

EXECUTIVE SESSION – OCTOBER 24, 2006

On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember K. B. Aleshire, the City Council unanimously agreed by voice vote to meet in closed session on Tuesday, October 24, 2006 at 6:00 p.m. in accordance with the provisions of the annotated Code of Maryland, State Government Article, Section 10-508(a) to consult with counsel to obtain legal advice, #7. No formal action was taken at the session. The meeting was held in Room 407, 4th floor at the City Hall. The meeting was adjourned at 6:25 p.m.

38TH REGULAR SESSION – OCTOBER 24, 2006

Mayor R. E. Bruchey, II called this 38th Session of the Mayor and City Council to order at 7:01 p.m., Tuesday, October 24, 2006, in the Council Chamber at City Hall. Present with the Mayor were Councilmembers K. B. Aleshire, L. C. Metzner, P. M. Nigh and A. Parson-McBean; City Administrator Bruce Zimmerman, City Attorney William Nairn and D. K. Spickler, City Clerk. Councilmember K. S. Cromer was present by speaker phone.

The invocation was offered by Councilmember Kristin B. Aleshire. 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, November 7, 2006, Tuesday, November 14, 2006, Tuesday, November 21, 2006 and the Regular Session on Tuesday, November 28, 2006 at 7:00 p.m.

APPOINTMENTS

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 appoint Frank U. Linn to the Board of Traffic and Parking. The term will expire November 30, 2007.

GUESTS

James Hornsby, Wal-Mart, presented a check in the amount of \$ 10,000 to Citizens on Patrol, Inc. and the City of Hagerstown for renovation work at the Fairgrounds Entrance Building.

Councilmember Nigh thanked Wal-Mart for their support of Citizens on Patrol and for helping to save the oldest fairgrounds entrance building on the East coast.

Mayor Bruchey thanked Wal-Mart, Washington County, Ron Manners and the Carpenters Union, Lt. Tim Wolford and Chief Arthur Smith.

Karen Giffin, Director of Community Affairs, thanked Wal-Mart and Mr. Hornsby for their response to the request for assistance.

PUBLIC HEARING

Subdivision Ordinance

A Public Hearing was held to receive testimony regarding text amendments to the Subdivision Ordinance. The current Ordinance dates to 1976. The document has been through an extensive review process.

The Planning Staff indicated a public review meeting was held on August 30, 2006 and the Planning Commission provided a positive recommendation on September 13, 2006.

Article I deals with the Intent and Purpose. The most significant change is the inclusion of a Minor Subdivision application.

Article II expands the list of definitions.

Article III attempts to codify the current procedures.

Article IV deals primarily with street standards and design. An attempt was made to insure that new subdivisions will be knitted into the street network of the community with street designs and layouts that provide high connectivity within the subdivision and to surrounding subdivisions.

Article V is the final section of the Ordinance. It deals primarily with the construction of the required physical improvements, such as streets, storm drainage, sewer, etc.

Major differences include:

1. A mandatory Sketch Plan (currently optional)
2. Mandatory Open Space (currently optional)
3. Mandatory sidewalks and Street Trees (consistent with other standards)
4. Encourage bike routes and street connectivity
5. Discourage cul-de-sacs
6. Encourage grid street system and alleys
7. Orient buildings towards street, unless adequate buffering is provided
8. Encourage preservation of natural features
9. Private streets and gated communities are prohibited
10. Preliminary Plat renamed Development Plan

11. Development Plan approval must be coordinated with APFO
12. Condominium Plats required as a Simplified Plat
13. Final Plat must be coordinated with SCAP
14. Increase violation penalties to be consistent with Zoning Ordinance (From \$50 up to \$1,000)
15. Various technical updates

Stuart Bass, Comprehensive Planner, entered the following as Exhibits:

1. Certificate of Advertisement for Public Hearing
2. Planning Commission file by record

Councilmember Aleshire stated a significant amount of time has been spent reviewing this ordinance. He recommended consideration of the following additional amendments:

1. Page 3 – note that minor subdivisions are not exempt from SCAP regulations
2. Page 3, B, (a) zoning compliance should be a function of the Board of Zoning Appeals (BZA), not the Planning Commission
3. Page 4, Section 200.7 – should be a function of the BZA
4. Page 5, Section 200.11 – consider changing “shall be” to “shall be up to” to allow for discretion with the penalty amount
5. Page 7, Cul-de-sac – consider establishing length restrictions
6. Page 10, open space defined as not being fragmented
7. Page 10, panhandle lot – language to discourage this use
8. Page 13 – reiterate that subdivisions are not exempt from SCAP or APFO requirements
9. Page 15 – add the words “recreational equipment”
10. Page 15, A., (9) – clarify that open space is not to be fragmented
11. Page 16 – Density requirements – consider increasing the standards at higher density levels
12. Page 23 – developers are required to provide a digital GIS copy
13. Page 30, 200.33 – ensure that this section does not automatically subject the City to the County’s APFO requirements for any development within the City limits
14. Page 31, E. – add “significant topography”
15. Page 32, H. – stronger language for street stubs so people know the road will eventually go somewhere

Councilmember Metzner stated he agrees with the points made by Councilmember Aleshire.

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

The hearing was closed at 7:22 p.m. The record will remain open for 10 days for written comments. The Mayor and City Council will review the changes proposed by Councilmember Aleshire at a work session.

CITIZEN COMMENTS

Monda Sagalkin, League of Women Voters, presented a copy of the “Know Your County” handbook to each Mayor and City Council member. The booklet will be updated bi-annually. An electronic version is available on the Washington County Commissioners website. The electronic version will be updated continually.

Barbara Pradel, 544 Chestnut Street, Hagerstown, Maryland, lives near City Park. She is concerned that the ducks and geese are being chased away from the lake. She suggested landscaping the bare areas around the park. She stated intoxicated people are lying on the benches. She asked that someone monitor what is happening at City Park. Mayor Bruchey stated police patrols at City Park have been increased. He urged everyone to report suspicious activity to the police or park employees. He stated he would obtain information about the ducks and geese and respond to Ms. Pradel’s concerns.

MINUTES

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 minutes, as presented, for Mayor and Council meetings held on September 19, 2006, September 26, 2006, October 3, 2006 and October 10, 2006.

CONSENT AGENDA

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 the Consent Agenda as follows:

- A. Public Works: Vehicle Replacement – 2007 Chevrolet Silverado ³/₄ Ton Pick Up – Criswell Chevrolet, Inc. (Gaithersburg, Maryland) \$ 21,080.00
- B. Engineering: Replacement Vehicle for Unit 706 – 2006 Ford Focus – Miller Brothers Ford (Ellicott City, Maryland) \$ 10,541.

UNFINISHED BUSINESS

- A. Approval of an Ordinance: Amendments to the City’s Adequate Public Facilities Ordinance**

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 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.

NEW BUSINESS

B. Introduction of an Ordinance: Police and Fire Employee's Retirement Plan, Third Amendment

Action: On a motion duly made by Councilmember P. M. Nigh and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to amend the City of Hagerstown Police and Fire Employees' Retirement Plan in order to reflect changes in the laws of the United States governing retirement plans. This amendment addresses:

1. Total military service credit shall be expanded
2. Addition of section (f) in Section 43 of the Plan. This section addresses the minimum distribution requirements.

B. Introduction of an Ordinance: Excessive Use of Police Services

Action: On a motion duly made by Councilmember P. M. Nigh and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed to introduce an ordinance to amend the City Code to include Chapter 95 Excessive Use of Police Services. It is the intended purpose of this ordinance to impose on and collect from the owner of a property the costs incurred for police and law enforcement services which are over and above the costs of providing normal law enforcement services and police protection, if said excess costs are spent to abate a nuisance which has occurred or is maintained and permitted on the property.

C. Introduction of an Ordinance: City of Hagerstown General Obligation Bonds

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 introduce an ordinance authorizing the City of Hagerstown to issue and sell, upon its full faith and credit, general obligation bonds in one or more series in an aggregate principal amount not to exceed \$9,965,000. Proceeds from the sale of the bonds will be used for the public purposes described in detail in the ordinance together with related expenses and costs of issuance. Staff is hereby also directed to proceed with developing the necessary detailed resolutions and

other documents to proceed with the sale of the bonds as directed by this ordinance. The detailed resolution will be presented to this body for approval at a future date prior to the issuance of the bonds as specified in the ordinance.

Discussion: Councilmember Aleshire, Councilmember Cromer and Councilmember Nigh stated there are specific projects associated with the bond issue they do not agree with. The specific projects will be discussed prior to the final issuance of the bond and changes can be made to the list at that time.

D. Resolution: Homestead Real Estate Tax Credit Percentage

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, in accordance with Section 9-105 of the State of Maryland Tax-Property Article, setting the homestead real estate credit percentage for the tax year beginning July 1, 2007. The resolution will reduce the maximum increase in real estate assessments for City of Hagerstown tax purposes to 105% of the current year's assessment on existing owner occupied property assessments. This cap is consistent with the cap approved by the County and is one half of the maximum increase permitted by the State on its assessments.

Discussion: Councilmember Aleshire stated this is one way to help the City's senior citizens. He hopes the State of Maryland does this also.

E. Approval of Contract for Market House HVAC, Phase I (Air Conditioning)

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 design/build contract with M. S. Johnston for installation of a new air conditioning system with hot water coils for the Market House, 25 West Church Street. The cost of the project is \$ 118,849.00. The source of funds for the project will be proceeds from a general obligation bond issue.

F. Approval of Downtown Holiday Parking 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 the recommended downtown holiday parking plan to allow from Monday, November 20, 2006, the date of HollyFest, through Christmas Day, two hours free parking in the North Potomac Street parking deck on weekdays and free

parking in the deck in the evenings after 7 p.m. and all day Saturday and Sunday.

Parking at the downtown street and lot meters will continue to be free after 5 p.m. and all day Saturday and Sunday, as it normally is throughout the year.

Also, the officially designated holidays for exceptions to parking enforcement for the parking meters in the downtown area are to be clarified as the same official holidays that City Hall is closed for business.

G. Acceptance of Maryland Heritage Area Authority Grants

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 accept grants of \$ 12,500 and \$ 55,000 from the Maryland Heritage Area Authority for projects to create interpretive plaques, directory signs, and banners for the downtown and for a project to widen the sidewalk on the east side of the first block of S. Potomac Street. The required 50-50 match for these grants is included in the City's FY 2007 budget.

H. Denial of Requests for Sewer Allocation from the Discretionary Reserve – Linwood Hollow and New Haven

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 deny the requests made by the developers of Linwood Hollow and New Haven for Discretionary reserve allocation from the 2006 Sewer Capacity Allocation Program. Given the increasing demands for service from non-residential development projects, the two residential projects in question are not of sufficient priority to the Mayor and City Council to warrant award of sewer from the Discretionary Reserve.

I. Approval of License Agreement: Potomac Building, LLC, 122 N. Potomac Street

Action: On a motion duly made by Councilmember P. M. Nigh and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to execute a license agreement between the City of Hagerstown and Potomac Building LLC for the installation of a sidewalk handicap access ramp in the public right-of-way of North Potomac Street.

**J. Modification to Approval of Loan to Paradise Hospitality Group, LLC
Through the Hagerstown Revolving Loan Fund**

Action: Councilmember L. C. Metzner made a motion to strike “*Upon the closing of any subsequent loan secured by a lien on this property, this loan becomes immediately due and payable*” from the commitment letter issued to PARADISE HOSPITALITY GROUP, LLC for a loan through the Hagerstown Revolving Loan Fund. All other provisions of the loan commitment shall remain unchanged. Councilmember A. Parson-McBean seconded the motion.

Discussion: Councilmember Nigh stated she is not comfortable with this change. Councilmember Cromer stated she has reservations because of the wording change.

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

CITY ADMINISTRATOR’S COMMENTS

Bruce Zimmerman, City Administrator, had no additional comments.

MAYOR AND CITY COUNCIL’S COMMENTS

Councilmember P. M. Nigh thanked Karen Giffin for her efforts on behalf of the City. She thanked the members of Citizens on Patrol. She asked that time be scheduled for a presentation about the presence of crystal meth in this area.

Councilmember K. S. Cromer continues to have good and bad days. She thanked all who have sent her well wishes and flowers. She commended Mike Deming, the City and everyone involved in the Downtown Live festival. She understands it was a very nice event. She would like to see more things like this that promote Hagerstown.

Councilmember L. C. Metzner also thanked Ms. Giffin for her efforts. He thanked Wal-Mart for their generous contributions. He stated the community is blessed with many organizations that care about the community. He heard positive comments about the Downtown Live festival also. He thanked the Fire Department for their response to the fire at the Women’s Club, as well as other emergency services. The field at Mike Callas Stadium is state of the art and very safe. There will be an unveiling ceremony of the stadium on November 2, 2006.

Councilmember A. Parson-McBean thanked Deborah Everhart, Economic Development Director, and Larry Bayer, Community Development Manager, for their efforts to ensure that a local business remains a successful local business.

Councilmember K. B. Aleshire thanked everyone who participated in the Downtown Live festival. He was not able to attend but understands it was a good event and well

attended. He stated this proves that closing a street for a few hours doesn't cause the City to fall apart. He would like to see more events in the Arts & Entertainment District.

Mayor R. E. Bruchey, II thanked DEMCORE for the flower arrangement they sent to City Hall thanking the City and the volunteers who helped with the Downtown Live event. He thanked the Library for the Gala in the Stacks event that was held on October 21, 2006. The Mayor and City Council will be riding in the trolley during the Mummers Parade on Saturday, October 28, 2006. Lance Cpl. Jonathan Breehl will be riding with them. He urged everyone to be careful during Trick or Treat on October 31, 2006.

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 7:56 p.m.

Respectfully submitted,

Donna K. Spickler, City Clerk

Approved: _____