

61ST REGULAR SESSION – SEPTEMBER 25, 2007

Mayor R. E. Bruchey, II called this 61ST Session of the Mayor and City Council to order at 7:02 p.m., Tuesday, September 25, 2007, 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; City Administrator Bruce Zimmerman, City Attorney John Urner and D. K. Spickler, City Clerk.

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 2, 2007, Tuesday, October 9, 2007, Tuesday, October 16, 2007 and the Regular Session on Tuesday, October 23, 2007 at 7:00 p.m.

CITIZEN COMMENTS

Mary Haines, 27 Laurel Street, Hagerstown, Maryland, thanked the City for rebuilding the fountain at Pangborn Park and the upgrades to the street. She thanked Mark Boyer, City Attorney, for drafting an ordinance for a leash law and a pooper scooper law. She thanked Chief Arthur Smith for getting the Animal Control Board to enforce the pooper scooper law. She now understands the Humane Society will not be enforcing the law. She stated the County Commissioners should be asked what is occurring with the Humane Society. A draft leash law will be included on the Work Session agenda next week.

Myron Martin, 13235 Maugansville Road, Hagerstown, Maryland, again asked the City to open Terps Boulevard. He is concerned that traffic will be diverted in order to solve a problem. This could cause other safety issues. He would be glad to talk to the Mayor, as he has indicated he wants to do.

Harold E. Wills, 149 Summit Avenue, Hagerstown, Maryland, has lived at this address for 62 years. Tim Young, Engineer, helped Mr. Wills with a mouse problem. He expressed concern about the way the animals in the community are being treated. He appeared before the Mayor and City Council last year to discuss a lack of police presence in the community. Police presence may have increased for a time, but he is being harassed at all hours. He has reported suspected drug dealing. He also witnessed a hit and run accident and it took four hours for the police to respond. He is forced to park behind his house to avoid a street sweeper ticket. He stated the light behind his house is

out and it has not been replaced. He expressed his concern about City sponsored parties with loud music, which he considers racket.

Mayor Bruchey stated members of Citizens on Patrol travel the alley behind Mr. Wills' home many times during the night. The only way to keep the streets clean is to have a strict schedule. The party Mr. Wills is referring to an event held at Duffy's. This is not a City sponsored event. Some people may not think the music is racket.

Mr. Wills asked the Mayor and City Council to consider placing parking meters in the first block of Summit Avenue and allow residents to park there, free of charge.

Michael Stanford, 12709 Bradbury Avenue, Smithsburg, Maryland, expressed his concern about the Mayor and City Council's consideration of removing the sunset provision in the rental licensing program. The program was to end in June, 2008. He asked the City to honor the agreement that was approved with the landlord association.

Members of Cub Scout Pack 66 were present at the meeting.

MINUTES

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 approve the minutes, as presented, for the Mayor and Council meetings held on August 14, 2007, August 21, 2007, August 28, 2007 and September 4, 2007.

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:

1. Ballistic Vests – Atlantic Tactical (New Cumberland, MD) \$ 20,982.00
2. Police Uniform Vendor Extension – Hoffman Clothiers, Inc. (Hagerstown, MD) \$ 18,988+, Three year extension, prices not to exceed 5% increase per year, through FY 09/10

B. Fire Department:

1. Blauer Jackets – BJ's Custom Creations (Hagerstown, MD) \$ 23,130.00
2. Backup Generator for City EOC and HFD Headquarters – Ellsworth Electric (Hagerstown, MD) \$ 51,000.00

C. Public Works: Reconstruction of City's Fuel Island – Spigler Petroleum

Equipment, LLC (Hagerstown, MD) \$ 210,930.00

D. Information Technology/Finance: Novell Client License Renewal – Novell, Inc. (Pittsburgh, PA) \$ 19,011.30

E. Water and Sewer:

1. Engineering Services for UV Disinfection Project – Black & Veatch (Gaithersburg, MD) \$ 788,000
2. 6” Pump Control Valve – HD Supply Waterworks, LTD (Martinsburg, WV) \$ 11,093.61
3. 1600’ Pipe – HD Supply Waterworks, LTD (Martinsburg, WV) \$ 16,032.00
4. Water Inventory Supplies – HD Supply Waterworks, LTD (Martinsburg, WV) \$ 25,769.04
5. Materials for Relocation of Waterline on Mougans Avenue – HD Supply Waterworks, LTD (Martinsburg, WV) \$ 14,330.23

F. Light Department: Decorative Lighting for 300 Block of North Potomac Street – HADCO (Littlestown, PA) \$ 15,080.00

G. Community Affairs: Contract Extension: Fireworks at Fairgrounds Park – July 4, 2009, 2010 and 2011 – Fireworks Production, Inc. (Maryland Line, MD) \$ 15,000 each year

OLD BUSINESS

A. Approval of an Ordinance: To Amend the City Code, Chapter 197, Removal of Sunset Provision from Rental Licensing Program

Action: Councilmember P. M. Nigh made a motion to approve an ordinance to amend the City Code, Chapter 197, to repeal Section 197-11, Expiration, thereby removing the automatic expiration provision of the Rental Facilities Ordinance. Councilmember A. Parson-McBean seconded the motion.

Discussion: Councilmember Cromer stated the settlement agreement with the landlord association has June, 2008 as the expiration date of the rental licensing program. She is concerned that the sunset provision is being removed a year in advance. The landlord association feels the City is breaching the agreement.

Councilmember Metzner stated the motion could be tabled if someone wishes to discuss the sunset further. The legislation remains in place until the Council votes to change it. The sunset provision was included in the ordinance so the sitting administration would not be the one to remove it.

The sunset provision would cause the program to expire in June, 2008.
The sunset provision could be removed at any time.

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

Motion carried, 3-2 with Councilmember A. Parson-McBean and Councilmember P. M. Nigh voting No.

NEW BUSINESS

A. Introduction of an Ordinance: To Amend the City Code, Chapter 223-13, Residential Rehabilitation Tax Credit Program

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 introduce an ordinance to amend the City Code, Chapter 223-13, Residential Rehabilitation Tax Credit Program to allow new units created through adaptive re-use projects to be eligible for the program.

B. Introduction of an Ordinance: Amending the Code of the City of Hagerstown, Chapter 98, Fire Prevention

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 introduce an ordinance to amend the Code of the City of Hagerstown, revising Chapter 98, *Fire Prevention*, to update the Municipal Infraction section to match the identification numbers that recently changed in the national codes, to address legal and illegal fireworks and to change the title of Assistant Fire Marshall to Deputy Fire Marshall.

C. Introduction of an Ordinance: Quit Claim of a Portion of Alley 4-31 Parallel to Wayside Avenue

Action: On a motion duly made by Councilmember M. E. Brubaker and seconded by Councilmember K. S. Cromer, the Mayor and City Council unanimously agreed to introduce an ordinance to quit claim a portion of Alley 4-31 running east/west parallel to Wayside Avenue. The Mayor and City Council further moved to convey any City interest in the alley to the adjoining property owner Associated Builders and Contractors, Inc. (ABC). The section of Alley 4-31 that runs north-south and connects to Wayside Avenue will remain a public alley.

D. Introduction of Annexation Resolution – (Bowman, Hollyhock & Venetian Investments), Case No. A-07-04

Action: Councilmember M. E. Brubaker made a motion to introduce an Annexation Resolution for Bowman Hollyhock, LLC and Venetian Investments, LLC for property located on the western boundary of the City, adjacent to Broadfording Road. The property to be annexed is 12.25 acres in size and is intended to be added to and made part of the adjacent municipal lands. Councilmember K. S. Cromer seconded the motion.

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

E. Adoption of Annexation Plan: Bowman, Hollyhock & Venetian Investments, Case No. A-07-04

Action: Councilmember K. S. Cromer made a motion to adopt an Annexation Plan for Bowman Hollyhock, LLC and Venetian Investments, LLC for property located on the western boundary of the City, off of Broadfording Road. The property to be annexed is 12.25 acres in size and is intended to be added to and made part of the adjacent municipal lands. Councilmember M. E. Brubaker seconded the motion.

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

F. Resolution: Acceptance of Offer of Dedication of Streets and Alleys in the Gateway Crossing Development

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 approve a resolution accepting the offer of dedication of Streets and Alleys in the Gateway Crossing Development which include: Chessie Lane, Gandy Dancer Court, Merrbaugh Drive, Ross Street (extended), South Mont Valla Avenue turn-around area (southern end), Improved portions of Public Alleys #2-28 and #2-30, Public Alley between Buena Vista Avenue and Ross Street extended, Public Alley south of Lanvale Street near Summer Street, portion of improved public alley west of Buena Vista Avenue and miscellaneous right-of-way dedications along Lanvale Street and at various street intersections. The City shall commence maintenance of these streets upon the developer submitting the proper one-year maintenance bond.

G. Resolution: Approval of an Operating Agreement with the Hagerstown Youth Hockey Association, Inc.

Action: Councilmember K. S. Cromer made a motion to approve a resolution approving an Operating Agreement between the City of Hagerstown and the Hagerstown Youth Hockey Association, Inc. The agreement would provide for the Hagerstown Youth Hockey Association, Inc., as a contractor of the City of Hagerstown, to run the day-to-day operations of the Ice Rink. The Agreement obligates the Hagerstown Youth Hockey Association, Inc., to provide the City monthly financial information and commit to measurable programmatic and financial outcomes and expenses. Under this Agreement, the City assumes the annual financial obligation of the building utilities and bond debt. The term of this agreement is from October 1, 2007 to June 15, 2008.

Councilmember M. E. Brubaker made a motion to revise the wording in Section 3 of the Operating Agreement to indicate the Hagerstown Youth Hockey Association will provide volunteer personnel and to provide details of the user groups that will be given ice time. Councilmember K. S. Cromer accepted the revision.

Motion carried unanimously.

H. Approval of Extension of Deadlines for Sewer Allocations to New Residential Development Within the City of Hagerstown

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 the extension of the deadlines for remaining unused sewer allocations which have been made to new residential development in the City to December 31, 2009. This action will not violate the terms of the City's Consent Judgment with the State of Maryland since it merely delays use of allocated sewer capacity under the Sewer Capacity Allocation Program and does not create additional capacity beyond what is permitted in the SCAP.

I. Resolution: Authorization to Submit Community Legacy Grant Application

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 authorizing staff to submit a Community Legacy grant application to the Maryland Department of Housing and Community Development for \$ 675,000 for four proposed projects: a Revolving Loan Fund for Upper Floor Renovations downtown, a Rental Assistance Grant Program for New Start-up Upper Floor

Businesses downtown, a moderate-income home-ownership housing project at South Potomac and Memorial, and a Feasibility Study for a heritage museum. Matching funds would be provided from the Downtown Revitalization Fund, the Economic Redevelopment Fund, the General Fund, and other grant sources.

J. Approval of Alsatia Mummer's Parade Funding Support

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 of a funding contribution of \$ 2,000.00 in support of the Alsatia Club's Annual Mummer's Parade to be held on October 27, 2007. The source of this funding will be from either the Mummer's Parade Account in the Public Function Budget or from the General Fund Contingency, if needed.

K. Acceptance of Annexation Resolution of the Town of Smithsburg for 12136 Crystal Falls Drive, Breichner Water Treatment Plant

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 annexing the described property pursuant to the Annexation Resolution of the Town of Smithsburg, in accordance with the annexation policy of the Town of Smithsburg, Maryland. This annexation will apply to the City of Hagerstown's Breichner Treatment Plant as outlined in Exhibit A of the resolution and will enable the City of Hagerstown's property to receive sewage services from the Town of Smithsburg.

CITY ADMINISTRATOR'S COMMENTS

Bruce Zimmerman, City Administrator, had no additional comments.

MAYOR AND COUNCIL COMMENTS

Councilmember M. E. Brubaker recognized the passing of Bob Kerfoot, who was a City police officer for more than 18 years. He also conducted a business in Hagerstown for many years.

Councilmember A. Parson-McBean stated CSX is working on the railroad crossing on Oak Hill Avenue. The signs placed at the crossings have worked.

Councilmember K. S. Cromer had no additional comments.

Councilmember L. C. Metzner had no additional comments.

Councilmember P. M. Nigh stated the homeless camps are set up again at the Antietam Creek. There is a considerable amount of trash and bottles in the A & E parking deck. She asked that this be monitored. She asked why the County Commissioners did not make improvements to the ball fields at Marty Snook Park instead of giving money to the team at Fairgrounds Park. She is concerned that Program Open Space money was diverted from other projects for the ball fields. Many questions were raised at the refugee forum but few answers were given. Legislation is needed to ensure sex offenders violating the law are held without bond until a trial is held.

Mayor R. E. Bruchey, II thanked the library for their donation of books to the Mayor and City Council.

There being no further business to come before the Mayor and City Council, on a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember K. S. Cromer, the meeting was adjourned at 8:07 p.m.

Respectfully submitted,

Donna K. Spickler, City Clerk

Approved: