

Mayor R. E. Bruchey, II called this 94th Regular Session of the Mayor and City Council to order at 7:05 p.m., Tuesday, February 25, 2020, in the Council Chamber at City Hall. Present with the Mayor were Councilmembers K. B. Aleshire, A. Heffernan, E. Keller, L. C. Metzner, and S. McIntire, City Administrator Scott Nicewarner, City Attorney Jennifer Keefer, and City Clerk D. K. Spickler.

The invocation was offered by Pastor Elizabeth Jackson, Otterbein Methodist Church. The Pledge of Allegiance was recited and led by Mayor R. E. Bruchey, II.

Mayor Bruchey announced the Rules of Procedure for this meeting will be followed as effective January 21, 2020. It was announced that the use of cell phones 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, March 3, 2020, Tuesday, March 10, 2020, and Tuesday, March 17, 2020, and the Regular Session on Tuesday, March 24, 2020. No meeting is scheduled for Tuesday, March 31, 2020. Two State of the City presentations will be held on Tuesday, March 3, 2020 – the first at 7:00 a.m. at the Maryland Theatre, and the second at 6:00 p.m. at Bridge of Life Church.

APPOINTMENTS

On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember E. Keller, the Mayor and City Council unanimously agreed to make the following appointments to the Board of Traffic and Parking:

William Breichner, Term to Expire January 31, 2024

Joseph Marschner, Term to Expire March 24, 2024

AGENDA ITEM CITIZEN COMMENTS

Mayor Bruchey announced the meeting order for this and future Regular Session meetings was approved on January 21, 2020. The first time for Citizen Comments are for topics related to items being discussed on this agenda, or items recently discussed. General comments will be heard later in the meeting.

Bob Bloomfield, 98 Park Avenue, Hagerstown, Maryland, has lived in the west end for many years. He does not support any rezoning. He stated the City of Hagerstown would not follow zoning regulations anyway. Councilmember Metzner called for a point of order as Mr. Bloomfield's comments appear to be for the public hearing on Comprehensive Rezoning.

Michael Fitzgerald, 38 S. Cleveland Avenue, Hagerstown, Maryland, stated he has turned over many properties in Hagerstown. The zoning text amendments need to be

changed. He owns more than \$ 30 million worth of property downtown. The Land Management Code is a good ordinance for the City and is good for investment in the City. He thinks prior uses of buildings should be permitted for that same building. He has been dealing with locating a doctor's office in a building he owns in a residential area.

PUBLIC HEARING

Comprehensive Rezoning Review

This Public Hearing is being held to hear testimony regarding proposed Comprehensive Rezoning. Megan Flick, Planner, reported the City's updated Comprehensive Plan, vision Hagerstown 2035, was adopted on April 3, 2018. In order to implement the Comprehensive Plan, a comprehensive rezoning was initiated in 2019 to create conforming uses and consistency between the future land use plan and the current zoning map.

The Planning Commission finalized the proposed comprehensive rezoning in May 2019 and held a public review meeting on June 26, 2019. Due to changes proposed that differ from the Future Land Use Plan recommendation, the Planning Commission tabled the Comprehensive Rezoning on July 5, 2019 in order to pursue the amendments to the Future Land Use Map in the Comprehensive Plan. With the Comp Plan amendments package up for adoption by the Mayor and Council on January 28, 2020, the Planning Commission resumed their review of the Comprehensive Rezoning on January 29, 2020 and made their final recommendation to the Mayor and City Council.

Several tables were provided. The first identifies and describes the specific areas that are proposed to be rezoned as a response to the Future Land Use map adopted as part of the Comprehensive Plan. The next table includes small area rezonings to clean up the map. The last table shows the properties to be rezoned to implement the new institutional zone.

Staff has received several letters that serve as public input in addition to staff notes from the public review meetings which summarize the support and opposition for the Comprehensive Rezoning package.

Ms. Flick reviewed the properties that are proposed for rezoning for the Future Land Use Plan. A copy of the power point presentation is included in the meeting packet material.

Ms. Flick entered the following Exhibits:

1. Exhibit 1: Certificate of Advertisement
2. Planning Commission file by reference
3. Correspondence from Pathik Rami, owner of 670-672 Oak Hill opposing the rezoning
4. Potomac/Maple Ave Area opposition

The following testimony was presented:

Bob Bloomberg, 98 Park Avenue, Hagerstown, Maryland, stated he has witnessed illegal dumping by the City of Hagerstown behind Hellane Park. He stated the foundation of his house is cracked due to damage by the City. He stated he saw many creosote coated utility poles and leaking transformers at this site. He reported he had followed City employees to find out where materials were being dumped. He noted the City is now considering changing the zoning in his neighborhood. He wants to know what the Council is going to do about this illegal activity.

Donna Tucker, 230 Hebb Road, Hagerstown, Maryland, is opposed to the proposed rezoning for property on Hebb Road property. She does not understand rezoning this property for commercial use when there are so many buildings sitting empty.

Mike Fitzgerald, 38 S. Cleveland Drive, Hagerstown, Maryland, stated he supports rezoning.

Edward Kuczynski, Attorney, 55 N. Jonathan Street, Hagerstown, Maryland, represents Ben Shaool. Mr. Kuczynski stated Mr. Shaool is requesting rezoning of property he owns on Eastern Boulevard.

The parcel in question consists of 5.9478 acres of unimproved land which lies along the east side of Eastern Boulevard. The parcel was annexed into the City in 2006 and is currently zoned RMOD (the old R-1) which is the zoning that was assigned to the parcel when it was annexed. Due to the downturn of the economy and certain constraints resulting from the configurations and topography of the property, the owner has not commenced any official development effort. Because the property borders the Antietam Creek, flood plan issues relating to the development of this parcel exist and will need to be addressed when a plan of development is presented.

In addition, Washington County government is currently attempting to widen Eastern Boulevard and has requested the owner to relinquish a portion of the property that adjoins the street that otherwise could be used in the development process. In order to develop this property, water and sewer will need to be extended to the parcel, which under the current zoning would be difficult to justify from an economic standpoint when weighed against the limited number of lots that could be developed under the current RMOD zoning.

Rezoning the property to RMED will allow for appropriate, orderly, and compatible development. Hopefully it will also ameliorate some of the obstacles that currently exist in connection with RMOD zoning which only allows single or two family residences. The relatively small size of the parcel, the flood plain considerations, the lot size requirement for RMOD zoning, the cost of extending utilities together with the other costs of development all combine to make the development of this parcel under the current zoning impractical (if not impossible).

RMED zoning is designed to provide areas for medium-density residential development. The purpose of this zoning classification according to the Comprehensive Plan is to encourage a broad range of housing types, including single-family detached, duplex, and townhouse units. This type of development is consistent with the already developed residential areas in the City which are Medium Density. The lot sizes, dimensional requirements, setbacks, etc. in RMED allow for the development of parcels similar to the one in question to be developed in accordance with the goals of the Comprehensive Plan. Rezoning this parcel to RMED would allow for a realistic opportunity to use the property for affordable, new housing which likely would be sold to the people occupying the homes.

Councilmember Metzner asked if another public hearing would be required if the Mayor and City Council consider this request. Mr., Kuczynski understands from Kathleen Maher, Director of Planning and Code Administration, that this written request would be presented to the Planning Commission for consideration and another hearing would probably not be required.

Councilmember Aleshire noted the argument made for RMED zoning for this parcel appears to be because of the size, shape, and proximity to a major thoroughfare. Mr. Kuczynski pointed out the future use map indicates the property being RMED. Mr. Shaool is asking that it be rezoned RMED now, rather than in the future. He noted the cost of installing water and sewer service makes it necessary to have a higher density use. Councilmember Aleshire stated there is ample affordable housing in Hagerstown.

David Shaool stated the required setbacks will push development into the flood plain.

Mr. Kuczynski stated the owner is asking the City to zone this parcel to conform with what is shown on the future use map.

Jerry Cump, 11802 Pheasant Trail, Hagerstown, Maryland, is a professional engineer. He owns a large parking lot with several rented spaces. He supports the rezoning, if there is no change in how he can use the parking lot. He does not think there should be any distance restriction for how far a business is from a parking lot.

Pat Whitmore, 15 Funkstown Road, Hagerstown, Maryland, owns property that abuts Hebb Road. She is opposed to the rezoning of property on Hebb Road. The road is too narrow for any increase in traffic. Rezoning the property would change the area.

Councilmember Heffernan clarified that Ms. Whitmore supports the property remaining high density residential. Councilmember Metzner noted the current zoning on the property would allow apartments. The Mayor and City Council are actually considering removing that zoning.

Ms., Whitmore was under the impression it was currently zoned for agriculture use.

Councilmember Aleshire asked for clarification on two of the public input comments. The first is the opposition to rezoning the property at Potomac Street and Eastern

Boulevard. He asked if the new classification would permit a large convenience store at that site. Ms. Flick indicated the proposed zoning is considered commercial local, allowing businesses that are more suited to a neighborhood type of commercial use. She does not think gas stations are permitted under the proposed classification.

Councilmember Aleshire asked why the Copy Quik location is included in the rezoning. Ms. Flick stated this is being proposed in order to closer match the zoning to the commercial nature of the property.

No further testimony was presented.

The record will remain open for 10 days for further comments.

MINUTES

On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember E. Keller, the minutes from January 7, 2020, January 14, 2020, January 21, 2020, and January 28, 2020 were unanimously approved as presented.

CONSENT AGENDA

On a motion duly made by Councilmember E. Keller and seconded by Councilmember L. C. Metzner, the Consent Agenda was approved as follows:

Consent Agenda

A. Fire Department:

1. Thermal Camera Kits – Witmer Public Safety Group (Williamsport, MD)
\$ 13,195.00

B. Department of Parks and Engineering:

1. Engineering – Demolition of 319 Summit Avenue – Allegany Wrecking and Salvage (Hagerstown, MD) \$ 18,700.00
2. Parks – Purchase of Vehicle to Replace #331 – Criswell Chevrolet, Inc. (Gaithersburg, MD) \$ 32,822.00
3. Parks – Removal of Additional Trees at City Park – All Reliable Service, Inc. (Saint Augustine, FL) \$ 30,000.00

C. Police Department:

1. Tasers and Equipment – Axon (Scottsdale, ZA) \$ 14,612.50

D. Utilities Department:

1. Water – Large Meters, Valves, and Spool Pieces – Core and Main (Martinsburg, WV) \$ 182,973.08
2. Water – Annual Service Contract – Hach Company (Loveland, CO)
\$ 12,332.00
3. Wastewater – 2019 Bomag Dual Drum Asphalt Roller – James River Equipment (Stephenson, VA) \$ 17,747.00

4. Wastewater – 2020 Ford F-250 4x4 SD Super Cab (#524) – Keystone Ford (Chambersburg, PA) \$ 40,373.00
5. Wastewater – Retro Fit Grinder Pump Kits – Fluid Solutions, Inc. (Westminster, MD) \$ 24,490.00

UNFINISHED BUSINESS

A. Approval of an Ordinance: Acceptance of Donation of Real Property at Greens at Hamilton Run

Action: On a motion duly made by Councilmember A. Heffernan and seconded by Councilmember E. Keller, the Mayor and City Council unanimously agreed by voice vote to approve an ordinance accepting the donation of approximately 11.667 acres of land from the Washington County Commissioners of Washington County, Maryland to the City of Hagerstown. This action returns to the City a portion of the golf course conveyed to the Board of Education in approximately 1988.

NEW BUSINESS

A. Introduction of an Ordinance: Amend the City Code by Repealing and Re-enacting Chapter 140, the Land Management Code

Action: Councilmember E. Keller made a motion to introduce an ordinance to amend the City Code by repealing and re-enacting Chapter 140, Land Management Code. The re-enacted Land Management Code includes the 2019 package of revisions finalized by the Mayor and City Council. This re-enacted version of the Land Management Code shall be known as Version 3.6. Councilmember L. C. Metzner seconded the motion.

Motion carried 4-1 with Councilmember K. B. Aleshire voting No.

B. Introduction of an Ordinance: Authorizing the Sale of Property Located at 117 South Locust Street

Action: On a motion duly made by Councilmember S. McIntire and seconded by Councilmember E. Keller, the Mayor and City Council unanimously agreed by voice vote to introduce an ordinance authorizing the sale of City-owned property located at 117 South Locust Street to 339 Antietam LLC for a purchase price of \$ 15,000. The sale will provide the opportunity for ongoing redevelopment and private investment at 117 South Locust Street. The property is a CDBG asset and all sale proceeds will be classified as CDBG program income to be used for the City's CDBG program activities. The sale will be in accordance with all terms and conditions outlined in the Purchase Agreement.

C. Introduction of an Ordinance: Authorizing the Sale of Property Located at 36-40 North Potomac Street

Action: On a motion duly made by Councilmember S. McIntire and seconded by Councilmember A. Heffernan, the Mayor and City Council unanimously agreed by voice vote to introduce an ordinance authorizing the sale of City-owned property located at 36-40 N. Potomac Street to 339 Antietam LLC for a purchase price of \$ 460,000. The sale will provide the opportunity for ongoing redevelopment and private investment at 36-40 N. Potomac Street. The property is a Property Management asset funded in part with CDBG monies so an applicable portion of the sale proceeds will be returned to the CDBG fund. The sale will be in accordance with all terms and conditions outlined in the Purchase Agreement.

D. Approval of a Resolution: Approval of Designating Alley #2-7 as Argus Lane

Action: On a motion duly made by Councilmember E. Keller and seconded by Councilmember S. McIntire, the Mayor and City Council unanimously agreed by voice vote to approve a resolution authorizing the designation of Alley #2-7 as Argus Lane. This alley is between Virginia Avenue and Sherman Avenue. The alley is so named to eliminate confusion with the addressing of properties that front on the alley.

E. Approval of a Resolution: Execution of an Agreement between the City of Hagerstown and the Board of County Commissioners for the Reconstruction of Wesel Boulevard

Action: On a motion duly made by Councilmember A. Heffernan and seconded by Councilmember S. McIntire, the Mayor and City Council unanimously agreed by voice vote to approve a resolution authorizing the execution of an agreement between the City of Hagerstown and the Board of County Commissioners for the Reconstruction of Wesel Boulevard. The approval provides that the City Attorney may make administrative and non-substantive edits to the agreement, if necessary, prior to the execution.

F. Approval of a Resolution: Execution of an Agreement between the City of Hagerstown and NorthPoint Development LLC for the Reconstruction of Wesel Boulevard

Action: On a motion duly made by Councilmember K. B. Aleshire and seconded by Councilmember A. Heffernan, the Mayor and City Council unanimously agreed by voice vote to approve a resolution authorizing the execution of an agreement between the City of Hagerstown and NorthPoint Development LLC for the reconstruction of Wesel Boulevard. The approval provides that the City Attorney may make administrative

and non-substantive edits to the agreement, if necessary, prior to execution. The approval also provides that the City Administrator may execute a written addendum to the agreement at a later date that shall attach and incorporate Exhibit B as referenced in the agreement.

Discussion: Councilmember Aleshire pointed out there has been a good working relationship between the City and the County, both with elected officials and staff, on this project. The developer noted the ease and expediency of working through the many details associated with this large project.

G. Approval of a Resolution: Lease Agreement with Maryland Watch Works LLC for the City Property located at 14 N. Potomac Street, Suite B-3

Action: On a motion duly made by Councilmember A. Heffernan and seconded by Councilmember E. Keller, the Mayor and City Council unanimously agreed by voice vote to approve a resolution authorizing the lease agreement with Maryland Watch Works LLC at the City of Hagerstown property located at 14 North Potomac Street, Suite B-3 in Hagerstown, Maryland. The term of the lease shall be for three years.

H. Approval of Open Container Exemptions for VisitHagerstown CVB, Doleman Black Heritage Museum, Hagerstown Hopes Pride, and Augustoberfest

Action: On a motion duly made by Councilmember S. McIntire and seconded by Councilmember E. Keller, the Mayor and City Council unanimously agreed by voice vote to approve exemptions from the City of Hagerstown's Open Containers regulations under section 173-6 of the Code of the City of Hagerstown for VisitHagerstown Convention and Visitor's Bureau at University Plaza on May 22, June 26, July 24, and August 28, 2020; for Doleman Black Heritage Museum at University Plaza on June 19 and June 20, 2020; for Hagerstown Hopes in the Central Lot on July 18, 2020; and for Augustoberfest in the Central Lot on August 15 and August 16, 2020.

I. Approval of Used Vehicle Purchase for Hagerstown Police Department – Mason Dixon Auto Auction (Greencastle, PA) \$ 12,850.00

Action: On a motion duly made by Councilmember K. B. Aleshire and seconded by Councilmember E. Keller, the Mayor and City Council unanimously agreed by voice vote to approve the purchase of a used 2016 Ford Police Interceptor, for \$ 12,500.00 and associated auction fees of \$ 350.00, from the Mason Dixon Auto Auction. The vehicle will replace a vehicle damaged in an accident.

The purchase will be made with funds from the Hagerstown Police CIP fund, # 45-C0129, Police Vehicles.

GENERAL CITIZEN COMMENTS

Marvin Lohr, 1135 Sunnyside Drive, Hagerstown, Maryland, is concerned about the recent shootings in Hagerstown. He would like to know what the police department and the Mayor and City Council are doing to stop future shootings. It is difficult for him to get tenants to come downtown. He asked the Mayor and City Council to find money to help the police department hire more officers. He still thinks putting robotic projects in the empty windows downtown will draw people to downtown.

Councilmember Heffernan stated he thinks all the Mayor and City Councilmembers agree that additional funding is needed for the police department.

Gail Hoffman, 318 E. Baltimore Street, Greencastle, Pennsylvania, expressed her concern that the Mayor and City Council denied requests to pass legislation to outlaw abortion. She has been a sidewalk counselor for 17 years and heard stories of excuses and tragedies. She stated this is a very serious problem. Everyone has to do what is necessary to protect the unborn. She doesn't accept the comment that it is the woman's right to do what she wants with her body. A baby is separate DNA.

Councilmember Metzner asked Mayor Bruchey to ensure the time limit for comments is recognized.

Lisa Plaisance, 11682 Rocky Meadow Road, Clear Spring, Maryland, also is concerned the Mayor and City Council decided not to pass legislation prohibiting abortions. She reminded the group of her previous comments that life begins at conception. Rights of the unborn are taken away with abortion. An abortion is the only procedure that is considered positive if the outcome is death of the patient. The City's inaction is indeed action.

Wanda King, 53 E. Franklin Street, Hagerstown, Maryland, cares about the women who go to the abortion clinic. She stated the abortion clinic is bad for Hagerstown.

CITY ADMINISTRATOR COMMENTS

Scott Nicewarner, City Administrator, had no additional comments.

MAYOR AND CITY COUNCIL COMMENTS

Councilmember K. B. Aleshire noted the Frederick Mayor recently presented his State of the City address. During his address, he mentioned crime statistics and related that the statistics don't equate to the feeling of safety of the public. He pointed out other municipalities struggle with the same challenges as Hagerstown does. The issues are real and this body and City staff attempt to address those challenges.

Councilmember A. Heffernan had no additional comments.

Councilmember E. Keller traveled to Philadelphia recently and met someone from Anne Arundel County, Maryland who loves Washington County and Hagerstown. She hopes citizens recognize all Hagerstown has to offer.

Councilmember L. C. Metzner agreed that Hagerstown is beautiful and has many amenities for citizens and visitors. He would stop the shootings if he knew how. He has never been opposed to raising taxes for the funding needed for public safety.

Councilmember S. McIntire visited many different places today downtown and she was safe and nothing happened. She looks forward to the time everyone sees the greatness of Hagerstown.

Mayor R. E. Bruchey, II stated Police Chief Kifer and Hagerstown Police Department officers have the same goal – to keep Hagerstown’s citizens safe. The department has been understaffed and they do need more funding. Other units will be created to attack crime. He is also downtown a lot and has never felt unsafe. Plans for reducing crime are being developed.

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 8:48 p.m.

Respectfully submitted,

Original signed by D. K. Spickler

Donna K. Spickler
City Clerk

Approved: April 28, 2020