

**49<sup>TH</sup> REGULAR SESSION – APRIL 24, 2007**

**Mayor R. E. Bruchey, II called this 49<sup>th</sup> Session of the Mayor and City Council to order at 7:05 p.m., Tuesday, April 24, 2007, in the Council Chamber at City Hall. Present with the Mayor were Councilmembers M. E. Brubaker, K. S. Cromer, P. M. Nigh and A. Parson-McBean; City Administrator Bruce Zimmerman, City Attorney William Nairn and D. K. Spickler, City Clerk. Councilmember L. C. Metzner was not present.**

The invocation was offered by Councilmember Kelly S. Cromer. 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, May 1, 2007, Tuesday, May 8, 2007, Tuesday, May 15, 2007 (Budget and Tax Rate Hearings at 7:00 p.m.) and the Regular Session on Tuesday, May 22, 2007.

**PROCLAMATION**

Mayor Bruchey presented a proclamation recognizing Municipal Government Works Week. Representatives from the employee groups receiving the proclamation were Mike Hanlon, AFSCME 1540, Wayne Hose, AFSCME 3373, Andy Hartman, IAFF #1605, Charles Peck, IBEW #307 and Rodney Tissue, Non-union.

**PRESENTATION**

John Williamson and Jim Brown, North High Stadium Committee, presented a check to the Mayor and City Council to retire the \$ 250,000 loan, plus interest, for the North High Stadium turf. Mr. Williamson stated the experience of working with the City of Hagerstown was very positive.

**PUBLIC HEARING**

A Public Hearing was held to receive testimony for the Community Development Block Grant Annual Action Plan. The City of Hagerstown has prepared a Proposed Annual Action Plan (AAP) and will be applying for the FY 2007/2008 CDBG Entitlement Grant from the U. S. Department of Housing and Urban Development (HUD) in the amount of \$ 962,490. In addition to the CDBG grant, the City anticipates receiving \$ 533,492 in program income primarily from CDBG loan repayments and \$ 700,000 from sales of homeownership properties. The City also anticipates \$ 607,015 in

unspent funds to be carried over from FY 06/07 for a total of FY 07/08 budget of \$ 2,802,997.

There was no testimony presented.

The record will remain open until May 29, 2007 for written comments.

The hearing was closed at 7:20 p.m.

### **CITIZEN COMMENTS**

Ron Lytle, P. O. Box 320, Chewsville, Maryland, reminded the Mayor and City Council of his request for them to sponsor childhood art. He has not received a response.

Tim McCoy, P. O. Box 3800, Hagerstown, Maryland, expressed his concern that his mother's vehicle was towed for expired tags without any notice being given to her. He is concerned that the towing company travels around the City looking for expired tags. He presented a letter to the Mayor and City Council that he intends to submit to the newspaper as a Letter to the Editor.

Myron Martin, 13235 Maugansville Road, Hagerstown, Maryland, expressed his concern again about the truck traffic not being permitted on Terps Boulevard until after houses are sold. He feels that the road should be opened to truck traffic now, before the homes are sold. The Board of Traffic and Parking will be discussing this issue at a meeting on May 10, 2007.

Nancy Allen, 924 Oak Hill Avenue, Hagerstown, Maryland, asked that funds be allocated for the rehabilitation of the grandstand at Fairgrounds Park before funds are allocated for the Barbara Ingram School for the Arts. Additional activities for youth could be provided at Fairgrounds Park.

Mayor Bruchey announced approval of an ordinance for dangerous and vicious animals and the introduction of a new ordinance for dangerous and vicious animals was being removed from the agenda. The 2+2 Committee has asked for time to discuss this issue. Councilmember Cromer stated there is confusion regarding the definition of dangerous animals. Councilmember Nigh expressed her concern that this issue has been discussed with no resolution. Mayor Bruchey stated he understands the County Commissioners are in the process of reviewing the Animal Control ordinance. Councilmember Nigh asked if the ordinance could be introduced and still be discussed so that it moves forward. Councilmember Parson-McBean stated the full Council did not agree to send this topic to the 2+2 Committee for their review. Mayor Bruchey stated the recommendation to ask the 2+2 Committee to review the ordinance at will be discussed at the May 1, 2007 Work Session.

### **MINUTES**

On a motion duly made by Councilmember K. S. Cromer and seconded by Councilmember A. Parson-McBean, the Mayor and City Council unanimously agreed by voice vote of all members present to approve the minutes, as presented, for Mayor and Council meetings held on March 20, 2007, March 27, 2007, April 3, 2007 and April 10, 2007.

### **CONSENT AGENDA**

On a motion duly made by Councilmember K. S. Cromer and seconded by Councilmember A. Parson-McBean, the Mayor and City Council unanimously agreed by voice vote of all members present to approve the consent agenda as follows:

#### **A. Community Affairs:**

1. Application/Permit – M&T Bank, June 1, 2007 and June 2, 2007, Blues Fest Event
2. Application/Permit – Conservit, Inc., June 1, 2007 and June 2, 2007, Blues Fest Event
3. Application/Permit – Washington County Arts Council, June 1, 2007 and June 2, 2007, Blues Fest Event

#### **B. Engineering:**

1. Maryland Ave. Storm Drain at Wilson Blvd. – Henson & Son, Inc. (Hagerstown, MD) \$ 278,229.80
2. 2007 Street Overlay and Milling – Craig Paving, Inc. (Hagerstown, MD) \$ 496,800.00
3. Thermoplastic Markings on Overlay Streets – Alpha Space Control, Inc. (Fayetteville, PA) \$ 28,000.00
4. Inlay Tape for Pavement Markings – 3M Traffic Control Materials Division (Potomac, MD) \$ 21,000.00

E. Water/Sewer Department: Pump for R. C. Willson Plant – Hughes Supply (Montross, VA) \$ 10,000.00

F. Community Development: Federal Lead Hazard Control Program – Amendment to Original Agreement

### **UNFINISHED BUSINESS**

#### **A. Approval of an Ordinance: Rental License Fee Increase for 2007 and 2008**

**Action:** Councilmember P. M. Nigh made a motion to approve an ordinance to amend the annual license fee in the Rental Facilities Ordinance. The non-refundable annual license fee shall be \$ 45 per unit (effective June 20, 2007), consistent with a recommended increase in the 06/07 City budget

and \$50 per unit (effective June 20, 2008). Councilmember A. Parson-McBean seconded the motion.

Motion carried, 3-1 with Councilmember K. S. Cromer voting No.

**B. Approval of an Ordinance: Acquisition of Land for Supplemental Environmental Project (Fairgrounds Park) (PDR Paradise, LLC)**

**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 of all members present to approve an ordinance for the acquisition of 2.79 acres of real estate located south of Monet Drive in the City of Hagerstown, MD from PDR Paradise, LLC. This property will be obtained in order for the City to complete a “Supplemental Environmental Project” as required by the Maryland Department of the Environment. The land will be obtained for no monetary consideration. The Mayor and City Council further moved that this land parcel will be considered part of Fairgrounds Park.

**NEW BUSINESS**

**A. Emergency Ordinance: Authorizing a Rental Contract, Assignment of the Rental Contract and a Memorandum of Understanding in Reference to the Miss Maryland Scholarship Organization Pageant**

**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 of all members present to approve an emergency ordinance authorizing the execution and delivery of a rental contract with The Maryland Theater, an assignment of a rental contract with the Miss Maryland Scholarship Organization and a Memorandum of Understanding with the Board of County Commissioners of Washington County to facilitate the continued presence of the Miss Maryland Scholarship Pageant and the Miss Outstanding Teen Maryland Pageant at the Maryland Theater for a term of five years.

**B. Introduction of an Ordinance: Approval of Lease Agreement with James Harsh, t/a The Mulch Man, for 931 Eldridge Drive, Hagerstown, Maryland**

**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 of all members present to introduce an ordinance authorizing the execution of a lease Agreement with James Harsh for 931 Eldridge Drive, Hagerstown, Maryland.

**C. Introduction of an Ordinance: Adopting a Tee Marker Advertising Program at Hagerstown Greens at Hamilton Run**

**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 of all members present to introduce an ordinance to adopt a Tee Marker Advertising Program at Hagerstown Greens at Hamilton Run which has the fee schedule of \$ 750 for tee number one and \$ 500 for tee two through nine with a renewal fee of \$ 100 and authorizes staff to negotiate and sell the tee advertising.

**D. Introduction of a Resolution: Annexation of Norfolk Southern Railroad Property, A-2007-02**

**Action:** Councilmember K. S. Cromer made a motion to introduce an Annexation Resolution for Norfolk Southern Railway Company for property located on the southern boundary of the City, at West Oak Ridge Drive. The property to be annexed is 95.2 acres in size and is intended to be added to and made part of the adjacent municipal lands. Councilmember M. E. Brubaker seconded the motion.

Motion carried, 3-1 with Councilmember P. M. Nigh voting No.

**E. Approval of a Resolution: Residential Lease Agreement for 728 Frederick Street**

**Action:** Councilmember K. S. Cromer made a motion to approve a resolution to authorize the execution and delivery of a lease between the City of Hagerstown and Lewie Thomas for the residence located at 728 Frederick Street, Hagerstown, Maryland.

Motion died for lack of a second.

Discussion: Councilmember Nigh stated she understood the Council would discuss a recommendation from Mayor Bruchey of a tenant for 728 Frederick Street. The discussion has not occurred. Mayor Bruchey stated he understood his recommendation would be approved by the Council, similar to the way Board appointments are made. Councilmember Parson-McBean thought a recommendation would be discussed in closed session.

**F. Approval of Release and Indemnification Agreement between Faison-Hagerstown, LLC and the City of Hagerstown**

**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 of all members present to approve a Release and Indemnification Agreement with Faison-Hagerstown, LLC. The agreement will indemnify the City from and against, any and all actions and claims by anyone arising specifically from the City's issuance

of building permits for the Faison project while appeals are pending of the City's Planning Commission's conditional final approval of Faison's Site Plan.

**G. Adoption of an Annexation Plan for Norfolk Southern Railroad Property, A-2007-02**

**Action:** Councilmember K. S. Cromer made a motion to adopt an Annexation Plan for Norfolk Southern Railway Company for property located on the southern boundary of the City, at West Oak Ridge Drive. The property to be annexed is 95.2 acres in size and is intended to be added to and made part of the adjacent municipal lands. Councilmember M. E. Brubaker seconded the motion.

Motion carried, 3-1 with Councilmember P. M. Nigh voting No.

**CITY ADMINISTRATOR'S COMMENTS**

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

**MAYOR AND COUNCIL COMMENTS**

*Councilmember M. E. Brubaker* stated the 2+2 Committee has been discussing general topics. They have discussed land use but have not developed a proposal. He hopes to bring substantive items to the Council for discussion.

*Councilmember A. Parson-McBean* received the Community Excellence for Minority Achievement Award from the Maryland State Board of Education and AIMMS. Kira Robinson, South Hagerstown High School, was awarded a \$ 1,000.00 scholarship.

*Councilmember K. S. Cromer* stated the 2+2 Committee has not met regularly due to scheduling conflicts of the County Commissioners representatives. She attended a summit meeting with Governor O'Malley and discussed Maryland Department of the Environment issues. Senator Ben Cardin has indicated he would be receptive to meeting with the Mayor and City Council to discuss needs and issues of the City. She asked that a dog park in the City be discussed at some time. Mr. Zimmerman indicated Staff is working on a proposal for discussion.

*Councilmember P. M. Nigh* stated tax assistance may be available for property owners through the State of Maryland Comptroller's Office. She asked that all graffiti be reported to the police before removal.

*Mayor R. E. Bruchey* stated the Anna Fiarre restaurant at the Venice will be holding a grand opening on April 26, 2007. He apologized for any miscommunication regarding the rental property on Frederick Street. He hopes this can be resolved, as well as the dangerous and vicious animal ordinance. He read the following prepared statement:

“In recent weeks, there has been much discussion about alleged comments made by Councilwoman Parson-McBean. I wish to clear up any concern and misinformation that was reported by the Associated Press in some newspapers.

The comments that were misquoted were in conjunction with Councilwoman Parson-McBean’s victim impact statement that was read at the trial of Jeff Shifler. Jeff Shifler was convicted in a court of law and sentenced for crimes against this community.

Jeff Shifler’s crimes, although felt throughout the City of Hagerstown and Washington County, and against many diverse types of citizens, affected some more than others.

Councilwoman Parson-McBean’s verbal testimony before her written testimony included a sentence that depicted Jeff Shifler as someone who felt he could do anything and get away with it. Fortunately, in today’s society that no longer holds true. Councilwoman Parson-McBean’s statement was used in the past tense. Something as little as one letter can cause discourse in our community and it is sad that the Associated Press did not hear her comments correctly. This was verified by myself with the court reporter who was present that day and reported Councilwoman Parson-McBean’s statement verbatim.

Our city, our county, has grown in diversity and it is up to every citizen to grow, prosper and unify our community so that we can be a place where all people want to live, work and raise their families.

It is sad that the Baltimore Sun’s article about Hagerstown had such a negative twist on what our city is all about. I believe that is time to move forward, celebrate the positive steps that have been taken in our community and work toward a day when we truly become a community of one, let’s celebrate that.”

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 8:16 p.m.

Respectfully submitted,

Donna K. Spickler, City Clerk

Approved: May 22, 2007