

BOARD OF MAYOR AND ALDERMEN

June 22, 2009

A regular meeting of the Board of Mayor and Aldermen was held on June 22, 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, and Dotty Johnson.

Invocation

Assistant City Administrator George Brogdon gave the invocation.

Pledge of Allegiance

Alderman Mark Billingsley led the Pledge.

Approval of Agenda

Mayor Goldsworthy noted changes in the agenda, #5- Beautification Business Award, Deferred; #18c – GRHGC Digitization Project, Removed; #18e Public Relations – Germantown Athletic Center, Removed; and #18h – Appointments to Youth Commission, Deferred.

Alderman Drinnon stated he would like to introduce a motion at some point of the evening on an item that is not on the agenda. The Board agreed to add the item after number 17.

Alderman Billingsley asked that item 18d – Donation – Great Hall-Ashley Furniture, on the consent agenda be moved to the regular agenda due to a conflict. The Board agreed to add the item as 17b. He also asked for a group discussion relative to guns in parks. This was agreed to be added as 17c.

Alderman Hinely asked to defer item 18g on the consent agenda, the appointments to the Education Commission. She felt as alderman liaison she would like to give the citizens more time to apply.

The Board also agreed to move item 17 – Professional Services Agreement – Obsidian Public Relations to the consent agenda.

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

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

Approval of Minutes

Alderman Hinely noted on page 5, under #3, the second sentence the word *it* should be *it's*.

Alderman Billingsley stated that after the Citizens to be Heard, on page 3 of the minutes, he had made a number of comments relative to that and he asked that those comments be added verbatim and stated he would defer to Alderman Hinely who also made a number of comments at the conclusion of that and she had no comment either. He also noted that on page 12 relative to the discussion on Lateral E and Lansdowne improvements that he had made a number of comments he felt were significant to be included in the minutes and asked that his comments relative to Lateral E be added verbatim.

Motion by Mr. Chism, seconded by Mr. Drinnon, to approve the minutes of the Board of Mayor and Aldermen meeting held June 8, 2009 as amended.

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

Beautification Business Award - DEFERRED

Citizens to be Heard

Sarah Freeman, 7684 Apahon Lane, wanted to bring to the Board's attention public safety and access to the Smart Code developments. She also wanted to know more about the pedestrian access to these developments.

Michael Walker, 6815 Talison Cove, Memphis, spoke representing Germantown Community Theatre. He was the newly elected Board President and on behalf of the Board he thanked the City for continued support. The Community Theatre had partnered with the City for four years with an outreach program and the program had grown from 81 children to 232 from this past season. The matinee program for school children during the holidays had done "Madeline's Christmas" and had drawn 2,155 children from public and private schools. They also produce a free outdoor musical once a year.

Frank Adams, 2207 Prestwick Drive, thanked the Board and commended the City for a balanced budget and not raising the taxes. He also thanked the Board for their continued support for the arts program. Mr. Adams felt that the Municipal Park was the perfect place for the public amphitheater. There is parking, access, and it is consistent with the master plan and the Town Hall concept. He felt Morgan Woods had problems because of the trains and parking and other problems.

BEER BOARD

PUBLIC HEARING – Beer Permit Application – Mellow Mushroom – 3075 Village Shops Dr., Suite 25

City Administrator Patrick Lawton stated a new eating establishment in the Shops of Forest Hill called the Mellow Mushroom had requested approval of a permit to sell beer for on-premise consumption.

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

Motion by Mr. Drinnon, seconded by Ms. Hinely, to approve the request from the owners of Mellow Mushroom located at 3075 Village Shops Drive, Suite 25, for a permit to sell beer for on-premise consumption.

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

BOARD OF MAYOR AND ALDERMEN

09R09 – Resolution on Revenues

Assistant City Administrator Kristen Geiger stated the Board was asked to authorize the various fees, rates and other revenue structures of the City. Since the codification of the City's Code of Ordinances, ordinances have been drafted to exclude dollar amounts of fees and rates. The purpose of this action is to consolidate all revenue authorizations into a single document. This resolution is expected to be revised and adopted each year concurrent with the adoption of the annual budget.

Motion by Mr. Palazzolo, seconded by Ms. Hinely, to adopt the Resolution on Revenues – 09R09, and schedules establishing the rate, fines and fees in the various funds of the City of Germantown for the FY10 Operating Budget.

In response to a question from Alderman Palazzolo, Mr. Chaput, the Director of the Germantown Athletic Club noted that the fees charged to a group of citizens referred to as Super Seniors had been grandfathered in. There were about 80 that had been classified in that group and they would continue with that fee but new members would not have that classification.

Ms. Geiger, in response to a question from Alderman Billingsley, stated there was not an anticipated fiscal impact of last year's fees compared to this year's fees. She stated a lot of the fees were just adjustments. Some fees were adjusted just to keep pace.

Motion by Mr. Palazzolo, seconded by Ms. Hinely, to adopt the Resolution on Revenues – 09R09, and the schedules establishing the rates, fines and fees in the various funds of the City of Germantown for the FY10 Operating Budget.

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

09R10 – Capital Improvements Program Resolution

Ms. Geiger stated this resolution would establish the Capital Improvements Program (CIP) for the City for the year 2010 through 2015. The FY10 portion of the CIP will be adopted with the FY10 Budget Ordinance. The CIP for subsequent years is recommended for approval in order to establish a plan by which Administration can schedule its activities to ensure that the CIP projects are accomplished in accordance with the Board's direction. This resolution identifies a total of \$46,000,000 in capital projects over the next six years. The FY10 portion totals \$15.6 million.

Ms. Geiger explained that the City uses two basic approaches to funding capital projects including a pay-as-you-go and a pay-as-you-use. The pay-as-you-go means paying for capital projects out of the current revenues at the time of the expense. The pay-as-you-use means borrowing to finance the expenditure with debt service payments generated from revenues rates through the useful life of the project.

In response to a question from Alderman Drinnon, Community Development Director Jerry Cook stated the second left turn lane at Farmington and Germantown Road was not on this year's CIP but would be started probably in August.

Motion by Mr. Drinnon, seconded by Mr. Palazzolo, to adopt the resolution 09R10, establishing a Capital Improvements Program for fiscal years ending June 30, 2010 to 2015.

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

Ordinance 2009-4 – An Ordinance to Adopt the 2009-2010 Budget – Third and Final Reading

Patrick Lawton explained that the adoption of the budget authorizes the allocation of resources and establishes the direction for programs and services for the coming year and during the 5-year planning period. There is no property tax increase proposed for the FY10 budget. The budget for all funds totaled \$71,015,009 and the general fund operating totals \$36,659,988. The City has four enterprise funds that total \$18,167,664 and the capital improvements budget for consideration this year totals \$13,722,000.

Mr. Lawton thanked the members of the FAC for their thoughtful consideration of the budget, the key business executives and the staff in Finance and General Services, in particular Kristen Geiger, Ralph Gabb, Michael Stoll, Adrienne Royals and Sherry Rowell for their hard work and dedication in the development of this year's budget.

The Mayor explained that after the refunding that occurred during the bond sale, we found that we were about \$41,000 in reduced expenses. Because this was not included in the second reading this is the reason for the change.

Because there had been a change to the budget since the second reading which was an adjustment of the expenditures and council stated there must be an amendment to the second reading of the Ordinance.

Motion by Mr. Drinnon, seconded by Mr. Billingsley, to amend the FY10 budget in consideration of the adjustment which is a decrease in expenditures.

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

Motion by Mr. Drinnon, seconded by Mr. Chism, to approve on third reading Ordinance No. 2009-4 establishing the FY10 Proposed Budget as amended.

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

Alderman Palazzolo asked to comment to qualify his no vote. He stated his no vote was not a negative endorsement of what the City, Administration, staff, or employees have done, and he applauded their efforts in balancing the FY09 budget and preparing a balanced FY10 budget with no property tax increase. He stated the way the FY10 budget was balanced on the backs of the employees and sacrifices that were made and he felt as a steward of the tax payer dollars he could not vote for an increase in any one particular area when all the departments in the City were asked to reduce their budgets especially in light of the layoffs that occurred this year.

Alderman Drinnon stated that before there was an impression that several people were laid off or penalized, we should be fully aware that administration made a decision as to where they could make adjustments. Adjustments were made at the Athletic Club and that affected budget. He stated he hated to move forward and give the impression that the only way we were able to balance the budget was on the backs of some employees.

PUBLIC HEARING – Ordinance 2009-5 – Real and Personalty Property Taxes – Third and Final Reading

Mr. Lawton stated when the dates for the public hearings were made for consideration of the items for the budget; the public hearing for this ordinance was set for tonight because staff thought the new roll-back rate would be set based on the appraisal of all properties in Shelby County. At the current time the “Certified Tax Rate” is under consideration and review at the State Board of Equalization for certification.

It was suggested that the continuation of this item be held at the July 13 meeting.

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

Motion by Mr. Palazzolo, seconded by Ms. Hinely, to adjourn consideration of Ordinance 2009-5 on third reading and public hearing until July 13, 2009.

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

Ordinance 2009-6 – An Ordinance for Year-End Budget Adjustments – Third and Final Reading

The Finance Director Ralph Gabb stated at the end of the fiscal year, a number of year-end budget adjustments are required to be made to avoid budget and fund overruns in the various funds. Funds involved are from the General Fund, State Street Aid Fund, OPEB, Germantown Athletic Club and Great Hall Funds.

Alderman Drinnon expressed his appreciation to the Finance Department staff for all their hard work during the budget process.

Motion by Mr. Drinnon, seconded by Ms. Hinely, to approve Ordinance No. 2009-6 on third reading.

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

Delinquent Accounts

Mr. Gabb requested authorization to write-off uncollectible/delinquent personal property tax accounts totaling \$2,201.48. The City established an agreement with the Shelby County Trustee to assist in the collections of delinquent accounts. The Shelby County Trustee had determined that thirteen tax parcels with a total personalty property tax base of \$2,201.48 are out of business and recommended their removal from the tax rolls.

Motion by Mr. Palazzolo, seconded by Ms. Hinely, to request approval to write-off uncollectible/delinquent accounts totaling \$2,201.48.

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

Ordinance 2009-14 – Amendment to Article III, Chapter 3 of the Code of Ordinances – Beer Ordinance – Third and Final Reading

Mr. Lawton stated this was a housekeeping item regarding a change to the beer ordinance that would bring it into compliance with the DRC ordinance and requirements. It would remove the requirement of having the DRC approve the placement of the appropriate signage when a business seeks a beer permit.

Motion by Mr. Drinnon, seconded by Ms. Hinely, to approve on third and final reading an amendment to Article 3, Section 30-81, conditions for receiving a permit of the Code of Ordinances of the City of Germantown.

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

Professional Services Agreement for Farmington Blvd. Reconstruction Phase I (Wolf River Blvd. to Allenby)

City Engineer Tim Gwaltney asked for approval of a Professional Services Agreement with the Pickering Firm, Inc. in the amount of \$99,130.00.

Mr. Gwaltney reported that Farmington Blvd. was constructed in phases from the 1970's through the 1990's. Since its completion, the roadway has exhibited serious surface and sub-surface deficiencies. Through the years, the City has been maintaining the surface defects with point repairs and filler until funding was available for a complete rebuild of the existing roadway.

The City submitted the Farmington Blvd. Reconstruction Phase I (Allenby Road to Wolf River Blvd. for consideration for American Recovery and Reinvestment Act (ARRA) funding. The Memphis MPO determined that the project met the ARRA funding requirements and subsequently set aside \$1,350,000.00 for the project.

The City advertised for engineering services by issuing a Request for Qualifications (RFQ) on March 29, 2009. Ten Statements of Qualifications (SOQ's) were received by the due date of April 24, 2009. The Pickering Firm was chosen by the selection committee as the best qualified firm to perform the tasks necessary to complete this project.

Alderman Chism asked if this was the low bid.

Mr. Gwaltney stated the bid was done by RFQ not by bids.

Mr. Lawton stated this was the way the City typically selects architects and engineers for this type of projects as opposed to a sealed competitive bid for the construction aspect.

Alderman Drinnon stated he felt the City had good experience with this firm.

Motion by Ms. Hinely, seconded by Mr. Palazzolo, to authorize the approval of a Professional Services Agreement with The Pickering Firm, Inc. in the amount of \$99,130.00 for design services related to Farmington Boulevard Reconstruction Phase I.

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

Professional Services Agreement for Wolf River Blvd./Forest Hill Irene Traffic Signal

Mr. Gwaltney stated this proposed signalization project will allow for vehicles traveling northbound on Forest Hill-Irene Road to make a protected left turn onto westbound Wolf River Blvd. and allow for westbound vehicles to make a protected left turn onto southbound Forest Hill-Irene. This project will include decorative mast arm signal poles, video detection and emergency preemption devices.

The City submitted this project for consideration of Surface Transportation Program(STP) funding. The Memphis MPO determined that the project met the STP funding requirements and subsequently set aside \$250,000.00 for the project including engineering, construction administration/inspection services and construction.

The City received seven Statements of Qualifications (SOQ's). Kimley-Horn and Associates was chosen by the selection committee as the best qualified firm to perform the tasks necessary to complete this project within the given timeframe and with the quality service the City expects.

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. Billingsley, seconded by Mr. Drinnon, to authorize the approval of a Professional Services Agreement with Kimley-Horn and Associates, Inc. in the amount of \$52,310.00 for design and construction administration/inspection services related to a new traffic signal at the intersection of Wolf River Blvd. and Forest Hill-Irene Road.

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

Creation of Citizens Task Force for Germantown Great Hall – ADD-ON by Alderman Drinnon

Alderman Chism stated he thought there should be something to bridge the gap--- (inaudible)

Alderman Drinnon stated he was very impressed the way the Great Hall was decorated and presented and it is an asset to the City.

Motion by Alderman Drinnon, seconded by Mr. Chism, to create a citizens task force to work with administration and staff at the Great Hall to help position the Great Hall as a superior banquet and corporate rental facility in the Germantown area. City staff is to identify possible applicants for the task force and to discuss their qualifications with Board of Mayor and Aldermen.

Alderman Billingsley stated he had a conflict of interest and recused himself from voting.

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

Donation – Great Hall – Ashley Furniture – Moved from Consent

George Brogdon stated Ashley Furniture has donated furniture in the amount of \$2,436.00 to “soften” the entrance to the Great Hall and make the entry area more usable.

Alderman Drinnon recognized Diana Billingsley for obtaining the donation.

Alderman Billingsley stated he had a conflict of interest and recused himself from voting.

Motion by Ms. Hinely, seconded by Mr. Palazzolo, to recognize the furniture donation by Ashley Furniture to the Great Hall in the amount of \$2,436.00.

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

Alderman Billingsley stated the Board had previously added their support to an amendment relative to not having handguns in parks. He asked, with approval of the Board, the staff to begin preparations on an ordinance to not allow handguns in Germantown Parks.

City Attorney Tom Cates stated earlier he had prepared that resolution and it was distributed to the Board. It will be put on the next agenda.

Mr. Brogdon stated that the Parks & Recreation Commission had taken the stance several weeks ago that they supported the resolution by the Board.

CONSENT AGENDA

Printing of FYI Newsletter

The tabloid style publication called FYI includes information about all City related leisure activities. The request is for a contract with Memphis Publishing for the printing of three issues in the amount of \$12,810.00.

MOTION: To contract with Memphis Publishing for the printing of three issues of the FYI newsletter in the amount of \$12,810.00.

Approval of Library Donations

This item is to recognize donations made to the Germantown Community Library totaling \$907.00. The following groups donated these funds for the period 3/31/09 through 5/27/09: TN GN Society - \$99.25; TN GN Society - \$71.00; TN GN Society - \$67.00; Clarke's Quick Print - \$120.00; Jim & Teresa Jenkins \$200.00; Germantown Performing Arts Guild - \$100.00; Germantown Arts Alliance - \$250.00.

MOTION: To recognize the monetary donations made to the Germantown Community Library totaling \$907.00; and to approve Budget Adjustment No. 09-177.

GRHGC Digitization Project - REMOVED

Public Relations – Germantown Athletic Center - REMOVED

Appointments to Germantown Education Foundation

This is the reappointment of three members of the Germantown Education Foundation, David Baytos, Dick Leike and Debra Wiles. The reappointments are for three years and will run until 2012.

MOTION: To approve the reappointment of David Baytos, Dick Leike and Debra Wiles to the Germantown Education Foundation Board of Directors for three-year terms.

Appointments to Education Commission - DEFERRED

Appointments to Youth Commission - DEFERRED

Acceptance of Grant from the Assisi Foundation

In April, the Fire Department approached the Assisi Foundation with a request to support a specific need for the LAFS program: clown shoes. The clowns need six pair of shoes, and each pair costs \$363.00 for

a total of \$2,178.00. The Assisi Foundation has agreed to give the LAFS Program a grant of \$2,178.00 for the clown shoes.

MOTION: To accept a grant of \$2,178.00 from the Assisi Foundation for the purchase of clown shoes for the LAFS program and approve Budget Adjustment 09-186.

Recognition of Overtime Reimbursement – Police Department

The Germantown Police Department has an officer assigned to the Metro DUI Squad assisting in the apprehension, investigation and testing of impaired drivers within Shelby County and Germantown. The officer usually works overtime in the performance of his duties. Shelby County Government reimburses any overtime that the officer receives while carrying out his/her duties.

MOTION: To recognize overtime reimbursement from the Shelby County Government and to approve Budget Adjustment 09-187.

Professional Services Agreement – Obsidian Public Relations – Moved from Regular Agenda

With current and future structural and image changes ongoing for Germantown Athletic Club, it is imperative that those changes be relayed to the Club's key stakeholders in a positive, strategic and consistent manner. Obsidian's future charge is to work with the Marketing and Membership Sales Coordinator.

MOTION: To authorize the Mayor to execute a Professional Services Agreement with Obsidian Public Relations for a term of one year at the expense of \$22,800.00.

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

ROLL CALL: Billingsley–yes, Chism–yes, Drinnon–yes, Hinely–yes, Palazzolo–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