

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 meet in closed session to consider a matter that concerns the proposal for a business or industrial organization to locate, expand, or remain in the State, (Section 10-508(a) #4) and to consult with counsel to obtain legal advice, (Section 10-508(a) #7) at 5:32 p.m. in Room 407, 4th Floor, City Hall, Hagerstown, Maryland. The following people were in attendance: Mayor R. E. Bruchey, II, Councilmember W. M. Breichner, Councilmember M. E. Brubaker, Councilmember F. W. Easton, Councilmember A. C. Haywood, Councilmember L. C. Metzner, City Administrator Bruce Zimmerman, City Attorney John Urner, City Attorney Mark Boyer, Jill Estavillo, Economic Development Manager, Michelle Burkner, Director of Finance, Rodney Tissue, City Engineer, John Lestitian, Director of Department of Community and Economic Development, and D. K. Spickler, City Clerk. The meeting was held to discuss a substantial private investment in the downtown area and a lease agreement. No formal action was taken at the meeting. On a motion duly made, seconded and passed, the meeting was adjourned at 6:35 p.m.

75th REGULAR SESSION – July 24, 2012

Mayor R. E. Bruchey, II called this 75th Regular Session of the Mayor and City Council to order at 7:04 p.m., Tuesday, July 24, 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 William Nairn and D. K. Spickler, City Clerk.

The invocation was offered by Councilmember William M. Breichner.

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: An Executive Session beginning at 3:00 p.m. on Tuesday, July 31, 2012, Work Sessions beginning at 4:00 p.m. on Tuesday, August 7, 2012, August 14, 2012 and August 21, 2012, and the Regular Session on Tuesday, August 28, 2012, 2012 at 7:00 p.m.

APPOINTMENTS

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 make the following appointments:

Doug Stahl, Hagerstown Redevelopment Authority, Term to Expire July 31, 2016
Brett Wilson, City Ethics Commission, Term to Expire September 1, 2016
Rosalind Martin, Hagerstown Housing Authority, Term to Expire
August 31, 2017

Councilmember Breichner pointed out that the appointment to the Housing Authority is the Mayor's appointment and does not require Council approval.

Karen Paulson has been appointed as Director of Human Resources. Mayor Bruchey administered the Oath of Office to Ms. Paulson.

CITIZEN COMMENTS

Ron Lytle, Contemporary School of the Arts and Gallery, Inc., 4 W. Franklin Street, Hagerstown, Maryland, expressed his concern about dog waste, loitering and bail bonds offices downtown. He suggested a dress code for Hagerstown. He stated grant money intended for cameras and the funding for the one-time payment to employees could have been used to assist the small businesses downtown. He asked what the Mayor and City Council were going to do to help promote the three art galleries downtown. The minority programs do not help his business.

PUBLIC HEARING

A public hearing was held on the Comprehensive Amendments to the Land Management Code (LMC). The Planning Commission voted to recommend approval of this comprehensive package of amendments on June 27, 2012. Begun in 2010 as the second phase of a two-phase project, these proposals are intended to address the policies of the 2008 Comprehensive Plan and bring the several ordinances of the LMC up to current standards.

Stephen Bockmiller, Development Review Planner/Zoning Administrator, responded to comments from the July 17, 2012 Work Session meeting. Councilmember Breichner inquired about the vagueness of the concept of "long term" in dealing with the storage and use of aging semi-trailers for commercial storage. Staff suggests the best way to address this is to craft an exception with a time limitation. Some members of the Mayor and City Council had expressed concern regarding the ongoing maintenance and appearance of front yard fences. To address this concern, staff suggests adding language requiring maintenance of fences in accordance with the Property Maintenance Code.

Mr. Bockmiller entered the following Exhibits into the record:

- Exhibit 1: Revised language for "long term" use and for maintenance of front yard fences.
- Exhibit 2: Certification of Publication of the Public Hearing notice

Councilmember Easton thought the discussion about fences was more about the height than maintenance. Mr. Bockmiller indicated additional discussions are scheduled for August, 2012 and this could be addressed during the Work Sessions.

The following testimony was presented:

Sharon Sheeley, 2 Broadway, Hagerstown, Maryland, requested that the R-4 zoning at her property be changed to SE Neighborhood. Her residence is a mixed-use property but

it cannot be used for a grooming business. Changing the zoning would allow a special exception request for a dog grooming business.

Councilmember Haywood suggested a commercial overlay for the property. Kathleen Maher, Planning Director, indicated the property is not old enough to meet the criteria for an overlay.

Kathy Parkinson, 435 N. Prospect Street, Hagerstown, Maryland, expressed her concern about the business Hub Scrap, which has opened to the rear of her property. The property is zoned IR, which allows offices and warehouses. She does not understand how this type of business is permitted to operate in this zoning district. She stated noise starts at 4:00 a.m. and continues throughout the day and into the night. She stated this is a scrap yard operation, not a warehouse. She has spoken to the police and the Planning Department about this issue. She is concerned the amendments proposed would permit this type of business, without buffer zones, in the IR zoning district. A new use, Rail Transportation without Processing, is included in the amendments. She is very concerned these amendments will allow this use to continue. She stated the site plan for this use has not been approved yet but they are operating the business. She asked what can be done about this business. She cannot enjoy being outside in her back yard with the issues created by this use.

Mayor Bruchey stated there will be discussions about this issue in August because of Ms. Parkinson's comments.

Councilmember Easton stated he understands Ms. Parkinson's frustration and he was not aware of some of the points she made.

Councilmember Metzner stated Ms. Parkinson is the first citizen to come to the Mayor and City Council to bring this situation to their attention. He asked for an explanation of how this junkyard can be classified as a warehouse.

There was no further testimony presented.

The hearing was then closed. The record will be held open for 10 days for additional comment.

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 June 5, 2012, June 11, 2012, June 12, 2012, June 19, 2012 and June 22, 2012.

Mayor Bruchey announced that the Resolution approving the lease agreement with the University System of Maryland – Hagerstown is being removed from the agenda. It will be rescheduled.

CONSENT AGENDA

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 the Consent Agenda as follows:

- A. Department of Parks and Engineering:
 - 1. Surveying Vehicle, Unit 710 – Sport Chevrolet Co., Inc. (Silver Spring, MD) \$ 15,987.00
 - 2. Thermoplastic Pavement Markings – Alpha Space Control Company, Inc, (Chambersburg, PA) \$ 50,095.00

- B. Department of Utilities:
 - 1. Water: Various Water Pipe Sizes – LB Water Service, Inc. (Chambersburg, PA) \$ 70,692.40

- C. Department of Community and Economic Development:
 - 1. Application Permit for Augustoberfest – August 25, 2012 and August 26, 2012, Augustoberfest Charitable Foundation – Central Parking Lot and Surrounding Area

UNFINISHED BUSINESS

There was no unfinished business.

NEW BUSINESS

A. Introduction of an Ordinance: East First Street Rezoning Case No. ZM-2012-01

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 introduce an ordinance for zoning reclassification and zoning map amendment for Kline Associated Roofing Contractors and Hagerstown Block Company property at 350 East First Street, 448 East First Street, and 860 Oak Street from Residential (R1) to Industrial General (IG), and for Hagerstown Block Company and Lycher Inc. property at 645 East First Street and 701 East First Street from Residential (R1) to Professional Office Mixed (POM). The Mayor and City Council's Findings of Facts and Statement of Reasons for this rezoning are part of the ordinance.

B. Approval of a Resolution: 2013 Community Legacy Grant Application

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 adopt a resolution indicating approval of the City's FY 2013 Community Legacy application to the Maryland Department of Housing and Community Development. This application requests funding for three City capital projects: 1) \$ 100,000

for acquisition/rehab of a City Center building; 2) \$ 60,000 for a Façade Grant Program for Mixed-use Buildings; and 3) \$ 70,000 for Phase III of Memorial Park.

C. Approval of a Resolution: Lease Agreement for Rhubarb House, 12 Public Square

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 approve a resolution approving a second amendment to the exiting lease for John D. Ralston and Shellie C. Ralston (The Rhubarb House) located at No. 12 Public Square. Terms and Conditions of the amendment are for one year retroactive March 2, 2012 to February 28, 2013.

D. Approval of a Resolution: Lease Agreement with University System of Maryland Hagerstown (USMH) 60 W. Washington Street

This item was removed from the agenda.

E. Approval of Grant Acceptance: Chesapeake Bay Trust Grant for Watershed Implementation Plan (WIP)

Action: On a motion duly made by Councilmember M. E. Brubaker and seconded by Councilmember A. C. Haywood, the Mayor and City Council unanimously agreed by voice vote to approve the acceptance of a \$ 22,000 grant from the Chesapeake Bay Trust for stream restoration and stormwater retrofit studies. The City will provide a \$ 10,000 match for this grant from the NPDES Phase II account in the Parks & Engineering Department's operating budget.

The use of this grant for the proposed studies is consistent with the City's Watershed Implementation Plan (WIP) strategy to reduce pollutants in stormwater runoff.

F. Approval of Grant Acceptance: COPS Hiring Grant

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 accept the Justice Department's COPS Hiring Grant in the amount of \$ 625,000. Hiring will be limited to post-9-11 veterans. The COPS Grant will permit HPD to restore five of the seven sworn positions currently being held vacant due to the current economic situation. These hires will permit the department to fully staff the Downtown Squad and to restore most of the functions of the Unit

previously known as the Street Crimes Unit. This is a three year grant with a one year retention requirement. The City's cash match will be funded out of the School Zone Photo Enforcement Fund, which is a General Fund item.

G. Approval of Emergency Procurement for 36-40 North Potomac Street Façade

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 ratify the emergency procurement for 36-40 North Potomac Street Façade Renovations – wall demolition and reconstruction in the amount of \$ 49,377.15. During renovation, the façade wall was found to be in danger of collapse. Due to the wall's proximity to the public sidewalk, wall demolition and reconstruction began immediately to alleviate the threat to public health, welfare, and safety. The original Lump Sum Construction Contract with Modern Construction Services, Inc. for Bid No. 1508 will increase in value from \$ 71,200.00 to \$ 120,577.15. The project is funded by Community Development Block Grant funds.

H. Approval of Contract fro the 2012 Pavement Preservation Program

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 approve a contract with Craig Paving, Inc. of Hagerstown, MD in the not-to-exceed amount of \$ 610,000.00 for the 2012 Pavement Preservation Program. The project also includes \$ 30,000.00 for pavement markings, testing, and miscellaneous items. Funding for the project includes: \$ 86,399 in General Fund Revenue, \$ 313,601 in Highway User Revenue, and \$ 247,920 in fund balance.

I. Approval of 60 West Washington Street Required Utility Work

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 authorize a water service line upgrade at 60 West Washington Street to meet the design requirements for the building's impending fire suppression system installation. The Utilities Department will complete the required upgrade for an estimated cost of \$ 33,000 and will be paid from the Economic Redevelopment Fund over the course of three years.

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 had no additional comments.

Councilmember F. W. Easton stated his thoughts and prayers are with the victims and their families of the recent Colorado shootings.

Councilmember A. C. Haywood stated Mr. Lytle mentioned the \$ 440,000 that was provided to employees last November. She stated \$ 1,000 was given to each employee, which was well deserved for doing extra duty. It was not given to the administration.

Councilmember L. C. Metzner stated he does not think a dress code for Hagerstown is necessary.

Mayor R. E. Bruchey, II also expressed sympathy to the families of the Colorado shooting victims. The grant awarded for downtown cameras can only be used for cameras. He talked to 200 foreign students yesterday. This was a great gathering of gifted children.

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 7:53 p.m.

Respectfully submitted,

Donna K. Spickler, City Clerk

Approved: August 28, 2012