

**BOARD OF MAYOR AND ALDERMEN**  
**October 8, 2007**

A regular meeting of the Board of Mayor and Aldermen was held on October 8, 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: Ernest Chism, John Drinnon, Carole Hinely, Mike Palazzolo and Frank Uhlhorn. Staff present: Patrick Lawton, Tom Cates, Andy Pouncey, George Brogdon, Kristen Geiger, Pam Beasley, Jerry Cook, Chief Richard Hall, Pat McConnell, Chief Dennis Wolf, Michael Stoll, Ralph Gabb, Melody Pittman, Josh Whitehead, Joe Nunes and Dotty Johnson.

The Mayor announced that during the Executive Session, the Board agreed to move an item from the Consent Agenda that had to do with the donations to the Germantown Library. The item would be moved the Regular Agenda to follow Item No. 5. Also, the first item on the Consent Agenda, which was a subdivision development contract, had been deferred.

**Invocation**

Assistant City Administrator George Brogdon gave the invocation.

**Pledge of Allegiance**

Troop 295 from St. Mathews Methodist Church in Memphis presented the colors and led in the Pledge of Allegiance.

**Approval of Minutes**

The minutes were approved as read.

Motion by Mr. Chism, seconded by Mr. Drinnon, to approve the minutes of the Executive Session and Regular Meeting held September 24, 2007.

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

**Citizens to be Heard**

There were no citizens to come forward.

**Germantown READS Presentation**

The Mayor, Cynthia Dunkin from the Friends of the Library, and Germantown Librarian Melody Pittman came forward to present Farmington Elementary with the traveling trophy and a \$200 check from the Friends of the Germantown Library for their school library.

Dr. Leann Chism Knight, Principal at Farmington Elementary, a student from the school and Ms. Donna Perra came forward to receive the award. As a way to motivate voters, READ posters of all area principals and assistant principals had been on display in the schools and in the library.

**Recognition of Donations – Germantown Community Library**

Patrick Lawton explained that cash donations had been made to the Germantown Library between the months of June 6, through September 27, 2007 totaling \$3,660.00.

Motion by Mr. Drinnon, seconded by Mr. Chism, to recognize donations to the Germantown Community Library totaling \$3,660.00 in cash donations, and to approve Budget Adjustment No. 08-29.

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

**Recognition of donations to Neighborhood Preservation Commission**

Mr. Lawton stated this was the second year for the Neighborhood Leaders Conference. The purpose is to educate neighborhood leaders on issues facing neighborhoods including safety/emergency preparedness, communication, legal issues and landscaping that will enhance subdivision entrance features and homes.

The City had received donations in the amount of \$800.00 from the Leadership Germantown Alumni Association, Rotary Club of Germantown, English Meadows Neighborhood Association, Poplar Estates Homeowners Association, Duntreath Neighborhood Association and the Germantown East Neighborhood Association. The funds will be used for some of the expenses related to the event including the annual neighborhood awards and the welcome reception.

Motion by Ms. Hinely, seconded by Mr. Drinnon, to recognize and accept six (6) donations totaling \$800.00 to the Neighborhood Preservation Commission and approve Budget Adjustment No. 08-26.

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

**Ordinance 2007-15 – Amendment to Smoking Ordinance – First Reading/Set Public Hearing Date**

Mr. Lawton stated this was the first reading for an amendment to our existing smoking ordinance based upon the action of the General Assembly this past spring. The Governor had signed a bill prohibiting smoking in virtually all places where the public gathers. Germantown has had an ordinance since the mid-1980's to limit smoking in public places and had lobbied hard over the past decade to further limit smoking in public gathering places.

The State law went into effect October 1, 2007. This amendment change would bring our ordinance into compliance with State law. The suggested public hearing date is for Monday, November 12, which will be the third and final reading.

Motion by Mr. Chism, seconded by Mr. Palazzolo, to adopt on first reading Ordinance 2007-15 amending Article II, Chapter 9 of the Code of Ordinances of the City of Germantown and to set November 12, 2007 as the third reading and public hearing to consider this ordinance change.

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

**PUBLIC HEARING – Ordinance 2007-18 – Smart Growth Rezoning – Second Reading**

Josh Whitehead stated this ordinance was the rezoning of approximately 400 acres from the conventional zoning classifications of "R", "R-3", "R-T", "O", "OC", "SC-1", "C-1" and "C-2" to the Smart Growth Zoning Classifications of "T-3", "T-4" and "T-5". Mr. Whitehead gave a brief history of how the process began and how it reached its present status. He stated the City wanted a new strategic plan document that would take it into build-out. The Lawrence Group was hired to help enact the general visions of Vision 2020 and to help achieve the redevelopment of the "Center City" or central business district. From all the meetings that were held with City officials, citizens, and staff a land-use plan which was passed by a resolution in April, 2007.

A SmartCode was then adopted that would apply to the central business district that would permit buildings to be built closer to the street and would allow a mixture of tenants in a singular development that would allow for the pedestrian downtown feel. The Code was adopted in August of 2007.

Mr. Whitehead pointed out that throughout the whole process, planning staff and administration staff had met with numerous neighborhood associations and homeowner associations tweaking the plan and especially the map.

**PUBLIC HEARING – Ordinance 2007-18 – Smart Growth Rezoning – Second Reading –(cont'd)**

Mr. Whitehead stated that the Board had recommended to staff that an amendment be made to the plan that would involve the removal of Farmington Gates Apartments from the proposed map and it would remain multi-family zoning classification. There were three zoning classifications that were codified with the SmartCode and they were T-3, T-4, and T-5. The T-3 allows minimum front yards of 24 feet, minimum side yards of 6 feet and minimum rear yards of 12 feet which is similar to many of the existing PUD's such as Allenby Westfair, Allenby Lake, and Nottoway and only single-family detached housing is allow. The T-4 will allow a 6 foot front yard, a zero side yard, and a 3-foot rear yard. In T-3 and T-4 the height limitations are 2 to 3 stories and the T-4 if the building is LEAD certified, there is a bonus of one story. The uses in T-4 are primarily residential but there can also be office. Retail would be limited to major roadways and on corner locations and 5, 000 square feet. T-5 allows many uses but the intent of the code specifies that this is a mixed use zoning classification.

Mr. Whitehead stated there had been no in-depth traffic impact analysis done at the time of the adoption of the plan or the rezoning. Prior to any redevelopments being approved by the Planning Commission, the applicant must perform a traffic impact analysis. The SmartCode adopted has some templates on the vision of what Exeter west and Germantown and Poplar may look like at some point. None of the changes will be made without a further public hearing so that the rezoning would not change any of the existing roadways or the configuration thereof.

The SmartCode would not only adopt the 15 – 35 foot site line ratio but also take into consideration topography. The invisible site line in the area will be adhered to no matter what the topography of the land does.

Alderman Palazzolo added that the Economic Development Commission had reviewed the SmartGrowth Plan and endorsed the Plan.

Mayor Goldsworthy then opened the Public Hearing:

Mr. Dabney Wellford of 7686 Dogwood, President of Dogwood Road Neighborhood Association, agreed with the general idea of Smart Growth. He felt that all of the areas south of Poplar should be rezoned T-4. He also felt there should be no access from Smart Growth developments to Pete Mitchell, and that Pete Mitchell should remain open and in its unimproved state.

Mr. David Struhs of 7830 Dogwood asked to step back development on fringes that abut private property. He felt the fringe/pocket should be T4.

Mr. David Spann of 2135 Brierbrook supported the overall concept of Smart Growth but urged the removal of the Farmington Gates Apartments from the rezoned area. Some of his concerns were the traffic and roads, pedestrian intersections along Poplar and Germantown, and moving the fire station. He felt T-5 should be removed where it directly abuts residential areas and had concerns over the possibility of doubling commercial activity in the CBD and lowering the traffic capacity of the streets. He felt this would push traffic from Exeter to Brierbrook. He stated that if Exeter was reduced to one lane each way with angled parking that fire trucks would not be able to maneuver during an emergency.

Sarah Wilkerson-Freeman of 7684 Aphon stated the proposed Cordova-Neshoba-Germantown triangle rezoning would encroach upon existing, tree-lined single-family neighborhoods and that Smart Growth would allow the systematic desecration of virgin forest. She felt a traffic study should be performed for this site prior to its rezoning because there would be a great increase in the number of users for this property.

Mr. Jimmy Luke of 2350 Carters Grove Lane supported the rezoning as presented. He stated he felt that Mr. Wellford was hypocritical with his opposition to the rezoning since he is in discussions with Methodist Hospital to sell his property. There would be no access, nor improvements made to Pete Mitchell under his development plans.

Mr. Jim Breazeale of 1863 Cordova, supports Smart Growth generally. He was the Planning Commission Chairman in the 1970s. He felt that Germantown should protect its existing residential areas and that the new Walgreen's violates that protection. He stated the landscape preservation easement did not address the four-story sight line along Cordova Road. Tables 12 and 13 of the SmartCode appeared to be in conflict with each other, in that Civic Space must be "Squares" in T-4. He felt the SmartCode would permit 100% encroachments in some areas for a building setback for stoops, balconies, etc. and asked what's the purpose of a buffer if a 100% encroachment is allowed?

Ms. Sylvia Greene of 7840 Neshoba Road favored the Smart Growth rezoning as submitted. She stated Smart Growth surrounded her on two sides, and she stressed the importance of the landscape screen in the 150-foot buffer. She would also like the landscape screen to utilize existing understory.

Mr. John Corbet of 1847 Cordova Road stated the Cordova triangle was an encroachment into Germantown Heights. He felt the triangle was the only place where there would be Smart Growth development across the street from residential.

Mr. Bruce Bayless of 2122 Sonning supported the removal of Farmington Gates Apartments from the proposed rezoning. He asked if a traffic impact analysis had been performed for Brierbrook.

Ms. Lea Williams of 2111 Woodside urged that Farmington Gates be removed from the proposed rezoning. She had concerns about traffic increases along Brierbrook and Woodside.

Mr. Jason Williams of 2155 Woodside felt the Smart Growth Plan as presented to the citizens of Germantown did not square with the SmartCode as approved. He stated there formerly had been a graduation from T-3 and T-4 along the periphery to T-5 in the middle. He felt the SmartCode allowed 100% of the building coverage in T-5 districts and there should be a limit on the coverage to allow green space and open air. He also felt the height limitations should be lowered.

Ms. Judy Luke of 2350 Carters Grove Lane approved of the Smart Growth rezoning as presented.

Ms. Beth Breazeale of 1863 Cordova suggested the removal of the Cordova triangle from the rezoning.

Mr. Kip Butts of 7333 Magnolia Ridge, President, represented the Timbers Neighborhood Association and stated that while traffic would not be addressed until site planning, there were several items that should begin to be considered, such as the closure of Deep Valley at Miller Farms. Whether or not the developer of the Arthur tract acquired the ten lots along Miller Farms, Deep Valley should be closed due to a contemplated increase in cut-through traffic.

Mr. David Spann of 2135 Brierbrook, Chairman, Farmington South Neighborhood Association asked that everyone who was in the Farmington South Neighborhood Association to stand up (approximately 100 people stand). He stated that he had obtained 200 signatures opposing the rezoning of the Farmington Gates Apartments from R-T to T-5.

Ms. Sherrie Williams of 2155 Woodside was concerned over whether the City was supplanting the wishes of the neighbors over those of the developers. He suggested a maximum height of four stories.

Ms. Jan Bayless of 2122 Sonning was concerned with the increase in development along Exeter and would the restrictions placed on traffic increase the traffic on Sonning? She was also concerned over 6 story buildings.

Mr. Jason Williams of 2155 Woodside, felt the sight lines were not just important for buildings that abut the rear property lines of the residential properties but also the view of the buildings along the sidewalk.

Having no other citizen come forward, Mayor Goldsworthy declared the public hearing closed.

Motion by Mr. Drinnon, seconded by Mr. Uhlhorn, to approve Ordinance 2007-18 on Second Reading except the Farmington Gates Apartment properties at the northeast and northwest corner of Poplar Avenue and Brierbrook be removed from the application for rezoning and that it's zoning remain R-T.

In response to a question from Alderman Palazzolo, Josh Whitehead stated he would present to the Board in the next packet, a synopsis of what was said by the citizens that came before the Board.

Alderman Uhlhorn stated that based on citizens concerns, that a work session be held before the next meeting to discuss the rezoning before the third reading.

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

Alderman Chism left the podium.

**PUBLIC HEARING - Ordinance 2007-19 – Amendment to Flood District Regulations of Zoning Ordinance (Chapter 23 Division 20, Sections 23-596 thru Sec. 23-604 Regulations – Third and Final Reading**

Mr. Lawton stated this was the third and final reading on the amendment to the Zoning Ordinance. FEMA, the Federal Emergency Management Agency, manages the national flood insurance program, NFIP. There are three major components of the national flood insurance program dealing with flood insurance, flood plain management and flood hazard mapping. Our flood district regulations were first adopted in January 1992. Because of topographical changes to these areas and natural flow and man made obstructions, the existing maps must be amended to provide the City our development community and our residents with new standards for elevation and grading for residential and non-residential construction.

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

Alderman Chism returned to the podium.

Motion by Ms. Hinely, seconded by Mr. Drinnon, to approve Ordinance No. 2007-19 on Third Reading.

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

**Lobbying Services Contract**

Mr. Lawton stated the Board was asked to authorize the Mayor to enter into a lobbying services agreement with the firm of Farris, Mathews, Branan, Bobango, and Dunlap for assistance in our legislative efforts.

**Lobbying Services Contract – (cont'd)**

He stated that over the past several years, the City had engaged a lobbyist for assistance in presenting our legislative agenda and helping the City administration and the Board of Mayor and Aldermen to serve as advocates for our community.

We engaged this firm last year and as a result of our collective efforts we successfully defeated the challenge of the control of our right-of-way. We are pleased with the legislative game plan prepared by the firm and are ready to execute an agreement pending the action of the Board.

Motion by Mr. Uhlhorn, seconded by Mr. Drinnon, to authorize the Mayor to enter into an agreement with FARRIS MATHEWS BRANAN BOBANGO HELLEN & DUNLAP PLC for \$33,250.00 (legislative representation in the amount of \$32,500.00, plus registration fees (\$150 per lobbyist registered, total \$750.00) and any out of pocket expenses incurred which the city approves, and approve Budget Adjustment Number 08-28.

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

**CONSENT AGENDA**

**Subdivision Development Contract No. 446 – Germantown Manor, 1<sup>st</sup> Addition – Payment to developer for Moore Road Improvements - DEFERRED**

**Project Development Contract No. 1163 – Poplar Pike Office Center – Bldg. 2**

This property is located on the north side of Poplar Pike, north of Germantown High School, and west of Brice Antiques. The request is for approval for an office/retail building that will not exceed 4,995 square feet on a 0.43-acre site.

MOTION: To approve Project Development Contract No. 1163 for Poplar Pike Office Center, Building #2.

**Project Development Contract No. 1164 – Poplar Pike Office Center – Bldg. 3**

The property is located on the north side of Poplar Pike, north of Germantown High School, and west of Brice Antiques. The office/retail building will not exceed 4,995 square feet on a 0.38-acre site.

MOTION: To approve Project Development Contract No. 1164 for Poplar Pike Office Center, Building #3.

**Revision to Subdivision Development Contract No. 467 – Hidden Hills – Change name of developer and effective date**

This is a re-approval of a development contract for the Hidden Hills Subdivision. The property is located on the north side of Poplar Avenue, west of the intersection of Forest Hill-Irene Road and Poplar Avenue. A new developer is taking over the subdivision.

MOTION: To approve revised Subdivision Development Contract number 467 for the development of the Hidden Hills Subdivision.

**Civic Support Grant – Germantown Area Chamber of Commerce**

The Chamber has been given a grant for the past 16 years. This year the grant is for \$15,000.00. In addition, the Chamber has requested the City grant usage of the Centre Gym for two days, GPAC for two days, the Great Hall for two days and the Multi-Media Room for one day.

MOTION: To award a grant to the Germantown Chamber of Commerce in the amount of \$15,000.00.

**Civic Support Grant – Germantown Community Television Foundation**

The funding appropriated by the Board in the FY08 Budget is \$220,000.00. The City has applied for \$20,000.00 for Germantown High School from the Tennessee State Legislature. If the additional \$20,000.00 is not approved, the \$20,000.00 will come from the General Fund Budget.

MOTION: To award a Civic Support Grant to the Germantown Community Television Foundation, Inc. in the amount of \$200,000.00.

**Annual Report Calendar**

The Annual Report Calendar is distributed to all residents and businesses by mail and highlights Germantown activities throughout the year including commission and board meetings. Six vendors were contacted and four bids were received. J.W. Moore was the low bid.

MOTION: To contract with J.W. Moore, Inc. for the printing of 16,500 2008 Annual Report Calendars in the amount of \$11,375.00.

Motion by Ms. Hinely, seconded by Mr. Chism, to accept the consent agenda as presented.

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

**ADJOURNMENT**

There being no further business to be brought before the Board, the meeting was adjourned at 8:40 p.m.

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Sharon Goldsworthy, Mayor

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Dotty Johnson, City Clerk/Recorder