

## **BOARD OF MAYOR AND ALDERMEN**

**February 9, 2009**

A regular meeting of the Board of Mayor and Aldermen was held on February 9, 2009 at 7:00 p.m. in the Council Chamber of the Municipal Center.

Mayor Sharon Goldsworthy was present and presiding.

The following Aldermen were present: Mark Billingsley, Ernest Chism, John Drinnon, Carole Hinely, and Mike Palazzolo. Staff present: Patrick Lawton, Andy Pouncey, George Brogdon, Kristen Geiger, Tom Cates, Jerry Cook, Pat McConnell, Michael Sadler, Ralph Gabb, Chief Richard Hall, Chief Dennis Wolf, Bo Mills, Derek Chaput, Tim Gwaltney, Joe Nunes and Dotty Johnson.

Mayor Goldsworthy noted the changes in the agenda: Item 10 – Ordinance 2009-3 and Item 12a – Amendment to Lease Agreement – Germantown Community Theatre be deferred. One item was added as Consent Agenda item 12d – Electrical Renovations – Police Dispatch – Change Order #1.

### **Invocation**

Managed Competition Director Michael Saddler gave the invocation.

### **Pledge of Allegiance**

Alderman Mike Palazzolo led the Pledge.

### **Approval of Minutes**

Approval is requested of the minutes of the Executive Session and Regular Meeting held January 26, 2009.

Motion by Mr. Drinnon, seconded by Ms. Hinely, to approve the minutes of the Executive Session and the regular meeting held January 26, 2009 as corrected in the Executive Session.

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

### **Citizens to be Heard**

Ms. Sarah Wilkerson Freeman, 7684 Apahon Lane, felt the codes put in place many years ago had been softened by the City in cooperation with Poag and McEwen Saddle Creek IV and the plan to build a 1.3 million square foot super dense shopping center in the midst of the residential neighborhoods. She asked why in replating the Arthur property for Poag and McEwen were the old restrictions, designed to keep local residents safe, swept away. The access to Poplar Ave. through, not to, were specifically not allowed on the old plat. She felt this was largely because too much traffic so close to family friendly neighborhoods and elementary schools is dangerous. She asked why this was dropped. She asked that the restrictions on old lot 2 of the Arthur tract be reinstated and the portion of Saddle Creek IV outline plan that allows access to Poplar Ave. through old lot 2 should be repealed for the sake of public safety. She stated the representative of Poag and McEwen, Roy Vice, had repeatedly claimed that he was an architect even though he is not registered as an architect in Tennessee and this should be reason enough to revisit and repeal this and other questionable portions of Saddle Creek IV outline plan.

### **Youth Excellence Award**

Mayor Goldsworthy presented Ms. Sarah Jane Zanone, a senior at Hutchison School with the Youth Excellence Award for January. She read some of her accomplishments and Alderman Hinely presented her with the plaque sponsored by Traditions.

### **Teacher of the Month Award**

Mayor Goldsworthy presented Ms. Wendy Pitt, a first grade teacher at Farmington Elementary with the Teacher of the Month Award for January. Alderman Hinely presented Ms. Pitt with the award. Mr. and Mrs. Ken Fluke were the sponsors for the cash award.

**Acceptance of Donation – Germantown Fire Department**

Fire Chief Dennis Wolf was presented a check for \$1,500.00 from Ms. J.J. Kerras of The 100 Club of Memphis. Chief Wolf explained that The 100 Club of Memphis is an organization that provides support for fire and police departments in the Memphis and Shelby County area. They offer assistance for families of fire and law enforcement officers killed in the line of duty.

They also serve a philanthropic arm where public safety agencies can make requests for grants to the organization for consideration. The fire department checks smoke detectors in homes during emergency calls to assure they have a working smoke detector. The fire fighters install free smoke detectors in homes for people in need.

Motion by Ms. Hinely, seconded by Mr. Drinnon, to accept a donation of \$1,500.00 from the 100 Club of Memphis to be used for the fire department's free smoke detector program and approve Budget Adjustment 09-80.

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

**PUBLIC HEARING - Ordinance 2009-1 – Amendment to Chapter 23 of the Code of Ordinances, Zoning – Permitting Front Porches and 12-Inch Encroachments – Second Reading**

Assistant City Administrator Andy Pouncey stated this amendment would enable the Director of Development the ability to grant a twelve-inch variance to eligible required yard setbacks and enable front porches to encroach into required front yard by up to ten feet.

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

Motion by Mr. Drinnon, seconded by Mr. Palazzolo, to approve Ordinance 2009-1 on second reading.

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

**PUBLIC HEARING – Ordinance 2009-2 – An Ordinance to Amend Section 20 – 189, Article IV, Chapter 20 of the Code of Ordinances regarding Automated Enforcement – Second Reading**

City Administrator Patrick Lawton stated the State of Tennessee amended the TCA Statute regarding the traffic control signals in July of 2007. The statute more clearly spells out through state law the rules and regulations to be established in the issuance of a traffic citation based upon surveillance camera evidence. The amendment to the City's ordinance will bring our City code into compliance.

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

Motion by Mr. Drinnon, seconded by Ms. Hinely, to approve Ordinance 2009-2 on second reading.

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

**Ordinance 2009-3 – Amendment to Chapter 13, Article II of the Code of Ordinances – Parks and Recreation – First Reading/Set Public Hearing Date - DEFERRED**

**Ordinance 2009-9 – Amendment to Chapter 2, Article V of the Code of Ordinances – Appointment of chairpersons to commissions – First Reading/Set Public Hearing Date**

Mr. Lawton stated this amendment would change the current practice of having the mayor to select the individual members of a particular board or commission to serve as chairperson. This is the current

practice except where dictated by state. If approved, this proposed change would allow the Board of Mayor and Aldermen to select the chairpersons for our various boards and commissions and will take effect with the appointments beginning in calendar year 2010.

Alderman Palazzolo stated in 2003 the staff and administration did some housekeeping on some of the ordinances and he asked if any changes were done to this particular ordinance at that time.

Mr. Cates stated the whole code book was updated in 2003 and this ordinance was kept the same. He also stated that the appointments of chairpersons had been in place longer than he had been City Attorney.

In response to a question from Alderman Palazzolo, Mr. Lawton stated that Alderman Chism had requested this amendment and he had worked with Mr. Cates.

Alderman Palazzolo stated there had been some discussion in the executive session over this amendment and he asked Alderman Chism to explain why he had requested this amendment.

Alderman Chism stated that since the Board selected the commissions, it would only be fair that the Board select the chairs.

Alderman Palazzolo stated that as was discussed in the executive session it had been the responsibility of the Mayor to select the chairpersons and as a courtesy and in the spirit of cooperation had always asked the Aldermen and staff to get a consensus as to who best would serve as chairperson on each commission so that the chairperson could best work with the Alderman liaison, staff, commission members and citizens. He felt that having the Board select the chairperson politics would be brought into the selection rather than taking politics out. Under the current system, he felt everything was working very well.

Alderman Palazzolo felt that currently the commission's work on a daily basis with the staff liaison more than they work with the alderman liaison. Checks and balances that have been put in place by the Mayor appointing the chairperson because that chairperson works with the Mayor's staff, not with the aldermen. In essence the Board would be picking the chairpersons who would be working with the staff and administration and that would be harder on the staff. He felt if the motivation was to make the commissions have more of voice, a compromise issue would be to have the commissions select their own chair people and that would take politics completely out of it.

He stated he would be voting against the amendment because the current mayor and previous mayors had been engaged in the process and the commissions had always worked well all these years.

Alderman Billingsley stated after asking several questions of the City Administrator, there were several inconsistencies in the ordinance that were not cleared up at the last clean-up that he felt needed to be addressed.

Mayor Goldsworthy stated that over a period of years changes were made to the ordinance that dealt with the different commissions. They were not only in different places within the Code of Ordinances, but had some variances. The amendment that was made a few years ago was to change a number of inconsistencies and make it more uniform in order to make it less confusing. Last year it was discovered that state law on the DRC and the Parks & Recreation Boards there were certain stipulations that were not realized and at that time, it was felt it was more important for the Board to be more consistent with past practices. At the time the Board felt that a more formal approach would be more helpful.

Alderman Billingsley asked if anything could be done between now and the next selection of commission members.

Mayor Goldsworthy stated when the selections were made the Board had decided to take this issue up during the new year.

Alderman Palazzolo stated in the spirit of cooperation and not interjecting politics into Board selections the Mayor had not exercised her authority to make selections to some of the commissions, she had chosen not to and he applauded her for that decision.

Motion by Mr. Chism, seconded by Mr. Drinnon, to approve Ordinance 2009-9 on first 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 and to set March 9, 2009 as the second reading and public hearing on this ordinance.

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

### **CONSENT AGENDA**

#### **Amendment to Lease Agreement – Germantown Community Theatre - DEFERRED**

#### **Uninterruptable Power Systems (UPS) for Police Dispatch**

This project will replace the existing battery UPS system in the Police Communications Control Center with one complete system that has the ability to maintain power for the entire department while transferring to generator power.

MOTION: To authorize an agreement with Computer AC, Inc., to purchase and install an uninterruptable power supply (UPS) system for the Police Communication Control Center in the amount of \$14,448.49.

#### **Purchase – Bulk Chemicals**

These chemicals are used at both the Southern Avenue and Johnson Road Water Treatment Plants. This purchase represents a semi-annual inventory of water treatment chemicals.

MOTION: To purchase fluoride from Harcross Chemicals in the amount of \$9,700.00, sodium hexametaphosphate from Carus Phosphates, Inc. in the amount of \$29,400.00 and chlorine gas from Allied Universal in the amount of \$8,160.00, for a total amount of \$47,260.00 and to approve Budget Adjustment 09-79.

#### **Electrical Renovations – Police Dispatch – Change Order #1**

This change order is necessary as per Shelby County 911 requirements. Work performed under this change order will allow correct voltage and amperage for the 911 system and separate secondary power between the City and Shelby County 911.

MOTION: To approve Change Order #1 from Advanced Electric in the amount of \$11,900.00.

Motion by Ms. Hinely, seconded by Mr. Drinnon to accept all the items on the consent agenda.

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

Mayor Goldsworthy stated that during the executive session Alderman Billingsley had asked to be recognized regarding the Reserve Police Officers.

Alderman Billingsley asked the Board to support and allow the reserve police officers, reserve firefighters, and reserve park rangers to utilize the Germantown Athletic Club by giving complimentary membership in recognition of their volunteer service to the City of Germantown. The Reserve Police Officers are required to complete over 100 hours of initial training as well annual in-service. In 2008, 24

Reserve Police Officers donated 3,923 hours resulting in savings of \$108,000.00 to the City. The Reserve Fire Fighters are required to complete initial training and in-service training. The 9 Reserve Fire Fighters average 340 hours of service per year including their training and other calls. The Parks & Recreation Department has two Reserve Park Rangers who donate 225 hours in 2008 and saved the City \$4,410.00. He asked for the Board's unanimous consent in approving this suggestion. This would specifically be single member usage and would not allow any membership unless purchased by the respective reserves and would require the Reserve officers to utilize the Athletic Club in the same nature as the full time officers.

In response to a question from Alderman Drinnon, Mr. Lawton stated the current employees do have the same privileges and under this new policy, the City employees are allowed to use the Athletic Club and the General Fund will send over the Athletic Club a portion that will equal their single membership payment. They are required to use the facility at least eight times per month.

Alderman Palazzolo asked about any budgeting in the analysis.

Mr. Lawton stated there would be and he would like to confer with the financial staff to see how the transfer of funds would occur and he would get back with the Board.

Alderman Palazzolo noted that the Police Department and the Fire Department both had weight equipment and any policeman or fireman has access to this equipment.

Motion by Mr. Chism, seconded by Ms. Hinely, to make available to the Reserve Police Officers, Fire Fighters and Park Rangers the Germantown Athletic Club on the same terms as available to full-time City employees.

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

Alderman Palazzolo note that in the executive session Alderman Billingsley had brought forth a good point and that was for the Board to be more accessible and have the executive session broadcast on GHSTV.

A discussion followed on doing away with the executive session and to bring all the discussion to the Council Chambers. The time of the meeting was also discussed and will be discussed at a later date.

#### **ADJOURNMENT**

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

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Sharon Goldsworthy, Mayor

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Dotty Johnson, City Clerk/Recorder