

**25<sup>TH</sup> REGULAR SESSION – July 27, 2010**

**Mayor R. E. Bruchey, II called this 25<sup>th</sup> Session of the Mayor and City Council to order at 7:08 p.m., Tuesday, July 27, 2010, in the Council Chamber at City Hall. Present with the Mayor were Councilmembers W. M. Breichner, F. W. Easton, A. C. Haywood; City Administrator Bruce Zimmerman, City Attorney John Uner and D. K. Spickler, City Clerk.**

The invocation was offered by Councilmember William M. Breichner. The Pledge of Allegiance was then recited.

Mayor Bruchey announced the Rules of Procedure for this meeting will be followed as adopted June 23, 2009. 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, August 3, 2010, Tuesday, August 10, 2010, Tuesday, August 17, 2010, the Regular Session on Tuesday, August 24, 2010 and a Strategic Planning Session on Tuesday, August 31, 2010 at 4:00 p.m.

**CITIZEN COMMENTS**

Jerry Belsky, 806 Primson Avenue, Baltimore, Maryland, represented the LaRouce Political Action Committee. He asked the Mayor and Council to consider passing a resolution supporting the Glass-Steagall principle.

Donald Day, 1844 Meridian Drive, Hagerstown, Maryland, lives in Greenwich Park. He asked that the road be paved. He indicated the builder says it can't be paved until the construction work is finished at the end of the street. He stated he asked when the work will be complete but has not received an answer. He asked the Mayor and Council to persuade the owners to pave the road by September 30, 2010.

Anna Kinslow, 17813 Broadfording Road, Hagerstown, Maryland, expressed her concern about the condition of some sidewalks, especially square covers that are corroded and misaligned squares.

Wes Churchey, The Churchey Group, II, is one of the partners of the builder of Greenwich Park. He reported Mr. Day lives in one of five phases of the project. There are lots to be finished prior to paving Meridian Drive. As soon as the ninth house is sold, the paving will be completed.

**PUBLIC HEARINGS**

**Annexation Request – Aristodemos Capital Group, LLC, 19330 Leitersburg Pike, Case No. A-2010-01**

Kathleen Maher, Planning Director, stated this subject property is located adjacent to the Longmeadow Shopping Center and is contiguous with the existing municipal boundary. An existing commercial building is located on the subject property. It formally held the Long Meadow Bowling Alley and the Razors Edge barbershop. The building has recently undergone some renovations under the auspices of the County.

The area of annexation is approximately 2.07 acres. The proposed zoning district is C2 (General Commercial). The purpose of the C2 District is to provide locations for businesses of a general nature. The current zoning district in the County is BL (Business-Local).

The proposed annexation was formally introduced on May 25, 2010. The Annexation Plan was also adopted at that time.

The County Commissioners approved the zoning change on July 13, 2010 (express approval). It is reported the applicant intends to re-open the bowling alley in the near future. Long term plans include a night club. Any use in the C2 zoning district would be a permitted use. Ms. Maher indicated the Hagerstown Police Department is concerned about the possibility of increased calls for service if a night club is in this location.

The property is within the City's Medium Range Growth Area (MRGA), an area intended for new and/or expanded water and wastewater service, as defined in the 2008 Comprehensive Plan. It is within the County's Urban Growth Boundary and the State's designated Priority Funding Area.

There were two published notices advertising the annexation hearing at no less than weekly intervals, pursuant to State law. The Annexation Plan was provided to the appropriate County, Regional, and State Planning Agencies, at least 30 days prior to the Public Hearing. After the Public Hearing, the Mayor and Council may pass or reject the annexation resolution. If the resolution is passed the annexation becomes effective in forty-five (45) days.

The annexation of this lot would have no adverse impact on Washington County Board of Education facilities with respect to school capacity. There will be no impacts to the Washington County Free Library as a result of this proposed annexation.

Sanitary sewer service to this site currently exists. Any necessary upgrades to accommodate future projects shall be at the expense of the developer. Sufficient capacity exists to serve this property.

There is currently existing water service to this site. Any extension of water lines to provide additional water service will be at the sole cost of the owner or developer of the property. Sufficient capacity exists to serve this property.

The Electric Distribution System is external to the Hagerstown Light Department operating territory. Electrical service will be provided by Allegheny Power. The City of Hagerstown (HLD) normally supplies street light services to public streets and supplies the manpower and equipment to serve a new area once the developer builds the infrastructure. However, there are no public streets associated with this project; therefore this provision will not apply.

No significant impact on emergency service delivery is expected.

Any necessary improvements to existing public roads shall be completed at the direction of the City Engineer at the developer's expense and constructed per the City's Public Ways Construction Standards by the developer. However, none are anticipated.

The subject property fronts both Oak Hill Avenue and MD 60 (Leitersburg Pike). There exists a singular entrance for the property on Oak Hill Avenue, but the access point on MD 60 is adjacent to the subject property and shared with the shopping center, (currently next to the Hagerstown Trust Bank building). The entrance is utilized by the subject property but not on the property.

There is no formal agreement or easement but this entrance location has been in existence for decades. The entrance is also an approved entrance per the Site Plan for Long Meadow Shopping Center. The entrance is a formal part of the Overall Site Improvements Plan for the Long Meadow Shopping center (Site Plan ZS-2006-24), which was approved by the Planning Commission on March 25, 2009. Particular improvements have been made to MD 60, which is a State route, and site alterations on the shopping center property for Hagerstown Trust.

Parks and recreation facility expansion are not proposed for this annexation.

Police protection is provided by the Hagerstown Police Department which will patrol the area on a twenty-four hour basis. The Police Chief has expressed concerns about the possibility of increased calls for service that could be created by certain permitted uses that could be located on this property. This concern is based in part on past uses located at this site under different ownership.

Maintenance of City streets and right-of-ways are normally performed by the Public Works Department. No impacts are anticipated. No street or road improvements are associated with this proposal.

All future persons and businesses within the area proposed to be annexed shall obtain or be entitled to existing benefits of the City of Hagerstown. They shall also be required

to pay for all applicable utility services, charges, assessments, taxes, and other costs and expenses which are required of the residents of the City of Hagerstown.

Ms. Maher entered the following as Exhibits:

Exhibit 1: Certificate of Advertisement

Exhibit 2: Planning Commission file by reference

The following testimony was presented against the annexation request:

Yvonne Geary, 1094 Kasinof Avenue, Hagerstown, Maryland, expressed concern about the number of schools in the area near the proposed nightclub.

Joan Gilbert, 1117 W. Irvin Avenue, Hagerstown, Maryland, is against a night club in this area. This is not an appropriate area, especially with the number of schools and churches near by.

Penny Nigh, 634 N. Mulberry Street, Hagerstown, Maryland, wonders why the owner wants the property to be annexed. When the owner appeared before the liquor board several years ago, there was no discussion about annexation. She would not oppose a family recreation facility. She urged the Mayor and Council to consider the amount of police resources that will be called on for a night club operation.

Mark Meany, 1330 Woodland Way, Hagerstown, Maryland, has lived in Hagerstown for 31 years. He founded the Northeast Neighborhoods 1<sup>st</sup> Group in 1998. He has grave concerns about the impact on the neighborhood and police resources. He mentioned other night clubs that have operated in Hagerstown and have generated a significant number of police calls.

There was no testimony presented in favor of the annexation request.

Councilmember Haywood asked for clarification that a night club is permitted in the current County zoning. Ms. Maher indicated a tavern is permitted, which is interpreted as a night club. A bowling alley is not permitted in the existing zoning district.

Councilmember Metzner asked Chief Arthur Smith, Hagerstown Police Department, for input during the Work Session that will be held to discuss the annexation request. He pointed out the Hagerstown Police Department would still respond to a major issue, even if the property is not in the City limits.

Ms. Maher stated the City provides more leeway of the parking requirements for existing buildings than the County does. Mayor Bruchey indicated County officials have determined there is a parking inadequacy with the expected use of the property.

The record will remain open for 10 days for additional comments.

The hearing was closed at 7:54 p.m.

**Zoning Map Amendment – View Street Diner Local Conversion District Overlay,  
Case No. ZM-2010-02**

Stephen Bockmiller, Zoning Administrator, reported the first application for a Local Conversion District Overlay has been received for property at 800 View Street, for a restaurant on the main level and a retail shop in the basement.

The existing use at this property is a vacant main level of structure, Hobby Shop in the Basement, with accompanying small parking lot. This proposal is to reopen what had been a restaurant, while maintaining the existing retail shop in the basement.

The purpose of this district is to stimulate the adaptive reuse of existing, nonresidential and mixed-use structures embedded within densely developed residential districts and communities, to maintain and increase the city's assessable tax base, and to expand business and employment opportunities. Allowing such uses to fit into existing commercial and mixed use structures re-establishes the historically mixed use nature of the City's 19<sup>th</sup> and early 20<sup>th</sup> Century residential communities.

The Planning Commission Public Review meeting for this proposal was held on May 26, 2010. The Planning Commission is forwarding this application to the Council with a positive recommendation.

Staff recommends approval of the request, subject to the following site plan conditions:

1. Suitable landscaping consisting of a row of low level shrubs and/or small trees shall be planted between the sidewalk and parking lot.
2. Existing sign post shall be removed and replaced with a new ground-mounted or post mounted sign. Any sign lighting shall be indirect (no neon or fluorescent tube or back lighting).
3. The parking area shall be repaired, repaved or top coated in such a way to provide a safe walking surface and professional appearance and striped for as many parking spaces as the available area allows.
4. The building and site will be maintained in a professional manner. Any necessary repairs shall be completed prior to the reestablishment of the restaurant.

Mr. Bockmiller entered the following as Exhibits:

- Exhibit 1: Certificate of Advertisement
- Exhibit 2: Planning Commission file by reference

The following testimony was presented:

Alan Clingan, 818 View Street, Hagerstown, Maryland, appreciates the opportunity to consider doing something viable with this property through the Local Conversion District Overlay. He realizes there will be a significant amount of capital outlay on their part.

There was no other testimony presented.

The record will remain open for 10 days for additional comments.

The hearing was closed at 8:05 p.m.

### **MINUTES**

On a motion duly made by Councilmember W. M. Breichner and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote of all members present to approve the minutes, as presented, for the Mayor and Council meetings held on June 1, 2010, June 8, 2010, June 15, 2010 and June 22, 2010.

### **CONSENT AGENDA**

On a motion duly made by Councilmember W. M. Breichner and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote of all members present to approve the Consent Agenda as follows:

- A. Parks and Engineering:
  - 1. Specialty Paving for North Potomac Streetscape – Craig Paving, Inc. (Hagerstown, MD) \$ 45,663.00
  - 2. “000” Block East Antietam Street Storm Drain Replacement – Henson & Son, Inc. (Hagerstown, MD) \$ 108,275.40
  - 3. Demolition at Rear of 31/33 W. Antietam Street – Allegany Wrecking (Hagerstown, MD) \$ 13,700.00
- B. Purchasing/Finance: Heating Oil for Various City Buildings – James River Solutions (Ashland, VA) \$ 107,070.00
- C. Water Department: Underground Utilities Locating Contract – Utiliquist (Atlanta, GA) \$ 27,052.00
- D. Wastewater Department: Annual Service Agreement for Oxygen System – M2T Mixing & Mass Transfer Technologies (Peekskill, NY) \$ 20,000.00

**UNFINISHED BUSINESS**

**A. Approval of an Ordinance: To Establish a Retirement Incentive Plan**

**Action:** On a motion duly made by Councilmember A. C. Haywood and seconded by Councilmember W. M. Breichner, the Mayor and City Council unanimously agreed by voice vote of all members present to approve an ordinance introduced on July 13, 2010, to establish a Retirement Incentive Plan that provides a one time payment of \$ 12,500 per retiree. The program will be available to a maximum of 35 qualified full time employees who notify the Human Resources Department of their intent to retire, with an effective retirement date no later than January 1, 2011.

**NEW BUSINESS**

**A. Introduction of an Ordinance: Amending the City Code, Section 216-10, B, Streets and Sidewalks and Section 240-32, Water Pollution Control**

**Action:** On a motion duly made by Councilmember W. M. Breichner and seconded by Councilmember A. C. Haywood, the Mayor and City Council unanimously agreed by voice vote of all members present to table introduction of this ordinance.

Discussion: Councilmember Breichner indicated he is not satisfied with some of the requirements. Councilmember Metzner stated this needs to be discussed with all Council members present at a Work Session.

**B. Approval of a Resolution: Approval of Hagerstown Suns Assignment and Assumption Agreement with the New Owners of the Hagerstown Suns**

**Action:** On a motion duly made by Councilmember W. M. Breichner and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote of all members present to approve a resolution to accept the Assignment of the Lease for Municipal Stadium from MBP Hagerstown Baseball, LLC, to Hagerstown Baseball, LLC. The assignment to the new owners of the Hagerstown Suns allows minor league baseball to continue at the Municipal Stadium for the remainder of the 2010 season.

**B. Approval of a Resolution: Authorizing an Amendment to the Memorandum of Understanding between Hagerstown Police Department and Washington County Board of Education Concerning School Resource Officers**

**Action:** On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember W. M. Breichner, the Mayor and City Council unanimously agreed by voice vote of all members present to approve a

resolution to amend the City's Memorandum of Understanding with the Washington County Board of Education. This amendment will provide for the addition of a fourth School Resource Officer. The Board of Education will reimburse the City \$ 37,500 of this officer's salary. The officer will be assigned to other functions when school is not in session. Due to current budget constraints the Police Department will not request Mayor and Council authorization for an additional police officer position to serve as the fourth School Resource Officer until City finances make such a request appropriate. The new position therefore has the effect of adding the above amount as additional revenue to the General Fund without any increase in salary costs.

**D. Approval of a License Agreement: 399 Liberty Street**

**Action:** On a motion duly made by Councilmember W. M. Breichner and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote of all members present to approve a license agreement between the City of Hagerstown and Paul and Lia Johnson for the construction of a temporary sidewalk handicap access ramp in the public right-of-way along Liberty Street.

**E. Approval of a License Agreement: 536 George Street**

**Action:** On a motion duly made by Councilmember A. C. Haywood and seconded by Councilmember W. M. Breichner, the Mayor and City Council unanimously agreed by voice vote of all members present to approve a license agreement between the City of Hagerstown and Robert and Beverly Shanholtz for the construction of a temporary sidewalk handicap access ramp in the public right-of-way along George Street.

**F. Approval of Hagerstown/Washington County Convention and Visitors Bureau Welcome Center Rent Assistance**

**Action:** On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember A. C. Haywood, the Mayor and City Council unanimously agreed by voice vote of all members present to authorize a reduction in rent to the City's Property Management Fund for the Hagerstown/Washington County Convention and Visitors Bureau Welcome Center in the amount of \$ 9,300.00 for the fiscal year July 1, 2010 to June 30, 2011. This contribution by the City of one half the rent will assist in keeping the Welcome Center open in the City's Elizabeth Hager Building. It will help support the City and CVB's efforts to promote and market the City Center and surrounding areas as a great place to live, work and visit.



**G. Approval of Application Permit/Open Containers Exemption for Maryland Theatre – 95<sup>th</sup> Anniversary Celebration**

**Action:** On a motion duly made by Councilmember A. C. Haywood and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote of all members present to authorize the closure of the first block of South Potomac Street from 8:00 a.m. to midnight on Saturday, September 11, 2010 for the 95<sup>th</sup> Anniversary Celebration for The Maryland Theatre. The Mayor and City Council authorize the application/permit agreement with the Maryland Theatre. Also, according to the City of Hagerstown's Open Containers Law, the Mayor and City Council may permit the possession of alcoholic beverages in open containers on the streets, lanes, alleys, sidewalks, parking lots or public ways of the City during a special event upon application or upon its own initiative. Therefore, Mayor and City Council formally approve the possession of alcoholic beverages (beer and wine) in the designated event area for Saturday, September 11, 2010 from 5:30 p.m. to 8:00 p.m.

**CITY ADMINISTRATOR'S COMMENTS**

*Bruce Zimmerman, City Administrator*, reported that City Hall and other City general administrative offices will be closed on Friday, August 6, 2010 for a Work Stop Day. This is consistent with budget adjustments made in reducing expenditures. This is one of the 10 unpaid days for City employees. Continuous operations will continue.

**MAYOR AND COUNCIL COMMENTS**

*Councilmember W. M. Breichner* stated the County Coalition met on July 26, 2010 to begin discussions for the coming legislative session. The next meeting will be August 9, 2010.

*Councilmember A. C. Haywood* used a flash drive for her meeting packet during the meeting. She expressed concern about the anti-abortion protest that occurred in Hagerstown yesterday. The Mayor and Council received several complaints about the graphic images. She stated she realizes the protestors were within their rights and not outside the law. She urged everyone to let the organizers of this event know how they feel. St. Mary's Church was the local contact for the National Face the Truth Tour. The email address for the church is [church@saintmarysonline.org](mailto:church@saintmarysonline.org).

*Councilmember L. C. Metzner* was disappointed to learn that the anti-abortion activists are supported by a local church. He encouraged people to contact the church if they have concerns.

*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 8:18 p.m.

Respectfully submitted,

Donna K. Spickler, City Clerk

Approved: August 24, 2010