

BOARD OF MAYOR AND ALDERMEN

March 26, 2012

A regular meeting of the Board of Mayor and Aldermen was held on March 26, 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 and Ernest Chism. Alderman Mike Palazzolo was absent. Staff present: Patrick Lawton, Tom Cates, Kristen Geiger, George Brogdon, Bo Mills, Chief Richard Hall, Chief John Selberg, Michael Stoll, Ralph Gabb, Tim Gwaltney, Wade Morgan, Butch Eder, Tony Fisher, Susan Hobson, Lisa Piefer and Dotty Johnson.

Call to Order

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

Invocation

Parks and Recreation Director Pam Beasley gave the invocation.

Pledge of Allegiance

Alderman Greg Marcom led the Pledge of Allegiance.

Approval of Agenda

Mayor Goldsworthy announced that during the Executive Session, the Board had unanimously agreed to an add-on for a contract for the demolition and removal of debris on the property at 2070 Brierbrook Rd.

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

ROLL CALL: Marcom–yes, Drinnon–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. Marcom, to approve the minutes of the regular Board of Mayor and Aldermen Meeting held March 12, 2012.

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

Beautification Commission Business Award

Mayor Goldsworthy and Brandy Miller, a member of the Beautification Commission, came forward and presented the Beautification Commission March Business Award to The Advanced Dermatology Clinic located at 7658 Poplar Pike. Ms. Brandy Miller accepted the award on behalf of the Clinic.

Youth Excellence Award

Mayor Goldsworthy and Alderman Ernest Chism presented Ms. Sarah Nails, a senior at Houston High School, with the Youth Excellence Award for the month of February.

Teacher of the Month Award

Mr. Kevin Carter, a teacher of landscaping, turf management, wildlife management and principles of agriculture at Houston High School, was presented with the Teacher of the Month award for the month of February. Dr. Paul Mormon of Eye Care East sponsored the award.

Board of Mayor and Aldermen

March 26, 2012

Page 2

Citizens to be Heard

Mary Anne Gibson, 8688 Pepper Bush Lane, thanked the Board and staff for the work on the Farm Park. She stated she was excited about the use of the land and how it will benefit all citizens in Germantown.

Jim Benton, 8183 Cherryfield Lane, thanked the staff and one of the staff members at the Athletic Club for their professionalism and courtesy to its members. He expressed his concern regarding the discontent of the membership over the closing of the entrance to the exercise room.

Appointment of Assistant City Attorney/Senior Prosecutor

Mr. Tom Cates stated he had served as the City Attorney for many years and during those years, the Assistant City Attorney and Police Advisor had been filled by one person. With the resignation of the former Assistant City Attorney, Mr. Cates and the City Administrator Patrick Lawton determined it would be best to have different persons serving in the positions of Assistant City Attorney/Senior Prosecutor and Police Advisor. Several people approached the City Attorney or the Administration expressing interest in filling the position and were referred to the City Attorney. Mr. Cates requested applicants to submit applications stating their qualifications. Eight people applied. The law states lawyers experienced in criminal defense work in private practice would not be able to serve as prosecutor in City Court unless they were willing to give up their private practice of criminal law. Several applicants had a practice involving civil litigation, but do not have recent, or any, experience in criminal defense work and were not considered a qualified applicants for the position.

Mr. Cates stated he was of the opinion three applicants were qualified for the position of Assistant City Attorney/Senior Prosecutor and they were: Charles W. Bell, Jr., Christopher L. Nearn and Jennifer Smith Nichols. He gave a brief summary of each of their qualifications and stated this was a part-time job with a salary of \$18,000.00 per year with no benefits.

Motion by Mr. Chism, seconded by Mr. Drinnon, to appoint Christopher Nearn as Assistant City Attorney/Senior Prosecutor for the City of Germantown at an annual salary of \$18,000.00.

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

Appointment of Assistant City Attorney/Police Advisor

Mr. Cates stated he had been acquainted with the applicant for some time. The applicant had served as an active criminal defense lawyer for many years which makes him very qualified to advise the police staff both to ensure successful prosecutions and the protection of the rights of the accused. Mr. Cates stated he had discussed this appointment with the senior staff of the City's Police Department and they are well acquainted with Mr. Mark McDaniel and concur with the City Attorney that he should be recommended for this position.

Motion by Mr. Drinnon, seconded by Mr. Marcom, to appoint Mark S. McDaniel as Assistant City Attorney/Police Advisor for the City of Germantown at an annual salary of \$9,000.00.

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

Public Hearing – Temporary Beer Permit – Leadership Germantown Trivia Night - Deferred

Public Hearing – Ordinance 2012 -3 Amendment to the Location Requirements for Private Swimming Pool Equipment – Second Reading

Chief Planner Wade Morgan stated this was the second reading of this amendment that deals with swimming pool appurtenances and accessories. The proposed revisions to the ordinance will: 1) limit the

Board of Mayor and Aldermen

March 26, 2012

Page 3

area covered by pool equipment to 70 sq. ft. in total ground coverage within the required side yard setback area; 2) limit the equipment to 4 ft. in height at any point within the required side yard setback area; and 3) require the equipment within the required side yard setback area be screened from the street by a solid, sight-proof fence of wood, masonry or stone (not chain link, plastic, etc.)

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

Motion by Mr. Marcom, seconded by Mr. Drinnon, to approve Ordinance No. 2012-3 on Second Reading.

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

Subdivision Development Contract No. 500 – The Elysium PUD

Mr. Morgan stated this was a new development of a PUD that has 47 lots for single family detached dwellings that range in size from 4,800 square feet to over 1 acre. Approximately 8.26 acres of common open space with recreational amenities will be provided for the use of residents. Approval of the Development Contract will permit the developer to file construction plans for the actual development of the project.

Bob Dalhoff, of Dalhoff Thomas Designs, stated it had been a pleasure working with staff through this process. He stated it had been very well received by the public and they were up to presales of 18 lots and at the end of the week should have 22 presold lots.

Motion by Mr. Billingsley, seconded by Mr. Drinnon, to approve Development Contract No. 500 for the Elysium Planned Unit Development.

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

BLFP Construction Contract

Community Services Division Director George Brogdon stated this agenda item was for the construction of Phase I development and improvements to the Bobby Lanier Farm Park (BLFP). To comply with LPRF Grant guidelines, the City must proceed with construction and public access of this site by this summer. The primary feature in the first phase of this project will be known as the “BL Farm Park Community Gardens.” There were 12 vendors that attended the mandatory pre-bid meeting and four competitive bids were received.

Mr. Brogdon gave special recognition to Butch Eder, Lisa Piefer, Dean Thomas and the people of Dalhoff Thomas Design, Bo Mills and Pam Beasley who had worked very hard to fine tune what would be done with the first phase.

Parks and Recreation Director Pam Beasley gave a brief description of what was included in the first phase. Which will include the emergency access road, construction of the garden area and restoration of the orchard. Future phases will include construction of on-site public restrooms, completion of public utilities, restoration of the buildings/structures, signage and development of a composting area and other educational stations.

Motion by Mr. Billingsley, seconded by Mr. Drinnon, to authorize the Mayor to enter into a contract with Barnes and Brower Inc. for the construction of Phase I development and improvements to the Bobby Lanier Farm Park in the amount of \$338,096.74.

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

Board of Mayor and Aldermen

March 26, 2012

Page 4

Construction Contract – Farmington Blvd. Reconstruction Phase II (Allenby to Germantown Rd.)

City Engineer Tim Gwaltney stated phase I of Farmington Blvd. reconstruction was from Wolf River Blvd. to Allenby Road and was 100% federally funded. Phase II will be from Allenby Road to Germantown Road and will be funded through Local Surface Transportation Program funds (80% federal/20% local funds).

Three bids were publically opened and read on February 21, 2012. However, two of the three bidders were deemed non-responsive due to irregular bid bond forms. Therefore, Ferrell Paving, Inc. was the lowest and only responsive bidder at an amount of \$3,131,182.00. TDOT's concurrence was received to award the contract to Ferrell Paving, Inc. Ferrell Paving was the contractor for the Farmington Reconstruction Phase I project and the City is confident in their ability to provide the necessary resources to complete this project on time, on budget and with the least amount of disruption as possible.

In response to a question from Alderman Marcom, Mr. Gwaltney stated the replacement of the asphalt median curbs will be with concrete.

Motion by Mr. Marcom, seconded by Mr. Drinnon, to authorize the approval of a Construction Contract with Ferrell Paving, Inc. in the amount of \$3,131,182.00 for Farmington Boulevard Reconstruction Phase II and to approve Budget Adjustment No. 12-89.

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

Professional Service Agreement – Construction Engineering & Inspection (CEI) – Farmington Blvd. Reconstruction Phase II (Allenby to Germantown Rd.)

Mr. Gwaltney stated in September of 2010, the City entered into a contract with the Pickering Firm, Inc. to provide the design services for this project. Now that we are at the Reconstruction Phase II of Farmington Blvd., we have requested and received a fee proposal from Pickering for CEI services. Phase II will be funded through Local Surface Transportation Program funds (80% federal/20% local funds). Upon receipt of payment requests from the consultant, the City will verify and pay the requested amount then send proof of payment to TDOT for reimbursement.

Motion by Mr. Marcom, seconded by Mr. Drinnon, to authorize the approval of a Professional Services Agreement with The Pickering Firm, Inc. in the amount of \$300,000.00 for construction Engineering and Inspection services related to Farmington Boulevard Reconstruction Phase II and to approve Budget Adjustment No. 12-90.

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

Professional Services Agreement – Design of Shady Creek Weir Replacement

Mr. Gwaltney stated, the Board authorized a Professional Services Agreement with Askew Hargraves Harcourt & Associates, Inc. (A2H) in 2004, to determine the causes of the failing spillway and prepare construction plans for the repair. In 2005, the project was advertised and the lone qualified bid was double the estimated construction cost and was officially rejected. The existing weir structure has deteriorated through the years and is in need of immediate replacement.

In January of this year, the City entered into a Professional Services Agreement with A2H to re-evaluate their previous design to ensure the feasibility with current budget of \$700,000. Under this agreement, A2H developed alternatives that met the City's needs structurally and hydraulically, yet may not be as aesthetically pleasing as the previous proposed structure.

Board of Mayor and Aldermen

March 26, 2012

Page 5

This is a Professional Services Agreement with A2H for the final design of the chosen alternative at a cost of \$41,440.00 for the replacement of the Shady Creek Detention Pond spillway.

Motion by Mr. Drinnon, seconded by Mr. Marcom, to authorize the approval of a Professional Services Agreement with Askew Hargraves Harcourt & Associates, Inc. in the amount of \$41,440.00 for the replacement of the Shady Creek Detention Pond Spillway.

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

CONSENT AGENDA

Appointment to Financial Advisory Commission

There is a vacancy on the FAC and Mr. Sudhir Agrawal has expressed a desire to serve on this commission.

MOTION: To approve the appointment of Mr. Sudhir Agrawal to serve on the 2012 Financial Advisory Commission.

Purchase – Cement Treated Base

This is for the semi-annual purchase for cement treated base mix used for street, storm water and utility maintenance repairs. The mix will be picked up at the production plants by City crews as needed.

MOTION: To authorize the purchase of 2,000 tons of cement treated base mix from Standard Construction Co., Inc. and APAC-TN, Inc. in the amount of \$45,500.00.

Grant to GPAC for Consulting Services

The Germantown Performing Arts Centre Foundation is requesting a grant in the amount of \$20,000 to engage the services of The North Group to create a business plan for a renovated/expanded GPAC.

MOTION: To transfer \$20,000.00 from GPAC line item to the Germantown Performing Arts Centre Foundation for the payment of services provided by the North Group.

ADD-ON

Contract for demolition and removal of debris on the property at 2070 Brierbrook Rd.

On August 4, 2011 a fire heavily damaged the property at 2070 Brierbrook Rd. owned by William and Janet Budrow. The investigation into the cause of the fire was prolonged and the damaged structure with debris remained unchanged while the investigation was ongoing. On March 7, 2012, the Fire Marshal's office issued a final report.

Code Compliance issued a notice of violation of Germantown ordinances on February 3, 2012. This notice included a violation of Chapter 9, Section 65 that required the repair or demolition of the structure. A subsequent notice was issued on March 7, 2012 citing a violation of TCA Code 113 related to the accumulation of debris, trash and litter, etc. that endangers the health, safety and welfare of the citizens of the City. Under this code, the owner has ten days to remedy the situation or the City can enter the property and take action to remedy the existing condition with the cost being assessed to the property owners. The notice did include the right to a hearing relative to the notice with the City Engineer. The property owner did request the hearing and it is scheduled for Wednesday, March 28, 2012.

To protect the health and safety of the citizens in the City, the City initiated a competitive bid for demolition of the remaining structure, the removal of the debris and the grading, seeding/sodding on the lot to prevent erosion.

Board of Mayor and Aldermen

March 26, 2012

Page 6

MOTION: To authorize the Mayor to enter into an agreement with B&C Construction for the demolition of the structure and removal of the debris on the property located at 2070 Brierbrook Rd. in the amount of \$22,500.00.

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

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

ADJOURNMENT

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

Sharon Goldsworthy, Mayor

Dotty Johnson, City Clerk/Recorder