

WORK SESSION AND EXECUTIVE SESSION – February 2, 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 4:05 p.m., Tuesday, February 2, 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, City Attorney Mark Boyer and D. K. Spickler, City Clerk.

Neighborhoods 1st Month Proclamation

Mayor Bruchey read a proclamation naming February, 2010 as Neighborhoods 1st Month.

Red Light and Speed Enforcement Camera System

Chief Arthur Smith, Hagerstown Police Department, Rodney Tissue, City Engineer, and Charles Callari, American Traffic Solutions (ATS), presented information about red light and speed enforcement cameras. Proposed for consideration would be a limited number of speed cameras installed at certain city school locations as a fixed deterrent to speeding at the schools. A potential red light system was also discussed. These cameras would be fixed in a location in order to deter violations.

Mr. Callari stated ATS's mission is to increase public safety by providing customers with self-funding transportation and traffic safety solutions. There would be no out of pocket expense to the City of Hagerstown for the installation and maintenance of the equipment. ATS has the ability to install several different triggering mechanisms. When a violation is noted, the information is sent to the base in Arizona. After determining the registration information is accurate, the violation is sent to the relevant police department for final review before the violation is sent to the violator. ATS equipment is capable of capturing simultaneous violations. ATS has a copyright on collision avoidance technology. With this technology, the computer senses the violation and holds the light to avoid an accident.

The typical fee retained by ATS per paid violation is between 20% to 39%. This percentage is negotiable.

Councilmember Easton asked how many cameras would be placed. It is estimated there would be 5 to 10 cameras. Chief Smith indicated the cameras would be located in high violation areas. The violations would be a civil infraction, like a parking a ticket. The violation goes with the vehicle, not the driver.

Councilmember Metzner suggested that the proposal be reviewed by the Board of Traffic and Parking. He thinks the program should be pursued but with appropriate

signage. This program should not be viewed as a revenue generator. It should strictly be for public safety. Councilmember Brubaker agreed, and asked that Mr. Callari discuss this program with the Washington County Commissioners. He is concerned that people won't come to Hagerstown if it is the only place in the County that has these cameras.

It was the general consensus to have the Board of Traffic and Parking review the program. Additional information will be obtained in order to develop a specific proposal for further review.

Stormwater Utility Fees

Rodney Tissue, City Engineer, reported that over the past several months, staff has discussed the idea of implementing a "stormwater utility" fee within the City of Hagerstown. A fee of this nature would diversify the City's revenue and assist in addressing the current budgetary shortfalls.

Stormwater utility fees are charged in many cities throughout the United States. Annapolis, Charles County, Montgomery County, Rockville, Silver Spring and Tacoma Park have all implemented fees.

A stormwater utility fee is a method for the City of Hagerstown to recover the costs for the services that are provided to satisfy the public need regarding stormwater management and compliance with State and Federal stormwater management regulations. This fee would be structured to recoup the costs fairly and equitably. If no utility fee is enacted and collected, all stormwater related activities within the City will continue to be financed by the general fund.

When property taxes are used, the greater burden of funding stormwater activities falls on residential homeowners. The idea of a stormwater utility fee shifts the burden to property owners who contribute the most runoff. By using a stormwater utility fee that is based on a property's impervious area, residential properties will pay less than half of the total collected. That is equitable because single-family homes account for less than half of the City's impervious area. The Engineering Department could determine the amount of impervious area on every parcel in the City and charge the parcel a utility fee based on the number of Equivalent Residential Units the parcel contains.

The City of Hagerstown conducts the following items that may qualify as stormwater management expenses: storm drain inlet and pipe maintenance and replacement, inspection of public storm drains, inspection of stormwater management detention facilities that reduce flooding, pollution and stream erosion, stormwater inspections at construction sites, review and approval of stormwater management for new developments, address drainage problems across the City and street sweeping. All of these stormwater items are not only expensive to conduct and complete, but the City is faced with satisfying new water quality protection requirements set forth by the Environmental Protection Agency.

The City collects fees from new developments, funding approximately \$ 10,000 to \$ 30,000 annually for City stormwater management activities. The City will continue to collect developer fees and seek grants; however, the current program costs and the level to meet the upcoming mandates or provide replacement for the storm drainage infrastructure vastly exceeds what the general fund can currently afford.

Mr. Tissue indicated there is a possibility that funds from this program could be used to replace the curbs in the City, as will be discussed when the Curb and Sidewalk Task Force makes their presentation.

Councilmember Haywood pointed out that the fee would affect commercial uses more significantly than residential uses.

Councilmember Metzner is concerned that a reduction in the County tax rate is being implemented and the City is considering imposing a new fee. He thinks the County should be asked to participate in this program.

Councilmember Brubaker stated this fee would add to the perception that Hagerstown has a large number of fees.

Councilmember Haywood stated it would be good to discuss the real cost of services.

Councilmember Metzner suggested it may be better to do something like this jointly with the County and other municipalities.

It was the general consensus to not move forward with the fee at this time. However, staff should continue monitoring the regulations.

Sidewalk Task Force Report

In June 2009, the City Council approved the creation of a Sidewalk Task Force. Although the Task Force discussed many issues and ideas related to the maintenance and replacement of curbs and sidewalks throughout the City, the Council specifically directed the Task Force to consider if the City should take over the responsibility of replacing curbs and sidewalks, and possible financing of such a program.

Rodney Tissue, City Engineer, reported the Task Force members were present at the meeting to offer their findings. The specific recommendations were presented and the Task Force and staff would request that the Mayor and Council consider them and authorize staff to implement the recommendations. Joe Marschner, Chairman, presented the following recommendations:

1. The City of Hagerstown should not resolve to take responsibility for the repair or maintenance of sidewalks in the City. The Task Force feels that sidewalk repair and maintenance should remain the responsibility of the adjoining property owner.

2. Based on research by the City Attorney, it is likely that any “Curb and Sidewalk Fee” created by the City would be ruled a tax, and therefore unconstitutional. The City would have to seek enabling legislation from the State to impose such a fee. However, if the City moved to take over responsibility of curb systems as a part of the stormwater management system, a stormwater fee could be charged without seeking enabling legislation because the State has already authorized municipalities to charge this fee.
3. The City should consider taking responsibility for construction, repair and maintenance associated with curbs in the City, as, in the opinion of the Task Force, curbs should be considered a critical part of the drainage system and an essential part of the City’s storm water management system. Before any consideration to take over the responsibility for curb construction, repair and maintenance a cost estimate should be prepared. They also recommended that a periodic cost analysis be performed.
4. The fee mentioned previously should be considered as a “Storm Water” fee, and be assessed to all property owners to cover the cost of the program. Property owners would be relieved of significant curb replacement costs and instead pay a relatively small fee over time. This fee could appear on the quarterly water bill. The storm water fee could be based upon a water runoff factor for the property rather than linear footage of curb.
5. Curb and sidewalk replacements that are part of larger street reconstruction projects continue to be the responsibility of the City.
6. Recommend that the City undertake an educational campaign, designed to inform the public of the need for sidewalks and curbs in any municipality, and to inform them of their legal responsibilities in maintaining sidewalks according to City ordinances.
7. Pilot programs be set up in the City to study alternative sidewalk construction materials.
8. Continue to seek grants through programs such as “Safe Routes to School” and other programs to further enhance the City’s sidewalk system.

Mr. Marschner stated the group discussed how to deal with recently replaced sidewalks if the City decides to implement some of these recommendations. No consensus was reached.

Mark Boyer, City Attorney, stated a sidewalk fee would most likely be considered a tax and would require enabling legislation. Considering the curbing as part of the

stormwater system would be a progressive approach. He suggested contacting the Attorney General for an opinion on this approach.

It was the general consensus to ask for an opinion before considering the sidewalk issue further. The Mayor and City Council thanked the Task Force members for their service.

City Financial Investment – Washington County Library Reconstruction

Rodney Tissue, City Engineer, provided information highlighting the City's costs associated with the reconstruction of the Washington County Free Library.

The City Council had previously authorized up to \$ 1.5 million to be conveyed to the Washington County government for the acquisition of land needed to expand the library facilities. This money will be conveyed to the County when the land acquisitions are complete and the County submits invoices to the City.

The storm drain system in East Antietam Street is aging and undersized. Several years ago when the Potomac Square development was contemplated, the City committed to funding the replacement of the storm drain in Antietam Street so that the development's stormwater management facilities could drain to adequately sized public stormwater conveyance system. This commitment is continuing and CDBG funding has been requested for the storm drain replacement.

While the library has endeavored to minimize the amount of wires that need to be buried, the City Light Department will bury some wires and move certain poles. The City Utility Director has indicated this cost will be billed to the project and not absorbed by City Light.

The Mayor and Council may want to consider improving Cramer Alley beyond the work that will be completed through the library project. Overlaying the alleys would cost between \$ 15,000 and \$ 25,000. Rebuilding the remaining portions of the alley would be between \$ 75,000 and \$ 90,000. Improvements to the alley are only included in the project to the point of servicing the parking lots to the new library.

Since the project is a government funded project, the city is required to waive the building permit fees. The estimated fees that will be waived are \$ 125,115. City staff must still conduct dozens of related building code inspections and permit inspections. Councilmember Haywood asked why inspections would be done on a state funded project. Mr. Tissue indicated inspections will be conducted to ensure the project meets the City's codes.

Councilmember Brubaker asked what plans have been made for the Massey property. Councilmember Breichner mentioned the showroom may be saved. Mr. Tissue indicated the long building would be demolished.

The funding commitment from the City of Hagerstown is \$ 1.5 million and this amount is included in the CIP budget. Councilmember Metzner wondered if the stormwater drain upgrade could be included in the total of the City's commitment to the project.

Councilmember Metzner stated he understood the City's commitment was imperative to the library remaining downtown. The anticipated cost for property acquisition was \$ 1.5 million.

Bruce Zimmerman, City Administrator, stated the previous administration had agreed to commit \$ 1.5 million for property acquisition. Then, in June at a meeting at the library, members of this administration discussed the City being no longer responsible for the acquisition but still committing the \$ 1.5 million toward the project.

Councilmember Brubaker thinks the money needs to be in place in order to keep the library downtown. The stormwater drain repair is in addition to the original commitment. He wants to ensure the City's commitment is not used to locate a branch outside the downtown area.

Councilmember Haywood would like the permits department to be able to combine the expenses for inspections and reduce the fees that are charged for this project.

Councilmember Breichner stated a way to reduce the cost to the City would be to not upgrade the additional portion of the alley.

A fifteen minute recess was taken at this time in order to reset the sound system.

Councilmember Easton stated no additional funds have been approved by this administration to ensure a downtown library. He believes the discussion that was held at the library should have been scheduled for discussion at a Mayor and Council meeting. The project is a County project and the City will not be able to dictate how the project is completed.

Mr. Zimmerman stated the \$ 1.5 million commitment to the project was previously discussed by the Mayor and Council in a public session. This funding has been included in the City's budget for several years. He would expect the County to provide a cost accounting to the City to show where the \$ 1.5 million was spent and that the staff would advise the Mayor and Council at a future work session of this information from the County.

Councilmember Brubaker suggested not making a final payment until the City is assured its costs will not exceed \$ 1.5 million.

It was the general consensus to continue including the \$ 1.5 million for the library expansion in the bond issue and budget. If there is a request for the City to contribute

beyond this amount for an alternate location or any other expense, it would be discussed by the Mayor and Council at a work session.

There was some discussion about the County being approached about completing the 200' of the alley that is not included in the project.

Memorandum of Understanding (MOU) – Improvements to Broadfording Road
(Between Salem Avenue/MD Rt. 58 and Hollyhock Road)

Rodney Tissue, City Engineer, was present to discuss a memorandum of understanding (MOU) for improvements to Broadfording Road.

There are three entities that have invested in land east of Broadfording Road within the City of Hagerstown. The properties are in the corporate limits, but Broadfording Road is maintained by Washington County. Specifically they are 2003 Salem Avenue LLC (A C & T); Venetian Investments LLC (Venetian); and in addition I-81 Hollyhock LLC (UNIWEST) who constructed the Shoppes at Hagerstown (where the Best Buy and other stores are presently located).

To be able to develop the lands east of Broadfording Road and for UNIWEST to obtain complete occupancy of their shopping center, reconstruction and widening improvements must be made to Broadfording Road. These improvements are extensive and are more than any one developer could finance, so a “road club” was conceived where the developers would work together with the City and the County to make the road improvements a reality. The MOU documents the understanding between the parties.

The main points of the MOU are as follows:

1. UNIWEST has committed \$ 366,934.67 to the road improvements.
2. The road improvements are shown on a plan prepared by Frederick Seibert & Associates.
3. The County has committed \$ 250,000 towards the road improvements, as previously approved by the County Commissioners.
4. The developers will donate any required additional right-of-way for the widening of Broadfording Road.
5. The developers have agreed to the complete reclamation of the existing pavement and the widening of the road to 4-lanes. In addition, a traffic signal will be installed at the main entrance to the shopping center.
6. Upon receipt of the \$ 250,000 from the County, the City will accept the road. The road will be either upgraded by the developers and the City will transfer the County money to the developers, or in the worst case scenario, the City will use the County's money to reclaim the road without the widening.
7. The end goal of this MOU would be to allow the developments to move forward and for the governments to ensure that Broadfording Road is improved as needed.

It was the general consensus to include approval of the MOU on the February 23, 2010 agenda.

Salem Avenue Collection System Rehabilitation

Michael Spiker, Director of Utilities, and Rodney Tissue, City Engineer, were present to provide an update on the progress of the Salem Avenue Collection System Rehabilitation project. This project will address the partial collapse of the wastewater collection system main, the defective lateral connections, and the associated Inflow and Infiltration (I&I) of system related flow on Salem Avenue from Winter Street to Burhans Boulevard. The project was budgeted at \$ 1,042,000 and the City was notified that it will receive up to \$ 1,000,000 in 0% interest loan monies from the MDE. The EPA/MDE mandated the use of the Davis Bacon wage scale for all federal/state funded water and wastewater projects. The City was required to submit a change order in order to meet the mandate. The City will be submitting a request for an additional \$ 78,844.94 from the initial MDE funding package. A resolution will be introduced later this month to accommodate the request for additional funding.

The start of the project has been delayed until March 1, due to the recent weather. Substantial completion will still be 300 days (December 26, 2010). During construction, both lanes of Salem Avenue will be closed during the day. On evenings and weekends, one lane will be open. City Staff will deliver project information to the residents in the area later this month. The Engineering Department will assist in the displaced parking issue by securing off street parking for those who may be temporarily affected.

CITY ADMINISTRATOR'S COMMENTS

Bruce Zimmerman, City Administrator, reported a conference call will be held with The Ferguson Group on February 8, 2010 to determine funding needs for the coming year. Kareem Murphy and Melissa Hyman, The Ferguson Group, will be at the Mayor and Council meeting on February 16, 2010 to discuss the needs. Members of the Mayor and City Council will be scheduled to meet with the federal legislators on February 24, 2010 or February 25, 2010.

MAYOR AND COUNCIL COMMENTS

Councilmember M. E. Brubaker had no additional comments.

Councilmember W. M. Breichner attended the ribbon cutting at the Central Booking facility. This project was started a long time ago and he thanked Chief Smith and Sheriff Mullendore for their work on the project.

Councilmember L. C. Metzner had no additional comments.

Councilmember A. C. Haywood had no additional comments.

Councilmember F. Easton had no additional comments.

Mayor R. E. Bruchey, II reminded everyone that the third annual Utility Relief Benefit concert will be held on Thursday, February 4, 2010 at 7:00 p.m. at the Maryland Theatre. It was the general consensus of the Mayor and City Council to have a tribute to Black History Month on Channel 6. The Central Booking facility will allow officers to return to the street much faster than they have been able to in the past.

EXECUTIVE SESSION – February 2, 2010

On a motion duly made by Councilmember W. M. Breichner and seconded by Councilmember F. Easton, the Mayor and City Council unanimously agreed by voice vote to meet in closed session to consider the acquisition of real property for a public purpose and matters directly related thereto, #3; 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 and to conduct collective bargaining negotiations or consider matters that relate to the negotiations, #9 at 7:05 p.m. in the Council Chamber, 2nd 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, City Attorney Mark Boyer, Michael Spiker, Director of Utilities, Nathan Fridinger, Interim Electric Operations Manager, Donna Frazier, Director of Human Resources, Ray Foltz, Assistant Finance Director, and Donna Spickler, City Clerk. The meeting was held to determine interest in acquisition of a building, discuss retiree health insurance and who would be eligible for coverage and to determine a procedure for contract negotiations. No formal action was taken at the meeting. On a motion duly made, seconded and passed, the meeting was adjourned at 8:09 p.m.

Respectfully submitted,

Donna K. Spickler, City Clerk

Approved: March 23, 2010