

WORK SESSION AND EXECUTIVE SESSION – January 19, 2010

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Mayor R. E. Bruchey, II called this Work Session and Executive Session of the Mayor and City Council to order at 4:00 p.m., Tuesday, January 19, 2010, 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, and City Attorney John Urner.

Preliminary Agenda Review

**Consent Agenda**

A. Public Works:

1. Bulk Diesel Fuel Purchase for Fleet Services – Petroleum Traders Corp. (Fort Wayne, IN) variable per market (\$1.8437/gallon as of September 28, 2009)
2. Bulk Gasoline Purchase 87 Octane for Fleet Services – A. C. & T. (Hagerstown, MD) variable per market (\$2.6502/gallon as of October 6, 2008)

Eric Deike, Public Works Manager, reported the diesel fuel and gasoline prices are quoted by the amount of overhead. The price of the fuel will fluctuate but the overhead will remain the same.

3. LED Parking Deck Lights – Eastern Sales & Engineering (Baltimore, MD) \$ 91,770.00
4. LED Signal Lights – RGA, Inc. (Powhatan, VA) \$ 45,830.00

Mr. Deike stated both these bids will be grant funded. The estimated cost savings for LED lights is 75%. The lights will also last longer.

B. Water Department:

1. Water Fund Inventory – HD Supply Waterworks, LTD (Martinsburg, WV) \$ 12,245.72
2. Meters and Transceiver Units – L/B Water Service, Inc. (Chambersburg, PA) \$ 131,210.40

C. Engineering:

1. Western Heights Middle School Sidewalk Improvements (Safe Routes to School) – Concrete Central, LLC (Hagerstown, MD) \$ 140,568.00
2. 2010 & 2011 Pavement Preservation Program

Councilmember Brubaker asked how far in advance funding would have to be confirmed for the pavement preservation program. He is concerned that funding may not be available in the coming budget. Jim Bender, Assistant City Engineer, stated notices are sent to adjacent property owners twelve months in advance. The notices for this cycle will be sent out in the summer or fall of 2010.

**Approval of a Resolution: Memorandum of Understanding – Hagerstown Police Department and the Child Advocacy Center (CAC)**

Chief Arthur Smith, Hagerstown Police Department, stated the CAC provides services to the children of Washington County who are victims of sexual or serious physical abuse. The Hagerstown Police Department assigns a detective to this facility to handle City cases. The position is funded through a State grant which covers a majority of the salary. As part of the re-accreditation process for the Child Advocacy Center, they are required to update their various MOUs.

A revised MOU, which pertains to HPD, was presented for review. It is consistent with the practices in this area. It has further been reviewed by Mark Boyer, City Attorney, who is satisfied with the agreement and he recommended it be approved by the Mayor and Council.

**Approval of a Resolution: Memorandum of Understanding – Hagerstown Police Department and the Bureau of Alcohol Tobacco and Firearms (ATF)**

Chief Smith stated the purpose of the agreement is to enable HPD to trace recovered firearms electronically – as opposed to the current (paper) system. There will be no cost associated with this agreement and staff anticipates it will shorten the time period it currently takes to obtain these results.

Mr. Boyer has reviewed this MOU and believes the agreement should involve the City of Hagerstown, not simply HPD. He further recommends that this agreement be approved by the action of the Mayor and Council.

**Approval of a Resolution: Memorandum of Understanding – Hagerstown Police Department and University System of Maryland – Hagerstown (July 1, 2009 to June 30, 2010)**

This Memorandum of Understanding (MOU) between the City of Hagerstown and the University System of Maryland at Hagerstown (USMH) sets forth the principles, terms, and conditions under which the Hagerstown Police Department (HPD) will provide certain police services at the University System of Maryland Hagerstown Education Center, Hagerstown, Maryland.

**Approval of a Resolution: Memorandum of Understanding – Hagerstown Police Department and University System of Maryland – Hagerstown (July 1, 2010 to June 30, 2013)**

This MOU between the City of Hagerstown and USMH is an extension of the previous MOU. The term of the agreement will be from July 1, 2010 to June 30, 2013

**Approval of a Resolution: Memorandum of Understanding – University System of Maryland – Hagerstown for Maintenance of University Plaza**

This MOU between the City of Hagerstown and the USMH sets forth the principles, terms, and conditions under which grounds keeping services will be provided for University Plaza, West Washington Street, Hagerstown, Maryland. The term of the agreement will be from July 1, 2009 through June 30, 2012.

**Acceptance of Urban Greening Grant – Chesapeake Bay Trust**

Rodney Tissue, City Engineer, and Kathleen Maher, Planning Director, were present to provide an update of the urban greening grant. Staff presented the award of grant funds from the Chesapeake Bay Trust (CBT) to enhance the City's tree canopy. The Trust notified the City that they selected the proposal and have awarded the City a grant in the amount of \$ 35,000.

The award letter indicated that the grant is contingent upon the City providing a 100% match to the \$ 35,000 but they made a condition that the City cannot use "fee in lieu" of funds collected from developers under the Forest Conservation Ordinance. The other minor condition is that staff needs to provide a species list to the Department of Natural Resources for approval.

Council directed staff to negotiate with CBT to decrease the City match due to the City's unprecedented economic constraints. Staff is pleased to report the following negotiated match:

CBT grant	\$ 35,000
City Cash Match	\$ 15,000 for project (from CIP fund balance or CIP savings)
City Cash Match	\$ 18,000 for other City <u>recently completed</u> activities to plant a total of 72 street trees on Eastern Boulevard, Jonathan Street, and Renaissance Way
City In-kind Match	\$ 2,000 for staff time to manage the project

Staff estimates that about 200 trees (in addition to the 72 previously planted) will be planted with this grant. The contract will include planting and a two year maintenance and warranty. The grant presets a unique opportunity to partner with volunteer groups and Neighborhoods 1<sup>st</sup> to improve tree coverage in several areas of the City.

**Waiver of PEP Zone Boundary Requirement for Action Holdings, LLC, 22 N. Mulberry Street**

It was the general consensus to move forward waiving the zone boundary requirement for the project presented by Action Holdings, LLC at 22 N. Mulberry Street.

**Termination of Existing Agreement with CHIEF to Allow Transfer of McBare's Building to the Maryland Theatre**

**Termination of Promissory Note to Allow Transfer of McBare's Building to the Maryland Theatre**

John Urner, City Attorney, stated the Mayor and Council received a letter from CHIEF asking for their approval to transfer the property to the Maryland Theatre. The transaction is governed by a transfer agreement with CHIEF and the Mayor and Council's approval is the last act in the completion of the agreement. CHIEF will then accomplish the transfer. When this occurs, the City will excuse the promissory agreement for funds to CHIEF to purchase the building.

Councilmember Breichner asked what happens if the Theatre decides to sell the property. He asked if the City would be able to recover any of its money. Mr. Urner indicated the City would not. Councilmember Breichner agrees with the transfer but is concerned about recovering City funding. He suggested adding some assurance in the agreement that the City could recover some funding.

Mr. Urner stated the money owed to the City is from CHIEF. There is no agreement with the Maryland Theatre.

Councilmember Easton asked if a future sale could be restricted for a certain number of years. Councilmember Haywood thinks it would be worth considering.

These two items will be removed from the agenda for January 26, 2010 for further discussion. Mayor Bruchey suggested discussing this further at an executive session on January 26, 2010.

This completed the preliminary agenda review.

**City Contract With The Ferguson Group**

The City's current contract with The Ferguson Group runs through January 15, 2010 with a monthly fixed fee of \$ 9,000.00. In addition reimbursable expenses incurred by Ferguson in their representation of Hagerstown shall not exceed \$ 4,000.00.

Hagerstown has utilized the services of Ferguson for the past two years. In each year the City has prepared a Federal Agenda of Hagerstown projects and funding requests. With Ferguson's assistance the City has successfully received significant levels of

funding to support Hagerstown projects. Two documents were prepared by Ferguson, one showing the City's return on investment based on payments to Ferguson and the amount of Federal funding received. The second document provides information on the Federal agenda and approved funding.

Kareem Murphy and Melissa Hyman, The Ferguson Group, were present to discuss the current contract and projects. Mr. Murphy reported the second year of the partnership was more successful than the first. He believes there are opportunities for success through 2011. For every dollar spent, the return on investment has been approximately 8%, with over \$ 1.8 million secured. No stimulus funding is included in the 8% return calculation. Mr. Murphy stated in difficult economic times it is important to build multiple partnerships.

Councilmember Easton asked how successful the City may have been without The Ferguson Group. Mr. Murphy stated the City has a very good relationship with the federal delegation; however there is a process to follow and without the technical knowledge, the funding would be difficult to secure without a lobbyist.

Councilmember Metzner stated he does not remember receiving any federal earmark in the last 30 years. He does not believe the recent earmarks would have been possible without The Ferguson Group, since the City is not able to have a staff person dedicated as a lobbyist.

Councilmember Breichner believes a lobbyist is important but is concerned that the funding comes from the operational budget. Councilmember Metzner stated a portion of the funding is from the utilities.

Bruce Zimmerman, City Administrator, pointed out the funding is not grant funding. At the City staff level, the City is prepared to apply for grants. The likelihood of securing the federal funding without the assistance of The Ferguson Group is small.

Councilmember Haywood is interested in knowing how the return on investment compares with other cities who use lobbyists. Mr. Murphy would not be able to answer the question outside of their clients. Hagerstown is the only Maryland client so the answer would be using organizations outside the State.

Mr. Murphy stated the best time to visit with the federal delegation would be prior to the National League of Cities conference in March. Councilmember Metzner suggested that members of the Council again plan a visit with the federal delegation.

Mayor Bruchey asked when the money will be released for the funding for the police radio system. Mr. Murphy stated an official award letter will be issued and the money will be released after that.

Councilmember Easton asked if a coalition of the City of Hagerstown and the Washington County Commissioners would be beneficial for securing more funding. Mr.

Murphy stated coalitions can be beneficial if the parties agree on priorities that are fundable. Councilmember Metzner stated the local coalition works well because the priorities are established before approaching the delegation.

It was the general consensus to extend the contract, which includes a 30 day termination clause. Approval will be scheduled for January 26, 2010.

The Mayor and Council will review the list of priorities before they are presented to the federal delegation. Mr. Murphy will discuss the list of priorities in February.

#### Utility Relief Application Fair Update

Karen Giffin, Director of Community Affairs, and Dave Jordan, Community Action Council, were present to discuss the upcoming application fair and the third annual Utility Relief Benefit concert.

The application fair will be held January 20 and 21, 2010. The fair provides an opportunity for City residents to apply for the funds raised during the annual concert. The concert will be held on February 4, 2010.

#### Pool Operations for the 2010 Season – YMCA/Potterfield Pool Management Agreement

Lewie Thomas, Recreation Facilities Manager, and Mike Flichek, Director of YMCA, reported the City's Recreation Department would like to enter into a contractual agreement with the YMCA to manage the Claude M. Potterfield Pool and its operation for the 2010 season. This partnership worked well in 2009. Karen Meinelschmidt would serve as the primary contract. Highlights of the agreement are:

1. The YMCA will provide the Manager and/or Assistant Manager for the pool. These individuals would be employees of the YMCA. They will provide onsite supervision of all pool employees during hours of operation.
2. The YMCA will offer advice and recommendations in the hiring of all head lifeguards, lifeguards and pool attendants. They will screen all applications to make sure all certifications are in order. These positions along with the cashier positions will be employees of the City, who will work under the supervision of the YMCA's Manager and/or Assistant Manager.
3. YMCA management will schedule, evaluate, and provide on-site supervision of guards and attendants.
4. The YMCA will train guards and attendants in accordance with Red Cross certifications and City policies and procedures.
5. The YMCA will conduct swim lessons and have practice time allocated to the YMCA Summer Swim Team. The City will retain a portion of the revenue derived from lesson fees.
6. The YMCA will schedule CPO and guards during swim instruction periods and will reimburse the City for guards used during swim lessons.
7. The YMCA will provide evidence of insurance of \$ 1,000,000.00.

The cost of the contract would be \$ 12,000.00 to \$ 15,000.00, depending on the number of pool parties and other activities at the pool. After analyzing the budget history of the pool, this amount would balance out for the City not hiring and paying a manager and/or assistant manager. This would give more coverage for the pool for the same amount of money.

The City would continue to establish the fee schedule for pool patrons and would continue to market the pool.

The Mayor and City Council agreed to enter into a contract with the YMCA for the 2010 season.

#### Planning for the 2010 Census

Kathleen Maher, Planning Director, and Karen Giffin, Director of Community Affairs, were present to provide a briefing on the local planning for the upcoming 2010 Census. Sharon Disque, Chair of the Washington County Complete Count Committee, was also present. This committee has been meeting for several months to plan promotion activities and events to encourage higher participation in the 2010 Census by raising awareness in the community of the importance of the census in terms of dollars distributed to the City for public services, the ease with which the census questionnaire can be completed, and the schedule for arrival of the questionnaires and the deadline for submittal.

Important facts to remember include:

1. The census is undertaken by the Federal government every ten years. This data is important for a number of reasons, including determining the amount of federal dollars distributed to communities for public services.
2. For every individual not counted in the census, it can mean approximately \$ 1,000 per year in federal funds that are not distributed to the community for various public services.
3. Response rates in the 2000 Census were low in portions of the City of Hagerstown and the committee hopes to improve upon those results in 2010.
4. The census forms have been simplified and now only comprise 10 questions and should only take 10 minutes to complete.
5. The census data is completely confidential and results will not be shared with anyone until 72 years have passed.
6. The census forms will arrive in the mail in mid-March and are due back by April 1, 2010.

#### Zoning Map Amendment ZM-2009-03 – Crampton Conversion Overlay District

Stuart Bass, Comprehensive Planner, stated a request was received for a Conversion Overlay District at 261 Frederick Street. 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 public review meeting for this proposal was held by the Planning Commission on October 27, 2009. No comments were received. A positive recommendation on the proposal was forwarded to the Mayor and Council. The public hearing for this proposal was held on December 22, 2009. There was no public testimony and no other comments were received during the 10 day period that the record was held open.

The introduction of the ordinance for approval is scheduled for January 26, 2010.

### Comprehensive Zoning Map Amendments Phase III

Kathleen Maher, Planning Director, Stuart Bass, Comprehensive Planner, and Alex Rohrbaugh, Planner, presented Phase III of the Comprehensive Zoning Map Amendments to the Mayor and City Council for their consideration.

These recommendations are the result of a lengthy and arduous review by the Planning Commission. A public review meeting was held on October 20, 2009. The Commission then took the comments reviewed under advisement, and along with the recommendations from the Comprehensive Plan, formulated the proposed zoning changes.

The proposed changes are as follows:

1. Area 1      End of Insurance Way - C2 to POM
2. Area 2      Hagers Crossing - C2, C4 & AT (PUD Overlay) to R2 (PUD Overlay)
3. Area 3      Hagers Crossing, Lot 7; Garland Groh Blvd. – C2, C4 to C4, C2
4. Area 4      Entrance of Collegiate Acres – R2 to R3
5. Area 5      MD 58 at I-81 Interchange – R1 to C2, IR, C4
6. Area 6      Outer Drive, west of Bramly – R1 to R3
7. Area 7      1413 and 1501 Pennsylvania Avenue – R1 to C1

Because one of the property owners made a specific request for zoning, Councilmember Haywood would like to review this area further. Councilmember Breichner would recommend rezoning this area.

8. Area 8      South side of Northern Avenue – C2, R1 to C1



9. Area 9 Belview, Hillcrest, St. Clair – R2 to R1, R3
10. Area 10 Florida Avenue, Central Chemical – IG to POM
11. Area 11 Burhans Blvd. N. – IG to IMU
12. Area 12 East side of Mitchell Avenue – IR to R2
13. Area 13 Deerfield Knolls – C2, PUD to R2, PUD
14. Area 14 East side of Carrollton Avenue – IR to R2
15. Area 15 419, 420-422 Salem Avenue – R2 to C2
16. Area 16 Townhouses on Burhans Blvd., corner of W. Antietam Street – C2 to R2
17. Area 18 Gateway Crossing – R3 to R2
18. Area 19 Burhans Blvd. & Eutaw Street – IG to C1
19. Area 20 Wash. Co. Human Development Council – IG to R2
20. Area 21 300-600 Burhans Blvd. S. – IG & R2 to C2 & R2
21. Area 22 CSX & Startzman on Wesel – C2 to IF
22. Area 23 Area behind Valley Plaza – C2 to C4, IG
23. Area 24 1200 Block Maryland Avenue – C2 to POM
24. Area 25 Corner of Belview and Pennsylvania Avenue – R1 to C2

A public hearing is scheduled for February 23, 2010.

#### **CITY ADMINISTRATOR'S COMMENTS**

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

#### **MAYOR AND COUNCIL COMMENTS**

*Councilmember F. Easton* asked for an update of the task forces that have been meeting. *Mr. Zimmerman* stated reports are being scheduled for February and March.

*Councilmember A. C. Haywood* urged people to consider donating to the Haiti relief efforts. She thanked former Mayor Steve Sager for attending this meeting.

*Councilmember L. C. Metzner* had no additional comments.

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

*Councilmember M. E. Brubaker* had no additional comments.

*Mayor R. E. Bruchey, II* had no additional comments.

#### **EXECUTIVE SESSION – January 19, 2010**

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 meet in closed session to discuss the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation or performance

evaluation of appointees, employees, or officials over whom it has jurisdiction, #1 at 6:18 p.m. in the Council Chamber, 2<sup>nd</sup> 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. Easton, Councilmember A. C. Haywood, Councilmember L. C. Metzner, City Administrator Bruce Zimmerman, and Alfred Martin, Finance Director. The meeting was held to discuss retiree health insurance and who would be eligible for coverage. No formal action was taken at the meeting. On a motion duly made, seconded and passed, the meeting was adjourned at 6:52 p.m.

Respectfully submitted,

Donna K. Spickler, City Clerk  
(by video)

Approved: February 23, 2010