

5TH REGULAR SESSION – August 25, 2009

Mayor R. E. Bruchey, II called this 5th Session of the Mayor and City Council to order at 7:00 p.m., Tuesday, August 25, 2009, in the Council Chamber at City Hall. Present with the Mayor were Councilmembers W. M. Breichner, 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.

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, September 1, 2009, Tuesday, September 8, 2009, Tuesday, September 15, 2009, the Regular Session on Tuesday, September 22, 2009 at 7:00 p.m. and a Strategic Planning Session on Tuesday, September 29, 2009 at 4:00 p.m.

APPOINTMENTS

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 to appoint Scott Nicewarner as Director of Information Technology and Support Services. The Oath of Office was then administered to Mr. Nicewarner.

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 to appoint Frank Beckwith, Percy W. Wright and Richard F. Ebersole to the Board of Traffic and Parking. The term of these three appointments will expire on August 25, 2011.

GUESTS

The following Highlight Hagerstown Awards were presented:

Residential

1. Rych and Carla Pullen, 138 S. Mulberry Street
2. Warren and Corrine Swartz, 1303 The Terrace
3. Troy and Carrie Cosner, 945 Forest Drive
4. Charles and Ann Benton, 1078 View Street
5. James and Nancy Lonergan, 817 Forest Drive

Non-Residential

1. Frederick, Seibert & Associates, Inc., 128 S. Potomac Street
2. Schmankerl Stube, 58 S. Potomac Street
3. Hagerstown Garden Club, Park Circle

Adopt-A-Planter

1. Discovery Station, 101 W. Washington Street
2. Rainbow Connection, 14 ½ E. Washington Street
3. The Boutique LLC, 100 N. Potomac Street

CITIZEN COMMENTS

Leonard Cooper, 19603 Marigold Drive, Hagerstown, Maryland, is concerned that men who have been incarcerated are unable to find jobs. He offered a solution of removing the charge from their record so they did not have to include the charge on an application. He stated these people need help.

Eleanor Cooper, 17618 York Road, Hagerstown, Maryland, wondered why there is a difference in punishment for cocaine and coke abuse. She believes it is a racial justice issue.

B. Marie Byers, Discovery Station, thanked the City for their support of Discovery Station.

PUBLIC HEARING

Commercial Zoning Text Amendments, Case No. ZT-2009-01

In the ongoing effort to implement the recommendations of the Comprehensive Plan, the City has been implementing a phased revision of the Zoning Maps and the Zoning Ordinance. Phase I adopted map changes in the downtown area and created three new mixed use zoning districts. Phase II includes map amendments in the eastern part of the City and proposed revisions to the provisions of the C-1, C-2, C-4 and POM Zoning Districts.

Kathleen Maher, Planning Director, and Stuart Bass, Comprehensive Planner, were present to summarize the proposed amendments, as follows:

1. Reorganize use charts, grouping similar uses together
2. Converting some Special Exception uses in C2 and C4 to be permitted-by-right uses
3. Expand commercial/services uses allowed in the POM District
4. Remove uses which are not compatible or suitable in certain districts
5. Expand uses in C1 and add size limitations
6. Exempt pre-existing subdivisions in POM from architectural compatibility requirements

7. Revise setback requirements in the POM district
8. Simplify wording of sign regulations in POM district
9. Add definition for dormitory
10. Transfer design requirements for C4 big box development to GC District
11. Expand and reorganize design requirements and apply to C2, C4 and POM
12. Control lighting by height and directional fixtures
13. Screening for auto storage areas
14. Continuation of existing big box retail standards in C4

Ms. Maher entered the following Exhibits into the record:

Exhibit 1 – Certificate of Advertisement

Exhibit 2 – Planning Commission file by reference

There was no testimony presented, either in favor of or against the proposed amendments.

Jason M. Divelbiss, Miller, Oliver, Stone & Divelbiss, had previously presented a letter with comments regarding the proposed amendments.

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

MINUTES

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 approve the minutes, as presented, for the Mayor and Council meetings held on July 21, 2009, July 28, 2009 and August 4, 2009.

CONSENT AGENDA

Bruce Zimmerman, City Administrator, stated the Magna Floc Polymer purchase was added to the consent agenda list after the preliminary agenda review. This purchase is time sensitive because the chemicals are needed to treat the river water in the fall. Michael Spiker, Director of Utilities, reported this is a typical purchase for this time of the year. If the purchase is not made until late September, it would be difficult to treat organics.

On a motion duly made by Councilmember W. M. Breichner and seconded by Councilmember M. E. Brubaker, the Mayor and City Council unanimously agreed by voice vote to approve the Consent Agenda as follows:

A. Police Department:

1. Equipment for 2009 Chargers – General Sales Administration (Kenvil, NJ)
\$ 10,042.92
2. Equipment for 2009 Chargers – Pelican Mobile (Hanover, MD)

\$ 25,842.00

B. Water Department:

1. Copper Tubing – HD Supply Waterworks, LTD (Martinsburg, WV)
\$ 36,540.00
2. Miscellaneous Inventory Items for Water Fund – HD Supply Waterworks, LTD (Martinsburg, WV) \$ 61,378.50
3. Sampling Stations and Flushing Devices – HD Supply Waterworks, LTD (Martinsburg, WV) \$25,400.00
4. Magna Flocc Polymer – George S. Coyne Chemical Co., Inc. (Croydon, PA) \$ 26,550.00

C. Planning Department: City's Stormwater Portion of County's Water Resource Element Study - \$ 15,000.00

D. Light Department: SCADA System Replacement – Avista Realtime Systems (Columbia, MD) \$ 40,000.00

E. Community Affairs: 2009 Utility Relief Concert Budget and City Funding Support of \$ 2,500.00

UNFINISHED BUSINESS

A. Approval of an Ordinance: Amending the City Code, Chapter 92, Entertainment Clubs

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

NEW BUSINESS

A. Introduction of an Amended Annexation Resolution: Doub Property Annexation, Case No. A-2008-02

Action: On a motion duly made by Councilmember M. E. Brubaker and seconded by Councilmember W. M. Breichner, the Mayor and City Council unanimously agreed by voice vote to introduce an amended annexation resolution for the Doub Property Annexation located at the northeast quadrant of I-70/US 40 interchange. The property to be annexed is

approximately 141.69 acres in size and is intended to be added to and made part of the adjacent municipal lands.

B. Adoption of an Annexation Plan: Doub Property, Case No. A-2008-02

Action: On a motion duly made by Councilmember M. E. Brubaker and seconded by Councilmember W. M. Breichner, the Mayor and City Council unanimously agreed by voice vote to adopt an Annexation Plan for the Doub Property Annexation located at the northeast quadrant of I-70/US 40 interchange. The property to be annexed is approximately 141.69 acres in size and is intended to be added to and made part of the adjacent municipal lands.

C. Approval of an Exception to the City's Water and Wastewater Policy Provide Water Service to Rider Jet Center for a Hangar at the Hagerstown Regional Airport

Action: On a motion duly made by Councilmember M. E. Brubaker and seconded by Councilmember W. M. Breichner, the Mayor and City Council unanimously agreed by voice vote to approve an exception for an Economic Development Project under Exception #6 of the city's Water and Wastewater Policy to allow the extension of water service outside the City's Medium Range Growth Area to serve a hangar at the Hagerstown Regional Airport to be owned by Rider Jet Center.

Discussion: This motion refers only to approval of a hangar and the associated accessory office to the hangar.

D. Approval of Partners in Economic Progress Program (PEP)

Action: Councilmember L. C. Metzner made a motion to approve of the Partners in Economic Progress Program. The goal of this program is to provide incentives to spark private sector investment that contributes towards the revitalization of a defined area of the downtown. The program includes ten different incentives to be offered by the City of Hagerstown and is based on program eligibility criteria that will determine whether an applicant qualifies to participate in the program. The Partners in Economic Progress Program will be reviewed annually by Mayor and Council. The motion was seconded by Councilmember M. E. Brubaker.

Councilmember Haywood made a motion to table further discussion of the Program because the Mayor and Council received other information after the discussion at the August 18, 2009 meeting. Councilmember Easton seconded the motion to table. The Mayor and City Council unanimously agreed to table approval of the Program and to discuss it further on

September 1, 2009, with possibly approving it on that date or September 8, 2009.

E. Acceptance of Federal Emergency Management Agency Fire Prevention and Safety Grant and Approval of Required Contribution for Home Safety Makeover Program

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 accept the Federal Emergency Management Agency (FEMA) Fire Prevention and Safety Grant for \$ 76,000. The grant requires the City to provide 10%, or \$ 7,600 of the funding. The grant will be used to begin a Home Safety makeover Program and the \$ 7,600 will come from Fire Department funds budgeted for this program.

F. Application Permit for Doleman Black History Museum

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 authorize an application/permit agreement with the Doleman Black Heritage Museum. 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 University Plaza on October 25, 2009 for a fundraiser for the Doleman Black Heritage Museum. Hours of the reception are to be 5:00 p.m. to 8:00 p.m. A \$ 1,000 cash sponsorship and \$ 200 in-kind service donation will be given to the Doleman Black Heritage Museum through the Department of Community Affairs Budget.

G. Approval of Application for FY 2011 Community Parks and Playgrounds Projects

Action: On motion duly made by Councilmember M. E. Brubaker and seconded by Councilmember W. M. Breichner, the Mayor and City Council unanimously agreed by voice vote to approve an application to the Maryland Department of Natural Resources requesting FY 2011 Community Parks & Playgrounds funding of improvements to the City's recreational facilities as follows:

1. Potterfield Pool Barrier Free Ramp, leading from wading pool to upper pool area
2. Golf Course Netting, along #2 Fairway

3. Recycling Centers in Various Parks
4. University Plaza Portable Shade Canopy
5. University Plaza Stationary Stage
6. Portable Metal Bleachers in Various Parks
7. Hellane Park Walkway Improvement

CITY ADMINISTRATOR'S COMMENTS

Bruce Zimmerman, City Administrator, stated the Maryland Municipal League has reported the projected revenue reduction from State shared revenue for the City of Hagerstown will be \$ 1,268,000. These are preliminary estimates at this time. More information will follow.

Alfred Martin, Finance Director, reported the City's bond financial advisor has recommended considering selling bonds under the economic stimulus package Build America Bonds. The overall interest rate on the bonds will be lower than what is currently anticipated. The advisor has suggested doing a blended issue, with 10 years of traditional bonds and 10 years of Build America Bonds. This will potentially save \$ 1,000,000 in debt service interest over the life of the sale. The existing resolution does not provide the flexibility to sell bonds in this manner. A resolution allowing the flexibility could be passed on September 1, 2009 and still allow the sale to proceed during September, as planned. This delayed sale will not affect projects as started or planned. It was the general consensus of the Mayor and City Council to schedule a special meeting to approve a resolution for the bond issue. At a future date, the advertisement requirements for bond sales will be reviewed.

MAYOR AND COUNCIL COMMENTS

Councilmember L. C. Metzner thanked the Hagerstown Municipal Band for their summer concerts. He congratulated director, Lynn Lerew for his years of service. He thanked all involved with another successful Augustoberfest.

Councilmember A. C. Haywood thanked staff for their hard work and congratulated Scott Nicewarner and the reappointed members of the Board of Traffic and Parking. She urged her fellow Council members to take the City to the next level and begin by developing a strategic plan for the future.

Councilmember F. Easton thanked everyone involved with the Augustoberfest event. He asked for patience from citizens as they work through the issues created by the recently announced State budget cuts. The cuts will affect those most in need, such as nursing home residents and those in mental facilities. He urged those interested in serving on a volunteer board to submit an application.

Councilmember M. E. Brubaker indicated the State budget cuts will be difficult to deal with. The City anticipated this and started to look at ways to save several months ago. The bond issue savings will be over a twenty year period and will not help with the

shortfall from the State. He thanked those who planned and those who attended the Augustoberfest event.

Councilmember W. M. Breichner mentioned that Hagerstown is in the top third of most popular venues for minor league sports in the nation.

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 8:08 p.m.

Respectfully submitted,

Donna K. Spickler, City Clerk

Approved: September 22, 2009