

**EXECUTIVE SESSION AND 71<sup>ST</sup> REGULAR SESSION – JANUARY 29, 2008**

**EXECUTIVE SESSION – January 29, 2008**

On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember K. S. Cromer, the Mayor and City Council unanimously agreed by voice vote to meet in closed session at 5:35 p.m. to consider a matter that concerns the proposal for a business or industrial organization to locate, expand, or remain in the State, #4. No formal action was taken at the session. The meeting was held in Room 407, 4<sup>th</sup> floor at the City Hall. The meeting was adjourned at 6:34 p.m.

**71<sup>ST</sup> REGULAR SESSION – JANUARY 29, 2008**

**Mayor R. E. Bruchey, II called this 71<sup>st</sup> Session of the Mayor and City Council to order at 7:07 p.m., Tuesday, January 29, 2008, in the Council Chamber at City Hall. Present with the Mayor were Councilmembers M. E. Brubaker, K. S. Cromer, L. C. Metzner, P. M. Nigh and A. Parson-McBean; City Administrator Bruce Zimmerman, City Attorney John Urner and D. K. Spickler, City Clerk.**

The invocation was offered by Reverend Kyle Potterly of the Presbyterian Church. The Pledge of Allegiance was then recited.

Mayor Bruchey announced the Rules of Procedure for this meeting will be followed as adopted March 28, 2006. It was announced that the use of cell phones and electronic devices during meetings is restricted and that all correspondence for distribution to elected officials should be provided to the City Clerk and should include a copy for the City Clerk for inclusion in the official record.

The next scheduled meetings are: Work Sessions beginning at 4:00 p.m. on Tuesday, February 5, 2008 (including a 4:30 p.m. Joint Meeting with the Board of Education), Tuesday, February 12, 2008, Tuesday, February 19, 2008 and the Regular Session on Tuesday, February 26, 2008 at 7:00 p.m.

**APPOINTMENTS**

On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember K. S. Cromer, the Mayor and City Council unanimously agreed by voice vote to appoint Travis Poole and Michael Snyder to the Board of Zoning Appeals (BZA). Mr. Poole will be a full member of the BZA and his term will expire April 30, 2010. Mr. Snyder will be an alternate member of the BZA and his term will expire January 31, 2011.

**HAVEN ROAD II ANNEXATION, A-2007-06**

A Public Hearing was held in reference to the Haven Road II Annexation.

The Introduction of the Resolution was passed on December 18, 2007.

Kathleen Maher, Planning Director, stated when the Haven Road property was annexed, a small enclave was inadvertently created. The area in question is the back yard of a current city resident and amounts to a swimming pool and about one half of the garage.

However small, any size enclave is not allowed, per Article 23A, Section 19 (a)(2) which states in part that the municipal corporation may enlarge its boundaries provided that it *“does not create any unincorporated area which is bounded on all sides by real property presently within the corporate limits of the municipality, real property proposed to be within the corporate limits of the municipality as a result of the proposed annexation, or any combination of such properties.”*

The affected property owner was unwilling to consent to annex their enclaved backyard. Therefore, the City will need to reduce the area of the new annexation and provide a revised annexation plat to eliminate the enclaved piece of property. On the advice of legal council, an annexation resolution must be enacted correcting this problem with the same language, formality, and procedures as the original annexation.

Staff has viewed the process as strictly administrative, and the original annexation resolution will be referenced and made part of this “corrective” version. The approved concept plan and associated agreements regarding sewer will remain in force.

The area proposed for annexation is currently vacant woodland and unimproved; a total area of approximately 52 acres, on the northwest border of the City, off of Haven Road. The Land Use Plan, as described in the 2002 Washington County Comprehensive Plan, designates the property as High Density Residential. The existing Washington County zoning classification is RM, Residential Multi-Family. The proposed zoning is R3 (Residential). It is within the County’s Urban Growth Boundary and the State’s designated Priority Funding Area. It is within the City’s Urban Services Area. This proposal is characterized by Priority #5, (Policy for Extension of City Services – Extend to developed areas outside but contiguous to the City). Both are defined in the City’s 1997 Comprehensive Plan.

The applicant is proposing a residential development project of 376 dwelling units of single family detached, two-family dwellings, and/or townhouse units.

The outline for extension of services and public facilities has not changed from the original annexation.

Ms. Maher entered the following exhibits:

- Exhibit 1 – Certificate of Advertisement
- Exhibit 2 – Planning File by Reference

There was no testimony presented. The hearing was closed at 7:14 p.m. The record will remain open for 10 days for written comments.

### **CITIZEN COMMENTS**

Mayor Bruchey asked that comments be limited to five minutes.

Dave Jordan, Community Action Council, Hagerstown, Maryland, thanked the Mayor and City Council for their support of the Utility Relief Benefit Concert, which helped raise funds for those in need. A total of \$ 20,447.95 has been raised so far.

Mary Haines, 27 Laurel Street, Hagerstown, Maryland, thanked the Mayor and City Council for permitting her to speak. This is the only uncensored public venue left. She stated leashes save lives. There is animal waste in many locations throughout the City. She thanked Senator Munson for his 34 years of service to the community. She also thanked Delegate Donoghue for his 18 years of service to the community.

Allan Johnson, Greenberry Road, Hagerstown, Maryland, is president of the Landlord and Property Owners Association. He spoke about the proposed revised property maintenance codes. Four of the members had an opportunity to review the revisions with Staff. The Association does believe the changes will improve properties, as long as they are enforced in a reasonable manner. The Association and Staff will continue working together.

Janet Bartels, 139 S. Mulberry Street, Hagerstown, Maryland, is hoping to be able to compare the new water master plan with the old one. She asked that informational meetings be held so the public is aware of the reasons for accepting the new master plan.

Gordon Bartels, 139 S. Mulberry Street, Hagerstown, Maryland, is concerned about changes to the water system. He stated people with 40 years of combined experience have spoken against the design of the new water tower. He is concerned the tank project is continuing. He remembers a discussion in which it was stated that the hospital moving to Robinwood would probably require an additional water tank for service. The new plan indicates it is the Mt. Aetna Farm project that would provide the opportunity for a new water tank. He wondered why this change occurred.

Michael Spiker, Director of Utilities, stated the change was made due to timing issues. The hospital will be providing a water tank, but it will be a private one.

### **MINUTES**

On a motion duly made by Councilmember K. S. Cromer and seconded by Councilmember M. E. Brubaker, the Mayor and City Council unanimously agreed by voice vote to approve minutes, as presented, for the Mayor and Council meetings held on December 4, 2007, December 11, 2007, December 14, 2007 and December 18, 2007.

**CONSENT AGENDA**

On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember K. S. Cromer, the Mayor and City Council unanimously agreed by voice vote to approve the consent agenda as follows:

- A. Community Affairs: Exemption from Open Container Law for Events
  - 1. Western Maryland Blues Fest – May 30, May 31 and June 1, 2008
  - 2. Augustoberfest Salutes Schmankerl Stube 20<sup>th</sup> Anniversary – May 16, 2008
  - 3. Augustoberfest Event – August 23 and August 24, 2008
- B. Engineering:
  - 1. Contract: Flat Roof Replacement on City Hall – Bonded Applicators of MD, Inc. (Hagerstown, MD) \$ 10,800.00
  - 2. Street Tree Contract Change Order – Botanica Enterprises (Funkstown, MD) Not to Exceed \$ 30,000.00
  - 3. Contract: Inspection of Minor Bridges – Brudis & Associates, Inc. (Columbia, MD) \$ 27,765.00
- C. Parks and Recreation: Barrier Free Modular Play Equipment – Miracle Recreations Equipment Co. (Martinsburg, WV) \$ 39,599.00
- D. Water and Sewer Department::
  - 1. Vehicle Purchases: One Ton Pick-Up and 4 Wheel Drive Utility Vehicle (Unit 500 and 505) – Criswell Chevrolet, Inc. – Pick-up \$ 25,013.00, Utility Vehicle \$ 19,398.00
  - 2. 2007 Chevrolet Trailblazer – Criswell Chevrolet, Inc. (Gaithersburg, MD) \$19,398.00
  - 3. Street Patching/Repair – Huntzberry Brothers, Inc. (Smithsburg, MD) \$ 312,755.00
  - 4. 400 Meter Transceivers – L/B Water Service, Inc. (Chambersburg, PA) \$ 52,800.00
  - 5. Inventory Items for Water Fund Inventory – HD Supply Waterworks, LTD (Martinsburg, WV) \$ 20,688.15

**UNFINISHED BUSINESS**

**A. Approval of an Ordinance: Acquisition of 333 S. Mulberry Street**

**Action:** On a motion duly made by Councilmember P. M. Nigh and seconded by Councilmember M. E. Brubaker, the Mayor and City Council unanimously agreed by voice vote to approve an ordinance to consider the acquisition, rehabilitation and resale of property known as 333 South Mulberry Street under the City's Single Family Home Ownership

Program, with an acquisition cost of \$ 52,575.00 to be funded by the City's Community Development Block Grant Fund.

**B. Approval of a Resolution: Annexation of Jones Homes, LLC, Case No. A-07-05**

**Action:** Councilmember M. E. Brubaker made a motion to adopt an annexation resolution for Jones Homes, LLC for property located at 1004 Linwood Road on the southwestern boundary of the City. The property to be annexed is 13,321 square feet in size and is intended to be added to and made part of the adjacent municipal lands. Councilmember L. C. Metzner seconded the motion.

Motion carried, 4-1 with Councilmember P. M. Nigh voting No.

**NEW BUSINESS**

**A. Authorization to Hire Nine Firefighters**

**Action:** Councilmember L. C. Metzner made a motion to authorize staff to proceed with the hiring of nine firefighters to fill the nine additional firefighter positions that were included in the approved FY 07/-8 budget. These nine new positions will be filled between April 14, 2008 and June 2, 2008. To help the Fire Department to stay within its budget for the current fiscal year, the actual start date, between April 14<sup>th</sup> and June 2<sup>nd</sup>, will be determined by staff. Sufficient funds for the hiring of these firefighters was previously included in the FY 07/08 Fire Department Budget. Councilmember P. M. Nigh seconded the motion.

Discussion: Councilmember Cromer stated extra personnel does not always equate to lower overtime or safer working conditions. The Fire Department has been neglected for many years, at a high cost to the citizens. Citizens cannot endure another tax or special fee. She is concerned about approving the additional firefighters and being able to afford them in future years. She stated if the Springsted wage study had not been implemented, the City would not be in this financial situation. She hopes the Council is prepared to make deep cuts to be able to afford the additional firefighters.

Councilmember Brubaker stated he has made proposals recommending phasing in the hiring of the additional firefighters. He is concerned other services will be severely limited or new fees will be implemented.

Councilmember Nigh stated by not having two people on a fire truck, the City has not been meeting national standards. She stated the City needs more firefighters and she fully supports hiring them.

Motion carried, 4-1 with Councilmember M. E. Brubaker voting No.

**B. Introduction of an Ordinance: Refuse Collection and License Agreement for Poplar Square Subdivision**

**Action:** On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember K. S. Cromer, the Mayor and City Council unanimously agreed by voice vote to introduce an ordinance authorizing the Refuse Collection and License Agreement for the Poplar Square Subdivision. This action will allow the City's trash/recycling collection contractor to enter the private alleys in this development and collect trash and recycling provided the residents pay the normal "collection fee" (that all City residents pay) and the owner's association indemnify the City.

**C. Introduction of an Ordinance: Quit Claim of a Portion of Alley 4-60, Fridinger Avenue**

**Action:** Councilmember L. C. Metzner made a motion to introduce an ordinance making a determination that certain property (abutting Funkhouser Park) is no longer needed by the City of Hagerstown for a public purpose, and authorizing the execution of a quit claim deed for the same. Councilmember M. E. Brubaker seconded the motion.

Discussion: Councilmember Nigh stated if the property belonged to the City, it would be used as a road. She asked if trees would be planted on the property, as a barrier between the Pony League ballfield and the homes. Rodney Tissue, City Engineer, stated there are trees in this right of way and additional trees could be planted.

Motion carried, 3-2 with Councilmember K. S. Cromer and Councilmember P. M. Nigh voting No.

**D. Introduction of an Ordinance: Adoption of the Revised Property Maintenance Standards**

**Action:** On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember M. E. Brubaker, the Mayor and City Council unanimously agreed by voice vote to introduce an ordinance to amend the Code of the City of Hagerstown by deleting and repealing Chapter 64 Building Construction, Article III thereof, Property Maintenance Standards, and replacing it with a new Article III Property Maintenance Standards, which provides for property maintenance standards and requirements, and penalties for a violation thereof.

**E. Introduction of an Ordinance: Adoption of the International Building Code, 2006 Edition**

**Action:** On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember A. Parson-McBean, the Mayor and City Council unanimously agreed by voice vote to amend the Code of the City of Hagerstown by deleting and repealing Chapter 64 Building Construction, Article I thereof, Building Standards, and replacing it with a new Article I., Building Standards, which provides for Building and Residential Standards and requirements, licensing requirements and penalties for a violation thereof.

**F. Introduction of an Ordinance: Adoption of the International Plumbing Code, 2006 Edition**

**Action:** On a motion duly made by Councilmember P. M. Nigh and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to introduce an ordinance to amend the Code of the City of Hagerstown by deleting and repealing Chapter 64 Building Construction, Article V thereof, Plumbing Standards, and replacing it with a new Article V Plumbing Standards, which provides for Plumbing Standards and requirements, licensing requirements and penalties for a violation thereof.

**G. Introduction of an Ordinance: Adoption of the International Mechanical Code, 2006 Edition**

**Action:** On a motion duly made by Councilmember M. E. Brubaker and seconded by Councilmember A. Parson-McBean, the Mayor and City Council unanimously agreed by voice vote to introduce an ordinance to amend the Code of the City of Hagerstown by deleting and repealing Chapter 64 Building Construction, Article VI thereof, Mechanical Standards, and replacing it with a new Article VI Mechanical Standards, which provides for mechanical Standards and requirements, licensing requirements and penalties for a violation thereof.

**H. Introduction of an Ordinance: Adoption of the National Electric Code, 2008 Edition**

**Action:** On a motion duly made by Councilmember M. E. Brubaker and seconded by Councilmember A. Parson-McBean, the Mayor and City Council unanimously agreed by voice vote to introduce an ordinance to amend the Code of the City of Hagerstown by deleting and repealing Chapter 64 Building construction, Article IV thereof, Electrical Standards, and replacing it with a new Article IV Electrical Standards, which provides for

Electrical Standards and requirements, licensing requirements and penalties for a violation thereof.

**I. Introduction of an Ordinance: Zoning Ordinance Text Amendment to Modify Front Yard Fence Requirements, ZT-2007-02**

**Action:** Councilmember L. C. Metzner made a motion to introduce an ordinance for a text amendment to the City Code, Chapter 68, Section 68-25, Supplementary District Regulations, to modify the fence requirements for the City of Hagerstown. Councilmember M. E. Brubaker seconded the motion.

Discussion: Councilmember Metzner expects the motion to be defeated in order to resolve this discussion. He does not intend for staff to enforce any violation of this particular zoning requirement. He expects this topic to be discussed later in the year, after the budget is completed.

Motion defeated, 0-5.

**J. Introduction of an Ordinance: Salem Avenue/Collegiate Acres Rezoning, Case No. ZM-2007-02**

**Action:** Councilmember M. E. Brubaker made a motion to introduce an ordinance for a zoning reclassification and zoning map amendment, Case No. ZM-2007-02, to rezone 2.66 acres, more or less, of land located at Salem Avenue, from R3, C4, IR (Residential, Regional Shopping Center, Industrial Restricted) to R3, C4, IR (Residential, Regional Shopping Center, Industrial Restricted). Councilmember L. C. Metzner seconded the motion.

Motion carried, 4-1 with Councilmember P. M. Nigh voting No.

**K. Introduction of a Resolution: Annexation of Doub Property, Case No. A-2008-02**

**Action:** Councilmember M. E. Brubaker made a motion to introduce an annexation resolution for the Doub Property Annexation located at the northeast quadrant of I-70/US 40 interchange. The property to be annexed is 141.69 acres in size and is intended to be added to and made part of the adjacent municipal lands. Councilmember L. C. Metzner seconded the motion.

Discussion: Councilmember Brubaker stated this motion will begin the process of considering the requested annexation. Introduction of the Resolution does not mean support of the annexation. Councilmember



Metzner stated he doesn't think the Council is comfortable moving forward with the consideration without County zoning information.

Motion carried, 4-1 with Councilmember P. M. Nigh voting No.

**L. Approval of an Annexation Plan – Doub Property, Case No. A-2008-02**

**Action:** Councilmember M. E. Brubaker made a motion to adopt an Annexation Plan for the Doub Property Annexation located at the northeast quadrant of I-70/US 40 interchange. The property to be annexed is 141.69 acres in size and is intended to be added to and made part of the adjacent municipal lands. Councilmember A. Parson-McBean seconded the motion.

Motion carried, 4-1 with Councilmember P. M. Nigh voting No.

**M. Introduction of a Resolution: Annexation of BRK Ventures, LLC, Case No. A-2008-01**

**Action:** Councilmember M. E. Brubaker made a motion to introduce an Annexation Resolution for BRK Ventures, LLC for property located at 13015 Salem Avenue. The property to be annexed is 1.08 acres in size and is intended to be added to and made part of the adjacent municipal lands. Councilmember A. Parson-McBean seconded the motion.

Motion carried, 4-1 with Councilmember P. M. Nigh voting No.

**N. Approval of an Annexation Plan – BRK Ventures LLC, Case No. A-2008-01**

**Action:** Councilmember M. E. Brubaker made a motion to adopt an Annexation Plan for BRK Ventures, LLC for property located at 13015 Salem Avenue. The property to be annexed is 1.08 acres in size and is intended to be added to and made part of the adjacent municipal lands. Councilmember L. C. Metzner seconded the motion.

Motion carried, 4-1 with Councilmember P. M. Nigh voting No.

**O. Approval of 2008 Rate Changes for Potterfield Pool Season Passes**

**Action:** On a motion duly made by Councilmember K. S. Cromer and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to approve the addition of a Non-City Resident season pass rate at Potterfield Pools for the Summer of 2008. Current City resident rates would remain the same. The proposed rates for Non-City residents are as follows:

	Non-City Residents
Preschool (Age 3 & 4)	\$ 30
Youth (Ages 5 – 12)	\$ 65
Adult (13 – 61)	\$ 90
Seniors (62 +)	\$ 60
Family (up to 5 members)	\$150

**P. Approval of Funding for a Community Coalition Lobbyist**

**Action:** Councilmember L. C. Metzner made a motion for Mayor and Council authorization of the expenditure of \$ 3,000.00 from the General Fund in order to contribute toward hiring Michael Johansen with the firm Rifkin, Livingston, Levitan and Silver, as the Community Coalition Lobbyist. Other funding partners include Washington County, the City of Hagerstown, the Chamber of Commerce, the Greater Hagerstown Committee, CHIEF, Washington County Public Schools and the Washington County Free Library. Councilmember M. E. Brubaker seconded the motion.

Motion carried, 4-1 with Councilmember P. M. Nigh voting No.

**Q. Acceptance of Grant From Maryland Heritage Area Authority for the Doleman Collection Project**

**Action:** On a motion duly made by Councilmember K. S. Cromer and seconded by Councilmember A. Parson-McBean, the Mayor and City Council unanimously agreed by voice vote to authorize staff to accept a grant of \$ 15,000 from the Maryland Heritage Area Authority for the Doleman Collection Assessment and Feasibility Study planning project. In addition, the Mayor and City Council authorize the \$ 15,000 match for this project to come from the FY 2008 General Fund Contingency.

**CITY ADMINISTRATOR'S COMMENTS**

*Bruce Zimmerman, City Administrator*, stated a list of projects has been compiled by The Ferguson Group. The Ferguson Group representatives will be at a work session in February to discuss and fine tune the list.

**MAYOR AND CITY COUNCIL COMMENTS**

*Mayor R. E. Bruchey, II* hoped citizens were not uncomfortable with being asked to limit their comments to five minutes, if possible. He stated two firefighters were hired in July, 1997 and this administration has authorized hiring 19 more firefighters. During his first term, the administration was not as lucky to have an expanding tax base, like there has been in the last three years. It was difficult to balance budgets without raising taxes. He wants people to realize that two firefighters were hired during his first administration.

The Mayor and Council need to make sure citizens are safe with protection from the fire department and the police department and the office of code compliance. He realizes this budget season will be difficult. He stated the budget will be completed, without having to raise taxes.

*Councilmember M. E. Brubaker* attended the second downtown presentation, The Center of It All. The program was excellent and there was a lot of enthusiasm for downtown. The excitement was inspiring. He commended staff for putting together a great presentation.

*Councilmember A. Parson-McBean* had no additional comments.

*Councilmember L. C. Metzner* had no additional comments.

*Councilmember K. S. Cromer* had no additional comments.

*Councilmember P. M. Nigh* stated she read an article from Montgomery County that indicated the leaders there had voted to protect emergency services and programs. This indicates even affluent areas are struggling with budget issues.

*Mayor R. E. Bruchey, II* kicked off the Maryland Municipal League's "If I Were Mayor Contest" by visiting several fourth grade classes today. Jameek Booth, Salem Avenue School, was a state winner last year.

Councilmember Nigh stated there is a forum to discuss Charter Home Rule being held at Hagerstown Community College on January 30, 2008.

Mayor Bruchey stated one of the policies enacted during the last administration was the Annexation Policy. He doesn't understand why some vote against annexation. As the City grows, people will be hired to provide additional services. If annexation does not occur, there won't be additional funding to cover the needs of the citizens.

Andy Hartman, IAFF 1605, thanked the Council for supporting the fire department. Their decision was the right thing for the citizens of Hagerstown.

There being no further business to come before the Mayor and City Council, on a motion duly made, seconded and passed, the meeting was adjourned at 8:03 p.m.

Respectfully submitted,

Donna K. Spickler, City Clerk

Approved: February 26, 2008