers compensation and general liability policies including the additional earthquake coverage.

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

Recognition of Donation – Neighborhood Preservation Commission - Moved from Consent Agenda

Economic and Development Services Director Andy Pouncey stated the City has received donations totaling \$750.00 to the Neighborhood Preservation Commission from different groups who are supporting the City and the Neighborhood Preservation Commission’s Neighborhood Summit as sponsors of the event.

Motion by Mr. Drinnon, seconded by Ms. Hinely, to recognize and accept seven (7) donations totaling \$750.00 to the Neighborhood Preservation Commission and approve Budget Adjustment No. 11-45.

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

CONSENT

Recognition of Donation – Neighborhood Preservation Commission - MOVED TO REG AGENDA

Recognition of Donation – Mr. Doug Daniel

Mr. Doug Daniel recently donated \$1,000.00 in honor of his wife’s birthday. The funds will be used to purchase a 6’ recycled bench and plaque and installed along the greenway between Chick-Fil-A and the cypress trees at the east end of the trail.

MOTION: To approve a donation made to the City of Germantown, Parks and Recreation Division, in the amount of \$1,000.00 and to approve Budget Adjustment 11-43.

Recognition of Donation – Public Safety Education Commission

Donations were made to the Public Safety Education Commission to be used in various ways to establish and promote public safety and awareness.

MOTION: To recognize the donation from the Public Safety Education Commission and budget adjustment number 11-41.

Property & Casualty Insurance Renewal – MOVED TO REG AGENDA

Project Development Contract No. 1177- Dogwood Ridge PUD

Dogwood Ridge is a 182 dwelling unit senior living facility on a 6.797 acre parcel. The project has been filed as a Planned Unit Development (PUD) in order to address the site design issues created by the site’s topography. The standard R-H district regulations for Congregate Housing do not permit parking within 50 feet of the property line, but the parking area’s location at the base of the retaining wall will prevent

the view of vehicles from abutting properties. The PUD will allow for an exception from those standard regulations.

MOTION: To approve Project Development Contract No. 1177 – Dogwood Ridge Senior Living Community Planned Unit Development.

Authorization for Competitive Sealed Proposal Process – Electronic Notification System – MOVED FROM REG AGENDA

The City's procurement policies and practices require the use of competitive sealed bids for the purchase of most goods and services. In some cases, this process may be either impractical or not otherwise advantageous to the City due to the complexity of certain technological products or the unique nature of certain services. In such cases, the Board may authorize the use of the competitive sealed proposal process.

The electronic notification system presents opportunities for advances in technology along with providing a new service to our citizens.

MOTION: To authorize the use of the competitive sealed proposal process for an electronic notification system.

Motion by Mr. Drinnon, seconded by Ms. Hinely, to accept the consent agenda as read.

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

Mayor Goldsworthy made a presentation to Patrick Lawton for his 30 years of service to the International City Managers Association. She stated the recognition was presented at the 96th Annual Conference of the ICMA in San Jose, California.

ADJOURNMENT

There being no further business to be brought before the Board, the regular meeting was adjourned.

Sharon Goldsworthy, Mayor

Dotty Johnson, City Clerk/Recorder