

31ST REGULAR SESSION – AUGUST 22, 2006

Mayor Robert E. Bruchey, II called this 31st Session of the Mayor and City Council to order at 7:00 p.m., Tuesday, August 22, 2006, in the Council Chamber at City Hall. Present with the Mayor were Councilmembers K. B. Aleshire, K. S. Cromer, L. C. Metzner, P. M. Nigh and A. Parson-McBean; City Administrator Bruce J. Zimmerman, City Attorney William Nairn and City Clerk D. K. Spickler.

The invocation was offered by Councilmember Penny M. Nigh. 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, September 5, 2006, Tuesday, September 12, 2006, Tuesday, September 19, 2006, and the Regular Session on Tuesday, September 26, 2006 at 7:00 p.m.

PUBLIC HEARING

Annexation: Eastern Boulevard (Shaool Property), A-2006-03

Stuart Bass, Comprehensive Planner, stated the Eastern Boulevard (Shaool Property) Annexation was formally introduced on July 25, 2006.

The area proposed for annexation 5.948 acres. The property is located on the northeastern side of the City, off Eastern Boulevard, across from the Hillside Manor Development. The proposed zoning district is R1 (Residential), which provides for single-family and two-family dwellings.

The applicant is requesting annexation into the City because he desires City water service and the City's Annexation Policy requires annexation as a condition of water service. If the City Council decides not to accept his annexation request, the property owner will have met his obligation under the Annexation Policy and he will be approved for City water service for development out in the County.

With respect to the Washington County Board of Education and Public Schools, the recently adopted Adequate Public Facility Ordinance will apply to this project. The Washington County Free Library has no proposed plans for construction of library facilities within the area proposed for annexation.

Sanitary sewer service to this site will be by extension of existing sanitary sewer lines in the general area and will be at the cost of the developer in accordance with the

annexation agreement. Water service to this site will be by extension of water lines in the vicinity of the site and will be at the cost of the developer subject to the Water Department's standards, policies, procedures and payment of the applicable fees. The City of Hagerstown Light Department, or their designee, will design and approve the street light system. The developer is responsible for the purchase and installation, to approved Hagerstown Light Department specifications, of the street light system. The City of Hagerstown (HLD) will assume ownership of the street light system twelve months after the City assumes ownership of the streets. Electrical service will be provided by Allegheny Power.

No significant impact on emergency service delivery is expected. Police protection is provided by the Hagerstown Police Department which will patrol the area on a twenty-four hour basis. No significant impact on service delivery is expected.

Maintenance (i.e. snow removal, mowing of right-of-ways, litter removal) is normally performed by the Public Works Department. No significant impacts are anticipated.

Rodney Tissue, City Engineer, presented the following comments (by letter) on the annexation petition:

1. The Applicant is advised that, given the volume of traffic and the functional classification of Eastern Boulevard, access to Eastern Boulevard will be severely restricted or denied. Access to Antietam Drive is preferred.
2. This section of Eastern Boulevard is currently in the County. It is highly likely that Eastern Blvd. will be widened to (at least) four lanes in this area. If the City were to annex a portion of Eastern Blvd., the City could face serious financial consequences in the future when the roadway improvements actually took place. Mr. Tissue suggested that a Memorandum of Understanding (MOU) on this matter be developed between the City and Washington County prior to approving this annexation.
3. There is an existing storm drainage problem along Antietam Drive near this property and Klick Way. The Applicant will be required to contribute funds to resolve this situation as a condition of approval for any future development plans.
4. Although this is more of a site plan issue, we note that the proposed site layout would likely create buildings with the rear of the dwelling facing Eastern Blvd. This is not a desirable configuration for the City, and the Applicant should strongly consider revising the layout to address this issue.

Mr. Bass entered the following as Exhibits:

1. Outline for Extension of Services
2. Notification of Annexation to County, Regional and State Planning Agencies
3. Certification of Advertisement for Annexation
4. Annexation Resolution

There was no representative from Washington County present at the meeting.

The following testimony was presented:

Michael Walchshauser, 633 Antietam Drive, Hagerstown, Maryland, stated he, and others, are concerned about water problems that could occur from the development of the Shaool Property. He asked the Mayor and City Council members to visit the site and see what problems exist. He wondered if the water and sewer service availability would make it mandatory that the people in the neighborhood connect to the system. The residents are also concerned about additional traffic on Eastern Boulevard.

Councilmember Metzner pointed out that development will occur on this property whether it is annexed or not. The City has concerns about the drainage also. If the property is not annexed, Mr. Walchshauser will have to approach the County with these concerns.

Councilmember Aleshire stated the City could address the concerns through the annexation process to place conditions on the development. He stated the home owners would not be required to connect to city services. If the property is annexed, the owner will have to contribute funds to address stormwater management runoff and the widening of Eastern Boulevard.

Mr. Walchshauser stated he understands there is no right-of-way to this property from Antietam Drive. This will have to be addressed by the property owner.

Chris Horst, 728 Antietam Drive, Hagerstown, Maryland, asked if water and sewer service from the City of Hagerstown would be available if the property is not annexed. Councilmember Metzner stated it would be, without the restrictions and conditions in the annexation agreement. Mr. Horst asked the Mayor and City Council to consider placing restrictions on the number of homes that can be placed on the five acres.

David Roberts, 815 Antietam Drive, Hagerstown, Maryland, stated restrictions are needed on the annexation to control the water problems and traffic issues.

Mayor Bruchey stated as long as the property is annexed, the City has some control of the use.

Richard Bachel, 12742 Atlanthus Drive, Hagerstown, Maryland, stated it is difficult to get on to Eastern Boulevard currently.

Councilmember Metzner stated traffic on that portion of Eastern Boulevard is a problem that needs to be addressed.

Jay Merrbaugh, 628 Antietam Drive, Hagerstown, Maryland, has had water in his basement and is concerned about additional water run-off. He asked what the cost would be if someone chooses to connect to the water and sewer service. The residents would not be required, at any time, to connect to the system.

There being no further testimony, either in favor of or against the annexation, the hearing was closed at 7:29 p.m. The record will remain open for 10 days for written comments.

Amendments to the City's Adequate Public Facilities Ordinance (APFO)

A Public Hearing was held to consider staff recommendations for amendments or interpretations of the City's Adequate Public Facilities Ordinance. The proposed amendments are as follows:

Article II – Definitions: 2.3 Definitions, 2.3.13.1 Minor Subdivision: Any parcel which has been or is proposed to be subdivided to create five or fewer ~~lots~~ **units**.

Article IV – Schools: 4.2 Exemptions, Article IV of this Ordinance does not apply to: **(i) Changes to existing development or already approved development if those changes do not increase the result of the pupil generation formulas approved by the County Commissioners from that which was previously generated by the existing development or already approved development.**

Kathleen Maher, Planning Director, stated no negative comments have been submitted.

Councilmember Aleshire suggested changing the wording to the following: “Any parcel which has been or is proposed to be subdivided and/or developed to create five or fewer units.”

Ms. Maher entered the following as an exhibit:

1. Certificate of Advertisement

There was no testimony, either in favor of or against the proposed amendments. The hearing was closed at 7:32 p.m. The record will remain open for 10 days for additional comments.

CITIZEN COMMENTS

Harold Wills, 149 Summit Avenue, Hagerstown Maryland, has lived in downtown Hagerstown for 61 years. He has been attacked near his home and beaten. He parked behind his home and was attacked on July 31, 2006. He has discussed this with Mayor Bruchey. He is concerned that his calls to the police department are not treated properly. He has received hate mail. The FBI has contacted him regarding this. He is not going to abandon his home. He resents being told by the City he has to paint his house. He stated senior citizens are not being treated fairly.

Mayor Bruchey indicated there have been increased police patrols in this area.

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 Mayor and Council meetings held on September 27, 2005, July 18, 2006, July 25, 2006, August 1, 2006 and August 8, 2006.

Councilmember Parson-McBean left the meeting.

CONSENT AGENDA

On a motion duly made by Councilmember K. S. Cromer and seconded by Councilmember P. M. Nigh, the Mayor and City Council unanimously agreed by voice vote to approve the consent agenda as follows:

- A. Water and Sewer Department – Emergency Purchase – Replacement Air Compressor – Compressed Air Services, Inc. (Hagerstown, MD)
\$ 15,244.00
- B. Police Department: ABA Extreme Level II vests – Atlantic Tactical (New Cumberland, PA) \$ 14,523.60
- C. Engineering: Street Tree Installation – Botanica Enterprises (Funkstown, MD) Not to Exceed \$ 42,000.00
- D. Public Works: Bulk Road Salt – International Salt Co., LLC (Clarks Summit, PA) \$ 51.29/ton plus a Fuel Price Adjustment
- E. Light Department: Substation/Transformers – Hamby Young Power Supply (Berwyn, PA) \$ 482,884.24
- F. Parks and Recreation: Barrier Free Modular Play Equipment – Miracle Recreation (Martinsburg, WV) \$ 17,699.00

Motion carried, 4-0.

UNFINISHED BUSINESS

A. Introduction of an Ordinance: Zoning Map Amendment, ZM-2006-01, Shipley – 1002-1010 South Potomac Street

Action: On a motion duly made by Councilmember K. B. Aleshire and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to approve an ordinance for a Zoning Reclassification and Zoning Map amendment, Case No. ZM-2006-01, to rezone .94 acres, more or less, of land located at 1002-1010 South Potomac Street, from R1 (Residential) to C2 (Commercial General).

Motion carried, 4-0.

B. Approval of an Ordinance: Refuse Collection and License Agreement for the Langley East Subdivision

Action: On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember K. S. Cromer, the Mayor and City Council unanimously agreed by voice vote to adopt an ordinance for the Refuse Collection and License Agreement for the Langley East Subdivision.

Motion carried, 4-0.

Councilmember Parson-McBean returned.

C. Approval of an Ordinance: Acquisition, Rehabilitation and Resale of Property Known as 33 Elizabeth Street under the Single Family Home Ownership Program

Action: On a motion duly made by Councilmember K. B. Aleshire and seconded by Councilmember K. S. Cromer, the Mayor and City Council unanimously agreed by voice vote to approve an ordinance to consider the acquisition, rehabilitation and resale of property known as 33 Elizabeth Street under the City's Single Family Home Ownership Program, with an acquisition cost of \$ 24,000 to be funded by the City's Community Development Block Grant fund.

D. Approval of an Ordinance: Acquisition, Rehabilitation and Resale of Property Known as 119 Randolph Avenue under the Single Family Home Ownership Program

Action: On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember P. M. Nigh, the Mayor and City Council unanimously agreed by voice vote to approve an ordinance to consider the acquisition, rehabilitation and resale of property known as 119 Randolph Avenue under the City's Single Family Home Ownership Program, with an acquisition cost of \$ 65,000 to be funded by the City's Community Development Block Grant Fund.

E. Approval of an Ordinance: To Amend the Building Code

Action: On a motion duly made by Councilmember K. B. Aleshire and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to adopt an ordinance to amend the Code of the City of Hagerstown, MD, Chapter 64 Article 1, entitled Building Construction to delete the 1996 BOCA National Building Code, thirteenth edition, with local amendments for the City of Hagerstown, and to adopt the 2003 International Building Code, with local amendments for the City of Hagerstown, MD.

NEW BUSINESS

A. Introduction of an Ordinance: Zoning Map Amendment, Hamilton ZM-2006-02 (Oak Hill Investment) Rezoning

Action: Councilmember L. C. Metzner made a motion to introduce an ordinance for a Zoning Reclassification and Zoning Map amendment, Case No. ZM-2006-02, to rezone 6.88 acres, more or less, of land located off of 115 Emmert Road, from R1 (Residential) to C2 (Commercial General). Councilmember K. S. Cromer seconded the motion.

Discussion: Councilmember Aleshire would like more information regarding traffic. Mr. Tissue indicated a meeting was being held with the State Highway Administration on August 23, 2006. Time will be scheduled for further discussion.

Motion carried, 4-1 with Councilmember P. M. Nigh voting No.

B. Introduction of an Ordinance: To Amend the Rental Facilities Ordinance

Action: On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember P. M. Nigh, the Mayor and City Council unanimously agreed by voice vote to introduce an ordinance to amend the Rental

Facilities Ordinance to reflect that a violation of failing to notify the City of tenant turnover will be changed from a misdemeanor to a municipal infraction of five hundred dollars (\$ 500).

C. Resolution: Support of Community Action Council Community Investment Tax Credit Program

Action: On a motion duly made by Councilmember K. B. Aleshire and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to approve a resolution indicating the City's approval of the Community Action Council's application with the Maryland Department of Housing and Community Development. This funding application is intended to expand the agency's existing Financial Literacy & Investment Training and Education Program to include an Individual Development Account component.

Discussion: Councilmember Aleshire thanked Dave Jordan, Executive Director, for providing the information requested by the Mayor and City Council. Councilmember Parson-McBean asked if the participants are local. Mayor Bruchey indicated they are.

D. Resolution: To Enter Into a Memorandum of Understanding with Washington County Board of Education Regarding the Creation of a State Debt for the Barbara Ingram School for the Arts

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 entering into a Memorandum of Understanding with the Washington County Board of Education, as required by the State of Maryland, Board of Public Works, regarding the creation of a State Debt for the Barbara Ingram School for the Arts.

E. Approval of Community Action Council Letter of Support for Property Acquisition

Action: On a motion duly made by Councilmember K. B. Aleshire and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to authorize the City to send a letter in support of the Community Action Council's application with the Maryland Department of Housing and Community Development for a grant of \$ 360,000 to purchase a five unit apartment building located at 614-616 West Washington Street. In seeking this letter of support, the Community Action Council has advised the Mayor and Council that this newly acquired property would be used for the agency's transitional housing program for homeless families and that it is the agency's intent to sell its present property located at 25-25 ½ North Mulberry.

F. Approval of Application Permit for Demcore Festival – October 21, 2006

Action: Councilmember L. C. Metzner made a motion to authorize the closure of first block of South Potomac Street on October 21, 2006 for a musical festival operated by Demcore Entertainment LLC. The Mayor and City Council authorize the application/permit agreement attached with Demcore Entertainment LLC. 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 special events upon application or upon its own initiative. Therefore, the Mayor and City Council formally approve the possession of alcoholic beverages (beer and wine) in the designated festival area on October 21, 2006 for the musical festival only. Councilmember L. C. Metzner seconded the motion.

Discussion: Councilmember Aleshire believes the City should be applauding Demcore Entertainment for having an interest in downtown. Councilmember Nigh would prefer that the alcohol be eliminated from the event. Councilmember Parson-McBean stated when she presented questions at last week's meeting, she was not implying she was opposed to the event. She was asking about the purpose of the event.

Motion carried, 4-1 with Councilmember P. M. Nigh voting No.

G. Approval of Purchase of Tablet Computers for Field Inspection Staff – Vision Business Products (Carnegie, PA) \$ 51,716.00

Action: Councilmember K. B. Aleshire made a motion to approve the purchase of fifteen tablet PC's from Vision Products in the amount of \$ 51,716.00 for use by field inspectors in the Permits Department, Planning Department, Code Compliance and the Construction Inspection Department. This purchase will allow inspectors to complete inspections electronically and have access to databases of property owners and property data while still in the field. Councilmember L. C. Metzner seconded the motion.

Discussion: Councilmember Cromer stated she does not think it is necessary to purchase these computers. If they are purchased as desktops are replaced, she could support the purchase.

Councilmember Aleshire uses a tablet computer in the field and finds it useful. Councilmember Parson-McBean wants to take it one step further and make this whole process paperless.

Motion carried, 4-1 with Councilmember Cromer voting No.

CITY ADMINISTRATOR'S COMMENTS

Bruce Zimmerman, City Administrator, thanked the police department for increasing their patrols for the beginning of the school year and for stressing the importance of driving safely. He thanked Lt. Reynolds for his efforts.

MAYOR AND COUNCIL COMMENTS

Councilmember P. M. Nigh commended Neighborhoods First for their work with the movie. She stated the idea was presented about seven years ago and was turned down. She asked how the gang and Section 8 housing situations can be corrected without addressing the problem. She stated you don't need alcohol to have fun at a festival. She thanked everyone involved for helping to make the public aware of the gang situation. She asked what can be done about a tree in a vacant space.

Councilmember K. S. Cromer stated the article regarding the vacant building program was incorrect. The last line indicated Councilmember Metzner and John Lestitian were to talk further. She stated the Mayor actually directed Councilmember Metzner, Mr. Lestitian, Councilmember Nigh and her to meet. She asked if that meeting would be a public meeting. William Nairn, City Attorney, indicated it probably would but he would check. She urged everyone to vote in the September 12, 2006 primary election.

Councilmember L. C. Metzner urged everyone to visit University Plaza. Good things are happening in Hagerstown and in the parks.

Councilmember A. Parson-McBean stated the movie night event was very nice. She thanked the people who put together the golf tournament to benefit the Memorial Recreation Center. She thanked the organizers of the Jamaican Festival and the summer basketball program. She stated Hagerstown is living through gentrification. She mentioned a program called Individual Development Accounts. She stated the Mayor and City Council are working to make Hagerstown a better place. She apologized to Mr. Wills and will work to change his mind about where he lives.

Councilmember K. B. Aleshire stated there is good momentum in the 2+2 group. There have been problems with some taverns in the City that have been addressed. He hopes the owners of these establishments realize the City will do what is necessary to ensure the problems are eliminated.

Mayor R. E. Bruchey, II reminded everyone that Augustoberfest will be held on August 26 and August 27, 2006. He thanked the Neighborhoods First members and City staff who made the first movie at University Plaza a success. The festival on Potomac Street is being held on October 21, 2006. This is the same day at the library's annual Gala in the Stacks fundraiser. The City will do its best to make sure both events are a big success. He has spoken to Mr. Wills about the situation he discussed. He knows the

police department has been diligent in that area. He asked everyone to help the City help them. Report anything that is out of the ordinary.

He attended the County Commissioners candidates' forum. The forum was taped and will be rebroadcast. He thanked the sponsors who made the forum possible.

EXECUTIVE SESSION – August 22, 2006

On a motion duly made by Councilmember K. S. Cromer and seconded by Councilmember K. B. Aleshire, the Mayor and City Council unanimously agreed by voice vote to meet in closed session at 8:26 p.m. to consider a matter that concerns the proposal for a business or industrial organization to locate, expand, or remain in the State, #4, 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. No formal action was taken at the session. The meeting was held in the Mayor's Office, 2nd floor at the City Hall. The meeting was adjourned 8:50 p.m.

Respectfully submitted,

Donna K. Spickler, City Clerk

Approved: _____