

EXECUTIVE SESSION – NOVEMBER 28, 2006

On a motion duly made by Councilmember K. S. Cromer and seconded by Councilmember K. B. Aleshire, the City Council unanimously agreed by voice vote to meet in closed session on Tuesday, November 28, 2006 at 5:11 p.m. in accordance with the provisions of the annotated Code of Maryland, State Government Article, Section 10-508(a) i to discuss the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation or performance evaluation of appointees, employees, or officials over whom it has jurisdiction, #1. No formal action was taken at the session. The meeting was held in Room 407, 4th floor at the City Hall. The meeting was adjourned at 6:02 p.m.

40TH REGULAR SESSION – NOVEMBER 28, 2006

Mayor R. E. Bruchey, II called this 40th Session of the Mayor and City Council to order at 7:05 p.m., Tuesday, November 28, 2006, in the Council Chamber at City Hall. Present with the Mayor were Councilmembers K. B. Aleshire, 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 Bishop Edward Ambush. A flag ceremony was presented by Girl Scout Troop 256 of the Shawnee Council. The Pledge of Allegiance was recited as part of the ceremony.

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 5, 2006, Tuesday, December 12, 2006 and the Regular Session on Tuesday, December 19, 2006 at 7:00 p.m.

PUBLIC HEARING

Community Development Block Grant Community Needs

A Public Hearing was held 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 individual for FY 2007/2008 CDBG funds.

Larry Bayer, Community Development Department Manager, entered the following as an Exhibit:

Exhibit 1: Certification of Publication of the Public Hearing Notice. The Notice was published on November 22, 2006 and November 26, 2006.

The following testimony was presented:

Sherry Neil, Community Action Council (CAC), 101 Summit Avenue, Hagerstown, Maryland, expressed the CAC's support of the CDBG program. With the assistance of CDBG funding, CAC provides vital services to the community. Programs include a housing counseling program and landlord/tenant intervention. More than 1,600 people have been served through these programs.

There was no further testimony.

Written comments, including project recommendations, can be sent to the Community Development Department, City Hall, 1 E. Franklin Street, Room 401, Hagerstown, MD 21740 or e-mailed to community@hagerstownmd.org so that they are received by December 30, 2006.

The hearing was closed at 7:14 p.m.

CITIZEN COMMENTS

Jim Bestpitch, Staff representative for AFSCME Council 67, introduced Mike Hanlon, Local 1540 President, to the Mayor and City Council. They are looking forward to continuing the tradition of a good working relationship between the union and the Mayor and Council.

James Devine, P. O. Box , Hagerstown, Maryland, expressed concern that a wild turkey was shot inside the City limits. He thinks the police should do more fingerprinting and DNA testing. He is concerned that copper is being stolen throughout the City. He suggested that the City use eminent domain and obtain the existing hospital building. He also suggested looking at solar power as an alternative to electricity. He believes Nick Carter should be appointed to fill the soon to be vacant Council seat. There should be more cameras in the City. People are still dumping trash near the Board of Education property. Councilmember Nigh asked Mr. Devine to try to get tag numbers of the people dumping trash.

MINUTES

On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember K. S. Cromer, the Mayor and City Council unanimously agreed by voice vote to approve the minutes, as presented, for Mayor and Council meetings held on October 17, 2006, October 24, 2006, November 7, 2006 and November 14, 2006.

CONSENT AGENDA

On a motion duly made by Councilmember K. B. Aleshire 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. Public Works: Street Sweeper – Atlantic Machinery, Inc. (Silver Spring, MD)

\$ 184,361.00

B. Water and Sewer:

1. Repair Transformer - NWL Transformers, Inc. (Bordentown, NJ) \$ 16,824.71
2. Water and Wastewater Treatment Chemicals - Multiple Vendors \$ 734,417.80
3. Ciba Magnafloc Chemical - George S. Coyne Chemical Co., Inc. (Croydon, PA) \$ 24,900.00
4. Kent Hydraulic Breaker - Standard Equipment Company (Frederick, MD) \$ 17,119.00
5. John Deere Backhoe - Standard Equipment Company (Frederick, MD) \$ 74,199.00

C. Parks and Recreation: 2007 Chevrolet Silverado 3/4 Ton Pickup Truck - Criswell

Chevrolet, Inc. (Gaithersburg, MD) \$ 18,240.00

D. Engineering: Wheaton Park Restrooms - Plumbing Contract: Beaver Mechanical Contractors, Inc. (Hagerstown, MD) \$ 34,150.00

E. Light: 37 ft. Aerial Bucket Truck - Altec Industries, Inc. (Plains, PA) \$ 93,325.00

F. Community Affairs

1. 2007 Western Maryland Bluesfest Budget - \$ 198,000.00
2. 2007 Music by the Lake Summer Concert Series Budget - \$ 9,500.00

UNFINISHED BUSINESS

A. Approval of an Ordinance: Police and Fire Employees' Retirement Plan, Third Amendment

Action: On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember P. M. Nigh, the Mayor and City Council unanimously agreed by voice vote to approve an ordinance as introduced on October 24, 2006 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. This amendment addresses: Total military service credit shall be expanded and addition of section (f) in Section 43

of the Plan. This section addresses the minimum distribution requirements.

G. Approval of an Ordinance: Excessive Use of Police Services

Action: On a motion duly made by Councilmember P. M. Nigh and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to approve an ordinance to amend the City Code to include Chapter 95 Excessive Use of Police Services. It is the intended purpose of this ordinance to impose on and collect from the owner of a property the costs incurred for police and law enforcement services which are over and above the costs of providing normal law enforcement services and police protection, if said excess costs are spent to abate a nuisance which has occurred or is maintained and permitted on the property.

NEW BUSINESS

A. Introduction of an Ordinance: Vacant Residential Building Ordinance

Action: Councilmember K. B. Aleshire made a motion to introduce an ordinance to amend the Code of the City of Hagerstown to add a new chapter 233 entitled "Vacant Residential Structures." This Ordinance provides for licensing and inspection of vacant residential structures (as defined therein) and the penalties for violation thereof. Councilmember L. C. Metzner seconded the motion.

Motion carried, 4-1 with Councilmember K. S. Cromer voting No.

B. Introduction of an Ordinance: Vacant Commercial Building Ordinance

Action: On a motion duly made by Councilmember P. M. Nigh and seconded by Councilmember A. Parson-McBean, the Mayor and City Council unanimously agreed by voice vote to introduce an ordinance to amend the Code of the City of Hagerstown to add a new chapter 232 entitled "Vacant Commercial Structures." This Ordinance provides for licensing and inspection of vacant commercial structures (as defined therein), and the penalties for violation thereof.

C. Introduction of an Ordinance: Subdivision Amendments

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 introduce an ordinance to amend the City Code, Chapter 219, Subdivision of Land, to provide a complete revision of the Subdivision Regulations.

D. Resolution: Sports Management Agreement with Washington County Sports Foundation, Inc. (Ice Rink)

Action: On a motion duly made by Councilmember K. B. Aleshire and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to approve a Resolution to approve a Management and Operations Agreement between the City of Hagerstown and the Washington County Sports Foundation, Inc. The Agreement would provide for the Washington County Sports Foundation, as a contractor of the City of Hagerstown, to run the day-to-day operations of the Rink. The agreement obligates the Washington County Sports Foundation to provide the City annual business plans and monthly financial information and commit to measurable programmatic and financial outcomes. Under this Agreement, the City assumes the annual financial obligation of the building utilities. The term of the agreement is from July 1, 2006 to June 30, 2007 and is renewable for 1 year terms.

E. Resolution: BMX User Agreement

Action: On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember K. S. Cromer, the Mayor and City Council unanimously agreed by voice vote to approve a resolution to renew a Long-Term User Agreement with BMX, Inc., to utilize a portion of Fairgrounds Park for conducting bicycle motorcross events and practice sessions for the community for the period of January 1, 2007 to December 31, 2008 with a right to renew for one additional 2-year term beginning January 1, 2009. BMX, Inc. also agrees to teach BMX skills to area youth as part of its recreational program.

F. Resolution: Exclusive Beverage Supplier Agreement

Action: On a motion duly made by Councilmember K. B. Aleshire and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to approve a resolution implementing an Exclusive Beverage Supplier Agreement between the City of Hagerstown and Central Coca Bottling Co., Inc. The agreement grants Coca Cola the right to have exclusive promotional and beverage products at Fairgrounds Park, Hagerstown Greens at Hamilton Run and Claude M. Potterfield Pool.

Central Coca Cola Bottling Company will pay an annual licensing fee of \$4,000 and 25% in commission sales to the City of Hagerstown; will provide the City of Hagerstown with marketing items listed on the contract; service for all equipment and signage at the facilities with 24-

hour dispatch for the service, vending equipment and concession equipment.

The agreement is a five-year contract.

G. Resolution: Lease for Property Known as Spickler's Market Located at 17 E. Franklin Street

Action: On a motion duly made by Councilmember P. M. Nigh and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to pass a resolution to approve a five year lease for Spickler's Market located at 17 East Franklin Street.

H. Resolution: Eastern Boulevard Right of Ways

Action: On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember K. S. Cromer, the Mayor and City Council unanimously agreed by voice vote to approve a resolution to approve the City acquiring rights-of-way and easements from various property owners for \$ 475,622 as part of the reconstruction of Eastern Boulevard between Conrad Court and Jefferson Boulevard.

I. Resolution: Approval of Lease between City and Board of Education – Barbara Ingram School for the Arts

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 adopt a Resolution entering into a Lease Agreement with the Washington County Board of Education, for 7-11 South Potomac Street, the Barbara Ingram School for the Arts.

J. GPS Antenna Agreement

Action: On a motion duly made by Councilmember K. B. Aleshire and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to authorize the City to enter into an agreement with Loyola Spatial Systems to install a High Accuracy Real Time Global Positioning Reference Station on the City building at 425 West Baltimore Street. In exchange for allowing the equipment on the building the City will receive a free subscription for City survey crews to use the GPS Reference Station.

K. Approval of Agreement with Maryland Department of the Environment (MDE) for Enhanced Nutrient Removal (ENR)

Action: On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember P. M. Nigh, the Mayor and City Council unanimously agreed by voice vote to approve an agreement between the City of Hagerstown and the Maryland Department of the Environment (MDE). This agreement allows the City of Hagerstown to proceed with the required planning and design for an Enhanced Nutrient Removal (ENR) process for the Hagerstown Wastewater Treatment Plant. Also, the agreement obligates the MDE to provide 100% of the eligible funding for the cost of planning and design of the Wastewater Treatment Plant.

L. Approval of Agreement: Washco Developments, Inc. for Water Service Loop for Taylor's Run Development

Action: On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember K. S. Cromer, the Mayor and City Council unanimously agreed by voice vote to approve an agreement between the City of Hagerstown and Washco Development, Inc. for a Water Service Loop for Taylor's Run Development. This agreement sets specific terms for the developer to construct a water main loop between Hopewell Road and the Greencastle Pike as a condition of the supply of water services by the City of Hagerstown.

M. Civil War Trails Signs Agreement

Action: On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember K. S. Cromer, the Mayor and City Council unanimously agreed by voice vote to approve the location of one Civil War Trails sign on the Elizabeth Hager Center and two Civil War Trails signs on the N. Potomac Street Parking Deck. The motion also permits the City to enter into the required Permission for Temporary Easement/Entry Agreement with the Maryland Department of Business and Economic Development for the installation and maintenance of the three signs.

N. Approval of License Agreement: Orchard Development Corporation

Action: On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember K. S. Cromer, the Mayor and City Council unanimously agreed by voice vote to execute a License Agreement between the City of Hagerstown and Orchard Development Corporation for the installation of steps and porch stoops in the public right-of-way of East Baltimore Street as part of the Potomac Square development project.

O. Golf Course 2007 Rate Schedule

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 the 2007 rate schedule at the Hagerstown Greens at Hamilton Run Golf Course as discussed.

P. Approval of Reprogramming of \$ 22,000 in Community Development Block Grant Funds

Action: Councilmember K. B. Aleshire made a motion to approve the reprogramming of \$ 22,000 in Community Development Block Grant funds into Planning to assist Hagerstown Neighborhood Development Partnership with the cost of:

1. A housing market analysis
2. Beginning of a vacant upper story initiative
3. Evaluation of property being considered by Hagerstown Neighborhood Development Partnership for acquisition

Approval of the assistance for the housing market analysis is with the understanding that the City will share in ownership of the final report.

These funds will be reprogrammed from CDC Projects leaving \$ 178,000 in that activity.

Councilmember L. C. Metzner seconded the motion.

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

CITY ADMINISTRATOR'S COMMENTS

Bruce Zimmerman, City Administrator, reminded residents the yard waste recycling collection program will end on December 5, 2006. The pickup will resume in April, 2007.

MAYOR AND COUNCIL COMMENTS

Councilmember P. M. Nigh reminded everyone the City Park lighting will be Friday, December 1, 2006 at 7:00 p.m. Refreshments will be served at the Hager House. She asked if the crystal meth presentation has been scheduled for a meeting. Mr. Zimmerman stated the presenter may be available in December. She stated it would be good to have a joint meeting with the Washington County Commissioners about this issue. She would also like to invite the other municipalities to attend. She has been receiving calls from citizens asking if Hagerstown can be what it used to be. There are problems that need to be solved but she doesn't know how to correct them.

Councilmember K. S. Cromer commended the Hagerstown Fire Department for hiring their first female firefighter. She thanked everyone who applied for the vacant council seat. She wished Councilmember Aleshire good luck in his new position.

Councilmember L. C. Metzner pointed out that a large step has been completed in order to begin the Eastern Boulevard improvements. The necessary right-of-ways have now been approved. Another step has been completed in starting the Barbara Ingram School for the Arts. He wished Councilmember Aleshire well.

Councilmember A. Parson-McBean thanked Bishop Ambush for providing the invocation. There was another water main break on Jonathan Street over the weekend. She thanked the employees for repairing the line. She is very concerned about the teen pregnancy rate in Washington County. She asked for help in finding something for teenagers to do, other than finding enjoyment in each other. The next Building Community meeting will be held on December 11, 2006. The topic will be the increasing cost of utilities. She thanked Councilmember Aleshire for sharing his knowledge with her and for serving as Councilmember.

Councilmember K. B. Aleshire is looking forward to starting his term as County Commissioner. He will be carrying municipal voices to the County. He thanked the people who applied for the vacant council seat. He stated very capable department heads and staff have helped the Mayor and City Council accomplish many things during his time as Councilmember. Some of the accomplishments are: the annexation policy, development of the A & E District, a new parking deck, an APFO, improved control of the City's budget, camera systems, downtown residency initiatives, Edgewood Drive improvements, motivation and ownership of the Farmer's Market, increasing the number of firefighters, a flow transfer agreement, the Hope VI project, implementation of appropriate permit fees to cover development costs, rental registration, televising of Mayor and Council meetings, and increased efficiencies with the trash collection program. He expects to continue to be involved with the City. He stated it has been an honor to serve with his fellow Councilmembers.

Mayor R. E. Bruchey, II congratulated Councilmember Aleshire. He is looking forward to working closely with him at the County level. The downtown holiday open house will be held November 30 through December 2, 2006. There will be extended hours at the City Market. The dedication of two Heritage Preservation Plaques will be held on November 30, 2006 at 10:00 a.m. He expressed condolences to the family of former Hagerstown Police Officer Robert Phillips. The Maryland Municipal League's "If I Were Mayor" contest will again be held in April.

Mark Boyer, City Attorney, stated an Executive Session was held earlier and the appointment of a replacement for Councilmember Aleshire was discussed. Six candidates out of the sixteen who applied were chosen to be interviewed during the meeting on December 5, 2006. Three members of the Council agreed to remove two candidates from consideration so that the other two Council members who may have had a conflict of interest would be able to participate in the selection process. This will avoid

potential conflict of interest questions, potential ethics violations and a potential quorum issue.

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 8:04 p.m.

Respectfully submitted,

Donna K. Spickler, City Clerk

Approved: December 19, 2006