

BOARD OF MAYOR AND ALDERMEN
May 14, 2007

A regular meeting of the Board of Mayor and Aldermen was held on May 14, 2007 at 7:00 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, Jerry Cook, Deputy Chief Tom Lott, Bo Mills, Michael Stoll, Michael Saddler, Butch Eder, Josh Whitehead, Ralph Gabb, Melody Pittman and Dotty Johnson.

The Mayor identified some changes to the agenda. Item 13, Ordinance 2007-12 an Amendment to the Germantown S/D Regulations had been deferred; Item 14 – Sports Field and Park Area Lighting was deferred; and Ambulance Services there was no action. Also, items 12 – Finance System Web Upgrade, item 16 - Germantown Centre Concession Center; item 17 – Civic Support – Germantown Education Foundation; and 18 – Emergency Purchase – Aerial Truck Transmission Replacement had been moved to the consent agenda.

The Board had also agreed to add-on to the agenda an item that concerned litigation.

INVOCATION

Father Joe Tagg from Our Lady of Perpetual Help Catholic Church gave the invocation.

PLEDGE OF ALLEGIANCE

Alderman Mike Palazzolo led the Pledge of Allegiance.

APPROVAL OF MINUTES

The minutes were approved as read.

Motion by Mr. Drinnon, seconded by Mr. Palazzolo, to approve the minutes of the Executive Session and Regular Meeting held April 23, 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.

PROCLAMATION – NATIONAL PUBLIC WORKS WEEK

Mayor Goldsworthy read a proclamation honoring the profession of Public Works and the City's Public Services Department. She proclaimed May 20 – 26 as National Public Works Week.

PUBLIC HEARING – BEER PERMIT – SCHNUCKS EXPRESS – 9423 Poplar Ave.

Mayor Goldsworthy declared the Board of Mayor and Aldermen meeting recessed and opened the meeting as the Beer Board.

Patrick Lawton stated this was a request from Schnucks Markets, Inc., for a beer permit for off-premise consumption at their new express store at 9423 Poplar Ave. The Police Department had conducted the criminal background investigations on the business owners and they were in compliance with the City's Beer Ordinance.

PUBLIC HEARING – BEER PERMIT – SCHNUCKS EXPRESS – 9423 Poplar Ave. – (cont’d)

Alderman Drinnon asked the City Attorney that as of July 1, the authority of the local municipalities to regulate the sale of beer would be taken away by the State Legislature and if this were the case, would it be proper that the City approve the sale of something the City could not regulate?

Tom Cates stated that legally, the State could tell the municipalities that they were going to regulate through their system devised by the statutory scheme of the state, not locally.

Alderman Drinnon stated he would like to see the City of Germantown to stop approving any request to sell beer until which time the legislature can restore the authority of the local governments to regulate the sale of beer. He stated he always voted no when the sale of beer was close to a church and Germantown Baptist is across the street from the building and he felt the Board should be very reluctant to allow beer to be sold in the church’s front yard”.

In response to a question from Alderman Uhlhorn, Tom Cates stated there was no legal limit to the distance from a place that sells beer to the church. Unlike liquor stores, there is not a footage requirement.

A discussion followed on how the municipalities could regain the ability to regulate the sale of beer.

Mayor Goldsworthy opened the public hearing.

Mr. Ron Chandler a resident at 3050 Circle Gate in Germantown spoke on behalf of Germantown Baptist Church where he was a minister of the Church for 24 years. He expressed their opposition to the granting of a beer permit. He felt that since the church has tremendous ministries to the youth in the area that this establishment being directly across the street from the church and the recreation fields that are packed with students and families that the sale of beer at the establishment should be denied.

Mr. John O’Donnell, the division manager for Schnuck Markets, stated he respected the view of the church and the members of the Beer Board. He pointed out that the sale of beer was taken very seriously and were very proud of their record of not selling beer to minors. He distributed papers from some the major college towns that had given the support of their Police Departments because of Schnucks cooperation and excellent records. There were also copies of the company policy regarding the sale of beer and the steps that were taken to train the associates to be responsible when selling alcohol.

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

Motion by Mr. Uhlhorn, seconded by Mr. Palazzolo, to approve the request from Schnuck Markets, Inc., owner of Schnucks Express, located at 9423 Poplar Avenue, for a beer permit for off-premise consumption.

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

The Beer Board was adjourned and the meeting of the meeting of the Board of Mayor and Aldermen was reconvened.

RECOGNITION OF DONATION – GERMANTOWN ANIMAL SHELTER – HOUSTON MIDDLE SCHOOL BETA CLUB

Patrick Lawton stated the City was grateful to the faculty and students who worked so hard to raise money for the Animal Shelter. The sixth, seventh and eighth graders of Houston Middle School Beta Club

RECOGNITION OF DONATION – GERMANTOWN ANIMAL SHELTER – HOUSTON MIDDLE SCHOOL BETA CLUB – (cont'd)

competed for a breakfast at Chick Fil A and raised a total of \$3,069.37. The funds were to be used for veterinary and medical supplies for the Germantown Animal Shelter.

Mayor Goldsworthy received a check from the Beta Club sponsor Chrissie Thomas and member Dorothy Jolley.

Motion by Mr. Uhlhorn, seconded by Mr. Palazzolo, to recognize and accept a donation presented to the Germantown Animal Shelter from the Houston Middle School BETA Club, in the amount of \$3,069.37.

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

RESOLUTION TO SET DATES FOR BUDGET READINGS

Mr. Lawton stated that following several work session with the Board regarding the budget items and meetings with the Finance Committee, the Board was now prepared to consider the adoption of the fiscal year proposed budget and the property tax and necessary year-end budget adjustments. The Budget Calendar had an outline of the meeting dates that included the three meetings and public hearing on these ordinances.

Motion by Mr. Uhlhorn, seconded by Mr. Drinnon, to approve the three readings and the required public hearing date for the FY08 Budget, the Real and Personalty Property Tax Rate for FY08 and the Year-End Budget Adjustments, as outlined.

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

ORDINANCE 2007-6 – AN ORDINANCE TO ADOPT THE 2007-2008 BUDGET - First Reading/Set Public Hearing Date

Mr. Lawton stated the FY08 Proposed Budget was based upon the focus areas developed by the Board of Mayor and Aldermen during their retreat in January. The Budget for all funds totals \$68,481,234.00 and the General Fund Operating Budget totals \$36,645,337.00. The City's three Enterprise Funds total \$19,497,970.00 and the Capital Budget is \$9,755,000.00. The Budget represents hundreds of hours of review and analysis by the City departments, the key business units, the Financial Advisory Commission and the Personnel Advisory Commission. The Board had several work sessions regarding the budget to consider capital funding as well as the civic support element of the Budget.

Mr. Lawton stated that prior to the public hearing date of June 11, every household will be mailed an information brochure, which captures the major highlights regarding the budget entitled *The Budget in Brief*.

Alderman Drinnon wanted it noted for the record that most cities have a "rainy day fund" but in Germantown it is called a Fund Balance. He asked Mr. Lawton to explain the percent of the total budget that is maintained as a Fund Balance and clarify the terminology.

Mr. Lawton stated that they tried to maintain in the City's budget at least 40% of the expenditures designated as the Fund Balance. In the FY08 Budget that number is actually 62%. Not all of that money is available just for the "rainy day" but over \$11.5 million is designated reserves such as emergencies, catastrophes, infrastructure replacement, tax participation notes and designation for general debts. We have an unreserved balance of just over \$11 million but much of that is also used for capital improvements. The rating agencies will look at the amount of funds that are set-aside in our fund balance.

ORDINANCE 2007-6 – AN ORDINANCE TO ADOPT THE 2007-2008 BUDGET - First Reading/Set Public Hearing Date – (cont'd)

One of the key measures is to keep at least 40% of the budget as a fund balance.

Motion by Mr. Palazzolo, seconded by Mr. Drinnon, to approve on first reading Ordinance No. 2007-6 establishing the FY08 Proposed Budget, and to set Monday, June 11, 2007 for the second reading and public hearing.

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

ORDINANCE 2007-7 – REAL AND PERSONALTY PROPERTY TAXES, First Reading/set Public Hearing Date

Kristen Geiger stated the City's certified tax rate was \$1.54 per \$100 of assessed value and remains unchanged from previous years. FY08 represents the fifth year since the property tax increase was implemented in 2003 beginning with FY04 Budget. Together with TVA and MLG&W in lieu of payments, this budget tax rate would generate approximately \$20.8 million for the general fund and represents 56% of the general fund revenues. The total real estate assessments for 2007 for the City of Germantown totaled approximately \$1.3 billion and are just over 8% of Shelby County's total assessed value.

Motion by Mr. Chism, seconded by Mr. Palazzolo, to approve Ordinance 2007-7 on first reading and to set Monday, June 11, 2007 for the second reading and public hearing date.

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

ORDINANCE 2007-8 – AN ORDINANCE FOR YEAR-END BUDGET ADJUSTMENTS – First Reading/Set Public Hearing Date

Mrs. Geiger stated at year-end a number of budget adjustments are required to avoid budget and fund overruns in the various funds. Many of the many budget adjustments have been discussed with the Board during the year through work sessions and Board meetings. The funds involved are the General Fund, the Business Center Fund, the Germantown Centre Fund, the State Street Aid Fund, and Drug Fund.

Motion by Mr. Uhlhorn, seconded by Mr. Drinnon, to approve Ordinance 2007-8 on first reading, and to set Monday, June 11, 2007 for the second reading and public hearing date.

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

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 - DEFERRED

SPORTS FIELD AND PARK AREA LIGHTING - DEFERRED

AMBULANCE SERVICES

No action taken.

ADD-ON
SETTLEMENT CLAIM – MIKE WALLICK

City Attorney Tom Cates stated it was recommended by the City Attorney's office that the City settle the claims of Michael Wallick against the City for \$22,500.00 for the reasons explained in the Closed Session held earlier.

Motion by Mr. Drinnon, seconded by Mr. Chism, to settle the claim of Michael Wallick for \$22,500.00.

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

CONSENT AGENDA

Amendment to Project Development Contract Number 1128 – Germantown Square Condominiums, Phase 2 – Change Developer and Effective Date

Germantown Square Residential Community, Phase 2, will be comprised of two buildings, each with three units, facing McVay Road. The developer name has been changed from Cambrian Development to Greenleaf Homes, LLC located at 1709 Kirby Pkwy, Memphis, TN. The members of this LLC are Ray Beliles and William McWaters.

MOTION: To approve the Amendment to Project Development Contract number 1128 for the development of Germantown Residential Community, Phase 2.

Project Development Contract Number 1153 – First Trust Bank – Phase 1, Stonecreek Centre

The proposed bank is to be located on a portion of the Stonecreek Centre property as a ground lease and not as an out parcel of the development. The building will be a branch building for First Trust Bank.

MOTION: To approve Project Development Contract number 1153 for development of First Trust Bank located in Stonecreek Centre.

Purchase – Bulk Asphalt

Asphalt mix is used for street maintenance repairs, utility cuts and drainage projects. Public Services personnel pick up the mix as needed at the vendor's distribution location and transport it to the job site for immediate application. Three bids were received.

MOTION: To contract with Standard Construction Company for 3,000 tons of hot asphalt mix in the amount of \$128,250.00.

Purchase – Limestone Gravel

Limestone Gravel is used by the Public Services Department as a road stabilization material for repairs to street depressions caused by a weak road base foundation or street failure. The product is also used as backfill to stabilize water and sewer utility cuts after repairs have been completed prior to asphalt overlay. Three bids were received. The price per ton increased 12% from the last purchase.

MOTION: To contract with Fullen Dock & Warehouse for 2,000 tons of limestone gravel, in the amount of \$31,200.00.

Professional Services Agreement – Arthur, Moore & Riggs Road Neighborhood Planning Initiative Area – Engineering Design for Moore Road Improvements

With the recent construction of a cul-de-sac at the south end of Moore Road, approximately 400 feet of unimproved roadway still exists between the cul-de-sac and the unimproved section of Moore Road. This project will install curbs & gutters, driveway aprons, and sidewalks (west side only) on the unimproved section of the roadway. In addition, 700 feet of old transite water main will be replaced with ductile iron

and two additional fire hydrants will be installed and the entire roadway milled and repaved from Poplar Pike to the cul-de-sac.

MOTION: To approve a Professional Services Agreement with Allen & Hoshall to provide engineering design services for improvements to Moore Road NPI in the amount of \$30,520.00.

Fire Fighter Turnout Gear

Turnout gear is the personal protective clothing that fire fighters wear while fighting fires. A set of turnout coat and pants has a life expectancy of approximately 5-6 years. The Fire Department is replacing turnout coats and pants purchased before 2000.

MOTION: To purchase Fire Fighter Turnout Gear from NAFECO in the amount of \$26,090.57.

Decorative Street Signs

This is part of the program established by the City where the neighborhoods contribute half the cost of the street signposts and the City would pay the other half. Bromley Foster Ridge, Dogwood Grove, English Meadows, Fountain Square, Germantown East, Germantown Park, Grove Park, Poplar Estates, Shady Creek, Steplegate and Val Verde are the participants in this project.

MOTION: To approve the addition of \$14,840.00 to the decorative street signpost manufactures contract and \$3,275.00 to the decorative street signpost installation contract with Pickle Iron Specialties Co., LLC.

Recognition of Donation – Neighborhood Preservation Commission

American Home Shield supported the Tour of Renovated and Landscaped Homes that took place on April 29. The funds are for supplies, printing and other costs associated with the tour.

MOTION: To recognize and accept the donation of \$500.00 to the Neighborhood Preservation Commission and to approve Budget Adjustment No. 07-73.

Recognition of Donation – Police Department

Mr. Joseph A. Craig Jr., wanted to show his appreciation for the continued good performance of the Police Department by donating \$150.00 to the Crime Stoppers Program.

MOTION: To recognize a donation of \$150.00 from Mr. Joseph A. Craig.

Finance System Web Upgrade

With technology changing, our citizens and customers have requested more information be made available on line and the ability to make payments on-line. This software addition will allow our citizens to access city information 24 hours a day, 365 days a year.

MOTION: To request authorization to purchase additional financial software “Click2Gov” and hardware from our financial software vendors SunGard HTE and web design in an amount not to exceed \$97,210 Budget Adjustment Number 07-78.

Germantown Centre Concession Services

Atlanta Bread will redesign the indoor concession facility to allow the operation of an attractive food and beverage service featuring healthy food and drink products. The area adjacent to the indoor concession will be refurbished by the City and upgraded with comfortable seating areas, plasma screens, new pool tables and other related items. In addition, Atlanta Bread will provide outdoor concession services in a designated area in the building on the south side of the outdoor pool.

Atlanta Bread will be responsible for all operations of the two concession areas and will pay to the City, on a monthly basis, a percentage of its gross revenues 0 - \$3,000 – 5%, \$3,001 to \$6,000 – 8%, \$6,001 - \$15,000 – 15%, and \$15,000 + - 20%. The City will maintain the leased premises and pay for all utilities. The term of the agreement will be three years.

MOTION: To authorize the Mayor to enter into a lease agreement after review and approval by the City Attorney with Atlanta Bread Company to provide concession services (indoor and outdoor) at the Germantown Centre.

Civic Support – Germantown Education Foundation

As part of the FY07 Budget, the Board of Mayor and Aldermen decided to form the Germantown Education Foundation as a way to direct funds through the Foundation to the schools to assist them in implementing academic and educational projects to our schools. The amount of grant is \$100,000.00.

MOTION: To approve a grant to the Germantown Education Foundation in the amount of \$100,000 to fund grants to Germantown public schools for academic and educational projects to improve our schools.

Emergency Purchase – Aerial Truck Transmission Replacement

The transmission of the 1994 Quint Aerial had to be replaced. The replacement transmission has a 20 year unlimited mileage warranty on parts and labor. The City Maintenance Shop does not have the resources to overhaul this type of transmission.

MOTION: To authorize G & W Diesel to replace the transmission and engine ECM in F-141 in the amount of \$13,300.00.

Motion by Mr. Uhlhorn, 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 commented that the City was privilege to have an excellent presentation by Fire Chief Dennis Wolf on the Ambulance Service. The information that was presented was most helpful and commended the Fire Chief along with the City Administrator, Patrick Lawton and the Mayor for the excellent work that was done to provide the Board with the information that enabled them to make a decision although it was not final at this time.

Motion by Mr. Drinnon, seconded by Ms. Hinely to commend Chief Wolf and other members of administration for their excellent work.

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 7:45 p.m.