

WORK SESSION AND EXECUTIVE SESSION – February 17, 2009

Mayor R. E. Bruchey, II called this Work Session and Executive Session of the Mayor and City Council to order at 4:06 p.m., Tuesday, February 17, 2009, in the Council Chamber at City Hall. Present with the Mayor were Councilmembers M. E. Brubaker, L. C. Metzner, P. M. Nigh and A. Parson-McBean; City Administrator Bruce Zimmerman, City Attorney William Nairn and D. K. Spickler, City Clerk. Councilmember K. S. Cromer was not present.

WORK SESSION – February 17, 2009

June 30, 2008 City Audit Presentation

Mike Manspeaker and Terri Shoemaker-Kreit, from Smith Elliott Kearns and Company, presented the June 30, 2008 audit to the Mayor and City Council. Alfred Martin, Finance Director, and Michelle Burkner, Accounting Manager, were also present.

Mr. Manspeaker stated the audit has been completed. The audit was conducted in accordance with auditing standards generally accepted in the United States and the standards applicable to financial audit contained in Government Auditing Standards. In their opinion, the financial statement present fairly, in all material respects, the respective financial position of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information, of the City as of June 30, 2008, and the respective changes in financial position and cash flows, where applicable, thereof and the respective budgetary comparison for the General Fund for the year then ended in conformity with accounting principles generally accepted in the United States.

The City's assets exceeded its liabilities at the close of the most recent fiscal year by \$ 224.8 million. Approximately 62.7% of this amount is attributable to the City's three utilities (Light, Water and Sewer). Of the total net assets, \$ 21.3 million may be used to meet ongoing obligations to citizens and creditors, \$ 10.4 million is restricted for specific purposes and \$ 193.0 million is invested in capital assets, net of related debt.

As of the close of the current fiscal year, the City's governmental funds reported combined ending fund balances of \$ 19.6 million. Of this total amount, \$ 7.3 million is unreserved and represents working capital available to support governmental operating needs and future years' expenditures.

The City's total bonded debt decreased by \$ .4 million during the current fiscal year. In the current fiscal year, the City issued no public facilities bonds. In fiscal year 2007/2008, the City authorized \$ 6.5 million in Maryland Water Quality Revolving Loan Fund Debt of which \$ 3.1 million was drawn in 2007/2008, and assumed a 1998 loan to Hagerstown Trust Company from the Washington County Sports Foundation, Inc. for \$ 181,942. The City's adherence to its amortization schedules for other debt further reduced its debt by \$ 3.7 million in 2007/2008.

The General Fund reported revenues in excess of expenditures and other financial sources and uses by \$ 554,506 after making a \$ 1,267,000 transfer to the Capital Projects Fund and operating transfers of \$ 210,891 to the Golf Course Fund, \$ 183,000 to the Economic Redevelopment Fund and \$ 40,342 to the Grant Revenue Fund.

At the end of the current fiscal year, unreserved fund balance for the General Fund was \$ 7,349,854 of total General Fund expenditures. This represents over two and a half months of General Fund expenditures and complies with the City financial policy requiring a minimum undesignated fund balance of 10% of the General Fund operating expenditures.

Mr. Martin reported expenditure control contributed to the General Fund surplus of \$ 904,000.

Mr. Zimmerman thanked Mr. Manspeaker and Ms. Shoemaker-Kreit for their work with the audit and for being responsive to the City's questions and concerns.

#### Preliminary Agenda Review

The State of the City is being held on Tuesday, March 3, 2009 at 7:00 p.m. at the Maryland Theater. There will be no work session held on March 3, 2009 or March 10, 2009.

#### **Consent Agenda**

- A. Engineering:
  - 1. Modifications to Signals at N. Mulberry Street and East Avenue – Valentine Electric Heating & Air, Inc. (Hagerstown, MD) \$ 40,850.00
  - 2. Reconstruct Alley 4-22 and portion of Alley 4-21, South of Randolph Avenue and East of Locust Street – *removed from agenda*
  - 3. Install Sidewalks Along Salem Avenue/MD Rte. 58 – Concrete Central, LLC (Hagerstown, MD) \$ 150,307.00
  - 4. Rebid of Jonathan Street Utility Re-construction
  - 5. MUNIS Software for Permitting
- B. Light Department:
  - 1. GIS Facility Software – Milsoft Utility Solutions (Abilene, TX) \$ 28,750.00
  - 2. Garage Door Replacement – K & K Door (Chambersburg, PA) \$ 11,475.00
  - 3. Heavy Duty Digger Derrick Vehicle – Altec Industries (Plains, PA) \$ 165,917.00
  - 4. Single Phase Voltage Regulators – Wesco (Berwyn, PA)

\$ 45,960.00

Mayor Bruchey pointed out that Western Cary Building Products (a local company) also bid on the garage door project. He wondered why the local company was not chosen since their bid was only \$ 575 higher. Michael Spiker, Director of Utilities, stated the bid was awarded to the straight low bid. The standard City practice is to award the bid to the low bidder.

- C. Community Development: Realtor Services for Single Family Homeownership Program – Century 21 Market Professionals (Hagerstown, MD) 3% Commission

Larry Bayer, Community Development Manager, stated staff believes the services of a professional realtor are necessary now to help sell properties.

**Introduction of an Ordinance: Acquisition of Red Cross Property on Conrad Court**

This item was moved to the March agenda.

**Introduction of an Ordinance: Operating Agreement with YMCA for Potterfield Pool**

Councilmember Parson Mc-Bean stated this contract should be bid out. Councilmember Brubaker indicated there was a consensus to approve the agreement when it was discussed in January. The approval will remain on the agenda.

**Approval to Close Out Community Legacy Award for Alms House**

This was removed from the agenda. Ms. Maher indicated the State is willing to discuss the possibility of a full residential use for the property.

**Approval of Community Legacy Grant for Hagerstown Neighborhood Development Partnership, Inc.'s (HNDP) McBare's Pub Building**

Kathleen Maher, Planning Director, reported the State of Maryland selected the project submitted by HNDP for rehabilitation of the upper floors of the McBare's Pub building for a \$ 150,000 Community Legacy award. The City's proposed Community Legacy projects were not selected for an award.

Because the HNDP project was included in the City of Hagerstown's application, the State's process requires that the City sign an acceptance letter of the grant, on behalf of HNDP. No match by the City is required for this award.

HNDP's plan for the McBare's Pub building is a rehabilitation of the building that would modernize and upgrade the vacant residential units on the upper floors, renovate

the deteriorating façade of the building to a more historically appropriate appearance, and improve handicap accessibility to the first floor office and concession area of the Maryland Theater.

Councilmember Brubaker would prefer feedback from the directors of the Maryland Theater regarding this project.

The only commitment from the City is to accept the grant and pass it on to HNBP.

This completed the preliminary agenda review.

#### Discretionary Reserve Sewer Request for Collegiate Acres

Kathleen Maher, Planning Director, was present to discuss a sewer request. The 2009 Sewer Capacity Allocation Program set aside 15,000 gallons per day for the Discretionary Reserve to allow the Mayor and City Council to award sewer allocation beyond the normal allocation process to enable priority development projects to move forward. The SCAP allows for disbursements from the Discretionary Reserve on a quarterly basis, if so desired by the Mayor and City Council. The first award opportunity is February 24, 2009.

The Planning Department received one request by the January deadline for the February disbursement date. Dynacorp, Inc. has been building the one-story townhouses at Collegiate Acres. They currently have a site plan under review for a 105 unit apartment development on an adjoining parcel at Collegiate Acres. Due to some associated apartment complex uses (office, etc.), the project needs 108 EDU's of allocation. The project was already allocated 44 units of sewer and then received a Master List award of 52.5 units of sewer in January 2009 (total of 96.5 units or 19,300 gpd.) The applicant is requesting a discretionary reserve award for the remaining 11.5 units of sewer (2,300 gpd) needed for the project.

Planning staff recommend approval for the requested allocation for the following reasons:

1. with the roll-over from 2008, there is 10,000 gpd of sewer available in the Discretionary Reserve for Priority D – other residential, commercial, industrial, and/or institutional projects; and
2. the Planning Commission cannot approve the site plan for this development until sufficient sewer has been allocated to serve the project

The project includes approximately 300 single family homes. The developer has been building steadily on the east side of the property. Terps Boulevard will be finished in two stages, with work being continued at Wolfpack Drive.

It was the general consensus of the Mayor and City Council to include approval of the request on the February 24, 2009 agenda.

Councilmember Parson-McBean asked staff to find out the number of vacant apartments in the City.

#### Purchase of MUNIS Software for Permits and Land Development

Rodney Tissue, City Engineer, and Scott Nicewarner, IT Manager, discussed the acquisition of software to manage the building permit, code compliance, and land development processes. The implementation of software is imperative for staff to meet stated goals of reasonable permit turnaround, prompt inspection reporting, and the improved customer service in the various processes.

Staff is recommending that an addition be issued to the current contract with Tyler Technologies (MUNIS) to purchase their permits/land development modules. The total cost as proposed by Tyler is \$ 151,850.00. In addition, staff requests a \$ 20,000.00 “allowance” for the acquisition of any needed hardware, training overruns or administrative costs to setup the system.

The current fund balance for this acquisition is \$ 94,575.00 from prior bond proceeds in fiscal year 2005. The balance of the cost could be from collection of technology fees or other sources. Since 2004, staff has collected “technology fees” on all permits, trade license and Code abatements in anticipation of purchasing permit software. To date, the City has collected over \$ 130,000 in technology fees, and continues to collect technology fees at a rate of approximately \$ 25,000 per year.

Councilmember Brubaker asked if a dollar figure could be applied to increase productivity. Mayor Bruchey mentioned the ability to tie this information to the Hagerstown Advance initiative.

It was the general consensus of the Mayor and Council to add approval of the purchase to the February 24, 2009 agenda.

#### Jonathan Street Re-Bid

Rodney Tissue, City Engineer, was present to provide information for the Jonathan Street Reconstruction and Utility Replacement project. In March, 2008, the City Council awarded a contract to Ardent Company, LLC for the Jonathan Street project. During construction, Ardent encountered an existing subsurface rock condition that was unforeseen during the design and bidding process. Ardent stopped their work on the project, and City forces took over the installation of new water and sewer mains. Approximately one-third of the new mains were installed before the work was suspended due to freezing weather. As directed by the Council, staff terminated the original contract with Ardent, and put the project back out to bid in February, 2009. Bids were opened on February 17, 2009 and Charles E. Brake Company was the apparent low bidder, at \$ 2,096,940.75.

Based upon the bids and staff's estimate of other project costs, the total construction costs to complete the project are estimated to be \$ 3,900,000.00. The amount is greater than the \$ 3,700,000 originally authorized by the Council. This increase in cost is mainly due to the required rock blasting. Staff anticipates that the majority of these extra costs will be paid from the Sewer fund (and possibly the Water Fund).

Councilmember Parson-McBean asked if using local laborers had been discussed with the low bidder. Mr. Tissue indicated they are going to try to use as many local workers as possible. Councilmember Parson-McBean asked if utilizing local workers was a requirement in the bid. Mr. Tissue stated a preference was indicated but it was not required.

Mr. Tissue indicated the work could begin in early March, if the contract is awarded at the February 24, 2009 meeting. The work could be completed by the end of this construction season.

Councilmember Parson-McBean expressed concern that there are many people in Hagerstown who are unemployed. She doesn't think her request was considered adequately.

Councilmember Metzner doesn't think it would be cost effective to require a contractor to employ local workers.

It was the general consensus to include approval of the contract on the February 24, 2009 agenda.

#### Revolving Loan Fund Application

Deborah Everhart, Director of Economic Development, and Larry Bayer, Community Development Manager, were present to review an application to the State of Maryland, Department of Business and Economic Development (DBED) requesting \$ 250,000 in grant funding to replenish the City of Hagerstown Revolving Loan Program.

Matching funds have been identified in the Economic Redevelopment Fund. As always, it is the intent that any program income will remain with the local fund to offset operating expenses of the fund or to provide additional capital to the fund. This program is vital to the City's continued economic development success, especially in the downtown urban core.

There is a maximum amount available of \$ 500,000 for each county. With the County's permission, the City is asking for the remaining \$ 250,000.

It was the general consensus to include approval of a resolution to apply for the grant.

Proposed Charter Amendment – Section 805

The proposed charter amendment to Section 805 was tabled during the January 27, 2009 meeting and a request was made for further information.

The proposed change would prohibit an officer or employee of the City of Hagerstown from retaining their position with the City after being elected or appointed to a public office in another jurisdiction. The Charter currently prohibits a person from retaining their position after becoming a candidate in another jurisdiction. Copies of the minutes from the Charter Review Committee meetings were provided to the Mayor and City Council.

Councilmember Metzner asked if there is a reason why an employee shouldn't be allowed to hold a public office. He suggested only prohibiting an employee from being an elected official of the City.

Mayor Bruchey asked William Nairn, City Attorney, to draft language to amend the section reflecting the change mentioned by Councilmember Metzner.

Councilmember Nigh would like input from the members of the Charter Review Committee.

This item will be removed from the February 24, 2009 agenda.

Draft Resolution of Ballot Question

Councilmember Metzner thanked Ms. Virginia MacGruder for information about City elections. Her research indicates that an election was held every year until 1925. In 1927, the timing changed to every four years.

Councilmember Brubaker asked what the cost to the City would be if the election date is changed to coincide with the gubernatorial or general election. Dorothy Kaetzel, Washington County Board of Elections, submitted an estimate of \$ 3,000 per election. Councilmember Brubaker stated City elections have been conducted without a formal contract for quite some time. In July, the County election board indicated they would not be able to assist the City if the date is not moved. He stated the City of Cumberland is not required to pay the County board for assisting with the election.

Councilmember Nigh believes the City can hold its own election, without the assistance of the County board. She suggested determining what the cost would be using a different voting system and fewer precincts. The voters need to know what the actual cost will be.

Councilmember Metzner indicated the wording for the ballot question is acceptable. He asked for a written summary of the estimated expenses of \$ 125,000 for the City to hold its own election.

Councilmember Brubaker will support placing the question on the ballot, but he also would like to have the cost estimates in writing.

Mayor Bruchey suggested providing more clarity of the dates, such as September 2012 and November 2012. Mr. Nairn indicated the language was written to have the election coincide with the presidential election. It was agreed to add “(s)” to election in the question.

#### CITY ADMINISTRATOR’S COMMENTS

*Bruce Zimmerman, City Administrator*, announced that Captain Charles Summers is retiring from the Hagerstown Police Department, after more than 30 years of service. He has accepted a position with Washington County, as Deputy Director of Emergency Communications.

#### MAYOR AND COUNCIL COMMENTS

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

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

*Councilmember A. Parson-McBean* thanked Eric Hastings for producing the Black History Month video.

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

*Mayor R. E. Bruchey, II* indicated the State of Maryland may be using a new voting system soon. The details have not been completed.

#### EXECUTIVE SESSION – February 17, 2009

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 meet in closed session at 5:54 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, and to conduct collective bargaining negotiations or consider matters that relate to the negotiations, #9. The following people were present: Mayor R. E. Bruchey, II, Councilmember M. E. Brubaker, Councilmember L. C. Metzner, Councilmember P. M. Nigh, Councilmember A. Parson-McBean, City Administrator Bruce Zimmerman, Larry Bayer, Community Development Director, Deborah Everhart, Economic Development



Director, Alfred Martin, Finance Director, Vinnie DiCola (Rocky's Pizza) and City Clerk D. K. Spickler. The issues discussed were a potential revolving loan fund application and labor contract language. No formal action was taken. The meeting was adjourned at 7:13 p.m.

Respectfully submitted,

Donna K. Spickler, City Clerk

Approved: March 31, 2009