

WORK SESSION AND EXECUTIVE SESSION – March 17, 2009

Mayor R. E. Bruchey, II called this Work Session and Executive Session of the Mayor and City Council to order at 4:05 p.m., Tuesday, March 17, 2009, in the Council Chamber at City Hall. Present with the Mayor were Councilmembers M. E. Brubaker, K. S. Cromer, L. C. Metzner and P. M. Nigh, City Administrator Bruce Zimmerman, City Attorney William Nairn and D. K. Spickler, City Clerk. Councilmember A. Parson-McBean was not present.

WORK SESSION – March 17, 2009

Presentation of Citizens Police Academy Certificates

Graduation certificates were presented to the participants in the Citizens Police Academy. Twenty one people completed the course. They are: Mark Bartel, Celia Bartel, Delores Bitner, Ted Bodnar, Vicky Bodnar, James Bragunier, Shawn Buck, John Chance, Myra Constable, Tracy Daugherty, Linda Evans, James Grolton, Carol Hahn, Greg McFarland, Jack Neikirk, Philip Neisser, Donna Rasmussen, Lisa Remsburg, Mary Taylor, and Judith Wheeler.

Request for Carnival

George Parrish, Past President of Funkstown Rod and Gun Club, Inc., submitted a request to hold their annual carnival on the vacant lot at South Potomac Street and Memorial Boulevard. This is a non-profit organization and to sponsor an event at this location has been asset to the fund raising efforts of the club and other non-profit groups who assist them.

They would like to begin setup on April 27, 2009 and have the carnival run from May 1, 2009 through May 9, 2009.

Mr. Parrish has contacted the Fire Marshall's office and the Hagerstown Police Department regarding the anticipated carnival.

It was the general consensus of the Mayor and City Council to allow the Funkstown Rod and Gun Club to hold the carnival again this year.

Youth Baseball League User Agreements

Junior Mason, Parks Superintendent, presented new user agreements for the following youth leagues:

Hagerstown Colt & Palomino League
Hagerstown Pony League
National Little League

Hellane Park
Funkhouser Park
Staley Park

West End Little League

Hellane Park

Each league has been utilizing the respective field under the terms of the User Agreement dated April, 1999, which was renewed, and subsequently expired December 31, 2008. The new agreements would be from January 1, 2009 through December 31, 2010, with options for two year extensions.

It was the general consensus to include approval of the new agreements on the March 31, 2009 agenda. American Little League will also be offered a new user agreement.

140 S. Potomac Street

Larry Bayer, Community Development Director, was present to discuss the sale of 140 South Potomac Street.

During discussions with the Mayor and Council concerning acquiring 140 S. Potomac Street, staff was directed to create a development agreement which would be included as part of any contract of sale on the property. Staff has met and is suggesting that the following be included in the development agreement:

Uses

Owner-occupied residential

Mixed Use – owner-occupied residential with small commercial space

Commercial

Construction

Start Date – no later than 120 days after settlement; Completion Date – no later than 180 days after start

Construction Standards

Exterior plans approved by the Historical District Commission, paint colors must be compatible with the building, landscaping, paved, stone or concrete driveway, new plumbing, electrical and mechanical systems, including central air conditions, minimum of bath and a half

Standard of finishes

Maintain original standing and running trim, to also include pocket doors, main staircase and banisters. Refinished existing floors, if possible, hardwood or carpeted flooring, except kitchen and bath. Ceramic tile in bath, ceramic or other tile in kitchen.

Cabinets

solid surface counter tops and vanities, solid wood cabinetry

Light fixtures

Above builders grade light fixtures

Staff also recommends working with the City attorney to write a development agreement, proceed to offer the building for sale at \$ 73,000, beginning March 30 or as soon as development agreement is completed by the City Attorney; accept offers until

April 30; incentive: 10 year, 0% second mortgage for the purchase price. Loan to be forgiven at the rate of 10% per year over a 10 year period.

Councilmember Metzner asked who would be financing the construction work. Mr. Bayer indicated the purchaser would be. Councilmember Metzner recommended reducing the incentive to a rate of 5% per year, over a ten year period.

It was the general consensus to move forward with the offer for purchase and to reduce the incentive rate to 5%.

“Historic Washington County” Book Participation

The Chamber of Commerce has contracted with a firm to create a coffee table book on Washington County entitled Historic Washington County: The Story of Hagerstown and Washington County. The first half of the book will be a historical overview of the County written by Dennis Frye. The second half of the book will be a “Sharing the Heritage” section allowing for individual profiles of businesses and organizations.

The fee to participate with a profile on the City of Hagerstown would range in price from \$ 1,950 for one page to \$ 6,390 for four pages. These prices increase after March 31, 2009.

Staff is seeking direction from the Mayor and Council on whether they wish to participate. If they do, funds will have to be earmarked in this fiscal year to cover the costs.

Councilmember Brubaker asked if other municipalities are participating. Staff does not have this information.

Councilmember Cromer wondered if Hagerstown will be included in the historical section if the Mayor and Council do not purchase pages.

Councilmember Nigh mentioned that two other books have been published about Washington County and they include Hagerstown.

Councilmember Cromer stated she doesn’t see the need to spend this extra money, especially since other books have been published.

Councilmember Nigh stated it would be better for the City to produce a book. Councilmember Brubaker would like to learn more about the intent and what other municipalities are participating. Councilmember Metzner asked who the target market would be for the book.

It was the general consensus to not purchase space in the book.

Phase One of Comprehensive Rezoning

Kathleen Maher, Planning Director, and Stuart Bass, Comprehensive Planner, were present to review the proposed zoning map amendments for the phase one comprehensive rezoning to allow for introduction of the amendments at the March 31, 2009 regular meeting.

Prior to the hearing, the Planning Department received a letter from the Hagerstown Housing Authority requesting that their property on W. Baltimore Street be rezoned from R3 to N-MU (Neighborhood Mixed-Use). Both the R3 and N-MU districts allow all types of residential uses and allows commercial activity on the ground floor of a mixed-use building. The R3 allows 10% of a new development's tract area to be developed with C2 commercial uses to serve the development. The N-MU includes design standards and sign regulations.

Since the public review meeting, the Planning Department has not received any additional written or verbal testimony regarding the phase one comprehensive rezoning.

Councilmember Brubaker stated this request has not been reviewed by the Planning Commission. He recommended that the Planning Commission review this request prior to the Mayor and City Council's review.

Ms. Maher indicated special zoning areas will be reviewed by the Mayor and Council at a later date. This request would fall within the special zoning area definition.

The following is staff responses to issues raised at the February 24, 2009 public hearing:

Issue No. 6 – Virginia Avenue at Howard Street – the Planning Commission recommends this area be rezoned from C2 to C1. The Planning Commission is recommending this rezoning, because the road network and surrounding neighborhoods would be adversely affected if the commercial uses intensified in this area. The affected property owners want to retain C2 zoning due to concerns about impact on property values and tax assessments. There were questions raised over the matter and staff would recommend that the C2 or C1 zoning lines be modified slightly to include the entirety of a parking lot at the south end of the area. The surrounding residents who are affected by this commercial area or would be affected by any intensification of commercial activity in this area, have not weighed in on this issue.

Staff noted that permitted C2 uses include those that are considered to be a destination, such as a fast food restaurant or a convenience store. C1 commercial uses are generally more for serving the neighborhood. Phase II of the comprehensive rezoning plan will include an increase of the permitted uses within a C1 district and implementing a size limitation.

Councilmember Brubaker and Councilmember Metzner support the Planning Commission's recommendation. Councilmember Cromer and Councilmember Nigh indicated they are speaking with residents in the neighborhood.

This issue will be discussed further.

Issue No. 8 – S. Potomac Street and Howard (at the railroad) – the Planning Commission recommends rezoning this area from IR to C2. This area is comprised of small lots with residential development across the alley in the rear and to the north. It is desired to redevelop this area for IR (Industrial Restricted) uses, the setback requirements would make that impossible. The lots are about 100 feet deep and the setback requirement from residential uses is 100 feet. Currently, the property is being used with a C2 use. The Planning Commission does not feel that this is a suitable area for industrial uses.

One of the affected property owners wants the flexibility to go industrial. The surrounding residents who are affected by this auto repair activity or would be affected by intensification to an industrial activity have not weighed in on this issue.

Councilmember Brubaker, Councilmember Cromer and Councilmember Metzner support the Planning Commission's recommendation. Councilmember Nigh stated she has been speaking with residents in this neighborhood and has not reached a decision.

Issue No. 14 – S. Locust and Lee Street – the Planning Commission recommends rezoning from R4, which allows all levels of residential activity and office uses to R2, which allows single-family and two-family dwellings. It would make these properties have the same zoning as the rest of this side of the street. The apartment building would become non-conforming. The three duplexes are permitted. By law, the City cannot create a small single-lot zoning district.

The owner of the apartment building does not want his property to become a non-conforming use due to concerns about impact on lenders for any future investment plans.

It was the general consensus to keep the zoning at R4.

No public testimony was presented at the February 24, 2009 hearing on the other rezoning areas. It was the general consensus of the Mayor and City Council to accept the recommendation of the Planning Commission for these issues.

Proposed Mixed Use Zoning Districts, ZT-2008-02

Stuart Bass, Comprehensive Planner, stated a public hearing on the proposed Mixed Use Zoning District text amendments was held on February 24, 2009. One letter of support was received with regard to the proposed IMU District.

The three proposed Mixed Use Zoning Districts are the proposed Downtown Mixed Use District, the Neighborhood Mixed Use District, and the Industrial Mixed Use District. Changes recommended in the Comprehensive Plan include a revision to the existing C3 District, which is the downtown area, a new neighborhood mixed-use zoning district, and a new zoning category for planned industrial areas.

With respect to Downtown, the Plan recommends a new zoning district that would take the place of the current C3 district. This is the Downtown Mixed Use District. Substantive changes are minimal compared to the current C3 District. Basically, the existing district is being renamed and some development standards for new construction are being added.

The Neighborhood Mixed Use District is a new district designed to apply to areas where the City envisions a seamless combination of residential, commercial, office, and institutional uses, possibly resulting from a special study or master planning efforts. The idea is to provide standards which would allow and encourage traditional neighborhood development.

The Industrial Mixed Use District is a new district designed to provide locations for light industrial parks, office parks, research and development facilities, hi-tech communication and technology facilities, trucking and distribution facilities, and minor commercial uses that support job centers.

It was the general consensus to include introduction of an ordinance to approve these amendments on the agenda for March 31, 2009.

Land Management Code Amendments – Variances for Lot Area Requirements

Kathleen Maher, Planning Director, stated a public hearing on the proposed Land Management Code, to amend the Board of Zoning Appeals' authority to hear certain variances, was held on February 24, 2009. No additional comments were received during the period in which the record was kept open.

It was the general consensus to include introduction of an ordinance to implement this amendment on the agenda for March 31, 2009.

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 P. M. Nigh reminded everyone the Utility Relief Silent Auction will be held at the Hagerstown Hotel on Thursday, March 19, 2009 from 7:00 p.m. to 9:00 p.m.

Councilmember K. S. Cromer had no additional comments.

Councilmember M. E. Brubaker thanked the County Commissioners for agreeing to share the costs in the South Potomac Street parking garage access project.

Mayor R. E. Bruchey had no additional comments.

EXECUTIVE SESSION – March 17, 2009

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 meet in closed session at 5:25 p.m. to consider the acquisition of real property for a public purpose and matters directly related thereto, #3. The following people were present: Mayor R. E. Bruchey, II, Councilmember M. E. Brubaker, Councilmember K. S. Cromer, Councilmember L. C. Metzner, Councilmember P. M. Nigh, City Administrator Bruce Zimmerman, Deborah Everhart, Economic Development Director, Alfred Martin, Finance Director, City Attorney William Nairn and City Clerk D. K. Spickler. The issue discussed was property acquisitions for a downtown expansion project on S. Potomac Street. No formal action was taken. The meeting was adjourned at 6:07 p.m.

Respectfully submitted,

Donna K. Spickler, City Clerk

Approved: April 28, 2009