

BOARD OF MAYOR AND ALDERMEN
November 12, 2007

A regular meeting of the Board of Mayor and Aldermen was held on November 12, 2007 at 7:00 p.m. in the Council Chamber of the Municipal Center.

Mayor Goldsworthy was present and presiding.

The following Aldermen were present: John Drinnon, Carole Hinely, Mike Palazzolo and Frank Uhlhorn. Alderman Chism was absent. Staff present: Patrick Lawton, Tom Cates, Andy Pouncey, George Brogdon, Kristen Geiger, Pam Beasley, Jerry Cook, Deputy Chief Rodney Bright, Pat McConnell, Bo Mills, Chief Dennis Wolf, Michael Stoll, Ralph Gabb, Melody Pittman, Josh Whitehead, Joe Nunes and Dotty Johnson.

Mayor Goldsworthy brought the meeting to order.

Invocation

Jerry Cook, Director of Economic and Community Development, gave the invocation.

Pledge of Allegiance

Alderman Uhlhorn led in the Pledge of Allegiance.

Approval of Minutes

There were two corrections made in the Executive Session.

Motion by Mr. Drinnon, seconded by Ms. Hinely, to approve the minutes of the Executive Session and Regular Meeting held October 22, 2007 as amended.

ROLL CALL: Drinnon – yes, Hinely – yes, Palazzolo-yes, Uhlhorn - abstain. Motion approved.

Citizens to be Heard

Sarah Wilkerson-Freeman of 7684 Apahon Lane came forward and stated when there was such a number of citizens to speak against a project that the Board had failed to communicate with the citizens they served. She also felt the Sunshine Laws and the City's Code of Ethics had been violated. She requested that all meetings and agendas be posted on the City's website and the GHTV Bulletin Board at least one week prior to the meeting including all subcommittee and work sessions. She also felt that inaccurate records of meetings are not kept and inaccurate versions of minutes are posted on the City website. She also requested copies of all tapes and minutes of future subcommittee meetings and work sessions of the Planning Commission, Board of Mayor and Aldermen and the Smart Growth Commission. She requested if these requests were not satisfied prior to the meetings that the State Attorney General verify them. She asked what proceedings were used when officials reclude themselves from voting due to conflict of interest.

Ms. Mimi Uhlmann of 1667 Hapano Dr. came forward and wanted to correct a public record. She said the newspaper had done a follow up article about the neighbors concerns and Andy Pouncey had been quoted as saying he had shown the neighbors the Michael Borne site concept proposal that had been circulated at the work session the week prior to the final vote. She stated she was not aware of any neighbors that Mr. Pouncey had shown the plan to and the statement was false. She wanted to know which neighbors he showed the plan to and when it happened. She asked if the City did care about the neighborhood and wanted to involve the neighbors in the development of the property, it would be in the interest of all to tell the truth and give the correct facts.

Beautification Business Award

Mr. Chuck Winter's from the Beautification Commission came forward to present to Mimi Gwen the manager from Arby's Restaurant located at 2016 Germantown Road the October award.

Youth Excellence Award

Mayor Goldsworthy and Alderman Hinely stepped down from the podium to present the Youth Excellence Award. She invited the student's parents and grandmother to the podium to accept the award for Stuart Downing who could not be present. He was in rehearsal for a theatre production at Germantown High School. Mr. Downing is a senior and was named General Manager of GHS-TV.

Teacher of the Month

Ms. Imogene Canady, a science teacher at Houston High School, was presented the award for Teacher of the Month. She was presented a check for \$100 from Alpha Kappa Chapter of Alpha Delta Kappa Sorority for her commitment to Germantown students.

Resolution 07R15 To Establish a Trust for OPEB

Ralph Gabb stated this resolution would allow the City to establish a trust fund for Other Post Employment Benefits (OPEB). The Governmental Accounting Standards Board (GASB) issued Statement 43 and 45 that deal with the recognition of retirement benefits other than pension cost (OPEB) on an accrual basis.

Motion by Mr. Palazzolo, seconded by Mr. Drinnon, to approve the Resolution to Establish a Trust for OPEB.

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

OPEB Trust

Mr. Gabb stated this agenda item would establish a trust and a commission for the Other Post Employment Benefits. With the approval of the trust document, it will define the purpose and the scope of the trust. The Trust will consist of all contributions paid or otherwise delivered to it, and all investment income and realized and unrealized gains and losses.

The Trust shall have a commission and be made up of seven (7) members. The Commission shall consist of the Mayor, Alderman Liaison, City Administrator, Designated City Officer and three (3) citizens from the City of Germantown who have been appointed by the Board of Mayor and Aldermen.

Motion by Ms. Hinely, seconded by Mr. Palazzolo, to approve the establishment of a Trust to be known as the City of Germantown Post-Employment Benefits Trust and to create a Commission for the OPEB Trust. The following citizens are to be appointed to the Commission: Richard Vosburg, Gary Pruitt and Deborah Brashfield.

ROLL CALL: Drinnon - yes, Hinely - yes, Palazzolo-yes, Uhlhorn - yes. Motion approved.

OPEB Investment Policy

Mr. Gabb explained this agenda item will set forth the investment policy to be followed by the Trust Fund. This Trust Investment Policy was established to invest OPEB Trust funds in a manner that will provide sufficient investment return to meet the current and future OPEB benefit cash flow demands of the benefit plan while conforming to all state statutes governing the investment of such OPEB dedicated trust funds.

OPEB Investment Policy – (cont'd)

Motion by Mr. Uhlhorn, seconded by Mr. Drinnon, to approve the establishment of an Other Post-employment Benefits (OPEB) Trust Investment Policy.

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

Mayor Goldsworthy thanked all those involved with OPEB. It was a Federal Mandate and the Board had to consider priorities that included approximately 1.2 million in new funding. She thanked the Board for its diligence and understanding and support of the budgetary prioritization that made this all possible. She thanked Personnel for identifying the way in which the costs could be better contained and Finance for setting up all the legalities.

Property and Casualty Insurance Renewal

Michael Stoll explained this item was to approve the City's insurance coverage renewal for the coming year. It includes the property coverage, workers compensation coverage, and liability coverage. Primarily the TML Risk Management Pool, a professionally operated, non-profit, risk sharing pool for Tennessee municipalities, has provided this coverage. This cooperative risk sharing arrangement was created under Tennessee legislation to provide a reliable and reasonably priced source of insurance geared toward municipal needs. The TML Pool provides the City with all necessary claim services, loss control programs and ready access to risk management products.

The annual premium amount is offset by a "member dividend" from the TML Pool. This is the second consecutive year that the TML Pool has increased the refund of excess surplus to its members based on the overall favorable loss experience.

The City also claims an additional \$10 million of excess earthquake insurance from a commercial provider Homeland Insurance. This coverage is provided over the \$5 million covered under the TML Policy.

Alderman Uhlhorn stated he was unaware that the infrastructure, both sewer and water lines were covered by insurance.

Mr. Stoll stated the policy covers natural disasters such as earthquakes. Normal deterioration is not included.

Motion by Ms. Hinely, seconded by Mr. Uhlhorn, to approve the renewal of insurance coverage and payment of premiums to TML Risk Management Pool for property, workers compensation and general liability policies and the renewal of second tier earthquake coverage and payment of the policy premium to Homeland Insurance Co.

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

PUBLIC HEARING – Ordinance 2007-15 – Amendment to Smoking Ordinance – Third and Final Reading

Patrick Lawton stated with this third and final reading the City would be in compliance with a State Law that was signed by the Governor in the spring. This ordinance will prohibit smoking in all public places except in age-restricted areas.

Alderman Palazzolo stated former Alderman Gary Pruitt had a lot to do with the passage of this legislation and he knew he would be very proud it had gone so far.

PUBLIC HEARING – Ordinance 2007-15 – Amendment to Smoking Ordinance – Third and Final Reading – (cont’d)

Mayor Goldsworthy opened the public hearing. Having no one come forward, the public hearing was closed.

Motion by Mr. Uhlhorn, seconded by Mr. Palazzolo, to adopt on third and final reading Ordinance 2007-15 amending Article II, Chapter 9 of the Code of Ordinances of the City of Germantown.

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

Methodist Hospital Fitness Contract – DEFERRED

Contract Amendment – Lawrence Group - DEFERRED

CONSENT AGENDA

Project Development Contract No. 1154 – Lot 2, Forest Hill-Irene Commercial Subdivision

The subdivision is located on the west side of Forest Hill-Irene Road, south of Poplar Avenue. Lot 2 is proposed to have a 5,563 square foot building that faces north toward Forest Centre Drive. The site plan calls for twenty-eight parking spaces, two of which are handicap spaces.

MOTION: To approve Project development Contract number 1154 for development of Lot 2 of the Forest Hill-Irene Commercial Subdivision.

Amendment to Project Development Contract No. 1140 – Stonecreek Centre – Implementation of Phasing Plan

Stonecreek Centre is a 13.94-acre tract of land located on the south side of Poplar Avenue, east of Ashmont Drive and west of Forest Hill-Irene Road and zoned “O” Office and “C-2” Commercial. The proposed amendment would allow each phase to be granted initial acceptance by the City and receive a certificate of use and occupancy from the Memphis/Shelby County Office of Construction Code Enforcement. This would enable individual buildings to be occupied prior to the completion of the entire site.

MOTION: To approve the First Amendment to Project Development Contract No. 1140 for Stonecreek Centre.

Agreement for Co-Location – Clearwire Wireless to Co-locate on an existing WTF at 3160 Forest Hill-Irene Road (Crown Castle International tower)

The proposed resolution would grant approval for the co-location of Clearwire Wireless antennas on the Crown Castle International monopole and the installation of equipment within the compound area.

MOTION: To approve Resolution 07R16 allowing the co-location of a Clearwire Wireless Transmission Facility on the Crown Castle International monopole, located at 7624 Poplar Pike within Milton Schaeffer’s property.

Agreement for Co-Location – Clearwire Wireless to Co-locate on an existing WTF at 7624 Poplar Pike (Crown Castle International tower)

The proposed resolution would grant approval for the co-location of Clearwire Wireless antennas on the Crown Castle International monopole and the installation of equipment within the compound area.

MOTION: To approve Resolution 07R17 allowing the co-location of a Clearwire Wireless Transmission Facility on the Crown Castle International tower, located at 7624 Poplar Pike within City of Germantown Public Services Compound.

Professional Services Agreement – Smart Growth Utility Impact

Smart Growth Zoning will change our thought process regarding water and sanitary sewer services. Allen & Hoshall have served as the City Utility System engineers for over 40 years and have the system models and historical data necessary to evaluate the impact of each Smart Growth Development. The amount is not to exceed \$20,000.00.

MOTION: To authorize the Mayor to enter into a Professional Services Agreement with Allen & Hoshall, Inc., to evaluate the developmental impact on the City of Germantown water and sanitary sewer systems associated with the Smart Growth Development, in an amount not to exceed \$20,000.00.

Employee Holiday Party

The City annually has an employee Holiday Party that allows employees from all departments to get to know each other better on a non-working level. This is one way of rewarding employees for a job well done. Having the party at the Germantown Country Club will mean no employee will have to work all day and the next day cleaning a City facility for their own party.

MOTION: To contract with the Germantown Country Club for the City of Germantown Employee Appreciation Dinner to be held December 7, 2007, for approximately \$8,641.67.

Bulk Spreader

This machine is used by the Street Maintenance Crew to spread salt, sand or cinders on City streets to improve road conditions during inclement weather. The machine allows application of bulk materials in a fast, safe and smooth manner with little handwork. This is a replacement for a 1996 Tarrant Model HL-2C-11 asset number 5259 that was traded in.

MOTION: To authorize the purchase of a Bulk Spreader from H.H. Hooper Machinery Inc. in the amount of \$26,546.00.

Finance Server

The existing financial operating system is considered a mission critical system to conducting City business. The average lifecycle of a server system has become approximately two to three years. Typically in six years, most hardware and software companies discontinue supporting the products, as the products become obsolete. The IBM iSeries Server was last replaced in August of 2002. The low bid for the new server was \$33,899.00 plus a 3-year Hardware and Software Maintenance Agreement for \$8,608.00.

MOTION: To purchase an IBM iSeries Server from Dynamix Group, Inc. in the amount of \$33,899.00 plus a 3-year Hardware and Software Maintenance Agreement in the amount of \$8,608.00 to operate the City's computerized financial system.

Merchant Services Account Bank Resolution and Signature Card

The current system of accepting credit cards as a form of payment is expensive, time consuming and has the potential for human error when staff re-enters information provided by citizens. This account is a "pass-through" account that issues no checks and simply tracks credit card transactions before they are commingled with all other forms of payment to City departments and divisions.

MOTION: To request authorization to update signers on the City's existing Merchant Services bank account and adopt a corporate resolution authorizing designated City officials to execute banking activities on the account used in association with merchant services transactions.

E-Check Account Bank Resolution and Signature Card

The current system of accepting credit cards as a form of payment is expensive, time consuming and has the potential for human error when staff re-enters information provided by citizens. This account will simplify the accounting system and keep the potential for human error at a minimum.

MOTION: To request authorization to establish a new bank account and adopt a corporate resolution authorizing designated City officials to execute banking activities on the account used in association with e-check transactions.

Pool deck Overlayment

The indoor swimming pool structure had significant damages that have required an emergency repair in October. Due to the unexpected closure of the swimming pool, the deck project is being presented now to utilize the facility down time. This will prevent another long closure of the facility in the future. The deck is very slippery when wet and is difficult to clean & disinfect. Safety, maintenance and cleaning will be improved by using glazed cement as replacement for the swimming pool deck. This material is currently used in the bays of the Germantown Fire Stations.

MOTION: To authorize the Mayor to enter into a contract with Prime Contractors, Inc. for the refinishing of the Germantown Centre Indoor Swimming Pool deck in the amount of \$91,000.

Radio Maintenance

This agreement will ensure that radio communications will be available when needed. The radio systems for the Fire and Police Departments are critical and must be maintained and working at all times.

MOTION: To purchase a radio maintenance agreement from Conserv in the total amount of \$10,200.00.

University of Delaware Grant – Stipend

The University of Delaware Center for Drug and Alcohol Studies asked for the Germantown Police Department to participate in the quarterly study, and in return for filling out the quarterly reports will receive a stipend of \$225.00 for each report and a small bonus if all four quarterly reports are submitted on time. These funds can be used for any law enforcement purpose.

MOTION: To recognize a research grant from the University of Delaware in the amount of \$275.00 quarterly for participating in a Drug Diversion survey and to approve Budget Adjustment number 08-41.

Tennis Court Resurfacing

There are four tennis courts in the City that were identified and scheduled for resurfacing for safety purposes. All four courts are to be resurfaced by overlaying with four inches of post tension concrete to prevent the courts from cracking.

MOTION: To accept the \$143,100 bid proposal from Derrick Barton Sports Construction to resurface two north tennis courts at Houston Levee Park and the two south tennis courts at C.O. Franklin park along with installation of new mesh fencing at that site and approve Budget Adjustment #08-43.

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

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

Alderman Palazzolo had some questions in regard to "Citizens To Be Heard". He asked Mr. Lawton if the requests for information had been fulfilled on a timely basis.

Mr. Lawton responded that several departments had been inundated with requests and the City had responded. Some information had been received last week that they were in the process of preparing the information and getting it ready. It does take staff a little time to gather the information requested. Requests are always complied with.

A citizen came forward and asked to respond. The Mayor stated it was not an appropriate time to question or challenge. She stated that questions or challenges should be taken up with the City Administrator.

Alderman Palazzolo stated that he felt anytime a citizen challenged us on the Sunshine Law or any type of situation, staff should always take it seriously. He asked the City Administrator to refresh his understanding of the Sunshine Laws by putting something in the mail to him. He asked if the City felt everyone was in compliance with the Open Meetings and proper notification of the meetings.

Mr. Lawton responded the City was in compliance. He stated the Board of Mayor and Aldermen or any of the Commissions or Committees meet with proper public notice that is posted on the bulletin board. The staff is cognizant of the Sunshine Laws and the City had always been in compliance and takes the Freedom of Information Act and the Open Meetings Law very seriously.

Alderman Uhlhorn stated that with the Smart Growth Plan, as far as he was aware, there had not been any Sunshine Law violations. The citizens had been given the chance to speak at the Public Hearing. Staff then had a work session and discussed what the citizens had complained about and the Board reached a decision.

A citizen then spoke out and asked for minutes.

Alderman Uhlhorn stated he had the floor. He felt the Smart Growth process had been the most open forum the City had done. He asked citizens for their input all along the way. He was sorry that some citizens, in the middle of the game, wanted to change the rules. He felt all had done a great job of getting the citizens input and responding to the community's requests.

Mayor Goldsworthy commented that the Board of Mayor and Aldermen had not had the practice of producing minutes from work sessions, and that had been established for some time, because they are identified and simply work sessions and not opportunities for the Board to reach decisions about matters.

ADJOURNMENT

There being no further business to be brought before the Board, the meeting was adjourned at 7:55 p.m.