

34TH REGULAR SESSION – SEPTEMBER 26, 2006

Mayor R. E. Bruchey, II called this 34th Session of the Mayor and City Council to order at 7:03 p.m., Tuesday, September 26, 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 Zimmerman, City Attorney John Urner and D. K. Spickler, City Clerk.

The invocation was offered by Mayor Robert E. Bruchey, II. 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 3, 2006, Tuesday, October 10, 2006, Tuesday, October 17, 2006 and the Regular Session on Tuesday, October 24, 2006 at 7:00 p.m. It will be determined at a later date if a meeting will be held on Tuesday, October 31, 2006.

AWARDS/RECOGNITION

Mayor Bruchey presented plaques and certificates to long term board members. The members recognized were: Linda Baughman, Frank Beckwith, Jr., Alfred Bendell, IV, Cecil Bittinger, Carolyn Brooks, James Bryan, William Catlett, William Clark, Thomas Cochrane, Scott Draper, Robert Garver, Michael Gehr, Robert Hershey, Bobby Jones, Jr., Steven Lohr, Mary Mallery, Rosalind Martin, Daniel Matonak, Harry McAbee, Richard McCleary, Pam Mease, Dennis miller, William Moler, Frederick Nugent, Julian Oliver, Jr., David Pembroke, Robert Rankin, Paula Reed, Joann Rider, Karl Sanford, Barbara Spielman, James Stone, Michael Stoner, Douglas Wright, Percy Wright, and John Zeigler. In addition, plaques were presented in memory of deceased board members Harold Levey, William Mason, Michael McCollum, and Herbert Niner, Jr.

Mayor Bruchey thanked Frank Beckwith, Board of Traffic and Parking, for proposing this recognition program. He thanked all those recognized for their dedication.

CITIZEN COMMENTS

James Devine, P. O. Box 2217, Hagerstown, Maryland, stated the community needs better jobs. Senior citizens need assistance. He suggested that the City take over the existing hospital building when the hospital relocates. He stated there is an increase in crime in the area. He suggested installing more cameras.

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 the minutes, as presented, for Mayor and Council meetings held on August 15, 2006, August 22, 2006, September 5, 2006 and September 12, 2006.

Councilmember Aleshire noted he was not present at the September 12, 2006 meeting and could not attest to the accuracy of the minutes.

CONSENT AGENDA

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 the Consent Agenda as follows:

A. Water and Sewer Department:

1. Ford Akron Water Meter Test Bench – Hughes Supply (Martinsburg, WV)

\$ 26,853.50

2. MWH Soft Water Modeling Software – MWH Soft (Pasadena, CA)

\$ 17,025.00

B. Police Department: Police Uniforms – Hoffman Clothiers, Inc. (Hagerstown, MD)

\$ 18,988.00

C. Engineering:

1. Installation of Ramps for Handicap Accessibility at Public Alleys – Concrete

Central, LLC (Hagerstown, Maryland) Not to Exceed \$ 25,000.00

2. Construction of Curb, Sidewalk & Pavement Repairs – Concrete Central, LLC

(Hagerstown, Maryland)

Part A: City Curb/Sidewalk or Abatements \$ 21,250.00

Part B: Repair Damage Caused by Street Trees – Not to Exceed \$ 30,000.00

3. Large Document Copier – Print-O-Stat, Inc. (York, Pennsylvania) \$ 14,995.00

4. Locust Street Parking Lot Improvements – Fayetteville Contractors, Inc.

(Fayetteville, Pennsylvania) \$ 20,525.00

5. Replacement Vehicles for Units 751 and 707 – Miller Brothers Ford, Inc. (Ellicott City, Maryland)

Unit 751 – 2006 Ford Ranger Pick Up Truck - \$ 10,351.00

Unit 707 – 2006 Ford Focus - \$ 10,541.00

6. Fairgrounds Lead Paint Removal in the Former Livestock Stalls, Phase III –

Milton Stamper Builders (Hagerstown, Maryland) \$ 31,500.00

7. Reconstruct a Portion of Alley 2-23 – Henson & Son, Inc. (Hagerstown, Maryland) \$ 31,340.00

- H. Fire Department: 2007 Ford Expedition – Frederick Motor Company (Frederick, Maryland) \$ 23,904.20

UNFINISHED BUSINESS

A. Approval of an Ordinance: Amending the Rental Facilities Ordinance

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 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 (\$ 500.00).

B. Approval of an Ordinance: Zoning Text Amendment Adult Bookstore Definition (Case No. ZT-2006-03)

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 Text Amendment, Case No. ZT-2006-03, to amend the definition of an adult bookstore.

NEW BUSINESS

A. Introduction of an Ordinance: Amendments to the City's Adequate Public Facilities Ordinance

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 City's Adequate Public Facilities Ordinance to modify the definition of "minor subdivision" and to add an exemption for changes to existing or approved development if the changes will not generate additional students per the County's formula.

B. Resolution: Approval of Memorandum of Understanding With University System of Maryland, Police Services

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 a resolution authorizing a Memorandum

of Understanding (MOU). This MOU sets forth the terms and conditions under which the Hagerstown Police Department will provide certain services and lease facilities at the University System of Maryland Hagerstown Education Center. The term of this agreement will be July 1, 2006 through June 30, 2009.

C. Resolution: Amending the Consolidated General Services Agreement, Amendment #8

Action: Councilmember L. C. Metzner made a motion to approve a Joint Resolution of the Board of County Commissioners of Washington County, Maryland and the Mayor and Council of the City of Hagerstown, Maryland amending the Consolidated General Services Agreement for the Provision of Sanitary Sewer Service, attached as Amendment #8. The referenced parcel is listed as the Remaining Lands of Marital Trust, Joseph Swartz, containing 18.79 acres and located on Washington County Tax Map Number 25, Parcel 257.

Discussion: Councilmember Aleshire asked if this parcel is the one subdivided from the Hunter Hills Apartments development. Michael Spiker, Director of Utilities, stated this is a raw parcel. Mr. Spiker indicated MDE will not render a decision on the nutrient transfer part of this amendment until November, 2006. MDE is not a party in the MOU for the nutrient transfer. Councilmember Aleshire stated if MDE does not agree to the nutrient transfer the MOU would be invalid and the City would lose any ability to take over the sewer system. Mr. Spiker stated there would be continuing discussions if MDE did not agree.

Motion failed, 3-2 with Councilmember K. B. Aleshire, Councilmember K. S. Cromer and Councilmember A. Parson-McBean voting No.

D. Resolution: To Accept the Offer of Dedication of Hager's Crossing Drive, Heiskell Court and Cortland Drive

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 pass a resolution to accept the offer of dedication of "Hager's Crossing Drive", "Heiskell Court" and "Cortland Drive". The City shall commence maintenance of these streets upon the developer submitting the proper one-year maintenance bond.

E. Resolution: Approval of Mitigation Program Under Adequate Public Facilities Ordinance for Deerfield Knolls

Action: Councilmember K. B. Aleshire made a motion to approve a resolution to approve the mitigation program for Deerfield Knolls under Section 8.3A

of the City's Adequate Public Facilities Ordinance. Approval of this mitigation program for Deerfield Knolls is warranted given that the Mayor and City Council have found the project to have significant revitalization benefits to the community and minimal impact on school capacity; have received comment on the mitigation proposal from the Washington County Board of Education; and have received approval of the mitigation program from the Washington County Board of County Commissioners. Councilmember A. Parson-McBean seconded the motion.

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

F. Approval of License Agreement for the Use of 700 Block of Stratford Avenue for ARC of Washington County and Stationary House

Action: On a motion duly made by L. C. Metzner and seconded by Councilmember K. S. Cromer, the Mayor and City Council unanimously agreed to approve a license agreement between the City of Hagerstown and ARC of Washington County and the Stationary House for the use of the 700 block of Stratford Avenue. This agreement allows for the joint use of this portion of "dead-end" street by both the ARC and the Stationary House.

G. Approval of Amendment of the FY 2007 CDBG Annual Action Plan: Creation of a New Activity Known as Hub City Bike Route and Programming of \$ 68,035

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 amend the FY 2007 Annual Action Plan to include the Hub City Bike Route as a new activity and to program \$ 68,035 in CDBG funds to fund a portion of the cost of construction of the Hamilton Run Trail segment of the bike route.

Discussion: Councilmember Aleshire asked if this refers to the area outside the street system. Mr. Zimmerman indicated this is the connection trail from Pangborn Park to Fairgrounds Park. This funding is from existing funds and is to replace general fund expenditures.

H. Approval of Additional Funding to Community Free Clinic: Allocation of an Additional \$ 10,000 in Community Development Block Funds

Action: 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 allocate an additional \$ 10,000 in Community Development Block Grant Funds for the Community Free Clinic to pay a portion of the Clinic's operating costs. The documentation

required and manner in which this funding will be released will be determined by the staff of the Community Development Department.

Discussion: Councilmember Nigh asked if funding is provided to the clinic by Washington County. Councilmember Cromer stated the County provided more funding than the City.

I. Rescinding Engineering Services Contract for R. C Willson Plant, Phase IV

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 rescind the previously approved contract between the City of Hagerstown and Gannett Fleming, Inc. (PUR-965) for engineering services for Phase IV of the RC Willson Residual Management Project. The Mayor and City Council authorized the City of Hagerstown's Utility Department to re-bid these services to include the standards set forth by the Maryland Department of the Environment.

Discussion: Councilmember Aleshire asked what criteria the bid did not meet. Mr. Spiker indicated the bid request must be sent to minority businesses. There is minimal cost in rebidding the project. By rescinding the contract and rebidding the project, the City of Hagerstown will be eligible for federal funding.

J. Acceptance of a Memorandum of Understanding Between the City of Hagerstown and Hunter Hills Apartments in Regard to the negotiations of MDE Approved Nutrient Credit Transfers

Action: Councilmember L. C. Metzner made a motion to table this vote until the Consolidated General Services Agreement #8 is resolved. Councilmember K. S. Cromer seconded the motion.

Motion carried, 4-1 with Councilmember K. B. Aleshire voting No.

CITY ADMINISTRATOR'S COMMENTS

Bruce Zimmerman, City Administrator, had no additional comments.

MAYOR AND CITY COUNCIL'S COMMENTS

Councilmember K. B. Aleshire congratulated staff for receiving the 2006 Fiscal Report award. A candlelight vigil will be held in the square to recognize domestic violence on October 12, 2006. Washington County ranks in the top percentile of domestic violence occurrences. He thanked the Narcotics Task Force for their diligence in attempting to end the negative activity of one of the downtown taverns. He stated he thinks it is

necessary to include language in the Memorandum of Understanding to address the nutrient transfer and the sewer system.

Councilmember A. Parson-McBean thanked the city workers who worked on the water main break on Jonathan Street. She thanked Mr. Spiker for making sure the residents were comfortable with what was happening.

Councilmember L. C. Metzner thanked the volunteer board members for their dedication. He thanked Frank Beckwith for putting this recognition plan together. The new parking deck is now open.

Councilmember K. S. Cromer also thanked the people who serve on the boards and commissions.

Councilmember P. M. Nigh thanked Lt. Margaret Kline for updating the 9/11 album. She also thanked Cecil Bittinger for providing photographs. She thanked the business people who attended the Liquor Board hearing regarding Meda's Tavern.

Mayor R. E. Bruchey, II expressed condolences to the family of Sara Wingert, who was a retired secretary of the Water Department. The Maryland Symphony Orchestra (MSO) has asked for permission to place banners on four street light poles in downtown in recognition of their 25th anniversary and the 75th anniversary of the museum. The banners would be located in the first block of S. Potomac Street. It was the general consensus of the Mayor and City Council to allow the banners to be placed on the poles. The annual Chili Cook Off was well attended.

Councilmember Nigh stated Councilmember Cromer is having surgery next week. She hopes the surgery goes well.

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 7:57 p.m.

Respectfully submitted,

Donna K. Spickler, City Clerk

Approved: _____