

46<sup>th</sup> SPECIAL SESSION, WORK SESSION AND EXECUTIVE SESSION – February 13, 2007

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Mayor Robert E. Bruchey, II called this 46<sup>th</sup> Special Session, Work Session of the Mayor and City Council to order at 4:03 p.m., Tuesday, February 13, 2007 in the Council Chambers at the City Hall. Present with the Mayor were City Council Members M. E. Brubaker, K. S. Cromer, L. C. Metzner, P. M. Nigh, and A. Parson-McBean, City Administrator Bruce Zimmerman, City Attorney Mark Boyer, and City Clerk D. K. Spickler.

On a motion duly made by Councilmember K. S. Cromer and seconded by Councilmember M. E. Brubaker, the Mayor and City Council unanimously agreed by voice vote to meet in Special Session at 4:03 p.m.

**Introduction of an Ordinance – Sale of Tusing Warehouse Building**

**Action:** Councilmember L. C. Metzner made a motion to introduce an ordinance to consider the sale of the property located at 58 East Washington Street, known as the Tusing Warehouse to City Theater, LLC, a Limited Partnership, for the sum of One Hundred Ten Thousand Dollars (\$110,000), and in accordance with other terms and conditions outlined in the contract of sale. Councilmember K. S. Cromer seconded the motion.

Discussion: The contract includes the changes discussed by the Mayor and City Council. Councilmember Metzner stated the Council made a commitment to Mr. Stamper and he wants to make sure all the conditions are met.

Motion carried, 4-1 with Councilmember P. M. Nigh voting No.

The Special Session was then adjourned.

Work Session – February 13, 2007

Mayor Robert E. Bruchey, II announced the order of the meeting will be changed from the published agenda.

Update on Impact of Adequate Public Facilities Ordinance (APFO) and Excise Tax

Kathleen Maher, Planning Director, was present to discuss the impact of the APFO and Excise Tax on City developments. When the Mayor and City Council adopted the Adequate Public Facilities Ordinance for schools on April, 25, 2006, the APFO included an article that mandated periodic reports to the Mayor and City Council to “periodically review whether there is a continuing need for this Ordinance or suggested amendments at

an open, public, advertised meeting.” The APFO ends with a clause which states: “If at any time this Ordinance becomes detrimental to the ability of the City to administer its policies and goals affecting growth and development in the City, that it may repeal in part or in total this Ordinance and if so repealed it may no longer retain 28% of the County excise tax collected within the City.”

Since the City’s APFO went into effect on May 25, 2006, eight proposed new residential developments have been affected by the APFO and the capacity issues at the schools which serve the City of Hagerstown and the surrounding area. Of the eight, three were approved, with only one being approved with sufficient capacity at all school levels to serve the development. Three projects have been stalled due to school capacity problems until the developers can devise a mitigation program acceptable to the County Commissioners. One project was abandoned and one project has been significantly constrained.

Of the twelve elementary schools which serve Hagerstown, only two have available capacity for new development. While all four middle schools which serve Hagerstown have available capacity for new development, E. Russell Hicks is in a crunch condition with only 35 seats available. Of the three high schools which service Hagerstown, two have limited capacity available.

The County Commissioners have begun to review their CIP Committee’s working draft of the Capital Improvement Program, which includes school construction projects for six schools that would serve Hagerstown.

The draft CIP for school construction will not create new capacity to any significant degree that would allow approval of new City subdivisions, unless the revitalization clause of the APFO is used. Construction of replacement schools does not create sufficient capacity to handle both the current over-crowding at the schools to be replaced and make room for students that are coming from in-progress development and developments waiting for APFO approval.

Over the past 18 months, the Washington County Commissioners and the Board of Education have struggled with the issue of mitigation plans to allow new development to move forward with developer contributions even though insufficient capacity exists at the schools to serve the development. As of this date, the Board of Education does not have a mitigation policy that would allow them to recommend approval of a project unless the capacity was in place to serve it.

It has been highlighted, in staff’s introductory presentation on the budget, excise tax revenue and development review fee revenue were significantly below expected levels for the first half of FY 2007 and are not projected to meet expectations for the last half of FY 2007. The City’s share of the excise tax revenue for FY 2006 was \$ 1,036,633 and for the first half of FY 2007 was only \$ 181,645.

Unless CIP construction occurs and/or developer-funded mitigation plans are approved by the County Commissioners, the APFO will also negatively affect the City's ability to collect excise tax revenues in the future, since new development cannot be approved unless the school capacity situation is addressed.

Staff recommendations are as follows:

1. Forward a recommendation to the County Commissioners that the North City elementary school be moved into the CIP and, if necessary, the Bester replacement school be moved back.
2. Strongly urge the County Commissioners to produce a model, or models, for an acceptable mitigation program that would allow new developments to move forward through the APFO.
3. The Mayor and City Council reach out to the new Board of County Commissioners to advocate for the importance of the revitalization section (Sec. 9.3A) of the APFO for the City of Hagerstown.

Councilmember Brubaker suggested exploring ways that both the North City elementary school and the Bester replacement school could be completed on schedule. He wants to give the Board of County Commissioners time to work through the budget. He appreciates staff making the recommendations but he would rather send a letter stating the Mayor and City Council recognize the County issues and points out the capacity issues for the City. Councilmember Metzner and Councilmember Cromer agreed.

It was the general consensus of the Mayor and City Council to send a letter to the County Commissioners pointing out the issue of schools being over capacity.

#### Update on Road Projects – Eastern Boulevard Extension and Developer Improvements to MD Rt. 60/Eastern Boulevard

Rodney Tissue, City Engineer, was present to review the status of traffic-related issues and to update the Council on certain road projects.

Staff wishes to justify the need for the extension of Eastern Boulevard North and establish the next steps toward getting the project built. Staff wishes to continue to raise awareness of traffic related concerns in the north end of Hagerstown. Ultimately, staff feels that the Council needs to support a cooperative effort with the County to get the extension of Eastern Boulevard built from the YMCA to Marsh Pike.

Volumes on Potomac Street, MD Rt. 60 and the County's portion of Eastern Boulevard rose as much as 150% immediately after the City opened the portion of Eastern Boulevard between Jefferson Boulevard and the Dual Highway in 1989. Volumes are steadily increasing on these roads. Approved development in the City and County is projected to increase traffic volumes by as much as 75% in the subject area in the next five years. If the Eastern Boulevard extension was opened today, it is expected about 10,000 vehicles per day would immediately use it. This would take significant

pressure off the Rt. 60/Eastern Boulevard intersection, basically keeping the future volumes and “level of service” at the intersection steady even with development.

After extensive study of traffic conditions and proposed traffic generated, the Stone House Square Development was required by the Maryland State Highway Administration and the City’s Engineering Department to make extensive improvements to MD Rt. 60. Staff directed Stone House Square developers toward making these improvements to MD Rt. 60 in lieu of collecting any funds towards the extension of Eastern Boulevard.

Staff has estimated the total design and construction cost for the Eastern Boulevard extension to be \$ 5,865,000 (not including right-of-way which is valued at over \$ 1,5000,000). The current proposed funding plan shows that 25% of the funds for the project would be from the City, 25% from the County and the other 50% from the development community.

The Eastern Boulevard extension will eventually be within the City of Hagerstown adjacent to annexed land. Therefore, staff believes this road should be built as a City “arterial class” road (a four lane section within a 100’ right-of-way). Because of this, the County has indicated that they wish for City staff to take the lead on this project by acquiring the right-of-way, taking the lead on design and right-of-way acquisitions, etc. It would be helpful for Council to provide input on this funding plan and if they endorse having City staff take the lead role on this project.

Mr. Tissue recommended the following “next steps” for this project:

1. City and County staff actively obtain the needed right-of-way
2. The City hire a designer to complete the construction drawings utilizing funding from the City, County and the developers
3. Elected officials finalize a cost-share funding plan to make the road a reality
4. The Board of Traffic and Parking can be used to hold public meetings to relay the information to the public on this project when the time is appropriate

Councilmember Metzner stated the Board of Traffic and Parking have determined this is the most pressing road issue facing the City at this time. Mayor Bruchey stated some people believe the Southern Bypass is the most important road issue, but it is not. A meeting is being held next week with the Greater Hagerstown Committee transportation committee.

Councilmember Brubaker stated this should not be a stand alone project. This needs to be discussed with the County to determine what should be done from Jefferson Boulevard to the YMCA. He asked if there are other options to review instead of a four lane roadway. He believes the intersections will be very costly. He would like to review this again during the consideration of the CIP budget. The City’s share would be \$ 600,000.

Councilmember Nigh is concerned that Greater Hagerstown, a non governmental agency, is making recommendations. Councilmember Cromer stated they are a private entity but she is concerned when they talk to legislators and discuss City projects and priorities.

Mayor Bruchey stated he thinks it is important for citizen groups, such as the Chamber of Commerce and Greater Hagerstown, to stay involved with the City and the County. They sometimes have resources and time to investigate issues.

It was the general consensus to move forward with public informational sessions through the Board of Traffic and Parking.

#### Proposal to Modify Vehicular Access – Arts & Entertainment District Parking Deck

Rodney Tissue, City Engineer, reported the Arts & Entertainment District Parking Deck is complete and open for public use. The permit holders have been using the deck for about five months, and the general public has been using the deck for about three months.

In November 2004, Mr. Tissue presented the following plans to the Mayor and City Council:

1. Long Term Parking Deck Access Plan which would be implemented in 2009 (after the building at 23 East Washington Street is removed) and create a two-way street to the deck from Washington Street.
2. The Short Term Parking Deck Access Plan which utilizes the existing alley system from Washington Street, Locust Street and Antietam Street. Alley 3-42 is one-way from Washington Street to Antietam Street and Alley 3-43 is two-way from Locust Street to Alley 3-43 (although it is marginally wide enough for two vehicles to pass).

Now that the deck is open, the Engineering Department recently received feedback that a portion of alley 3-42 should be made one-way north (toward the deck) from Antietam Street. This modification may allow motorists to locate the deck easier. This change will mean there are two alleys inbound toward the deck and only one outbound toward Locust Street.

It was the general consensus to change the alley direction and to provide adequate signage. A resolution will be scheduled for passage at the February 27, 2007 meeting.

Councilmember Metzner left the meeting at this time.

#### United States Geological Survey (USGS) Agreement

Michael Spiker, Director of Utilities, stated the U.S. Geological Survey (USGS) Maryland, Delaware, District of Columbia Water Science Center, a division of the US

Department of the Interior, proposes to install and maintain a gauging and water-quality monitoring station inside the R. C. Willson Water Treatment Plant at Williamsport, Maryland. The purpose of this installation is to monitor raw river water for chemical and biological contaminants to be used as part of an early-warning system for Hagerstown and other downstream public-water supply intakes. The USGS will install the equipment.

The USGS agrees to supply up to 4 parameters of real time data to the water plant's SCADA system at no charge. The electrical usage for the equipment will be supplied by the City of Hagerstown at an approximate cost of \$ 5.00 (five) per month. The agreement is for a term of five (5) years and contains provisions that will revert ownership of the installed equipment to the City of Hagerstown upon approval by both bodies. Legal Counsel has reviewed the contract and is satisfied with the language of the document.

It was the general consensus of the Mayor and City Council to include approval of the agreement on the agenda for February 27, 2007. Mr. Spiker was instructed to have the agreement executed, prior to the formal approval.

#### Play Camp Operations for the 2007 Season

This discussion was postponed until February 20, 2007.

#### Cluster Development Text Amendment #3, ZT-2006-05 Professional Office/Mixed Zoning District and Proposed Zoning Text Amendments

Stuart Bass, Comprehensive Planner, stated public hearings were held on these three text amendments on January 30, 2007. No additional comments were received.

Councilmember Brubaker asked if Section 68-14, should read that no more than 33% of the structure shall be a residential use. Mr. Bass indicated he had researched the file and had not found other information about the amendment or accompanying discussion. Councilmember Brubaker will discuss this with the Planning Staff.

It was the general consensus of the Mayor and City Council to schedule introduction of these three ordinances for February 27, 2007. The question raised by Councilmember Brubaker will be clarified.

#### City Administrator's Comments

*Bruce Zimmerman, City Administrator*, stated departments have met and coordinated their snow removal operations in preparation for the ice and sleet that is forecast for the area. He complimented the Planning Department on the first issue of their newsletter.

#### Mayor and City Council Comments

*Councilmember P. M. Nigh* had no additional comments.

*Councilmember K. S. Cromer* is glad to see a Community Rescue Service crew in place at a fire station in the City. She attended a meeting with Governor O'Malley on February 12, 2007 at the Maryland Correctional Facility.

*Councilmember M. E. Brubaker* also attended the meeting with Governor O'Malley. The City will need the cooperation of the State for projects downtown.

Councilmember Cromer stated the Governor commented there were two options for a healthcare facility in downtown Hagerstown. One is to keep an urgent care facility at the existing site. The other is to have an emergency room facility at the current site. After the meeting at the correctional facility, there was a private meeting held at Robinwood, which Mayor Bruchey and Councilmember Cromer attended, at the governor's invitation. Members of the Mayor and Council and Washington County Commissioners had not been invited to this meeting.

*Councilmember A. Parson-McBean* reminded everyone that the Martin Luther King Scholarship dinner will be held on February 25, 2007.

*Mayor R. E. Bruchey, II* stated it was refreshing to discuss issues with the governor and the correctional officers. Mayor Bruchey will be meeting with the Washington County Delegation to discuss changing Washington County from a "may" county to a "shall" county. Delegate Donoghue received an award for his assistance in helping people get prescriptions.

#### Executive Session – February 13, 2007

On a motion duly made by Councilmember A. Parson-McBean and seconded by Councilmember K. S. Cromer, the Mayor and City Council unanimously agreed by voice vote to meet in closed session at 5:28 p.m. to consider a matter that concerns the proposal for a business or industrial organization to locate, expand, or remain in the State, #4. No formal action was taken at the session. The meeting was held in the Council Chambers, 2<sup>nd</sup> floor at the City Hall. The meeting was adjourned at 5:33 p.m.

Respectfully submitted,

Donna K. Spickler, City Clerk

Approved: \_