

BOARD OF MAYOR AND ALDERMEN

February 13, 2012

A regular meeting of the Board of Mayor and Aldermen was held on February 13, 2012 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, John Drinnon, Greg Marcom, Mike Palazzolo and Ernest Chism. Staff present: Patrick Lawton, Attorney Eric Plumley, Kristen Geiger, George Brogdon, Bo Mills, Tim Gwaltney, Butch Eder, Chief Richard Hall, Chief John Selberg, Michael Stoll, Ralph Gabb, Becky Schultz and Dotty Johnson.

Call to Order

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

Invocation

Public Services Director Bo Mills gave the invocation.

Pledge of Allegiance

Alderman Mark Billingsley led the Pledge of Allegiance.

Approval of Agenda

Mayor Goldsworthy announced that during the executive session, the Board had agreed to move the following four items to the Consent Agenda: #14 – Lake Maintenance Services, #15, Herbicide & Fertilizer Treatment Services; #16 - Fourth of July Fireworks and #17 – Purchase of Furniture for Emergency Backup communications Center.

The Mayor also suggested moving #18 - Poplar Grove PUD Street and Infrastructure Conversion Agreement to just after #8 – Citizens to be Heard, since there was a large delegation from Poplar Grove in attendance.

Motion by Mr. Palazzolo, seconded by Mr. Marcom, to approve the agenda amended.

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

Approval of Minutes

There were no corrections or additions to the minutes.

Motion by Mr. Drinnon, seconded by Mr. Palazzolo, to approve the minutes of the regular Board of Mayor and Aldermen Meeting held January 23, 2012.

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

Presentation of Patriot Award

City Administrator Patrick Lawton stated the Department of Defense has a program entitled Employer Support of the Guard and Reserve Program (ESGR) where employees throughout the country can nominate their managers or supervisors who have demonstrated and shown support for their military service in the reserves. Germantown Firefighter Charles Jones nominated his Lieutenant, Chris McPhaul for this award. Lt. Jones is presently serving in Kuwait with the Army Reserves. He then introduced Ms. Mary Ann Epperson with the Department of Defense who made the presentation.

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Recognition of Donation – Heritage Womans Club

Community Services Division Director George Brogdon stated the Heritage Womans Club had donated \$3,000.00 toward the new roof at the John Gray House. This club consists of a small group of ladies who have had a long and distinguished history of investing in the community. Ms. Louise Bagby, the chairman of the Historic Commission and a member of the Club was recognized for her leadership in getting the repairs made to the John Gray House and for her care and nurturing of historic facilities and programs in conservation which would not have been possible without her vision, spirit and fortitude.

Members of the Heritage Womans Club came forward and presented the Mayor with the check for \$3,000.00.

Citizens to be Heard

No citizens came forward.

Poplar Grove PUD Street and Infrastructure Conversion Agreement

Economic and Community Development Director Any Pouncey stated this was an agreement between the City and the Poplar Grove Planned Unit Development for the conversion of their streets and infrastructure from private to public ownership. Mr. Pouncey gave some background on the development.

The Poplar Grove Homeowners Association (HOA) requests final approval of the conversion of their private streets, curbs, storm drains, sanitary sewers and water lines to public streets and infrastructure. The agreement describes in detail the infrastructure that is to become public and what is to remain private.

The agreement had been reviewed and approved by City Attorney Tom Cates.

Motion by Mr. Billingsley, seconded by Mr. Drinnon, to approve the agreement regarding conversion of private streets and appurtenances to public for the Poplar Grove PUD.

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

Dedication of City Property – Germantown Veterans Recognition Committee

Mr. Pouncey stated the Parks and Recreation Commission had reviewed and approved the request of the Germantown Veterans Recognition Committee. The approved motion read “to recommend to the Board of Mayor and Aldermen their support and approval for the Veteran’s Committee’s plan to create a place of remembrance and education at the Circle Plaza located in Municipal Park within the next three years and include the first right of usage for this project.”

The mission of the Committee is to create community venues that provide a forum for recognizing, celebrating, honoring and remembering these citizens in five distinct resident constituencies: Active Duty, Veterans, The “Fallen”, Purple Heart and Missing in Action (MIA). An associated action plan is to design and construct a permanent, physical reminder of our residents’ military service once an appropriate setting has been chosen and secured for such purpose.

The Committee understands that if approval is granted to the use of the space, they must then submit their design for approval to the Parks and Recreation Commission who will then forward it for final approval to the Board of Mayor and Aldermen. It is the Committee’s intention that upon the dedication of this project, it will be turned over to the City in perpetuity for maintenance and care.

In response to a question by Alderman Drinnon, Mr. Pouncey stated there would be no conflict with parking or with the expansion of the library.

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Motion by Mr. Drinnon, seconded by Mr. Marcom, to dedicate a portion of City property in Municipal Square for a place of remembrance and education to be designed, constructed and funded by the Germantown Veterans Recognition Committee within the next three years and include the first right of usage of this space for this project.

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

Establishment of Municipal School System

City Administrator Patrick Lawton stated the Board was asked to adopt the feasibility study regarding the establishment of a municipal school system for the City of Germantown as prepared by the consultants, Southern Educational Strategies, and to move forward with the establishment of a municipal school system for the City of Germantown.

The Memphis and Shelby County Unified School Board, under a plan soon to be proposed by the 21-member Transition Planning Commission, will move to consolidate the City of Memphis and Shelby County school system in August 2013. The City of Germantown, under the authority granted to it by Public Chapter 1, is also interested in the establishment of a municipal school system. In September 2011, the City contracted with Southern Educational Strategies to conduct a feasibility study to outline for the Board and the City administration the legal and regulatory, operational and fiscal requirements to be addressed in the establishment of a municipal school system.

The consultant's findings delivered in January 2012 conclude that it is feasible for the City of Germantown to operate a municipal school system and address all of these requirements.

Since the presentation of the study on January 16, the City has taken several initiatives to advance this issue and educate and inform the community including:

- Action by the Board of Mayor and Aldermen on January 23, 2012 authorized the Mayor and the administration to begin discussions with the Transition Planning Commission and the Shelby County School Board regarding student enrollment, the use of facilities, and cooperative educational agreements.
- The consultant's full report is currently on the City's website along with the development of several mechanisms to solicit public feedback on this issue.
- Conducted a town hall meeting to again present the findings contained within the feasibility study and solicit public comments and questions.
- During the Board of Mayor and Aldermen annual retreat the Board discussed with the educational consultants the various decision points, impacts on the community and the ramifications the establishment of a municipal school system would have on our community.

At the conclusion of the retreat and strategic planning session, the Board of Mayor and Aldermen indicated support to move forward based upon their understanding of the funding requirements, the ability to have local control of all of our schools, and the ability to maintain stability.

Based on these findings, the administration recommends that the Board move to adopt the feasibility study as presented and to proceed with the establishment of a Germantown Municipal School System.

Alderman Drinnon added that "if the City is going to have to do this, let's make it the best as possible and to keep politics out of it."

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Motion by Mr. Marcom, seconded by Mr. Drinnon, to adopt the feasibility study as presented by Southern Educational Strategies for the development and operation of a Germantown Municipal School System and to proceed with the establishment of a Germantown Municipal School System.

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

Ordinance 2012 – 1 – Place on Ballot – Germantown Public School System – First Reading and Set Public Hearing Date

Mr. Lawton stated, with the establishment of a municipal school system, there are certain legal and regulatory requirements to be addressed by the Board of Mayor and Aldermen. The issue of whether or not the City of Germantown will have a municipal school system must be placed before the registered voters within Germantown corporate limits in the form of a referendum. The only body that can initiate this action is the Board of Mayor and Aldermen through the adoption of an ordinance on three readings and a public hearing authorizing the creation of a municipal school system. Embedded within the ordinance is the referendum question that will be placed before the electorate in a special called election on May 10, 2012. The referendum question is as follows:

“Shall the City of Germantown create a municipal school district that shall meet the standards of adequacy established by applicable State law and regulation, which standards include raising and spending each year the required amount of local funds for the operation of the municipal school district that, for calculation purposes only, would be at least be equal to the amount that would be raised through a 15 cent tax levy on each \$100 of taxable property for each year if all such taxes were collected?”

In order to notify the Election Commission in ample time to place the question on the May 10 ballot, the following is the proposed schedule for consideration of this ordinance: February 13, tonight, first reading set public hearing date; February 27, second reading; March 5, third reading/public hearing – Please note, this is a special called meeting of the Board of Mayor and Aldermen.

Motion by Mr. Marcom, seconded by Mr. Billingsley, to approve Ordinance No. 2012-1 on first reading and set March 5, 2012 as the public hearing date to consider this ordinance to add a new section 18-76 to the Code of Ordinances of the City of Germantown authorizing the creation and funding of a municipal school district in the City of Germantown and to submit the proposed ordinance to the qualified voters of the City of Germantown at a special referendum to be held on May 10, 2012.

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

Ordinance 2012 – 2 – Increase Local Option Sales Tax and Place Question on Ballot – First Reading and Set Public Hearing Date

Mr. Lawton stated the feasibility study presented the fiscal requirements necessary to establish, fund and sustain a municipal school system. The study demonstrated that the proposed budget for the municipal school system could be funded primarily through the dollars that come from the State of Tennessee under the Basic Education Program (BEP), and county tax dollars paid by all property owners within the county under the established average daily attendance (ADA) formula. Those two sources would generate approximately 95% of the funds necessary to operate the Germantown municipal school system on an annual basis.

The remaining funding would come in the form of a proposed increase to the local option sales tax of ½ cent. State law requires that a municipality is required to spend an amount equal to 15-cent levy on the local property tax rate. Based upon Germantown’s assessed value, a 15-cent property tax increase would generate 2.2 million dollars. A ½ cent sales tax to the local option sales tax based on five years’ worth of historical data would generate 2.4 million dollars.

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The ordinance before the Board proposes to increase the local option sales tax as the method necessary to meet this State requirement and bridge our funding gap. This increase to the local option sales tax would hit the State's statutory limit of 2.75%.

An increase to the local option sales tax must be by an approved referendum of the people. Only the Board of Mayor and Aldermen can initiate this action and be in compliance with State law. The ordinance before you on first reading is the first step in this process. The three readings will mirror the calendar earlier established for the establishment of a municipal school system with the public hearing scheduled for March 5.

“Shall Germantown Ordinance No. 2012-2, which increases the municipality's sales tax from 2.25% to 2.75%, except where the sales tax is limited or modified by statute, be approved?”

Motion by Mr. Chism, seconded by Mr. Drinnon, to raise the sales and use tax in the City of Germantown from 2.25% to 2.75% and to request a referendum of the people to approve the ordinance.

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

Forest Hill-Irene Road Improvements

City Engineer Tim Gwaltney came forward and explained there are three locations on the west side of Forest Hill-Irene Road (FHI) that are unimproved. A ninety-eight feet length across the Stone Creek frontage, a one hundred eighty feet length across the Germantown Theater frontage and a two hundred sixteen feet length across the Guckert/London Park frontage. Due to the intersection improvements and completion of Fire Station 4, these unimproved areas of FHI are a safety concern. Upon completion, FHI will be a consistent width from Poplar Ave. to Poplar Pike, providing a much safer driving environment.

In response to a question from Alderman Marcom, Mr. Gwaltney stated they should be ready to begin construction in four to six weeks and hopefully end at the same time the intersection improvements are done which is in June.

Motion by Mr. Drinnon, seconded by Mr. Chism, to authorize the Mayor to execute a contract with Ferrell Paving, Inc. in the amount of \$187,987.85 for construction of roadway improvements to Forest Hill-Irene Road between Poplar Ave. and Poplar Pike and the southeast corner of Forest Hill-Irene Rd. and Forest Hill Lane and approve Budget Adjustment No. 12-67.

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

Lake Maintenance Services – MOVED TO CONSENT

Herbicide & Fertilizer Treatment Services – MOVED TO CONSENT

Fourth of July Fireworks – MOVED TO CONSENT

Purchase of Furniture for Emergency Backup Communications Center – MOVED TO CONSENT

CONSENT

Farmington Tennis Fencing

The existing fence was installed in the mid 80's and over time has become unsightly and unsafe due to the amount of use and rust. The cost, not to exceed \$15,902.00, will replace the chain link fencing and wind screen surrounding the tennis courts at Farmington Park.

MOTION: To contract with West Memphis Fence for the replacement of fencing and wind screen at the Farmington tennis courts in the amount not to exceed \$15,902.00.

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Recognition of Donation – Parks and Recreation

Shegufta Dismukes donated \$1,000.00 and the Germantown Charity Horse Show donated \$900.00 for the special event, Sweet Treats with Santa, developed by the Parks and Recreation Department.

MOTION: To recognize a donation made to the Parks and Recreation Department for a special event totaling \$1,900.00 and to approve Budget Adjustment No. 12-69.

Recognition of Funds – Germantown Chamber of Commerce

The City paid the entire cost of the joint process and mailing of the City calendar and the Chamber's Germantown magazine. As a result of an agreement with the Chamber, the City was reimbursed for half of this expense.

MOTION: To recognize the reimbursement funds from Germantown Area Chamber of Commerce for processing and mailing of the 2012 Germantown Magazine and approve Budget Adjustment No. 12-66.

Recognition of Donation – 100 Club to Fire Department

The 100 Club of Memphis approved a request from the fire department for \$1000.00 to be used to purchase 10 smoke detectors for the hearing impaired and a portable audiovisual rack for the LAFS Clown program to be used for fire safety presentations, such as in the schools.

MOTION: To accept a donation of \$1,000.00 from the 100 Club of Memphis to be used to purchase smoke detectors for the hearing impaired and an audiovisual rack for the LAFS Clown Program, and approve Budget Adjustment No. 12-70.

Recognition of Donation - Germantown Community Library

Organizations and individuals have contributed donations to the Germantown Community Library totaling \$2,284.32 and to the Germantown Regional History and Genealogy Center in the amount of \$470.00.

MOTION: To recognize the donations made to the Germantown Community Library by the Friends, the Heritage Womans Club, the Shelby County Republican Women's Club, and many individuals in the amounts of \$470.00 to the GRHGC and \$2,284.21 to the GCL and to approve Budget Adjustment No. 12-63.

Utility Adjustment

When the Germantown United Methodist Church purchased the property at 2338 S. Germantown Road in 2009, the water services were set up and a sanitation fee was charged. Churches and businesses are required to contract with a provider for sanitation. A refund of the sanitation charges in the amount of \$530.15 is being requested.

MOTION: To refund the sanitation charge to the Germantown United Methodist Church in the amount of \$530.15.

Southern Educational Strategies Schools Consulting Contract

Administration recommends the Board consider engaging the services of Southern Educational Strategies through the form of a retainer to ensure that various state, statutory and Board of Education legal requirements are addressed to the letter of the law.

MOTION: To authorize the Mayor to execute a contract with Southern Educational Strategies regarding the ongoing assistance with the development of a municipal school district within the City of Germantown. Said contract prior to execution by the Mayor will be subject to review and approval by the city attorney's office.

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Lake Maintenance Services

In 2009, Aqua Services, Inc. was contracted to provide a lake management program at an annual cost of \$25,069.20 for eight treatments of nine locations. Contract services included maintenance and repairs of all lake fountains, pumps and water features along with a quantitative aquatic weed control maintenance program performed on a monthly basis with follow up as needed.

MOTION: To enter into a three-year lake maintenance services contract with Aqua Services, Inc. for eight monthly herbicide and lake colorant applications and twelve monthly maintenance services on all pumps, fountains and water features at ten locations at an annual cost of \$23,395.00.

Herbicide & Fertilizer Treatment Services

The previous contract services consisted of three herbicide applications on thirty-six linear miles of right-of-ways. Five herbicide applications and three fertilizer applications were applied on selected athletic fields, medians and municipal grounds. An additional bid was requested for the application of Talstar for the control of army worms on forty-one acres of athletic fields.

Staff is entering into a pilot program with Herbi-Systems consisting of herbicide application along seven acres of ditch banks to minimize labor cost of maintaining growth and improve the aesthetics of the ditch banks. This pilot program will be funded from the stormwater operating budget at an annual cost of \$2,625.00.

MOTION: To enter into a three-year herbicide & fertilizer treatment contract with Herbi-Systems Inc. at selected athletic fields, medians, municipal grounds, right-of-ways and ditch banks throughout the City at an annual cost not to exceed \$61,023.40.

Fourth of July Fireworks

This is a new contract with Pyro Shows, Inc. to provide an electronically fired aerial fireworks display for the July Family Fourth event held at Municipal Square Park.

MOTION: To authorize the Mayor to enter into a new contract agreement with Pyro Shows, Inc. for the July 4, 2012 fireworks display in the amount of \$16,500.00.

Purchase of Furniture for Emergency Backup Communications Center

The Communications Center furniture is to be purchased from Integrated Communications, Inc. which is the sole authorized dealer in the Mid-South of Russbassett furniture at a cost of \$41,668.71. The furniture being purchased consists of four state of the art dispatch modules with 90 degree hydraulic lifts, with mounts for up to eight monitors, a 911 Rotary for easy accessibility to needed emergency manuals, maps and log books and a centralized location for all printers.

MOTION: To purchase furniture for the Emergency Backup Communications Center and to approve Budget Adjustment No. 12-65.

Motion by Mr. Billingsley, seconded by Mr. Drinnon, to accept the consent agenda as read.

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

ADJOURNMENT

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