

89TH REGULAR SESSION – NOVEMBER 25, 2008

Mayor R. E. Bruchey, II called this 89th Session of the Mayor and City Council to order at 7:05 p.m., Tuesday, November 25, 2008, in the Council Chamber at City Hall. Present with the Mayor were Councilmembers M. E. Brubaker, K. S. Cromer, L. C. Metzner, P. M. Nigh and A. Parson-McBean; City Administrator Bruce Zimmerman, City Attorney Mark Boyer and D. K. Spickler, City Clerk.

The invocation was offered by Danielle Nigh, Councilmember Penny M. Nigh's daughter. 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, December 2, 2008, Tuesday, December 9, 2008, and the Regular Session on Tuesday, December 16, 2008 at 7:00 p.m.

PUBLIC HEARINGS

S & H Partnership/Summit Ridge, LLC Annexation, W. Washington Street/Hump Road, No. A-2008-06

Steve Bockmiller, Zoning Administrator, stated a request has been submitted to annex two separate parcels located off of Hump Road and West Washington Street, adjacent to Gateway Crossing. The fact that the property is contiguous with the existing municipal boundary requires that it be incorporated into the City as a condition for water service.

The proposed annexation was introduced on October 21, 2008. The Annexation Plan was also adopted at this time. The total area of the annexation is approximately 7.73 acres. The proposed zoning district is IR (Industrial Restricted). The current County Zoning is IG (Industrial General). These are compatible zoning districts.

There is an existing truck repair garage and contractor equipment storage business on the S & H Partnership portion of the property. There are no formal plans for further development at this time. No formal development plans have been proposed or submitted for the Summit Ridge parcel; however, the applicant has indicated that there would be a limited industrial supply operation constructed on the site. Also note that as a condition, taxes are being deferred until such time as services are requested.

The property is within the City's Medium Range Growth Area, an area intended for new or expanded water and wastewater service, as defined in the 2008 Comprehensive Plan. The property is designated as Business Employment on the Future Land Use Map.

It is within the County's Urban Growth Boundary and the State's designated Priority Funding Area. The proposed zoning is of a similar nature and compatible to that of the current County Zoning.

There were two 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.

Sanitary sewer 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. Sufficient capacity exists to serve this area and will be served by a County line.

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. Sufficient capacity exists to serve this area.

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) normally supplies street light services to public streets and supplies the manpower and equipment to serve a new area once the developer builds the infrastructure. However, there are no public streets associated with this project; therefore this provision will not apply.

No significant impact on emergency service delivery is expected for either police or fire.

Any necessary improvements to existing public roads shall be completed at the direction of the City Engineer at the developer's expense and constructed per the City's Public Ways Construction Standards by the developer. However, none are anticipated.

Parks and recreation facility expansion are not proposed for this annexation. Maintenance of City streets and right-of-ways are normally performed by the Public Works Department. No significant impacts are anticipated.

All future persons 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. 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.

Mr. Bockmiller entered the following as Exhibits:

Exhibit 1: Certificate of Advertisement

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

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

Kenneth L. Jordan – 938 Harwood Road Annexation, Case No. A-2008-07

Steve Bockmiller, Zoning Administrator, stated a request has been submitted to annex property located at 938 Harwood Road. The owner is requesting water service to an existing single family house. The fact that the property is contiguous with the existing municipal boundary requires that it be incorporated into the City as a condition for water service.

The proposed annexation was introduced on October 21, 2008. The Annexation Plan was also adopted at this time. The total area of the annexation is approximately 20,000 square feet. The proposed zoning district is RI (Residential). The current County Zoning is RU (Residential Urban). These are compatible zoning districts.

The annexation also includes a vacant corner lot beside the existing house. Also note that as a condition, taxes are being deferred on the vacant lot until such time as services are requested or the property is sold.

The property is within the City's Medium Range Growth Area, an area intended for new or expanded water and wastewater service, as defined in the 2008 Comprehensive Plan. The property is designated as Residential on the Future Land Use Map. It is within the County's Urban Growth Boundary and the State's designated Priority Funding Area. The proposed zoning is of a similar nature and compatible to that of the current County Zoning.

There were two 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.

Sanitary sewer service to this site would be provided by the Washington County Department of Water Quality. Sufficient capacity exists to serve this property.

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. Sufficient capacity exists to serve this area.

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) normally supplies street light services to public streets and supplies the manpower and equipment to serve a new area once the developer builds the infrastructure. However, there are no public streets associated with this project; therefore this provision will not apply.

No significant impact on emergency service delivery is expected for either police or fire.

Any necessary improvements to existing public roads shall be completed at the direction of the City Engineer at the developer's expense and constructed per the City's Public Ways Construction Standards by the developer. However, none are anticipated.

Parks and recreation facility expansion are not proposed for this annexation. Maintenance of City streets and right-of-ways are normally performed by the Public Works Department. No significant impacts are anticipated.

All future persons 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. 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.

Mr. Bockmiller entered the following as Exhibits:
Exhibit 1: Certificate of Advertisement

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

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

Valley Car Wash Annexation, Eastern Boulevard & Diamond Drive, No. A-2008-09

Steve Bockmiller, Zoning Administrator, stated a request has been submitted to annex property at the intersection of Eastern Boulevard and Diamond Drive. The property is contiguous with the existing municipal boundary.

The proposed annexation was introduced on October 21, 2008. The Annexation Plan was also adopted at this time. The total area of the annexation is approximately 1.19 acres. The proposed zoning district is C2 (General Commercial). The current County Zoning is BG (Business General). These are compatible zoning districts.

An existing car wash facility is currently located on the subject property.

The property is within the City's Medium Range Growth Area, an area intended for new or expanded water and wastewater service, as defined in the 2008 Comprehensive Plan. The property is designated as Business Employment on the Future Land Use Map. It is within the County's Urban Growth Boundary and the State's designated Priority Funding Area. The proposed zoning is of a similar nature and compatible to that of the current County Zoning.

There were two 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.

Sanitary sewer 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. Sufficient capacity exists to serve this property.

There is currently existing water service to this site. Any extension of water lines to provide additional water service will be at the sole cost of the owner or developer of the property. Sufficient capacity exists to serve this 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) normally supplies street light services to public streets and supplies the manpower and equipment to serve a new area once the developer builds the

infrastructure. However, there are no public streets associated with this project; therefore this provision will not apply.

No significant impact on emergency service delivery is expected for either police or fire.

Any necessary improvements to existing public roads shall be completed at the direction of the City Engineer at the developer's expense and constructed per the City's Public Ways Construction Standards by the developer. However, none are anticipated.

Parks and recreation facility expansion are not proposed for this annexation. Maintenance of City streets and right-of-ways are normally performed by the Public Works Department. No significant impacts are anticipated.

All future persons 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. 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.

Mr. Bockmiller entered the following as Exhibits:

Exhibit 1: Certificate of Advertisement

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

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

Catherine Kirkpatrick, Jefferson Street, Zoning Map Amendment ZM-2008-01

A Public Hearing was held to receive testimony regarding a proposed zoning map amendment for a lot on the north side of Jefferson Street.

Steve Bockmiller, Zoning Administrator, stated the lot is currently vacant and is zoned C2 (Commercial General). The proposed zoning would be R2 (Residential).

Prior to the comprehensive rezoning in March, 1977, the subject properties were zoned LI (Light Industrial), as shown on the Zoning Map of Hagerstown dated May 16, 1972. Also zoned LI was the Agricultural & Mechanical Association of Washington County (The Fairgrounds), with which the subject parcel was connected as part of the same zoning district. In 1977, the subject area was then rezoned to C2 (Commercial General). (At the same time, The Fairgrounds was zoned to A (Agricultural). There have been two recent zoning cases in the immediate vicinity. Case ZM-2004-03 rezoned 2.63 acres from C2 (Commercial General) to R2 (Residential) effective August 27, 2004. Case ZM-2007-03 rezoned .086 acres, a single lot, from C2 (Commercial General) to R2 (Residential), effective May 23, 2008.

Staff recommends approval of the proposed rezoning due to the substantial change in the character of the neighborhood and also mistake in prior comprehensive rezoning. Staff references the previous recommendations from Case ZM-2004-03 and Case ZM-2007-03 as an official part of this decision. Staff also references Exhibit #2 submitted as an attachment to the application as part of this recommendation. The Planning Commission concurred with Staff and recommended approval of the proposed rezoning.

Mr. Bockmiller entered the following as Exhibits:

Exhibit 1: Certificate of Advertisement

Testimony:

William C. Wantz, Attorney, represents Catherine Kirkpatrick. This lot is 4/10 of an acre. Mr. Wantz entered the following as Exhibits:

Exhibit 1: Application for rezoning and attachment entered into records

Exhibit 2: Staff report and recommendation of Planning Commission

He stated this is the last lot in the Fridinger Avenue area. He stated there has been a significant change in the character of the neighborhood. He also indicated the original zoning for this lot was a mistake. Either of these reasons is cause for granting the rezoning request.

There was no further testimony.

The record will be kept open for 10 days for additional comments.

Landmark Designation for the Alms House

A Public Hearing was held to receive testimony regarding a landmark overlay for the City owned property at 239 N. Locust Street, commonly known as the old Alms House. Steve Bockmiller, Zoning Administrator, stated a landmark is an overlay zone in the City of Hagerstown's zoning ordinance and the process of designation of an overlay zone is the same zoning map amendment process as followed for a rezoning with one exception.

The landmark overlay zone process was initiated by a determination of eligibility for designation by Hagerstown's Historic District Commission. In 2005, the HDC determined that the building did meet the criteria established in the ordinance for landmark designation. The Chair of the HDC signed a letter of recommendation, dated September 25, 2008, which was forwarded to the Planning Commission.

A public review meeting was held by the Planning Commission on Wednesday, October 22, 2008, for the purpose of receiving public testimony in favor of or against establishment of landmark overlay zone on the old Alms House. If ultimately approved by the Mayor and City Council, landmark designation would require review and approval

of any exterior work to the old Alms House building and site by the City's Historic District Commission prior to the commencement of such work.

On November 12, 2008, the Hagerstown Planning Commission evaluated the information collected during the public review meeting. The Planning Commission agreed to recommend to the Mayor and Council formal adoption of the Alms House Landmark request.

Mr. Bockmiller entered the following as an Exhibit:

Exhibit 1: Planning Commission File

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

The record will be kept open for 10 days for additional comments. The hearing was then closed at 7:21 p.m.

APPOINTMENTS

Councilmember L. C. Metzner made a motion to appoint Walter "Nick" Carter to the Board of Public Safety. Councilmember A. Parson-McBean seconded the motion.

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

The term of the appointment will expire on November 30, 2010.

CITIZEN COMMENTS

Mary Haines, 27 Laurel Street, Hagerstown, Maryland, expressed thanks to the City from the neighborhood for keeping the storm drains open. Keeping the drains clear helps Patrick Kinman, who cannot tolerate mold and mildew. She stated Wanda Miller, Public Works, displays extraordinary courage and strength. Ms. Haines stated she is proud to be a citizen in a county that elected a presented, strictly based on his character.

MINUTES

On a motion duly made by Councilmember K. S. Cromer and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to approve minutes, as presented, for meetings held on October 14, 2008, October 28, 2008 and November 4, 2008.

CONSENT AGENDA

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 consent agenda as follows:

- A. Police Department:
 - 1. Storage Building for Shooting Range – Brothers Construction, LLC (Boonsboro, MD) \$ 10,995.00
 - 2. Police Radios – Motorola \$ 842,777.00
 - 3. Document Imaging System – Unity Business Systems (Poquoson, VA) \$ 48,090.72
- B. Engineering: Installation of Street Trees – Aspen Landscape Contractors (Silver Spring, MD) \$ 81,425.00
- C. Water/Wastewater Department:
 - 1. Water Meters – L/B Water Service, Inc. (Chambersburg, PA) \$ 109,696.80
 - 2. Change Order 6 – SCADA – Hazen and Sawyer (Baltimore, MD) \$ 21,096.00
 - 3. Wastewater Treatment Chemicals – Various Vendors - \$ 52,643.52
 - 4. Engineering Services for Collection System Rehabilitation – Black & Veatch Corporation (Gaithersburg, MD) \$ 270,000.00
- D. Community Development: Contract for Property Maintenance Code Repair Work – Trim Master, LLC (Hagerstown, MD) \$ 19,995.00
- E. Planning Department: Consultant Services to Undertake Study of Doleman Collection – Mary Beth Corrigan (Kensington, MD) \$ 30,000.00

UNFINISHED BUSINESS

A. Approval of an Ordinance: Quit Claim for 373 and 379 Key Circle/Portion of Alley #1-6

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 making a determination that certain property (abutting 373 and 379 Key Circle) is no longer needed by the City of Hagerstown for a public purpose, and authorizing the execution of a quit claim deed for the same.

NEW BUSINESS

A. Acceptance of Grant for Civil War Interpretive Plaques

Action: On a motion duly made by Councilmember M. E. Brubaker and seconded by Councilmember K. S. Cromer, 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 two of the City's Civil War interpretive plaques project. The \$ 3,000 cash match is in the City's FY 2009 budget. The \$ 1,000 in-kind match would be provided by Public Works crews to install the plaques.

B. Approval of Program Open Space (POS) Priority List

Action: On a motion duly made by L. C. Metzner and seconded by Councilmember P. M. Nigh, the Mayor and City Council unanimously agreed by voice vote to approval of an application to Washington County requesting FY 2010 Program Open Space funding of improvements to the City's recreational facilities as follows:

1. Funkhouser Park – Barrier Free Play Equipment
2. Hager Park – Barrier Free Play Equipment
3. Pangborn Park – Fountains for Lake
4. City Park – Park Benches and Picnic Tables
5. Golf Course – Netting along #2 Fairway

CITY ADMINISTRATOR'S COMMENTS

Bruce Zimmerman, City Administrator, reminded everyone that City Hall will be closed on Thursday, November 27 and Friday, November 28, 2008 for Thanksgiving. The last yard waste collection for the season will be December 16, 2008.

MAYOR AND COUNCIL COMMENTS

Councilmember M. E. Brubaker thanked the volunteer board members for all their hard work. He and Mayor Bruchey visited third grade students recently.

Councilmember A. Parson-McBean thanked the board members.

Councilmember L. C. Metzner wished everyone a Happy Thanksgiving.

Councilmember K. S. Cromer stated the downtown holiday decorations look very nice. She thanked Frank Nuice and the other employees who decorated and also the volunteer board members.

Councilmember P. M. Nigh suggested that City flags be flown at half staff, in addition to placing bunting on the doorways at City Hall, when former Mayor and Council members pass away. She thanked Karen Giffin, Vicky Bodnar and everyone who participated in the Holly Fest.

Mayor R. E. Bruchey, II reported the City has again received the outstanding audit report from the General Finance Officer's Association. This is the eighth year in a row for the award. He thanked everyone involved with preparing the budget.

He asked everyone to remember the men and women in the armed services during this holiday time.

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 7:36 p.m.

Respectfully submitted,

Donna K. Spickler, City Clerk

Approved: December 16, 2008