

BOARD OF MAYOR AND ALDERMEN

March 12, 2007

A regular meeting of the Board of Mayor and Aldermen was held on March 12, 2007 at 7:10 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, Jerry Cook, Bo Mills, Chief Dennis Wolf, Michael Stoll, Michael Saddler, Butch Eder, Josh Whitehead, Michael Stoll, Randy Lawson Ralph Gabb, Melody Pittman and Dotty Johnson.

INVOCATION

Rev. Nate Smith, Youth Pastor at River Oaks Reformed Presbyterian Church gave the invocation.

PLEDGE OF ALLEGIANCE

Boy Scout Troop 368 from Farmington Presbyterian Church posted the Colors and led the Pledge of Allegiance.

APPROVAL OF MINUTES

The minutes were approved as read.

Motion by Mr. Uhlhorn, seconded by Mr. Chism, to approve the minutes of the Executive Session and Regular Meeting held February 26, 2007.

YOUTH EXCELLENCE AWARD

Mr. Brendan Parsons, a senior at Germantown High School was presented with the Youth Excellence Award. Mayor Goldsworthy read his many accomplishments and Alderman Hinely presented him with a plaque sponsored by Traditions.

TEACHER OF THE MONTH AWARD

Mr. Lanny Byrd, a 22-year chair of the instrumental music department at Germantown High School was presented with the Teacher of the Month Award. Mr. Ken Weatherford, representing Landmark Bank, presented him with a check for \$100.00.

ORDINANCE 1007-2: FOREST HILL HEIGHTS REZONING – 8.95 ACRES FROM “O-51” OFFICE CAMPUS ZONING DISTRICT TO “C-2” COMMERCIAL ZONING DISTRICT - THIRD AND FINAL READING

Mr. Josh Whitehead stated this was the third and final reading on this ordinance. The rezoning ordinance is for a nine-acre tract on Forest Hill-Irene just north of Forest Hill Church of Christ and just south of the intersection of Crestwyn Hills Drive. The rezoning is from a “O-51” Office Campus to “C-2” which is a commercial designation. The concept plan that was submitted showed a horseshoe shaped shopping center.

Motion by Mr. Palazzolo, seconded by Mr. Uhlhorn, to approve Ordinance 2007-2 on Third Reading.

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

ORDINANCE 2007-3 – AMENDMENT TO THE GERMANTOWN SIGN ORDINANCE – MODIFICATION OF POLITICAL SIGN PROVISIONS IN SECTION 14-61 – FIRST READING/SET PUBLIC HEARING DATE

Mr. Whitehead stated U.S. Supreme Court had ruled placing certain municipal limitations on political signs as unconstitutional. The proposed amendment would remove all types of limitations placed on the political signs under the current ordinance. However, it would retain the prohibition on commercial and office lots, political signs and vacant residential lots. The ordinance would maintain the occupied residential lots being held applicable for political signs.

Motion by Ms. Hinely, seconded by Mr. Drinnon, to approve the amendment as presented on first reading and set a public hearing date of April 9, 2007.

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

PUBLIC HEARING – ORDINANCE 2007-4 AMENDMENT TO GERMANTOWN SIGN ORDINANCE – ADDITION OF MEDICAL OFFICE SIGNS TO SECTION 14-34 – SECOND READING

Mr. Whitehead stated the proposed addition to the sign ordinance would allow two types of signs for sites that have medical offices. The amendment would allow medical office signs to be erected on sites that contain medical services. For building, project or tenant identification for buildings containing one or more major tenants, one medical office monument sign would be permitted per building; major tenants are defined as tenants with at least 10,000 square feet of gross floor area. Medical office monument signs are proposed to be permitted in lieu of ground-mounted signs. Medical office address signs are proposed to be permitted in addition to existing ground-mounted signs.

Mayor Goldsworthy opened the public hearing. Having no one come forward to speak, the public hearing was concluded.

Motion by Mr. Drinnon, seconded by Ms. Hinely to approve Ordinance2007-4 on second reading.

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

PUBLIC HEARING – ORDINANCE 2007-5 – AMENDMENT TO GERMANTOWN SIGN ORDINANCE – MODIFICATION OF PERMANENT PROJECT SIGN PROVISIONS IN SECTION 14-34 – SECOND READING

Mr. Whitehead stated this amendment would allow certain changes to be made to the permanent project signs for sites of 30 acres or more and to tenants of 10,000 square feet or more. The proposed amendment would delete the common color requirement for tenant names and the ban on corporate logos.

Mayor Goldsworthy opened the public hearing. Having no one come forward to speak, the public hearing was concluded.

Motion by Mr. Uhlhorn, seconded by Mr. Palazzolo, to approve Ordinance 2007-5 on Second Reading.

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

MOWING AND LANDSCAPE CONTRACT

LANDSCAPE MAINTENANCE CONTRACT

Pam Beasley explained this agenda item was for a contract with Landscape Services Group for the annual contract to perform landscape maintenance service for a three-year term for a total amount of \$170,470.00 per year. Pricing options were received from five qualified vendors for mowing and landscaping. The lowest cost to perform both mowing and landscaping was determined to be through separate contracts for each service. Two vendors submitted a bid for the landscape maintenance and seasonal flowers only option. The cost savings on this landscaping contract over the previous contract is approximately \$30,000.00 per year or \$90,000.00 over the term of the contract.

Motion by Ms. Hinely, seconded by Mr. Drinnon, to authorize the Mayor to enter into contract with Landscape Services Group for the annual contract to perform landscape maintenance services for a three-year term for a total amount of \$170,470.00 per year.

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

GRASS CUTTING CONTRACT

Ms. Beasley explained this was a three-year grass-cutting contract with Macon Road Landscape for a maximum of twenty-seven weekly cuts per season on about 240 acres of grass in roadway medians, in park areas and around public facilities. The services will begin the second week in April at an annual cost of \$200,839.00 for each grass-cutting season. This company had previously done business with the City and had a good working relationship with the City. Robert Childs, superintendent of the Parks Division would be monitoring the contract and be authorized to eliminate any cuttings when they are not merited and monitor the contract.

In response to a question from Alderman Palazzolo, Ms. Beasley stated when cuttings are eliminated the contract would be reduced. In the mowing contract each of the mowing locations there is a unit cost.

Motion by Ms. Hinely, seconded by Mr. Drinnon, to authorize the Mayor to enter into contract with Macon Road Landscape for the annual contract to perform grass cutting services for a three-year term for a total amount not to exceed \$200,839.00 per year.

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

SUBDIVISION DEVELOPMENT CONTRACT NO. 356 – McCABE PROPERTY – INFRASTRUCTURE IMPROVEMENT - REFUND

Andy Pouncey explained that in 1992, Steve McCabe subdivides his property between Duntreath and Johnson Road into two lots. The development contract required the dedication of 25 feet of land from the centerline of Duntreath Road for rights-of-way and a payment in lieu of the improvements.

In 1996, the Board of Mayor and Aldermen gave back the urban portion of that fee which was \$2,273.00. There still remains \$5,438.00 for improvement to a rural section. Mr. McCabe requested to have that amount given back to him. The road had not been built and is currently not in the CIP.

Motion by Ms. Hinely, seconded by Mr. Drinnon, to approve a refund for Subdivision Development Contract #356 to Steve McCabe in the amount of \$5,438.00.

ROLL CALL: Chism – no, Drinnon – abstain, Hinely – no, Palazzolo-no, Uhlhorn-no. Motion failed.

IDB RESOLUTION – PILOT PROGRAM – WEST FRASIER, INC.

Mr. Pouncey stated the Germantown IDB had met in February and recommended approval of the application of West Fraser, Inc. upon the sponsor (Nineteen Hundred Exeter Road, LLC) and the applicant successfully concluding their negotiations. West Fraser, Inc. is currently negotiating a lease with the owner for 66% of the Ezon Building. This would be the US Corporate Office for West Fraser, Inc. They will have 90 employees by 2008 with a high median income with a high amount of capital investment as well.

The PILOT approved by the IDB consists of a 75% abatement of both real and personal property taxes from the City of Germantown for eight years and Shelby County for nine years.

The attorney for West Fraser, Inc., Mr. Jason Yarborough and the Vice President of Export Motor Sales and Market Development in Canada, Rick Franco were present.

Motion by Mr. Drinnon, seconded by Ms. Hinely, to approve the resolution, approving the PILOT application for West Fraser, Inc., as adopted by the City of Germantown Industrial Development Board on February 27, 2007.

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

RESOLUTION 07R04 - AT&T CABLE FRANCHISE

Patrick Lawton stated legislation had been introduced at the state level calling for the granting of statewide franchises to telecommunication companies, thereby avoiding the local governmental review and enforcement process.

One of the reasons cited by the telecommunications companies for the need for this type of legislation was that local governments stifle competition and eliminate consumer choice. The truth of the matter is that the City of Germantown and other municipalities across the state welcome competition and will provide AT&T and other telecommunications providers an opportunity to meet with his office or his staff, the Mayor's office and start the franchise process. The resolution goes on record as the Board of Mayor and Aldermen supporting AT&T's possible procurement of a franchise agreement with the City of Germantown.

RESOLUTION 07R04

WHEREAS, AT&T (formerly BellSouth) had legislation submitted to the 104th Tennessee General Assembly on February 16, 2006, which was designated as Senate Bill 3210, and had submitted substantially similar legislation in the 105th Tennessee General Assembly on February 14, 2007, which legislation has been designated as Senate Bill 1933 and House Bill 1421; and

WHEREAS, this legislation would allow cable and telephone companies to bypass local governments and the local cable and video franchising process; and

WHEREAS, media reports have quoted AT&T officials as saying that the local franchise process is an impediment to competition; and

WHEREAS, the last non exclusive cable franchise with this City was agreed to in July 1996 and an additional franchise with AT&T could be approved quickly; and

WHEREAS, the current cable franchising system has served the City well by ensuring the City can protect its citizens, preserve its authority and that cable companies cannot “cherry pick” their customers; and

WHEREAS, the continued existence of Education and Government access channels is of great importance to the City; and

WHEREAS, based on the City’s track record, AT&T could have already had their application for a franchise approved if they had applied when the legislation was filed in 2006.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF GERMANTOWN, TENNESSEE, AS FOLLOWS:

SECTION 1 That the City of Germantown hereby goes on record as expressing its readiness and willingness to enter into negotiations with AT&T for a local cable franchise in the City.

SECTION 2. The City Clerk is hereby directed to send a copy of this Resolution to Mr. Marty Dickens, President of AT&T in Tennessee, and to each Senate and House member representing the citizens of Germantown in the Tennessee General Assembly.

SECTION 3. This Resolution shall be effective immediately upon its passage and adoption, the public welfare and the welfare of the City requiring it.

ADOPTED this 12th day of March 2007.

Signed by Board of Mayor and Aldermen

Mayor Goldsworthy announced that the City perspective and view on this was so serious that the Board and Administration had called a Town Meeting to be held on Thursday, March 22, beginning at 7:00 p.m. at the Germantown Performing Arts Center with the public being encouraged to attend to hear the Board’s perspective and learn about the issues involved. The City had also invited all the state legislators that represent the City of Germantown and the immediate areas so they could listen to the public comment as well.

The Mayor noted that GHSTV would be one of the circumstances that would be in jeopardy if cable companies are given the right to develop a statewide franchise as opposed to negotiating with each community on the basis of each communities needs. The public educational and government (PEG) channels would be seriously jeopardized under statewide authorization.

Motion by Mr. Uhlhorn, seconded by Mr. Drinnon, to approve the resolution expressing the City’s interest in negotiating with AT&T for a cable franchise.

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

CONSENT AGENDA

Subdivision Development Contract 486, St. James Place Subdivision

Approval is requested for a twelve lot residential subdivision on a 14.955-acre site. The lots range in size from 44,009 square feet to 48,218 square feet. The property is located north of Winchester Road on the west side of Forest Hill-Irene Road.

MOTION: To approve Subdivision Development Contract No. 486 for the development of St. James Place Subdivision.

Fuel Purchase

The City regularly purchases gasoline and diesel fuel for use in the fleet of cars, trucks and heavy equipment. The City has been making fuel purchases made under the Shelby County contract using traded price index plus a markup. Effective March 1, 2007 Shelby County ended their fuel purchases arrangement with Petroleum Traders Corp. With its new arrangement, Shelby County is purchasing fuel from Cary Oil Company under the company's contract with the City of Memphis. Cary Oil Company has agreed to extend all the terms and conditions of the City of Memphis contract to the City of Germantown in the same fashion as Shelby County.

MOTION: To authorize the City to contract with Cary Oil Company, Inc. for regular purchases and deliveries of gasoline and diesel fuel as required for the operation of the City vehicles and equipment.

Medical Supplies – Fire Department

The Fire Department provides basic and advanced level emergency medical response services. These supplies are used to provide patient care. The department purchases medical supplies as needed to keep the EMS response units properly stocked.

MOTION: To authorize the purchase of medical supplies from Moore Medical in the amount of \$3,253.55, from Tri-anim Health Services in the amount of \$476.98, from Bound Tree Medical in the amount of \$548.64, from Quad Med in the amount of \$1,342.70, from Progressive Medical in the amount of \$570.70, and from Care Medical in the amount of \$8,099.50, for a grand total of \$14,292.07.

Motion by Mr. Uhlhorn, seconded by Mr. Chism, to approve 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 7:45 p.m.

Sharon Goldsworthy, Mayor

Dotty Johnson, City Clerk/Recorder