

WORK SESSION AND EXECUTIVE SESSION – August 11, 2009

Prior to the start of the Work Session, the following members of the Mayor and City Council toured the HUBCAPS restaurant at 116 N. Potomac Street, Hagerstown, Maryland: Mayor Bruchey, Councilmember Brubaker, Councilmember Easton, Councilmember Haywood and Councilmember Metzner. Bruce Zimmerman, City Administrator, Kathleen Maher, Planning Director, Tim Gordon, owner, and Donna Spickler, City Clerk were also present.

Mayor R. E. Bruchey, II called this Work Session and Executive Session of the Mayor and City Council to order at 5:01 p.m., Tuesday, August 11, 2009, in the Council Chamber, 2nd Floor, at City Hall. Present with the Mayor were Councilmembers W. M. Breichner, M. E. Brubaker, F. Easton, A. C. Haywood and L. C. Metzner; City Administrator Bruce Zimmerman, City Attorney John Urner, City Attorney William Nairn and D. K. Spickler, City Clerk.

Introduction of Owners of Stone House Square

Sid Roros, Vice President, and Brian Dare, Senior Associate, from EKOS Management Corp. were present. EKOS Management Corp. is the new owner of Stone House Square off Leitersburg Pike.

Mr. Roros stated EKOS has a number of centers in Maryland, Virginia and Delaware. They are happy to have the opportunity to own a center in Hagerstown

Community Parks and Playgrounds Program – Funding for FY 2011

Junior Mason, Parks Superintendent, was present to discuss the City's Community Parks and Playgrounds Program Funding for FY 2011.

The Maryland Department of Natural Resources (DNR) is now accepting grant proposals for the Community Parks and Playgrounds Program (CP&P). The proposals will be reviewed and considered for submission to the Maryland General Assembly as part of the Governor's FY 2011 budget proposal. Maryland's CP&P is designed to enhance the livability of communities by restoring or enhancing existing parks, playgrounds and other open spaces.

While land acquisition costs may be considered for project funding, the highest priority will be placed on capital costs associated with park development and improvement. Projects must envision a minimum 20 year life span.

Staff has compiled the following list of projects:

1. Potterfield Pool Barrier Free Ramp, leading from wading pool to upper pool area - \$ 20,000
2. Golf Course Netting, along #2 Fairway - \$ 15,000

3. Recycling Centers in Various Parks - \$ 7,000
4. University Plaza Portable Shade Canopy - \$ 12,000
5. University Plaza Stationary Stage - \$ 10,000
6. Portable Metal Bleachers in Various Parks - \$ 8,000
7. Hellane Park Walkway Improvement - \$ 40,000

It was the general consensus to submit an application listing all of the above projects.

Councilmember Haywood indicated she would like to discuss increasing the usage of the golf course at some point.

Comprehensive Zoning Map Amendments

Kathleen Maher, Planning Director, and Stuart Bass, Comprehensive Planner, presented the recommendations for Phase II of the Comprehensive Zoning Map Amendments. The information included recommended zoning map district revisions, along with the accompanying Findings of Fact.

A Public Review meeting was held on March 25, 2009. The Commission then took the comments reviewed under advisement, and along with the recommendations from the Comprehensive Plan, formulated the proposed zoning changes.

The following are the Comprehensive Rezonings, by issue, in Phase II

1. Issue 2: NE Corner of Eastern Blvd. and Leitersburg Pike – AT & C1 to C4, R2, & R3
2. Issue 3: YMCA – Eastern Blvd. – AT to R1
3. Issue 4: NE Corner of Potomac & Manilla – C2 to R1
4. Issue 5: Pangborn Corporation - R2 & IG to N-MU
5. Issue 6: Fairgrounds Park & Vicinity – AT to R2 & R1
6. Issue 7: Jefferson St. area, east of Vale – C2 to R2, C1
7. Issue 8: South side of E. Wash. St. – R2 to C2
8. Issue 9: Pangborn Blvd., North of the Dual – R3 to C2
9. Issue 10: Eastern Blvd. South, W. of Dual – IG to C2
10. Issue 12: Eastern Blvd. area – C2 to POM
11. Issue 13: Harrison Farm (West of Howell Rd.) - IR, R2 to I-MU
12. Issue 14: Southside of Edgewood Drive – C2 to POM
13. Issue 15: Dual Hwy. & Hebb Road – R3, C2 to C4
14. Issue 16: East side of Dual Hwy. – R3 to C2
15. Issue 17: Large Tract NE of Day Road – R3, C2 to N-MU
16. Issue 18: S/S of Hebb Road – AT to R3
17. Issue 21: Wilson & Kuhn – IG to I-MU, R1
18. Issue 22: Frederick (south of Wilson Blvd.) – R3 to C2
19. Issue 23: All Star Court – C2 to I-MU

Phase II is basically the east side of Hagerstown. Ms. Maher reported that six of the areas have generated public input at the review meetings.

The area across from the former Sears building is impacted by a number of development constraints and is no longer suitable to keep as a farm use.

The owner of the property at the YMCA does not wish to have residential zoning. This is a forested area. Councilmember Metzner asked how residential zoning can be placed on a property that can't be developed. Ms. Maher stated this property is part of the first property, and it is in the forest conservation area for the first property. Having the dedicated forest conversation area was required in order to obtain approval for the first project. Mr. Bass indicated this property has split zoning.

Issue 4 is the North East corner of Potomac Avenue and Manila Avenue. The parcel is paved and used to store/display recreation vehicles for sale. Land to the north is zoned R1 and subdivided and developed as residential lots. Land across the street (Manilla) is zoned C2 and IR and occupied. It was deemed appropriate to rezone this C2 parcel to R1 to match the adjoining residential property and to protect the neighborhood.

A zoning classification of N-MU will give the neighborhood in Issue 5 better protection from industrial uses than the existing IG.

Issue 10 is the old Supreme Block Company. It is proposed to go from IG to C2. The narrowness of the lot with its adjacency to residential across the Antietam Creek would make any new construction with industrial zoning unable to comply with setback requirements. Because of these constraints and this property's proximity to a prime commercial corridor, it was determined that a general commercial district status would be more appropriate. Councilmember Metzner asked if public parks are permissible in C2. Parks are permitted.

A Public Hearing will be scheduled for September 22, 2009 to receive public testimony. Work Sessions for further discussion will be held after that date.

Ethics Code Review Process

The Mayor and City Council have expressed an interest in reviewing the City's Ethics Code. The City of Hagerstown has operated under the present Code of Ethics, as outlined in Chapter 33 of the City Code for many years. The Ethics Code is structured to comply with Article 40A of the Annotated Code of the State of Maryland and spells out standards of conduct for City elected officials and staff. City records indicate the last comprehensive review of the Code was undertaken in the early 1980's.

As a municipal government the Code of Ethics provides the foundation for guiding decisions and actions at all levels of operations. It reflects the City government's commitment to meeting the public's trust and to conducting business with openness and integrity.

Councilmember Easton is concerned about the punitive matter. He does not think Council members should decide the punishment for a violation. This could cause a

difficult working relationship within the Council. He suggested that the Ethics Board at least make a recommendation of the punishment for the violation.

William Nairn, City Attorney, stated the County Attorney would find it difficult to make a recommendation for another body. State law defers the punishment to the appropriate authority.

Councilmember Metzner stated it is difficult to determine a punishment when the governing body was not present for the debate. He recommended that the entire Ethics Code be reviewed by a committee, similar to the Charter Review Committee, with a Council member as a participant, not a voting member. He stated the City should have its own Ethics Commission.

Mr. Nairn has samples of Ethics Codes from other municipalities that have some changes from the mandated state language. Copies will be provided to the Mayor and City Council members for their review.

Councilmember Metzner suggested that the dollar amount of items to be disclosed in the annual statement be reviewed.

Mayor Bruchey suggested the language regarding using confidential information should be reviewed and possibly changed to read: "to the benefit or detriment of another person."

Councilmember Haywood suggested that a review committee be as far from Council influence as possible. Councilmember Brubaker stated the Mayor and Council could set the parameters for the committee and then let them proceed. Councilmember Easton asked if it could be a requirement that the vote to appoint members be unanimous.

It was suggested that the review committee would consist of five members, including a city attorney and an elected official from another jurisdiction. Staff support would be provided as required. Interested parties could submit an application with the City Clerk.

Mayor Bruchey asked that copies of other municipality's ethics codes be distributed and schedule additional discussion for next week's meeting. The discussion will include the details of establishing the committee membership.

Review of Hagerstown Redevelopment Authority Loan Approval and Appeal Process

John Urner, City Attorney, discussed the Hagerstown Redevelopment Authority (HRA) loan approval and appeal process. There are two processes for loans reviewed by the HRA, depending on the amount of the loan request. If the request is \$ 100,000 or less, the HRA determines whether or not to grant the request. If the loan is denied, the applicant has the opportunity to appeal the decision to the Mayor and City Council.

For a request larger than \$ 100,000, the HRA reviews the application and makes a recommendation to the Mayor and City Council. The Mayor and City Council decide whether or not to approve the loan.

If there is an appeal for a loan request of \$ 100,000 or less, the same administrative appeal process is used. It requires due process, an opportunity to be heard by the applicant, with a fairly debatable standard. The Mayor and Council would only determine if the HRA acted in a reasonable manner based on the record. The Mayor and Council would not make a decision based on whether or not they wished to overturn the HRA's decision. The decision can be upheld, overturned or the case can be returned to the HRA for further consideration. These proceedings would be heard at an open session.

This process is included in the rules and regulations of the Revolving Loan Fund. This is a separate document from the City Code.

CITY ADMINISTRATOR'S COMMENTS

Bruce Zimmerman, City Administrator, had no additional comments.

MAYOR AND COUNCIL COMMENTS

Councilmember F. Easton expressed sympathy at the passing of Eunice Kennedy Shriver, an advocate for the disability community. He urged anyone interested in serving on the Board of Public Safety to submit an application with the City Clerk.

Councilmember A. C. Haywood would like to promote an interactive way to study ways to preserve the Antietam Creek. The Green Task Force would be able to help. She is glad the ethics code is being discussed. The strategic plan needs to be a priority and should be in place by 2010.

Councilmember L. C. Metzner had no additional comments.

Councilmember W. M. Breichner appreciated the memo about reductions in spending and adjustments to the budget from staff. The City of Hagerstown is starting to feel the pressure of the economy.

Councilmember M. E. Brubaker thanked everyone who attended the National Night Out. He agrees that the strategic plan needs to be a priority. He stated the executive session topic may not be what people think it is. They should not jump to conclusions.

Mayor R. E. Bruchey, II stated if his schedule doesn't allow him to attend the first strategic planning session he will be brought up to date.

EXECUTIVE SESSION – August 11, 2009

On a motion duly made by Councilmember W. M. Breichner and seconded by Councilmember F. Easton, the Mayor and City Council unanimously agreed by voice vote to meet in closed session 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; before a contract is awarded or bids are opened, discuss a matter directly related to a negotiation strategy or the contents of a bid or proposal, if public discussion or disclosure would adversely impact the ability of the public body to participate in the competitive bidding or proposal process, #14 and to consult with counsel to obtain legal advice, #7 at 6:48 p.m. in the Council Chamber, 2nd Floor, City Hall, Hagerstown, Maryland. The following people were in attendance: Mayor R. E. Bruchey, II, Councilmember W. M. Breichner, Councilmember M. E. Brubaker, Councilmember F. Easton, Councilmember A. C. Haywood, Councilmember L. C. Metzner, City Administrator Bruce Zimmerman, City Attorney John Urner, Michael Spiker, Director of Utilities and Donna Spickler, City Clerk. The meeting was held to discuss a personnel change, negotiation details for a contract and specific board members and their terms and the process to replace board members. No formal action was taken at the meeting. On a motion duly made, seconded and passed, the meeting was adjourned at 8:36 p.m.

Respectfully submitted,

Donna K. Spickler, City Clerk

Approved: September 22, 2009