

91ST REGULAR SESSION – DECEMBER 16, 2008

Mayor R. E. Bruchey, II called this 91st Session of the Mayor and City Council to order at 7:08 p.m., Tuesday, December 16, 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 William Nairn and D. K. Spickler, City Clerk.

The invocation was offered by Mayor Robert E. Bruchey, II. 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, January 6, 2009, Tuesday, January 13, 2009, Tuesday, January 20, 2009 and the Regular Session on Tuesday, January 27, 2009 at 7:00 p.m.

William Clarence Marshall, III, sang Old Man River. Mr. Marshall will be performing at the second annual Utility Relief Benefit Concert on Thursday, December 18, 2008.

PUBLIC HEARINGS

Norfolk Southern Annexation, Case No. A-2008-08

Stuart Bass, Comprehensive Planner, stated the subject property is located on the southern side of the City off of Oak Ridge Drive. The area of annexation is 95.2 acres. This is a resubmission of a previous petition, which was withdrawn. The Mayor and City Council introduced the Annexation Resolution and adopted the Annexation Plan on October 28, 2008.

The proposed zoning district is IG (Industrial General). The current County Zoning is PI (Planned Industrial).

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. It is within the County's Urban Growth Boundary and the State's designated Priority Funding Area. The proposed zoning is not substantially different than what currently exists in the County and the proposed project is a permitted use.

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 proposed development proposal has not changed, plans call for an automotive distribution rail facility. Basically, it is an area for off-loading and storage of new motor vehicles, a rail-to-truck transfer facility. Project construction will include grading, paving, fencing, landscaping, new tracks, and a new entrance road. The entire site will be surrounded by a security fence and landscaped accordingly. Access will be proposed off Oak Ridge Drive. Formal construction details will be addressed and ultimately approved during site plan review. Initial investment is estimated at \$ 8 to \$ 10 million dollars.

The industrial development of this property would have no impact on Washington County Board of Education facilities with respect to school capacity. There will be no impact 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 sanitary sewer lines in the general area and will be at the cost of the developer in accordance with the annexation agreement. The amount and timing of the allocation of sewer service shall be subject to the City's Sewer Capacity Allocation Program. Sufficient capacity exists to service this area. Sewer service is currently available as there is a main interceptor crossing the northern half of 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.

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.

It is noted that this annexation would incorporate the Vardo Rail Yard, which is considered a high hazard area because of the number and type of rail cars that are sitting, switching, or moving through them. Hagerstown Fire Department and Community Rescue Service would respond in the event of an incident, (as they likely would now, as a part of the response effort), but incident control becomes the City's responsibility.

Any necessary improvements to existing municipal 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. The property has access to West Oak Ridge Drive. Any necessary improvements will require coordination with Washington County and/or the State Highway Administration.

Parks and recreation facility expansion are not proposed for this annexation.

Police protection is provided by the Hagerstown Police Department which will patrol the area on a twenty-four hour basis. No significant impact on service delivery is expected.

Maintenance (i.e. snow removal, mowing of right-of-ways, litter removal) is normally performed by the Public Works Department. No significant impacts are anticipated, as there are no public streets or right-of-ways proposed for this project.

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.

Stuart Bass, Comprehensive Planner, entered the following as Exhibits:

1. Certificate of Advertisement for Annexation
2. Planning Commission file by reference

Mike Thompson, Planning Director for Washington County, was present. He stated the Washington County Board of County Commissioners and the Washington County Planning Commission are concerned about the screening for adjoining properties and the lighting of the property. The Washington County Public Works Department would propose directing traffic to the Downsview Pike and discourage traffic from traveling to Virginia Avenue. The hours of operation could have an adverse affect on the neighbors to the property. The existing zoning and the proposed zoning are considered compatible; however, the County would recommend that the City Planning Commission consider some of the County conditions for mixed uses.

Councilmember Brubaker indicated he felt the City's Planning Commission would take into consideration the County's concerns. He asked how the City could control the direction of traffic. Mr. Thompson indicated a traffic study would be completed that would include information about upgrading the road.

The following testimony was presented:

Mary Pat Vorrey, 17940 Oak Ridge Drive, Hagerstown, Maryland, asked the Mayor and City Council to take into consideration the concerns expressed by Mr. Thompson and Washington County. She stated the neighborhood is peaceful, with limited traffic. This project will change the neighborhood. She suggested managing the traffic by imposing weight restrictions. She stated this use is not appropriate for this area.

Fred Vorrey, 17940 Oak Ridge Drive, Hagerstown, Maryland, expressed concern about the water run off from paving 95 acres of land will cause. He is also concerned

about tractor trailers waiting overnight to get in and out of the property. This project will create noise and additional traffic.

Mr. Gibney, 18807 Oak Ridge Drive, Hagerstown, Maryland, lives across from the existing open field. He is concerned about the smell of diesel fuel, as well as the traffic and noise. He expressed concern about speeding traffic.

Mayor Bruchey suggested that the residents express these concerns to the County Commissioners and County Planning Department as well.

Kathleen Maher, Planning Director, indicated this project will also require an access permit from Washington County.

There was no further testimony presented. The record will remain open for ten days for additional comments.

PRESENTATION

Mayor Bruchey, Bill Callendrelle and Russ Rupert, Alsatia Club, presented certificates to the Federal Little League and the Pony League in recognition of their outstanding baseball season.

APPOINTMENTS

On a motion duly made Councilmember I. C. Metzner and seconded by Councilmember K. S. Cromer, the Mayor and City Council unanimously agreed by voice vote to appoint Paul Muldowney to the Board of Election Supervisors.

The term of the appointment will expire on October 31, 2010.

CITIZEN COMMENTS

There were no citizen comments.

MINUTES

On a motion duly made by Councilmember K. S. Cromer and seconded by Councilmember M. E. Brubaker, the Mayor and City Council unanimously agreed by voice vote to approve minutes, as presented, for the meeting held on November 25, 2008.

CONSENT AGENDA

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 consent agenda as follows:

- A. Public Works:
 - 1. Contract: Spring Dumpster Program- Allied Waste Services (Hagerstown, MD) \$ 115.50 per pull, \$ 50 charge for tipping fee per ton
 - 2. Gasoline and Diesel Fuel for Fleet Services
 - 87 Octane Gasoline – AC&T (Hagerstown, MD) variable per market (\$2.6128 per gallon as of October 6, 2008)
 - No. 2 Diesel Fuel – Petroleum Traders Corp. – variable per market price (\$3.1220 per gallon as of October 6, 2008)
- B. Water Department: Water Treatment Chemicals – Various Vendors \$ 583,887.00
- C. Community Affairs: 2009 Western Maryland Blues Fest Budget

UNFINISHED BUSINESS

A. Approval of an Ordinance: City of Hagerstown Water Quality Bonds

Action: On a motion duly made by Councilmember M. E. Brubaker and seconded by Councilmember A. Parson-McBean, the Mayor and City Council unanimously agreed by voice vote to approve an ordinance as introduced on December 9, 2008 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 \$7,194,571, each series of bonds to be issued and sold and the proceeds thereof to be used and applied for the public purpose of financing, reimbursing or refinancing a portion of the cost of acquiring, constructing, improving, installing and equipping UV disinfection improvements, headworks improvements and related improvements at the wastewater treatment plant, 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.

B. Approval of a Resolution: S & H Partnership/Summit Ridge, LLC Annexation, W. Washington Street/Hump Road (A-2008-06)

Action: Councilmember M. E. Brubaker made a motion to approve an annexation resolution known as the S & H Partnership/Summit Ridge, LLC Annexation for property located off of West Washington Street and Hump Road. The property to be annexed is approximately 7.73 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.

C. Approval of a Resolution: Kenneth L. Jordan, 938 Harwood Road Annexation (A-2008-07)

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 annexation resolution known as the Jordan Annexation for property located at 938 Harwood Road. The property to be annexed is approximately 20,000 square feet in size and is intended to be added to and made part of the adjacent municipal lands.

D. Approval of a Resolution: Williamsport Storage Bins, Inc. – Valley Car Wash Annexation, Eastern Boulevard & Diamond Drive (A-2008-09)

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 annexation resolution known as the Valley Car Wash for property located at the intersection of Eastern Boulevard and Diamond Drive. The property to be annexed is approximately 1.19 acres in size and is intended to be added to and made part of the adjacent municipal lands.

NEW BUSINESS

A. Introduction of an Ordinance: Approval of Kirkpatrick Rezoning, ZM-2008-01

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 zoning reclassification and zoning map amendment, Case No. ZM-2008-01, to rezone .039 acres, more or less, of land located on the north side of the 500 block of Jefferson Boulevard, approximately 110 feet east of the intersection of Jefferson Street and Fridinger Avenue from C2 (Commercial General) to R2 (Residential).

B. Introduction of an Ordinance: Approval of Alms House Landmark Overlay, 239 North Locust Street ZM-2008-02

Action: On a motion duly made by Councilmember K. S. Cromer and seconded by Councilmember P. M. Nigh, the Mayor and City Council unanimously agreed by voice vote to introduce an ordinance for a Landmark Overlay on

property located at 239 North Locust Street based on the following Finding of Fact:

1. The premises involved in this review, commonly known as the “Old Washington County Almshouse,” located on the west side of North Locust Street is found to have been built beginning in 1799.
2. It is an example of the simple, brick structures with regular fenestration patterns that dominated Hagerstown’s streetscapes in the early and mid-19th century.
3. We find as a matter of fact that the property conforms with Criteria A and C of the National Register criteria for evaluating property and also with Criterion (1-a), (1-c), (1-d), (3-1), and (3-e) found in Section 68-56.B of the Zoning Ordinance, which is used to base decisions on whether buildings and sites should be designated historic landmarks.
4. This building is one of the very few surviving examples of 19th century county almshouses still standing in the State of Maryland.
5. The commission finds that the property has significant character, interest and value as part of the development heritage of Hagerstown, and the cultural characteristics of the City and Washington County.

And by virtue of these findings of fact, this property be accorded Landmark designation.

C. Introduction of an Ordinance: Approval of 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 P. M. Nigh, 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, update several job titles under Covered Employee definition and add a distribution option for non-spouse beneficiary. This amendment addresses:

1. Updates to the minimum distribution requirements under the plan.
2. Adds the Roth IRA as a distribution type.
3. Updates job title changes under covered employee’s definition section.
4. Allows non-spouse beneficiaries of deceased employees to elect to rollover a refund of the employee’s contribution to an IRA.

D.. Approval of Investment Policy Revision for the City of Hagerstown Police & Fire Employees' Retirement Plan

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 a revised Investment Policy for the City of Hagerstown Police and Fire Retirement Program. The original policy was established in 1998 and modeled after the County's Retirement Plan Investment Policy to provide investment guidelines for the Investment Manager.

The members of the Retirement Committee voted unanimously to revise the Investment Guidelines section of the Investment Policy in order to allow the Plan's Investment Manager more flexibility in the investment of funds to better reflect current economic and market conditions.

E. Approval of a Resolution: Commercial Lease Agreement – 28 W. Church Street

Action: On a motion duly made by Councilmember K. S. Cromer and seconded by Councilmember M. E. Brubaker, the Mayor and City Council unanimously agreed by voice vote to approve a resolution to approve a lease agreement between the City of Hagerstown and Senator Donald Munson, for 600 square feet of commercial office space located at 28 West Church Street, Hagerstown, Maryland. The term of the lease shall be for one year, commencing on January 1, 2009.

F. Approval of a Resolution: Potomac Classical Youth Ballet Company, 14 N. Potomac Street, B2 Basement

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 of a one year lease for the Potomac Classical Youth Ballet Company located at 14 North Potomac Street, B2 Basement Unit. Landlord and Tenant shall have the right to terminate the lease agreement for any reason, upon ninety (90) days written notice.

G. Acceptance of Grant Award from the Maryland Department of Transportation, State Highway Administration for Hamilton Run Trail

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 accept a National Recreational Trails grant, to be administered by the State Highway Administration, and

execute the necessary Memorandum of Understanding by and between the Maryland State Highway's Administration and the City of Hagerstown.

H. Approval of Upper Floors Redevelopment Revolving Loan Fund

Action: Councilmember K. S. Cromer made a motion to adopt program guidelines for the Upper Floors Redevelopment Revolving Loan Fund and authorize staff to implement the program. Funding for the program in the amount of \$ 350,000 is included in the General Fund budget and was assisted by a grant from the Maryland Community Legacy Program. Councilmember L. C. Metzner seconded the motion.

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

I. Approval of Funding for a Community Coalition Lobbyist

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 authorize the expenditure of \$ 5,000.00 from the General Fund in order to contribute toward hiring Michael Johansen with the firm Rifkin, Livingston, Levitan and Silver, as the Community Coalition Lobbyist. Other funding partners include Washington County, the City of Hagerstown, the Chamber of Commerce, CHIEF, Washington County Convention & Visitors' Bureau, Washington County Public Schools and the Washington County Free Library.

J. Economic Development Marketing Program

Action: Councilmember K. S. Cromer made a motion to approve of an Economic Development Marketing Program as outlined during the December 9, 2008 work session. This Program will develop a strategic economic development initiative geared to attract higher paying jobs to the City of Hagerstown and assist in the revitalization of the city's core downtown areas. Components of this Program shall include Branding, Copywriting, Photography, Website Development, Flash Animation, Collateral Material Development, and Video Creation. Mayor and Council authorize the City's Department of Community Affairs and the Department of Economic Development to finalize professional services agreements with High Rock Studios, 2nd Floor Media, RidgeRunner Publishing and Fleetwood Design, Inc. to provide the services to develop and implement the Program, utilizing a project budget of \$ 58,000. The source of funding for these expenditures will be the \$ 58,000 revenue derived from the sale of a lot in the City's Industrial Park. Any subsequent phases of this Program shall be brought to Mayor and Council for project and funding approval. Councilmember L. C. Metzner seconded the motion.

Discussion: Councilmember A. Parson-McBean thought there would be a recommendation coming from staff before this vote was scheduled. Councilmember Brubaker stated the recommendation was discussed during the work session and that a guide for the project was listed in the material. He suggested a specific scope of services for this project to eliminate confusion.

Motion carried, 3-1 with Councilmember A. Parson-McBean voting No and Councilmember P. M. Nigh abstaining.

CITY ADMINISTRATOR'S COMMENTS

Bruce Zimmerman, City Administrator, thanked the Mayor and City Council and City staff for their hard work in 2008.

MAYOR AND COUNCIL COMMENTS

Councilmember M. E. Brubaker stated it appears next year will be challenging but the City will be able to face the challenges and move forward.

Councilmember A. Parson-McBean extended condolences to the Valencia Burnett family. Ms. Burnett worked very hard in the community. The next Utility Relief Benefit Concert will be held on Thursday, December 18, 2008 at the Maryland Theater. An additional 46 people applied for assistance today.

Councilmember L. C. Metzner also expressed condolences to the Burnett family. He thanked the Herald Mail for helping to inform residents that the Utility Relief Benefit money is available and how to apply.

Councilmember K. S. Cromer asked that people pray for her mother.

Councilmember P. M. Nigh expressed condolences to the family of two retirees who passed away recently, Dave Secrist (Parks Department) and Eugene Huyett (Street Department). She asked people to remember Officer Christopher Nicholson by placing blue candles or ribbons in their windows.

Mayor R. E. Bruchey, II mentioned that the Church of the Nazarene made scarves to hand out to attendees of the Utility Relief Benefit concert. He doesn't know the exact number of how many marketing plans have been presented to the Mayor and City Council over the last 20 years. He is confident this plan will be successful.

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 8:14 p.m.

Respectfully submitted,

Donna K. Spickler, City Clerk

Approved: January 27, 2009