

EXECUTIVE SESSION AND 3rd REGULAR SESSION – July 28, 2009

EXECUTIVE SESSION – July 28, 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 to consider the acquisition of real property for a public purpose and matters directly related thereto, #3, and to discuss the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation or performance evaluation of appointees, employees, or officials over whom it has jurisdiction, #1 at 4:14 p.m. in Room 407, City Hall, Hagerstown, Maryland. The following people were in attendance: Mayor R. E. Bruchey, II, Councilmember M. E. Brubaker, Councilmember F. Easton, Councilmember A. C. Haywood, Councilmember L. C. Metzner, City Administrator Bruce Zimmerman, County Commissioner President John Barr, County Commissioner Jim Kercheval, County Commissioner Kristen Aleshire, County Administrator Greg Murray, County Clerk Vicki Lumm, City Attorney John Urner, County Attorney John Martirano, Rodney Tissue, City Engineer, Deborah Everhart, Economic Development Director, Alfred Martin, Finance Director, Sharon Disque, HNPD, Richard Pheabus, CHIEF, and Donna Spickler, City Clerk.

The meeting was held to discuss the possible acquisition of a building in downtown for future use and to decide on potential members of the Green Task Force and Trash and Recycling Task Force. No formal action was taken at the meeting. The meeting was adjourned at 6:48 p.m.

3RD REGULAR SESSION – July 28, 2009

Mayor R. E. Bruchey, II called this 3rd Session of the Mayor and City Council to order at 7:10 p.m., Tuesday, July 28, 2009, in the Council Chamber at City Hall. Present with the Mayor were Councilmembers M. E. Brubaker, F. Easton, A. C. Haywood, L. C. Metzner; City Administrator Bruce Zimmerman, City Attorney William Nairn and D. K. Spickler, City Clerk. Councilmember W. M. Breichner was not present.

The invocation was offered by Councilmember Martin E. Brubaker. 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 4, 2009, Tuesday, August 11, 2009, Tuesday, August 18, 2009 and the Regular Session on Tuesday, August 25, 2009 at 7:00 p.m.

APPOINTMENTS

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 appoint Doug Stahl to the Hagerstown Redevelopment Authority. The term will expire July 31, 2012.

CITIZEN COMMENTS

Mayor Bruchey addressed the audience. He indicated the approval of the Mills Park Plan scheduled for later in the meeting is only considering Phase I. Other phases will not take place until additional neighborhood input is obtained.

Allan Bare, 301 Belview Avenue, Hagerstown, Maryland, expressed his concern about the Mills Park plan. He expects adding trails will decrease property values and increase foot traffic and trash.

Tim Light, Real Estate Teams, LLC, 13318 Maugansville Road, Hagerstown, Maryland, represents Darryl Martin, Bernard Woodson, and Rasean Williams who wish to reopen the Jonathan Street Carwash. The business has been closed for some time. Because the business has been closed longer than one year, it no longer has the permitted non-conforming use designation. He asked the Mayor and Council to keep the property zoned as commercial. The current owner has allowed the City to use the property commercially, by storing materials for the Jonathan Street project at the site. Having the car wash located in the original site would bring jobs to the community. The owner is still paying commercial taxes on the property.

Darryl Martin, 7802 Baltimore National Pike, Baltimore, Maryland, was surprised to find out the non-conforming use was no longer permitted. The car wash would give young people to work at a place they could walk to.

Bernard Woodson, purchaser of the Jonathan Street Carwash property, stated this will be a family owned business. He asked the Mayor and City Council to help by allowing the commercial business to continue.

Rasean Williams, co-purchaser of the Jonathan Street Carwash property, stated the car wash would provide a place for people in the neighborhood to work. He would appreciate any assistance from the Mayor and Council.

Leonard Cooper, 206 N. Jonathan Street, Hagerstown, Maryland, owns a barbershop on Jonathan Street. He thinks it would be a good idea to re-open the car wash. This would be good for the other small businesses on Jonathan Street.

Councilmember Haywood asked when the last appeal was made to the Planning Department. Mr. Light indicated there has not been an appeal filed.

Webster Harbaugh, 315 Belview Avenue, Hagerstown, Maryland, asked the Mayor and Council to consider the loss of privacy in the 300 and 400 blocks of Belview Avenue if the trails are constructed. The noise from the stadium is an example of decreased privacy in this area. He expressed his concern about the security of the trail, especially at night.

Councilmember Haywood suggested signs and lights for the trails to increase security.

Mr. Harbaugh thinks the estimate of \$ 200,000 to \$ 300,000 is low, considering the amount of rock around the properties. He is concerned the biking/hiking trails will further decrease property values. By disturbing the wooded area, the wildlife will be gone.

Una L. McCarty, 339 Belview Avenue, Hagerstown, Maryland, asked if a feasibility study has been completed for the trail. If not, it should be. Several homes were built on swampy ground. During heavy rains, the ground stays swampy. If the swale is disturbed the water table will be affected. She stated Mr. Mills donated this property to the City as a wildlife preserve.

Patty Wheeler, 343 Belview Avenue, Hagerstown, Maryland, agreed with Ms. McCarty.

Cathy Wantz, 211 W. Irvin Avenue, Hagerstown, Maryland, asked where the money is coming from for the construction of the trails.

Councilmember Metzner stated it is grant money, not general fund money. He does not think Phase II will be considered even during the next four years. The grant funding cannot be applied for without the Mayor and Council's approval of the concept.

Ms. Wantz is concerned about security of Mills Park if the walkway is constructed. She suggested that grant money be used to feed people instead of building parks. Councilmember Metzner stated the two were not mutually exclusive. Ms. Wantz also expressed her concern that bike riders are not using the bike lanes on Prospect or Locust Street.

Donna Sword, 308 Belview Avenue, Hagerstown, Maryland, suggested using the money for the bike trails for a senior center. She stated the original deed for Mills Park did not allow basketball courts or football fields.

Sue Krebs, 403 Belview Avenue, Hagerstown, Maryland, is also concerned about the second phase of the plan. She won't be able to use her backyard if the trail is constructed.

Councilmember Haywood thanked everyone for speaking at the meeting. She stated staff takes into consideration the environment of the parks and bike paths are meant to

improve the health and welfare of all citizens. A crime study in Central Park showed that more crime occurred on unimproved pathways.

Mark Meany, 1330 Woodland Way, Hagerstown, Maryland, has lived on Woodland Way for 30 years. He stated the residents were surprised by the article in the newspaper, because it was different than what the survey indicated. He thinks the people on Belview Avenue have legitimate concerns about safety and property values.

Janet Bartels, 139 S. Mulberry Street, Hagerstown, Maryland, expressed her concern about the Bester Place Development. She suggested putting a community garden on the site of Bester Place. There are many vacant houses in this neighborhood. She stated urban gardens could provide jobs for residents. Grant money may be available for this type of project.

Gordon Bartels, 139 S. Mulberry Street, Hagerstown, Maryland, is concerned about the number of vacant homes in Hagerstown. If homes are built at Bester Place and not sold it will add to the increasing number of empty houses. He suggested making sure the house is sold before it is built.

MINUTES

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 to approve the minutes, as presented, for the Mayor and Council meetings held on June 9, 2009, June 16, 2009, June 23, 2009, July 7, 2009 and July 14, 2009.

CONSENT AGENDA

On a motion duly made by Councilmember F. Easton and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to approve the Consent Agenda as follows:

- A. Engineering: Two Contracts for Installation of Sidewalks and Alley Modifications for the Handicapped – Concrete Central, LLC (Hagerstown, MD) \$ 80,187.50
- B. Light Department: Aluminum Cable – Stuart C. Irby Co. (Rocky Mount, NC) \$ 17,082.00
- C. Police Department:
 - 1. Upgrade Current CCTV System Downtown and Noland Village – Glessner Alarms and Communications (Hagerstown, MD) \$ 70,934.00
 - 2. Two 2009 Chevrolet Impala Police Sedans – Criswell Chevrolet, Inc. (Gaithersburg, MD) \$ 39,283.00

D. Community Affairs: Application Permit for Augustoberfest, August 22, 2009 and August 23, 2009

E. Water Department:

1. Powerware Units – Eaton Corporation (Raleigh, NC) \$ 12,700.00
2. Meters and Transceiver Units – L/B Water Service, Inc. (Chambersburg, PA) \$ 182,216.48
3. Water Inventory Items – HD Supply Waterworks, LTD (Martinsburg, WV) \$ 37,179.77
4. Inventory for Stockroom – Weiss Brothers of Hagerstown (Hagerstown, MD) \$ 13,393.13
5. Protectus Meters – HD Supply Waterworks, LTD (Martinsburg, WV) \$ 31,430.00

UNFINISHED BUSINESS

There was no unfinished business.

NEW BUISNESS

A. Introduction of an Ordinance: Amending Chapter 92 Entertainment Club Ordinance

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 to amend Chapter 92 of the City Code entitled, *Entertainment Clubs*. This amendment will clarify the wording under Section 92-1, Definitions, which excludes businesses licensed to serve alcohol from qualifying as an Entertainment Club under this City Code.

B. Approval of a Resolution: Designation of Michael Spiker as Environmental Protection Agency Grant Representative

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 adopt a resolution naming and appointing Michael Spiker, Director of Utilities, as the authorized representative to transact and sign any and all documents related to the securing of funds from Federal Grants awarded to the City of Hagerstown, as administered by the Environmental Protection Agency.

C. Approval of a Resolution: FY 2010 Community Legacy Grant Application

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 to adopt a resolution authorizing staff to submit a Community Legacy grant application to the Maryland Department of Housing and Community Development for \$ 255,000 for the following proposed projects:

1. \$ 200,000 – Home PRIDE Residential Renovation Grant Program (grants to workforce and elderly homeowners).
2. \$ 55,000 – Transit Center (Downtown Bus Transfer Station) (on behalf of Washington County).

D. Approval of a Resolution: Memorandum of Understanding Between the City of Hagerstown and the United Way of Washington County – Born Learning Trails

Action: On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember F. Easton, the Mayor and City Council unanimously agreed by voice vote to adopt a resolution accepting a Memorandum of Understanding (MOU) between the City of Hagerstown and the United Way of Washington County.

This MOU shall have a term of July 23, 2009 to July 23, 2013 or until the Born Learning Trails become unusable and shall establish the responsibility of the City and the United Way of Washington County regarding the Born Learning Trails at Pangborn, Staley and Wheaton Parks.

E. Approval of Expenditure of Funds for Wastewater Easement with PL&K Limited Partnership

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 to approve the expenditure of \$ 25,000 (twenty five thousand dollars) for the purchase of an easement for sanitary sewer construction on property owned by PL&K Limited Partnership located per the easement plat. Water Division CIP 04-811-769 account number 5485001-5881-C0769 currently has \$ 800,000 budgeted and available and will be utilized for the payment distribution.

F. Approval of Expenditure of Funds for Wastewater Easement with CMW, Limited Liability Corporation

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 to approve the expenditure of \$ 150,000 (one hundred and fifty thousand dollars) for the purchase of an easement for sanitary sewer construction on property owned by CMW, Limited Liability Corporation, located per the easement plat. Water Division CIP 04-811-769 account number 5485001-5881-C0769 currently has \$ 800,000 budgeted and available and will be utilized for the payment distribution.

F. Approval of Storm Drain Easement Agreement: 1935 Dual Highway, LLC (Younger Motorcars)

Action: On a motion duly made by Councilmember M. E. Brubaker and seconded by Councilmember F. Easton, the Mayor and City Council unanimously agreed by voice vote approve a Storm Drain Easement Agreement for 1935 Dual Highway, LLC (Younger Motorcars). This agreement sets forth the terms and conditions of relocating a storm drain from under the building in the event the storm drain fails.

H. Approval of Phase I Master Plan for Mills Park

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 to adopt Phase I of the Master Plan for Mills Park and authorize staff to implement the plans and seek grant funding. The goal of this project is to provide more public use of Mills Park by providing trails for recreational walking. Future phases will not be constructed until additional neighborhood input is obtained and considered by the Council.

Discussion: Councilmember Metzner noted this wording confirms that the Mayor and Council are only approving the construction of Phase I of the Mills Park Master Plan.

I. Approval of Green Task Force Members

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 of the following members to serve on the City's Green Task Force:

1. Councilmember Ashley Haywood
2. David Biser
3. Greg Maciulla
4. Kevin Moriarty
5. George Newman
6. Fred Nugent

7. Rebecca Rush
8. Steve Sager
9. Terry Williamson

In addition, Corinne Cheairs will provide technical support, as well as various City staff.

J.. Approval of Trash and Recycling Task Force Members

Action: On a motion duly made by Councilmember A. C. Haywood and seconded by Councilmember F. Easton, the Mayor and City Council unanimously agreed by voice vote to approve of the following members to serve on the City's Trash and Recycling Task Force:

1. Councilmember William M. Breichner
2. Ruth Ann Callaham
3. David Gysberts
4. Lawrence Hoeck
5. Ann Mitchell
6. Russell Urich

Technical support for the Task Force will be provided by Rodney Tissue, City Engineer; David Langas, Allied Waste; and Harvey Hoch, Washington County Recycling Coordinator.

CITY ADMINISTRATOR'S COMMENTS

Bruce Zimmerman, City Administrator, reminded everyone that National Night Out will be held on Tuesday, August 4, 2009 from 6:00 p.m. to 8:00 p.m. at Fairgrounds Park.

MAYOR AND COUNCIL COMMENTS

Councilmember M. E. Brubaker thanked everyone who spoke at the meeting. He assured the group that there will be more discussion and consideration before anything is done with Phase II at Mills Park. He stated the Mayor and Council cannot override the non-conforming use provision for the car wash on Jonathan Street. There may be other solutions to the situation.

Councilmember F. Easton encouraged citizens to contact the Mayor and Council members if they have an issue.

Councilmember A. C. Haywood thanked everyone for coming and encouraged citizens to contact them.

Councilmember L. C. Metzner thanked citizens for voicing their concerns. He feels that the community of Hagerstown is working together to solve problems.

Mayor R. E. Bruchey, II thanked the citizens who spoke also. He pointed out that grants are for specific programs and purposes and are not interchangeable. He wants the grant money to be used for Hagerstown citizens.

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: August 25, 2009