

98TH REGULAR SESSION – APRIL 28, 2009

Mayor R. E. Bruchey, II called this 98th Session of the Mayor and City Council to order at 7:06 p.m., Tuesday, April 28, 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 John Urner and D. K. Spickler, City Clerk.

The invocation was offered by Councilmember Lewis C. Metzner. 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 5, 2009, May 12, 2009 and the Regular Session on Tuesday, May 26, 2009 at 7:00 p.m. A Budget Public Hearing will be held on Tuesday, May 5, 2009 at 7:00 p.m.

PROCLAMATION

Mayor Bruchey read a proclamation naming May 1, 2009 as Keep Kids Alive Drive 25 Day in the City of Hagerstown. Delores Bitner accepted the proclamation.

Spring Ward's government class was present during the meeting.

CITIZEN COMMENTS

Herbert Jernigan, 12014 Itynre Road, Smithsburg, Maryland, was present to discuss a sewer problem at his property at 4 Willard Street in Hagerstown. He is concerned that construction in this area will cause additional problems at his property. He asked that a grinder pump be installed at his property. He has experienced problems and feels this would eliminate the problem. City Staff has been helpful as he has been dealing with this issue.

Mary Patton, 830 Stafford Avenue, Hagerstown, Maryland, President of Washington County League of Foster and Adopted Families, informed the group the first annual Walk Me Home event is scheduled for Fairgrounds Park on June 13, 2009. The group does not have enough funding to hire police officers for security at the event. She asked if there is a way for the City to provide the security. It was suggested that the group also contact the Washington County Commissioners for assistance. Police Chief Arthur Smith will discuss the security needs with Ms. Patton and others from the group.

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 March 17, 2009, March 24, 2009, March 31, 2009 April 7, 2009 and April 14, 2009.

CONSENT AGENDA

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 approve the consent agenda as follows:

- A. Water and Wastewater Department:
 - 1. Oxygen Equipment – System Upgrades – Mixing & Mass Transfer Technologies LLC (M2T) (Peekskill, NY) \$ 99,580.00
 - 2. Maintenance Agreements for Compressors and Dryers – Atlas Copco Compressors LLC (Reading, PA) \$ 28,470.00
 - 3. Water Meters and Transceiver Units – L/B Water Service, Inc. (Chambersburg, PA) \$ 71,757.80
 - 4. Water Inventory Items – HD Supply Waterworks, LTD (Martinsburg, WV) \$ 16,192.82
 - 5. Large Water Meters – HD Supply Waterworks, LTD (Martinsburg, WV) \$ 19,815.00
 - 6. Turbidimeters and Cables – Hach Company (Loveland, CO) \$ 27,022.80
 - 7. Check Valve – Gardner, O’Conner, Inc. (Pasadena, MD) \$ 14,533.00
- B. Police Department: 2009 Dodge Charger Police Sedans – Hetrick Fleet Services (Denton, MD) \$ 123,408.00

UNFINISHED BUSINESS

A. Approval of an Ordinance: Land Management Code Amendment - Lot Area Variances by Board of Zoning Appeals, 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 approve 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.

B. Introduction of an Ordinance: Comprehensive Rezoning Phase I, Case No. ZM-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 remove from the table the motion relating to the introduction of an Ordinance for a zoning reclassification and zoning map amendments Case No. ZM-2008-03.

The motion to introduce the ordinance was made at the March 31, 2009 meeting and is as follows: 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: The Howard Street area on Virginia Avenue is not included in the rezoning, with the exception of a portion of the parking lot at the sewing shop. The other areas will remain as currently zoned.

Motion carried by a unanimous vote.

C. 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: 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 remove from the table the motion relating to the introduction of 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.

Discussion: Councilmember Nigh expressed concerned that these amendments will allow more taverns to be opened. Stuart Bass, Comprehensive Planner, stated the rules and regulations will stay essentially the same. A few design standards have been added and district name changes have been made.

Motion (to remove from the table) carried by a unanimous vote.

The motion to introduce the ordinance was made at the March 31, 2009 meeting and is as follows: 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.

Motion to introduce the ordinance carried by a unanimous vote.

NEW BUSINESS

A. Introduction of an Ordinance: Transfer of Land to Widen Alley 3-42, Cramer Alley

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 introduce an ordinance authorizing the transfer of 0.151 acres of land from Bowman 2000, LLC to the City of Hagerstown. The land is east of and adjacent to Alley 3-42 (between East Washington Street and Alley 3-42). The purpose of the transfer is to widen Alley 3-42.

B. Approval of a Resolution: Adoption of Amendments to City of Hagerstown's 2008 Comprehensive Plan to Comply with HB 1141

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 to adopt the amendments to the City of Hagerstown's 2008 Comprehensive Plan for the Growth Element and Water Resource Element requirements of H.B. 1141. Future amendments will be brought forward at the conclusion of Washington County's Water Resource Element study which will provide for the stormwater management requirements of H.B. 1141. At that time, the City of Hagerstown will be in full compliance with the requirements of H.B. 1141.

C. Approval of a Resolution: Lease Agreement for the Rhubarb House, 12 Public Square

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 for approval of a one year lease for John D. Ralston and Shellie C. Ralston (Rhubarb House) located at Number 12 Public Square. In the lease agreement, Lessee has the

option to extend the term of this agreement for five additional terms of one year each.

D. Approval of License Agreement: Barbara Ingram School for the Arts Foundation (Butterfly Sculptures)

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 license agreement between the City of Hagerstown and the Barbara Ingram School for the Arts Foundation for the temporary installation of butterfly sculptures in University Plaza and the public rights-of-way along Franklin, Potomac, and Washington Streets.

E. Approval of Barbara Ingram School for the Arts Gala and Auction Funding Support

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 of a funding contribution of City Services in the amount of \$ 2,184.00 in support of the Barbara Ingram School for the Arts Gala and Auction to be held on June 20, 2009. The source of this funding will be from the General Fund Contingency.

F. Approval of Rain Insurance Policy for 2009 Western Maryland Blues Fest

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 approve the purchase of rain insurance policies for the 2009 Western Maryland Blues Fest at the following maximum amounts. A \$ 15,000 policy for Friday, May 29, 2009 will cost \$ 2,190.00 and a \$ 60,000 policy for Saturday, May 30, 2009 will cost \$ 10,620.00. The total cost for the insurance will be \$ 12,810.00. Funding would be from the Blues Fest Budget (\$10,000) and the Public Functions Blues Fest Account (\$2,810). Five percent of the rain insurance proceeds would go to the Washington County Arts Council for their risk of the beer and wine sales. The insurance must be purchased by May 20, 2009.

CITY ADMINISTRATOR'S COMMENTS

Bruce Zimmerman, City Administrator, congratulated Jaime Mason who was named Washington County Teacher of the Year. Ms. Mason is the daughter of city employee Junior Mason.

MAYOR AND COUNCIL COMMENTS

Councilmember P. M. Nigh had no additional comments.

Councilmember K. S. Cromer congratulated Jaime and Junior Mason.

Councilmember L. C. Metzner mentioned how nice the butterfly unveiling event was on Friday. He encouraged everyone to visit downtown and see the butterflies.

Councilmember A. Parson-McBean visited several legislators last week. She thanked the members of the Mayor and Council for their hard work in leading the City of Hagerstown. She hosted Senator Cardin at the Doleman Black Heritage Museum. A correlation has been discovered between Hagerstown and the underground railroad. She is proud to be part of the museum project and will work to make sure federal funding is provided for it.

Councilmember M. E. Brubaker reported the EPA has released its preliminary remedial recommendations for the Central Chemical site. A public hearing is being held, at the same time as this meeting, to receive public input. Comments will be received until June 5, 2009 regarding the plan. He is hopeful the remedial plans are now moving to stages where real solutions will be found.

Mayor R. E. Bruchey, II also congratulated Junior Mason and his family. The presence of the butterflies has been a great attraction for downtown Hagerstown. He attended the annual UAW Worker's Memorial event earlier today. He thanked the union members for their hard work, every day.

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 7:51 p.m.

Respectfully submitted,

Donna K. Spickler, City Clerk

Approved: May 26, 2009