

BOARD OF MAYOR AND ALDERMEN
May 11, 2009

A regular meeting of the Board of Mayor and Aldermen was held on May 11, 2009 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, Carole Hinely, and Mike Palazzolo. Staff present: Patrick Lawton, Andy Pouncey, George Brogdon, Kristen Geiger, Tom Cates, Pam Beasley, Jerry Cook, Chief Richard Hall, Pat McConnell, Bo Mills, Chief Dennis Wolf, Ralph Gabb, Derek Chaput, Butch Eder, Tim Gwaltney, Lisa Piefer, Melody Pittman, Josh Whitehead, Jimmy Johnson, Katie Graffam, and Dotty Johnson.

Invocation

City Administrator Patrick Lawton gave the invocation.

Pledge of Allegiance

Boy Scout Troop 276 from First Evangelical Church posted the colors and led the Pledge.

Approval of Agenda

Mayor Goldsworthy asked for any changes to the agenda.

Alderman Hinely asked to move the following agenda items to the Consent Agenda: #6 – Recognition of Donation – Houston Middle School BETA Club, #17 – Emergency Warning Siren Upgrade, #18 – American Reinvestment and Recovery Act (ARRA) and Surface Transportation Program (STP) Contracts and #19 – Purchase of Fitness Equipment – Germantown Athletic Club. All the Board members agreed to move the agenda items.

Mayor Goldsworthy asked that #20c – Emergency Repairs, be moved from the Consent Agenda to the Regular Agenda. All the Board members agreed.

Motion by Mr. Drinnon, seconded by Ms. Hinely, to approve the May 11, 2009 agenda as amended.

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

Approval of Minutes

Approval was requested of the minutes of the Board of Mayor and Aldermen Meeting held April 13, 2009.

Alderman Palazzolo stated on page 17 under Citizens to be Heard on the sixth line, the word *alive* should be deleted.

Alderman Billingsley stated on page 19, the second paragraph he challenged the way it read because he felt the way it read was not correct.

Mayor Goldsworthy stated it was her recollection that it was following Citizens to be Heard that if any new issues arise other than those already on the agenda, the Board would not take action on that evening.

Alderman Billingsley stated that was his understanding and he asked Attorney Tom Cates for suggestions on how to fix the amendment. He stated he was comfortable in changing the language to reflect the common understanding.

Motion by Mr. Palazzolo, seconded by Mr. Chism, to approve the minutes of the Board of Mayor and Aldermen meeting held May 11, 2009 as amended.

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

Proclamation – National Public Works Week

Mayor Goldsworthy proclaimed May 17 – 23 as Public Services Week in the City of Germantown, and called upon all citizens and civic organizations to acquaint themselves with the delivery of public infrastructure and services and to recognize the contributions that Public Services personnel make every day to our health, safety, comfort and quality of life.

Citizens to be Heard

Ms. Elizabeth Kenworthy Farrar of 2102 Johnson Road stated her concern was for the Shakespeare Company and the public support needed to make this project a success. She asked the Board to support the grant request so that all would be able to experience the magic of Shakespeare.

Ms. Donna Ladd of 942 Warf Woods Cove in Cordova asked the Board to approve the grant for the Tennessee Shakespeare Company. As a teacher she recognized that the students need more creative encounters like the Shakespeare Company inside and outside the classroom.

Ms. Jeanne Mathew Miller of 2278 Dogwood Glenn Cove stated she had not been a Shakespeare enthusiast but after seeing the production in the woods, she was very much impressed. The Tennessee Shakespeare Company is giving the children the opportunity to expand their borders far beyond their geographic boundaries. She asked the City to support the Company.

Ms. Lorraine Cotten of 2464 Calkins Rd. spoke in support of the City grant to the Tennessee Shakespeare Company. She stated that as a theater teacher at Houston High School, the value of exposure to well done productions of this caliber was not measurable. She asked the City to support the grant.

Mr. Dan McCleary of 6996 Stillbrook Dr., the founder and artistic director of the Tennessee Shakespeare Company, asked the City to support the grant proposal to continue the education funding of the arts and education programming. The grant would double the available seats for student morning and matinees. It would double the study guides for parents, teachers and students in Germantown and it launches the education program in Germantown with ten free residencies to Germantown Middle and High School. He thanked the Board for their consideration. He asked all who were in support of consideration of the grant to stand. Many in the audience stood.

Mr. William Street of 2815 Old Elm Lane, expressed his gratitude for the support to GHS TV and the opportunities it has given himself and the students. He thanked the Board and the City for the support.

Mr. Jack Parnell of 2899 Cordie Lee Lane spoke for the Fine Arts of Germantown and thanked the Board for their support over the years and asked for continued support.

Mr. Frank Bluestein of 2147 Sonning Drive thanked the Board of Mayor and Aldermen for the 33 years of support and vision. On behalf of the GHS TV, he thanked the Board and gave a brief report. The TV station had won more regional emmy awards than any other TV station in our region. GHS TV had won over 100 hometown video awards over the past 20 years.

Mr. Jon Hoag of 3148 Steeplegate Dr. stated he was currently a co-general manager of GHS TV and he thanked the Board for their years of support. His knowledge of the GHS TV studio had opened doors to schools that he would not have had the opportunity to go.

Mr. Dan Hoag of 3148 Steeplegate Dr. also thanked the Board for their support of the “jewels” in Germantown such as the Athletic Club, GPAC, GHS TV and Shakespeare Company. He stated he had learned through working with Poplar Pike Arts Guild that raising charity dollars is an extremely demanding task and that takes a lot of time and effort and a lot of different ways to raise that money. He

stated funds that are under consideration were sorely needed in addition to the funds that had been raised. The City's investment has a big impact on the quality of life in Germantown.

Ms. Betsy Pipkin of 1446 Poplar Estates urged and begged the Board to not stop contributing to the arts and the organizations that make Germantown special.

Ms. Virginia Hart of 8475 Farrah Lane had worked at Farmington Elementary as an assistant principal and shared an appreciation for the support from the Board of Mayor and Aldermen. She felt that with the support of the citizens and the Board we would continue having great schools.

Alderman Billingsley thanked all the citizens who came out to support the arts, GHS TV and the Shakespeare Company.

Resolution 09R04 – New Initial Authorizing Bond Resolution

Michael Stoll stated the Board was requested to adopt the necessary initial resolution which would authorize the City to issue up to \$6.0 million of general obligation bonds for various capital projects. This item was a do-over to make a slight change to the use of the bond proceeds in a resolution that was approved at the last meeting.

He explained how the City funds capital projects. The City uses two basic approaches to funding capital projects, pay as you go and pay as you use. The pay as you go funding means paying for the capital projects out of our current revenue. This type of funding must account for at least 25% of capital planned funding. Pay as you use means borrowing now to finance the project and use the future revenues to make the debt service payments over the useful life of the project. The City's capital program uses a combination of these two financing methods. Capital projects are funded through bonds, reserves, grants, developer contributions and other governmental revenue sources. This financing is anticipated to be a 20-year bond with an average maturity of just over 11 years. The proposed bond proceeds will finance the replacement of Fire Station No. 4, as well as off-set the costs of the City's 20% match for Wolf River Blvd. construction between Farmington and Kimbrough. Bond proceeds may also go toward the major drainage improvement projects such as the Miller Farms stabilization, Lateral E and Mimosa Gardens. The resolution will also allow financing the acquisition of public parkland. These are all long-life capital projects well suited for bond financing.

If approved, the public notice about this resolution will appear in the local paper on Wednesday, May 13. The sale of bonds are scheduled for Monday, June 8.

Motion by Mr. Drinnon, seconded by Ms. Hinely to approve Resolution 09R04 (which will supersede Resolution 09R03) authorizing the issuance of up to \$6,000,000 General Obligation Bonds, Series 2009, of the City of Germantown, Tennessee pursuant to state law under Title 9, Chapter 21, Tennessee Code Annotated, for the purpose of financing the acquisition of parkland and the costs of public works projects related to the City's facilities, its roadways, and its storm water drainage systems and to direct staff to publish the prescribed notice about this resolution in a newspaper having general circulation in the City.

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

Resolution 09R05 – Authorizing Resolution for General Obligation Bonds

Mr. Stoll stated this resolution is a companion to Resolution 09R04 and will allow the City to issue up to \$6.0 million of new general obligation bonds for various capital projects. In addition, the authorization will allow the City to refund and refinance about \$3.6 million of existing bonds at lower interest rates.

The proceeds from this new series of general obligation bonds will finance the replacement of Fire Station No. 4, as well as the extension of Wolf River Blvd. between Farmington and Kimbrough. It will also

finance drainage improvements projects such as Miller Farms stabilization, Lateral E and Mimosa Gardens. The resolution will allow financing the acquisition of public parkland. All of these are long-life capital projects well suited for bond financing.

The other part of the bond would be the City's proposal to issue up to \$3.635 million of Refunding Bonds to refinance higher rate bonds from the Series 2000 and 2002 issues. However, issuance of the refunding bonds is subject to the bond rates at or near the sale date of June 8th. Based on the rates at the end of April, our Financial Advisor, Public Finance Management (PFM) estimated that this refunding would result in a net present value savings of about \$240,000.00. The Tennessee Director of Public Finance has issued their requisite review letter to the City regarding this proposed refunding issue and they do not disagree with the estimated costs and savings.

Alderman Palazzolo commended the Finance Department on their work.

Motion by Mr. Drinnon, seconded by Mr. Palazzolo, to approve Resolution 09R05 authorizing the issuance of not to exceed \$9,635,000 General Obligation and Refunding Bonds, Series 2009, of the City of Germantown, Tennessee pursuant to state law under Title 9, Chapter 21, Tennessee Code Annotated, for the purpose of financing the acquisition of parkland and the costs of public works projects related to the City's facilities, its roadways and its storm water drainage systems as well as to refund currently outstanding bonds to realize savings of debt service costs.

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

Ordinance 2009-4 – An Ordinance to Adopt the Fiscal Year 2010 Budget – First Reading

Patrick Lawton stated this was the first reading of the budget. The Budget authorizes the allocation of resources and establishes the direction for programs and services for our triple-A city for the coming year and during the 5-year planning period. The FY10 proposed budget is based upon the focus areas developed by the Board of Mayor and Aldermen. There is no property tax increase proposed for the FY10 budget. This is the seventh year without a property tax increase. The budget for all funds totaled \$71,064,107 and the general fund operating, which is the largest fund in the City's budget, totals \$36,709,086. The City has four enterprise funds, that total \$18,167,664 and the capital improvements budget for consideration this year totals \$13,722,000. The budget represents hundreds of hours of review and analysis by City departments and key business units and the Financial Advisory Commission. The Board has had several work sessions regarding the budget to consider these major governmental funds and key policy areas. On Wednesday, May 6, the Board conducted an extensive work session on the entire budget document.

Prior to the public hearing on June 8, an informational brochure entitled "The Budget in Brief", will be mailed to every household in Germantown. The Budget in Brief highlights the major revenue and expenditure categories in the proposed budget and the Board of Mayor and Aldermen funding priorities.

Mr. Lawton stated the length and duration of the global recession had created a fiscal crunch and budget crises in which difficult decisions had been made. Germantown had not been spared the problems that cities across the country are facing. Managing the change for Germantown had been particularly challenging given the community's high values and expectations, the high level of satisfaction with City services, the fact that people want to live in our community and that our residents enjoy a defined quality of life.

These expectations can be contrasted with the fact that our tax base is stabilized. We are land locked, state and federal mandates are ever present, investment income has declined, both growth and new development have declined, and fixed costs and employee benefits have increased dramatically this year.

Moving forward the situation does not get any better. The leading economic consensus indicates that though there appears to be light at the end of the tunnel, the recession will be far more severe than earlier anticipated and the residual effects of the recession will last for several months beyond the end of the calendar year. The adjustments the Administration made to the current year budget will help alleviate many of the problems confronting us for FY10; however there will be challenges ahead. The Administration and our elected officials understand that there are no quick fixes and the key to success is to focus on the larger picture and in building a financially sustainable Germantown.

Alderman Drinnon stated that Patrick Lawton had given an excellent presentation to the Board at the work session. He commended Mr. Lawton, the Finance Department and the entire Administration in a very unusual time.

Motion by Mr. Chism, seconded by Ms. Hinely, to approve on first reading Ordinance No. 2009-4 establishing the FY10 Proposed Budget and set Monday, June 8, 2009 for second reading and public hearing.

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

Ordinance 2009-5 – Real and Personalty Property Taxes – First Reading

The Finance Director Ralph Gabb stated the city's Certified Tax Rate (CTR) is \$1.54 per \$100.00 assessed value. However, as pointed out during the work session the Shelby County Assessor has completed a 2009 Countywide Reappraisal of Property. As a result, municipalities will be required to calculate a "Certified Tax Rate" or roll back rate that produces a "Tax Neutral" effect for current taxpayers. With this said, we are currently going through the calculation for determining what the Certified Tax Rate (CTR) should be in the City.

By law the Certified Tax Rate is the rate which, applied to the reappraisal tax base (adjusted for new property) will yield the same revenue as was "levied" the previous year. In addition, an appeals allowance will be calculated and added to the tax rate should it be determined that sufficient appeals will affect the assessed value of property. After calculation of a rate, the City will submit the new rate to the Shelby County Assessor as well as to the State Board of Equalization for certification. Once approved at the State level the rate will be submitted to the Board of Mayor and Aldermen for approval and adoption. The tax rate is tied to operational service levels and needs of the community. Therefore, we have not determined at the present what the Certified Tax Rate (CTR) should be.

The Property Tax Revenue for FY10 has been budgeted at \$22.0 million dollars. This represents 60.0% of the FY10 General Fund Revenues. The reappraised value by the Shelby County Assessor for the City of Germantown was \$1.53 billion dollars. Of which \$1.5 billion dollar is Real Estate and \$30 million being personal property. Residential property make up \$1.2 billion and commercial \$298 million. This represents an increase over FY08 of 13.0%.

There is no property tax increase projected within the Property Tax Revenue budget.

We have had in-depth discussion with the Financial Advisory Commission and the Board of Mayor and Aldermen concerning the reappraisal process and our process of calculating the new Certified Tax Rate.

Motion by Ms. Hinely, seconded by Mr. Palazzolo, to approve Ordinance No. 2009-5 on first reading, and to set Monday, June 22, 2009 for the third reading and public hearing.

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

Ordinance 2009-6 – An Ordinance for Year-End Budget Adjustments – First Reading

Mr. Gabb stated that at year-end, a number of Budget Adjustments are required to avoid budget and fund overruns in the various funds. Many of the Budget Adjustments have been discussed during the year at work sessions or BMA meetings.

Funds involved are: General Fund, State Street Aid Fund, Great Hall, Other Post Employment Benefits, and Athletic Club.

At year end Budget Adjustments are made to various City funds which realign operating expense/expenditure accounts with actual activity. They recognize various overruns, underruns, project acceleration and deferrals that have already been brought to the BMA's attention and gained their approval. Accounting transactions may cross separate funds and consequently require approval by ordinance.

Motion by Mr. Drinnon, seconded by Mr. Chism, to approve Ordinance No. 2009-6 on first reading, and to set Monday, June 8, 2009 for the second reading and public hearing.

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

PUBLIC HEARING – Ordinance 2009-7 – Amendment to Cable Ordinance – Third and Final Reading

Mr. Lawton stated the Board was asked to consider an amendment to the City's existing cable ordinance to have our ordinance come into compliance with existing state law.

Under the City's existing ordinance, any cable television provider wanting to conduct business in the city of Germantown and to use the city's right of way, would have to obtain a franchise from the City to do so. This franchise and the various requirements are detailed in the city's cable ordinance. The City's franchise is not exclusive in that there can be more than one cable television provider at a time in our community; however, since the early 1980's, when cable television first came to Germantown, there has only been one provider at a time and all franchises were granted under this method.

In 2007 legislation was introduced in Nashville that would allow cable television providers the ability to seek a statewide franchise and thereby bypass the city's franchising requirements all together. The City of Germantown fought extremely hard against the passage of this legislation and consistently presented its case against statewide franchising to our senators, representatives and other representatives in Nashville. The legislation ultimately did pass in June 2008. However, the city was successful in helping to outline what we identified as a set of core principles that ultimately were incorporated in large part in the legislation that did pass.

With the adoption of this bill, the City's existing cable ordinance now needs to come into compliance with state law. The administration has worked with the city attorney's office and has taken the various components of the new state statute regarding the issuance of statewide franchises to cable providers and have folded them into our existing ordinance. For example, the issuance of a statewide franchise does not alter state law regarding local control of right of way, local police power or the right to impose generally applicable taxes.

The balance of the provisions in the ordinance amendment reflect the distinctions between a franchise granted under our local franchising authority including our administrative oversight versus a franchise granted under the Competitive Cable and Video Services Act and regulation by the Tennessee Regulatory Authority.

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

Motion by Mr. Chism, seconded by Ms. Hinely, to approve on third reading Ordinance No. 2009-7- An Amendment to Chapter 19 – Cable Ordinance.

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

PUBLIC HEARING - Ordinance 2009-8 – Amendment to Chapter 21, Utilities – Utility Cabinets – Third and Final Reading

Mr. Lawton stated that this ordinance was a companion to the prior ordinance under consideration regarding the city’s cable television franchise. The two go hand in hand in that a review of our existing ordinance regarding utility cabinets in the city’s right of way needed strengthening based on the passage of this new statewide franchising statute. We want to ensure that our local ordinances are strict enough to ensure that a cable television company providing video services and granted a statewide franchise will be in compliance with our local authority in terms of placement of utility cabinets in the city’s right of way.

A review of the existing utility ordinance indicated that we needed to strengthen the ordinance in order to ensure that utility cabinets were landscaped, screened and placed to the best of our ability beyond public view.

The amendment before the Board does the following:

1. New telecommunications equipment, whether it is cable or telephone on vacant lots, will comply with the regulations in place since 1983 on electrical equipment. They must be placed behind the front building line.
2. Upgraded telecommunications equipment or new equipment on built lots must be 20’ behind the right of way. We will allow them to be closer if the landscaping or topography of a lot necessitates the equipment to be closer.
3. These utility cabinets, like the MLGW equipment, must be landscaped and approved by Economic and Community Development staff. A fee of \$500 will include \$400 that will be refunded once the landscaping is installed.
4. Small equipment need not go through the review process but must be landscaped and 40’ behind the right of way. Small equipment along the rear of double frontage lots need not be landscaped.
5. The proposed amendment does not change the fact that these regulations will only apply to residential areas.

Josh Whitehead, Andy Pouncey and the City Attorney’s office worked on this amendment to the utility ordinance and discussed the amendment with the Telecommunication Commission at their March 11 meeting.

Mayor Goldsworthy opened the public hearing.

Mr. Alex Lesteris, the area manager of network operations planning and engineering for AT&T came forward. He stated he had work cooperatively with the City for many years and AT&T values its relationship with the City of Germantown. He stated he felt they could work closely with the City to ensure compliance. They did have some concerns with the ordinance.

1. Under certain circumstances, the proposed ordinance requires AT&T or various companies to provide, maintain, care for, and replace vegetative screening or fencing around certain facilities. AT&T requested that the ordinance provide that on-going maintenance, care and replacement be the responsibility of the property owner. Otherwise, this would require utilities to repair fences, brick walls and replace shrubbery for an indefinite period of time. This provision could add significant costs of provider service to the customer and these increase costs must be taken into account where planning and making future investments.
2. There should be some flexibility regarding the setbacks. The proposed ordinance has strict and inflexible setback requirements that, in some instances, would cause practical problems including service and repair. AT&T was requesting the City allow some flexibility where there are difficulties due to technical limitations, topography, fencing, landscaping or on-site issues.
3. AT&T should be given written notice and a reasonable time frame to cure before the City takes any punitive action in the event of a violation. The current language is very harsh, stating that any violation is a crime, a misdemeanor, and at each days continuance of a violation is a separate offence. AT&T felt these violations would be rare and most likely be unintentional. He felt the first violation should be limited to a stop work order for that particular job and any repeat violation should be subject to reasonable fines.

He requested that any action on the ordinance be deferred to provide additional time for AT&T to work with the City to resolve these issues in a mutually agreeable way.

Ms. Donna Chandler Newman of 3227 Duke Circle, a member of the Telecommunications Commission came forward and stated that the Commission, as a whole, had not reviewed every single piece of the ordinance but had great confidence in what the staff had done. She felt that this was the third and final reading and if AT&T had any objections before now they should have been brought forward. She stated she respected the staff's decision and the Board should vote for it.

Having no one else come forward, the public hearing was concluded.

In response to a question from Alderman Chism, Josh Whitehead stated that in January or February of this year members of the Telecommunications Commission raised concerns about the boxes and staff initiated the amendment.

Mr. Lawton stated that the ordinance before the Board was reflective of what is currently being done with utility providers within the community. These standards are no different than what would be required from Light, Gas and Water to construct a utility box on a right-of-way. One of the core principles the City fought for in the state wide franchise was to make sure that from an aesthetic standpoint the City could contain control of the right-of-way and setback requirements.

Andy Pouncey stated there were two issues, one was the landscaping. The City chose the plants, and where they go with the intent that there would be very little maintenance so this should not be a big issue. As far as the setbacks, it is a real no brainer when you have a new residence and you set it back just like was done with MLG&W and then 20 feet for existing houses off the property line is not a great distance. As far as flexibility, it says that if there is existing landscaping, or a topography problem, then the City will work with them.

In response to a question from Alderman Palazzolo, Mr. Pouncey stated that Josh Whitehead had communicated with AT&T and also Wade Morgan had met with AT&T to help work with them on the locations and everyone had worked well together at this point.

Alderman Drinnon felt this was too important an issue to have matters come up at the last minute and he asked for administration to take an opportunity to sit with the chairman of the Telecommunications

Commission and Ms. Newman and re evaluate the concerns that had been expressed by AT&T and their corporate leaders and refer this item back to administration at the next meeting for recommendations at that point.

Motion by Mr. Drinnon, seconded by Ms. Hinely, to defer action on Ordinance 2009-8 until June 8. Staff is to consult with Telecommunications Commission and questions raised by anyone.

ROLL CALL: Billingsley–yes, Chism–yes, Drinnon–yes, Hinely–yes, Palazzolo–no. Motion to defer approved.

Purchase of Ocean View Farms

Pam Beasley, Director of Parks & Recreation, explained that this item would authorize the Mayor to execute a contract for the purchase of Ocean View Farms, a 10.2-acre tract located at 7901 Poplar Pike in the amount of \$1,500,000. This land acquisition will be added to the City’s park system with the project partially funded by a Local Parks and Recreation Fund grant.

In March of 2008, the City submitted an application for the Tennessee Local Parks and Recreation Fund (LPRF) Grant Cycle with a proposal to acquire a 10.2-acre tract of land known as Ocean View Farms. This acquisition is critical in the overall master plan of the area, as it is the “missing link” and provides much needed additional parkland. In working towards the implementation of the overall master plan for the site, Germantown requested assistance from the LPRF funding sources and received \$400,000 in October, 2008.

About one year ago, the City completed a master plan of this entire land tract: C.O. Franklin Park on the western boundary; Union University on the eastern boundary; Red Devil Field, Cloyes soccer fields and the Charity Horse Show stables on the southern boundary; and Oaklawn, Morgan Woods and the Pickering Center on the northern boundary. The conceptual land use plan includes upgrades of existing amenities, redesign of the access and internal road system, and identification of many new leisure and cultural opportunities. The project received widespread community support and will allow the City to increase efforts in environmental education, expand community events, increase cultural arts programming and provide needed parkland for passive recreation.

There were a number of stake holders, groups, organizations, agencies and individuals assembled to make up the Special Task Force dedicated to creating the Park Master Plan. Those groups included the Germantown Parks and Recreation Commission, Germantown Charity Horse Show, Neshoba Carriage Association, Germantown Festival Committee, Germantown High School, Germantown Historic Commission, Regional History and Genealogy Center, Tennessee Master Gardeners, Union University, and many of the City departments led by the Community Development Planning Division.

An additional plan was also coordinated with the Tennessee Shakespeare Company as another interested group in the project.

Negotiations in the purchasing of the property include allowing the current property owner to remain on the site and reside in the home for an eighteen month period.

Mr. Beasley publicly thanked the property owners, Mr. & Mrs. Michael Terry, their representatives and the City Attorney Tom Cates for their efforts in pursuing this opportunity with diligence and commitment to the future of what will be one of our greatest community assets.

Alderman Palazzolo asked for the actual account numbers and actual title of the accounts the money will come from.

Ms. Geiger stated this year's capital budget included parkland acquisition which \$750,000 encumbered bond proceed and \$250,000 will come from a grant because at the time the budget was prepared last year staff did not know the exact amount of the grant. The City is getting \$400,000 which is reimbursement so we must front the money up front. This means in regard to budgetary purposes, we still have \$1 million in there allocated for this project. We are taking \$450,000 from Wolf River Blvd. right-of-way which is not being used this year and will be funded again next year. Another \$50,000 will be taken from Miller Farms Phase 1 drainage.

Motion by Mr. Chism, seconded by Ms. Hinely, to authorize the Mayor to execute a contract for the purchase of Ocean View Farms in the amount of \$1,500,000, and to approve Budget Adjustment No. 09-151.

Alderman Hinely again thanked City Attorney Tom Cates for all his hard work in negotiating the land acquisition.

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

Resolution No. 09R06 – Amendment to IDB Charter

Mr. Lawton stated the Germantown Industrial Development Board had requested to amend its charter relative to the issuance of tax increment financing and special assessments bonds. When the initial application for the Industrial Development Board and charter was approved by the State of Tennessee, the Board of Mayor and Aldermen specifically excluded the provision allowed by state law for the issuance of bonds and directed the IDB's authority towards granting payment in lieu of taxes or PILOTs as they are commonly referred to. The recent adoption in May of 2008 of the Public Private Partnership Policy has caused the City to reexamine the role of the IDB.

The Industrial Development Board had numerous meetings to consider the impact of tax increment financing, special assessments and its relationship with the Public Private Partnership Policy. They had studied this issue as an appointed body and worked very closely with City staff in examining the risks and rewards associated with these economic development tools.

On April 21, 2009, the IDB held a well advertised public hearing and voted unanimously to petition the Board of Mayor and Aldermen with an amendment to the IDB charter. If the resolution is approved by the Board of Mayor and Aldermen, the IDB would then take action on its own and file the amendment with the Secretary of State for final approval.

Mr. Lawton stated that Mr. Henry Evans, Chairman of the Industrial Development Board, would like to address the Board of Mayor and Aldermen on this issue. Also in attendance is Laurel Williams, Attorney with Burch Porter & Johnson, who has worked with the IDB and City staff in the preparation of the various legal documents to secure this charter amendment.

Mr. Evans of 2184 Coathbridge Dr. and chairman of the IDB Board spoke on behalf of the IDB Board and thanked each of the Board members for their consideration of this request and for their patience during this last year. When the Board passed the Public/Private Partnership Policy, it opened the door for the City to provide public funds to support desired development within the Smart Growth Area.

Mr. Evans explained that Tax Increment Financing Revenue Bonds and Special Assessment Revenue Bonds had been zeroed in on as the desired alternatives for that type of financing. The IDB Board wanted to make sure that there were no risks to the City of Germantown with the issuance of these instruments. Going through the IDB to issue the revenue bonds does not create any liability nor any guarantee on the part of the City. It does not provide any risks to the existing tax base of the community. In both cases, the instruments that would be issued would apply within the boundaries of the specified development

area. It does not have any impact on the City's Triple A Bond rating. These bonds once issued, would be issued to institutional investors who have the capability to assess the risks that they are about to undertake and understand that they accepted the full risk of repayment of the bonds. These bonds would be issued only by the IDB following action by the Board of Mayor and Aldermen in which the Board of Mayor and Aldermen would determine to accept the development project, the boundaries that have been set forth for the development and have decided the amount of the bonds that could be issued in either case whether tax increment financing or special assessment. Then and only then, after a public hearing would the Board issue the directive to the IDB to issue the bonds and the IDB would do so in the Board's name. The IDB would become a conduit or an extension of the Board of Mayor and Aldermen in order to support economic development of the City of Germantown through the issuance of these bonds.

In response to a question from Alderman Hinely, Mr. Evans stated that if one of these fell through or defaulted, the City has no responsibility for the bonds. The people who buy the bonds set the risk at the time they are bought. The bonds would not be issued until such time that the development was in place. It is a repayment for developer costs. People who buy the bonds assess the risk.

Mr. Evans explained to Alderman Billingsley that the Board of Mayor and Aldermen would determine the term of the bonds. In the Public/Private Partnership Policy the Board established a limit of 15 years for public financing under the policy. The tax increment financing revenue bonds would fall within that fifteen year limit. The special assessment bonds do not have the same fifteen year limitation. The Board of Mayor and Aldermen can consider as an amendment to the Public/Private Partnership Policy a maturity limit on those types of bonds.

Mr. Lawton thanked Henry Evans and the members of the IDB and the exemplary job they had done and having this level of expertise to advise the Board and staff on these very technical matters was very much appreciated.

Ms. Laurel Williams with the firm of Burch, Porter and Johnson stated that the text of the charter amendment is to amend the IDB's existing charter which currently does not authorize the issuance of bonds, to allow for the issuance of two types of bonds that are both authorized under the existing Tennessee IDB legislation. The first type is Incremental Tax Revenue Bonds and the other is the Special Assessment Bonds. In both cases they have to be approved by the Board of Mayor and Aldermen before the next step can be taken to issue the bonds and that is reflected in the charter amendment. The Incremental Tax Revenue Bonds can only be issued pursuant to an economic impact plan that has been approved by the Board of Mayor and Aldermen and the Special Assessment Bonds can be only issued and secured by a Special Assessment that has been approved by the Board of Mayor and Aldermen.

In response to a question from Alderman Chism, Mr. Cates stated that it was absolutely the fact that there is no liability on the part of the City of Germantown by virtue of the issuance of these bonds.

Alderman Billingsley asked Mr. Lawton to share with the Board the respective groups and subcommittees that had supported the IDB's position.

Mr. Lawton stated this had been discussed with the Financial Advisory Commission and they put together a special subcommittee that looked at the Public/Private Partnership and its whole relationship from the issuance of these types of debt and its impact on the City and looking at the risks and rewards associated with it.

Ms. Williams stated the first two steps in approving the charter amendment had already occurred. The IDB Board approved the charter amendment at their meeting and now it awaits the Board's approval. If the Board approves the resolution, the Board must determine that it is wise, expedient, necessary or advisable that the amendment be made. If the Board approves the next step it would be for the members

of the IDB Board to sign articles of amendment that are then filed with the Tennessee Secretary of State and if the Secretary of State finds that the articles of amendment are acceptable, then they are filed and become an amendment to the IDB charter.

Motion by Mr. Drinnon, seconded by Mr. Palazzolo, that 1) The Board of Mayor and Aldermen hereby finds and determines that it is wise, expedient, necessary and advisable that the Amendment to the Charter of The Industrial Development Board of the City of Germantown, Tennessee, attached as Exhibit "A" be adopted and, 2) that the Amendment to the Charter attached as Exhibit "A" hereto is hereby approved and the members of the IDB are authorized to execute the Amendment and the Chairman is authorized and directed to take all actions which are necessary or appropriate, including the filing of any and all required documents with the Tennessee Secretary of State and the Register of Shelby County, Tennessee.

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

Emergency Repair – Well #5 - Moved from Consent Agenda

George Brogdon thanked the Board for letting them bring this to the Board at the last minute. The project was much larger in scope and expense as more was learned about the well. Mr. Bo Mills and Mr. Jimmy Johnson were present to help explain the details. Mr. Brogdon stated that the timing was very important and if the Board approves the expense, the well could be fully producing by July 1.

Bo Mills stated that Jimmy Johnson had been with the water system for 37 years and was very familiar with the well.

This is Well #5 located at the Southern Ave. Water Treatment Plant and is one of the oldest production wells in the system. Constructed in 1978 at a depth of 625, it is a 12" well that has a capacity of 1600 gallons per minute. This is the second highest producing well in operation at the Southern Ave. well field. On April 13th staff discovered some cloudy water and sand had accumulated in the filtration basins in the water plant itself. Staff began ciphering the wells on and off to try and determine which well was causing the problem and learned it was Well #5. The well was taken out of service and Layne Central was contacted. Layne Central is the local municipal well service provider in the area. There are other providers but they deal with 4" or smaller. Layne Central offered a quote at that time of \$5,040.00 to pull the well and through the Key Business Executive Approval Process, a purchase order was done for the pump to be pulled.

The repair needed to bring this well to production standards is two-fold. The first phase will address sand coming from a lap pipe, the outer casing failures and sand production coming from the bottom of the well. The cost for this phase of repair is \$69,300.00. The second phase will focus on the pump. Due to the installation of the liner to correct failures in the inner casing, a smaller column pipe will need to be installed. This smaller liner also requires new bearings, a new pump bowl and a new suction pipe. The cost for the second phase is \$51,466.00.

Alan and Hoshall, our water and sewer experts were contacted to look at the well and they had agreed with the assessment.

Motion by Mr. Billingsley, seconded by Mr. Chism, to contract with Layne-Central Company for emergency repairs to Well #5 at the Southern Ave. Water Treatment Plant, in an amount of \$120,766 and to approve budget adjustment number 09-161.

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

CONSENT AGENDA

Employee Uniforms – Extension of Contract – Vehicle Maintenance

In FY06, the City entered into a three-year uniform rental contract with a fourth and fifth year extension option. The fourth year option will extend this contract through FY10. This contract includes weekly rental, laundry and repair service for industrial work and manager/supervisor uniforms for 100 employees in the Public Services/Grounds Maintenance, Water, Sewer, Development, Facilities Management, Fleet Services, and Finance Departments.

MOTION: To authorize to contract with Paramount Uniforms for the first option year of the contract extension for approximately \$32,000.00.

Annual Agreement – Ground Water Institute

The Ground Water Institute maintains the City's Well Head Protection Program, a management area around the City's well fields, which has been accepted and approved by the State. The Institute also conducts a yearly Contaminate Source Inventory for each well field's zone II area. They have offered to continue to service the City by acting as an independent expert in the ground water area.

MOTION: To authorize the Mayor to execute an Agreement with the University of Memphis Ground Water Institute in the amount of \$16,100.00.

Commercial Mower

The replacement mowers purchased under this authorization are utilized by the Public Services Grounds Maintenance Division to maintain athletic fields and other areas as required. Specifications were mailed to eight regional vendors and seven bids were received and opened.

MOTION: To authorize the purchase of (2) model year 2009 Grasshopper 335/72 Commercial Mowers equipped with 72-inch cutting decks from Moridge Manufacturing in the amount of \$17,094.00, reject the bids for the commercial mowers equipped with the 60-inch cutting deck, declare (2) 2002 John Deere 757 Z-Trak Mowers as surplus property and approve budget adjustment 09-152.

Recognition of Donation to Police and Fire Department

Century 21 River Oaks is a long time business of Germantown and wished to show their appreciation for the continued good performance of the Germantown Police Department and Fire Department by donating \$131.00 to be used at the discretion of the departments. The donation of \$66.00 will go to the Police Department and will enhance the Crime Stoppers fund that will assist in the identification and apprehension of criminal suspects. The donation of \$65.00 to the Germantown Fire Department will help purchase fire prevention and education materials.

MOTION: To recognize a donation from Century 21 River Oaks in the amount of \$131.00 and to approve Budget Adjustment #09-143.

Police Department Research Grant – University of Delaware

The University of Delaware Center for Drug and Alcohol Studies has been conducting a quarterly survey of the prescription drug diversion. With the increased problem of prescription drug diversion, information on the magnitude and scope of diversion is critical to help develop appropriate prevention, risk management, treatment, policy and enforcement initiatives.

The University of Delaware Center for Drug and Alcohol Studies asked for the Germantown Police Department to participate in the quarterly study and in return for filling out the quarterly reports will receive a stipend of \$275.00 for each report and a small bonus if all four quarterly reports are submitted

on time. The funds can be used for any law enforcement purpose. The Police Department will be purchasing a Fatal Vision Goggle Starter kit with the funds.

MOTION: To recognize a research grant from the University of Delaware in the amount of \$825.00 for participating in a Drug Diversion survey and to approve Budget Adjustment #09-140.

Exhaust Removal System – Removal & Re-installation

The vehicle exhaust system located at Fire Station No. 1 was installed when the building was built. The present system does not have the automatic startup capabilities or the proper vehicle connections to fit our vehicles. With the future replacement of Fire Station No. 4, the vehicle exhaust system will no longer be useable and will not work with the design of the new building. The components from Fire Station No. 4's system can be used to upgrade the present system at Fire Station No. 1, allowing for automatic start functions and proper hookup of two of the four pieces of equipment.

Four vendors were contacted and two bids were received.

MOTION: To authorize the Mayor to enter into a contract with Stinson's Industrial to provide all labor, materials, and equipment necessary to remove the vehicle exhaust system from Fire Station No. 4, reinstall the system at Fire Station No. 1 for \$12,500.00 and approve Budget Adjustment No. 09-150.

Recognition of Donation – Houston Middle School BETA Club - Moved from Regular Agenda

The faculty at Houston Middle School presented a challenge to their students to raise money to benefit the animals at the Germantown Animal Shelter. The sixth, seventh and eighth graders were asked to bring in donations daily for a week and students raised money through family, friends and local businesses. This donation will be used to purchase veterinary supplies and services to medically treat the shelter animals as opportunities present themselves.

MOTION: To recognize and accept a donation presented to the Germantown Animal Shelter from the Houston Middle School BETA Club, in the amount of \$3,080.34.

Emergency Warning Siren Upgrade

This upgrade to the sirens will eliminate the need to send someone to monitor the condition of the siren while being tested and insuring that every siren is monitored for proper operation. The cost for parts to upgrade the sirens is \$6,909.70.

The control console in the Communication Office must also be upgraded to operate the system. This upgrade will provide a new computer, siren control console and new radio and antenna to operate the system. The cost of equipment to upgrade the Communication Office is \$10,433.80. The installation costs for all equipment is \$11,305.00.

MOTION: To purchase upgrades from Federal Signal Corporation for fifteen emergency warning sirens, an upgrade for the control console in the City's Communication's Office for \$56,011.85 and approve Budget Adjustment No. 09-0156.

MOTION: To purchase from Federal Signal Corporation upgrades for fifteen (15) emergency warning sirens, an upgrade for the control console in the city's Communication's Office for \$56,011.85 and approve Budget Adjustment No. 09-0156.

American Reinvestment and Recovery Act (ARRA) and Surface Transportation Program (STP) Contracts – Moved from Regular Agenda

President Obama signed into law the American Recovery and Reinvestment Act (ARRA) to stimulate the economy. The nation's deteriorating infrastructure is allocated \$150 billion in improvements. The City

of Germantown was fortunate enough to gain approval of two projects for ARRA funding totaling \$1,650,000.00 (Farmington Blvd. Reconstruction – Phase I - \$1,350,000 and Wolf River Blvd. Sidewalks - \$300,000). ARRA funding is 100% federal funds.

The Memphis area Metropolitan Planning Organization (MPO) is made up of all municipalities within Shelby County, western Fayette County and Desoto County, MS. The MPO receives federal funding to be allocated to transportation projects within the MPO area. Over the years, funds have been allocated to many large transportation projects that have not been moving forward. As a result the MPO was informed by the TN Department of Transportation that over \$50 million of Surface Transportation Program (STP) funds must be obligated by October 2009. A massive reprioritization of projects and subsequent reallocation of funding by the MPO allowed the City of Germantown to gain funding for seven project totaling \$3,735,000.00. STP funds are 80% federal, 20% local responsibility. The projects for STP funding are Poplar/Oakleigh Traffic Signal, Poplar/Forest Hill-Irene Traffic Signal, Wolf River Blvd. Forest Hill-Irene Traffic Signal, Forest Hill-Irene Rd. Widening, Poplar Ave. Culverts Inspection/Analysis, Wolf River Blvd. Streetscape and Farmington Blvd. Reconstruction – Phase II.

MOTION: To authorize the Mayor to sign contracts for our American Recovery and Reinvestment projects and Surface Transportation Projects upon review and approval of the City Attorney.

Purchase of Fitness Equipment – Germantown Athletic Club – Moved from Regular Agenda

The Adaptive Motion Trainer is a hybrid cross of an elliptical and stair stepping machine. To provide improved member wait times for AMT's during peak hours, staff is recommending the purchase of six additional units. The out-right purchase of \$42,701.19 is being recommended instead of a lease agreement. Installation will be bid separately.

MOTION: To authorize the Mayor to enter into a contract with Fitness Systems Inc. for the purchase of six Adaptive Motion Trainers (AMT's) in the amount of \$42,701.19.

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

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

Alderman Palazzolo asked that a resolution of thanks be sent to the Houston Middle School BETA Club.

ADJOURNMENT

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

Sharon Goldsworthy, Mayor

Dotty Johnson, City Clerk/Recorder