

84TH REGULAR SESSION – SEPTEMBER 23, 2008

Mayor R. E. Bruchey, II called this 84th Session of the Mayor and City Council to order at 7:07 p.m., Tuesday, September 23, 2008, in the Council Chamber at City Hall. Present with the Mayor were Councilmembers M. E. Brubaker, K. S. Cromer, L. C. Metzner, P. M. Nigh and A. Parson-McBean; Finance Director Alfred Martin, City Attorney John Urner and D. K. Spickler, City Clerk. City Administrator Bruce Zimmerman was not present.

The invocation was offered by Councilmember Lewis C. Metzner. 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, October 7, 2008, Tuesday, October 14, 2008, Tuesday, October 21, 2008 and the Regular Session on Tuesday, October 28, 2008 at 7:00 p.m.

PRESENTATIONS/AWARDS

Mayor Bruchey read a proclamation naming September 21 – 27, 2008 as Chiari Malformation and Syringomyelia Awareness Week.

APPOINTMENTS

On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember M. E. Brubaker, the Mayor and Council unanimously appointed Richard McCleary to the Hagerstown Housing Authority. The term of the appointment expires on August 30, 2013.

Mr. McCleary stated his main residence is on Lappans Road but he does spend part of the year in Florida.

Mayor Bruchey indicated the mayor makes an appointment to the Housing Authority, with the approval of the Council.

PUBLIC HEARING

Annexation- Private Reserve, LLC (Atlantic Drive) – Case No. A-2008-05

Stuart Bass, Comprehensive Planner, stated a request has been submitted to annex property off of Atlantic Drive, adjacent to Summerland Manor. The fact that the property

is contiguous with the existing municipal boundary requires that it be incorporated into the City as a condition for water service.

The proposed annexation was introduced on July 29, 2008. The Annexation Plan was also adopted at this time. The area of the subject property is .65 acres. The proposed zoning district is R1 (Residential). The current County Zoning is RU (Residential Urban). Two three-bay garages were constructed under County auspices. Single unit apartments are located above. The two buildings are to be connected by a sun room.

The Land Use Plan, as described in the 2002 Washington County Comprehensive Plan, designates the property as Low Density Residential.

The property is within the County's Urban Growth Boundary and the State's designated Priority Funding Area. It is within the City's designated Medium Range Growth Area, characterized by Priority #2 as defined in the 2008 Comprehensive Plan. The proposed zoning is similar or compatible to that of the current County Zoning and does not permit a land use substantially different from that currently available under County zoning.

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 development 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 will be by extension of existing waste water mains in the general area and will be at the cost of the developer. Any necessary upgrades to accommodate the project shall be at the expense of the developer. Sufficient capacity exists to serve this area and will be served by a County line.

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. 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 area.

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 for either police or fire.

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.

Parks and recreation facility expansion are not proposed for this annexation. Maintenance of City streets and right-of-ways are normally performed by the Public Works Department. No significant impacts are anticipated.

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.

All future persons within the area proposed to be annexed shall obtain or be entitled to existing benefits of the City of Hagerstown in accordance with any special conditions contained in the annexation resolution. 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.

Mr. Bass entered the following as Exhibits:

- Exhibit 1: Annexation Plan
- Exhibit 2: Notification to County, Regional, and State Planning Agencies
- Exhibit 3: Certificate of Advertisement
- Exhibit 4: Annexation Resolution

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

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

CITIZEN COMMENTS

Mary Haines, 27 Laurel Street, Hagerstown, Maryland, stated she entered an item in the Herald Mail's Mail Call commending the water and wastewater department personnel for their hard work. They provide the foundation for the City and they should be recognized. She provided a copy of a newspaper article that listed the names of soldiers who were moved from the Alms house in 1784. She stated the Alms house needs to be preserved because of the historical significance of its role in the Civil War. She suggested contacting "Journey Through Hallowed Ground," an organization that provides opportunities for heritage tourism areas. The Alms House could be included as part of a City wide historical tour. In 2011, there will be packaged tours from Gettysburg to

Antietam, in recognition of the 200th Anniversary of the Civil War. The Alms House would be a good place to include in the tour. The soldiers from the Civil War need to be venerated. She is also against a dog park. She also thinks the Doleman Heritage Museum would fit as part of a packaged tour.

MINUTES

On a motion duly made by Councilmember K. S. Cromer and seconded by Councilmember A. Parson-McBean, the Mayor and City Council unanimously agreed by voice vote to approve minutes, as presented, for the Mayor and Council meetings held on August 12, 2008, August 19, 2008, August 26, 2008 and September 9, 2008.

CONSENT AGENDA

On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember A. Parson-McBean, the Mayor and City Council unanimously agreed by voice vote to approve the consent agenda as follows:

- A. Police Department: Replacement of Water Heater – Miller & Anderson (Hagerstown, MD) \$ 11,000.00
- B. Engineering: Madison Avenue Parking Lot Improvements – Huntzberry Bros., Inc. (Smithsburg, MD) \$ 16,560.50
- C. Public Works: Signal Controllers – RGA, Inc. (Powhatan, VA) \$ 10,915.00
- D. Water/Wastewater Department:
 - 1. Pump Control Valve – HD Supply Waterworks, LTD (Martinsburg, WV) \$ 12,584.73
 - 2. Water Distribution Sampling Stations and Automatic Flushing Devices – HD Supply Waterworks, LTD (Martinsburg, WV) \$ 11,557.20
 - 3. Water Meters – Four and Six Inch- HD Supply Waterworks, LTD (Martinsburg, WV) \$ 26,055.00
 - 4. Water Meters – ¾” and ½” – L/B Water Service, Inc. (Chambersburg, PA) \$ 200,657.00
 - 5. Copper Tubing – Noland Supply (Hagerstown, MD) \$ 13,344.00
 - 6. Miscellaneous Inventory Items – HD Supply Waterworks, LTD (Martinsburg, WV) \$ 17,447.17

UNFINISHED BUSINESS

A. Approval of an Ordinance: Zoning Ordinance Text Amendment to Modify Parking Requirements, Shopping Centers, ZT-2008-01

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 an ordinance for a text amendment to the City Code, Chapter 140, Land Management Code, Article 3, C. Definitions and Article 4, Section O. 3. e., Schedule, to modify the parking requirements for Shopping Centers.

NEW BUSINESS

A. Approval of a Resolution: Lease for Center for Business and Training, 14 N. Potomac Street

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 for a two year lease with three two year options for the Center for Business and Training, Inc. located at 14 North Potomac Street, Second Floor. Landlord and Tenant shall have the right to terminate the lease agreement for any reason, upon ninety (90) days written notice.

B. Approval of Contract Extension: Refuse and Curb Side Recycling Collection

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 extend contract #05-05-M-19 (for the collection of residential refuse and curbside recycling) from January 1, 2009 through December 31, 2011. The terms of the extension (per the attached September 11, 2008 memo) includes inflationary adjustments based on the Consumer Price Index; fuel recovery adjustments based on the Department of Energy Index; and a rebate program where the City would receive monetary compensation for the recovery of recyclables as outlined in the memo. The Mayor and City Council further authorized the City Engineer to develop a task force to study the long term trash and recycling collections in the City as outlined.

C. Resolution to Enter into a Deed of Easement for Alley 3-38

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 a resolution to obtain a deed of easement from the downstream property owner to allow the flow of surface drainage from the alley across the downstream private parking lot.

D. Approval of Transfer of Funds to Economic Redevelopment Fund

Action: On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember A. Parson-McBean, the Mayor and City Council

unanimously agreed by voice vote to approve the transfer of \$ 58,000 from the General Fund to the Economic Redevelopment Fund for use in future years for marketing economic development and the community. These funds were received during the last fiscal year from the unexpected sale of a lot in the City Industrial Park off Commonwealth Avenue. Transfer of these funds as of June 30, 2008 will set aside the money for future use for these program purposes. Amended to include: These funds will not be expended until the Council has approved the marketing and community plan.

Discussion: Councilmember Brubaker asked that a sentence be added to the motion indicating these funds will not be expended until the Council has approved the marketing and community plan. Councilmember Parson-McBean suggested that it be indicated that the funding will be used for programs to attract and retain business. The motion was amended as suggested.

E. Improvement Plan for 239 North Locust Street (Former Alm's House)

Action: On a motion duly made by Councilmember K. S. Cromer and seconded by Councilmember M. E. Brubaker, the Mayor and City Council unanimously agreed by voice vote to authorize the following:

- A. Community Development staff to develop and award the necessary contracts to remove the exterior Property Maintenance Code violations on the City-owned property at 239 North Locust Street.
- B. \$ 20,000 in funding for abating the code violations from the Property Maintenance Fund and \$ 20,000 from the FY 08/09 General Fund contingency.*
- C. Community Development staff to develop a Request for Proposals for the renovation and redevelopment of the property through a private/public partnership. Amended to: "public/private partnership."
- D. Staff to complete the local landmark designation process, which will place the approval of any exterior changes to the building and site including demolition under the purview of the City's Preservation Commission. (Amended to say "Staff to initiate the local landmark designation process...")

*Note: An alternative to the use of General Fund money would be the State Community Legacy Grant Funds. Use of these funds would place the building and site under the purview of the Maryland Historic Trust for any interior or exterior renovations or demolition plans.

Discussion: Councilmember Parson-McBean indicated item C. should read "through a public/private partnership" which indicates the City would be the main partner and retain control. It was the general consensus to make this amendment.

She stated the Council needs to devise a plan for what they want to do at the Alms House.

Councilmember Brubaker stated the amount of the City's involvement should be discussed when proposals for its use are presented. He is in favor of preserving the historic significance. Specific conditions could be part of a contract for redeveloping.

Councilmember Parson-McBean stated the discussion at last week's meeting was about bringing the building up to Code standards. The Council still needs to decide what is to be done with the building.

Councilmember Metzner indicated he is in favor of approving parts A., B. and C. of the motion. He does not want to approve the landmark designation process without knowing anticipated costs of what will be done with the building. He is concerned the Mayor and Council may lose control of the property.

Councilmember Cromer indicated the landmark designation will help protect the building from being demolished at a future date. Staff has indicated the process takes up to six months. She is concerned if steps are not taken to protect the building, the next administration could decide to do something different with the building.

Councilmember L. C. Metzner made a motion to table the discussion.
Councilmember K. S. Cromer seconded the motion.

Discussion: Councilmember Cromer will vote to table the discussion, if the issue can be resolved prior to the next regular session. Mayor Bruchey asked if the process can be stopped after it is started. Councilmember Metzner stated what he is really tabling is Item D. He would rather amend the original motion to exclude Item D., than table the discussion completely.

Motion to table failed, 0-5.

Councilmember L. C. Metzner made a motion to amend Item D. the original motion to indicate Staff would initiate the landmark designation process, not complete it. Councilmember M. E. Brubaker seconded the motion.

Motion, as amended, passed, 5-0.

F. Approval for Application Permit/Open Container Exemption – 3rd Annual Trident Initiative with FSU (2-Day Entrepreneurial Conference) – Networking Reception – Thursday, September 25, 2008 from 4:30 p.m. to 6:00 p.m.

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 authorize the application/permit agreement with Duffy's on Potomac. 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, Mayor and City Council formally approve the possession of alcoholic beverages (beer and wine) in the University Plaza for September 25, 2008 for a Networking Reception with the 3rd Annual Trident Initiative with Frostburg State University (2-day entrepreneurial conference). Hours of the reception are to be 4:30 p.m. to 6:00 p.m., and the event is catered by Duffy's on Potomac.

Deborah Everhart, Director of Economic Development, informed the Mayor and Council that Potomac Bead Company will be receiving the Young Entrepreneur of the Year Award during this conference.

CITY ADMINISTRATOR'S COMMENTS

Alfred Martin, Finance Director, stated City Administrator Bruce Zimmerman is attending the ICMA Conference in Richmond, Virginia.

MAYOR AND CITY COUNCIL COMMENTS

Councilmember P. M. Nigh is concerned the amount of land annexed recently will cause a drain on the services of the police department. She asked for a list showing the amount of acreage and the number of homes built for the annexations. Deborah Everhart, Director of Economic Development, indicated that the police and fire department are included on a list of departments and organizations that receive a notification of the requested annexation for comment. Some of the service areas have been adjusted to accommodate the increase in land.

Councilmember Nigh is concerned about the impact the large number of foreclosures has on surrounding neighborhoods. She asked citizens to call City Hall if they are having issues with a foreclosed property. She asked for detailed information about the Downtown Residency program. She understands many of the new firefighters are looking for this type of program. She congratulated Antietam Fire Company on their 200th Anniversary. She thanked Harold Semler for all his efforts with the celebration.

Councilmember K. S. Cromer had no additional comments.

Councilmember L. C. Metzner also congratulated the Antietam Fire Company. He urged people to be informed and vote during the upcoming Presidential Election. This may be the most important election of our time.

Councilmember A. Parson-McBean spoke about the charter review and recommendations made by the Committee. She indicated her support of keeping the election process and timing the same was not an affront to those who worked on the review. She does not think this is the time to make such a significant change in Hagerstown. She appreciates the Committee's efforts. She, Deborah Everhart and Karen Giffin, visited Charlotte, North Carolina last week to tour the City. She indicated the Alms House has significance and has the potential to be part of an economic engine for the city. There are pockets of history throughout the City. These areas could be highlighted and included in an amazing tour. She asked her colleagues to read the information provided about a Human Relations Commission. In difficult economic times, the community needs to have a voice and a local group to hear their concerns. The local group could then take the concerns to the State Commission level.

Councilmember M. E. Brubaker is glad to see so many people walking at Fairgrounds Park.

Mayor R. E. Bruchey, II also congratulated Antietam Fire Company. He asked everyone to keep in mind that there is a City policy that prohibits soliciting or electioneering of any kind, including campaigning, distribution of election or religious literature, or panhandling on City property. He urged everyone to get out and campaign.

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: October 28, 2008