

## **BOARD OF MAYOR AND ALDERMEN**

**May 9, 2011**

A regular meeting of the Board of Mayor and Aldermen was held on May 9, 2011 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, Greg Marcom and Mike Palazzolo. Staff present: Patrick Lawton, Debbie Wiles, Andy Pouncey, Kristen Geiger, Chief Richard Hall, Bo Mills, Chief Dennis Wolf, Ralph Gabb, Michael Stoll, Pam Beasley, Joe Nunes, Butch Eder, Michael Stoll, Melody Pittman, Lisa Piefer and Dotty Johnson.

### **Call to Order**

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

### **Invocation**

City Administrator Patrick Lawton gave the invocation.

### **Pledge of Allegiance**

Alderman John Drinnon led the Pledge of Allegiance.

### **Approval of Agenda**

Mayor Goldsworthy stated the Board had agreed to move to the Consent Agenda item #16 – Emergency Drain Repair, #17-Street Sweeping Services Contract Amendment and Contractor Change, #18- Storm Debris Removal Payment and #19-Fire Station #4 – Change Order #3 – Uninterrupted Power Supply.

An Add-on was proposed which was a Resolution for the adoption of a Local Hazards Mitigation Plan.

Motion by Mr. Drinnon, seconded by Mr. Billingsley, to approve the agenda as amended.

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

### **Approval of Minutes**

There were no corrections or additions to the minutes.

Motion by Mr. Drinnon, seconded by Mr. Marcom, to approve the minutes of the Board of Mayor and Aldermen meeting held April 25, 2011.

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

### **Proclamation for National Police Week**

Mayor Goldsworthy read a proclamation declaring May 15-21, 2011 as Police Week commemorating law enforcement officers who have rendered a service to their communities and for preserving the rights and security of all citizens.

### **Life Blood Presentation**

Mr. Dick Benson, a representative of Life Blood Germantown, made a presentation to the City for their participation in Life Blood donor drives in 2010. The City was the top group in their category for “Group of the Year” in 2010.

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### **Recognition of Houston High School PRIDE Team**

Mayor Goldsworthy asked Ms. Lee Anne Smith, the sponsor of the PRIDE Team, and the students who were in attendance to come forward to be recognized. The group of current members Robbyn Lecuyer, Brian Turner, Emily Weide, Eva Pray, Matthew Keaton, Sarah Carmichael, Cole Dain, and former members Nic Brashier and Sarah Burgess were named 2011 Team of the Year at the 34<sup>th</sup> annual PRIDE World Drug Prevention conference April 14 during an awards gala and conference in Toledo, Ohio.

The eight students and their faculty advisor attended the conference. The Houston PRIDE was honored for its work in each of the four pillars of PRIDE Youth Programs – community outreach, community service, drug education and drug-free activities.

Ms. Smith thanked the Board for recognizing the Houston High PRIDE Team and inspiring the young people in the community.

### **Citizens to be Heard**

No citizens came forward.

### **Subdivision Development Contract No. 498, Carters Grove S/D, Section B**

Economic and Development Services Director Andy Pouncey stated this was a standard contract for a subdivision. The contract allows for the development of 5 estate-sized lots for single family dwellings. The original subdivision included a condition that Lot 12 could be re-subdivided as long as no lot was smaller than the smallest lot in the Carters Grove Subdivision, section A. The Planning Commission approved the further subdivision of lot 12 into 5 lots on April 5, 2011.

Mr. Pouncey asked that a condition be placed on this contract that all property taxes be paid.

Alderman Drinnon stated he felt it was presumptuous to make a condition that all taxes be paid. He stated that this condition was not added to other contracts the Board approved and he felt it should not be a part of the approval process. He also stated that before any lots can be sold, the taxes must be paid and this should not be a requirement.

Motion by Mr. Drinnon, seconded by Mr. Marcom, to approve Subdivision Development Contract No. 498 – Carters Grove Subdivision, Section B.

ROLL CALL: Marcom-yes, Drinnon-yes, Palazzolo-no, Billingsley-no, Chism-yes. Motion approved.

### **Ordinance 2011-2 – FY12 Budget – First Reading**

Mr. Lawton stated this was the first reading of the FY12 proposed budget and it was the single most important action taken by the Board on an annual basis. This authorizes the allocation of resources and establishes the direction for programs and services for our Triple A city for the coming year and during the five-year planning period.

The proposed FY12 budget is balanced and totals 73.2 million dollars for all funds. The general fund, which is the largest city fund, totals 39.5 million dollars. The balanced budget is the result of ongoing departmental cost controls and efficiency measures implemented before the start of the recession plus a property tax increase of fifteen cents designed to ensure our financial stability as the economic recovery continues to gather strength.

Major initiatives included in this year's budget are the establishment of a full time in-house ambulance operation, design for the expansion of the Germantown Community Library and replacement of our public safety radio system. Germantown last raised property taxes in July 2003. Careful financial

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management and strict adherence to our financial policies allowed the City to operate without a tax increase for eight years as opposed to the intended five years.

The FY12 proposed budget continues to support the Vision 2020 plan adopted by Board of Mayor and Aldermen. The programs and services included in this year's budget continue to support this policy direction given by the Board of Mayor and Aldermen.

Alderman Palazzolo stated that whatever his comments were, they should not be construed that he is against taking the ambulance service in-house. He stated we currently have a contract in place with our provider for ambulance service throughout Germantown that expires in June of 2012 with a one-year renewal period. With the economy the way it is now, he felt we were going against our principles. If we keep the contract we currently have with the one-year option, we could save potentially \$1.4 million and use that money to start an ambulance fund balance. We could pay for the ambulances that we would need for rolling stock, which is approximately \$500,000.00, and we could have a balance that would almost pay for the first year for the added employees needed. He stated he was for brining the ambulance service in-house but did not see the urgency to do it right now when we could save money for another year.

Motion by Mr. Palazzolo, seconded by Mr. Drinnon, to approve on first reading Ordinance No. 2011-2 establishing the FY12 Proposed Budget, and set Monday, June 13, 2011 for the second reading and public hearing.

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

**Ordinance 2011-4 – Year-end Budget Adjustments – First Reading**

Finance and General Services Division Director Kristen Geiger explained at the end of the fiscal year, a number of year-end budget adjustments are required to be made in order to avoid budget and fund overruns in the various funds. These budget adjustments realign operating expenses/expenditure accounts with actual activity. They recognize various overruns, underruns, project acceleration and deferrals that have already been brought to the Board's attention and gained their approval.

Motion by Mr. Chism, seconded by Mr. Palazzolo, to approve Ordinance No. 2011-4 for year-end budget adjustments on first reading and set Monday, June 13, 2011 for the second reading and public hearing.

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

**Ordinance 2011-3 – Real & Personalty Property Tax – First Reading**

Finance Director Ralph Gabb stated the proposed tax rate for FY12 is \$1.575 which represents a fifteen cent tax increase. This tax increase will ensure that adequate resources are available to support defined service levels and provide financial resources that are consistent with the City's financial policies. The recommended property tax rate will generate approximately \$24.2 million. The property taxes for the City represent 60.1% of the FY12 General Fund Revenue Budget.

He stated that over the past several years, the City has followed many different strategies to delay any type of tax increase. The City embarked on managed competition to operate more like a business. Several years ago the City held its cost to minimal growth and in some instances reduced spending in several departments without sacrificing service levels to the citizens. The City has not had a tax increase in eight years.

The Financial Advisory Commission voted to recommend the \$1.575 tax rate for the FY12 Budget.

In response to a question from Alderman Drinnon, Mr. Gabb stated the City keeps 40% as a fund balance or reserve fund each year. The fund balance this year will be \$16,741,000.00.

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Motion by Mr. Palazzolo, seconded by Mr. Drinnon, to approve Ordinance No. 2011-3 on first reading, and to set Monday, June 13, 2011 for the second reading and public reading.

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

### **Ordinance 2011-7 – Amendment to Stormwater Ordinance – First Reading**

Mr. Lawton stated this amendment to our existing stormwater ordinance is in regard to the definition of exempt properties and a mandatory statement to be placed on our stormwater bill.

Last year the Board of Mayor and Aldermen put in place a stormwater management program consistent with State law and approved a stormwater management fee to support our EPA compliance efforts.

Recently the State law governing stormwater was amended to include a provision that states owners and operators of agricultural land, who meet the requirement and definition of a qualified farmer or nurseryman as defined in the State statute, are exempt from the stormwater fee.

This ordinance amends our existing stormwater management ordinance to come into compliance with State law.

The statute was also amended by removing the text “this tax has been mandated by Congress” to read “this fee has been mandated by Congress”. This language, as approved in State law, must appear on all of our stormwater utility bills.

In response to a question from Alderman Marcom, Mr. Lawton stated that Congress had not mandated the fee but had put in place the option to have the alternative, besides property taxes, to receive the revenue to stay in compliance with these federal rules and regulations. The City had an issue with the word “tax” and talked to the local senators and had it changed to “fee”.

Ms. Debbie Wiles, sitting for the City Attorney, replied that the State Attorney General had stated this was clearly a user fee and not a tax so when they tried to amend it, they were focused on the word “tax” to “fee” to accommodate that principle but it does miss the mark because it is not mandated, it is permitted.

Ms. Wiles responded to a question from Alderman Marcom that properties that have “green-belt” status because they are agricultural land are now exempt properties. You can also be a “green-belt” status for forest land or open space but that would not necessarily meet the definition of agricultural land.

Motion by Mr. Drinnon, seconded by Mr. Palazzolo, to approve on first reading the Ordinance No. 2011-7 to cause the City’s ordinance to agree with T.C.A. §68-221-1107 and T.C.A. § 68-221-1112 and to set June 13, 2011 as a public hearing and second reading.

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

### **Fitness Equipment Lease**

Club Director Phil Rogers stated that the goal of the Germantown Athletic Club was to provide quality health and fitness services and fantastic customer service and these goals rely heavily on quality fitness equipment and maintenance.

Leasing of equipment ensures that the facility has high quality strength and cardio equipment with a fixed maintenance cost. Also, appearance and layout of new equipment will increase the efficiency of space, traffic flow, and potential of maintaining and increasing membership.

This contract will provide a turnkey full service leasing agreement for new commercial grade fitness equipment including cardio, strength training, plate loaded and free weight equipment. All equipment

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and labor will be covered in the leasing agreement by the leasing vendor, Banc of America Public Capital Corporation, LLC. Maintenance will be provided by the equipment vendor, Dane Burks and Co. Fitness and select City staff will be trained to work and repair said equipment as well, in order to minimize downtime.

Technology and trends in the fitness industry are constantly evolving and changing. The leasing aspect of equipment is the best option to stay current and abreast with the industry standards, for which every three years existing equipment will be replaced with new state of the art equipment.

Motion by Mr. Marcom, seconded by Mr. Palazzolo, to authorize the Mayor and Board of Aldermen to enter into a contract with Dane Burks and Co. Fitness in the amount of \$3,520.00 annually to provide maintenance for the state of the art athletic cardiovascular and strength equipment, and a leasing agreement in the amount of \$178,500.00 annually with Banc of America Public Capital Corporation for the Germantown Athletic Club.

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

### **CONSENT**

#### **Recognition of Donations – Riverdale Park**

Mrs. Jim Wiertelak, a member of the Baptist Rehabilitation Hospital Germantown, has given a generous donation to the hospital with the request that her donation be used for the purchase of park equipment for Phase II of the Riverdale Park project. Four tables in the shape of mushrooms – in keeping with the nature theme of the site, are being fabricated. The tables will accommodate three students plus a wheelchair.

MOTION: To recognize and accept a park equipment donation from the Baptist Rehabilitation Hospital Germantown and Mr. & Mrs. Jim Wiertelak for four nature discovery tables to be installed at the new pavilion structure at Riverdale Park.

#### **Recognition of Donations – Houston Middle School Beta Club**

The Houston Middle School BETA Club was challenged to raise money to benefit the animals at the Germantown Animal Shelter. The sixth, seventh and eighth graders raised \$2,157.53.

MOTION: to recognize and accept a donation presented to the Germantown Animal Shelter from the Houston Middle School BETA Club, in the amount of \$2,157.53.

#### **Bulk Asphalt Purchase**

This is a contract with Standard Construction Company for the purchase of 2,000 tons of 411D hot asphalt mix in the amount of \$112,000.00.

MOTION: To contract with Standard Construction Company, Inc. for the purchase of 2,000 tons of 411D hot asphalt mix in the amount of \$112,000.00.

#### **Emergency Drain Repair – 1730 Dogwood Creek Drive**

An existing 48” culvert collapsed behind 1730 Dogwood Creek Drive in Grove Park. The culvert headwall separated from the reinforced concrete drain pipe and fell into the drainage ditch prompting the ground around the structure to collapse into the ditch along with portions of the resident’s yard.

MOTION: To contract with B & C Construction Company, Inc. for emergency repairs to a failed 48” drain pipe, headwall and ditch slope at 1730 Dogwood Creek Drive in the amount of \$21,870.00 and to approve Budget Adjustment #11-117.

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**Street Sweeping Services Contract Amendment and Contractor Change**

This is an amendment to the current sweeping contract to approve the change from Simmons Sweeping Company to Sweeper Corp of America.

MOTION: To amend the existing contract to approve the contractor change from Simmons Sweeping Company to Sweeper Corp of America and award the remainder of the existing three-year sweeping contract with two option years to sweeper Corp of America.

**Storm Debris Removal Payment**

The storm event on April 4, 2011 produced a large number of downed trees and broken limbs resulting in a significant amount of tree debris in the right-of-way. The excessive amount of debris was beyond the capacity of the regular collection crews and equipment to collect in a timely manner and a request was made for an emergency expenditure for supplemental equipment and overtime expenses.

MOTION: To authorize the payment of \$25,231.25 to Michael's Tree & Loader Service for the cost of storm debris removal.

**Fire Station #4 – Change Order #3 – Uninterrupted Power Supply**

Initially, the \$88,650.24 from Shelby County 911 Agency was to help offset the cost of construction and the backup 911 Dispatch at the new Fire Station 4. The funds were to be used for new fiber optic installation and the purchase of a new iSeries server. However, since Shelby County 911 requires UPS to have one hour backup time, it is recommended that these funds be used to offset the cost of adding the additional UPS backup time that is delineated in Change Order Number 2.

MOTION: To approve Change Order Number 3 for the new Fire Station 4 Construction Project increasing the contract amount by \$90,254.07 from \$3,063,998.00 to \$3,154,252.07 and approve Budget Adjustment No. 11-125.

**ADD-ON – Resolution 11R05 – Adoption of Local Hazards Mitigation Plan**

The county and each municipality must have a hazards mitigation plan in order to be eligible to apply for and receive Federal grant money for mitigation projects. Germantown participated in the creation of the multijurisdictional plan, and staff is satisfied that the plan addresses Germantown's needs in this area. FEMA will not give the plan final approval until each participating jurisdiction formally adopts the plan.

MOTION: To approve Resolution 11R05 adopting the Shelby County Hazards Mitigation Plan as the plan the City will use in planning for and mitigating natural and manmade incidents and disasters.

Motion by Mr. Chism, seconded by Mr. Marcom, to accept the consent agenda as read.

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

**ADJOURNMENT**

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

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Sharon Goldsworthy, Mayor

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Dotty Johnson, City Clerk/Recorder