

## **BOARD OF MAYOR AND ALDERMEN**

**June 22, 2020**

The regular meeting of the Board of Mayor and Aldermen was held on Monday, June 22, 2020, at 6 p.m. via live streaming. Meeting electronically was necessary to protect public health, safety and welfare in light of the COVID-19 pandemic.

Mayor Mike Palazzolo was present and presiding.

The following aldermen were present: Scott Sanders, Mary Anne Gibson, Dean Massey, Forrest Owens and Rocky Janda. Staff present: Michele Betty, Reynold Douglas, Tony Fischer, Jason Huisman, Patrick Lawton, Mac McCarroll, Bo Mills, Lisa Piefer, Cameron Ross, Adrienne Royals and John Selberg. Also in attendance was Matt Conn, an attorney with the law firm of Friedman, Dazzio, Zulanas & Bouling, PC.

### **Call to Order**

The Mayor called the meeting to order.

### **Invocation**

The invocation was led by Patrick Lawton.

### **Statement from Mayor Palazzolo**

All local governing bodies in the State of Tennessee have been impacted by the COVID-19 pandemic. Germantown is no exception. In an effort to carry out its governance and operational responsibilities lawfully, and effectively, while also considering the protection of public health, safety and welfare, the Germantown City Administration has taken steps to conduct Board of Mayor and Aldermen and other public meetings electronically. These actions were taken in response to Governor Bill Lee's Executive Order 16, reaffirmed recently in Executive Order 34, which suspended the requirements of the Tennessee Open Meetings Act to the extent necessary to allow governing bodies subject to the act to meet and conduct essential business by electronic means.

The Germantown Board of Mayor and Aldermen has determined that meeting electronically is necessary to protect the health, safety and welfare of its citizens in light of the COVID-19 pandemic.

Further, notice of such electronic meetings has been, and will continue to be, published in the same manner as is currently used for regular meetings. The public is also, and will continue to be, able to view the agenda and have live access to the actual meetings by electronic means, by logging in to Germantown's website, and by clicking the appropriate link. Video recordings of the meetings will be made available as soon as practicable after each meeting on the City's website at [www.germantown-tn.gov](http://www.germantown-tn.gov).

These measures are temporary, and are due to expire no later than June 30, 2020, unless further action is taken by Governor Lee.

### **Set Agenda**

The Board was asked to set the agenda for the meeting.

Motion by Alderman Sanders, seconded by Alderman Massey, to move to the regular agenda item #7e – Contract – Electrostatic Disinfectant Spraying Services and item #7f – Participation and Agreement – Opioid Class Action Lawsuit.

Motion by Alderman Janda, seconded by Alderman Gibson, to move to the preliminary agenda item #8 – Development Contract No. 1231 and Final Site Plan Approval – 7254 Neshoba Rd. (New Cell Tower), item #9 – Development Contract No. 1234 – The Village at Germantown (Parking Expansion), item #10 – Professional Services Agreement – Poplar Culverts Replacement Project Phase V, and item #11 –

Professional Services Agreement – Traffic Signal at Wolf River Boulevard and Houston High School.

Since there was no objection, the amendments were approved.

Motion by Ms. Gibson, seconded by Mr. Janda, to approve the June 22, 2020 agenda as amended.

ROLL CALL: Sanders-yes, Gibson-yes, Massey-yes, Owens-abstain, Janda-yes. Motion approved.

#### **Approval of Minutes**

Approval was requested of the minutes of the regular meeting held June 8, 2020.

Motion by Mr. Janda, seconded by Ms. Gibson, to approve the minutes of the Board of Mayor and Aldermen regular meeting held June 8, 2020.

ROLL CALL: Sanders-yes, Gibson-yes, Massey-yes, Owens-yes, Janda-yes. Motion approved.

#### **Citizens to be Heard**

The following citizens came forward in support of the grant to the Germantown Education Foundation:

Laura Barden, 7691 Poplar Avenue  
David Baytos, 9123 Longwood Lane  
Jason Gillum, 3350 S. Forest Hill Road  
Robin Rudisill, 3350 Forest Hill Irene Road

Abby Barnett, 2431 Lennox Drive  
Adam Crawford, 7406 Oak Run Drive  
Richelle Kidder, 9227 Longwood Lane  
Joanna Young, 7126 Paddock Cove

#### **PRELIMINARY AGENDA**

##### **Appointments - Germantown Education Commission**

The Education Commission consists of 12 members. Appointments are made in June of each year and conclude in June of the next calendar year.

MOTION: To approve the following appointments to the Education Commission with a term ending June 30, 2021: Barbara Boyer, Steve Chandler, Jennifer Culotta, Brenda Dew, Kyle Eaton, Manjit Kaur, Shawn Lane, David Mars, Leslie Parker, Karina Simoni-Avagayan, Patricia Toarmina and Natalie Williams.

Mayor Palazzolo appointed Natalie Williams to serve as chairman.

##### **Appointments - Library Board**

The Library Board consists of seven members. Appointments are made in June of each year and conclude in June of the next calendar year. These staggered appointments are for terms of three years. There are two positions to be filled. The Library Board will appoint a chairman.

MOTION: To approve the appointment of Beth Broadhurst and Carlin Stuart to the Library Board with a term ending June 30, 2023.

##### **Change Orders No. 2 & 3 - Motor Replacement for Well No. 6 and Cleaning and Repair of Well No. 7 at the Southern Avenue Wellfield**

The electric motor for Well No. 6 started showing signs of decline in daily water production in early May. This issue quickly escalated which led to the motor being decommissioned by the City's well and pump maintenance contractor, National Water Services (NWS). Since Well No. 6 is a high production well with an operating production of 1,620 gallons per minute and is needed during this season of peak water consumption, the City Administrator authorized the approval of Change Order No. 2 with the purchase of a

new motor and installation by NWS in the amount of \$16,161.00, and the Board of Mayor and Aldermen was notified by memo on May 29, 2020.

At the May 11, 2020 board meeting, the BMA approved Change Order No. 1 for the further investigation of Well No. 7 in order to inspect the possibility of an obstruction in the column shaft. This investigation led to the recommendation that a cleaning of Well No. 7 was needed, in addition to the recommended mechanical and electrical component well repairs.

MOTION: To formally approve Change Order No. 2 in the amount of \$16,160.00 and authorize Change Order No. 3 to replace a faulty motor for Well No. 6 and to repair and clean Well No. 7 at the Southern Avenue Wellfield in the amount of \$81,427.14, in accordance with the Well and Pump Maintenance and Repair Agreement, for the total amount of \$97,588.14 with National Water Services.

**Civic Support - Germantown Education Foundation**

Established in 2006 by the City, the Germantown Education Foundation is an independent, 501(c)3, not-for-profit corporation that raises funds to directly support the public education of children in Germantown. The fiscal year 2020 budget includes \$100,000.00 intended to support the activities of the Germantown Education Foundation.

MOTION: To approve a grant in the amount of \$100,000.00 to the Germantown Education Foundation.

**Purchase - Court Software Annual Subscription Fees**

The City has maintained a software maintenance agreement with Tyler Technologies, previously New World Systems, Inc., since implementing Court software in 2012. The subscription fees allow for system support 24 hours a day, seven days a week.

MOTION: To authorize annual subscription fees with Tyler Technologies, Inc. in the amount of \$51,122.00.

**Reimbursement - Enterprise Upgrade for Public Safety Computer Aided Dispatch Projects**

On September 9, 2019, the Board of Mayor and Aldermen authorized the City to enter into agreements with Tyler Technologies to purchase an upgrade to the Public Safety Computer Aided Dispatch (CAD) hardware and software used to dispatch Public Safety personnel.

Shelby County 9-1-1 Emergency Communications District agreed to reimburse the City for portions of the hardware and software upgrade projects that the City has paid to date. Reimbursement in the amount of \$127,377.66 has been received for the CAD hardware project and \$26,790.17 for the CAD software project.

MOTION: To recognize and accept \$154,167.83 from Shelby County 9-1-1 Emergency Communications District for reimbursement of the Enterprise Upgrade for Public Safety Computer Aided Dispatch hardware and software projects.

**Resolution 20R05 - A Cooperative Agreement on the Use of the Accela Software System with Memphis and Shelby County Division of Planning and Development**

Resolution 20R05 authorizes the Mayor to enter into a cooperative agreement with the Memphis and Shelby County Division of Planning and Development for building construction plans review, inspection and permitting, including the use of the Accela software system. Since Shelby County provides building code review and inspection for the City, staff will be using the Accela software to approve County building permits, sign installations and other requests that are managed by the County for the City. The City approval process will continue for both administrative items, as well as board and commission approvals for all projects.

MOTION: To approve Resolution 20R05 authorizing the Mayor to enter into a cooperative agreement with Memphis and Shelby County Division of Planning and Development for building construction plans review, inspection and permitting including the use of the Accela system.

**Development Contract No. 1231 and Final Site Plan Approval - 7254 Neshoba Rd. (New Cell Tower)**

Wireless transmission facilities are allowed within residential districts, with the approval of a use on appeal approved by the Board of Zoning Appeals (BZA). On August 13, 2019, the BZA granted a use on appeal to allow a cell tower within an existing MLGW transmission tower at this site. At that meeting, the BZA requested that the equipment enclosure (which had been in front of the MGLW transmission tower, facing Neshoba Rd.) be moved to be behind the transmission tower, so that it would be somewhat more screened from public view. The Planning Commission and Design Review Commission reviewed and recommended approval of the proposed cell tower and related site plan (with revised location of the equipment enclosure.)

MOTION: To approve Development Contract No. 1231 and the final site plan for a new cell tower within an existing MLGW transmission tower at 7254 Neshoba Rd.

**Development Contract No. 1234 - The Village at Germantown (Parking Expansion)**

The applicant wishes to develop two additional parking lots, totaling 67 new parking spaces. The first lot (28 parking spaces) is proposed along the southern side of the project site. The second lot (39 parking spaces) is proposed along the northern side of the project site.

MOTION: To approve Development Contract No. 1234 for a parking expansion at The Village at Germantown (7820 Walking Horse Cir.).

**Professional Services Agreement - Poplar Culverts Replacement Project Phase V**

There are 48 storm drain culverts of various sizes and shapes crossing under Poplar Avenue within the city limits. A significant portion of the culverts have reached the end of their design life and are showing signs of failure. In August 2009, the City initiated Phase I of this project. Phase V involves design and construction document preparation for the next most critical culvert locations. Staff anticipates Phase V being the final phase of this project.

MOTION: To approve a Professional Services agreement with A2H in the amount of \$49,000.00 for Engineering Design Services related to Phase V of the Poplar Culverts Replacement Project.

**Professional Services Agreement - Traffic Signal at Wolf River Blvd. (WRB) and Houston High School**

In an effort to address safety and congestion concerns at the intersection of Wolf River Boulevard and the eastern driveway of Houston High School, the City initiated a traffic signal warrants analysis at this location. The results of that study indicated a signal is warranted.

MOTION: To authorize the Mayor to enter into a Professional Services Agreement with Pickering Firm, Inc. in the amount of \$79,956.24 for Engineering Design Services related to a new traffic signal at the intersection of the eastern driveway of Houston High School with Wolf River Boulevard.

Motion by Mr. Janda, seconded by Ms. Gibson, to approve the preliminary agenda as read.

ROLL CALL: Sanders-yes, Gibson-yes, Massey-abstain, Owens-abstain, Janda-yes. Motion approved.

**REGULAR**

**Participation and Agreement - Opioid Class Action Lawsuit**

City Attorney Mac McCarroll deferred legal questions regarding this item to Matt Conn, an attorney with the

law firm of Friedman, Dazzio, Zulanis & Bouling, PC.

A multidistrict litigation case is currently in the United States District Court in the Northern District of Ohio (Eastern Division) involving lawsuits against major opioid manufacturers and drug distributors from more than 2,000 local governments, tribes, and other agencies. The lawsuits allege the pharmaceutical companies increasingly misled doctors and the public (creating a false perception of safety and efficacy) through the marketing and promotion of opioid painkillers for long-term use, helping to ignite the opioid epidemic.

Like many communities across the country, Germantown public safety officials respond to calls for service involving drug addiction, and in some cases, overdoses resulting from opioid use. Therefore, the City incurs expenses related to the training and response of our emergency medical technicians (EMT's) to administer life-saving drugs, such as Nalaxone (Narcan), which restore the respiratory function of individuals who have overdosed on opioids and other drugs with similar effects on the body, such as heroin. The cost of Nalaxone can range from \$40 per dose to as high as the current price of \$520 per dose, and the City incurs these acquisition costs as well.

The Birmingham, Alabama firm of Friedman Dazzio has been representing a number of communities throughout the southeast in this lawsuit, and has been recommended by the City's legal counsel to represent Germantown. If retained, the City will not owe the firm any legal fees, costs or expenses pertaining to the lawsuit unless the City is compensated through a judgment or settlement of the case. Under those circumstances, the City would pay Friedman Dazzio 1/3 of the total amount recovered from a judgment or settlement.

Motion by Mr. Janda, seconded by Mr. Owens, to approve the City's participation in a nationwide opioid class action lawsuit, and engage the services of Friedman Dazzio to pursue damages incurred as a result of the illegal sale distribution and marketing of opioids and opioid derivative drugs within the city.

ROLL CALL: Sanders-yes, Gibson-yes, Massey-yes, Owens-yes, Janda-yes. Motion approved.

**Ordinance No. 2020-2 Year-end Budget Adjustments - Third and Final Reading**

At the end of the fiscal year, year-end budget adjustments are required to be made in order to avoid budget and fund overruns in the various funds. They recognize various overruns, underruns, project acceleration and deferrals that have already received the Board of Mayor and Aldermen's approval.

Motion by Mr. Janda, seconded by Mr. Owens, to approve Ordinance No. 2020-2 for year-end budget adjustments on third and final reading.

ROLL CALL: Sanders-yes, Gibson-yes, Massey-no, Owens-yes, Janda-yes. Motion approved.

**Ordinance No. 2020-4 Germantown Municipal School District Year-end Budget Adjustments - Third and Final Reading**

At the end of the fiscal year, year-end budget adjustments are required to be made in order to avoid budget and fund overruns in the various funds for the Germantown Municipal School District. The Germantown Municipal School District yearly budget adjustments have been approved by the Germantown Municipal School Board.

Motion by Ms. Gibson, seconded by Mr. Sanders, to approve Ordinance No. 2020-4 for Germantown Municipal School District year-end budget adjustments on third and final reading.

ROLL CALL: Sanders-yes, Gibson-yes, Massey-yes, Owens-yes, Janda-yes. Motion approved.

**Contract - Electrostatic Disinfectant Spraying Services**

Due to the COVID-19 virus, the City has been very proactive in keeping the workforce safe within City buildings. Cleaning and disinfecting frequencies were increased during the month of March by City staff. While staff has been able to maintain the additional workload, the most effective process for disinfecting is by using electrostatic equipment. Electrostatic spraying equipment was ordered in April and is scheduled for delivery in August. Staff recommends having a service provider until the equipment is delivered.

Motion by Mr. Sanders, seconded by Mr. Janda, to approve an electrostatic disinfectant spraying agreement with Master Building Service Contractors (MBSC) to provide services within City buildings on an “as needed” basis at a price of \$0.08 per square foot for a successive twelve (12) month period.

Motion by Mr. Massey, seconded by Mr. Sanders, to post pone this item.

ROLL CALL: Sanders-yes, Gibson-no, Massey-yes, Owens-no, Janda-no. Motion failed.

ROLL CALL: On original motion by Mr. Sanders, seconded by Mr. Janda, to approve an electrostatic disinfectant spraying agreement with Master Building Service Contractors (MBSC) to provide services within City buildings on an “as needed” basis at a price of \$0.08 per square foot for a successive twelve (12) month period.

Sanders-yes, Gibson-yes, Massey-abstain, Owens-yes, Janda-yes. Motion approved.

Meeting adjourned.

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Mike Palazzolo, Mayor

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Michele Betty, City Clerk/Recorder