

BOARD OF MAYOR AND ALDERMEN

September 12, 2011

A regular meeting of the Board of Mayor and Aldermen was held on September 12, 2011 at 6:00 p.m. in the Council Chambers of the Municipal Center.

Mayor Sharon Goldsworthy was present and presiding.

The following Aldermen were present: Mark Billingsley, Ernest Chism, John Drinnon, Greg Marcom and Mike Palazzolo. Staff present: Patrick Lawton, Tom Cates, Andy Pouncey, Tim Gwaltney, Chief Richard Hall, Chief John Selberg, Kristen Geiger, Michael Stoll, Pam Beasley, Bo Mills, Phil Rogers Ralph Gabb and Dotty Johnson.

Call to Order

Mayor Goldsworthy called the meeting to order at 6:00 p.m.

Invocation

Community Services Division Director George Brogdon gave the invocation.

Pledge of Allegiance

Alderman Mark Billingsley led the Pledge of Allegiance.

Approval of Agenda

The agenda was approved as printed.

Motion by Mr. Drinnon, seconded by Mr. Marcom, to approve the agenda as printed.

ROLL CALL: Marcom–yes, Drinnon–yes, Palazzolo–yes, Billingsley–yes, Chism–yes. Motion approved.

Approval of Minutes

The minutes were approved as read.

Motion by Mr. Palazzolo, seconded by Mr. Drinnon, to approve the minutes of the Board of Mayor and Aldermen meeting held August 22, 2011.

ROLL CALL: Marcom–yes, Drinnon–yes, Palazzolo–yes, Billingsley–yes, Chism–yes. Motion approved.

Proclamation

Mayor Goldsworthy read a proclamation supporting an international effort to get kids more physically active and to encourage positive, healthy and playful lifestyles. The Mayor proclaimed September 24, 2011, to be observed as Worldwide Day of Play and asked the children, families and individuals to participate by going outside and enjoying our City's parks, playing fields, trails and greenways.

Citizens to be Heard

Mr. Vincent Zedler of 8993 Acorn Landing Dr. came forward and voiced his concerns over the “second amendment restrictions” the City had adopted because he is not able to carry a gun into any of the parks in Germantown.

Mr. Richard Vosburg of 8365 Silverthorn Cove came forward and stated he was speaking on behalf of the 1,500 members of the Germantown schools, and he encouraged the Board to support the consulting contract for the schools.

Board of Mayor and Aldermen

September 12, 2011

Page 2

Recognition of Donations – PAWS 4 A CAUSE

Mayor Goldsworthy and Bo Mills recognized Cierra Baltz, Natalie Smith, and Caroline Danehy from Girl Scout Cadette Troop #10843. The Troop held a fund raiser at the Germantown Animal Shelter and with the help of Animal Shelter staff, shelter volunteers, Germantown Farmington Animal Hospital and Valerie Campbell from Knick Knack Patty Whack they raised a total of \$465.27 that will be used to purchase food and veterinary supplies to medically treat the shelter animals as needed.

Motion by Mr. Chism, seconded by Mr. Billingsley, to recognize and accept proceeds presented to the Germantown Animal Shelter from the Girl Scout Cadette Troop#10843 for their PAWS 4 A CAUSE Project in the amount of \$465.27.

ROLL CALL: Marcom–yes, Drinnon–yes, Palazzolo-yes, Billingsley-yes, Chism–yes. Motion approved.

Bond Awarding Resolution 11R16

Mr. Michael Stoll, Treasurer/Risk Manager, stated that based on the competitive bidding process, staff was requesting the Board adopt this resolution which will allow the City to issue just over \$6 million of new General Obligation Bonds for various capital projects.

The City utilizes proceeds from long-term bond debt to finance capital improvement projects that add or replace the public infrastructure. These General Obligation Bonds, Series 2011, will provide financing for the City's portion of the Wolf River Blvd. extension project and include, but not limited to, construction of a replacement vehicle maintenance facility, installation of a radio tower and telecommunication infrastructure, and installation of storm drainage systems.

Based on the results of the bid process, the financial market has signaled that the City of Germantown is an excellent credit risk and much deserving of the triple A credit rating from both Moody's and Standard & Poor's rating agencies. City staff recommends the Board award the bond issue to Morgan Keegan & Co., as the underwriter submitting the lowest and best qualified total interest cost (2.596%) from among the competitive bids received.

Alderman Drinnon stated that the Board expresses its appreciation to the Finance Department as well as the City Administrator who had done a superb job of guiding this through.

Motion by Mr. Drinnon, seconded by Mr. Billingsley to approve Resolution 11R16 that awards and sells the General Obligation Bonds, Series 2011, in the aggregate principal amount of \$6,025,000 and at the interest rates thereby reflected, to Morgan Keegan & Co., Inc.

ROLL CALL: Marcom–yes, Drinnon–yes, Palazzolo-yes, Billingsley-yes, Chism–yes. Motion approved.

Resolution 11R14 – Amendment to Resolution on Revenues

Club Director Phil Rogers stated the Germantown Athletic Club was proposing this amendment to adjust the membership rate for the Club. The Club has made many enhancements to the member services by improving the facility, amenities and programs offered. The rate adjustment will allow the Club to maintain improvements and assist in implementing future facility upgrades and will still leave us as one of the least expensive health clubs in the Mid-South.

Motion by Mr. Marcom, seconded by Mr. Drinnon, to approve an amendment to the Resolution on Revenues for membership rate adjustments at the Germantown Athletic Club.

ROLL CALL: Marcom–yes, Drinnon–yes, Palazzolo-yes, Billingsley-yes, Chism–yes. Motion approved.

Board of Mayor and Aldermen

September 12, 2011

Page 3

Professional Services Agreement – Municipal School Consultant

City Administrator Patrick Lawton explained that this is a contract with Southern Educational Strategies for the development of a feasibility study regarding the potential of the development of a public municipal school district to serve the City of Germantown.

Recent actions by the Memphis City School Board, State legislation to guide a process for consolidation, numerous law suits and a subsequent decision by a federal judge all within the past eight months have left the Board of Mayor and Aldermen and City Administration greatly concerned about how to preserve one of our cornerstones to building a sustainable Germantown and that is having excellent schools with lifelong learning opportunities.

Mr. Lawton stated that one avenue available to the City of Germantown is the establishment of a municipal school system. The Norris-Todd bill, in addition to establishing the ground rules for a consolidated City of Memphis and Shelby County School system, also lifted the ban on the creation of a new municipal school effective August 2013.

In an effort to advance this discussion and explore the complete ramifications the establishment of a municipal school system would have upon the City of Germantown, the administration is recommending engaging an outside consulting firm to provide the City with a feasibility study examining all aspects of creating a municipal school system.

Administration has had several discussions with Southern Educational Strategies to develop this feasibility study. A copy of the scope of work and feasibility study and bios for the firm's principals was provided to the Board prior to tonight's meeting. Since receipt of the original feasibility proposal City staff has met with the consultants to refine the scope of work and the actual deliverables. During tonight's executive session the Board was provided with a revised scope of services based on staff's suggestion.

There are three major components to the feasibility study.

1. Review of legal and regulatory requirements regarding the establishment of a municipal school district
2. The development of the academic program and operational requirements
3. An analysis of the fiscal requirements and estimate of annual operational revenues

The cost associated with this study is \$72,000.00. The program and deliverables will be complete and submitted to the Board of Mayor and Aldermen in mid January 2012. The city administrator will serve as project manager during this contract and will work very closely with the consultant and the Board of Mayor and Aldermen. Funding for this project was included in this year's budget.

Alderman Chism stated he would recuse himself from this agenda item since he serves on the Shelby County School Board.

Alderman Drinnon stated that Alderman Chism had been the principal of one of the largest high schools in the state and he valued his opinion on matters concerning schools. He asked that in the future when a vote was required that Mr. Chism's voice be heard.

Motion by Mr. Palazzolo, seconded by Mr. Billingsley, to authorize the Mayor to execute a consulting services agreement with Southern Educational Strategies for a feasibility study regarding the establishment of a municipal school system in the City of Germantown in an amount not to exceed \$72,000.00

ROLL CALL: Marcom–yes, Drinnon–yes, Palazzolo–yes, Billingsley–yes, Chism–recused. Motion approved.

Board of Mayor and Aldermen

September 12, 2011

Page 4

Ordinance 2011-1 – Amendment to Chapter 2, Article V – Boards and Commissions – Third and Final Reading

Mr. Lawton stated in an effort to provide consistency in the appointment process and to standardize their governance structure, this amendment will authorize the Mayor to appoint chairmen of City commissions unless where dictated by the state.

Motion by Mr. Billingsley, seconded by Mr. Drinnon, to approve Ordinance 2011-1 on third and final reading an ordinance to amend Section 2-128 (a) of Chapter 2, Article 5, Division 1 of the Code of Ordinances related to appointments of chairpersons of boards and commissions of the City of Germantown.

ROLL CALL: Marcom–yes, Drinnon–yes, Palazzolo–yes, Billingsley–yes, Chism–yes. Motion approved.

Dogwood Park Playground – LPRF Grant and Project Development

Parks and Recreation Director Pam Beasley stated this item would take three separate actions: 1) accept the terms of the Local Parks and Recreation Fund (LPRF) grant in the amount of \$150,000.00 awarded to the City to replace playground equipment at Dogwood Park; 2) recognize a matching in-kind contribution of new playground equipment being donated by the PlayCore Company valued at \$150,000.00; 3) to approve the Dogwood Park playground redevelopment project as identified in FY12 Budget.

Alderman Palazzolo stated as liaison to the Parks and Recreation Commission he wanted to thank the commission members for their hard work in assisting the Parks Director in making this happen. He also thanked the Parks and Recreation staff for all their hard work.

Motion by Mr. Palazzolo, seconded by Mr. Drinnon, to accept the terms of the Local Parks and Recreation Fund (LPRF) grant in the amount of \$150,000.00 awarded to the City to replace playground equipment at Dogwood Park, recognize a matching in-kind contribution of new playground equipment being donated by the PlayCore company valued at \$150,000.00, to approve the Dogwood Park playground redevelopment project as identified in FY12 Budget, and to approve Budget Adjustment No. 12-13.

ROLL CALL: Marcom–yes, Drinnon–yes, Palazzolo–yes, Billingsley–yes, Chism–yes. Motion approved.

Ordinance 2011-9 – Amendment to Sign Ordinance – Medical Monument Signs – First Reading and Set Public Hearing Date on the Third Reading

Alderman Billingsley recused himself since he works for the local hospital.

Economic and Community Development Services Director Andy Pouncey stated this proposed amendment would remove the 10,000 sq. ft. floor area minimum and allow the sign dimensions, letter size requirements and the landlord to dictate which tenant names are placed on the sign. The medical office monument sign is 11 ft. in width and has a maximum allowed height of 3 ft., 11 in., with 21 in. of that height available for tenant names. The regulations set maximum and minimum letter heights, depending on the number of names on the sign.

Motion by Mr. Marcom, seconded by Mr. Palazzolo, to approve Ordinance No. 2011-9, regarding medical monument signs, on First Reading and set October 10, 2011 as the date of the public hearing and third and final reading.

ROLL CALL: Marcom–yes, Drinnon–yes, Palazzolo–yes, Billingsley–recused, Chism–yes. Motion approved.

Resolution 11R17 - Reconsidering the Street and Infrastructure Conversion Policy

Alderman Marcom recused himself.

Mr. Pouncey stated this resolution would instruct the Planning Commission to reconsider the street and infrastructure conversion policy. The Planning Commission approved this policy on September 27, 2010. Three subdivisions have come forward and requested to be converted to public streets. They have received preliminary approval. It is the intent that these will be grandfathered through this resolution.

In response to a question from Alderman Palazzolo, regarding the three subdivisions that had already begun the process, Mr. Cates stated the following language should be in the policy that “this Board, in accordance with present policy has derived ultimately to accept/reject what has been processed”.

Alderman Billingsley asked what position the Planning Commission had in this resolution.

Mr. Pouncey stated this resolution began with the Planning Commission and because there were a number of PUD’s who had come to the Planning Commission and asked about going to public. The Planning Commission then laid out a policy on how to change from private to public.

Alderman Drinnon then explained that when a developer develops a subdivision with a number of private streets, and maybe in some cases, gates, he sells lots on the basis that it is private. After they sell the lots, in three or four years, the residents that bought homes there, start feeling like they are being deprived of some of their tax dollars because of having to pay for repairs of their streets. Meanwhile, the developer is gone and did not have to pay for the cost of putting in streets to start with and the City ends up holding the bag. The situation with Devonshire has been quite costly and in his opinion, the Planning Commission felt the Board made an error in judgment in trying to be responsive to what some private developer might want. In so doing, he felt the Board had not done right by the City.

A discussion followed on whether or not the Board wanted to send the policy back to the Planning Commission.

Motion by Mr. Drinnon, seconded by Mr. Palazzolo, to approve Resolution 11R17 regarding Planning Commission reconsideration of the Street and Infrastructure Conversion Policy.

ROLL CALL: Marcom–recused, Drinnon–yes, Palazzolo-no, Billingsley-no, Chism–yes. Tie vote, Mayor Goldsworthy declined to vote. Motion failed.

CONSENT

Overtime Reimbursement for the Police Department

The Germantown Police Department has an officer assigned to the FBI Joint Safe Streets Task Force and the DEA Task Force. The officer usually works overtime in the performance of his duties. The FBI SSTF and the DEA reimburse any overtime that the officer receives while carrying out his duties (\$4,954.73).

The Germantown Internal Medicine Associates requested two officers for the prevention of any criminal acts while their members attended a function within the city limits of Germantown. They reimbursed the total of overtime, benefits and use of city equipment in the amount of \$420.00.

MOTION: To recognize overtime reimbursement from the Federal Department of Justice the Germantown Internal Medicine Associates and to approve Budget Adjustment No. 12-09.

Board of Mayor and Aldermen

September 12, 2011

Page 6

Competitive Sealed Proposal Authorization

The Board can authorize the use of the competitive sealed proposal process in purchases where qualifications, experience, or competence are considered more important than just the price in the overall process. If there is no readily identifiable (or defined) solution for a proposed purchase, the competitive sealed proposal will allow the submittal of vendor or supplier solutions that may not have been fully considered by City staff.

MOTION: To authorize the use of the competitive sealed proposal process for the Public Safety Radio System.

Annual Maintenance Fee for Public Water System

The State of Tennessee has a Public Water Facility Maintenance Fee based on the type of facility and the number of service connections. The fee is collected from all public water systems in the state. The fee provides funds for a technical staff that consult with local utility officials on water system issues.

MOTION: To approve the annual payment to the Tennessee Department of Environment and Conservation, in the amount of \$17,209.40 for the State Facility Maintenance Fee.

Public, Educational and Governmental Funds

Comcast and AT&T were granted rights within the City of Germantown to provide cable service to the citizens of the City. As part of the franchise agreement Comcast and AT&T are required to pay a PEG access support fee to the City and in turn the City remits the funds to the designated PEG station.

MOTION: To approve budget adjustment No. 11-181 increasing the FY11 revenue and expenditure budget in the amount of \$47,241.10 for PEG money received from Comcast and AT&T and remitted to the PEG station, Germantown Community Television Foundation.

GPAC Professional Cleaning Contract

Because of visible environmental concerns in the auditorium, staff contacted Service Master and Environmental Testing and Consulting of the Americas, Inc. to perform testing and recommended the best practices to resolve the environmental concerns. The tests revealed that the high level of indoor humidity was the root cause of the environmental concern. Service Master began professional cleaning and completed all areas that were identified by ETCA. Due to the sensitivity of services needed, emergency repair and purchasing protocol was implemented. The cost of the contract with Service Master Property Restoration to professionally clean the entire GPAC auditorium was \$35,196.29.

MOTION: To approve Budget Adjustment No. 12-12 in the amount of \$35,197.00 and authorize the Mayor to enter into a contract with Service Master Property Restoration in the amount of \$35,196.29 to professionally clean the entire GPAC Auditorium.

Boundless Playground Inc. Grant

Boundless Playground, Inc. is a non-profit foundation and is making an in-kind donation of poured in place rubberized playground surfacing valued at \$50,000.00 to be installed at the Dogwood Park Playground project site.

MOTION: To recognize an in-kind donation of poured in place rubberized playground surfacing valued at \$50,000.00 to be installed at the Dogwood Park Playground project site, accept the terms of the installation agreement, and approve Budget Adjustment No. 12-14.

Motion by Mr. Marcom, seconded by Mr. Palazzolo, to accept the consent agenda as read.

ROLL CALL: Marcom–yes, Drinnon–yes, Palazzolo–yes, Billingsley–yes, Chism–yes. Motion approved.

Board of Mayor and Aldermen

September 12, 2011

Page 7

ADJOURNMENT

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

Sharon Goldsworthy, Mayor

Dotty Johnson, City Clerk/Recorder