

**80<sup>th</sup> REGULAR SESSION – October 23, 2012**

**Mayor R. E. Bruchey, II called this 80<sup>th</sup> Regular Session of the Mayor and City Council to order at 7:06 p.m., Tuesday, October 23, 2012, in the Council Chamber at City Hall. Present with the Mayor were Councilmembers W. M. Breichner, M. E. Brubaker, F. W. Easton, A. C. Haywood, L. C. Metzner; City Administrator Bruce Zimmerman, City Attorney Mark Boyer and D. K. Spickler, City Clerk.**

The invocation was offered by Councilmember A. C. Haywood. The pledge of allegiance was 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: A Work Session beginning at 4:00 p.m. on Tuesday, November 13, 2012, and the Regular Session on Tuesday, November 20, 2012 at 7:00 p.m. The Oath of Office will be administered on Tuesday, November 27, 2012. A Work Session may be scheduled for Tuesday, October 30, 2012. No meeting is scheduled for Tuesday, November 6, 2012.

**APPOINTMENTS**

On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember A. C. Haywood, the Mayor and City Council unanimously agreed by voice vote to appoint the following members to the Dog Park Task Force: Anthony Bittner, Renee Burgan, Heather Holman, Nate Mackley, Maria Mestre, Stacey Webster and Martha Whittington. Ms. Mestre and Mr. Bittner were in attendance.

**PROCLAMATION**

Mayor Bruchey presented a proclamation to Roger H. Mitchell, Jr., who is a Sergeant with the Maryland Army National Guard and a volunteer firefighter at Engine 2 for the City of Hagerstown. Sgt. Mitchell will be deployed overseas at the end of October.

Mayor Bruchey welcomed Jordan Miller, Aaron Lindsey, Anthony Guyton, Kyle Levardi, Tanner Barnett, Raymond Johns, John Galvin, Justice Monroe, Nick Brandenburg and Keifer Smith, members of Boy Scout Troop 10 (Trinity Lutheran Church) to the meeting.

**CITIZEN COMMENTS**

Kathy Parkinson, 435 N. Prospect Street, Hagerstown, Maryland, attended a Mayor and Council in July and was present to ask the status of the business use at Hub Scrap. She wondered why revisions were being made to the Land Management Code when this business appears to be operating in violation of the current regulations.

Mayor Bruchey indicated the situation she brought to their attention is being addressed. He will ask someone from the Planning Department to contact her tomorrow regarding the revisions and status.

Ms. Parkinson asked if any Mayor and Council members had visited the site. Several have, but no work was being done while they were there.

Councilmember Metzner has asked for more information about the operation of the business and what is permitted and what is not. He indicated he has not received that information yet.

Ms. Parkinson stated the company is not working as long now, but it is still a problem. They start at 7:00 a.m. and work until 4:00 p.m.

Mr. Zimmerman stated staff will meet tomorrow and provide an update of the status. The issue is being addressed based on the City Attorney's advice. Councilmember Metzner asked that Ms. Parkinson be provided an update as well.

Julie Rivett, 141 Summit Avenue, Hagerstown, Maryland, is concerned about a new stadium and crime in the building next to her. She has been working with the police department to reduce the crime next to her home. There have been numerous 911 calls to the building since January. She knows the police are doing the best they can. She suggested included funding in the general fund to develop programs to help landlords who have problems. She stated more signatures have been received against the stadium. People want the City to slow down on this project and consider alternatives, such as renovating Municipal Stadium.

Mayor Bruchey indicated the City has been doing its due diligence in considering all the issues involved in this project. No property has been purchase, a lease has not been secured and the private donation is pending.

Councilmember Metzner stated he thought the public realized the Suns made it clear they will not play at Municipal Stadium. If Municipal Stadium is renovated, the City would need a tenant. This is why renovation was not heavily considered.

Ms. Rivett suggested making the renovation of Municipal Stadium a historic project, with baseball being the alternate use. Former players could be honored.

Councilmember Haywood indicated the Mayor and City Council have not discussed the status of Municipal Stadium.

Councilmember Easton indicated the overall decision for a stadium will not be made by this administration. This administration will not attempt to make decisions on property acquisition or funding in their last two meetings.

Ms. Rivett asked if the City would consider owning a team if the Suns leave Hagerstown. If a museum was at Municipal Stadium, the team could keep the revenue.

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She stated she had 552 more signatures to present in opposition to the stadium.

Barbara Hovermill, 16286 Spielman Road, Williamsport, Maryland, stated a total of 2,655 signatures have been collected against the stadium. Municipal Stadium could be renovated. She understands the Suns have said they will play at Municipal Stadium.

Councilmember Metzner stated that is not accurate. Councilmember Haywood stated the player development division for the Nationals have said the field at Municipal Stadium is unsafe for players.

Ms. Hovermill stated she understood the Nationals said they would play. The signatures are people asking for the MUSEC to be taken to referendum. She stated the Mayor and City Council do not listen to the people. She doesn't think renovation of Municipal Stadium is out of the question. She does not want to lose baseball in Hagerstown; but she doesn't want the Mayor and Council to build a new stadium with taxpayer money.

Penny Nigh, 634 N. Mulberry Street, Hagerstown, Maryland, stated the Herald-Mail said the Nationals indicated Municipal Stadium could be renovated.

Councilmember Easton pointed out the Suns said they would not play at Municipal Stadium. If the Suns leave Hagerstown, they will still be affiliated with the Nationals, but not based in Hagerstown.

## **MINUTES**

On a motion duly made by Councilmember F. W. 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 September 4, 2012, September 11, 2012 and September 18, 2012.

## **CONSENT AGENDA**

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

- A. Department of Parks and Engineering:
  1. Alley Reconstruction – Henson & Son (Hagerstown, MD) Not to Exceed \$ 81,827.00
  2. Miscellaneous Traffic Engineering Services – Retainer Contracts with Sabra Wang & Associates (Columbia, MD) and KCI Technologies (Sparks, MD) Individual projects over \$ 25,000 will be approved by Mayor and Council
  3. Curb/Sidewalk Repair Program – Huntzberry Brothers, Inc. (Smithsburg, MD) Not to Exceed \$ 25,000

## **UNFINISHED BUSINESS**

**A. Approval of an Ordinance: Amending Chapter 64, of the City Code, Building Construction, Building and Residential Standards and Requirements**

**Action:** On a motion duly made by Councilmember M. E. Brubaker and seconded by Councilmember F. W. Easton, the Mayor and City Council unanimously agreed by voice vote to adopt an ordinance to amend the City's Code by deleting and repealing Chapter 64 Building Construction, Article I, Building Standards, and replacing it with a new Article I, Building Standards, which provides for updated building requirements, licensing, and penalties. This updated code includes the recently adopted sprinkler requirements and exceptions. This code will become effective for building permit applications received on or after November 22, 2012.

**B. Approval of an Ordinance: Amending Chapter 64 of the City Code, Building Construction, Electrical Standards and Requirements**

**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 to amend the City's Code by deleting and repealing Chapter 64 Building Construction, Article IV, Electrical Standards, and replacing it with a new Article IV, Electrical Standards, which provides for updated electrical requirements, licensing, and penalties. This code will become effective for electrical permit applications received on or after November 22, 2012.

**C. Approval of an Ordinance: Amending Chapter 64 of the City Code, Building Construction, Mechanical Standards**

**Action:** On a motion duly made by Councilmember A. C. Haywood 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's Code by deleting and repealing Chapter 64 Building Construction, Article VI, Mechanical Standards, and replacing it with a new Article VI, Mechanical Standards, which provides for updated mechanical requirements, licensing, and penalties. This code will become effective for mechanical permit applications received on or after November 22, 2012.

**D. Approval of an Ordinance: Amending Chapter 64 of the City Code, Building Construction, Plumbing Standards and Requirements**

**Action:** On a motion duly made by Councilmember A. C. Haywood 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's Code by deleting and repealing Chapter 64 Building Construction, Article V, Plumbing Standards, and replacing it with a new Article V, Plumbing Standards, which provides for updated plumbing requirements, licensing, and penalties. This code will become effective for plumbing

permit applications received on or after November 22, 2012.

**E. Approval of an Ordinance: Land Transfer, Memorandum of Understanding with Kiwanis Club and Naming of Park**

- 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 authorizing:
- a. Transfer of Lot 20 in Hagerstown Business Park to the City from JBD, LLC
  - b. Easement and Maintenance Agreement and Deed of Easement with JBD, LLC
  - c. Memorandum of Understanding with the Kiwanis Club of Hagerstown

This action provides for the creation and long-term maintenance of a new City park with access to Antietam Creek. It was further moved to adopt the Concept Plan dated March 21, 2012 as the overall improvement plan for the park. The Mayor and City Council further authorize staff to execute these documents and construct improvements funded by Excise Tax revenue per the approved FY 12/13 budget.

**NEW BUSINESS**

**A. Introduction of an Ordinance: Revisions to City Code Chapter 209 – Sediment Control**

- Action:** On a motion duly made by Councilmember F. W. Easton and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to introduce an ordinance to amend the Code of the City of Hagerstown by deleting and repealing Chapter 209 thereof, entitled Sediment Control, and replacing it with a new Chapter 209, to be entitled Sediment Control

**B. Introduction of an Ordinance: Sale of Property at 140 S. Potomac Street**

- Action:** On a motion duly made by Councilmember M. E. Brubaker and seconded by Councilmember F. W. Easton, the Mayor and City Council unanimously agreed by voice vote to introduce an ordinance authorizing the sale of 140 South Potomac Street, Hagerstown, Maryland, to CAPYBARA, LLC for the sum of One Hundred Five Thousand dollars (\$ 105,000.00), in accordance with all terms and conditions outlined in the purchase agreement.

Discussion: John Lestitian, Department of Community and Economic Development Director, stated the party that will occupy the building is

under a tight time frame. Therefore, the buyers and the City Attorneys and staff have been working on an agreement to permit work to begin prior to settlement. It was the general consensus of the Mayor and City Council to permit the work to begin.

**C. Approval of a Resolution: Amendment to Memorandum of Understanding with the Board of Education for Fifth Full Time School Resource Officer**

**Action:** On a motion duly made by Councilmember A. C. Haywood and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to approve a resolution authorizing an amendment to the City's Memorandum of Understanding (MOU) with the Washington County Board of Education. This amendment will provide for the addition of a 5<sup>th</sup> School Resource Officer. The Board of Education will reimburse the City \$ 37,500 of this officer's salary, or pay overtime not to exceed \$ 35,000 in the event the position is not filled with a full-time officer. This term of the MOU is five years, with a 90 day notice to terminate at any time by either party. The Mayor and Council's approval of the School Resource Officer will increase the police department sworn staffing from 105 to 106. The source of funding for the City's match shall be vacancy savings within the General Fund.

**D. Approval of a Resolution: To Designate Hagerstown's Septic Tiers**

**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 a resolution to approve septic tier designations for the City of Hagerstown and the Medium Range Growth Area per the requirements of the sustainable Growth and Agricultural Preservation Act of 2012. The septic tier designations are identified on an attached map.

**E. Approval of a Resolution: Financial Incentive Agreement and Grant to BustinBoards, LLC**

**Action:** On a motion duly made by Councilmember A. C. Haywood and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to approve a resolution authorizing the City to enter into a financial incentive agreement as outlined to BustinBoards Limited Liability Company in connection with its relocation into the corporate limits of the City of Hagerstown, Maryland and its creation of 15 jobs at the 117 Summit Avenue location. The financial incentive will be paid for from the Economic Development Recruitment line item which is part of the Economic Development operating budget.

Discussion: Mayor Bruchey stated this a good example of the City using

incentive programs to recruit new businesses. Councilmember Metzner pointed out this also shows the interest of a business willing to move to this location because of the potential of the MUSEC project.

**F. Approval of a Resolution: Financial Incentive Agreement and Loan to Duvinage, LLC**

**Action:** On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember F. W. Easton, the Mayor and City Council unanimously agreed by voice vote to approve a resolution authorizing the City to enter into a financial incentive agreement with Duvinage LLC in connection with its expansion and anticipated creation of new jobs to be paid for from the Economic Redevelopment Unreserved Fund. The City's financial incentive is offered in partnership with incentives provided by the Tri-County Council of Western Maryland and Washington County.

**G. Approval of City Center Holiday Parking Program**

**Action:** On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember F. W. Easton, the Mayor and City Council unanimously agreed by voice vote to approve the recommended downtown holiday parking plan to allow two hours of free parking in the North Potomac Street and Arts & Entertainment parking decks on weekdays beginning Monday, November 19, 2012 through Tuesday, January 1, 2013. Parking in the decks after 4 p.m. in the evening and all day Saturday and Sunday will be free.

Parking in the city center, central business district street and lot meters will continue to be free after 5 p.m. and all day Saturday and Sunday as it is normally throughout the year.

Parking enforcement of metered spaces along the streets and in city owned lots would be suspended during the City recognized holidays of Thanksgiving (November 22 and November 23) and Christmas (December 24 and December 25).

**H. Approval of Permanent Seating at the Bandshell in City Park**

**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 authorize staff to proceed with the design and construction of permanent seating in front of the Bandshell in City Park. The design and construction shall be based upon the "Concept Plan" dated October 3, 2012 and will replace the wooden benches with fixed seating for approximately 150 patrons. Design and construction will be completed by City staff.

**I. Approval of Memorandum of Understanding – Safe Streets Coalition**

**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 a resolution authorizing a Memorandum of Understanding (MOU) between the Hagerstown Police Department and the Safe Streets Coalition members, to establish a formal commitment to reduce crime through interagency collaboration and information sharing.

**J. Approval of 36/40 N. Potomac Street Phase II Renovations – Milton Stamper Builders (Hagerstown, MD) \$ 484,721.00**

**Action:** On a motion duly made by Councilmember A. C. Haywood and seconded by Councilmember F. W. Easton, the Mayor and City Council unanimously agreed by voice vote to approve the low bid of Milton Stamper Builders to complete the Phase II Renovation Contract for 36/40 North Potomac Street at a cost of \$ 484,721. Phase II Renovations will include: rehabilitation of four (4) vacant residential dwellings into loft style apartments with new plumbing, electric, and HVAC, improvements to the existing residential corridor, and a fire suppression system throughout the entire building. Funding for this project will come from Federal Community Development Block Grant and State Community Legacy funds.

**K. Approval of Two Way Radio Purchase for Department of Public Works and Department of Utilities – Brown’s Communications (Hunt Valley, MD) \$ 100,365.27**

**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 the purchase of two-way VHF high-band radio equipment from Brown’s Communications of Hunt Valley, Maryland with a price of \$ 100,365.27. This purchase will allow the City to comply with the FCC narrowbanding regulation by upgrading the Public Works and Utilities Department’s radio equipment. This upgrade will also provide the capability of communication with emergency services through the standard public safety interoperability channels. Funding will be allocated between the City’s General and Utility Funds.

**L. Approval of Purchase of Ballistic Vests – Atlantic Tactical (New Cumberland, PA) \$ 28,984.32**

**Action:** On a motion duly made by Councilmember F. W. Easton and seconded by Councilmember A. C. Haywood, the Mayor and City Council unanimously agreed by voice vote to authorize the purchase of 34 ballistic vests and carriers from Atlantic Tactical in the amount of \$ 28,984.32. The source of funding for this purchase shall be the Federal Bulletproof Vest Grant, which shall fund 50% of the cost. The remaining 50% shall

come from budgeted matching funds in the City's General Fund budget.

**CITY ADMINISTRATOR'S COMMENTS**

*Bruce Zimmerman, City Administrator*, had no additional comments.

**MAYOR AND COUNCIL COMMENTS**

*Councilmember W. M. Breichner* had no additional comments.

*Councilmember M. E. Brubaker* stated he believes there will be a stadium, depending on the funding. He thinks the current project, as proposed, is fiscally responsible and will keep the City in good stead. The Council has indicated repeatedly they will not move forward until all the components have been secured, i.e. funding, lease agreement. This administration has been productive while serving the citizens.

*Councilmember F. W. Easton* had no additional comments.

*Councilmember A. C. Haywood* reminded everyone the Mummer's Parade will be held on Saturday, October 27, 2012.

*Councilmember L. C. Metzner* reminded everyone to vote on November 6, 2012, or through early voting. There are also important questions on the ballot. Everyone's vote is important.

*Mayor R. E. Bruchey, II* stated the weather should be good for this year's Mummer's parade. There has been a lot of discussion during the last year or so about a stadium and whether to build a new one or not. Citizens have said they do not want taxpayer dollars used for a new stadium. He pointed out any money to revitalize a stadium would be utilizing taxpayer dollars. The City would be an investor in a revitalization effort. This is an opportunity of a lifetime.

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 8:03 p.m.

Respectfully submitted,

Donna K. Spickler, City Clerk

Approved: November 20, 2012