

95TH REGULAR SESSION – MARCH 31, 2009

Mayor R. E. Bruchey, II called this 95th Session of the Mayor and City Council to order at 7:04 p.m., Tuesday, March 31, 2009, 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 Mark Boyer and D. K. Spickler, City Clerk.

The invocation was offered by Evangelist Pamela Parson Williams. 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, April 7, 2009, Tuesday, April 14, 2009, Tuesday, April 21, 2009 and the Regular Session on Tuesday, April 28, 2009 at 7:00 p.m.

AWARDS

The Gridiron Classic MVP award was presented to the South Hagerstown High School recipient, Hunter Phillips. A check was presented to South Hagerstown High School by Carmen Fox, of Tower Bank (formerly First National Bank of Greencastle).

Members of Boy Scout Troop 26 were present at the meeting.

PUBLIC HEARING

Amendments to 2008 Comprehensive Plan to Comply with HB 1141's Requirements for a Growth Element and a Water Resources Element

Kathleen Maher, Planning Director, and Stuart Bass, Comprehensive Planner, stated this public hearing is being held to consider the Planning Commission's recommended amendments to the 2008 Comprehensive Plan to comply with the new State requirements (via H.B. 1141) for a Growth Element and a Water Resources Element. The deadline for compliance is October 1, 2009. The mandatory stormwater management element will come later following completion of the County's Water Resources Element study. The City and a couple of other towns are participating on that study with the County.

The growth element must include the following analyses:

1. Past growth patterns and population projections
2. capacity of land within City and anticipated growth area for new development

3. Land area needed to satisfy demand for development
4. Growth area for City which will guide future annexations
5. Impact of growth on public services and infrastructure in proposed growth area
6. Financing mechanisms to support necessary public services and infrastructure
7. Any burden on services which growth may cause outside city

The 2008 Comprehensive Plan defines a growth boundary for Hagerstown called the Medium Range Growth Area (MRGA). The 2008 Plan includes much of the analysis required in HB 1141. Amendments were needed to fill in some minor gaps and clarify some items in the analysis. The MRGA is the planned area for annexations and utility service for the City for the next 20 years. The MRGA is within the designated County Urban Growth Area.

At MDP's request, amendments have been drafted that elaborate on the link between growth demand and land supply, spell out acreages of identified vacant tracts, elaborated on school capacity discussion, add section on financing mechanisms and explain what drives growth to the area. Staff also added additional capacity planning for recreation, library expansion and water and sewer. As required by HB 1141, the City consulted with the County on the proposed Growth Element at a joint meeting of the two Planning Commissions in November.

In response to the County's comments on the growth element, language was revised regarding the County's desire for water and sewer service outside the MRGA by clarifying that any expansions to the MRGA must consider the impact on available water and sewer capacity to serve additional areas plus ability to serve ultimate demand in existing MRGA area.

The Water Resources Element must include:

1. Identification of drinking water and other water resources to serve needs of existing and future development proposed in land use plan (or Growth Element).
2. Identification of suitable receiving waters and land areas to meet stormwater management and wastewater treatment and disposal needs.

The Comp Plan includes a Water and Wastewater Chapter with detailed information about these utilities and plans for improving capacity for each utility and serving new growth.

Water & Sewer Strategies include:

1. Maximize capacity of Water and Sewer Systems
2. Coordination with Washington County
3. Establish priority areas
4. Continue to assess and upgrade with new technology

The amendments analyze projected growth for three towns using City water, other City water and sewer commitments outside the MGRA (such as pre-annexation agreements) and projected demand for service on vacant land at Airport and Friendship. This data was added to the projections in the Plan and it appears there is still adequate capacity to serve projected demand in the next 20 years.

The amendments offer to explore expansion of MRGA boundaries to serve County economic development priorities, if cooperative arrangements can be devised to provide water and sewer capacity to serve the expanded area.

Amendments do not include stormwater, because the City will be cooperating with Washington County on their WRE study to gain the data for this requirement.

At the MDP's request, amendments have been drafted that clarify a number of different technical data in the Plan, as well as more information on plans to reduce I&I to Wastewater Plant and what happens if the Flow Transfer Agreement sunsets and is not extended, the MRGA may need to shrink to ensure full build out.

Once adopted, all future Annexation Plans (part of the annexation resolution) must be consistent with the Growth Element. Following completion of the County's Water Resource Element study, the City will prepare additional Comp Plan amendments to complete the WRE requirement for stormwater provisions. Once the Comp Plan amendments are adopted, the Water and Sewer Element will be forwarded to Washington County for inclusion in the County Water and Sewer Plan.

Ms. Maher entered the following as exhibits:

- Exhibit 1: Planning Commission file, by reference
- Exhibit 2: Certification of Publication

There was no testimony presented. The hearing was closed at 7:23 p.m. The record will remain open for ten days for additional comments.

CITIZEN COMMENTS

Chris Graser, 16939 Alcott Road, Hagerstown, Maryland, expressed his concern about traffic congestion on Burhans Boulevard. He stated it is difficult for pedestrians to cross Burhans Boulevard. He indicated some drivers don't stop for red signal lights.

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 minutes, as presented, for the meetings held on January 20, 2009, January 27, 2009, February 3, 2009, February 10, 2009, February 17, 2009 and February 24, 2009.

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. Engineering:
 - 1. Reconstruct Alley 4-22 and Portion of Alley 4-21, South of Randolph Avenue and East of Locust Street – Santos Construction Co., Inc. (Bowie, MD) \$ 43,229.30
 - 2. Install Sidewalks Along Dual Highway (MR. Rt. 40) Phase III – Huntzberry Bros., Inc. (Smithsburg, MD) \$ 75,340.50
- B. Community Affairs Application Permits:
 - 1. Washington County Arts Council, BluesFest, Central Parking Lot – Friday, May 29, 2009 and Saturday, May 30, 2009
 - 2. Conservit, Inc., BluesFest, Central Parking Lot – Friday, May 29, 2009 and Saturday, May 30, 2009
 - 3. M & T Bank, BluesFest, Central Parking Lot – Friday, May 29, 2009 and Saturday, May 30, 2009
 - 4. Washington County Arts Council, Thursday Evening Music Series at University Plaza – May 28, 2009 through July 2, 2009 on consecutive Thursdays
- C. Public Works: Mowing Contract – TK & Sons Enterprise, LLC (Boonsboro, MD) \$ 28,950.00
- D. Parks & Recreation:
 - 1. Mowing and Trimming Contract – 4 Year Contract – 2007 through 2010 – Ground Envy (Hagerstown, MD) \$ 78,320.40 for all four seasons (2009 Season \$ 20,196.00, 2010 Season \$ 21,069.60 – Subsequent seasons to be awarded each year)
 - 2. Mowing and Trimming – Fairgrounds Park and Hager Park – D & D Lawn Services (Smithsburg, MD) \$ 11,325.00
- E. Police Department:
 - 1. HeartStart Defibrillators – Lifework, Inc. (Ellicott City, MD) \$ 28,635.00
 - 2. Down Payment for 2 (two) Trained Police K-9 Dogs, Plus Handler Training – Rudy Drexler's School for Dogs, Inc. (Elkhart, IN) \$ 14,000.00
- F. Water and Wastewater Departments:
 - 1. Wastewater Division – Mowing Contract – All In One Lawn Service (Hagerstown, MD) \$ 10,305.00

2. Water Division – Mowing Contract – All In One Lawn Service
(Hagerstown, MD) \$ 14,585.00
3. Water Division – Protectus Meters – HD Supply Waterworks, LTD
(Martinsburg, WV) \$ 19,800.00

UNFINISHED BUSINESS

A. Approval of an Ordinance: Green Buildings Property Tax Credits

Action: 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 an ordinance to create a property tax credit for high performance buildings, also known as green buildings. This credit would provide a 20-30% property tax credit on the increase in assessment for LEED certified silver, gold, and platinum buildings for a period of three years.

B. Approval of a Resolution: Amending the City Charter: Article VIII, Personnel

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 a resolution amending the Charter of the City of Hagerstown, Article VIII, Section 805 to change the prohibition of an officer or employee holding a public office to provide that such prohibition only applies after a person is elected rather than becoming a candidate.

NEW BUSINESS

A. Introduction of an Ordinance: Comprehensive Rezoning Phase I, Case No. ZM-2008-03

Action: Councilmember M. E. Brubaker made a motion to introduce an ordinance for a Zoning Reclassification and Zoning Map amendments, Case No. ZM-2008-03, to rezone those areas which are associated with Phase I of the Comprehensive Rezoning, based on the 2008 Comprehensive Plan. A series of maps are attached to and are made part of this ordinance. Councilmember K. S. Cromer seconded the motion.

Discussion: Councilmember Brubaker indicated there are sections of this ordinance that council members don't agree with. The Planning Commission has put forth a lot of effort in reviewing the comprehensive rezoning and he supports introducing the ordinance.

Councilmember Metzner asked what notices were sent to residents. Kathleen Maher, Planning Director, indicated a direct notice was sent to property owners stating how the zoning change would affect them. The standard public hearing advertisement was placed in the Herald Mail newspaper. Councilmember Metzner suggested that notices be sent to the people living in the affected neighborhoods, indicating what uses are allowed by the existing zoning (such as a McDonald's or Sheetz).

Mayor Bruchey asked if there is a time factor for approving Phase I of the Comprehensive Rezoning. Ms. Maher indicated it would delay the entire process, since Phase II will be ready for discussion in June. Mayor Bruchey would entertain tabling the discussion until feedback from the residents is obtained.

Councilmember Cromer suggested introducing the ordinance and discussing these issues prior to adopting the ordinance.

Councilmember Parson-McBean does not think the residents in the neighborhood should be scared into thinking a McDonald's or Sheetz will be located in the area. She asked staff to investigate if either of these two businesses would actually be interested in locating a store in the Virginia Avenue/Howard Street area.

Ms. Maher indicated the existing zoning would not prohibit either of these uses in the neighborhood.

Councilmember Nigh asked when the two Sheetz stores (one on Potomac Avenue and one on Cannon Avenue) were built. She also asked if the residents opposed either one. Ms. Maher will provide this information.

Councilmember Metzner is concerned the ordinance would not be able to be amended after it is introduced. The process may need to be started again.

On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember A. Parson-McBean, the introduction of the ordinance was tabled for further discussion.

B. Introduction of an Ordinance: Creation of New Zoning Districts; Downtown-Mixed Use D-MU, Neighborhood – Mixed Use N-MU, Industrial Mixed Use IMU and to Add Additional Associated Definitions, Case No. ZT-2008-02

Action: Councilmember M. E. Brubaker made a motion to introduce an ordinance for text amendments to the City Code, Chapter 140, Land Management Code, Article 3, Definitions and Article 4, Zoning, Sections E., F., and H., to add the following new zoning districts, Downtown-Mixed Use (D-MU),

Neighborhood – Mixed Use (N-MU), Industrial – Mixed Use (I-MU) and to remove and repeal the Commercial Central (C3) District. Councilmember L. C. Metzner seconded the motion.

Discussion: Ms. Maher indicated this ordinance and the previous one cannot be adopted independently.

On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember A. Parson-McBean, the introduction of the ordinance was tabled.

C. Introduction of an Ordinance: Text Amendment for Lot Area Requirement, Case No. ZT-2008-03

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 introduce an ordinance for a Zoning Ordinance Text amendment, Case No. ZT-2008-03, to allow the Board of Zoning Appeals to grant variances to lot area and size requirements under certain conditions.

D. Approval of a Resolution: User Agreement with Hagerstown Colt and Palomino League

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 a resolution to renew the Long-Term User Agreement with the Hagerstown Colt and Palomino League to utilize the baseball fields located at Hellane Park, for the period January 1, 2009 through December 31, 2010. The User shall have the right to renew this agreement up to three (3) additional two (2) year terms beginning January 1, 2011.

E. Approval of a Resolution: User Agreement with Hagerstown Pony League

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 a resolution to renew the Long-Term User Agreement with the Hagerstown Pony League to utilize the baseball fields located at Funkhouser Park, for the period January 1, 2009 through December 31, 2010. The User shall have the right to renew this agreement up to three (3) additional two (2) year terms beginning January 1, 2011.

F. Approval of a Resolution: User Agreement with National Little League

Action: On a motion duly made by Councilmember K. S. Cromer and seconded by Councilmember P. M. Nigh, the Mayor and City Council unanimously agreed by voice vote to approve a resolution to renew the Long-Term User Agreement with the National Little League to utilize the baseball fields located at Staley Park, for the period January 1, 2009 through December 31, 2010. The User shall have the right to renew this agreement up to three (3) additional two (2) year terms beginning January 1, 2011.

G. Approval of a Resolution: User Agreement with West End Little League

Action: On a motion duly made by Councilmember P. M. Nigh and seconded by Councilmember K. S. Cromer, the Mayor and City Council unanimously agreed by voice vote to approve a resolution to renew the Long-Term User Agreement with the West End Little League to utilize the baseball fields located at Hellane Park, for the period January 1, 2009 through December 31, 2010. The User shall have the right to renew this agreement up to three (3) additional two (2) year terms beginning January 1, 2011.

H. Approval of a Resolution: User Agreement with American Little League

Action: On a motion duly made by Councilmember P. M. Nigh and seconded by Councilmember K. S. Cromer, the Mayor and City Council unanimously agreed by voice vote to approve a resolution to renew the Long-Term User Agreement with the American Little League to utilize the baseball fields located at Hager Park and Fairgrounds Park, for the period January 1, 2009 through December 31, 2010. The User shall have the right to renew this agreement up to three (3) additional two (2) year terms beginning January 1, 2011.

I. Approval of a Resolution: City of Hagerstown Water Quality Bond, Series 2009

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 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 an aggregate principal amount of \$ 7,194,571. Proceeds from the sale of the bond will be used for the public purpose of financing the City's waste water treatment plant headworks improvements and ultraviolet disinfection upgrade projects and costs of issuance for the bond as more fully described in the resolution.

The issuance of this bond was previously authorized by City Ordinance O-08-26, which was passed by the Council and approved by the Mayor on December 16, 2008 and which became effective January 16, 2009. This resolution spells out the details of that authorized financing and will allow the completion of the financing for this project.

City Staff and Officials are hereby directed to take all necessary actions to proceed with the sale of the bond as directed by this resolution.

J. Approval of Request for Carnival – May 1, 2009 through May 9, 2009 – Funkstown Rod and Gun Club

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 request from the Funkstown Rod and Gun Club to utilize the City property lot at S. Potomac Street and W. Memorial Boulevard for a carnival from May 1, 2009 through May 9, 2009. Set up will begin no earlier than April 27, 2009 and clean up will be completed by May 11, 2009.

K. Approval of Extension of City Annual Financial Audit Contract for Two Years – Smith Elliott Kearns and Company, CPA

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 a two year extension of the City's annual financial audit contract with Smith Elliott Kearns and Company, CPA's. The quotes to perform the June 30, 2009 and 2010 audits will be \$ 72,500 and \$ 74,500 respectively. The quotes represent an average annual increase of 2.1% over the cost of last year's audit.

CITY ADMINISTRATOR'S COMMENTS

Bruce Zimmerman, City Administrator, reminded residents that yard waste collection resumes next week. The first batch of 12 historic plaques are being installed in various locations in Hagerstown. Mr. Zimmerman reported copies of the 2009/2010 proposed budget have been delivered to the Mayor and City Council.

MAYOR AND COUNCIL COMMENTS

Councilmember M. E. Brubaker attended the Metropolitan Planning Meeting recently.

Councilmember A. Parson-McBean had no additional comments.

Councilmember L. C. Metzner stated the purchase of defibrillators for the police department is a positive thing. Police officers are often the first responder on a scene and these may help save lives.

Councilmember K. S. Cromer stated the fountain at Park Circle looks very nice. She asked people to pray for her mother, who is having surgery tomorrow.

Councilmember P. M. Nigh stated she, Councilmember Cromer and Councilmember Parson-McBean will continue to attend meetings during the remainder of their term.

Mayor R. E. Bruchey, II had no additional comments.

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 7:58 p.m.

Respectfully submitted,

Donna K. Spickler, City Clerk

Approved: April 28, 2009