

BOARD OF MAYOR AND ALDERMEN

March 23, 2009

A regular meeting of the Board of Mayor and Aldermen was held on March 23, 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, Tom Cates, Pam Beasley, Jerry Cook, Pat McConnell, Michael Saddler, Ralph Gabb, Chief Richard Hall, Michael Stoll, Chief Dennis Wolf, Bo Mills, Lisa Piefer, Melody Pittman and Dotty Johnson.

Approval of Agenda

Mayor Goldsworthy stated the agenda had been previously distributed to the Board of Mayor and Aldermen with a packet of information on the things that were to be considered. She asked if anyone would like to amend the agenda.

Alderman Chism stated he would like to address the Board at some point regarding an informational request.

Motion by Mr. Drinnon, seconded by Ms. Hinely, to accept the agenda as printed with the addition of the request from Alderman Chism.

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

Invocation

Assistant City Administrator Andy Pouncey gave the invocation.

Pledge of Allegiance

Alderman Ernest Chism led the Pledge.

Approval of Minutes

Alderman Palazzolo noted on page 3, paragraph 10, the *Roll Call* should be deleted as this was a duplication of the vote and on page 5, the last paragraph, last sentence the word *inputs* should not be plural.

Motion by Mr. Palazzolo, seconded by Mr. Chism, to approve the minutes of the Regular Meeting held March 9, 2009 as amended.

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

Beautification Business Award

Alderman Palazzolo and members of the Beautification Commission to recognize Ella David Salon and present Ella and Jimmy Davidson with the March Business Award.

Youth Excellence Award

The award recipient for the month of February was not present.

Citizens to be Heard

There were no citizens to come forward.

BEER BOARD

Mayor Goldsworthy recessed the Board of Mayor and Aldermen meeting and convened the Beer Board.

Request for Temporary Beer Permit – Germantown Festival Association

City Administrator Patrick Lawton stated Mr. George Walters, President of the Germantown Festival Association had requested a temporary beer permit for the sale of beer on publicly owned property for the 2009 Germantown Festival.

Alderman Drinnon commented that the Festival is always good and fun and the people who are in charge do an excellent job and he supports them and their work. For the past 14 years he had spoken against this permit because he did not feel it was proper for the City to allow alcohol to be served at city functions or quasi city functions and he would not support this request.

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

Motion by Mr. Billingsley, seconded by Mr. Chism, to approve a temporary beer permit allowing the sale of beer on publicly owned property at the 2009 Germantown Festival on Saturday, September 12, 2009, during the hours of 9:30 a.m. until 6:00 p.m. and on Sunday, September 13, 2009, from noon until 6:00 p.m.

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

The business of the Beer Board was concluded and adjourned and reconvened as the Board of Mayor and Aldermen.

BOARD OF MAYOR AND ALDERMEN

Ordinance 2009-9 – Amendment to Chapter 2, Article 5 of the Code of Ordinances – Appointment of Chairpersons to Commissions – Third Reading

Mr. Lawton stated this amendment would amend Chapter 2, article 5 of the City's Code of Ordinances. This ordinance amendment would change the current practice of having the Mayor select the individual members of a particular board or commission to serve as chairperson. This is the current practice except where dictated by state.

The proposed change would, if approved, allow the Board of Mayor and Aldermen to select the chairpersons for our various boards and commissions. If approved on third reading, this action would take effect with the appointments beginning in calendar year 2010.

Motion by Mr. Palazzolo, seconded by Ms. Hinely, to approve Ordinance 2009-9 on third 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 on boards and commissions of the City of Germantown.

Alderman Palazzolo stated he had been firm on his opinion of this issue through the readings. On two occasions he had brought forth a compromise that the commissions be allowed to choose their own chairpersons. He stated the applicants for the Planning Commission were chosen by the Mayor and the chairperson is chosen by the fellow commissioners by authority of the state legislature. If the state legislature had the faith of the citizens of Tennessee to choose their own chairman, then he felt the aldermen should rely on the citizens of Germantown to select their chairpersons for the commissions. He felt it would be a shame to introduce politics into the choosing of chairpersons.

Alderman Drinnon stated he felt the current system whereby the Mayor appoints the chairmen had worked well through the years and he saw no purpose in changing it but he hoped the political dispute of the Board is not the consensus of the majority of the Board.

Motion by Mr. Palazzolo, seconded by Mr. Drinnon, to allow a Friendly Amendment to the motion to allow committee members to choose their own chairpersons.

Roll Call on Friendly Amendment:

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

Roll Call on original motion:

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

PUBLIC HEARING – Ordinance 2009-10 – Amendment to Chapter 17, Subdivision Regulations – Alterations to Subdivision Lot Lines – Second Reading

Assistant City Administrator Andy Pouncey stated this amendment would add to the definition of a minor subdivision of property to the policies section. The amendment establishes the requirements for minor lot modifications by simplifying the formal subdivision plat approval process. Currently the City Code does not allow for the manipulation of property lines within a recorded subdivision without the formalized approval of the Planning Commission.

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 Ordinance 2009-10 on Second Reading.

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

PUBLIC HEARING – Ordinance 2009-11 – Amendment to Chapter 23, Zoning – Planned Unit Developments – Second Reading

Mr. Pouncey stated this amendment would allow for greater flexibility in the design of developments through 1) allowing a one-acre minimum for Planned Unit Developments (PUDs), 2) allowing PUDs in the OG and OG-1 Old Germantown zoning districts and 3) allowing all areas for street dedications and private drives to be included in the net area of the lot for the calculation of the density of the project.

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

Motion by Mr. Palazzolo, seconded by Ms. Hinely, to approve Ordinance 2009-11 on Second Reading.

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

PUBLIC HEARING – Ordinance 2009-12 – An Ordinance to Amend Section 2-21 of the Code of Ordinances Regarding Board of Mayor and Aldermen Meeting Time – Second Reading

Mr. Lawton stated that the Charter of the City requires that any changes to the meeting time and date of the Board of Mayor and Aldermen regular scheduled meetings must be changed by ordinance. This amendment will change the meeting time from the current meeting time of 7:00 p.m. to 6:00 p.m. assuming passage of this ordinance.

Mayor Goldsworthy opened the public hearing.

Alderman Drinnon stated that the person that had proposed this change had not taken into consideration the convenience of the employees that always attend the Board of Mayor and Aldermen meetings.

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

Motion by Mr. Palazzolo, seconded by Mr. Billingsley, to approve Ordinance No. 2009-12 to amend section 2-21 of the Code of Ordinance of the City of Germantown to change the meeting time of the Board of Mayor and Aldermen from 7:00 p.m. to 6:00 p.m.

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

HVAC Replacement – Animal Shelter

Facilities Service Manager Reynold Douglas stated the current HVAC system is beyond its efficient and useful life and is not dependable. Included in the contract is the installation of the equipment platform to support the HVAC system. The new system will consist of (1) 2-ton system and (2) 3-ton systems. The new system will reduce downtime and increase energy efficiency.

Seven vendors attended the pre-bid conference and four bids were received.

Alderman Hinely stated she fully agreed with the plan because she had spent a great deal of time at the shelter. She was concerned about the low bid because it was so much lower than the rest.

Mr. Douglas assured her that National HVAC had done other work for the City.

Motion by Mr. Billingsley, seconded by Mr. Palazzolo, to approve contract authorization with National HVAC in the amount of \$37,476.00 to install equipment platform and replace existing HVAC equipment as specified in bid packet.

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

Public Services Roof and Mechanical Improvements Contract

Mr. Douglas stated this was for the third and final phase which consists of the installation of a new pitched shingle roof and replacement of the existing HVAC and electrical systems. Twelve companies had attended the pre-bid meeting and seven contractors' submitted bids.

A discussion followed on the use of the shingle roof over the metal seamed roof.

Public Services Director Bo Mills stated the shingle roof was cheaper and quieter. The shingle roof would also have more of a residential character since it was close to Dogwood and neighboring homes.

Motion by Ms. Hinely, seconded by Mr. Drinnon, to authorize the Mayor to enter into a contract with Descon, Inc. for the construction of improvements to the Public Services Building in the amount of \$249,340.00.

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

HVAC Replacement – Germantown Regional History and Genealogy Center

Mr. Douglas stated this HVAC equipment had exhausted its useful life and was no longer dependable. The collection of books at the Genealogical Center are humidity sensitive and it is very important to keep the environment at a steady temperature as the seasons change. Seven vendors attended the pre-bid meeting and five bids were received. Commercial Maintenance Services had performed similar HVAC replacement for the City and staff was comfortable with their reputation.

In response to a question from Alderman Palazzolo, Purchasing Agent Lisa Piefer stated the projects for each of the HVAC systems were very different and it would be very hard to put them together for a lump sum bid.

Motion by Mr. Drinnon, seconded by Ms. Hinely, to approve contract authorization with Commercial Maintenance Services in the amount of \$24,850.00 to provide a turnkey replacement for existing HVAC equipment as specified in the bid packet.

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

Pre-Engineered Metal Building

Fire Chief Dennis Wolf stated this metal building would be part of the first phase of the project replacing existing Fire Station 4 located at 3031 Forest Hill. Before the existing building can be demolished a suitable building must be built to house the fire apparatus while the new fire station is being built. Upon completion of the fire station it will be used for storage of equipment and trailers. The building will have a usable space of 33 x 43 feet with two 12-foot garage doors and a standard building entrance door.

Fourteen vendors attended the pre-bid meeting and seven qualified bids were received.

Motion by Mr. Drinnon, seconded by Ms. Hinely, to authorize the purchase of a pre-engineered metal building from Simpson Construction, LLC, for \$39,800.00.

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

Tactical Vests – Police

Police Chief Richard Hall requested authorization to purchase twelve sets of tactical bullet resistant vest and 24 level IV hard armor plates. Currently, the SWAT team is equipped with twelve Protech Cover 6 vests and no hard armor plates. Eight of our current vests are past their service life. The service life of soft body armor is five years from date of manufacture. Among the other vests we currently have, one will expire in June of this year, one in May of 2011 and the last two expire in March of 2012.

Fifty percent of the purchase price of these vests and hard armor plates will be refunded to the police department drug fund through the Bulletproof Vest Partnership (BVP) Grant previously awarded to the city through the Bureau of Justice Assistance. Six vendors were contacted and three bids were received.

Motion by Mr. Billingsley, seconded by Ms. Hinely, to authorize the Police Department to purchase twelve (12) sets of tactical bullet resistant vests from G.T. Distributors, Inc. in the amount of \$26,651.88.

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

Purchase of Vehicle from Drug Fund

Chief Hall requested approval to use the State Drug Funds to purchase a 2009 Ford Expedition. An officer was assigned to the West Tennessee Judicial Violent Crime and Drug Task Force whose primary assignment is patrolling the main highway systems for illegal narcotic trafficking. The officer is currently utilizing a Ford Crown Victoria vehicle that was purchased in 2008. That vehicle will return to the police fleet. The Ford Expedition has a higher clearance, sits higher up for better observations and is more visible to other traffic. The cost of the vehicle maintenance will be paid for out of the State Drug Fund helping the city save those costs.

Motion by Mr. Billingsley, seconded by Mr. Palazzolo, to authorize the purchase of a 2009 Ford Expedition SUV utilizing the State Drug Funds and to approve Budget Adjustment 09-103.

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

Sewer Agreement Amendment

Mr. Lawton gave the following explanation:

In January 2003 the City of Germantown and the City of Memphis executed a Sewer Service Agreement for the transfer and treatment of sewage waste from the city of Germantown to Memphis. The agreement was evergreen in construction, meaning that it would last indefinitely. However, it did call for a review of the agreement every two years to determine the appropriate allocation formula and payment by Germantown to Memphis for sewer treatment services.

The city's utility fund operates as an enterprise fund. The revenues collected for water and sewer usage to support the expenses associated with maintenance of the entire system are supported by user fees. However, we do not have a sewer treatment plant in our community and therefore must rely on this contractual relationship with Memphis to provide the treatment facilities for our sewage waste.

The agreement specifies that the allocation formula and percentages will be revisited every two years to determine if the existing allocation formula is fair and equitable. This formula determines the sewer service charge Germantown will pay to the City of Memphis for the treatment of our sewage. To arrive at this fair and equitable formula, the agreement carefully calls out that it be based on the actual expenditures Memphis made to the sewer system for the past two years. These expenditures are verified by a review of the two most recent audits completed on the City of Memphis' sewer treatment operations or, in the case of this agreement, for fiscal years ending June 30, 2007 and June 30, 2008.

The expenditures to be reviewed and considered include plant design work, maintenance of the system, maintenance and construction of lift stations, administrative fees and debt service for plant expansion.

Each one of these expenditure items is multiplied as a percentage against Germantown's percentage of the entire sewer system flow entering the sewer treatment plant. This determines our net expense of operating the sewer treatment plant.

We pay for this total on a monthly basis by taking the net expense and dividing this figure by our sewer flow into the plant and then dividing this number by the monthly volumetric fee the City of Memphis charges its residents (which is currently .958 per thousand gallons). Therefore, under this new amendment to the agreement our sewer treatment rate will be 60.11 % of the current Memphis volumetric charge.

We will pay this percentage to the City of Memphis for the next two years and until a recalculation of the sewer services agreement is considered by the Board in 2011. This percentage may go up or down depending upon plant expansion work and Germantown's percentage of the overall sewer flow going into the treatment plant.

The Administration recommends the approval of this sewer service agreement, which took several months in 2002 and 2003 to negotiate with the City of Memphis. Given the fact that Germantown has no treatment plant facility, the execution of this agreement is crucial for the operation of our water and sewer system enterprise fund.

Alderman Drinnon stated that City Attorney Tom Cates had worked very hard to make this an evergreen sewer agreement for the treatment of the sewage from the City of Germantown.

A discussion followed on how the calculations are determined and who is responsible for the audit. Motion by Mr. Palazzolo, seconded by Mr. Drinnon, to authorize the Mayor to execute Amendment No. 4 to the Sewer Services Agreement between the City of Germantown and the City of Memphis.

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

At the request of Alderman Drinnon, the following item was pulled from the consent agenda:

Civic Support – Alive at 25 – PULLED FROM CONSENT AGENDA

Assistant City Administrator George Brogdon stated this program was developed by the Traffic Safety Task Force Subcommittee on Education, the University of Memphis, and the National Safety Council.

The program is taught in the two Shelby County high schools in Germantown. The program emphasizes the consequences of taking risks and that inexperience and a lack of awareness are major causes of traffic accidents. This course is five hours in length and taught daily for one week at a time.

In response to questions from Alderman Drinnon, Mr. Brogdon stated the City supports this program at both high schools and a part of the curriculum includes teenage drinking and the use of alcohol. This program is taught to 9th graders at both schools.

Alderman Drinnon stated he found it interesting that the City is concerned about the youth driving under the influence of alcohol and yet we approve a civic organization permission to sell or serve at a city function and he found it inconsistent.

Alderman Palazzolo asked staff to elaborate on the funding of this program.

Mr. Brogdon stated that several years ago there were several teenage accidents where lives were lost. A task force was set up that met with the University of Memphis and the National Safety Council. The curriculum was the product of this group. Last year there were over 900 students and the expense for this year is estimated at \$19,250.00. The money comes from the Police Department Grants.

Motion by Mr. Drinnon, seconded by Mr. Billingsley, to authorize the payment of \$19,250 to the University of Memphis Office of Continuing Education for the implementation of the Alive at 25 course for Houston and Germantown High Schools.

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

CONSENT AGENDA

Change Order #1 – Germantown Athletic Club Customer Service Training Professional Service Agreement – Union University

The Germantown Athletic Club (GAC) has an agreement with Union University to process all Club employees through four modules of Fantastic Customer Service Training. Club staff originally projected, based on the number of employees participating in the program, that all four modules would be \$13,200.00. However, the actual number of employees participating and number of sessions implemented will exceed this purchasing threshold and require the Board to approve a change order before we can proceed with the remaining scheduled training.

MOTION: To authorize a change order to the existing contract with the Extended Learning and Professional Development Program through Union University for ongoing Customer Service Training programs for all employees at the Germantown Athletic Club in the amount of \$12,150.00.

Microwave Lease Replacement

Radio interference problems occur causing loss of reception resulting in broken or no communication between personnel and dispatch, between personnel within departments and between personnel among departments. It was determined that microwave link would be the best suited application to remedy the receiver problem.

MOTION: To approve the purchase and installation of the microwave lease line emulation system with COMSERV Services, LLC. in the amount of \$19,328.00.

Recognition of Overtime Reimbursement

The Germantown Police Department has an officer assigned to the FBI Joint Terrorism Task Force. The overtime the officer receives is deducted from the Police Department Overtime Wages line item throughout the year. The reimbursement will be placed back into the line item though the budget adjustment.

MOTION: To recognize overtime reimbursement from the Federal Department of Justice and the Tennessee Department of Safety and to approve Budget Adjustment #09-100.

Intergovernmental Agreement for Emergency Communications Support

This interlocal agreement is for emergency communications support with the Shelby County Emergency Communications District for the period of July 1, 2009 through June 30, 2013.

MOTION: To authorize the Mayor to enter into an interlocal cooperation agreement for emergency communications support with the Shelby County Emergency Communications District for the period July 1, 2009 through June 30, 2013.

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

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

GREAT HALL

Alderman Chism stated he had previously asked the Germantown Athletic Club to undertake a study to separate the Great Hall and the Germantown Athletic Club as these two different areas do not have a direct and understandable link to each other as they offer entirely different benefits. To be able to appropriately study a separation of the two entities, he asked for a detailed expense and revenue report on the Great Hall. He asked for all revenue and where it has derived, all expenses and for what purpose, and what percentage of expenses are arbitrarily charged to the Great Hall.

Mr. Lawton stated staff had been working on this request and had pulled quite a bit of information but it had not all been shared with the Board as yet because it was in preliminary stages. Just as important was the fact that it should be reviewed with the Athletic Club Commission that will be meeting on April 2. A review of this information will be on their agenda.

Alderman Drinnon stated if it were put in the form of a motion, he would second it.

Motion by Mr. Chism, seconded by Mr. Drinnon, to have staff provide as much detailed financial information about the Great Hall as possible and provide it to the Germantown Athletic Club Commission for their next meeting.

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

Alderman Hinely asked for a work session on Employee Benefits.

Mr. Lawton stated that would be made a part of the Budget Work Session.

Alderman Palazzolo asked for staff to see the feasibility and cost of video streaming of the Board meetings and work sessions. Currently GHS-TV televises the meetings but video streaming the meetings would allow citizens to watch at their leisure.

Alderman Palazzolo asked about the progress on House Bill 413.

Mr. Lawton stated he had been in contact with Senator Corker, Alexander and Congresswoman Blackburn. The latest information he had was that it was still in committee and perhaps before congress recesses around Memorial Day it might be moved out of committee but presently it was stalled.

Alderman Palazzolo stated the Board had a strategic planning meeting in January and subsequently scheduled Team Trek but that had been postponed. He asked when or if that had been rescheduled.

Mr. Lawton stated nothing had been rescheduled. Staff is looking for direction from the Board as to when to schedule this. Whenever the Board is ready staff will reschedule and put it on the calendar.

Alderman Palazzolo stated he wanted to acknowledge the Mayor who will be honored by the Memphis Women at Work. They will be having a reception at GPAC saluting Shelby County Women who had made a difference. He congratulated her on the honor.

ADJOURNMENT

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

Sharon Goldsworthy, Mayor

Dotty Johnson, City Clerk/Recorder