

10TH REGULAR SESSION – October 27, 2009

Mayor R. E. Bruchey, II called this 10th Session of the Mayor and City Council to order at 7:06 p.m., Tuesday, October 27, 2009, in the Council Chamber at City Hall. Present with the Mayor were Councilmembers W. M. Breichner, M. E. Brubaker, F. Easton, A. C. Haywood, L. C. Metzner; City Planning Director Kathleen Maher, City Attorney John Urner and D. K. Spickler, City Clerk.

The invocation was offered by Councilmember Ashley C. Haywood. 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 3, 2009, Tuesday, November 10, 2009, a Joint Meeting with the County Commissioners at 3:00 p.m. on Tuesday, November 17, 2009 and the Regular Session on Tuesday, November 24, 2009 at 7:00 p.m.

BOARD APPOINTMENTS

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 appoint George Hill to the Hagerstown Housing Authority. Mr. Hill's term will expire August 30, 2014.

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 appoint Ronald Thomas to the Planning Commission. Mr. Thomas' term will expire May 1, 2012.

CITIZEN COMMENTS

There were no citizen comments.

PUBLIC HEARINGS

Proposed Land Management Code Amendment – Conversion Local Overlay Zoning District

Stephen Bockmiller, Development Review Planner/Zoning Administrator, stated this public hearing is being held to receive testimony on the proposed Conversion Local Overlay Zoning District. 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. The Local Conversion District may be located in the following districts: R1, R2 and R4.

If the proposal is adopted, property owners would individually apply for rezoning of their property to apply the overlay district. The final decision would be made by the Mayor and City Council.

Mr. Bockmiller entered the following Exhibits:

Exhibit 1: Certificate of Advertisement

Exhibit 2: Planning commission file by reference

Mr. Bockmiller stated this text amendment would require that additions for a new use blend with the existing architecture of the building.

Councilmember Haywood is concerned that small businesses will lose the ability to have vending machines outside their store. Because of the potential impact of backlit vending machines, their use is being limited.

The cost of a rezoning request is currently \$ 2,000.00. Planning Department staff have determined their costs for these specific requests could be covered by a \$ 500.00 charge. This can be discussed at a work session.

There was no testimony presented. The record will remain open for 10 days for additional comment.

The next step in the process is the introduction of an ordinance to accept the Conversion Local Overlay District.

This public hearing was closed at 7:26 p.m.

Doub Property Annexation, Case No. A-2008-02

Mayor Bruchey stated this public hearing is the second public hearing on this annexation of the Doub property. The previous public hearing was held on April 22, 2008. Just prior to the previous hearing, the Mayor and Council established as the appropriate land use classifications for the property C-4 and POM uses. This had been done pursuant to a public hearing held on March 25, 2008.

At both the March 25, 2008 and April 22, 2008 hearings, extensive public testimony was presented regarding the zoning for this annexation.

At these hearings the applicant consisted of the several property owners and a prospective purchaser/developer.

Subsequent to the hearing the County denied approval of the C-4 and POM zoning.

Later, the prospective purchaser/developer dropped out of the process.

The applicant property owners now seek to complete the annexation of the property subject to the C-4 and POM zoning with a five year no development limitation resulting from the County denial.

This second public hearing is being held because there is no longer any development or developers of the property involved in the annexation and because there are three new council members since the April, 2008 public hearing.

Therefore, the sole issue tonight is whether or not the property should be brought into the City. In other words the Mayor and Council must decide whether or not annexation is beneficial to the City of Hagerstown.

Through a statement prepared by the City Attorney, the Mayor asked that comments be limited to annexation, not zoning or potential development.

Stuart Bass, Comprehensive Planner, stated this subject property is located at the northeast quadrant of the I-70/US 40 interchange, a major gateway point into the City of Hagerstown. The City has been reviewing this proposed annexation formally for over two years. Hearings on the proposed annexation and zoning request were held in April 2008. After learning that the County Commissioners denied the express approval of the zoning request in October, 2008, the applicants lost their developer and spent some months contemplating their next move. In March 2009, the applicants submitted an amended annexation petition requesting that the annexation move forward without County approval of the proposed zoning and without site conditions related to the prior developer's plans.

After waiting for the new City administration to take office, the amended annexation resolution and petition were introduced on August 25, 2009. The Annexation Plan for extension of services was also adopted at that time. A Public Hearing is being held at this meeting to receive testimony on the proposed annexation.

The area of the subject property is approximately 141.69 acres. The proposed zoning districts are C4 for 124.16 acres (Regional Shopping Center) and POM – 17.53 acres (Professional Office – Mixed Use). The purpose of the C4 District is to provide locations for commercial businesses, retail and offices, and specifically, a regional shopping center (i.e. “big box” development). The purpose of the POM District is to provide locations for offices, medical offices, research and development, institutional uses, certain industrial uses, and limited support retail.

As has been discussed, the requested C4 zoning is substantially different from the uses authorized under the existing County zoning, and would therefore require the express approval of the Board of County Commissioners, which the County formally denied on

October 21, 2008. Therefore, if annexed, the development of the land may not be permitted for five years.

The property is within the City's Medium Range Growth Area (MRGA), an area intended for new and/or expanded water and wastewater provisions (provided by utility services owned and operated by the City), as defined in the 2008 Comprehensive Plan. It is within the County's Urban Growth Boundary and the State's designated Priority Funding Area.

There were four 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.

The road network surrounding the site is made up of local streets which serve the immediate neighborhood. Primary access to the development would be via the Dual Highway.

Wastewater 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. The amount and timing of the allocation of wastewater service shall be subject to the City's Sewer Capacity Allocation Program.

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.

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), or their designee, will design and approve the street light system. The developer is responsible for the purchase and installation to approved HLD specifications, of the street light system. The HLD will assume ownership of the street light system twelve (12) months after the City of Hagerstown assumes ownership of the street(s). Until that ownership transpires, the developer will be responsible for all aspects of the street light system. Upon assuming ownership, HLD has the manpower and equipment resources to serve this area.

This area is currently provided fire services by an automatic aid agreement with the Independent Junior Fire Engine Company. As growth continues there may be a need of additional stations or relocation of existing stations to serve the Hagerstown Urban Growth Area. Related rescue service is provided by the Community Rescue Service, Inc.

Streets would be constructed per the City's Public Ways Construction Standards by the developer and then offered for dedication and maintenance to the City and will be extended into the proposed annexation. Improvements to existing public roads shall be completed at the direction of the City Engineer at the developer's expense.

Traffic studies will be necessary as a part of the formal development process and shall be prepared by the developer. Such studies shall be in conformance with the City's Guidelines for Traffic Impact Studies. These studies will likely identify road improvements that are required on existing streets near the proposed annexation and subsequent development.

Parks and recreation facilities within the area proposed for annexation are not planned by the City of Hagerstown.

Police protection would be provided by the Hagerstown Police Department which would patrol the area on a twenty-four hour basis. Police services can be expected to be called upon for a large retail area.

Maintenance of City streets and right-of-ways will be performed by the Public Works Department.

All future persons and businesses 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 and associated conditions or agreements. 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.

The Annexation Agreement from the applicants makes some offers related to future development conditions for the Mayor and City Council's consideration, if that would relieve some of the concerns heard previously about potential development impacts associated with the property. These offers include many which had been discussed last summer when the developer was associated with the project. Some of the more detailed site condition offers have been removed, since a development plan is no longer associated with this annexation. The City Attorney and Planning staff have reviewed the agreement and feel that it is workable for the City.

Mr. Bass entered the following as Exhibits:

Exhibit 1: Certificate of Advertisement

Exhibit 2: Planning Commission file by reference

Offers from the petitioner include:

1. Contribute to the City an annual amount of \$.05 per gross foot of newly developed commercial or office building area located on the property for a period of five years
2. Forty foot vegetated buffer
3. Upon completion of 120,000 square feet of retail space shall contribute two buses to the City for the purpose of transporting visitors to the development between it and downtown Hagerstown and shuttling City residents to the development for employment
4. Provide a second means of access to the property

Councilmember Haywood stated she doesn't think discussing the offers is relevant if the uses are not to be discussed. Councilmember Brubaker indicated the offers are things for the Mayor and Council to consider during in depth discussions of the annexation agreement.

Councilmember Metzner stated there have been multiple discussions about this property and during one of these, the buffer, was offered to ensure residents would be protected. The owner understood the Mayor and Council would require this buffer.

Councilmember Haywood still doesn't think this consideration of the offers is relevant because they are dependent on the C-4 zoning on the property. Councilmember Metzner does not agree. He stated these offers would be required if the annexation petition is approved. Councilmember Brubaker stated consideration of the offers made is part of the annexation process.

There was no State of Maryland or Washington County representative present.

The following testimony was presented:

Andrew DiPasquale, Miles & Stockbridge, P.C., represents the Doub Property owners. He stated it is important to remember this property is a gateway to the City. He indicated City staff feel there is great benefit to have control over this significant gateway. The way to achieve the control is to annex the property.

Bruce Dean, McEvoy and Dean, also represents the property owners. He stated there have been two public hearings regarding this annexation. Extensive testimony was presented during the hearings. The County Commissioners also held a public hearing on this potential annexation. After the County voted to deny the express approval for the property, developer Petrie Ross dropped out. The remaining members reviewed the annexation request and developed a list of offers that they knew the City would require to protect the neighboring properties. These conditions are intended to protect taxpayers and their clients. The new petition for annexation is not a remnant of the previous petition. It was developed after the developer dropped out. He stated realistically, development would not begin for eight years on this property. The petition is not something a developer is proposing, it is what the owner is proposing. He indicated a

condition approved in an annexation resolution would be a binding condition. He stated an additional offer includes the requirement of foresighted architecture for the out parcel along Interstate 70 and US Route 40. The owner is asking for a waiver from City taxes for ten years, or until they receive a municipal service (water). They are asking that the waiver be longer than five years, because of the length of time it would take for development to occur.

James Doub, managing partner of the property, stated this land had been owned by his family since the mid 1800's. They are interested in discussing annexation now because it seems logical to do because the property is on the edge of the City. He stated two issues keep returning in every discussion. They are the access to Route 40 and if this development will be detrimental to downtown Hagerstown. If the property is annexed, the owners will be relying on their previous ability to work with the City.

Councilmember Brubaker wants it to be clear that the owners are agreeable to further discussion concerning tax abatements, transportation and setbacks. Mr. DiPasquale stated the annexation petition outlines the offers.

Councilmember Haywood asked if the annexation is contingent on the C4 zoning classification. Mr. Pasquale indicated it is.

Mayor Bruchey stated the annexation agreement is not based solely on the C4 zoning. Councilmember Metzner stated the Comprehensive Plan indicates what the zoning will be. The petition also allows zoning to be changed without the property owners' permission.

Ms. Maher stated this property would be zoned C4 if it is annexed.

The following testimony was presented.

Dick Miller, Potomac Ridge, Hagerstown, Maryland, asked if this procedure is standard for an annexation request. He thinks the Mayor and Council should tell the petitioner what they expect and it should be up to the petitioner to meet those expectations. The property can be developed now with high density housing. The residents at Potomac Ridge don't oppose the annexation, but they do oppose the potential uses.

Mayor Bruchey indicated further negotiations may be held with the petitioner. The City cannot force someone to annex their property and they can't enforce stipulations because they won't require City services.

Kristin Aleshire, County Commissioner, stated the five year wait for the C4 zoning could be changed by a new County administration. He indicated this property would receive City services if it is annexed. It will require public safety services, just as other properties in the City limits. He stated he feels there are two sets of discussions being held concerning this property. There is a group of planners that are discussing a different

type of use for this property. There needs to be a direct line of communication between the elected officials of the City and the County. All the available options need to be discussed in a public setting. He believes there is a better use of this property. There has not been a joint discussion concerning the use of the property.

Councilmember Brubaker stated this was discussed in the 2 + 2 committee meetings. It was indicated during the meeting that the Commissioners would not consider granting express approval.

Councilmember Metzner thanked Commissioner Aleshire for speaking at the hearing. He pointed out again that the Comprehensive Plan dictated the zoning for this property. He is not aware of any other discussions about the use of this property. He assumes Mr. Aleshire is talking about the Commissioners discussing the use of the property.

Mr. Aleshire stated he didn't say it was a meeting with elected officials. Councilmember Metzner stated he has not discussed this property.

Councilmember Haywood thanked everyone for their comments so far. Because the annexation and annexation agreement are contingent on C4, she would like to discuss the uses with anyone who is concerned.

Councilmember Metzner stated the C4 zoning is in the Comprehensive Plan and won't be changed unless the Comprehensive Plan is revised.

Councilmember Haywood stated she feels discussion should be permitted on the zoning.

Mr. Urner indicated the previous administration decided what the zoning would be in passing the Comprehensive Plan. Councilmember Metzner asked why a new hearing is required.

Ms. Maher stated the annexation petition is new and this hearing is being held to receive testimony on the new petition. Mr. Urner stated it is desirable to hold this public hearing because of the amendments and the new administration.

Mayor Bruchey stated the question is whether or not the City should control the use of the property or the County.

John Bagley, 312 Landis Road, Hagerstown, Maryland, asked if an environmental impact statement can be added to the petition conditions. Councilmember Brubaker asked Mr. Bagley to submit his concerns in writing.

Tina Kurtz, 404 Landis Road, Hagerstown, Maryland, is opposed to the annexation because it will leave county residents in a "bubble" with questions about who will provide emergency services. If the farm is annexed, it will create more ambiguity for

these residents. She is concerned about the condition of the wells, how the flood plain will be affected, and additional traffic. The property must be developed appropriately.

Tab Kurtz, 404 Landis Road, Hagerstown, Maryland, is opposed to the annexation as a gateway to the City. He stated most people come to Hagerstown to get away from development and to visit a rural area. He likes the property the way it is.

Mayor Bruchey asked Commissioner Aleshire if the land owner is not amenable to the use of the property he has in mind would the County take the land by eminent domain. Commissioner Aleshire suggested discussing this at the joint meeting on November 17, 2009.

Councilmember Easton stated he doesn't understand why the Mayor started the hearing with a statement that zoning would not be discussed. The staff presentation included zoning information. He asked when an agreement was made with the County.

Mayor Bruchey indicated there is no agreement with the County. He stated the opening remarks included a note that the County and the City had already dealt with the zoning on the property.

Mr. Pasquale stated the only substantive change in the annexation request is that there is no developer at this time. The property owner is asking for annexation so the City controls the land. They have identified no discernable reason why a municipality would not want to expand its borders. Residents should consider whether they want the City or the County to protect their interests.

There was no further testimony.

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

The hearing was closed at 8:50 p.m.

Kristin Aleshire, 1217 Virginia Avenue, Hagerstown, Maryland, asked to be heard under citizen comments. He provided information about a potential text amendment for fences. He believes he provided a broad reaching proposal that will benefit a number of the non-conforming and inconsistent uses that exist. He received questions from residents about a large yard sale across from the former Park Circle restaurant. He asked that this be looked at. During the joint meeting on November 17, 2009, the library expansion and tax differential will be discussed. The tax differential revision, as proposed, will provide an additional \$ 600,000 back to taxpayers. He participated in the fire department's emergency operation session recently. He completed the session and realizes how important the training is. Hagerstown residents still enjoy some of the lowest water and sewer rates in the State of Maryland.

MINUTES

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 minutes, as presented, for the Mayor and Council meetings held on September 8, 2009, September 15, 2009, September 22, 2009 and September 29, 2009.

CONSENT AGENDA

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 the Consent Agenda as follows:

- A. Police Department:
 - 1. Toughbook Laptops – Pelican Mobile (Hanover, MD) \$ 85,806.00
 - 2. Audio/Video Recording Equipment for CID – McEnroe Voice & Data (Hunt Valley, MD) \$ 24,762.00
 - 3. Alternate Light Source for Crime Lab – SPEX Forensics (Edison, NJ) \$ 10,556.00
 - 4. Compound Microscope – Nikon Instruments, Inc. (Linthicum, MD) \$ 13,169.80
- B. Public Works: Road Salt – Mid Atlantic Salt, LLC (Lyndora, PA) \$ 70.64 per ton
- C. Light Department: ABB Circuit Breakers – WESCO Distribution (Norristown, PA) \$ 40,160.00
- D. Water and Wastewater Departments:
 - 1. Water: Miscellaneous Inventory – HD Supply Waterworks, LTD (Martinsburg, WV) \$ 44,652.94
 - 2. Wastewater: Service Agreement for Oxygen System – M2T Technologies (Peekskill, NY) \$ 20,000.00
- E. Engineering:
 - 1. Memorandum of Understanding for Bridge Rehab Funds
 - 2. Burhans Boulevard Traffic Flow Improvements – Concrete Central, LLC (Hagerstown, MD) \$ 26,500.00

UNFINISHED BUSINESS

A. Approval of an Ordinance: Amending Chapter 62, Bottle Clubs

Action: On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember W. M. Breichner, the Mayor and Council unanimously agreed by voice vote to approve an ordinance to amend the City Code by

adding Chapter 62, entitled Bottle Clubs. The chapter prohibits bottle clubs from operating within the corporate limits of the City of Hagerstown, except as provided in Section 62-3, Paragraph A, which allows for a restaurant which has accommodations for no more than 74 customers and a valid Bottle Club License to allow the consumption of beer and wine on its premises. The license fee will be \$ 100.00, or a renewal fee of \$ 50.00 for a current, valid licensee applying for a subsequent license year.

B. Approval of an Ordinance: Land Use Management Code Text Amendment to Modify Commercial District Requirements, ZT-2009-01

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., Article 4., Section F., and Article 5., Section I, to modify the Commercial District Requirements.

NEW BUSINESS

A. Introduction of an Ordinance: Amendment to the City of Hagerstown Police & Fire Employees Retirement Plan

Action: On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember F. Easton, the Mayor and City Council unanimously agreed by voice vote to introduce an ordinance to amend the City of Hagerstown Police & Fire Employees' Retirement Plan in order to reflect changes in the laws of the United States governing retirement plans and update several job titles under the Covered Employee definition. This amendment addresses:

1. Updates job title changes under covered employee's definition section.
2. Technical revisions to the limitations on benefits required under the Internal Revenue Code with respect to public safety retirement plans.

B. Introduction of an Ordinance: Approval of Revocable License Agreement with Aristaeus, LLC and L.E.D. Associates, LLP for Dumpster Placement – 20 W. Washington Street

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 introduce an ordinance for a revocable license agreement between the City of Hagerstown, Aristaeus,

LLC and L.E.D. Associates, LLP for the installation of a trash dumpster in Alley 1-134 at the rear of 20 West Washington Street.

C. Introduction of an Ordinance: Water Quality Bonds for West End Water Tanks – Phase II

Action: On a motion duly made by Councilmember A. C. Haywood and seconded by Councilmember W. M. Breichner, 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 to the Maryland Water Quality Financing Administration, in one or more series, in an aggregate principal amount not to exceed \$ 6,000,000. Proceeds from the sale of the bonds will be used for the public purpose of financing Phase II of the City's West End Water Tanks project as more fully described 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.

D. Introduction of an Ordinance: Water Quality Bonds for Willson Transmission Mains – Phase 1A

Action: On a motion duly made by Councilmember A. C. Haywood and seconded by Councilmember M. E. Brubaker, 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 to the Maryland Water Quality Financing Administration, in one or more series, in an aggregate principal amount not to exceed \$ 5,000,000. Proceeds from the sale of the bonds will be used for the public purpose of financing Phase 1A of the City's Willson Transmission mains as more fully described 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.

E. Introduction of an Ordinance: Water Quality Bonds for Citywide Collection System Rehab

Action: On a motion duly made by Councilmember M. E. Brubaker and seconded by Councilmember F. Easton, 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 to the Maryland Water Quality Financing Administration in one or more series in an aggregate principal amount not to exceed \$ 2,250,000. Proceeds from the sale of the bonds will be used for the public purpose of financing the Citywide wastewater collection system rehabilitation as more fully described 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.

F. Introduction of an Ordinance: Water Quality Bonds for Salem Avenue Collection System Rehab

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 introduce an ordinance authorizing the City of Hagerstown to issue and sell upon its full faith and credit, general obligation bonds to the Maryland Water Quality Financing Administration in one or more series in an aggregate principal amount not to exceed \$ 1,000,000. Proceeds from the sale of the bonds will be used for the public purpose of financing the Salem Avenue wastewater collection system rehabilitation as more fully described 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.

G. Approval of a Resolution: To Name and Accept “Renaissance Way” (former Cramer Alley)

Action: On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember F. Easton, the Mayor and City Council unanimously agreed by voice vote to approve a resolution to name the newly constructed street from East Washington Street to Antietam Street as “Renaissance Way” and to accept the street for maintenance by the City.

H. Approval of a Resolution: Revising Parking System Rates and Fees for North Potomac Street and the Arts & Entertainment Parking Decks

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 resolution revising the Saturday, Sunday, Holiday and evening hours of parking fees for the North Potomac Street and the Arts & Entertainment Parking Decks, effective January 4, 2010.

Discussion: Councilmember Brubaker stated there was some confusion at the A & E Parking deck recently. The issue was resolved and he asked Eric Deike, Public Works Manager, to provide a summary of the issue.

Mr. Deike stated this increase was proposed to support the parking fund, which is not supported by the general fund. It is time to encourage people visit downtown and to park in the decks. All surface lots will remain free after 5:00 p.m. A nominal fee of \$ 1.00 will only be charged at the two parking decks. There was an electronic issue with the gate system at the A & E parking deck last weekend. Attendants were on site to help people exit the deck and the problem was repaired.

Mayor Bruchey agreed there should be confidence in downtown; however, he is opposed to implementing this charge.

Councilmember Brubaker stated parking has to pay for itself somehow. Councilmembers received a letter from a committee of the Chamber of Commerce requesting an additional deck. He would need to see a commitment from potential users before considering this request.

Councilmember Metzner pointed out there will still be free parking available downtown. He thinks the \$ 1.00 fee is reasonable.

I. Approval of a Resolution: Authorizing Acceptance of the United States Department of Energy's Energy Efficiency and Conservation Block Grant (EECBG)

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 a resolution accepting the United States Department of Energy's Energy Efficiency and Conservation Block Grant (EECBG) in the amount of One Hundred Seventy Nine Thousand Five Hundred Dollars (\$ 179,500.00). This grant is part of the American Recovery and Reinvestment Act of 2009, Public Law 111-5.

J. Approval of Hagerstown Suns Fireworks for the 2010 Season

Action: On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember F. Easton, the Mayor and City Council unanimously approved by voice vote fourteen licensed fireworks shows, including the opening day of Thursday, April 8, 2010, scheduled to be held at Hagerstown Suns baseball games during the 2010 season and that the Mayor and Council's approval will exempt these fourteen shows from the City of Hagerstown's Noise Ordinance under section 155-3 of the City Code.

Discussion: Councilmember Metzner asked if there are any issues with a week night fireworks event that he be notified. Councilmember Easton stated the weeknight was requested because it is opening day and an anniversary season.

K. Authorization to Accept FY 2010 Maryland Heritage Area Grant of Historic Plaques

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 authorize staff to accept a \$ 4,000 grant from the Maryland Heritage Area Authority for phase three of the City's historic plaques project commemorating Hagerstown Civil War and general interest heritage. This grant will be matched by \$ 3,000 from the Downtown Beautification account of the General Fund and by \$ 1,000 of in-kind services from installation of the plaques by Public Works crews.

L. Approval of Amendment to Power Service Agreement with Allegheny Energy Supply Company, LLC

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 amendment to the Power Service Agreement between the City of Hagerstown and the Allegheny Energy Supply Company, LLC. The existing Power Service Agreement has been extended for a period of two years, from the initial expiration date of May 31, 2011 through the new expiration date of May 31, 2013. The MWh (megawatthour) charge for service during the aforementioned two year period will become \$ 64.85 (sixty four dollars and eighty five cents).

M. Approval of Expenditure for the R. C. Willson Phase 1A Transmission Main Replacement and Electrical Upgrades

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 expenditure of \$ 4,646,754.24 (four million, six hundred forty six thousand, seven hundred fifty four dollars and twenty four cents) for the replacement of two water transmission mains and the electrical upgrade project located at the R. C. Willson Water Treatment Plant. Water Division CIP 167, account number 5285001-5891-CO167 currently has \$ 3,210,000 (three million, two hundred ten thousand dollars) available. Water Division CIP 741, account number 5285001-5891-CO741 currently has \$ 2,900,000 (two million, nine hundred thousand dollars) available. Funding sources for this project, \$ 4,576,754 (four million, five hundred seventy six thousand, seven hundred and fifty four dollars) will include a combination of ARRA Stimulus funding and the Maryland Department of the Environment's State Revolving Loan Fund at a 0% interest rate for 30 years. Additionally, a \$ 300,000 (three hundred thousand dollar) Environmental Protection Agency Grant will be utilized.

N. Authorization for Chief Arthur Smith to Sign Criminal Justice User Agreements

Action: On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember F. Easton, the Mayor and City Council unanimously agreed by voice vote to authorize Chief Arthur Smith to sign and execute, on behalf of the City of Hagerstown, various user agreements between the City of Hagerstown and the Maryland Department of Public Safety and Correctional Services.

O. Approval of Lease Agreement with Shenandoah Personal Communications Company (Shentel) for Space on Radio Tower at Hagerstown Police Department

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 lease agreement with Shenandoah Personal Communications Company (Shentel) to lease space on the monopole radio tower at the Hagerstown Police Department. The lease is for an initial five year period at the rate of \$ 2,100 per month with four additional five year renewal periods. The renewal rents will be at a rate to be adjusted in accordance with the cumulative change in the consumer price index at the start of each subsequent five year period. Shentel will also construct at least two additional parking spaces at the Police Building site to replace the space to be used to house their ground equipment at no cost to the City.

CITY ADMINISTRATOR'S COMMENTS

Kathleen Maher, Planning Director, reminded everyone that Trick or Treat will be held on October 30, 2009 from 6:00 to 8:00 p.m. The annual Alsatia Mummers Parade will be held at 6:00 p.m. on Saturday, October 31, 2009.

The Planning Department will host a second neighborhood meeting in the Jonathan Street neighborhood on November 9, 2009 at 6:00 p.m.

MAYOR AND COUNCIL COMMENTS

Councilmember W. M. Breichner expressed condolences to the families of John Shank, II (active employee) and Bill Dietrich (retired employee).

Councilmember M. E. Brubaker also expressed condolences to these families. He attended the MML fall conference. There was a good presentation on annexation at the conference.

Councilmember F. Easton expressed sympathy to the family whose dog was shot by a Hagerstown police officer recently. He asked that citizens who wish to express their opinions about this incident do so with civility. He asked that a public safety citizen advisory board be re-established. This would not be a citizen review board. He stated this request is not connected to the dog incident. He believes it is necessary to have an advisory board when public safety includes 60% of the general fund budget.

Councilmember A. C. Haywood agreed that an advisory board is necessary. She expressed condolences to the Shank and Dietrich families.

Councilmember L. C. Metzner expressed sympathy to the two families. He agreed an advisory board is needed. He has been unable to attend several events during the last few weeks. He has been visiting his father-in-law who is a patient at Walter Reed Medical Hospital. The care at Walter Reed is impressive.

Mayor R. E. Bruchey, II expressed condolences to the Shank and Dietrich family. In reference to the dog incident, he stated he understands the situation. The officer was doing his job as he was trained to do.

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 9:29 p.m.

Respectfully submitted,

Donna K. Spickler, City Clerk

Approved: November 24, 2009