

BOARD OF MAYOR AND ALDERMEN
EXECUTIVE SESSION
February 23, 2009

An executive session of the Board of Mayor and Aldermen was held on February 23, 2009, at 6:15 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, George Brogdon, Kristen Geiger, Andy Pouncey, Tom Cates, Pam Beasley, Jerry Cook, Tim Gwaltney, Pat McConnell, Ernie Moretta, Michael Saddler, Inspector Lee Covey, Chief Dennis Wolf, Bo Mills, Michael Stoll, Ralph Gabb, Lisa Piefer and Melody Pittman.

Invocation

City Administrator Patrick Lawton will give the invocation.

Pledge of Allegiance

Alderman Mark Billingsley will lead the Pledge.

Approval of Minutes

Alderman Palazzolo noted on page four of the regular session agenda under the motion for the purchase of bulk chemicals, the amounts did not calculate correctly and there must have been a typo.

Proclamation – Development Disability Awareness Month

The month of March will be proclaimed Development Disability Awareness Month.

Proclamation – Arbor Day

Mayor Goldsworthy will call on Pam Beasley to make an announcement about free trees.

Beautification Business Award

Loeb Properties will be the recipient of this award.

Approval of Legislative Agenda

City Administrator Patrick Lawton stated staff had identified for the Board seven different legislative issues that staff in Administration had been tracking. This list is not exclusive and as additional issues arise, the Board will be notified. He stated that we are advocates for the citizens of Germantown, looking out for the rights of our City, particularly in these very difficult economic times. Mr. John Farris, one of the lobbyists for the City, will be present to address the Board.

Mr. Farris, on behalf of his firm of Farris, Mathews and Bobango, thanked the Board for continuing to work with the firm. He stated the hand gun bills that had been killed in the past, might now have a chance of being passed this time. One of the bills would allow a person to carry a gun into a park, restaurant, wildlife area, etc. Another bill is the helmet bill where one does not have to wear a helmet when riding a motorcycle. This would increase medical costs and other issues. Tort liability issues will probably come up this year. He discussed some of the issues that will come before the House.

Alderman Billingsley stated so far the Collective Bargaining Bill had the support of Congress. The House version was adopted by a vote of 314 to 97. He asked Mr. Farris about his gut feeling on the Collective Bargaining Bill passing.

Mr. Lawton stated at the Federal level it passed the House of Representatives last year. The bill that had been introduced in Nashville this year he thought was sponsored by the International Association of Firefighters and he felt was almost a preemptive move to have state law consistent with what may come down if the Federal Legislation is adopted.

Alderman Billingsley stated it was his understanding that if it was approved at the federal level, the states will have two years to comply or it will be dictated as how they must comply.

Mr. Lawton stated the rules were already in the legislation and it calls for collective bargaining, mediation, and it dictates what size communities will have collective bargaining. He stated he understood it would take two years to get all to comply, but if your state has the legislation in place and it is consistent with what is being adopted at the federal level, then it would roll into effect immediately.

Mr. Lawton stated that this was separate legislation that had been introduced by Representative Burke in Nashville. He had introduced this particular piece of legislation that would prepare the state if the legislation is adopted in Washington.

Mayor Goldsworthy stated there had already been discussion in some cities that if the federal legislation is adopted by both houses, that there would be litigation filed immediately to challenge the constitutionality as to whether the federal government has the right to intervene in what had always been seen as a state's right. Tennessee is a "right to work state" and the imposition of this bill by the federal government would be challenged and tied up in court for a few years.

Mr. Lawton stated that as a "right to work state" in order to work in a state either public or private, you do not have to belong to any type of organization, union or otherwise, to be able to have gainful employment in Tennessee. This federal legislation will supersede all of this and dictates that you will have unionism, you will have collective bargaining and it will tell you how to negotiate it if there is an impasse.

Alderman Palazzolo stated there had been planned work stoppages and sicknesses and things that can be maneuvered even though language may not be specifically strike driven. With emergency services the city could not operate that way. He felt this city had always been management driven as opposed to a collective bargaining type citizenship.

Alderman Drinnon asked the Mayor to report on progress being made on some of these bills that affect Germantown, and that she include how each one of the legislators that represented Germantown voted.

A discussion followed on the representatives and their communication with the City.

Alderman Billingsley stated that after talking with some of the representatives and Senator Stanley he felt there were a great number of citizens that were opposed to any restrictions on citizens who have permits to carry guns. He asked that this item be deferred to the citizens of Germantown to contact their representative about this issue rather than the City. He felt it was a volatile issue that affects the rights of handgun owners.

Patrick Lawton stated there were several pieces of legislation that had been introduced that would change the current state statute and right now it was very specific in the training and issuance of the permit and how the weapon was concealed. Two of the bills cause problems in terms of law enforcement. Regarding the bill regarding the ability to carry a firearm into an establishment that is

servicing alcoholic beverages, the Tennessee Association of Chiefs of Police had gone on record in opposition of the legislation. The other bill was the one that regarded carrying handguns in the park and limiting the restrictions on the use of carrying a permitted weapon into a park. He had spoken to representatives of the Tennessee Department of Firearm Conservation and they had gone on record in opposition to that legislation. He felt there were a number of bills that the Board and administration should take a position on because of their impact on our residents. It would be the will of the Board to adopt the legislation packet or something else. Staff had tried to identify those that, as advocates of looking out for the health and safety of our residents, could best be put forward in an agenda packet.

Alderman Palazzolo asked about a letter from Chief Hall going on record against the possession of hand guns and alcohol and burden being on the prosecution of proof, the 50% rule.

Mr. Lawton explained that there was a section in the bill that deals with alcohol in restaurants that at least 60% of the revenue derived from the establishment has to come from the sale of food. It would be difficult to establish what the percentages were when trying to enforce the law.

Alderman Drinnon stated that before the City took a stand on something he felt they should show that the Board is in unison in their thinking and not the position of one or two people.

Alderman Hinely stated that her problem with the whole thing was there were so many different types of bills and they all say something different.

Inspector Lee Covey was present and discussed the state statute in regards to carrying a permitted handgun. He stated that the two bills that were being presented addressed two separate issues. One, regarding carrying a weapon inside a business that served alcohol, currently, if you have a weapon permit, you cannot carry a weapon into a location that serves alcohol. Law Enforcement is only allowed to carry a weapon inside that type of business if on official business.

The other bill presented is in regard to carrying a weapon in the parks. He stated that Chief Hall had been working with TACP regarding both these bills.

The Tennessee Association of Chiefs of Police which most of the chiefs belong to, is against this bill.

Alderman Palazzolo stated that most of the Board he felt were not against the right to bear arms but not when children are present.

Mayor Goldsworthy stated that the elected officials were tasked with providing a condition of safety and security for the people here, particularly when in public places. We control alcohol sales so it is the responsibility of the Police Department to see that such sales are legal, so we have stepped into that arena and have the responsibility that people going into parks and public spaces have some degree of safety.

The Mayor felt that at sporting events where staff and the police occasionally have to be brought in to separate adults who have lost tempers over bad calls by officials or just anger. There are situations that develop in the parks in connection with sporting events in which people may not behave in a very appropriate way and accessibility to handguns legally in these situations could end in a tragic way.

Alderman Chism stated that the abuse of officials at the GYAA was almost non-existent now. He felt that people who don't like or own guns had a different mentality than those who do.

Mr. Lawton stated the legislative agenda was not an all inclusive list because there would be other issues that come before the General Assembly that are necessary to show support one way or the other for these different bills.

Alderman Billingsley asked rather than to show support for or against, if it was the will of the body to remove one of the items on the legislative agenda list so that it does not appear to be for or against and let the citizens of the City call the representatives.

Alderman Billingsley asked for the Handgun Legislation and the Collective Bargaining and Labor Bills to be set aside for specific consideration.

Resolution 09R01 – Opposition to Collective Bargaining

Mr. Lawton stated this was the bill before the U.S. House of Representatives mandating collective bargaining and unionism federally mandated across the country.

Ordinance 2009-1 Amendment to Chapter 23 of the Code of Ordinances, Zoning – permitting Front Porches and 12-inch Encroachments – Third and Final Reading

There were no changes to the amendment.

Ordinance 2009-2 – Amendment to Chapter 20, Article IV, Section 20-189 of the Code of Ordinances regarding Automated Enforcement – Third and Final Reading

There were no changes to the amendment. This would bring us into compliance with the changes the General Assembly made and adopted July 1.

Ordinance 2009-10 – Amendment to Chapter 17, Subdivision Regulations – Alterations to Subdivision Lot Lines – First Reading/Set Public Hearing Date

Assistant City Administrator Andy Pouncey stated this amendment would allow for the manipulation of property lines within a recorded subdivision with the formalized approval of the Planning Commission.

Ordinance 2009-11 – Amendment to Chapter 23, Zoning – Planned Unit Developments – First Reading/Set Public Hearing Date

Mr. Pouncey stated this was essentially dropping the size of PUDs from three acres to one acre including the OG District and the OG-1 districts.

Library Services

Asphalt Paving and Milling Contract

CONSENT AGENDA

Amendment to Lease Agreement – Germantown Community Theatre - DEFERRED

Bulk Asphalt Mix

Fireworks Display – July Family Fourth Event

Parks and Open Space Security Cameras

Project Development Contract No. 1172 – Forest Hill-Irene Commercial Subdivision, Lot 1B

Renewal of Stop Loss

Delinquent Accounts

Professional Services Agreement for Arthur/Riggs Road Neighborhood Improvements

Alderman Palazzolo asked that this agenda item be presented under the regular agenda because he would have to recuse himself.

Recognition of Funds

Appointment to Financial Advisory Commission

Right-of-way Mowing Contract

Alderman Billingsley stated at the last board meeting the board had discussed moving the executive session to the council chambers and moving the Board meeting to an early time.

A discussion followed on the Citizens to be Heard section of the agenda as to the policy, and the time the meeting should start.

Adjournment

The meeting adjourned for the regular meeting.