

72ND REGULAR SESSION – FEBRUARY 26, 2008

Mayor R. E. Bruchey, II called this 72nd Session of the Mayor and City Council to order at 7:08 p.m., Tuesday, February 26, 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 William Nairn and D. K. Spickler, City Clerk.

The invocation was offered by Elder Ginger Medley. Bishop Blaine Medley sang “Lift Every Voice and Sing.” 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, March 4, 2008, Tuesday, March 11, 2008, Tuesday, March 18, 2008 and the Regular Session on Tuesday, March 25, 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 re-appoint Emily McFarland and Frank Linn to the Board of Traffic and Parking. Both terms of office will expire on November 30, 2009.

PEACH TREE SUITES, LOT 19, FRIDINGER AVENUE, ZONING MAP AMENDMENT, CASE NO. ZM-2007-03

A Public Hearing was held to receive testimony regarding a proposed zoning map amendment for Lot 19, on the east side of Fridinger Avenue.

Kathleen Maher, Planning Director, stated the lot is currently vacant and is zoned C2 (Commercial General). The proposed zoning would be R2 (Residential). Ms. Maher indicated this parcel was affiliated with the Charlton Brothers trucking company property.

Prior to the comprehensive rezoning in March, 1977, the subject property was zoned LI (Light Industrial). Also zoned LI was the Agricultural and Mechanical Association of Washington County (The Fairgrounds), with which the subject parcel was connected as part of the same zoning district. In 1977, the subject property was then rezoned to C2, apparently to accommodate the existing businesses. There has been a recent zoning case in the immediate vicinity. Case ZM-2004-03 rezoned 2.63 acres from C2 to R2, effective August 27, 2004.

Staff recommends approval of the proposed rezoning due to the substantial change in the character of the neighborhood. Staff also references the recommendation from Case ZM-2004-03 as an official part of this decision. The Planning Commission concurred with Staff and recommended approval of the proposed rezoning. The Planning Commission also felt that an argument could be made for mistake, that the lot in question should have been included in the rezoning for Case ZM-2004-03.

Ms. Maher entered the following as Exhibits:

- Exhibit 1: Planning Commission File
- Exhibit 2: Certificate of Advertisement

Merle Seville, Keller Engineers, was representing the owner of the property, Rick Toms. He emphasized the neighborhood has changed substantially. Mr. Toms indicated he will continue to build attractive homes.

There was no testimony presented, either in favor of or against the proposed rezoning.

The record will be kept open for 10 days for additional comments. The hearing was then closed at 7:21 p.m.

CITIZEN COMMENTS

Mary Haines, 27 Laurel Street, Hagerstown, Maryland, stated people are continuing to allow their dogs to roam and to defecate anywhere. She asked that work start soon on Jonathan Street. A fundraiser will be held by the Washington County Athletic Association to help pay the medical expenses for Patrick Michael. Ms. Haines discovered that most restaurants downtown are closed on Saturdays. She provided a copy of an article from the Washington Post pointing out it takes a positive dynamic of a neighborhood to revive an area like the downtown. She asked that the Mayor and Council try to get the County Commissioners to implement a leash law and an animal waste law. Mayor Bruchey asked if Ms. Haines had made this request to the County Commissioners. Ms. Haines stated she had not. Councilmember Metzner suggested that a group of citizens approach the County Commissioners regarding this.

Tim Thompson, 12219 W. Lawn Lane, Hagerstown, Maryland, lives in the Cedar Lawn area and he is concerned that people walk across three lanes of traffic to get to the Centre at Hagerstown shopping center. This is dangerous. He suggested installing a crosswalk over Interstate 81 to provide a safe pedestrian crossing.

Nancy Hammond, 812 Summit Avenue, Hagerstown, Maryland, appeared before the Mayor and City Council on behalf of the Workforce Housing Coalition of the League of Women Voters of Washington County. A questionnaire was distributed to the Mayor and City Council previously. She asked that the questionnaire be returned by March 5, 2008. The questionnaire is also available at washcohousing.org.

MINUTES

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 minutes, as presented, for the Mayor and Council meetings held on January 8, 2008, January 22, 2008 and January 29, 2008.

CONSENT AGENDA

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

- A. Community Affairs: Cosmetic Restoration of Steam Locomotive and Tender – Davis Custom Application (Chambersburg, PA) \$ 12,000.00
- B. Engineering: Paving Hellane Park Parking Lot Improvement – David H. Martin Excavating, Inc. (Chambersburg, PA) \$ 146,941.80
- C. Public Works: Dumpster Program – Allied Waste Services (Hagerstown, MD) Dumpster Rental \$ 0 , Cost per pull: \$ 105, Tipping fee per ton (residential waste and building waste) \$ 50 or \$ 75
- D. Information Technology: ESRI GIS Software Annual Maintenance Renewals – ESRI, Inc. (Redlands, CA) \$ 11,405.60
- E. Water and Sewer Department:
 - 1. Water Meters – L/B Water Service, Inc. (Chambersburg, PA) \$ 50,699.52
 - 2. Inventory Items for Water Fund Inventory – HD Supply Waterworks, LTD (Martinsburg, WV) \$ 58,247.76
- F. Parks & Recreation: Mowing and Trimming Contract – 4 Year Contract – 2007 through 2010 – Ground Envy (Hagerstown, MD) \$ 78,320.40 for all four seasons (2008 Season \$ 18,874.80, 2009 Season \$ 20,196.00, 2010 Season \$ 21,069.60 – Subsequent seasons to be awarded each year)

UNFINISHED BUSINESS

A. Adoption of an Ordinance: Salem Avenue/Collegiate Acres Rezoning, Case No. ZM-2007-02

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 adopt 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).

B. Approval of an Ordinance: Adoption of the Revised Property Maintenance Standards

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 adopt 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.

C. Approval of an Ordinance: Adoption of the International Building Code, 2006 Edition

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 an ordinance 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.

D. Approval of an Ordinance: Adoption of the International Plumbing Code, 2006 Edition

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 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 with a new Article V Plumbing Standards, which provides for plumbing Standards and requirements, licensing requirements and penalties for a violation thereof.

E. Approval 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 L. C. Metzner, the Mayor and City Council

unanimously agreed by voice vote to approve 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.

F. Approval 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 L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to approve 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.

G. Approval of an Ordinance: Refuse Collection and License Agreement of 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 approve 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.

H. Approval of Ordinance: Quit Claim of a Portion of Alley 4-60, Fridinger Avenue

Action: Councilmember M. E. Brubaker made a motion to approve 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 L. C. Metzner seconded the motion.

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

I. Approval of an Annexation Resolution: Haven Road II, Case No. A-2007-06

Action: Councilmember M. E. Brubaker made a motion to adopt an annexation resolution for Kenneth R. Jordan/KRJ, LLC, property located along the northwest boundary of the City, intended to also clarify the areas of a previous annexation, Resolution R-05-41. The property to be annexed is 51.86 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: The previous annexation inadvertently created an enclave and this annexation resolution eliminates the enclave.

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

NEW BUISNESS

A. Approval of a Resolution: Acceptance of Offer of Dedication of a Portion of Alley 1-71

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 accept the offer of dedication of 17.9 square feet of Alley 1-71. The alley located behind Girls, Inc. and between Washington Avenue and west Franklin Street, will be rebuilt by the City and accepting this offer will allow all work to be within the lands of the City of Hagerstown.

B. Approval of a Resolution: 2008 Summer Play Camp Operations – Hagerstown YMCA

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 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 \$ 33,332, for an 8 week period during the summer 2008 season.

C. Approval of a Resolution: 2008 Summer Play Camp Operations – Girls, Inc,

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 Girls Incorporated to operate a play camp program at their site, serving 45 additional children per day at a cost of \$ 15,000, for an 8 week period during the summer 2008 season.

D. Approval of a Resolution: 2008 Summer Play Camp Operations – Memorial Recreation

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 to operate a play camp program at Wheaton Park, serving 60 children per day at a cost of \$ 18,980, for an 8 week period during the summer 2008 season.

E. Approval to Submit Maryland Heritage Area Authority Grant Application

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 authorize staff to submit a grant application to the Maryland Heritage Area Authority for \$ 4,000 to assist with a second project to create interpretive plaques on Hagerstown's Civil War heritage. The required match for the grant will be included in the FY 2009 budget.

F. Approval of Modification to the Single Family Homeownership Program

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 of the following temporary modifications to the Single Family Homeownership Program:

1. Reduce the sales price of each of the following units to 75% of their appraised value:
119 Randolph Avenue
236 N. Locust Street
212 N. Jonathan Street
214 N. Jonathan Street
441 N. Jonathan Street
443 N. Jonathan Street
2. Offer a commission of 1.5% - 2% to Realtors if their client buys one of these homes.

Not included in the temporary modifications is the plan to attempt to sell units at 212 or 214 North Jonathan Street to a non-profit housing provider if a purchaser has not been identified by the end of April, 2008.

G. Approval of Modifications to Downtown Residency Initiative

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 of the following modifications to the Downtown Residency Initiative:
Expand the DRI area one block to the north to include both sides of Randolph Avenue.

1. Increase the assistance to those renting in the area from \$100 per month to \$150 per month.
2. Increase the assistance to those purchasing a home in the area from \$1,500 to \$2,500 for those buying homes costing \$150,000 or less; and, to \$5,000 for those buying homes selling between \$150,001 and \$250,000.
3. Forgive loans to those borrowing \$2,500 after three years and those borrowing \$5,000 at the end of five years.
4. Amend the definitions of eligible participants; add an additional class of eligible participants; and, specify the time frame for submitting an application, all in accordance with the memorandum dated January 31, 2008.

H. Approval of Employee Health Care Committee Recommendations

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 authorize staff to implement the recommendations of the Employee Health Care Committee for Fiscal Year 2008/09, as outlined in the Committee's Report presented to the Mayor and Council on February 19, 2008.

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

Action: On a motion duly made by Councilmember K. S. Cromer and seconded by Councilmember P. M. Nigh, the Mayor and City Council unanimously approved 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 25, 2008 through May 3, 2008. Set up will begin no earlier than April 22, 2008 and clean up will be completed by May 4, 2008.

CITY ADMINISTRATOR'S COMMENTS

Bruce Zimmerman, City Administrator, stated he and Kathleen Maher compiled a memo regarding amendments to the Excise Tax. The Washington County Delegation and County Commissioners are considering amendments. The City has received

approximately \$2,000,000 since July, 2005 from the Excise Tax to be used for infrastructure. Staff will continue to monitor the discussions.

MAYOR AND CITY COUNCIL COMMENTS

Councilmember M. E. Brubaker stated it will be difficult to fund infrastructure within the City, either with or without the excise tax. He attended meetings in Annapolis concerning local initiatives. It is important to keep Hagerstown known in Annapolis.

Councilmember A. Parson-McBean thanked Bishop Medley and Elder Medley for participating in this evening's meeting. Kadeem Brim, a sophomore at South Hagerstown High School was recently named to the All-County Orchestra. Councilwoman Parson Mc-Bean has been appointed to the National League of Cities' Transportation Infrastructure and Services Committee. She will not be able to join other Mayor and Council members who are meeting with Congressional and Senate representatives on Thursday, February 28, 2008. She will be attending the Women and Minority Business Luncheon that day.

Councilmember L. C. Metzner commended the members of Neighborhoods 1st for their participation. He also thanked the police department for their community outreach.

Councilmember K. S. Cromer asked how many Council members will be traveling to Washington, DC. Mayor Bruchey, Councilmember Brubaker, Councilmember Cromer and Councilmember Metzner will be attending the meetings.

Councilmember P. M. Nigh pointed out there is gang activity in Hagerstown. Three gang members with Hagerstown addresses were listed in a newspaper article about a large number of arrests. She hopes the gang task force continues to work toward reducing the number of gang members in Hagerstown.

Mayor R. E. Bruchey, II expressed condolences to the families of Ron Karn, Larry Craig and Kenneth Luhn. The State of the City will be held on Tuesday, March 4, 2008 at 7:30 a.m. at Duffy's on Potomac. He encouraged citizens to attend Washington County Commissioners' meetings. He thanked the Hagerstown Fire Department for responding quickly to his neighbor's chimney fire. He is looking forward to meeting with Congressmen and Senators on Thursday and enlightening them to the needs of Hagerstown and Washington County. He hopes the City will be able to secure funding, with the assistance of The Ferguson Group.

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 8:02 p.m.

Respectfully submitted,

Donna K. Spickler, City Clerk

Approved: March 25, 2008