

12TH REGULAR SESSION – November 24, 2009

Mayor R. E. Bruchey, II called this 12th Session of the Mayor and City Council to order at 7:01 p.m., Tuesday, November 24, 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 Administrator Bruce Zimmerman, City Attorney Mark Boyer 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 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, December 1, 2009, Tuesday, December 8, 2009, Joint Meeting with Senator Munson, Delegate Donoghue and Delegate Myers and a Work Session, Tuesday, December 15, 2009, Budget Retreat and Work Session and the Regular Session on Tuesday, December 22, 2009 at 7:00 p.m.

GUESTS

The Hagerstown Gridiron Championship Classic MVP Presentation was made. South Hagerstown High School MVP Dulaney Williams was presented a scholarship check from Conservit, Inc. by Jack Metzner. North Hagerstown High School MVP Zach Eppard was presented a scholarship check from Hagerstown Kiwanis by Councilmember William Breichner.

CITIZEN COMMENTS

James Devine, P. O. Box 2217, Hagerstown, Maryland, would like to retrieve a knife that was confiscated by the Hagerstown Police Department. He has been told the knife has been disposed of and he doesn't understand why this would have happened.

Kristin Aleshire, 1217 Virginia Avenue, Hagerstown, Maryland, (County Commissioner) was present to discuss his concerns with the library expansion project. He supports the project but is concerned that the amount for the project keeps changing. The County contribution was originally to be \$ 6 million and is now projected to be \$ 7 million. He asked for a copy of an agreement that was signed by all parties. He is concerned that the main entrance to the library will be in the back of the building. He wondered why a joint meeting of the Mayor and City Council and the Washington County Commissioners did not occur in August, as had been planned. The proposal includes expansion onto a property that is not owned by any of the parties involved.

PUBLIC HEARINGS

Proposed Home Occupation Text Amendments, ZT-2009-02

Stuart Bass, Comprehensive Planner, stated Staff was directed by the Planning Commission to modify the home occupation provisions of the Land Management Code as follows:

1. A definition was created for a home workstation. This is proposed as a permitted accessory use to all legal residences. There will be no visible exterior evidence of any use other than a residence and no customers coming to the home. The Planning Department will produce an application form that requires an outline of the nature of the business in order to issue a zoning certificate. The intent is to eliminate the necessity, expense, time delay and inconvenience of a special exception from the Board of Zoning Appeals for those uses that are clearly of no consequence to the neighbors (i.e. bookkeeping, internet based businesses, etc.).
2. The current provision for Special Exceptions for Home Occupations is proposed to be removed. The current practice of a home occupation as defined and allowed would be eliminated and no longer allowed within the City.

The Planning Commission held a public review meeting on July 29, 2009. No public comments were received. The Planning Commission forwards this text amendment to the Mayor and Council with a positive recommendation for adoption.

Mr. Bass entered the following as Exhibits:

Exhibit 1: Certificate of Advertisement

Exhibit 2: Planning Commission file by reference

There was no testimony presented. The hearing was closed at 7:20 p.m. The record will remain open for 10 days for additional comments.

MINUTES

On a motion duly made by Councilmember F. Easton and seconded by Councilmember W. M. Breichner, the Mayor and City Council unanimously agreed by voice vote to approve the minutes, as presented, for the Mayor and Council meetings held on October 6, 2009, October 13, 2009, October 20, 2009 and October 27, 2009.

CONSENT AGENDA

On a motion duly made by Councilmember W. M. Breichner 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. Community Affairs:
 - 1. Western Maryland Blues Fest 2010 Budget
 - 2. Three Year Cable Blanket License, Master and Synchronization Agreement with Killer Tracks - \$ 2,215.00 per year
- B. Police Department: Letter of Agreement for University System of Maryland Emergency Operations Center
- C. Water and Wastewater Departments:
 - 1. Water: Goulds Pump Assembly – Geiger Pump and Equipment (Baltimore, MD) \$ 40,400.00
 - 2. Water: Meters and Transceiver Units – L/B Water Service, Inc. (Chambersburg, PA) \$ 130,121.60
 - 3. Wastewater: Treatment Chemicals – Various Vendors \$ 225,154.48
- D. Parks: Barrier Free Play Equipment – Taylor Sports and Recreation (Martinsburg, WV) \$ 48,598.00

UNFINISHED BUSINESS

A. Approval 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 approve 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. Approval 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 M. E. Brubaker and seconded by Councilmember F. Easton, the Mayor and City Council unanimously agree by voice vote to approve 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.

NEW BUSINESS

A. Introduction of an Ordinance: Zoning Text Amendments for Local Conversion District (for Non-Conforming Properties in Residential Districts), ZT-2009-03

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 to amend the Land Management Code, Article IV (Zoning), to create a Local Conversion Overlay zoning district and establish a five hundred (\$ 500) dollar application fee for this rezoning process.

B. Approval of a Resolution: Lease Agreement for 28 W. Church Street with Senator Donald F. Munson

Action: On a motion duly made by Councilmember F. Easton and seconded by Councilmember W. M. Breichner, the Mayor and City Council unanimously agreed by voice vote to approve a resolution authorizing a lease between the City of Hagerstown and Senator Donald Munson, for commercial office space located at 28 West Church Street, Hagerstown, MD. The lease agreement shall be in effect from January 1, 2010 to December 31, 2010 as the monthly rate of \$ 400.00 (four hundred dollars).

C. Approval of a Resolution: Lease Agreement for Potomac Classical Youth Ballet Company at 14 N. Potomac Street, B2 Basement Unit

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 approve a resolution for a one year lease for the Potomac Classical Youth Ballet Company located at 14 North Potomac Street, B2 basement unit.

D. Approval of a Resolution: Lease Agreement for Hagerstown/Washington County Industrial Foundation, Inc. at 25 East Franklin Street

Action: On a motion duly made by Councilmember F. Easton and seconded by Councilmember W. M. Breichner, the Mayor and City Council unanimously agreed by voice vote to approve a resolution for a one year lease with an option for three one year extensions for the Hagerstown Washington County Industrial Foundation, Inc. located at 25 East Franklin Street

E. Approval of a Resolution: Acceptance of Brynwood Street and Westwood Street

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 to accept the offer of dedication of Brynwood Street and the recently constructed portion of Westwood Street (intersecting Brynwood Street). The City shall commence maintenance of these streets upon the developer submitting the proper one-year maintenance bond.

F. Approval of a Resolution: Renewal of User Agreement with YMCA for Fairgrounds Park

Action: On a motion duly made by Councilmember F. Easton and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to approve a resolution to renew a Long-Term User Agreement with the YMCA to utilize a portion of Fairgrounds Park to conduct their soccer program for the period of January 1, 2010 through December 31, 2010. User shall have the right to renew this agreement for four (4) additional one (1) year terms beginning January 1, 2011.

G. Approval of a Resolution: Renewal of User Agreement with HAYSL for Fairgrounds Park

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 renew a Long-Term User Agreement with the Hagerstown Area Youth Soccer League to utilize a portion of Fairgrounds Park to conduct their soccer program for the period of January 1, 2010 through December 31, 2010. User shall have the right to renew this agreement for four (4) additional one (1) year terms beginning January 1, 2011.

H. Approval of a Resolution: City of Hagerstown Drinking Water Bond, Series 2009 (ARRA) (West End Water Tanks – Phase II, \$ 5,729,370)

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 resolution authorizing the City of Hagerstown to issue and sell, upon its full faith and credit, a general obligation bond to the Maryland Water Quality Administration in the aggregate principal amount of \$ 5,729,370. Proceeds from the sale of the bond will be used for the public purpose of financing the cost of the West End Water Tanks- Phase II Project and other related improvements

and costs of issuance for the bonds as more fully described in the resolution.

The issuance of this bond was previously authorized by City Ordinance O-09-18 which was passed by the Council and approved by the Mayor on November 3, 2009. This resolution spells out the details of that authorized financing and will allow the completion of the financing for this project.

Staff is hereby directed to take all necessary actions to proceed with the sale of the bond as directed by this resolution.

I. Approval of a Resolution: City of Hagerstown Drinking Water Bond, Series 2009 (Willson Transmission Mains – Phase IA, \$ 4,675,754)

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 authorizing the City of Hagerstown to issue and sell, upon its full faith and credit, a general obligation bond to the Maryland Water Quality Administration in the aggregate principal amount of \$ 4,675,754. Proceeds from the sale of the bond will be used for the public purpose of financing the cost of the Willson Water Transmission Mains – Phase IA Project and other related improvements and costs of issuance for the bonds as more fully described in the resolution.

The issuance of this bond was previously authorized by City Ordinance O-09-19 which was passed by the Council and approved by the Mayor on November 3, 2009. This resolution spells out the details of that authorized financing and will allow the completion of the financing for this project.

Staff is hereby directed to take all necessary actions to proceed with the sale of the bond as directed by this resolution.

J. Approval of a Resolution: City of Hagerstown Water Quality Bond, Series 2009 (ARRA) (City Wide Collection System Rehab, \$ 827,440)

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 resolution authorizing the City of Hagerstown to issue and sell, upon its full faith and credit, a general obligation bond to the Maryland Water Quality Administration in the aggregate principal amount of \$ 827,440. Proceeds from the sale of the bond will be used for the public purpose of financing the cost of the City Wide Collection System Rehab Project and other related improvements and costs of issuance for the bonds as more fully described in the resolution.

The issuance of this bond was previously authorized by City Ordinance O-09-20 which was passed by the Council and approved by the Mayor on November 3, 2009. This resolution spells out the details of that authorized financing and will allow the completion of the financing for this project.

Staff is hereby directed to take all necessary actions to proceed with the sale of the bond as directed by this resolution.

K. Approval of a Resolution: City of Hagerstown Water Quality Bond, Series 2009B (Salem Avenue Collection System Rehab, \$ 651,500)

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 a resolution authorizing the City of Hagerstown to issue and sell, upon its full faith and credit, a general obligation bond to the Maryland Water Quality Administration in the aggregate principal amount of \$ 651,500. Proceeds from the sale of the bond will be used for the public purpose of financing the cost of the Salem Avenue Collection System Rehab Project and other related improvements and costs of issuance for the bonds as more fully described in the resolution.

The issuance of this bond was previously authorized by City Ordinance O-09-21 which was passed by the Council and approved by the Mayor on November 3, 2009. This resolution spells out the details of that authorized financing and will allow the completion of the financing for this project.

Staff is hereby directed to take all necessary actions to proceed with the sale of the bond as directed by this resolution.

L. Approval of Expenditure for City Wide Collection System Rehabilitation

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 expenditure of \$ 3,030,000 (three million and thirty thousand dollars) for the Wastewater Division Citywide Collection System Rehabilitation Project. Wastewater Division CIP 800, account number 5485001-5881-CO800 currently has \$ 4,078,731 (three million seventy eight thousand seven hundred and thirty one dollars) available. The funding sources for this project will be an \$ 800,000 (eight hundred thousand dollars) grant from the Bay Restoration Fund, \$ 1,422,563 (one million four hundred twenty two thousand five hundred and sixty three dollars) in Stimulus Funding from the American Recovery and Reinvestment Act of 2009, and \$ 827,437 (eight hundred twenty seven thousand four hundred and thirty seven

dollars) in a 0% interest rate loan from the Maryland Department of the Environment's State Revolving Loan Fund.

M. Approval of Expenditure for Salem Avenue Collection System Rehabilitation

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 the expenditure of \$ 631,505.50 (six hundred thirty one thousand five hundred five dollars and fifty cents) for the Wastewater Division Collection System Rehabilitation Project on Salem Avenue. Wastewater Division CIP 799, account number 5485001-5881-CO799 currently has \$ 1,028,362 (one million twenty eight thousand three hundred and sixty two dollars) available. The funding source for this project is a 0% interest rate loan from the Maryland Department of the Environment's State Revolving Loan Fund.

CITY ADMINISTRATOR'S COMMENTS

Bruce Zimmerman, City Administrator, reminded everyone that the refuse collection schedule will be different because of the Thanksgiving holiday.

MAYOR AND COUNCIL COMMENTS

Councilmember W. M. Breichner had no additional comments.

Councilmember M. E. Brubaker attended the library press conference last week. There will be a major entrance at the corner of Antietam and Potomac Streets. This project is administered by the County with input from other parties, including the City of Hagerstown. The City and County are grateful to Governor O'Malley and the Maryland General Assembly for supporting the funding for this project. Senator Munson and Delegate Donoghue played key roles in guiding the financing request through the legislature. The Mayor and Council are grateful for all the volunteers who serve on the City's boards and commissions.

Councilmember F. Easton agrees with the points made by Commissioner Aleshire. He thanked Safe Place for providing a tour of their facility.

Councilmember A. C. Haywood stated she appreciates Staff working on ways to deal with the recent revenue reductions but more needs to be done. The City needs to be attentive to all funding endeavors and needs transparency with all taxpayer dollars.

Councilmember L. C. Metzner had no additional comments.

Mayor R. E. Bruchey thanked everyone involved in the tree lighting and Holly Fest. He likes the fact that the library is closer to the street in the plans. The City has committed \$ 1.5 million toward the project. The expansion will be a huge asset to

downtown. He believes there will be ample parking for library patrons with the planned surface lot.

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 7:42 p.m.

Respectfully submitted,

Donna K. Spickler, City Clerk

Approved: December 22, 2009