

**16<sup>TH</sup> REGULAR SESSION – February 23, 2010**

**Mayor R. E. Bruchey, II called this 16<sup>th</sup> Session of the Mayor and City Council to order at 7:06 p.m., Tuesday, February 23, 2010, in the Council Chamber at City Hall. Present with the Mayor were Councilmembers W. M. Breichner, M. E. Brubaker, F. Easton, A. C. Haywood, L. C. Metzner; City Administrator Bruce Zimmerman, City Attorney John Urner and D. K. Spickler, City Clerk.**

The invocation was offered by Councilmember Martin E. Brubaker. The Pledge of Allegiance was then recited.

Mayor Bruchey announced the Rules of Procedure for this meeting will be followed as adopted June 23, 2009. 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, March 2, 2010, Tuesday, March 9, 2010, Tuesday, March 16, 2010 and the Regular Session on Tuesday, March 23, 2010 at 7:00 p.m.

**CITIZEN COMMENTS**

There were no citizen comments.

**PUBLIC HEARING**

**Comprehensive Zoning Map Amendments Phase III**

Stuart Bass, Comprehensive Planner, stated the 2008 Comprehensive Plan sets forth new policies to be implemented through a number of separate decisions, ordinance, and laws. One of these is to update and amend the zoning map to be consistent with the Plan's recommendations. The City last completed a comprehensive rezoning in 1977.

The recommended rezonings include specific recommendations of the Plan, as well as additional smaller scale recommendations from staff. Staff recommendations are based on a goal of eradicating illogical and outdated Zoning designations where possible. Phase III of the Comprehensive Rezoning is now being considered. A set of recommended zoning map district revisions, along with the accompanying Findings of Fact, for Phase III of the Comprehensive Rezoning Process were presented for consideration.

These recommended revisions to the Zoning Map are the result of a lengthy and arduous review by the Planning Commission. A Public Review meeting was held by the Planning Commission on October 28, 2009. The Commission then took the comments

reviewed under advisement, and along with the recommendations from the Comprehensive Plan, formulated the proposed zoning changes.

Mr. Bass entered the following as Exhibits:

Exhibit 1: Certificate of Advertisement

Exhibit 2: Planning Commission record by file

This public hearing is being held to hear testimony on each separate issue.

Area 1 – End of Insurance Way (from C2 to POM) – No testimony was presented.

Area 2 – Hagers Crossing (From C2, C4 & AT – PUD Overlay to R2 – PUD Overlay)  
– No Testimony was presented.

Area 3 – Hagers Crossing, Lot 7; Garland Groh Blvd. (From C2, C4 to C4, C2) – No testimony was presented.

Area 4 – Entrance of Collegiate Acres (From R2 to R3) – No testimony was presented.

Area 5 – MD 58 at I-81 Interchange (From R1 to C2, IR, C4) – No testimony was presented.

Area 6 – Outer Drive, west of Bramly (From R1 to R3) – No testimony was presented.

Area 7 – 1413 and 1501 Pennsylvania Avenue (From R1 to C1)

The following testimony was presented for Area 7:

Dana Dayley, 1409 Pennsylvania Avenue, Hagerstown, Maryland, stated 1409 is the only residential property from Beechwood Avenue to Pennsylvania Avenue. The only interest in the property from potential buyers has been as commercial. She stated the estate of her mother cannot be settled until the property is sold. She asked that it be included in the zoning change.

Dan Anderson, 900 Fairview Road, Hagerstown, Maryland, asked that the property at 900 Fairview Road be zoned commercial.

Area 8 – South side of Northern Avenue (From C2, R1, to C1) - No testimony was presented.

Area 9 – Belview, Hillcrest, St. Clair (From R2 to R1, R3) – No testimony was presented.

Area 25 – Corner of Belview and Pennsylvania Avenue (From R1 to C2)

The following testimony was presented for Area 25:

Melissa Yourich, 800 Pennsylvania Avenue, Hagerstown, Maryland, stated when she purchased the property at 800 Pennsylvania Avenue, there was some confusion about whether or not it was commercial or residential. She asked that it be zoned C2.

Area 10 – Florida Avenue, Central Chemical (From IG to POM) – No testimony was presented.

Area 11 – Burhans Blvd. N. (From IG to IMU) – No testimony was presented.

Area 12 – East side of Mitchell Avenue (From IR to R2) – No testimony was presented.

Area 13 – Deerfield Knolls (From C2, PUD to R2, PUD) – No testimony was presented.

Area 14 – East side of Carrollton Avenue (From IR to R2) – No testimony was presented.

Area 15 – 419, 420-422 Salem Avenue (From R2 to C2) – No testimony was presented.

Area 16 – Townhouses on Burhans Blvd., corner of W. Antietam Street (From C2 to R2) – No testimony was presented.

Area 18 – Gateway Crossing (From R3 to R2) – No testimony was presented.

Area 19 – Burhans Blvd. & Eutaw Street (From IG to C1) – No testimony was presented.

Area 20 – Wash. Co. Human Development Council (From IG to R2) – No testimony was presented.

Area 21 – 300-6—Burhans Blvd. S. (From IG & R2 to C2 & R2) – No testimony was presented.

Area 22 – CSX & Startzman on Wesel (From C2 to IF) – No testimony was presented.

Area 23 – Area behind Valley Plaza (From C2 to C4 & IG) – No testimony was presented.

No further testimony was presented. The record will remain open for 10 days for additional comment. The hearing was closed at 7:46 p.m.

## **MINUTES**

On a motion duly made by Councilmember F. Easton and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to approve the minutes, as presented, for the Mayor and Council meetings held on January 12, 2010, January 19, 2010 and January 26, 2010.

## **CONSENT AGENDA**

On a motion duly made by Councilmember A. C. Haywood and seconded by Councilmember W. M. Breichner, the Mayor and City Council unanimously agreed by voice vote to approve the Consent Agenda as follows:

- A. Community Affairs: Open Containers Law Exemption for BluesFest (June 3-5, 2010), Augustoberfest (August 21-22, 2010) and Thursday City Center Jazz Nights (June 10, 2010, June 17, 2010, June 24, 2010, July 1, 2010 and July 8, 2010)
- B. Public Works:
  - 1. LED Pedestrian Signal Lights – RGA, Inc. (Powhatan, VA) \$ 26,912.00
  - 2. Emergency Purchase: HVAC Unit Replacement for Elizabeth Hager Center – M. S. Johnston Company (Hagerstown, MD) \$ 30,514.00
- C. Wastewater Department:
  - 1. Grinder Pump – Fluid Solutions (Westminster, MD) \$ 40,000.00
  - 2. Emergency Purchase: Cooling Pump Replacement – STH (Frederick, MD) \$ 11,275.00
- D. Parks:
  - 1. Mowing and Trimming Contract – 4 Year Contract – 2007 through 2010 – Ground Envy (Hagerstown, MD) \$ 78,320.40 for all four seasons (2010 Season \$ 21,610.00)
  - 2. Mowing and Trimming – Fairgrounds Park and Hager Park – D & D Lawn Services (Smithsburg, MD) \$ 11,325.00
  - 3. Installation of Underground Service to Field Lights at Municipal Stadium – Ellsworth Electric, Inc. (Hagerstown, MD) \$ 54,900.00

## **UNFINISHED BUSINESS**

### **A. Approval of an Ordinance: Crampton Conversion Overlay District (Case No. ZM-2009-03)**

**Action:** On a motion duly made by Councilmember M. E. Brubaker and seconded by Councilmember W. M. Breichner, the Mayor and City Council unanimously agreed by voice vote to introduce an ordinance to approve a

Conversion Overlay District Zone on property located at 237-239  
Frederick Street.

**NEW BUSINESS**

**A. Introduction of an Ordinance: Amendments to Chapter 185, Nuisance Abatement**

**Action:** On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember A. C. Haywood, the Mayor and City Council unanimously agreed by voice vote to introduce an ordinance to amend the Code of the City of Hagerstown, Chapter 185 thereof, entitled Nuisance Abatement to revise the time frame for compliance.

**B. Approval of a Resolution: Mutual Aid Agreement with the Frederick County Sheriff's Office and the Washington County Sheriff's Office**

**Action:** On a motion duly made by Councilmember M. E. Brubaker and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to approve a resolution authorizing a memorandum of understanding (MOU) between the City of Hagerstown, the Frederick County Sheriff's Office and the Washington County Sheriff's Office. This MOU formalizes and memorializes the mutual rights and obligations with respect to the mutual aid relationship and other related issues. The agreement will remain in effect until it is cancelled by any of the parties.

**C. Approval of a Resolution: Mutual Aid Agreement with the Frederick City Police Department and the Washington County Sheriff's Office**

**Action:** On a motion duly made by Councilmember M. E. Brubaker and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to approve a resolution authorizing a memorandum of understanding (MOU) between the City of Hagerstown, the Frederick City Police Department and the Washington County Sheriff's Office. This MOU formalizes and memorializes the mutual rights and obligations with respect to the mutual aid relationship and other related issues. The agreement will remain in effect until it is cancelled by any of the parties.

**D. Approval of a Resolution: 2010 Summer Play Camp Operations – Hagerstown YMCA**

**Action:** On a motion duly made by Councilmember A. C. Haywood and seconded by Councilmember F. Easton, the Mayor and City Council unanimously agreed by voice vote to approve a resolution to authorize the execution of

contract for the Hagerstown YMCA to operate a play camp program at Hellane Park and Pangborn Park, serving 60 children per day at each site at a cost of \$ 34,827.00 for an eight (8) week period during the summer 2010 season.

**E. Approval of a Resolution: 2010 Summer Play Camp Operations – Memorial Recreation Center**

**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 approve a resolution to authorize the execution of a contract for the Memorial Recreation Center to operate a play camp program at Wheaton Park, serving 60 children per day at a cost of \$ 17,000.00 for an eight (8) week period during the summer 2010 season.

**F. Acceptance of Urban Greening Grant – Chesapeake Bay Trust**

**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 approve a resolution to authorize the execution of a contract for Girls Incorporated of Washington County, serving 45 additional children per day at a cost of \$ 15,000.00 for an eight (8) week period during the summer 2010 season.

**G. Approval of a Resolution: Water Quality Bond, Series 2010 for \$ 79,000.00 Additional Financing for Salem Avenue Collection System Rehab**

**Action:** On a motion duly made by Councilmember A. C. Haywood and seconded by Councilmember M. E. Brubaker, the Mayor and City Council unanimously agreed by voice vote to approve a resolution authorizing the City of Hagerstown to issue and sell, upon its full faith and credit, a general obligation bond to the Maryland Water Quality Administration in the aggregate principal amount of \$ 79,000.00.

The purpose of this resolution is to provide additional funding for the Salem Avenue Waste Water Collection System Rehabilitation Project under the same terms and conditions as the original MDE financing for this project approved on December 15, 2009 for \$ 651,500.00. The additional funding will be used for the purpose of covering additional costs related to federal Davis Bacon prevailing wage rates which have been determined apply to funding for this project.

Proceeds from the sale of the bond are to be used for the public purpose of financing the additional cost of the Salem Avenue Collection System

Rehab Project and other related improvements and costs of issuance for the bonds. Staff is hereby directed to take all necessary actions to proceed with the sale of the bond as directed by this resolution.

#### **H. Adoption and Amendment of Historic Preservation Design Review Guidelines**

**Action:** On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember W. M. Breichner, the Mayor and City Council unanimously agreed by voice vote to adopt the Architectural Design Guidelines for the Residential Historic districts and the Downtown Historic District, which were approved by the City's Historic District Commission in 2007, and amended by the Mayor and City Council as part of this adoption. The amended pages include revisions to the title pages, acknowledgment pages, and the replacement windows text for each set of guidelines. The new language affecting replacement windows is as follows: Aluminum- or vinyl-clad products are generally not considered compatible, and should only be used if the cost of better windows prohibits or restricts an important rehabilitation project. Even then, these materials should only be considered on rear and other facades not visible from public ways. While it is preferred to retain or replace-in-kind historic windows on front and other facades visible from a public way, aluminum- or vinyl-clad products may be considered if the new window replicates the appearance of the original window in design and in the width and depth of individual window elements.

Discussion: Councilmember Haywood thanked the Historic District Commission for considering this compromise. Mayor Bruchey stated there should be an appeal process, without having to go to court.

#### **CITY ADMINISTRATOR'S COMMENTS**

*Bruce Zimmerman, City Administrator, had no additional comments.*

#### **MAYOR AND COUNCIL COMMENTS**

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

*Councilmember A. C. Haywood attended the CRS banquet last weekend.*

*Councilmember F. Easton had no additional comments.*

*Councilmember M. E. Brubaker and Councilmember Easton attended the community lobbyist day in Annapolis and met with several members of the Washington County delegation. He also attended the CRS banquet.*

*Councilmember W. M. Breichner* had no additional comments.

*Mayor R. E. Bruchey, II* reminded everyone the State of the City will be held on March 2, 2010 at 7:30 a.m. at Hager Hall. He hopes the legislative trip to Washington, DC on February 24, 2010 is productive.

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 8:00 p.m.

Respectfully submitted,

Donna K. Spickler, City Clerk

Approved: March 23, 2010