

BOARD OF MAYOR AND ALDERMEN
EXECUTIVE SESSION
August 13, 2007

An executive session of the Board of Mayor and Aldermen was held on August 13, 2007, at 6:15 p.m. in the Administrative Conference Room of the Municipal Center.

Mayor Sharon Goldsworthy was present and presiding.

The following Aldermen were present: Ernest Chism, John Drinnon, Carole Hinely, Mike Palazzolo and Frank Uhlhorn. Staff present: Andy Pouncey, George Brogdon, Kristen Geiger, Tom Cates, Jerry Cook, Pam Beasley, Chief Richard Hall, Pat McConnell, Bo Mills, Chief Dennis Wolf, Butch Eder, Michael Saddler, Michael Stoll, Ralph Gabb, Lisa Piefer, and Melody Pittman.

Mayor Goldsworthy called the meeting to order at 6:15 p.m.

Approval of Minutes

There was one correction to the minutes, on page two of the Board Meeting, under Delinquent Collection – Shelby County Trustee, the word pursues was misspelled.

Pledge of Allegiance

Alderman Drinnon is to lead the pledge.

Recognition of National Smokey Bear Woodsy Owl Poster Winner

This will be a proclamation to recognize the national winner of the poster contest. Sukanya Mittal of Dogwood Elementary won the contest.

Library Donations – Great Race – Germantown

Mr. Pouncey noted that Sherrye Rhea who co-chaired the Great Race is to make the presentation of \$2,125.00. This money came from the revenues that exceeded the expenses.

PUBLIC HEARING - Ordinance 2007-14 – Amendment to Chapter 2 Administration – Investments – Second Reading

Michael Stoll stated there had not been any changes since the first reading.

Ordinance 2007-13 – Amendment to Germantown Zoning Ordinance – Codification of Smart Code – Third and Final Reading

Josh Whitehead is to make this presentation. He noted there had been about eleven amendments to the Code since the first reading.

A discussion followed regarding who had the final ruling regarding an appeal of the Planning Commission's ruling, especially regarding the height of the buildings.

Mr. Whitehead stated if the Planning Commission voted down a project, the applicant could still appeal to the Board of Mayor and Aldermen. If a project came before the Planning Commission and they had a building higher than what is allowed, they could ask for a "warrant" which is similar to a variance. If the Planning Commission determined that it had all the things on the checklist for "warrants" and adhered to the intent of the Code, the Planning Commission could grant that height.

The question was asked could the Board supersede the vote of the Planning Commission by a three to two vote.

Mr. Cates stated the solution to the problem would be to give to any party, whether an applicant or a neighbor, aggrieved by the decision of the Planning Commission, the right to appeal such decision to the Board of Mayor and Aldermen. This would mean the Board would not have to hear matters that the Planning Commission passed only if someone objected and filed an appeal. If the Board wanted the final say, it must be so stated in the ordinance.

Mayor Goldsworthy stated that when under ordinary circumstances the recommendation comes to the Board, and it meets all the normal and ordinary requirements, it would be difficult to legally overturn that decision by a three to two vote. If the Planning Commission had attached a "warrant" to it then, if the Board wanted to overturn the decision, the Board could legally overturn the decision because of the exceptions that had been taken.

Alderman Uhlhorn asked to put in the amendment that only in the Smart Growth area could there be a vote of three to two to overturn the Planning Commission.

Mr. Cates stated there would be two steps, first every action of the Planning Commission approving something in Smart Growth would then have to be ruled upon by the Board of Mayor and Aldermen. There would not be any super majority involved.

Mr. Cates explained that the way the Code is written, if the Planning Commission approves a project in Smart Growth, with or without warrants in any circumstances, the only action of the Board of Mayor and Aldermen is to approve and authorize the Mayor to sign a development contract. The development contract pulls together the approvals, puts them in one place, and is a ministerial function. If the Board of Mayor and Aldermen did not like the project, the Board would not have the authority to refuse to authorize the development. This is the way it is now written.

If the Board would want the final say, the Ordinance will have to be amended to provide: following approval by the Planning Commission, the matter will be referred on its recommendation to the Board of Mayor and Aldermen for action and then the Board would have the final say. After the Board approves, then it becomes a development contract.

The Board finally agreed that under normal applications that meet all the requirements of the City, the Board's action would be the development contract. If the Planning Commission has accepted or approved a warrant on a project, then such warrant shall be considered and approved by the Board of Mayor and Aldermen. The warrants would then come before the Board.

Cameron Brown Park Improvements Phase II

Recognition of Parkland Dedication Fees

Ordinance 2007-16 – Amendment to Beer Ordinance – First Reading/Set Public Hearing

Ordinance 2007-17 – Establishment of a Germantown Centre Advisory Commission – First Reading/Set Public Hearing

CONSENT AGENDA

Project Development Contract No. 1157 – Lot 2, Wolf River Office Park

Project Development Contract No. 1158, Poplar Pike Office Bldg. No. 1

Amendment to Agreement – Lot 1, Poplar Woods S/D (6535 Poplar Ave.)

The Board unanimously agreed to take this off the consent agenda and move to the regular agenda.

Declaration of Surplus Equipment

Annual Maintenance Fee for Public Water System

Floor Refinishing – Centre/GPAC

Donation to Police Department – Crime Stoppers

Drug Testing of Student Athletes – Germantown and Houston High School

Donation to Parks and Recreation for Parks Program

Donation to Camp Good Grief

Adjournment

The meeting adjourned to the Council Chamber for the regular meeting at 7:04 p.m.