

16TH REGULAR SESSION – JANUARY 31, 2006

Mayor R. F. Trump called this 16th Session of the Mayor and City Council to order at 7:01 p.m., Tuesday, January 31, 2006, in the Council Chamber at City Hall. Present with the Mayor were Councilmembers K. B. Aleshire, K. S. Cromer, L. C. Metzner, P. M. Nigh and A. Parson-McBean; City Administrator Bruce J. Zimmerman, City Attorney Bill Nairn and City Clerk D. K. Spickler.

The invocation was offered by Councilmember Kelly S. Cromer. The Pledge of Allegiance was then recited.

Mayor Trump welcomed Police Chief Arthur Smith, who has returned to Hagerstown after being in Afghanistan for a year.

Mayor Trump announced the Rules of Procedure for this meeting will be followed as adopted June 21, 2005. 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 7, 2006, Tuesday, February 14, 2006, Tuesday, February 21, 2006, Budget Retreat on Friday, February 24, 2006 and the Regular Session on Tuesday, February 28, 2006 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 Brett Wilson to the Board of Zoning Appeals.

MINUTES

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 minutes, as presented, for Mayor and Council meetings held on November 29, 2005, December 2, 2005, December 13, 2005, December 20, 2005, January 10, 2006 and January 17, 2006.

CONSENT AGENDA

On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember K. B. Aleshire, the Mayor and City Council unanimously agreed by voice vote to approve the Consent Agenda, with the exception of the Water and Sewer Department, Utility Patching Contract and the Parks and Recreation Stadium Improvements. The approved Consent Agenda is as follows:

A. Engineering:

1. Staley Park Stream Restoration – Meadville Land Service, Inc. (Meadville, Pennsylvania) \$ 72,754.84
2. Geographic Information System Aerial Photography & Aerial Survey for the City – Keddal Aerial Mapping (Pittsburgh, Pennsylvania) \$ 33,950.00
3. Reconstruction of City Park South Parking Lot – Fayetteville Contractors, Inc. (Fayetteville, Pennsylvania) \$ 129,158.20

B. Water and Sewer Department:

1. Replacement of Wastewater Treatment Plant (WWTP) Superintendents Office Roof – Bonded Applicators of Md., Inc. (Hagerstown, Maryland) \$ 10,100.00
2. Water Main Construction Project – Frederick Street – Henson & Son, Inc. (Hagerstown, Maryland) \$ 210,500.00
3. ABB Service/Software Contract Renewal – ABB (Warminster, Pennsylvania) \$ 17,000.00
4. Pump Bowl Replacement for High Service Pump #4 – Geiger Pump & Equipment (Baltimore, Maryland) \$ 17,909.00
5. Overhaul of #4 HSP Motor – AR&E (Hagerstown, Maryland) \$ 12,430.00

C. Public Works: LED Signal Lights – J. O. Herbert, Inc. (Midlothian, Virginia)
\$ 17,010.74

Councilmember Aleshire stated he would like an explanation of why funds are being taken from another project to fund this one. Mr. Zimmerman indicated it is a timing issue. There were funds left in the budget for the R. C. Willson project, which has not occurred. Money will be included in the next budget for this project.

UNFINISHED BUSINESS

There was no unfinished business to come before the Mayor and City Council.

NEW BUSINESS

The following two items were added to New Business from the Consent Agenda.

Water and Sewer Department: Utility Patching Contract – Henson & Sons, Inc. (Hagerstown, Maryland) \$ 302,790.25

Action: Councilmember L. C. Metzner made a motion to approve the utility patching contract with Henson & Sons, Inc. in the amount of \$ 302,790.25. Councilmember K. B. Aleshire seconded the motion.

Discussion: Councilmember Metzner pointed out that no questions were raised about this purchase during last week's preliminary agenda review. He stated the reason for reviewing the preliminary agenda is so that questions and issues can be addressed. He stated staff needs to know if there are questions prior to the regular meeting. He asked that, in the future, questions be brought up during the preliminary agenda review.

Councilmember Cromer expressed her concern that work is being contracted out that could be done by City employees. Councilmember Nigh agreed. Michael Spiker, Director of Utilities, stated this work is historically performed by the collections department but the I/I work has taken precedence. He stated an outside contractor needs to be hired for this twelve month period so the department does not fall behind in the I/I study.

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

Parks and Recreation: Stadium Improvements: Fencing – Abel Fence LLC (Leola, Pennsylvania) \$ 13,583.00

Action: Councilmember L. C. Metzner made a motion to approve the contract for fencing at Municipal Stadium. The price from Abel Fence is \$ 13,583.00. Councilmember A. Parson-McBean seconded the motion.

Discussion: Councilmember Nigh asked how far over the budget the improvements are at this point. Councilmember Aleshire asked if this purchase is part of the original estimate. He stated the time to oppose the project would have been at the initial stages. He pointed out he did oppose it at that time. He does, however, support this contract because it has been supported by the Council.

Councilmember Cromer asked how much has been spent at the stadium. Mr. Zimmerman stated the numbers would have to be reviewed to determine the amount. He stated this is part of the plaza project.

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

A. Introduction of an Ordinance: Strategic Resources, LLC (Harrison Property at Howell Road) Rezoning Request

Action: Councilmember L. C. Metzner made a motion to introduce an ordinance for a Zoning Reclassification and Zoning Map amendment, Case No. ZM-2005-04, to rezone 28 acres, more or less, of land located west of and adjacent to Howell Road and south of Antietam Creek, from IR (Industrial

Restricted) to R2 (Residential). Councilmember K. B. Aleshire seconded the motion.

Discussion: There will be further discussion of this rezoning request at the Work Session on February 7, 2006.

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

B. Resolution: Approval of User Agreement with the YMCA for Use of Fairgrounds Park

Action: Councilmember K. B. Aleshire made a motion to approve a resolution to renew the User Agreement with the YMCA of Hagerstown, Maryland, Inc. to utilize one multi-purpose field located at Fairgrounds Park for the period of January 1, 2006 to December 31, 2006. User shall have the right to renew this agreement up to three (3) additional (1) year terms beginning January 1, 2007. Councilmember L. C. Metzner seconded the motion.

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

C. Resolution: Approval of Lease Renewal for Property Known as Hagerstown Home Store, 21-23 E. Franklin Street

Action: On a motion duly made by Councilmember K. B. Aleshire and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to approve a resolution for a one year extension of the existing lease for the Hagerstown Neighborhood Development Partnership, Inc. located on the first floor of 21-23 East Franklin Street. Rent will continue at an annual rate of one dollar (\$1.00) payable in advance on the first day of this yearly term.

Discussion: Councilmember Cromer asked how long the Home Store has been leasing this property. Mr. Zimmerman stated the lease started with the Home Store in approximately 1999 and when they merged with the Hagerstown Neighborhood Development Partnership the lease continued at the same rate. Councilmember Cromer asked if the City is obligated to keep the lease at \$ 1.00 for a specified period of time. This information will be provided.

D. Resolution: Designation of City Clerk to Sign Checks

Action: On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember K. B. Aleshire, the Mayor and City Council unanimously agreed by voice vote to approve a resolution approving the designation by the City Administrator of City Clerk, Donna Spickler as an

additional signer of City checks on certain accounts in accordance with Section 709 of the Charter of the City of Hagerstown.

E. Approval of License Agreement for Joint Use of Elevator with Masonic Temple

Action: On a motion duly made by Councilmember K. B. Aleshire and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to enter into a “License Agreement for Joint Use of Elevator” with Friendship Lodge No. 84 A.F. & A.M. of Hagerstown, MD, to jointly utilize the elevator in the Arts and Entertainment District Parking Deck. The agreement permits the Masonic Temple to have elevator service to the ballroom area of their Lodge at 54 South Potomac Street.

F. Approval of Sale of Easement to the U.S. Department of the Interior for Appalachian Trail

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 an easement whereby the City will sell an easement to the United States Department of the Interior. This easement will apply to a portion of the City owned watershed property near the Edgemont Reservoir, and provide for the preservation and protection of the Appalachian Trail. In return for the easement, the City will receive the sum of \$ 800,000 from the United States Department of the Interior.

Discussion: Councilmember Nigh asked if the Department of the Interior, through this agreement, would be able to prevent the Appalachian Trail from being used as the Appalachian Trail. Councilmember Metzner stated the agreement mandates that the Appalachian Trail will be maintained as the trail. The Federal government is not taking ownership of the trail through this agreement. Councilmember Cromer stated the agreement protects the trail. Mr. Zimmerman stated this agreement maintains the current status of the Trail.

G. Approval of Master Development Plan for 50 West Memorial Boulevard

Action: On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember K. B. Aleshire, the Mayor and City Council unanimously agreed by voice vote to adopt the “Master Development Plan” for the City-owned property at 50 West Memorial Boulevard as shown on drawing 90-108-03 and dated January 24, 2006. This plan will be used for the future development of the property to serve the needs of the Department of Public Works. The project also will develop “workforce” housing that will be designated for owner-occupied home

ownership. The Mayor and Council further authorize staff to begin the process to rezone, subdivide and develop the property as shown.

Discussion: Councilmember Aleshire asked what had been decided about the residential development on this site. Rodney Tissue, City Engineer, stated no decision on the specific development was made but the Mayor and City Council determined it would be home ownership and would be affordable. Councilmember Cromer and Councilmember Nigh stated they thought the housing would be duplexes and townhomes. There could be a total of 13 townhomes located on the site. The residential development would face the public street, not the alley. The expected cost of the homes is not known at this point.

H. Approval of Customer Service Representative

Action: Councilmember K. B. Aleshire made a motion to approve hiring a Customer Service Representative in the Commercial Utilities department effective February 1, 2006. This additional position will allow the City to continue to meet its goal of meeting and exceeding customer expectations in accordance with the City's vision and mission statement. The funding sources for this position will be 98% from the City's three utilities and 2% from the City's trash collection fees. Councilmember L. C. Metzner seconded the motion.

Discussion: Councilmember Nigh indicated she would explain at next week's meeting why she is voting no on this proposal.

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

I. Approval of Request to Use Vacant Lot at S. Potomac St./W. Memorial Boulevard for Carnival

Action: Councilmember K. B. Aleshire made a motion to approve the request from the Funkstown Rod and Gun Club and the Downsville Ruritan Club to utilize the vacant lot at S. Potomac Street and W. Memorial Boulevard for a carnival from April 26, 2006 through May 7, 2006. Set up will begin April 23, 2006. Councilmember A. Parson-McBean seconded the motion.

Motion carried, 4-1 with Councilmember L. C. Metzner abstaining from the vote due to a potential conflict of interest.

CITIZEN COMMENTS

Jeff Cline, Town of Williamsport Councilman, spoke to the group about the "If I Were Mayor" essay contest sponsored by the Maryland Municipal League (MML). Fourth graders from across the state are invited to participate. He stated he has contacted

all the elementary schools in Washington County but extra contact from the Mayor and City Council would be helpful. A winner from each of the 11 local MML Chapters will be chosen. Winners will receive a \$ 250.00 savings bond and an award plaque. One random student and teacher will be awarded a \$ 25.00 gift card from Barnes and Nobel. The deadline for submitting essays is April 1, 2006. Contest rules and a study guide are available at the MML website. He asked everyone to remember that today's children are tomorrow's leaders. Mayor Trump stated he has spoken to students at two elementary schools.

Belinda Whittington, 7 E. Washington Street, Apt. 708, Hagerstown, Maryland, participated in the Neighborhood College program. As part of the program, she chose to participate in a ride-along with the police department officers. She expressed her concern for the need for new cruisers. She asked the Mayor and City Council to please make sure new cruisers are provided. She stated the police officers, fire fighters and rescue people are her heroes.

CITY ADMINISTRATOR'S COMMENTS

Bruce Zimmerman, City Administrator, welcomed Police Chief Arthur Smith back to Hagerstown. He is very appreciative of Captain Summers' handling of the department during the Chief's absence.

Chief Smith thanked the Mayor and City Council and Mr. Zimmerman for allowing him to do what he has done for the past year. Senior police officers were needed in Iraq and Afghanistan. His son was in Iraq at the time and his daughter may have been stationed there. He feels he did some good. He will have a flag to present to the City at a later date. He thanked Captain Summers for filling in for him.

MAYOR AND COUNCIL COMMENTS

Councilmember A. Parson-McBean had no further comments.

Councilmember L. C. Metzner welcomed Chief Smith back. He also thanked Captain Summers.

Councilmember K. S. Cromer also welcomed Chief Smith. She stated a police officer had asked if he and other patrol officers could speak to councilmembers about some department issues. The officer asked if they would have the protection of the council to allow them to say what they want to say. She stated the officers have her full support and anyone can speak to her at any time. She stated there should never be any type of repercussions for wanting to speak individually with any councilmember. If other councilmembers support the idea to come speak with them, she would support this as well. She stated they have her word that the conversations and the employee's identity will be kept confidential.

Councilmember Cromer stated the majority of councilmembers, including her, do not feel they are above the law or more special than the average citizen. They need to be responsible to the people who elected them. She feels the ride given to a councilmember by a supervisor to the Motor Vehicle Administration was inappropriate. She stated she feels that Captain Summers misspoke when he said there is plenty of staff to do these kind of things. She has continually said that the department is too heavy at the top and needs to be thinned out. These statements reiterate her thoughts. She doesn't want the public to think there are plenty of patrol officers, because there are not. The citizens and the department should not be punished when the Council decides whether or not to hire additional officers. There is a desperate need for more officers. She asked that no supervisory positions be filled until this is reviewed. An officer's job is hard enough without having to deal with many angry citizens who feel they should not be given tickets. She stated the officers are now feeling that they are forced to defend themselves. Captain Summers should have stood up for the officers. She stated she and Councilmember Aleshire have discussed a proposal that he will explain. She supports the proposal and asks that the other councilmembers support it also. She asked that this incident be reviewed by the Ethics Board.

Councilmember K. B. Aleshire stated his proposal is from a previous idea from Councilmember Metzner. He stated he thinks there is a deficiency in the Code of Ethics and Rules of Procedures as they relate to the Mayor and City Council as a body. He stated he feels that very few members could define what a gift is. He believes there is confusion about things like whether or not it is appropriate to turn in a parking ticket received while conducting City business. He stated Councilmember Metzner mentioned a Blue Ribbon Committee. He is proposing developing a document that everyone understands. He stated they have developed an unwritten policy that includes things like having staff pursue issues if there are three Councilmembers who agree to this. He stated there needs to be a stronger orientation. The rules of procedure govern how meetings are conducted and the Code of Ethics deals with employees and officials statewide. He thinks developing a set of policies would help this body. It would also help new people coming into office. He stated they have not discussed the "three in favor" to move forward with staff review, etc. They also have not discussed how to deal with the situation where three councilmembers vote on a direction and the Mayor presents the direction as something different. Policy goals need to be established.

Councilmember Aleshire welcomed Chief Smith home. He hopes he benefited that country as well as he does this City. He stated he met with the Economic Development Commission regarding incentive programs for redevelopment downtown. The questions that were discussed were political in nature. The Mayor and Council need to discuss the basic premise of whether they want to do this or not. He hopes politics are set aside and the basic issue is discussed.

Councilmember Aleshire stated it is hard to accept the terrible loss of the correctional officer who was shot at Washington County Hospital. His heart goes out to the family and he hopes that the endeavors of the officer's church are supported by those who can do so.

Councilmember P. M. Nigh presented a list of items she will discuss at next week's work session. She asked the City Clerk to read the list. The list is as follows:

1. She will address Mr. Winebrenner at the REACH Shelter
2. She will address the County Commissioners who voted on a lobbyist.
3. Thanks to all police officers for apprehending the escaped convict from Washington County Hospital. More will be said about the City police officers next week.

Mayor R. F. Trump stated the group's position as Mayor and Council is as a policy group. They set policy for City Staff and provide the management tools to complete the budget. They do not manage individual people or talk to individual people. This undermines the management staff. He stated they need to be very guarded as they talk about individual people. Their key management tool is the budget. After the budget is set, they should let the city run accordingly. The City has done a very fine job overall. All the managers are professional managers and are highly respected in their fields. He stated the Mayor and Council needs to continue to operate as a policy group.

Councilmember Parson-McBean went on record as saying this proves how divisive media coverage can be when a spin is put on things. Reckless and divisive reporting has even divided this Council. The discussion that Councilmember Cromer mentioned did not include her. She would have welcomed the opportunity to participate in the discussion. She stated people of her hue have seen this type of divisiveness throughout history. Councilmember Metzner stated, for the record, he was not one of the majority mentioned either.

There being no further business to come before the Mayor and City Council, on a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember K. B. Aleshire, the meeting was adjourned at 8:04 p.m.

Respectfully submitted,

Donna K. Spickler
City Clerk

Approved: _____