

BOARD OF MAYOR AND ALDERMEN
June 11, 2007

A regular meeting of the Board of Mayor and Aldermen was held on June 11, 2007 at 7:15 p.m. in the Council Chamber 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: Patrick Lawton, Tom Cates, Andy Pouncey, Kristen Geiger, Pam Beasley, Chief Richard Hall, Pat McConnell, Bo Mills, Chief Dennis Wolf, Butch Eder, Josh Whitehead, Ralph Gabb, Melody Pittman, Lisa Piefer and Dotty Johnson.

The Mayor identified some changes to the agenda. During the Executive Session preceding the regular meeting, the Board unanimously agreed to move the following items to the Consent Agenda: Item No. 14 – Civic Club Courtyard and No. 16 – Change Order #1 – Public Services Complex Renovation.

Invocation

Bo Mills, Director of Public Services gave the invocation.

Pledge of Allegiance

Alderman Frank Uhlhorn led the Pledge of Allegiance.

Approval of Minutes

The minutes were approved with one correction noted in the executive session.

Motion by Mr. Drinnon, seconded by Ms. Hinely, to approve the minutes of the Executive Session and Regular Meeting held May 14, 2007.

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

Citizens to be Heard

No citizens came forward to voice their concerns.

PUBLIC HEARING – Ordinance 2007-6 – An Ordinance to Adopt the 2007-2008 Budget – Second Reading

Patrick Lawton noted that the adoption of the budget authorizes the allocation of resources and established the direction for programs and services for our Triple A City for the coming year and during the five-year planning period. He stated the FY08 proposed budget was based on the focus areas developed by the Board of Mayor and Aldermen during the retreat in January. The proposed budget for all funds totals \$68,481,234 and the General Fund Operating Budget, which is the largest fund in the City's budget, totals \$36,645,337. The City has three Enterprise Funds that total \$19,497,970. The capital budget under consideration totals \$9,755,000.

Mr. Lawton explained that the budget represented hundreds of hours of review and analysis by City departments and key business units, the Financial Advisory Commission and the personnel Advisory Commission. The Board had several work sessions regarding the budget to consider the major governmental funds and during the Board's retreat established the parameters for the development of the FY08 budget.

Since the first reading of the Ordinance, the Board had discussed several changes to the CIP. The proposed funding required to meet the OPEB obligation had been adjusted. Other adjustments to the operating budget included the addition of \$30,000 to fund the Living in Germantown Guide.

PUBLIC HEARING – Ordinance 2007-6 – An Ordinance to Adopt the 2007-2008 Budget – Second Reading – (cont'd)

Mr. Lawton then gave a power point presentation on the proposed budget.

Andy Wagner, Chairman of the Financial Advisory Commission came forward and shared his comments regarding the budget development process, the role of the FAC and their recommendation regarding its adoption. He thanked Alderman Palazzolo for his input as liaison to the Commission.

Alderman Palazzolo thanked Andy Wagner as chairman of the FAC over the past four years of service and dedication to the City in this capacity and all the members for their time and their service.

Mayor Goldsworthy also thanked the FAC for their service on behalf of the Board of Mayor and Aldermen.

The Mayor then declared the public hearing open. Having no one come forward to address the Board on the budget, the Mayor closed the public hearing.

Motion by Mr. Drinnon, seconded by Mr. Uhlhorn, to approve on second reading Ordinance No. 2007-6 establishing the FY08 Proposed Budget as amended.

Alderman Drinnon stated on behalf of the Library Board he asked for an amendment to the allocation in the budget for the library. He asked for \$15,000 for shelving and special supplies, \$6,600 for the Genealogical Library for their special needs, and \$27,000 for a contingency fund for books and periodicals for the library. The total request would be \$48,600. This would be monitored by the chairman of the Library Board as well as the representative from Administration to the Library Board, George Brogdon.

Motion by Mr. Drinnon, seconded by Ms. Hinely, to amend Ordinance No. 2007-6 to add \$48,600 allocation for the Germantown Community Library.

Alderman Uhlhorn asked to table this motion and look at the numbers until the third reading.

Alderman Palazzolo stated he would like to wait so the Board could discuss the numbers.

The Mayor stated an alternative to the amendment to the budget on second reading would be to refer the proposed changes to staff so more information could be provided to the Aldermen and if there was a consensus of opinion, it could be added at the third reading.

The vote on the amendment was as follows:

ROLL CALL: Chism – yes, Drinnon – yes, Hinely – yes, Palazzolo-no, Uhlhorn-no. Motion approved.

Motion to approve Ordinance 2007-6 on second reading as amended:

Alderman Uhlhorn asked if the budget was amended to spend another \$50,000, do we know where that money would come from? He stated we do not know what we will have to take away from for the extra funding for the Library.

ROLL CALL: Chism – yes, Drinnon – yes, Hinely – yes, Palazzolo-no, Uhlhorn-no. Motion approved.

PUBLIC HEARING – Ordinance 2007-7 – Real and Personalty Property Taxes – Second Reading

Kristen Geiger asked the Board to approve the Real and Personalty Property Tax rate concurrent with the FY08 Budget on second reading. The current tax rate was currently \$1.54 per \$100 of assessed value and remained unchanged from the previous year. FY08 represented the fifth year since the property tax increase in 2003. The tax rate would generate approximately \$20.8 million. Combined with TVA and MLGW in-lieu-of-tax payments, property tax revenue will total 56% of the FY08 General Fund revenue budget.

The total FY07 total real estate assessments for the City of Germantown total approximately \$1.3 billion and is 80% residentially based.

Mayor Goldsworthy declared the public hearing open. Having no one come forward the public hearing was closed.

Motion by Ms. Hinely, seconded by Mr. Drinnon, to approve Ordinance No. 2007-7 on second reading.

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

PUBLIC HEARING – Ordinance 2007-8 – An Ordinance for Year-End Budget Adjustments – Second Reading

Ms. Geiger explained that at the end of the year a number of budget adjustments are required to avoid budget and fund overruns in various funds.

The funds involved are the General Fund, Business Centre/Germantown Centre Funds, and the special revenue funds of State Street Aid/Drug Funds and Pickering Center.

At the end of each year various adjustments are made to the various City funds, which realign operating expense/expenditures accounts with actual activity. The recognize various overruns, underruns, project acceleration and deferrals that have already been brought to the Board's attention and received approval during the year.

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

Motion by Mr. Drinnon, seconded by Ms. Hinely, to approve Ordinance No. 2007-8 on second reading.

ROLL CALL: Chism – yes, Drinnon – yes, Hinely – yes, Palazzolo-no, Uhlhorn-yes. Motion approved.

PUBLIC HEARING – Ordinance 2007-9 – Methodist LeBonheur Germantown Hospital Rezoning – 7691 Poplar Avenue – Request Rezoning from “R-3” Two-Family Dwelling Residential to “C-2” General Commercial – Second Reading

Josh Whitehead stated this agenda item was to rezone the 6.19 acres that was formerly the Germantown Baptist Church site that was zoned “R-3” to be zoned “C-2”. The Planning Commission had approved a grading permit on April 3 that involved the destruction of the old church site. He noted the 19th Century Chapel of the church would remain and remain zoned “OG”. The hospital had submitted a concept plan showing an expansion of the hospital and the construction of a garage.

PUBLIC HEARING – Ordinance 2007-9 – Methodist LeBonheur Germantown Hospital Rezoning – 7691 Poplar Avenue – Request Rezoning from “R-3” Two-Family Dwelling Residential to “C-2” General Commercial – Second Reading - (cont’d)

Mayor Goldsworthy opened the public hearing. Having no one step forward to address the Board, the public hearing was closed.

Motion by Ms. Hinely, seconded by Mr. Drinnon, to approve Ordinance No. 2007-9 on Second Reading.

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

PUBLIC HEARING – Ordinance 2007-10 – Piper’s Garden Rezoning – 8598 Dogwood Road, Northeast Corner of Dogwood Road and Cordes Road – Request Rezoning of 5.637 acres from “R-E” Residential Estate to “R” Low Density Residential – Second Reading

Mr. Whitehead stated this was a rezoning request for about 5.5 acres located at the former Cordes mansion site or Bass property located on the northeast corner of Dogwood Rd. and Cordes Rd.

On December 31, 1980, this property was annexed into the City and at the request of the owner; the property was rezoned to “R-E”. Since that time, the neighborhood has changed and become developed and the Planning Commission approved the recommendation to rezone the property of April 3, 2007.

The concept plan shows a planned unit development of 12 lots surrounding a common open area.

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

Motion by Mr. Palazzolo, seconded by Mr. Uhlhorn, to approve Ordinance 2007-10 on Second Reading.

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

PUBLIC HEARING – Ordinance 2007-11 – Lot 1, Poplar Woods Subdivision Rezoning – South Side of Poplar Avenue, West of Fountain Square Condominiums – Request Rezoning of 0.376 acres from “R-T” Multifamily Residential to “O” Office, Second Reading

Alderman Uhlhorn left the room.

Mr. Whitehead stated this was the rezoning of a 1/3-acre site on the south side of Poplar Avenue, west of Fountain Square Condominiums. The site is a former City water pumping station that was constructed approximately 40 years ago and was last active in the 1990’s. The Board had approved a contract to sell the property to Poplar Station, LLC who is the applicant of the rezoning. The concept plan shows an office structure.

City Attorney Tom Cates noted that Alderman Uhlhorn had left the podium because he is interested in the project as a possible owner and had recused himself and the record should show he so complied.

In response to a question from Alderman Chism, Mr. Whitehead stated that neighbors were notified that this was the public hearing.

PUBLIC HEARING – Ordinance 2007-11 – Lot 1, Poplar Woods Subdivision Rezoning – South Side of Poplar Avenue, West of Fountain Square Condominiums – Request Rezoning of 0.376 acres from “R-T” Multifamily Residential to “O” Office, Second Reading - (cont’d)

Mr. Whitehead noted that when the mail went out for the Planning Commission meeting there was such a non-delivery rate, they were told to wait until the addresses were correct. Since that time, there were few return letters.

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

Motion by Ms. Hinely, seconded by Mr. Drinnon, to approve Ordinance No. 2007-11 on Second Reading.

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

Alderman Uhlhorn returned to the podium.

Ordinance 2007-12 – Amendment to Germantown S/D Regulations – Add Definition of Subdivision to Chapter 17 of the Code of Ordinances – First Reading/Set Public Hearing Date

Josh Whitehead noted that the City Attorney, Tom Cates, had recommended to the Planning Division that the legal term “subdivision” be defined for people in the real estate industry that develop both in the cities of Memphis and Germantown. The City of Memphis had a different definition of subdivision than the Tennessee Code Annotated (TCA). This ordinance would adopt the TCA definition of subdivision in the City’s ordinance. The proposed amendment establishes five (5) acres as the minimum required size of all parcels without having to go through the formal subdivision plat approval process.

Motion by Mr. Drinnon, seconded by Mr. Uhlhorn, to approve Ordinance No. 2007-12 on First Reading and set a public hearing date for July 9, 2007.

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

Ordinance 2007-13 – Amendment to Germantown Zoning Ordinance – Codification of Smart Code – First Reading/Set Public Hearing Date

Mr. Whitehead stated on June 5, the Planning Commission approved the largest change to the zoning ordinance that had ever been made since originally passed in 1957. On October 24, 2005, the Board of Mayor and Aldermen passed by resolution Germantown Vision 2020 and one of the integral parts was the redevelopment of the central business district area of Germantown. This evolved into the Smart Growth Plan that was approved by resolution in April 2007, which was the second stage of a three-stage process. The basic premise of the code is to allow for the integration of uses and allow for additional height and different lot configurations.

Mr. Whitehead explained the zoning categories and what they would consist of.

Motion by Mr. Uhlhorn, seconded by Ms. Hinely, to approve Ordinance 2007-13 on First Reading and set a public hearing date for July 9, 2007.

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

Resolution 07R07 – An Amendment to Resolution to Accept the Forest Hill Heights Corporate Park Planned Development with Conditions

Mr. Whitehead explained that the Forest Hill Heights PUD is a commercial PUD at the corner of Winchester and Forest Hill Irene that was approved by the Memphis and Shelby County Land Use Control Board in 1996.

When the area was annexed in 2000, the Board of Mayor and Aldermen adopted a resolution which furthered many of the outlined planned provisions of the PUD, one of which was the adoption of the City of Memphis floor area ratio (FAR) requirement. Staff had recommended replace this requirement with the Germantown provision of pervious/impervious ratio.

RESOLUTION 07R07

WHEREAS, there was a Planned Development P.D. 96-347 CC (the "PUD") filed previously with the Memphis and Shelby County Office of Planning and Development and subsequently adopted by the governing bodies which is described as Forest Hill Heights Planned Development; and

WHEREAS, the location of a portion of Forest Hill Heights Planned Development is within the City of Germantown's annexation reserve area; and

WHEREAS, the Germantown Board of Mayor and Aldermen has approved on three readings, including a public hearing held on June 12, 2000, Ordinance No. 2000-10, which provides for the annexation of the remainder of the Annexation reserve area into the corporate limits of the City of Germantown; and

WHEREAS, the developers of Forest Hill Heights Planned Development have established and recorded a set of outline plan conditions and restrictive covenants applicable to development; and

WHEREAS, several of the outline plan conditions associated with the Forest Hill Heights Planned Development exceed what is allowable by Germantown Ordinance or regulations; and

WHEREAS, the developers are requesting assurance that the outline plan conditions recorded with Forest Hill Corporate Park shall be approved by the City of Germantown with the exceptions as follows:

1. Parking shall be per Germantown Zoning requirements with the exception of office and retail trade uses (as defined by the City of Germantown Zoning Ordinance) which shall be provided at one space per 250 square feet of net floor area;
2. ~~The Floor Area Ratio shall not exceed 30% as defined in the Memphis Ordinance;~~
The pervious/impervious ratio shall not exceed 35% pervious area and 65% impervious area;
3. All access drives shall be 24' in width;
4. Germantown open space and landscape ordinances shall be totally satisfied by the underlying requirements for landscaping of all projects as specified in the conditions of the PUD, subject to the Design Review Commission approval of materials;
5. The project shall be allowed two (2) office park signs, at a maximum of fifty square feet (50 sq. ft.) each, approved by the DRC;
6. All other signage shall conform to the Germantown Sign Ordinance;

Resolution 07R07 – An Amendment to Resolution to Accept the Forest Hill Heights Corporate Park Planned Development with Conditions – (cont’d)

7. No restaurants with drive-thru windows shall be permitted;
8. Buildings within the PUD in the “O-51” district shall be limited to a maximum of four (4) stories not to exceed a maximum height of sixty feet (60’). All building setbacks shall meet the setback requirements and intent of the “O-51” district;
9. The review of all projects will be subject to the review process of the City of Germantown, which includes review by the Planning Commission, Design Review Commission, and the Board of Mayor and Aldermen.

WHEREAS, Forest Hill Associates has paid sewer development fees for all of the PUD properties, the City of Germantown will not charge an additional sewer fee for any of the Forest Hill Heights properties; and

WHEREAS, the City of Germantown recognizing the benefits of said development to the City and the willingness of the Developers to cooperate with the City by modifying their development standards.

NOW, THEREFORE, BE IT RESOLVED by and between the City of Germantown and Forest Hill Associates that the outline plan conditions recorded with the Forest Hill Corporate Park are generally acceptable with the exceptions noted above and with final approval subject to modification by the Planning Commission.

Motion by Ms. Hinely, seconded by Mr. Drinnon, to approve Resolution 07R07 as an amendment to the Resolution approved on September 11, 2000, regarding the Forest Hill Heights Corporate Park Planned Development.

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

Construction Contract – Johnson Road Deep Wells

Bo Mills stated the Johnson Road water plant opened in August of 2000 and had a 6 million gallon per day capacity. The original design was planned to expand the plant an additional 6 million gallons per day as the City neared build-out. There are currently seven wells in production in the well field with three planned additional wells. With the additional wells, the desired 12 million gallons per day will be reached.

Motion by Mr. Palazzolo, seconded by Mr. Uhlhorn, to contract with Layne Central for the drilling and installation of three production wells at Johnson Road Park, in an amount not to exceed \$1,437,644.00.

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

CONSENT AGENDA

Project Development Contract Number 1155 – Goodwin Farms Blvd.

The road is to extend south from Poplar Avenue east of its intersection with Poplar Pike, cross the Norfolk-Southern Railroad and terminate at the Goodwin Farms LP tract. The public railroad crossing could lead to the closure of four additional private crossings if the property owners who utilize them give approval to close them.

MOTION: To approve Project Development Contract number 1155 for the construction of Goodwin Farms Boulevard.

Recognition of Donation – Parks & Recreation

The following businesses and organizations recently donated funds to sponsor three projects developed by the Parks and Recreation Department: Mardi Dogs Parade – Memphis Animal Hospital Inc. - \$50.00; Touch-a-Truck – USA Karate, \$200.00 – Archer Malmo, \$275.00 – Methodist LeBonheur Healthcare, \$300.00. The Recreation Division has a program for special recreation and the Germantown Civitan Club donated \$1,100.00 toward this program.

MOTION: To recognize donations made to the Parks and Recreation Department for community events and special programs totaling \$1,925.00 and to approve Budget Adjustment No. 07-95.

Change Order #1 – Hacks Cross Road Median Project

As the contractor was nearing completion of the project, it was discovered that the cost for the Water Utilities Division to install three water meters required for the irrigation system was not included in the Contract amount presented to the Board of Mayor and Aldermen. The Plans and Specifications clearly indicated that the City would provide the water meters.

MOTION: To increase the Budget for the Hacks Cross Road Medians Project by \$2,250.00 from \$44,781.00 to \$47,031.00 and to approve Budget Adjustment No. 07-85.

Bulk Purchase – Cement Treated Base

Concrete treated base mix (CTB), is used for street, drainage and utility maintenance repairs. This amount represents an annual purchase. This amount represents an annual purchase, to be picked up at the production plant by City crews as needed. Five bids were mailed and two bids were received. Staff recommends the Standard Construction bid due to the significantly closer location, savings in fuel costs, labor costs and wear and tear on City vehicles.

MOTION: To authorize the purchase of 3,000 tons of concrete treated base mix from Standard Construction Co., Inc., in the amount of \$61,500.00.

Supplement #1 – Closeout – Sewer Rehabilitation Contract

The Board approved a contract on Nov. 13, 2006 for \$144,090.00. The scope of this contract included the interior lining of approximately 4,865 linear feet of eight-inch sanitary sewer main and 400 linear feet of 15” storm sewer main. During the process, an additional 390 linear feet of sewer main on Poplar Ave. at Oakleigh Lane was added due to damage during a utility pole installation.

MOTION: To approve funding for Supplement #1 in the amount of \$17,569.00 and to close out the Sewer Rehabilitation Contract with Suncoast Infrastructure, Inc., in an amount of \$161,659.00.

Legal Services Contract

The current legal services agreement requires the City to pay a monthly retainer of \$11,000.00 to Burch Porter & Johnson. This excludes any additional fees and charges for litigation. Under the proposed agreement, Burch Porter & Johnson, through Mr. Cates, will receive a monthly retainer of \$13,000.00 plus the cost assumed for outside litigation.

MOTION: To authorize the Mayor to execute the legal service agreement between the City, Tom Cates, and Burch Porter & Johnson. Such approval will be subject to the adoption of the FY08 Budget for the City of Germantown.

Floor Covering Replacement

Carpeting will be replaced in the second floor hallway, hallway stairs, and in the lobby of GPAC. In addition, all existing carpeting in the lower level of the original Germantown Centre will be replaced. Four vendors were contacted and two bids were received.

MOTION: To approve for the Mayor to enter into a contract with Carpet Contractors for carpeting in the Germantown Performing Arts Centre and the Germantown Centre in the amount of \$38,223.00.00.

Refinish Bay Floor Fire Station #3

The bay floor has never been painted at Station #3 and the concrete over the past 30 years has become badly discolored due to engine leaks. Five vendors were contacted, and four bids were received.

MOTION: To purchase bay floor refinishing for fire station #3 from Walker Composites, Inc. in the amount of \$22,139.21.

Civic Support – Germantown Performing Arts Grant

This agenda item is to award the final portion of the Germantown Performing Arts Centre Foundation a grant for the IRIS Chamber Orchestra in the amount of \$40,500.

MOTION: To award a grant to the Germantown Performing Arts Centre Foundation in the amount of \$40,500 and approve Budget Adjustment Number 07-77.

Recognition of Donation – Germantown Community Library

The Germantown Community Library has received donations from various support groups in the Germantown community totaling \$7,734.00.

MOTION: To recognize donations to the Germantown Community Library totaling \$7,734.00 in cash donations, and to approve Budget Adjustment No. 07-94.

Civic Club Courtyard

As part of the 2007 CIP Budget, funding was approved to upgrade the Civic Club Courtyard. In addition, the Civic Club made a donation to assist in the funding of the project. The work will include replacement of the concrete area between the Genealogical Library and the Pickering Center. Other improvements include lighting, raised brick planters, brick seat walls, landscaping and area lighting.

Four bids were received and the low bidder was recommended.

MOTION: To authorize the Mayor to enter into a contract with Descon Inc. for the construction of the new Germantown Civic Club Courtyard at the Pickering Center for a total amount of \$119,740.00 and approve Budget Adjustment No. 07-91.

Change Order #1 – Public Services Complex Renovation

This change order is the result of unforeseen conditions and a change in scope requested by the City for an upgrade of the fire protection system. This is a result of discussions held during construction between Shelby County Code Enforcement, City of Germantown Fire Department, Public Services and the project Architect regarding compliance with the Fire Code when existing facilities are renovated. This change order also requests funds to install a fire protection sprinkler system and upgrade the existing fire alarm electronic panels and devices.

MOTION: To approve Change Order No. 1 for the Public Services Complex Renovation Project increasing the contract amount by \$38,782.84 from \$283,340.00 to \$322,122.78.

Motion by Mr. Drinnon, 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.

Alderman Drinnon stated that he believed there was an amount of money to cover the cost of having a master plan done for the property the Board had looked at on the Cloyes property.

Mr. Lawton stated an amount had been identified but had not made that a part of the night's budget approval. It will be presented in the form of an amendment to the budget at the third and final reading. They had identified \$35,000 for the master plan. The Board will have to amend the budget at the third and final reading to make the capital changes.

ADJOURNMENT

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

Sharon Goldsworthy, Mayor

Dotty Johnson, City Clerk/Recorder