

WORK SESSION – February 16, 2010

Mayor R. E. Bruchey, II called this Work Session of the Mayor and City Council to order at 4:07 p.m., Tuesday, February 16, 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, City Attorney William Nairn and D. K. Spickler, City Clerk.

Preliminary Agenda Review

Consent Agenda

- A. Community Affairs: Open Containers Law Exemption for BluesFest (June 3-5, 2010), Augustoberfest (August 21-22, 2010) and Thursday City Center Jazz Nights (June 10, 2010, June 17, 2010, June 24, 2010, July 1, 2010 and July 8, 2010)
- B. Public Works:
 - 1. LED Pedestrian Signal Lights – RGA, Inc. (Powhatan, VA)
\$ 26,912.00
 - 2. Emergency Purchase: HVAC Unit Replacement for Elizabeth Hager Center – M. S. Johnston Company (Hagerstown, MD)
\$ 30,514.00
- C. Wastewater Department:
 - 1. Grinder Pump – Fluid Solutions (Westminster, MD) \$ 40,000.00
 - 2. Emergency Purchase: Cooling Pump Replacement – STH (Frederick, MD) \$ 11,275.00
- D. Parks:
 - 1. Mowing and Trimming Contract – 4 Year Contract – 2007 through 2010 – Ground Envy (Hagerstown, MD) \$ 78,320.40 for all four seasons (2010 Season \$ 21,610.00)
 - 2. Mowing and Trimming – Fairgrounds Park and Hager Park – D & D Lawn Services (Smithsburg, MD) \$ 11,325.00
 - 3. Installation of Underground Service to Field Lights at Municipal Stadium – Ellsworth Electric, Inc. (Hagerstown, MD) \$ 54,900.00

Introduction of an Ordinance: Permit Fees for Plumbing and Electrical Permits

John Lestitian, Director of Code Administration, reported trade permit fees are established in the budget fee schedule. These fees are considerably lower than what other municipalities charge. Commercial and new construction activity is down; however, renovation and remodeling work is up. The result is nearly the same level of activity for

staff with a fraction of the revenue to pay for the services. Staff recommends amending the fee schedule, increasing permit fees for certain plumbing and electrical jobs.

Councilmember Breichner expressed concern that contractors will pass any increase on to their customers. Councilmember Easton asked for a comparison of the number of permits issued by the City of Hagerstown and Washington County. Mayor Bruchey mentioned that the cost of a permit might be offset in other locations through the tax rate. Councilmember Haywood is not supportive of increasing the fee in order to increase revenue.

This will be discussed at a later date.

Introduction of an Ordinance: Amendments to the Nuisance Abatement Ordinance

John Lestitian, Director of Code Administration, reported that current restrictions regarding abatement of high weeds and grasses on private property in the nuisance abatement ordinance result in a negative impact on neighborhood vitality and increased complaints from area residents. Staff is recommending adjusting the waiting period for high weeds and grasses to address the negative impact. A first violation would have 7 days to abate, a second violation would have 5 days to abate and the third and beyond would be 1 day to abate.

It was suggested to change the wording to “in any one calendar year” rather than “any calendar year” to make it clear. Councilmember Easton asked for an actual number of violations.

It was the general consensus to move forward with this ordinance.

Introduction of an Ordinance: Public Sidewalks, Chapter 216, Public Way Chattels

John Lestitian, Director of Code Administration, stated that yard sales, sidewalk sales, and other storage of chattels (personal property, items which are moveable) on public sidewalks are unregulated. Sidewalks are blocked, are unsightly and subsequent conditions have a negative impact on neighborhood vitality and public safety. Complaints from area residents remain unresolved. The City has no remedy (short of seeking injunctive relief in the Circuit Court) to deal with these situations. Staff recommends amending Chapter 216 by adding a section titled Sidewalk – Chattels Prohibited. This amendment establishes reasonable restrictions on the use of public sidewalks in regards to chattels, providing businesses and owners the opportunity to have yard sales, sidewalk sales, etc. but avoiding negative impacts on the surrounding areas and maintaining public safety.

Councilmember Metzner asked if this ordinance would make signs on sidewalks and planters in violation. Mark Boyer, City Attorney, stated the ordinance would permit a maximum area of 4' without encroaching on a 3' sidewalk.

Councilmember Haywood expressed concern that the ordinance is too lenient if the property is maintaining the clearance.

Councilmember Brubaker stated there should be something in the ordinance regarding the time merchandise is out in a residential setting also. Councilmember Metzner supports the concept but clarifications are necessary.

An amended draft will be presented at a later date.

Approval of a Resolution: Mutual Aid Agreement with Frederick County Sheriff's Office and Approval of a Resolution: Mutual Aid Agreement with Frederick City Police Department

The purpose of these agreements is to provide mutual assistance in cases of police action involving emergencies or investigations that exceed the limitations of the Hagerstown Police Department. This agreement will increase the level of service to the public and safety to employees through a shared use of personnel and equipment resources. These agreements delineate the responsibilities of each agency and there are no costs associated.

It was the general consensus to move forward with the agreements.

Mr. Boyer left the meeting at this time.

Approval of a Resolution: MDE Financing for Salem Avenue, \$ 79,000.00

This resolution provides \$ 79,000.00 in additional MDE financing for the Salem Avenue Collection System Project. This additional funding is related to Davis-Bacon Act requirements as stated in the resolution.

It was the general consensus to schedule the resolution for approval on February 23, 2010.

This completed the preliminary agenda review.

City Attorney William Nairn arrived at the meeting.

Review of Federal Agenda

Kareem Murphy and Melissa Hyman, The Ferguson Group, were present to review a draft of Hagerstown's Federal Agenda for the coming year. This draft is based on prior year agendas, recent discussions with City staff, and Ferguson's input on likely opportunities for funding.

Mr. Murphy asked the Mayor and City Council to review the list of projects and choose five that would be priorities.

It was mentioned that the Haven Road Extension project needs a clear cost estimate and the \$ 850,000 listed is not enough.

Councilmember Brubaker stated the Eastern Boulevard extension will require assistance from the County. There has to be a clear understanding of whether or not the Mayor and Council will pursue annexing the property or not. This project will be a community betterment project. Mr. Zimmerman indicated, from the City's standpoint, the most important part of the project is the bridge across Professional Court.

Councilmember Metzner stated there is a lot of public support for the Doleman Collection project. He stated it should be included on the list. The funding would not be for a building for the collection, it would be for displaying the collection.

Councilmember Haywood wondered if the City should advocate for one organization and not others. Councilmember Metzner pointed out this is a continuation of a project that has involved almost four years of work.

Councilmember Brubaker stated it would be helpful to continue the precedence that was started. He asked if six projects would be acceptable.

Councilmember Metzner stated it is important to acknowledge that black history is important. Councilmember Easton wondered if the Council was afraid of being called a racist government if it is not included. Councilmember Metzner stated that has been implied in the past; however, this is a project supported by federal officials. He is concerned what message will be received if it is not included in the priority list.

Councilmember Haywood asked what timeframe has been set for the display of the Doleman Collection. Kathleen Maher, Planning Director, indicated the collection inventory should be completed by the end of March, 2010. The feasibility study of their plans should be completed soon.

Other non-profit organizations have been supported by grant money, with a match from the City. Another example of non-profit funding and support is the commitment to the construction of the new library.

The Mayor and Council then agreed to choose six priority projects and include the Doleman Collection in the list.

Councilmember Haywood pointed out that the business projects are not directly controlled by the City. Local banks are not amenable to programs such as the Downtown Small Business Development/Expansion Program. Mr. Murphy stated the Small Business Administration would provide the funding to the City under this program and the City would disburse the money.

Mr. Murphy mentioned that Senator Barbara Mikulski and Congressman Roscoe Bartlett have been interested in law enforcement projects. Chief Smith indicated most of the items on the list last year have been completed. A new project plan could be developed.

Mr. Zimmerman asked that the amount for the water system main project on the authorizations list be increased.

It was the general consensus of the Mayor and City Council to submit requests for the following projects (listed in priority order):

1. Water System Upgrades
2. Eastern Boulevard Corridor/Professional Court Extension
3. Hagerstown Greenway & Streetscape Improvement Project
4. Clean Energy Initiative
5. Doleman Collection
6. Downtown Small Business Development/Expansion Program

Representatives of the City of Hagerstown are scheduled to meet with Senate members on February 24, 2010.

Play Camp Operations for the 2010 Season

Lewie Thomas, Recreation Facilities Manager, reported staff would like to continue with the Hagerstown YMCA, Memorial Recreation Center, Inc. and Girls Incorporated of Washington County for the Summer Camp Program. All three groups met last year's requirements.

Proposed funding is \$ 66,827.00 and is allocated as follows:

Hagerstown YMCA	\$ 34,827.00
Memorial Recreation Center	\$ 17,000.00
Girls, Inc.	\$ 15,000.00

It was the general consensus to approve the camps again this year.

Historic District Commission's Design Review Guidelines

Kathleen Maher, Planning Director, was present to follow up on the September 1, 2009 discussion of the Historic District Commission's review of windows and possible means to address the Mayor and City Council's concerns related to this matter. Copies of the guidelines were distributed to Mayor and Council members. It was suggested that the Mayor and Council advise staff at some future date of any areas of the guidelines they would like to discuss for possible revision.

As presented by staff, the HDC works with two sets of design review guidelines (one for the predominantly residential districts and one for the downtown district) that guide

their reviews of applications for exterior changes in the historic districts. As required by State law, these guidelines follow the model of the Secretary of the Interior's Standards for Rehabilitation. As is common preservation practice, when proposing revisions to windows, the preferred solution is repair. If repair is not possible due to extreme deterioration, the standards call for replacement in-kind. The guidelines offer the following language to address the issue of vinyl replacement windows:

Vinyl or vinyl clad products are generally not considered compatible, and should only be used if the cost of better windows prohibits or restricts an important rehabilitation project. Even then, these materials should only be considered on rear and other facades not visible from public ways.

If the Mayor and City Council are unwilling to continue forward with the wording in the above paragraph and desire to see a revision to that standard, staff would offer for consideration of the following bolded phrase:

*Vinyl or vinyl clad products are generally not considered compatible, and should only be used if the cost of better windows prohibits or restricts an important rehabilitation project. Even then, these materials should only be considered on rear and other facades not visible from public ways, **unless the new window exactly replicates the appearance of the original window in design and in the width and depth of individual window elements.***

The following amended language (February 16, 2010) was also presented for consideration:

*Vinyl or vinyl clad products are generally not considered compatible, and should only be used if the cost of better windows prohibits or restricts an important rehabilitation project. Even then, these materials should only be considered on rear and other facades not visible from public ways. **While it is preferred to retain or replace-in-kind historic windows on front and other facades visible from a public way, aluminum or vinyl clad products may be considered if the new window replicates the appearance of the original window in design and in the width and depth of individual window elements.***

If the Mayor and City Council have no other areas of concern and if the above language would satisfy expressed concerns, staff would schedule the design review guidelines for approval at the next available regular meeting of the Mayor and City Council.

Mayor Bruchey expressed his concern that there is no recourse for an appeal, other than appealing the decision to the court system.

It was the general consensus to use the language noted as February 16, 2010 above and schedule approval of revised guidelines for February 23, 2010.

Boards and Commissions Revisions

Bruce Zimmerman, City Administrator, and Donna Spickler, City Clerk, were present to further review the City Code and Charter sections related to City Boards and Commissions.

A copy of the proposed revisions, based on prior discussions with the Mayor and City Council, was provided to the Mayor and Council for review.

Several questions remain for the Mayor and City Council's consideration that would affect all Boards and Commissions. They are:

1. Process for appointing Board members
2. Are term limits preferred and are they appropriate

Article V, Section 10-21 of the City Code does not clearly describe the process. Sections on individual Boards and Commissions specify members are appointed by the Mayor, with the consent of the Council. The proposed amendments do not reflect any changes in the existing appointment language. There are presently no term limits.

Councilmember Metzner stated if a board member is charged with a felony, it should be brought to the attention of the Mayor and City Council for review and action.

Councilmember Brubaker does not favor term limits. The Mayor and City Council should be able to determine if a member should remain on the board. He thinks if a board member has a conflict of interest with a topic or discussion, they should recuse themselves from the discussion.

Councilmember Breichner suggested adding a requirement that a copy of all approved minutes of board meetings be maintained in the City Clerk's office. He suggested making all the appointments for four year terms, unless otherwise required by state law.

Councilmember Metzner thinks the recommendation to abolish the Board of Public Safety and the Board of Parks should be discussed further. Mr. Zimmerman stated the discussion should include the function of the boards.

It was the general consensus to remove the Board of Utilities and Downtown Assessment District Board from the Code. The Mayor and City Council also agreed to keep the appointment process as it exists currently, with the Mayor making a recommendation, with approval from the Council. Wording in the language for each board will be standardized to reflect this.

In summary, the Mayor and Council agreed to change the term lengths for all board members to four years, not impose term limits and make no changes to the appointment process.

CITY ADMINISTRATOR'S COMMENTS

Bruce Zimmerman, City Administrator, stated the snow removal job was done very well. Many departments assisted with snow removal, in a variety of ways.

MAYOR AND COUNCIL COMMENTS

Councilmember M. E. Brubaker thanked everyone for their efforts in keeping the streets open during the recent snow storms.

Councilmember W. M. Breichner suggested looking seriously at a Council of Governments, as a way of communicating with other agencies. He asked that a generalized financial report be prepared for the Mayor and Council each month. He expressed condolences to the family of fire department employee Cindy Lewis, who passed away last week. He congratulated Moses Norris on his recent retirement.

Councilmember L. C. Metzner expressed condolences to Cindy Lewis' family. He thanked City staff for the snow removal. He thanked Governor O'Malley for visiting Washington County.

Councilmember A. C. Haywood thanked everyone for their work with the Utility Relief Benefit concert. She would like to see the event continue. She thanked former Councilmember Nigh and former Councilmember Parson-McBean for their vision.

Councilmember F. Easton thanked City staff for their efforts in removing snow. He appreciated that Governor O'Malley visited Washington County to view the challenges created by the snow.

Mayor R. E. Bruchey, II expressed condolences to Cindy Lewis' family. The State of the City will be held on March 2, 2010. Snow removal has been very good.

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 6:43 p.m.

Respectfully submitted,

Donna K. Spickler, City Clerk

Approved: March 23, 2010