

**65<sup>TH</sup> REGULAR SESSION – NOVEMBER 27, 2007**

**Mayor R. E. Bruchey, II called this 65<sup>th</sup> Session of the Mayor and City Council to order at 7:10 p.m., Tuesday, November 27, 2007, 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 Dave Jordan, Executive Director of Community Action Council. 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 4, 2007, Tuesday, December 11, 2007, Meeting with the Washington County Delegation on Friday, December 14, 2007 at 10:00 a.m. and the Regular Session on Tuesday, December 18, 2007 at 7:00 p.m.

**AWARDS**

Mayor Bruchey presented awards to the following Boards and Commission members in recognition of their years of service:

10 Years of Service

Linda K. Baughman	Board of Parks
Alfred S. Bendell, IV	Board of Technical Appeals
Cecil C. Bittinger	Board of Public Safety

15 Years of Service

William R. Catlett	Redevelopment Authority
William E. Moler	Board of Parks
Frederick A. Nugent	Planning Commission

20 Years of Service

Daniel A. Matonak	Preservation Design District Commission
Dennis C. Miller	Planning Commission
Paula S. Reed	Preservation Design District Commission
Karl R. Sanford	Preservation Design District Commission
Douglas S. Wright	Planning Commission

**PUBLIC HEARING**

**Community Development Needs for FY 2008/2009 Community Development Block Grant Funds**

The Community Development Block Grant (CDBG) program regulations require that Hagerstown conduct an annual public hearing to obtain the views and comments of individuals and organizations concerning the City's housing and community development needs, including project recommendations from organizations and individuals for FY 2008/2009 CDBG funds. This information is then to be taken into consideration when establishing the City's Annual Action Plan.

In addition to testimony received at the public hearing, written comments, including project recommendations, will be received until December 30, 2007.

The following testimony was presented:

Dave Jordan, Executive Director of Community Action Council (CAC), 101 Summit Avenue, Hagerstown, Maryland, stated the food pantry at CAC is empty and more people are seeking assistance. Energy costs are rising and funding through the CDBG helps CAC provide support to residents of the City.

Ruth Anne Callaham, 1317 Lindsay Lane, Hagerstown, Maryland, is the executive director of Food Resources. Food Resources operates a pantry on wheels and a brown bag program. Food Resources is able to purchase nationally donated food at a greatly reduced price. This permits them to purchase a large quantity of food for the many families they serve. Therefore, a small amount of grant money makes a big difference. Ms. Callaham stated the brown bag program serves 500 families, 400 of which are within the City limits. Councilmember Nigh suggested that Food Resources also approach the County for funding.

Valerie Main, Executive Director of the Washington County Community Mediation Center, Inc., 101 Summit Avenue, Hagerstown, Maryland, thanked the CDBG program for their assistance. The Mediation Center conducts 25 to 50 mediations per month in Hagerstown. The Washington County Mediation Center is a role model for other centers throughout the state. They also work with the Hagerstown Police Department.

Sharon Disque, Hagerstown Neighborhood Development Partnership, Inc.(HNDP)/Hagerstown Home Store, 21 E. Franklin Street, Hagerstown, Maryland, thanked the City for their past support. Block grant money has allowed HNDP and the Home Store to leverage funding from other sources. Community Development Block Grant dollars have been matched with contributions from the private sector for projects and services such as: homeownership, landlord & tenant counseling; down payment and closing costs assistance, vacant upper floors evaluation, Barbara Ingram School for the Arts, real estate market analysis and investment opportunities, Lee & Sycamore Streets redevelopment and redevelopment of Massey Properties.

There being no further testimony, the hearing was closed at 7:29 p.m.

### **CITIZEN COMMENTS**

Mary Haines, Valencia Watch, Hagerstown, Maryland, thanked the Public Works Department for keeping storm drains clear. Ms. Haines reported there is dog waste at several locations. She stated the problem with the animal waste law is the amount of paperwork required to file a complaint. She asked that the leash law be passed. Many people signed a petition against a quit claim request on Country Club Road. She wondered why the request would be considered when the value of the real estate would be destroyed by granting it. She would not support a dog park in a City that does not have a leash law. She expressed her opposition to the proposed ordinance prohibiting someone from living in their vehicle. If an alternative is not provided, the law should not be passed.

Cathy Ridenour, Valencia Watch, Hagerstown, Maryland, expressed her concern about the amount of graffiti around Hagerstown. She was on S. Potomac Street at the A & E Deck the night before Thanksgiving and was shocked at the type of activity that was taking place.

Robert Summers, 124 S. Mont Valla Avenue, Hagerstown, Maryland, received a notice about excessive weeds. He is not sure what prompted the notice. He then received a notice about a vehicle in his yard. The car has current tags and he believes it is legal for him to park the car in his yard. Mr. Summers was asked to discuss this situation with John Lestitian, Office of Code Compliance, who was present at the meeting.

Elwood Robison, 127 N. Mulberry Street, Hagerstown, Maryland, received a notice about graffiti on his property. He has painted his garage four times and he won't do it again. Councilmember Metzner stated he would like to discuss the graffiti law again. It doesn't seem fair that the victim is required to correct the violation. Mr. Robison discussed this with Mr. Lestitian.

Todd Groesbeck, 1159 Outer Circle, Hagerstown, Maryland, stated volunteers of the Northwest Neighborhood First Group who helped with graffiti abatement are willing to help again. He stated the Christmas decorating contest will be held on December 17, 2007 in the Northwest Neighbors area and prizes will be awarded.

James Devine, P. O. Box 2217, Hagerstown, Maryland, expressed his concern that the law prohibiting people from living in their vehicles was directly against him. People rarely choose to be homeless. There is a 2 to 8 month waiting period for housing through the Hagerstown Housing Authority. People who use the shelters are put out each morning and they have no place to go. He has to travel to Baltimore to work now and the increase in gas prices is making it increasingly difficult to purchase what he needs. People are harassing him where he parks his vehicles. He considers this to be a hate crime. He has called the police department and response time is slow. People are

dumping trash in the area where he parks. He recommended having prisoners come in and clean up the area. To discriminate against the homeless at large is wrong. Perhaps the shelters can stay open longer to help people who are homeless. He was forced onto the street because the Health Department shut the apartment building where he lived because there was no operational water service.

Councilmember Nigh stated she has a problem with homeless people who come here from other areas, not those who are from the community.

Councilmember Parson-McBean will not support an ordinance that fines anyone for living in their car. She attended a conference in New Orleans, LA recently and she understands that circumstances can cause people to become homeless. The community has become gentrified and more attainable and affordable housing is needed.

Michael Guss, 619 Washington Avenue, Hagerstown, Maryland, understands the reason for the policy prohibiting sleeping in vehicles. He thinks the solution may be worse than the problem. Many veterans are homeless. They may want to work but are not able to or know how to work. He recommended removing the jail time from the penalty portion of the ordinance.

David Shindle, 839 Florida Avenue, Hagerstown, Maryland, stated he could offer the City a \$ 2 million donation. This would be from the savings realized if the height of the water tank replacement in the West End. There is nothing that prevents the tank from being lowered from the proposed height. He would expect water pressure to increase due to the height of the tank. This will cause higher water and sewer bills and more hot water and energy will be consumed. There could be more line breaks on the system. It will take more energy to operate the pumps since they were designed for the existing water tank height. Raising the pressure on the entire water system is not the answer. Opening and closing certain valves could keep pressure level. The proposed design of the water tank will reduce the available water allocation by almost 3,000 homes and sewer allocation by more than 1,200 homes. He wondered why the City would implement a plan that counteracts conservation

Gary Kelley, 138 E. Antietam Street, Hagerstown, Maryland, lives at the Darby Condominiums. He and his wife Janelle moved to Hagerstown from Chattanooga, Tennessee. They were looking for a City that had entertainment and weekend activities. Hagerstown is the City they chose. They see progress in Hagerstown. Developers will make an investment in an area if they are able to realize a return on the investment. He thinks sidewalk cafés will be a good addition to the amenities in Hagerstown. Mr. and Mrs. Kelley could stay in Hagerstown. They consider it a safe place to be and they enjoy the community.

Virginia MacGruder, 61 Belview Avenue, Hagerstown, Maryland stated a Councilmember had recently asked when the 2+2 Committee was going to meet. This led her to believe the full council isn't aware of the meeting schedule or discussion. All individuals elected to represent this community should have the opportunity to participate

in all meetings. She was concerned that someone beat on her car while she was stopped at a traffic light recently.

Bill Breichner, 1117 Oak Hill Avenue, Hagerstown, Maryland, has some of the same concerns as Mr. Shindle. The water tank project could increase pumping costs. There will be very little additional storage capacity with the water tank project. Many older homes have galvanized plumbing that will not be able to withstand increased pressure. Since 1906, City residents have had adequate water storage. He understands the EPA is moving from open reservoirs. He is also concerned that the two 24" main replacements are not necessary because the lines were cleaned and concreted lines recently. He has met with Mike Spiker, Director of Utilities, to discuss his concerns and will do so again. During his time with the Hagerstown Water Department, most leaks were caused by damage to lines by contractors.

Gordon Bartels, 139 S. Mulberry Street, Hagerstown, Maryland, thinks the Mayor and Council owe it to Mr. Breichner and Mr. Shindle and to City residents to discuss their concerns. They have over 40 years of combined experience. He is glad the yard waste collection has been extended an additional two weeks. The Code Compliance Office responds to complaints quickly. There are many vacant homes in Hagerstown. He would like to see first time homebuyers in these homes at affordable prices.

Janet Bartels, 139 S. Mulberry Street, Hagerstown, Maryland, is concerned about the housing crisis. She is concerned that people will struggle even more. She wants to make sure Hagerstown is always a welcoming place for everyone, no matter what their income is. She stated there are many vacant houses and it may be better to spend the money that is to be used to build new homes on S. Potomac Street to refurbish the vacant houses. The lots on S. Potomac Street could be used for community gardens. She asked the Mayor and Council to review the information about the water tank

A ten minutes recess was taken.

## **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 the minutes as presented for the Mayor and Council meetings held on October 9, 2007, October 16, 2007 and October 23, 2007.

## **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 to approve the Consent Agenda as follows:

- A. Community Affairs: Approval of 2008 BluesFest Budget

B. Police Department:

1. Air Conditioning System – Computer Server Room – Johnson Controls (Sparks, MD) \$ 15,000.00
2. Modular Steelcase Office Furniture – Office Suppliers, Inc. (Hagerstown, MD) \$ 56,000.00

C. Parks and Recreation: Barrier Free Modular Play Equipment – Miracle Recreation (Martinsburg, WV) \$ 24,299.00

D. Water and Sewer Department:

1. 2007 Chevrolet Colorado (To Replace Unit 226) – Criswell Chevrolet, Inc. (Gaithersburg, MD) \$ 9,808.00
2. Change Order 4 – Transmission Main Engineering Services (Design) – Hazen and Sawyer (Baltimore, MD) \$ 787,724.00
3. Water Fund Inventory – HD Supply (Martinsburg, WV) \$ 45,265.56
4. Water Treatment Chemicals – Multiple Vendors - \$ 519,199.00
5. Large Metering Equipment – HD Supply (Martinsburg, WV) \$ 37,203.46
6. Wastewater Treatment Chemicals – Multiple Vendors - \$ 279,072.44

E. Finance/Parking Fund: North Potomac Parking Deck Elevator Repair Contract –

KONE, Inc. (Hagerstown, MD) \$ 35,475.00

F. Engineering:

1. Roof Replacement – Fairground Park Grandstand – Carson Roofing (Hagerstown, MD) \$ 183,145.00
2. 2008 & 2009 Pavement Preservation Program

**UNFINISHED BUSINESS**

**A. Adoption of Annexation Resolution – (Bowman, Hollyhock, & Venetian Investments), Case No. A-2007-04**

**Action:** Councilmember M. E. Brubaker made a motion to adopt an Annexation Resolution for Bowman Hollyhock, LLC and Venetian Investments, LLC for property located on the western boundary of the City, adjacent to Broadfording Road. The property to be annexed is 12.25 acres in size and is intended to be added to and made part of the adjacent municipal lands. Councilmember L. C. Metzner seconded the motion.

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

**NEW BUSINESS**

Mayor Bruchey announced that Item C, Introduction of an Ordinance to prohibit the use of any motor vehicle as sleeping quarters will be removed from the agenda.

**A. Introduction of an Ordinance: Zoning Ordinance Text Amendment to Modify Parking Regulations, C3 Zoning District, Case No. ZT-2007-01**

**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 introduce an ordinance for a text amendment to the City Code, Chapter 68, Sections 68-18, 68-26, and 68-38 to modify the parking requirements for the C3 (Commercial Central) Zoning District.

**B. Introduction of an Ordinance: To Amend the City Code, Chapter 197, To Provide An Exemption for Tenants Who Are Related to the Owners of Said Rental Facilities**

**Action:** On a motion duly made by Councilmember K. S. Cromer and seconded by Councilmember A. Parson-McBean, the Mayor and City Council unanimously agreed by voice vote to introduce an ordinance to amend Chapter 197 of the City Code, entitled *Rental Facilities* to provide an exemption of the annual license fee and the interior inspection requirement for single unit rental facilities occupied by tenants who are related within certain degrees to the owners of said rental facilities.

**C. Introduction of Annexation Resolution – (Jones Homes, LLC) Case No. A07-05**

**Action:** Councilmember M. E. Brubaker made a motion to introduce an Annexation Resolution for Jones Homes, LLC for property located at 1004 Linwood Road on the southwestern boundary of the City. The property to be annexed is 13,321 square feet in size and is intended to be added to and made part of the adjacent municipal lands. Councilmember L. C. Metzner seconded the motion.

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

**D. Adoption of an Annexation Plan – (Jones Homes, LLC) Case No. A07-05**

**Action:** Councilmember M. E. Brubaker made a motion to adopt an Annexation Plan for Jones Homes, LLC for property located at 1004 Linwood Road on the southwestern boundary of the City. The property to be annexed is 13,321 square feet in size and is intended to be added to and made part of

the adjacent municipal lands. Councilmember L. C. Metzner seconded the motion.

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

**E. Resolution: To Accept the Offer of Dedication of “Atlanta Court” in the Hager’s Crossing Development**

**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 accepting the offer of dedication of “Atlanta Court” in the Hagers Crossing development. The City shall commence maintenance of these streets upon the developer submitting the proper one-year maintenance bond.

**F. Approval of an Agreement with Washington/Baltimore High Intensity Drug Trafficking Area (HIDTA) for the GangNet Intelligence System**

**Action:** 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 an agreement between the City of Hagerstown and the Washington/Baltimore High Intensity Drug Trafficking Area (HIDTA) to provide a gang intelligence sharing data base for the Hagerstown Police Department.

**G. Approval of Hagerstown Suns 2008 Fireworks Schedule and Use of the Parking Lot**

**Action:** Councilmember L. C. Metzner made a motion to approve the fourteen licensed fireworks shows scheduled to be held at Hagerstown Suns baseball games during the 2008 season and that the Mayor and City Council’s approval will exempt these fourteen shows from the City of Hagerstown’s Noise Ordinance under Section 155-3 of the City Code. Councilmember M. E. Brubaker seconded the motion.

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

**H. Approval of a “Field Light Installation Agreement” at Fairgrounds Park**

**Action:** Councilmember K. S. Cromer made a motion to approve the “Field Light Installation Agreement” with the Hagerstown Softball Association to install field lights on the three softball fields at Fairgrounds Park. City Light staff is authorized to install the electric power supply using Program Open Space funds. The City shall own and maintain the light system and the Hagerstown Softball Association shall fund the system installation and all subsequent electric power costs. The terms of the existing user



agreement between the City and Hagerstown Softball Association will remain in force. Councilmember L. C. Metzner seconded the motion.

Discussion: Councilmember Nigh stated the Softball Association was interested in putting in the lights at Fairgrounds Park. At several meetings, the cost of the project was mentioned and each time it was a different amount. During the meetings, the Council stated the Softball Association had to raise all of the money before the electric line was installed. Now that has appeared to change. She stated the POS priority list was changed to include funding for the lights. The County Commissioners agreed to add the project to the POS list. Later, it appeared the Commissioners had not allocated any funding to assist with the lights. She is concerned that there was not a consensus to change the POS list. She is concerned the details and requirements for this project have changed so many times. She is also concerned the City will have to pay the loan for the lights if the Softball Association is not able to.

Councilmember Parson-McBean will not vote in favor of this agreement. She asked for information regarding the POS funding and has not received it.

Mayor Bruchey pointed out the City will be installing electricity to the softball fields in Fairgrounds Park, which is owned by the City. The Softball Association will be installing lights. These fields are also rented to other users.

Councilmember Nigh thanked Councilmember Metzner for being consistent regarding this project. Councilmember Brubaker stated he has continually said the City needs more POS funding. This was voted on in July and it is time to move forward. Councilmember Nigh stated there was not a vote.

Councilmember Cromer agrees with Councilmember Brubaker. The Council did vote and the money has been approved. The Commissioners did agree to assist with the project. She stated the Softball Association was required to have enough money to complete one field, which they have.

Motion carried 3-2, with Councilmember P. M. Nigh and Councilmember A. Parson-McBean voting No.

#### **I. Approval of Contract Extension for City Legal Services**

**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 an agreement with the law

firms of Nairn & Boyer and John H. Urner to serve as general counsel for the City of Hagerstown for a contract term commencing on January 1, 2008 and running through December 31, 2010, as outlined in the agreement.

Discussion: Councilmember Cromer would like to explore what the cost would be for an in-house attorney.

**J. Acceptance of Washington County Sports Foundation Transfer of Assets – Payment of Liabilities**

**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 accept the transfer of equipment and assets of the Washington County Sports Foundation at the Hagerstown Ice and Sports Complex valued at approximately \$ 45,000 and in turn authorize staff to make payments of up to \$ 45,000 to retire the debts and liabilities of the Washington County Sports Foundation. These payments will be made directly to the entities owed monies. The \$ 45,000 funding for this transaction will come from the City's Capital Improvement Fund prior year fund balance.

**K. Approval of a Policy and Guidelines for Issuing a Sidewalk Café License**

**Action:** Councilmember M. E. Brubaker made a motion to approve of a policy and guidelines for issuing an outdoor Sidewalk Café License. The policy and guidelines would apply when businesses desire to establish outdoor dining in the public right-of-way in the City of Hagerstown. Councilmember L. C. Metzner seconded the motion.

Discussion: Councilmember Nigh thought food was to be served if alcohol was available.

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

**CITY ADMINISTRATOR'S COMMENTS**

*Bruce Zimmerman, City Administrator*, responded to Mr. Shindle's and Mr. Breichner's comments about the water system project. Staff has been very cautious with the management of that system. The City has been working with engineers Hazen and Sawyer since 2002. They are a credible engineering firm with experience with 30 tank projects. The comments presented will be reviewed and answered. The City continues to work with MDE on the engineering of this project. There is a deadline to change the reservoir to a covered water storage area. The Water Distribution staff is a good team.

**MAYOR AND COUNCIL COMMENTS**

*Councilmember P. M. Nigh* reminded everyone the City Park tree lighting will take place on November 30, 2007. Hot chocolate and cookies will be served, supplied by the We Care Neighborhoods First group. She stated birds are starting to return at several locations around the city. She mentioned several alleys that are in need of repair. She thanked the Hagerstown Police Department for their quick response to a bank robbery on Saturday morning. There were several calls for police at Duffy's on S. Potomac Street on November 22, 2007. She is concerned that events continue to take place and the police are needed. There were also problems at Cancun Cantina. She will contact the liquor board about these incidents.

Lt. Tim Wolford stated Duffy's and Cancun Cantina both had contracted overtime officers for their events. It would have been helpful to have more officers at these locations.

Councilmember Parson-McBean recommended that Duffy's have more in-house security for events. Councilmember Nigh is concerned that worker's compensation fees for an officer who may be hurt while working at these contracted events will be the City's responsibility.

The Fire Marshall was called to an incident on Ray Street. Police officers were dispatched to assist with this incident.

*Councilmember K. S. Cromer* stated the 2+2 Committee meets on the first Thursday each month and on additional Thursdays as needed. She will be glad to provide information to anyone who asks about the discussions. The 2+2 Committee does not make any decisions for the City or for the County. She has thought about the ordinance to prohibit people from sleeping their cars. She thought the Homeless Task Force could look at this situation. This is more of a social problem than a criminal problem. She hopes it won't be presented again.

*Councilmember L. C. Metzner* reminded everyone there are great and unique stores downtown with plenty of free parking available. There are short lines and light crowds, which make the shopping experience very pleasurable.

*Councilmember A. Parson-McBean* stated the Utility Relief Benefit Concert event is gaining popularity. Packets with full information about the event and how to donate are available. She asked that information be provided when it is asked for during Work Sessions.

*Councilmember M. E. Brubaker* thanked all citizens who participate in community activities. He sees people being involved and making the community better. He thanked the citizens who attend the meetings. He also thanked Staff, who are very interested in the city and provide good service. He believes Staff is working to make the City of Hagerstown better.

*Mayor R. E. Bruchey, II* is glad the 2+2 Committee meets and discusses issues before bringing comments and recommendations back to their elective body. They do not make decisions. He also thanked the Hagerstown Police Department for their efforts following the bank robbery on Saturday.

There being no further business to come before the Mayor and Council, on a motion duly made, seconded and passed, the meeting was adjourned at 9:50 p.m.

Respectfully submitted,

Donna K. Spickler  
City Clerk

Approved: December 18, 2007