

30TH REGULAR SESSION – October 26, 2010

Mayor R. E. Bruchey, II called this 30th Session of the Mayor and City Council to order at 7:01 p.m., Tuesday, October 26, 2010, in the Council Chamber at City Hall. Present with the Mayor were Councilmembers W. M. Breichner, M. E. Brubaker, F. W. Easton, A. C. Haywood, L. C. Metzner; City Administrator Bruce Zimmerman, City Attorney Mark Boyer and D. K. Spickler, City Clerk.

The invocation was offered by Councilmember Ashley C. Haywood. Councilmember Haywood dedicated the invocation in memory of Patrick Bachtell. 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, November 2, 2010, Tuesday, November 9, 2010, Tuesday, November 16, 2010 and the Regular Session on Tuesday, November 23, 2010 at 7:00 p.m. No meeting is scheduled at this time for November 30, 2010.

PROCLAMATIONS

Disability Awareness Month

Mayor Bruchey read a proclamation naming October 2010 as Disability Awareness Month. Councilmember Forrest Easton accepted the proclamation.

Fire Prevention Month

Mayor Bruchey read a proclamation naming October 2010 as Fire Prevention Month. Acting Chief Kyd Dieterich and Fire Marshall Doug DeHaven accepted the proclamation.

CITIZEN COMMENTS

Sam Young, President, Maryland Theatre Board of Directors, and Jay Constantz, Executive Director of the Maryland Theatre, spoke in favor of the transfer of the former McBare's property to the Maryland Theatre. They thanked the Mayor and Council for their support.

Eleanor Cooper, 17618 York Road, Hagerstown, Maryland, asked who she could talk to about the high price of electric bills from Allegheny Power. Even though she has added insulation to her home, the bill keeps going up. She is concerned the apartment buildings at Pangborn and Cortland Manor are not handicap accessible.

Leonard Cooper, 19603 Marigold Drive, Hagerstown, Maryland, asked again if the City can do anything about removing seat belt laws. Mayor Bruchey again suggested Mr. Cooper contact Senator Munson or Senator Elect Chris Shank regarding this. Mr. Cooper expressed concern about people who stand in the middle of the street and talk and who don't move for vehicles. He wondered if they could be fined for restricting traffic. He believes people who travel at slow speeds cause other drivers to get mad. The slow drivers should respect everyone around them and move over.

Anna Kinslow, 28 E. Franklin Street, Hagerstown, Maryland, presented a letter to be handed to Mayor and Council members. A copy is included in the meeting packet. The letter discusses an issue she had with the Department of Social Services. She did not wish to discuss the matter further.

PUBLIC HEARINGS

ZM-2010-03, Local Conversion District Overlay, 991 Maryland Avenue (Former Corsi's Pizza)

Kathleen Maher, Planning Director, and Alex Rohrbaugh, Planner, presented an application for a Local Conversion District Overlay for a restaurant and an attached single-family dwelling at 991 Maryland Avenue and 202 West Wilson Boulevard.

The purposes of this district are to stimulate the adaptive reuse of existing, nonresidential and mixed-use structures embedded within densely developed residential districts and communities, to maintain and increase the City's assessable tax base, and to expand business and employment opportunities. Allowing such uses to fit into existing commercial and mixed use structures reestablishes the historically mixed use nature of the City's 19th and early 20th century residential communities.

A Planning Commission Public Review Meeting for this proposal was held on Wednesday, September 29, 2010. The Planning Commission recommends approval for the proposal, subject to seven site plan conditions as outlined in the Staff report.

The following were entered into the record:

Exhibit 1 – Certificate of Advertisement

Exhibit 2 – Planning Commission Record

Councilmember Easton asked why a recommendation was made to remove the chain link fence and install another fence, if the fence is not permitted per the current code. Mr. Rohrbaugh stated based on the condition of the existing fence, the Planning Commission and Planning Staff felt it should be replaced with something other than chain link.

Mayor Bruchey asked why the fence could not have been painted instead. This would have saved the rose bushes that have been there since the 1970's. Ms. Maher indicated the Planning Commission and planning staff wanted to make sure the integrity of the

residential area was preserved. It has been recommended that the neon sign be replaced as well.

The following testimony was presented:

Michael Stone, Clear Spring Road, Williamsport, Maryland, is the applicant. He has agreed to the conditions and does not believe they are unreasonable. He has started the process of removing the fence and neon lighting. He does not understand the condition for realigning the entrance and parking area. He would like to open the restaurant with a similar theme as Corsi's.

No further testimony was presented. The record will remain open for 10 days for additional comments. The hearing was closed at 7:28 p.m.

MINUTES

On a motion duly made by Councilmember A. C. Haywood and seconded by Councilmember F. W. 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 September 7, 2010, September 14, 2010, September 21, 2010 and September 28, 2010.

CONSENT AGENDA

On a motion duly made by Councilmember F. W. Easton and seconded by Councilmember A. C. Haywood, the Mayor and City Council unanimously agreed by voice vote to approve the Consent Agenda as follows:

- A. Wastewater Department: Grinder Pumps – Fluid Solutions (Westminster, MD)
\$ 50,000.00

UNFINISHED BUSINESS

A. Approval of an Ordinance: Comprehensive Rezoning, Phase IV (ZM-2010-01)

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 ordinance, based on the Findings of Fact, for a rezoning classification and zoning map amendments, Case No. ZM-2010-01, to rezone those areas which are associated with Phase IV of the Comprehensive Rezonings. A series of maps are attached to and are made part of this ordinance.

B. Approval of an Ordinance: Repeal and Re-enact Chapter 10, Part 2, Article V of the City Code – Boards, Commissions and Authorities

Action: On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember F. W. Easton, the Mayor and City Council unanimously agreed by voice vote to introduce an ordinance to repeal and re-enact Chapter 10, Part 2, Article V of the City Code entitled Boards, Commissions, and Authorities. The new Code language clarifies the appointment process for board members, sets terms at four years unless stated otherwise, and establishes meeting guidelines.

C. Approval of an Ordinance: To Amend the City Code, Chapter 10, Board of Utilities

Action: On a motion duly made by Councilmember F. W. Easton and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to introduce an ordinance to delete and repeal Chapter 10, Article XI, Board of Utilities of the City Code. The Mayor and Council have determined that such Board is no longer necessary.

D. Approval of an Ordinance: To Amend the City Code, Chapter 21, Downtown Assessment District

Action: On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember A. C. Haywood, the Mayor and City Council unanimously agreed by voice vote to approve an ordinance to repeal Chapter 21 of the City Code entitled Downtown Assessment District. The public need for the Downtown Assessment District has ceased, at this time, and it is in the best interests of the citizenry that Chapter 21 be repealed in its entirety.

E. Approval of an Ordinance: Determining that the Former McBare's Property at 25-29 South Potomac Street is no Longer Needed for a Public Purpose

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 ordinance indicating that the City of Hagerstown has determined that the former McBare's property located at 25-29 South Potomac is no longer needed for a public purpose. In addition, this ordinance specifies that the City of Hagerstown shall convey its beneficial interest in this property to the Maryland Theatre for the sum of \$ 261,020, which shall be allocated \$ 149,931.50 to the Hagerstown-Washington County Industrial Foundation, Inc., (CHIEF) and \$ 111,088.50 to the City of Hagerstown, with the purchase price to be paid by a purchase money promissory note from the Maryland Theatre and mortgage on the property. The Agreement of Sale and Purchase shall be executed by CHIEF (A copy is made part of this ordinance), the City of Hagerstown, and the Maryland Theatre. In approving this agreement the Maryland Theatre shall agree to use the property for the sole purpose of

supporting the Maryland Theatre to and or the benefit of the citizens of Hagerstown and Washington County in keeping with the purposes of the Arts and Entertainment District of the City.

NEW BUSINESS

A. Introduction of an Ordinance: To Amend the City Code, Chapter 33, Code of Ethics

Action: 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 introduce an ordinance to repeal Chapter 33 of the City Code entitled Code of Ethics and replace it with a new Chapter 33 to be entitled Code of Ethics. This Chapter provides for a Code of Ethics for the City, by adopting standards of conduct and establishing violations and penalties for violations thereof.

B. Introduction of an Ordinance: To Amend the City Code, Chapter 35, Ethics Commission

Action: On a motion duly made by Councilmember F. W. Easton and seconded by Councilmember W. M. Breichner, the Mayor and City Council unanimously agreed by voice vote to introduce an ordinance to repeal Chapter 35 of the City Code entitled Ethics Commission and replace it with a new Chapter 35 to be entitled Ethics Commission. This Chapter provides for the establishment of an Ethics Commission for the City, the qualifications and terms of the members and the responsibilities of the commission members.

C. Approval of Resolution: Authorizing the Implementation of a Residential Traffic Calming Policy

Action: On a motion duly made by Councilmember M. E. Brubaker and seconded by Councilmember A. C. Haywood, the Mayor and City Council unanimously agreed by voice vote to approve a resolution authorizing the implementation of a "Residential Traffic Calming Program." This policy addresses the need to reduce speed and increase safety on residential streets, by providing qualifications for allowing traffic calming devices and standards for their application.

D. Approval of City Center Holiday Parking Program

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 approve the recommended downtown holiday parking plan to allow two hours of free parking in the

North Potomac Street and Arts & Entertainment parking decks on weekdays beginning Monday, November 22, 2010 through Tuesday, January 4, 2011. Parking in the decks after 4:00 p.m. in the evenings and all day Saturday and Sunday will be free.

Parking in the city center, central business district street and lot meters will continue to be free after 5:00 p.m. and all day Saturday and Sunday as it is normally throughout the year.

Also, parking enforcement of metered spaces along the streets and in city owned lots would be suspended during the city recognized holidays of Thanksgiving (November 25 and November 26) and Christmas (December 23 and December 24).

E. Approval of a Grant Agreement with the Chesapeake Bay Trust

Action: On a motion duly made by Councilmember M. E. Brubaker and seconded by Councilmember F. W. Easton, the Mayor and City Council unanimously agreed by voice vote to enter into an agreement with the Chesapeake Bay Trust to allow the City to receive a grant in the amount of \$ 35,000 for planting of trees to help reach the future tree canopy goal. The grant has a \$ 15,000 cash match (funded from CIP fund balance or CIP savings), and an \$ 18,000 in-kind match (staff and volunteer time). The Mayor and Council further authorize staff to work with the various volunteer groups to plant trees as outlined in the grant application.

Discussion: Councilmember Haywood thanked staff for their dedication to planting trees. Two years of receiving this grant is commendable.

F. Acceptance of Grant from Governor's Office of Crime Control and Prevention – Child Advocacy Center Detective

Action: 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 approve a one-year grant in the amount of \$ 75,000.00 from the Governor's Office of Crime Control and Prevention. This grant shall be used by the Hagerstown Police Department to fund the Child Advocacy Center Detective and will increase the Department's authorized sworn personnel from 105 to 106 positions

G. Award Contract for Doleman Black Heritage Museum Grant Project

Action: 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 award a contract to Wendi Perry of

District Heights, Maryland in the amount of \$ 64,525.00 to undertake curator services for the Institute for Museum and Library Services (IMLS) grant-funded project for the Doleman Black Heritage Museum. This project is 100% grant funded by IMLS and the City is the pass-through entity for these grant funds for the Doleman Black Heritage Museum. approve a resolution to amend the 2008 Comprehensive Plan to include the 2010 Small Areas Plan.

CITY ADMINISTRATOR'S COMMENTS

Bruce Zimmerman, City Administrator, stated Trick or Treat will be held on Friday, October 29, 2010, from 6:00 p.m. to 8:00 p.m.

MAYOR AND COUNCIL COMMENTS

Councilmember F. W. Easton would like to discuss the large recycling bins in various places throughout the City. The County maintains the bins but many people drop off junk items. He participated in the United Way Day of Caring on October 22, 2010. This is a great opportunity to work together to improve the community. He congratulated Mayor Bruchey for having the courage to veto the building code ordinance that included a sprinkler requirement.

Councilmember A. C. Haywood received a service award from the Rotary Club. She thanked the group for the award.

Councilmember L. C. Metzner reminded everyone early voting is still available. He urged everyone to exercise their right to vote. This will be another big weekend in Hagerstown, with the annual Alsatia Mummer's parade taking place.

Councilmember W. M. Breichner had no additional comments.

Councilmember M. E. Brubaker feels the Mayor's veto of the building code ordinance was unfortunate for future construction. Many cities throughout Maryland have a sprinkler requirement. Hagerstown is not giving itself enough credit for considering a sprinkler requirement. The future protection of property far outweighs the cost of the installation.

Mayor R. E. Bruchey, II hopes attendance for the Mummers' Parade is good. He indicated he was not going to discuss the veto during this meeting.

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 7:45 p.m.

Respectfully submitted,

Donna K. Spickler, City Clerk

Approved: November 23, 2010