

14TH REGULAR SESSION – December 22, 2009

Mayor R. E. Bruchey, II called this 14th Session of the Mayor and City Council to order at 7:05 p.m., Tuesday, December 22, 2009, in the Council Chamber at City Hall. Present with the Mayor were Councilmembers W. M. Breichner, M. E. Brubaker, F. Easton, A. C. Haywood, L. C. Metzner; City Administrator Bruce Zimmerman, City Attorney John Urner 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 June 23, 2009. It was announced that the use of cell phones and electronic devices during meetings is restricted and that all correspondence for distribution to elected officials should be provided to the City Clerk and should include a copy for the City Clerk for inclusion in the official record.

The next scheduled meetings are: Work Sessions beginning at 4:00 p.m. on Tuesday, January 12, 2010, Tuesday, January 19, 2010 and the Regular Session on Tuesday, January 26, 2010, 2009 at 7:00 p.m.

CITIZEN COMMENTS

There were no citizen comments.

APPOINTMENT

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 appoint Andrew Durham to the Board of Zoning Appeals. The term of the appointment will expire on December 31, 2012.

PUBLIC HEARINGS

Crampton – Conversion Overlay District

Stuart Bass, Comprehensive Planner, stated a request was received for a Conversion District Overlay of the property located at 237 -239 Frederick Street. The existing zoning is C2 (General Commercial). The purposes of the Conversion District Overlay is to stimulate the adaptive reuse of existing, nonresidential, multi-story structures, to maintain and increase the city's assessable base, to expand business and employment opportunities, and to protect residential neighborhoods from excessive traffic odors, fumes, noise, and light. The Conversion District provides an alternative development concept for underutilized structures while protecting the general health, safety, welfare, and aesthetics through the commitment to an approved development concept plan. Such structures must be in existence prior to 1950.

The five general requirements for the establishment of a Conversion Overlay District have been met. The application has been filed by Jeffrey N. Crampton, owner of the property. The building is two floors and no outdoor uses are proposed. If no development occurs within one (1) year of final approval, and the applicant fails to request an extension, the zoning reverts back to the initial C2 designation.

A site plan was approved for this property on November 29, 2007. The site plan was for the construction of an expansion of an existing mini-storage facility onto an adjacent parcel, for a total of 34 storage units. The Board of Zoning Appeals had previously issued a Special Exception for the use on October 19, 2007. The Planning Commission and staff recommend approving the proposed zoning overlay.

Mr. Bass entered the following as Exhibits:

- Exhibit 1: Certificate of Advertisement
- Exhibit 2: Planning Commission file by reference

There was no testimony presented. The hearing was closed at 7:12 p.m. The record will remain open for 10 days for additional comments.

MINUTES

On a motion duly made by Councilmember F. Easton and seconded by Councilmember W. M. Breichner, the Mayor and City Council unanimously agreed by voice vote to approve the minutes, as presented, for the Mayor and Council meetings held on November 3, 2009, November 10, 2009, November 17, 2009 and November 24, 2009.

CONSENT AGENDA

On a motion duly made by Councilmember W. M. Breichner and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to approve the Consent Agenda as follows:

- A. Water Department:
 - 1. Treatment Chemicals – Sodium Hypo Chlorite – Univar USA, Inc. (Middletown, PA) \$ 23,140.00
 - 2. Treatment Chemicals – Potassium Permanganate – Brenntag Northeast (Reading, PA) \$ 150,000.00
 - 3. Treatment Chemicals – Fluoride – Univar USA, Inc. (Middletown, PA) \$ 20,636.00
 - 4. Treatment Chemicals – Powered Activated Carbon – Univar USA, Inc. (Middletown, PA) \$ 31,904.00
 - 5. Treatment Chemicals – DelPac – Delta Chemical (Baltimore, MD) \$ 268,800.00
 - 6. Treatment Chemicals – Hydrated Lime – Carmeuse Lime, Inc. (Pittsburgh, PA) \$ 22,210.00

7. Treatment Chemicals – Liquid Chlorine – Univar USA, Inc. (Middletown, PA) \$ 29,520.00
8. Treatment Chemicals – Liquid Alum – Delta Chemical (Baltimore, MD) \$ 16,380.00
9. Water Inventory – Pipe – HD Supply Waterworks, LTD (Martinsburg, WV) \$ 46,794.00

B. Engineering:

1. Contract for Abatement of Snow and Ice on Sidewalks – Serv-Tech Lawn Service (Hagerstown, MD)
\$ 28.00/hour Labor
\$ 2.00/hour Equipment
\$ 1.25/lb. Chemicals
\$ 20.00 Service Call (if job completed upon arrival)

UNFINISHED BUSINESS

A. Approval of an Ordinance: Zoning Text Amendments for Local Conversion District (for Non-Conforming Properties in Residential Districts), Case No. ZT-2009-03

Action: On a motion duly made by Councilmember M. E. Brubaker and seconded by Councilmember W. M. Breichner, the Mayor and City Council unanimously agreed by voice vote to approve an ordinance to amend the Land Management Code, Article IV (Zoning), to create a Local Conversion Overlay zoning district and establish a five hundred (\$ 500) dollar application fee for this rezoning process.

B. Approval of an Annexation Resolution: Doub Property, Case No. A-2008-02

Action: Councilmember M. E. Brubaker made a motion to adopt an amended annexation resolution for the Doub Property Annexation located at the northeast quadrant of I-170/US 40 interchange. The property to be annexed is approximately 141.69 acres in size and is intended to be added to and made part of the adjacent municipal lands. Councilmember W. M. Breichner seconded the motion.

Discussion: Councilmember Haywood stated she is not opposed to the annexation but she is opposed to the intended use. The City will still have some control of the development of the property through the sewer allocation. She asked that everyone start looking at this property as the gateway to the City.

Councilmember Metzner would be willing to discuss the annexation further if clarification is provided of why property across Interstate 70 is included in the MRGA.

Councilmember Brubaker stated there are many areas zoned for employment based land uses that are vacant. He feels annexing this property is in the best interest of the city and for the tax base.

Motion carried, 4-1 with Councilmember A. C. Haywood voting No.

NEW BUSINESS

A. Introduction of an Ordinance: Comprehensive Rezoning Phase II, Case No. ZM-2009-01

Action: Councilmember M. E. Brubaker made a motion to introduce an ordinance (based on findings of facts) for a Zoning Reclassification and Zoning Map amendments, Case No. ZM-2009-01, to rezone those areas which are associated with Phase II of the Comprehensive Rezoning. A series of maps are made a part of this ordinance. Councilmember F. Easton seconded the motion.

Discussion: Councilmember Metzner stated he will be voting against the ordinance because of the proposed zoning for the area at Eastern Boulevard and Leitersburg Pike.

Councilmember Brubaker has the same reservations but will vote in favor of the ordinance because there are 17 different tracts included.

Motion carried, 4-1 with Councilmember L. C. Metzner voting No.

B. Introduction of an Ordinance: Land Use Management Code Text Amendment to Eliminate Provisions for Home Occupations and Establish Home Workstation Requirements, Case No. ZT-2009-02

Action: On a motion duly made by Councilmember A. C. Haywood and seconded by Councilmember W. M. Breichner, the Mayor and City Council unanimously agreed by voice vote to introduce an ordinance for a text amendment to the City Code, Chapter 140, Land Management Code, Article 3., Section C, Definitions, to add Home Workstations and Article 4., Section D.2. a, to remove provisions for home occupations.

C. Introduction of an Ordinance: Sale of Property Known as 140 South Potomac Street

Action: On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember W. M. Breichner, the Mayor and City Council unanimously agreed by voice vote to introduce an ordinance determining that the property known as 140 South Potomac Street is no longer needed

for a public purpose and that it is in the best interests of the City and the Citizenry of the City of Hagerstown to convey said property to Shelby Penn and Michael A. McGinley in accordance with the contract of sale for a purchase price of \$ 73,000.00.

D. Introduction of an Ordinance: Quit Claim for Portion of Alley 1-7A near Woodpoint Grill

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 making a determination that certain property (abutting 374 Wood point Avenue and 1433 & 1437 Salem Avenue) is no longer needed by the City of Hagerstown for a public purpose, and authorizing the execution of quit claim deeds for the same.

E. Approval of a Resolution: Lease Agreement for 280 Mill Street, Hager Park

Action: On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember F. Easton, the Mayor and City Council unanimously agreed by voice vote to approve a resolution to authorize the execution and delivery of a lease between the City of Hagerstown and Eric Hastings for the residence located at 280 Mill Street, Hagerstown, Maryland. The term of the lease will be February 1, 2010 through June 30, 2010.

F. Approval of a Resolution: 2010 Sewer Capacity Allocation Program (SCAP)

Action: On a motion duly made by Councilmember A. C. Haywood and seconded by Councilmember M. E. Brubaker, the Mayor and City Council unanimously agreed by voice vote to approve a resolution to create the 2010 Sewer Capacity Allocation Program. Since there is no change from the 2009 Sewer Capacity Allocation Program, approval was not required by the Maryland Department of the Environment.

G. Approval of Support for Washington County Community Lobbyist Coalition

Action: On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember F. Easton, the Mayor and City Council unanimously agreed by voice vote to 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 that have provided funding in the past include Washington County, the City of Hagerstown, the Chamber of Commerce, the Greater Hagerstown Committee, CHIEF, Convention & Visitors Bureau, Washington County Public Schools and the Washington County Free Library.

H. Approval of Acceptance of Grant for N. Potomac Street Sidewalk Project

Action: On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember F. Easton, the Mayor and City Council unanimously agreed by voice vote to authorize staff to accept a \$ 100,000 grant from the Maryland Heritage Area Authority for a sidewalk enhancement project in the first block of N. Potomac Street. The budget for this project is estimated at \$ 205,000. The grant will be matched with \$ 78,713 in State Aid in Lieu of Taxes funds and \$ 26,287 in Community Development Block Grant (CDBG) funds or CIP fund balance.

I. Approval of Application for FY 2011 Program Open Space (POS) Projects

Action: On a motion duly made by Councilmember F. Easton and seconded by Councilmember A. C. Haywood, the Mayor and City Council unanimously agreed by voice vote to approve an application to Washington County requesting FY 2011 Program Open Space funding of improvements to the City's recreational facilities as follows:

1. Potterfield Pool Barrier Free Ramp, leading from wading pool to upper pool area
2. Golf Course Netting, along #2 Fairway
3. Recycling Centers in Various Parks
4. University Plaza Portable Shade Canopy
5. University Plaza Stationary Stage
6. Portable Metal Bleachers in Various Parks
7. Hellane Park Walkway Improvement

Discussion: Councilmember Brubaker noted that, once again, the City of Hagerstown received a smaller percentage of funding than other municipalities in Washington County.

J. Approval of Award of Contract: Hagerstown Police Department Canopy Renovations

Action: Councilmember L. C. Metzner made a motion to award Contract No. 09-09-HPD-23 for the renovations to the canopy (that wraps the perimeter of the Hagerstown Police Department building) to the low bidder, Manolis Painting in the amount of \$ 283,484.00. in addition, the Mayor and Council further authorize a "contingent" fund of \$ 16,516 to cover any unforeseen replacement of deteriorated metal structure. Funding for the project is \$ 200,000 from the September 2009 bond issue and \$ 100,000 in future bonds. Councilmember M. E. Brubaker seconded the motion.

Discussion: Councilmember Brubaker pointed out that because this is bond funded, the annual cost to maintain the integrity of the building will be under \$ 8,000.00. Councilmember Haywood does not support renovating the canopy because of the cost. Councilmember Easton stated he cannot support a beautification project when the City is faced with a \$ 5,000,000 deficit.

Motion carried, 3-2 with Councilmember A. C. Haywood and Councilmember F. Easton voting No.

CITY ADMINISTRATOR'S COMMENTS

Bruce Zimmerman, City Administrator, thanked and congratulated the Public Works Department for their efforts to keep the roads passable during the snow over the past weekend. There was good support from the Parks Department and the Utility Departments.

MAYOR AND COUNCIL COMMENTS

Councilmember W. M. Breichner is confident that the Mayor and Council will be able to solve the budget challenges.

Councilmember M. E. Brubaker thinks the Mayor and Council will be able to work together to work through the budget issues.

Councilmember F. Easton is also confident the problems can be solved.

Councilmember A. C. Haywood thanked Public Works and Engineering for their hard work with the snow. The Snow Angels program is successful.

Councilmember L. C. Metzner expressed condolences to former Mayor Steve Sager on the passing of his wife. He stated snow removal was done well.

Mayor R. E. Bruchey expressed condolences to former Mayor Sager and his family. Public Works did an excellent job in dealing with the snow over the weekend. This Mayor and council have some difficult challenges to face. This body will deal with the challenges with as little impact as possible.

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 7:50 p.m.

Respectfully submitted,

Donna K. Spickler, City Clerk

Approved: January 26, 2010