

EXECUTIVE SESSION – March 21, 2006

Councilmember L. C. Metzner made a motion to meet in closed session at 3:36 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 consult with staff, consultants, or other individuals about pending or potential litigation, #8. Councilmember K. B. Aleshire seconded the motion. The motion did not include Item 3 on the agenda at this time.

Discussion: Councilmember Cromer indicated she thought Item 3 should also be discussed in executive session. Councilmember Metzner stated he intended to address Item 3 after the completion of the discussion on the first two items.

Motion carried, 4-0. Councilmember A. Parson-McBean was not present at this time.

No formal action was taken at the session. The meeting was held in the Mayor's Office, 2<sup>nd</sup> floor at the City Hall. On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember K. B. Aleshire, the closed session was adjourned at 3:53 p.m.

Councilmember K. S. Cromer made a motion to meet in closed session at 3:53 p.m. to consult with counsel to obtain legal advice, #7; 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 executive function. The topic was regarding an administrative procedure and personnel matter. Councilmember P. M. Nigh seconded the motion.

Councilmember K. B. Aleshire moved to amend the motion to be limited to hearing specifically the rules from the City Attorney for this personnel matter discussion. He then rescinded the amended motion.

Councilmember Cromer stated this comes under personnel and questioned why members of the Council would want to put Councilmember Parson-McBean through this discussion in open session.

Councilmember Metzner stated they are acting as if they are discussing an employee where no one knows what is going on. This is someone who has been in the paper for three months and everyone knows the situation. He stated if Councilmember Parson-McBean wished to discuss this in executive session he would be agreeable.

John Urner, City Attorney, stated it is the opinion of the attorneys that this is an executive personnel matter and it is required to be discussed in executive session, unless the person being discussed waives that and agrees that it be discussed in public session. This is what the law says. The Public Records act has a confidentiality provision for employee matters and that takes precedence over the Open Meeting Law rules. This is a matter for executive session only. Councilmember Parson-McBean is not present and the Council cannot discuss it without her.

The vote to meet in executive session was as follows:

Councilmember K. S. Cromer – YES  
Councilmember P. M. Nigh – YES  
Councilmember K. B. Aleshire – NO  
Councilmember L. C. Metzner – NO

Motion was defeated due to a 2-2 tie.

The meeting continued with the scheduled Work Session.

#### WORK SESSION – March 21, 2006

Mayor Robert E. Bruchey, II called this Work Session of the Mayor and City Council to order at 4:11 p.m., Tuesday, March 21, 2006 in the Council Chambers at the City Hall. Present with the Mayor were City Council Members K. B. Aleshire, K. S. Cromer, L. C. Metzner, P. M. Nigh and A. Parson-McBean, City Administrator Bruce Zimmerman, City Attorney John Urner, City Attorney William Nairn, City Attorney Mark Boyer, and City Clerk D. K. Spickler.

#### Preliminary Agenda Review

Bruce Zimmerman, City Administrator, stated the Rules of Procedure have been revised as requested by the Mayor and City Council. It was the general consensus of the Mayor and City Council to include adopting the revised Rules of Procedure on the March 28, 2006 agenda. Councilmember Aleshire stated he wants to make sure there is a clear understanding that the Rules of Procedure can be suspended by the Mayor and City Council at any time. He wants the citizens to know this is not a mandatory change.

#### **Consent Agenda**

The following purchases are included on the consent agenda:

- A. Department of Community Affairs: Open Container Law – Exemption for Special Events
- B. Engineering: Equipment for Camera System – Fiber Plus, Inc. (Shade Gap, PA) \$ 40,452.00
- C. Community Development: Rehabilitation of 226 N. Locust Street – Dale Ford (Boonsboro, MD) \$ 87,300.00
- D. Parks and Recreation
  - 1. Mowing & Trimming – All in One Lawn Service (Hagerstown, MD) \$ 17,999.00
  - 2. Dumpster Services at Various Locations – Allied Waste Services (Hagerstown, MD) \$ 3,714.69 per month

- E. Water and Sewer Department
  - 1. CCTV Vehicle – Rausch Electronics USA, LLC (Chambersburg, PA) \$ 244,500.00
  - 2. Mowing Contract – Various Divisions – Willow Run Farm & Landscape (Keedysville, MD) \$ 26,271.00
  - 3. Engineering Design & Construction Services for R. C. Willson Water Treatment Plan Phase IV Improvements – Gannett Fleming, Inc. (Harrisburg, PA) \$ 512,625.00

Councilmember Cromer stated she is concerned that many purchases are being approved for the 2006/2007 budget year and the budget has not yet been established.

Councilmember Metzner stated he thinks they are agreeing passively that these things will be funded. They are smaller expenditures and routine in nature that will have to be completed before the budget is approved.

Councilmember Aleshire asked for information about the purchase of a CCTV vehicle. Michael Spiker, Director of Utilities, stated the vehicle is needed for the I/I program. It is not a budgeted item but there is money available that can be transferred for the purchase of the vehicle. The options included in the bid amount are specific for the City's needs. This purchase will be completed during the 2005/06 fiscal year.

Councilmember Cromer asked if the mowing contracts for Parks and Recreation and the Water/Sewer Department could be combined in order to save money. Staff will pursue this and provide further information.

Mr. Zimmerman stated the City has been offered a grant through the HOME funds for Community Development. Larry Bayer, Community Development Manager, indicated that acceptance of the grant is necessary. It was the general consensus to add this acceptance to the agenda for March 28, 2006.

#### **Introduction of an Ordinance: Deerfield Knolls Planned Unit Development (PUD)**

Councilmember Cromer asked if the Mayor and City Council were ready to vote on this item. Kathleen Maher, Planning Director, indicated this item is not ready to be voted on at this time. It will not be included on the March 28, 2006 agenda.

There were no other questions about the preliminary agenda. This completed the preliminary agenda review.

#### **City's Draft Adequate Public Facilities Ordinance**

Kathleen Maher, Planning Director, was present to discuss the results of review of the City's draft APFO by the County Attorney and the City Planning Commission. Staff would like concurrence with the amendments to the draft APFO as submitted by the County Attorney, the Planning Commission and Staff.

The County Attorney reviewed the draft and made the following minor comments:

1. a few corrections – incorrect reference citations, change “school district” to “school attendance area”, and a few typos;
2. an opinion that “which consent shall not be unreasonably withheld” should be deleted from Section 8.3A
3. a question about how the exemption for “the equivalent units to what was exempted by the County for minor subdivisions” (Sec. 4.2c) would work

A revised draft APFO to reflect all of the County Attorney's comments, except for the 8.3A comment and with Sec. 4.2c amended as clarified by Councilmember Aleshire was presented for the Mayor and City Council's review. The definition for “simplified plat” was also amended. The County Attorney is investigating whether the County Commissioners will approve our 4.2c provision. The City Attorney is exploring alternative language for the contested phrases in 8.3A about “unreasonably withheld” approvals.

William Nairn, City Attorney, has drafted some language that says if the City follows the standards set forth in the County's Ordinance it shall be deemed approved and if they say it is not in compliance and withhold approval, they must set forth the reasons and findings of facts for their withholding. If the City would decide to dispute withholding of approval, there would be a basis for taking it to court.

Councilmember Metzner stated he does not have a problem with the language that is proposed. The Mayor and City Council can find mistake or change in neighborhood and can decide whether or not to approve the project.

Councilmember Aleshire stated he is okay with the proposed language. He wants to make it very clear that, at any point in time, the City will withdraw from having an APFO, if they find the findings of fact are unreasonable. He stated the City can remove itself from the APFO that they have no control over.

Mr. Nairn stated the Mayor and City Council have the right to repeal their APFO at any time. Requiring the County to state their reasons for approving or rejecting the APFO creates a standard for the process.

Councilmember Aleshire stated there is no County standard where they review their own growth management policies. Both political bodies are going to have to work on this together.

Mr. Nairn asked what language should be used in the draft ordinance in preparation for the public hearing scheduled for March 28, 2006. Councilmember Metzner suggested that the 2 + 2 Committee discuss the language at their meeting tomorrow. Language will be submitted to Mr. Nairn.

Ms. Maher stated the Planning Commission expressed concern over the possibility of a vague calculation process in determining capacity. The Planning Commission asked that all calculations be completely defined. The Planning Commission also recommended that appeals go to Circuit Court rather than to the City's Board of Zoning Appeals. They also suggest inclusion of a time limit for approvals through the APFO, so that school capacity is not reserved indefinitely for projects which are not started.

Staff suggested that the following exemptions be amended:

1. 4.2g To read: Developments which have preliminary plat or site plan approval prior to the effective date of this Ordinance
2. 4.2h To read: Developments requiring only a building permit for approval (e.g. renovation projects) which had building permits submitted prior to the effective date of this ordinance and which have construction underway no later than six months following issuance of permits.

It was the general consensus of the Mayor and City Council to incorporate the changes discussed into the APFO ordinance.

#### JSA Expansion Request for Rosehill Manor and Hunter Hills Apartments

Michael Spiker, Director of Utilities, Kathleen Maher, Planning Director and Deborah Everhart, Economic Development Director, presented a Joint Service Area (JSA) Expansion request from Rosehill Manor and Hunter Hills Apartments.

In August of 2005, the request from Rosehill Manor was discussed by the Mayor and City Council. The request was to expand the JSA to include the Halterman Property/Rosehill Estates. The developer has requested a decision from the Mayor and City Council in order to proceed with the projected development of this property.

Ms. Maher received notification from Fox & Associates in regard to a request for the Hunter Hills Apartments to be included into the JSA Expansion Request of Rosehill Manor.

It is staff's belief that these two properties require separate amendments to the Consolidated General Services Agreement.

Ms. Maher indicated during the review of the Comprehensive Plan, the consultants have recommended that the City create a midterm annexation boundary, which would include the sewer boundary area. This has not been approved yet.

Councilmember Aleshire asked if a JSA agreement could be required in exchange for extending the services. Staff indicated it could be.

Ms. Maher indicated the statements in the draft agreement address the issues of ownership of the sewer infrastructure and the sewer capacity allocation within the JSA. Mr. Zimmerman stated these developments would have to seek allocation, just as other developments within the City. Ms. Everhart has had some contact with the developers and they have indicated they would like to discuss Eastern Boulevard with the Mayor and City Council.

Councilmember Aleshire asked if Hunter Hills can be done without approving the Rosehill Manor request. He is concerned with the potential amount of traffic on Eastern Boulevard.

Councilmember Metzner asked what happens if the requests are denied. Mr. Spiker stated the developers would work with Washington County and the development would still occur.

Councilmember Aleshire wondered what the value is for the developers to be in the JSA.

It was the general consensus to have Staff develop a draft amendment and to scheduled a discussion with the developers of both projects.

#### City Park Restrooms

Rodney Tissue, City Engineer, discussed the construction of new restrooms in the City Park. The goal of the project is to provide modern and accessible restrooms in the south-central portion of City Park. The project was redesigned in 2005 in an effort to meet the established budget. The amount designated for the project is \$ 277,759.00. Funding is from CDBG and from Program Open Space.

The majority of the work would be completed by the Parks Department staff in conjunction with several contracts for special trade services. Councilmember Cromer asked if it is anticipated the final amounts for the work will be over budget. Mr. Tissue stated he is comfortable with the numbers that were used.

It was the general consensus of the Mayor and City Council to proceed with the project.

#### Augustoberfest Charitable Foundation

The Augustoberfest Charitable Foundation made a presentation of a \$ 2,000 donation to the Sister City Affiliation. The presentation was made by Phil Kelly and Charlie Sekula.

The funds are being made available to the Sister City Affiliation for the Student Exchange Program with Wesel, Germany. The Augustoberfest Charitable Foundation has named the scholarship – The Jane Burhans Scholarship in honor of the wife of former Mayor Winslow F. Burhans who was the catalyst of the first Augustoberfest.

The 2006 Augustoberfest event will be held August 26 and 27.

#### University Plaza Memorandum of Understanding

The Community Affairs staff is asking for Mayor and Council approval of a Memorandum of Understanding (MOU) between the City of Hagerstown (the City) and the University System of Maryland at Hagerstown (USMH) with regards to making University Plaza (the Plaza) available for public use.

There has been a separate MOU in effect since the opening of the Plaza regarding maintenance issues. The City and USMH each own portions of the Plaza, and it is this co-ownership that makes such memoranda necessary.

The proposed MOU includes three working documents that City staff will use to establish fees and procedures for scheduling Plaza use. These three documents are 1) University Plaza Use Application, 2) University Plaza Park Rules and Hold Harmless Agreement, and 3) Facility Reservation Policies and Procedures. The fees are addressed in the Policies and Procedures document.

It was the general consensus of the Mayor and City Council to approve the MOU.

#### Play Camp Operations

Staff would like to continue with the Hagerstown YMCA, Memorial Recreation Center, Inc. and Girls Incorporated of Washington County for the 2006 Summer Camp Program. Camps will be held at Hellane Park, Pangborn Park, Wheaton Park and Girls, Inc. Programs will begin in June, 2006 and end in August, 2006.

The organizations met all of last year's requirements. Proposed funding is \$ 57,660.00.

If the Mayor and City Council approve the Summer Camps as outlined, the City staff will draft contracts which are standard and have no substantive change from last year. The contracts would be approved through resolution on March 28, 2006.

It was the general consensus of the Mayor and City Council to approve resolutions with each of the organizations.

#### Fairgrounds Entrance Building

Staff has studied possible reuses for the Fairgrounds Entrance Building and Gatekeeper's House and were present to discuss these with the Mayor and City Council.

In June, 1999, the City commissioned an engineering study of the Entrance Building. The study found a list of structural and other problems with the building. The estimated cost of a complete rehab is \$ 500,000.

Due to the high cost of rehabilitation, staff looked at ways to reuse the building without having to expend a significant amount of money in doing so. The consensus of the committee was to utilize the first floor building for heavy storage by Public Works and/or the Parks Department. The building could be made structurally sound and secure enough for this use for an estimated \$ 10,000.

Subsequent to the decision to make the above recommendation to the Mayor and Council, staff was approached by representatives of Citizens on Patrol (COPS) with a request to use either a portion of the Entrance Building or the Gatekeeper's house as a headquarters for the organization. The condition of the new facility is not a major concern as they are willing to undertake the rehabilitation work themselves. Representatives of COPS feel their needs could be met by utilizing a portion of the first floor of the Entrance Building.

Based on recommendations of a structural engineer, Parks Department staff was able to make some minor repairs which will allow occupancy on the first floor only.

Staff is recommending that COPS be permitted to utilize the portion of the building as requested and that the remaining portion of the building be converted into storage space for City departments.

The Gatekeeper's House is in better structural condition than the Entrance Building, but any reuse would most likely necessitate a complete interior renovation including mechanical, electrical and HVAC systems, and interior finishes. Staff arrived at three possible uses: rental housing, non-governmental offices, or offices for a City department. Since each use has its own unique requirements, it is difficult to estimate the cost of rehabilitation.

Councilmember Cromer asked what type of rehabilitation work COPS would be doing. Larry Bayer, Manager of Community Development, stated it would be interior finishes, including installation of restrooms. All work would be reviewed through the regular process. Councilmember Cromer asked if there would be any cost to the City. Mr. Bayer indicated there would not. Councilmember Cromer asked how it would be guaranteed that the second floor would not be used. Mr. Bayer stated there would be a locked door at the bottom of the stairway. Distribution of keys would be very limited.

Councilmember Nigh stated Sgt. Wolford and Bob Nigh are at this meeting representing COPS. They have inspected the building and are confident they will be able to do the necessary work. She stated COPS needs presence in the community.



Councilmember Parson-McBean asked how long the building has been there. Mr. Bayer indicated there are some pictures from before the turn of the century. Councilmember Metzner stated a determination was made in 1999 to save the building and now it has to be maintained. There are many historical easements on this building.

Councilmember Nigh indicated this is one of the few remaining entrance buildings on the East Coast.

It was the general consensus to approve the use of the building for COPS.

### Workforce Housing

Larry Bayer, Manager of Community Development, was present to continue the discussion begun in January on initiatives the City could undertake to ease the cost of housing in Hagerstown. These initiatives would preserve housing stock that would be available for ownership and affordable for a family.

The response to the House Keys 4 Employees Program, which was one of the initiatives discussed in January, has been very good. As of today, six employees have contacted the Community Development office for information on the program. There is at least one who will be closing on a home in late April or early May and will be taking advantage of the program.

Initiatives for Calendar Year 2006 are:

1. House Keys 4 Employees
2. Neighborhood Revitalization Strategy Area
3. Single Family Homeownership Program
4. Downtown Residency Initiative
5. Ground Rent/Land Trust

Initiatives for Calendar Year 2007 are:

1. Roslyn – Complete rehabilitation of the building by creating office space on the second floor and converting the third floor into 3-4 upscale apartments.
2. Public-private Partnerships – Develop a program under which the City and private investors would share the risk of rehabilitating vacant upper-floor space in the downtown.
3. Employer House – Employee housing is provided by private employers for their employees. Incentives in the form of tax abatements or similar consideration could be given on properties located in the downtown area and participating in the program.
4. Multi-family Rental and Condominiums Housing – Create a program under which existing multi-family buildings are acquired, rehabilitated and rented or sold as condominium units.

5. In-fill Housing – Create moderately priced housing on vacant lots and inner block areas of the City, primarily in the downtown.

Mayor Bruchey asked if this program would satisfy HB 1160 – Workforce Housing. Mr. Bayer would like to pick the location in order to apply for part of the money. Mr. Bayer indicated that not very many municipalities are pursuing this funding.

Councilmember Nigh stated she hopes the County goes along with this program.

Councilmember Aleshire stated the City needs to let the Delegation know that they are doing things to address workforce housing.

A ten minute recess was taken.

#### City's Code of Ethics and City Charter

Mayor Bruchey stated there was discussion before he took office about having a committee of individuals review the City's Charter. It has been suggested that the committee consist of two members of the Mayor and City Council, private citizens and the City Attorneys. The committee would look at the charter and address the questions that have been raised. He asked for suggestions from the Council.

Councilmember Cromer stated they need to decide what the make up of the committee would be. She suggested two council members and the City Attorney. She also suggested accepting applications from interested citizens.

Councilmember Metzner agreed, except he would rather reach out to people instead of having them fill out an application. Another option would be to have a subcommittee from this Council. He recommended that the discussion about individual members be held in executive session. He also suggested that the Mayor be a part of the committee, if he chooses to be. Mayor Bruchey stated appointments are discussed in executive session and this would be appropriate.

Councilmember Metzner stated he understands the committee would be reviewing the charter and not the Code of Ethics.

William Nairn, City Attorney, stated he understands the Council wants to include citizens on the committee. Councilmember Metzner stated that is correct and that the discussion of individuals should be held in executive session. Councilmember Aleshire stated he would prefer to have citizens participate in the review. Mayor Bruchey stated the citizens are the ones who put the charter together so they should be involved.

Councilmember Parson-McBean asked what the committee would be reviewing the Charter for. Mayor Bruchey stated there are a number of unanswered questions in the Charter that the Mayor and City Council faces on a routine basis. A review of the Charter, with recommended changes, would be helpful.

Councilmember Metzner stated one very basic question is the timing of the administering the oath of office to newly elected administrations. The specified date fell on the Memorial Day holiday in 2005. He stated another situation to review would be whether or not to require a minimum number of votes for the office of Mayor.

Councilmember Aleshire suggested the committee be composed of two council members, the Mayor, the City Attorneys and one citizen. Councilmember Cromer stated this should be discussed in executive session. Councilmember Aleshire stated he is not opposed to meeting in open session to discuss this.

Councilmember Metzner stated if there are three Councilmembers involved, it would be considered a public meeting and it would be necessary to have City staff at the meetings.

It was the general consensus of the Mayor and City Council to move forward with forming a committee to review the City's Charter.

Mayor Bruchey stated everyone is aware that a decision has been rendered by the Ethics Commission on a question that was put to them by a city resident about a council member. He would like to discuss the decision at this time.

Councilmember K. S. Cromer made a motion to meet in closed session at 6:02 p.m. to consult with counsel to obtain legal advice, #7; 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 executive function. Councilmember P. M. Nigh seconded the motion.

Discussion: Councilmember Metzner stated he would like to hear how Councilmember Parson-McBean feels about discussing the decision in executive session. He indicated the City Attorney informed the Mayor and City Council they cannot discuss this in open session unless Councilmember Parson-McBean indicates they can. Councilmember Parson-McBean stated she would rather have the discussion held in open session.

Mark Boyer, City Attorney, asked Councilmember Parson-McBean a series of questions as follows:

Mr. Boyer: Do you understand that the Ethics Commission did make a finding that you did violate the City Code?

Councilmember Parson-McBean: Yes

Mr. Boyer: Do you understand that, as a result of the findings, you may be subject to fines?

Councilmember Parson-McBean – Yes

Mr. Boyer: Do you understand that this is presumably going to be discussed and decided and that you have the right to have it remain confidential?

Councilmember Parson-McBean: I understand.

Mr. Boyer: Under the law of open meetings act, this discussion requires a closed session, unless you waive that privilege of confidentiality and waive the confidentiality of any personnel record.

Councilmember Parson-McBean: I understand.

Mr. Boyer: Is it your desire to waive the right and have it heard in open session?

Councilmember Parson-McBean: Yes, I am well aware of my rights and I am waiving those rights.

Mr. Boyer: Are you are waiving those rights voluntarily?

Councilmember Parson-McBean: It is important to talk about it at this time. It has been kept quiet long enough.

Mr. Boyer stated this body may discuss this issue in open session, if they choose to do so.

The vote on the motion to meet in closed session was as follows:

Councilmember K. S. Cromer – YES

Councilmember P. M. Nigh – YES

Councilmember K. B. Aleshire – NO

Councilmember L. C. Metzner – NO

Councilmember Parson-McBean – Abstained

Councilmember Metzner stated he understands that Councilmember Parson-McBean may abstain from the vote, if she chooses to. Mr. Boyer indicated according to the Ethics Code, it is a violation for her to vote. Councilmember Metzner stated he does not agree with that.

Councilmember K. S. Cromer then removed the motion from the table.

Motion failed, due to removal.

Mayor Bruchey turned the discussion over to Mr. Boyer. Mr. Boyer stated the body would be discussing what sanction may be imposed. The Ethics Commission has made a finding and this body should not try to make another finding. The personnel sanction is in the City Code as a disciplinary action or sanction.

Councilmember Cromer stated she believes there are three issues that need to be discussed. They are as follows:

1. Should the Council impose a sanction on Councilmember Parson-McBean?
2. If they choose to sanction, what would it be?
3. If the sanction would be monetary, where would that monetary value go?

Councilmember Metzner stated he would not make any decision about a sanction until he hears from Councilmember Parson-McBean.

Mr. Boyer stated the Code of Ethics precludes her from participating in a discussion that may be of a benefit to her.

Councilmember Parson-McBean stated she would like to make a statement, if it is appropriate.

Mr. Boyer stated if the Council agrees, she may make a statement. It was the general consensus to allow Councilmember Parson-McBean to make the statement.

Councilmember Parson-McBean stated in regards to the events of January 26, 2006, the police were professional and courteous. They have had to endure scrutiny and she apologizes. Others have expressed outrage and see it as benefit to her. She issued an apology on February 7, 2006 and February 9, 2006 to the Herald Mail newspaper and to WHAG Channel 25. The Herald Mail chose not to run the apology. She has an e-mail proving they received the apology. She has offered to donate \$ 60.00 each (twice the amount of the fine for an unregistered vehicle) to the Memorial Recreation Center and to the Police Athletic League. It is time for the City to move on and get to the important business at hand.

Councilmember Metzner stated he has been rather silent until today. He has spent many hours with Councilmember Parson-McBean discussing this issue. He has read the Ethics Code and the decision of the Ethics Commission. When an elected official under these types of circumstances makes the comment, "Don't you know who I am?", it ends up this way. No matter what context it was said in, it raises a question when an elected official is involved with an official, whether it be police, code enforcement, tax collector, etc. When a person is not an elected official, it is not a wrong statement. He is acutely aware Councilmember Parson-McBean did not intend to violate the Ethics Code, but he also believes the Ethics Commission finding is correct. The Ethics Commission has stated there is no reason to believe this will occur again. When it comes to discipline there is one ultimate sanction and that is clearly given by the public. A public censure is looked at as a very harsh punishment because it holds an elected official out for public view by their peers. He asked how much this body can sanction monetarily that would compare to the three months of criticism Councilmember Parson-McBean has endured in the newspaper and other media. He has seen the apology and now the public knows she did apologize. If she had not apologized (twice), he would say she should be censured, but she did apologize. He stated what you do is not as important as what your potential appearances are. There are many ways you can be held in contempt, but if there has been no past history, the judge discusses the violation with the person so it is understood there was a wrong committed and that it will be a one time event. He has no reason to believe this will occur again. An offer has been made to pay money to two charities. He agrees with the Ethics Commission but thinks this has gone on long enough. The whole community has been looking for an acknowledgement that this action was wrong.

Councilmember Aleshire stated the media has called him from the first day for comments. Councilmember Parson-McBean had expressed concern to him about his comments. He explained to her the reason for his comments. The citizens have the right

to follow the route and they did. The Ethics Commission has issued a decision. It was a use of public personnel's time to get the tag issue resolved and he thinks whatever the cost was of that time is what would be the appropriate amount for reimbursement. He has no desire to have a charitable donation made, except to reimburse for the time. He stated it would be appropriate to have the Police Chief provide the Council with this information.

Councilmember Cromer asked if she could ask Councilmember Parson-McBean questions. Mr. Boyer stated Councilmember Parson-McBean cannot participate in the discussion. Councilmember Cromer stated she has not heard a judge ever say you could pick your punishment; however, she thinks the amount Councilmember Parson-McBean mentioned is an appropriate amount. She asked why those specific charities were chosen, rather than choosing to give the money back to the City. She does not have a problem with \$ 120.00 going to charity. She stated she is not surprised the Herald Mail did not run the apology that Councilmember Parson-McBean indicated she sent to them. If it had been published, the Mayor and City Council would not be discussing this issue. She has said she was upset with Councilmember Parson-McBean because the Council was put in a position where they have to decide what to do about imposing a sanction on her. She doesn't want to have to make that decision about someone she sits here with week after week and whom she considers a friend. However, she feels sure the complaint would not have been filed if the apology had been published. She doesn't condone what was done and she believes Councilmember Parson-McBean realizes it was not the right thing to do. She expressed concern about the amount of time that has been spent with this issue. It would have been over a long time ago. She wondered why Councilmember Parson-McBean did not follow up on the unpublished apology. She stated she would have read the apology during Council Comments and brought it to everyone's attention that it had not been published. She again stated she believes the \$ 120.00 donation to charity is appropriate. She thanked Councilmember Parson-McBean for providing an apology. She stated, hopefully, the recommendations of a review committee for the City Charter will ensure this does not happen again.

Councilmember Nigh stated she and Councilmember Parson-McBean were in a situation that had to be taken care of on the day in question. Councilmember Parson-McBean left and was stopped for unregistered tags. She stated her car would have probably been towed. Unfortunately, with the "off the cuff" remark that was made, this is where it has ended. There is a process that has to be followed and the Council is discussing a sanction. Councilmember Parson-McBean has made a statement and the Council has to accept it.

Mr. Boyer indicated the Council decides what the sanction may be, but Councilmember Parson-McBean may be subject to other action. This could include suspension of the City salary, as well as a sanction.

Councilmember Nigh expressed to the public the Council has to do what it must. She would rather see the money returned to the Police Department.

Mayor Bruchey asked if a monetary sanction is imposed, can it be designated to be returned to the Police Department. Mr. Boyer stated he does not believe the Mayor and City Council have the authority to make Councilmember Parson-McBean pay anything. They can sanction her.

Councilmember L. C. Metzner made a motion to meet in Special Session, at 6:34 p.m. Councilmember K. B. Aleshire seconded the motion.

Motion carried, 4-0, with Councilmember Parson-McBean abstaining from the vote.

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Councilmember L. C. Metzner made a motion stating, that in light of the apology and the offer of a donation, and in conjunction with the donation that has been offered and made, and given those considerations, that the Mayor and City Council take no additional actions against Councilmember Parson-McBean. Councilmember K. B. Aleshire seconded the motion.

Discussion: Councilmember Cromer asked when and how the donations would be made. Councilmember Metzner stated it would be made by tomorrow. Mayor Bruchey stated it has been talked about to make a presentation of the donation. Councilmember Cromer stated she does not want to do that and glamorize the issue.

Councilmember Cromer asked that a statement be included in the motion to clarify the amount of the donation and who are the recipients of the donation.

Councilmember Metzner amended the motion to read: In light of the apology and the offer of a donation of \$ 60.00 to the Memorial Recreation Center and \$ 60.00 to the Police Athletic League, and in conjunction with the donation that has been offered and made, given those considerations, that the Mayor and City Council take no additional actions against Councilmember Parson-McBean.

Discussion: Councilmember Cromer asked why these two organizations were chosen. Councilmember Parson-McBean could not respond. Councilmember Nigh stated the money should go back to the Police Department. They should determine where the money goes.

Mayor Bruchey called for a vote on the amended motion. The vote was as follows:

Councilmember L. C. Metzner – YES  
Councilmember K. S. Cromer – YES  
Councilmember K. B. Aleshire – NO  
Councilmember P. M. Nigh – NO  
Councilmember A. Parson-McBean - Abstained

Mayor Bruchey stated that in light of Councilmember Parson-McBean's desire to have this discussion in open session, which he agrees with, and in light of her \$ 120.00 donation, \$ 60 each to the Memorial Recreation Center and the Police Athletic League, he votes Yes.

Motion carried, 3-2, with Councilmember Parson-McBean abstaining from the vote.

On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember K. S. Cromer, the Mayor and City Council unanimously agreed by voice vote to close the Special Session at 6:40 p.m. and return to the Work Session.

#### City Administrator's Comments

*Bruce Zimmerman, City Administrator*, stated the Yard Waste collection will start on April 5, 2006.

#### Mayor and Council Comments

*Councilmember P. M. Nigh* thanked the members of Citizens on Patrol. More volunteers are needed. Interested people should contact Sgt. Wolford. She expressed condolences to the family of Roy Lewis who passed away on March 16, 2006. Mr. Lewis was a long time city employee. She stated she understands that where a prisoner is released is a State issue. She stated citizens contacted her about Councilmember Metzner's comments that parts of Hagerstown look like a war zone. She stated Ted and Vicky Bodnar moved to Hagerstown because they thought it was better than the place they left in Virginia. They found their new neighborhood was no better. The problems are continuing.

*Councilmember L. C. Metzner* stated his comments were made due to the fact there is a burned out building, a boarded up building and a prostitute problem on Franklin Street. He stated the newspaper did not report the solutions that were discussed at the meeting of the Greater Hagerstown Committee. Councilmember Aleshire had an idea that a parking deck would help to alleviate the problem. A problem was identified and a solution was identified. He expressed his concern that the editors chose to accentuate the negative and refused to report the positive. He stated his office is located within that area and he is not going to move.

*Councilmember K. S. Cromer* stated the newspaper took Councilmember Metzner's comments out of context. She expressed concern that the newspaper reports the groups don't meet enough and then don't report anything when the groups do meet. The main item discussed at the last 2 + 2 Committee meeting was Edgewood Drive. She asked that support of the Civil War Museum be included in future letters to the Washington County Delegation.

*Councilmember K. B. Aleshire* stated there will be an increase in the efforts to locate and cite the owners of unlicensed vehicles. There is information in the weekly report that



meetings were held with hospital officials. He is not certain what approval the Council gave for those discussions to occur. Mr. Zimmerman stated it was his understanding that after the zoning was completed meetings would be held. Mr. Spiker realizes he does not have the authority to make decisions but he is able to gather information and follow the normal procedures. He is concerned about the effects of a 322 unit development on 42 acres to the City's water and sewer system. He urged the Mayor and City Council to implement a water/sewer policy before continually approving pre-annexation agreements in exchange for services. Applications are now being accepted for funding from the Gaming Commission. There are openings for the next Neighborhood College program. He stated at the 2 + 2 meeting, they discussed the driving force behind the Edgewood Drive project, which is the hospital. This is why it is being fast tracked and has been changed from a comprehensive fix to a quick fix. The County is looking for \$ 150,000 from the City for the design. This would not obligate the City for funding of the construction. Councilmember Aleshire, Councilmember Metzner and Councilmember Cromer support the \$ 150,000 from the City. Councilmember Aleshire stated the City taxpayers have to be considered when discussing how the funding will occur. He would not support anything less than the State contributing \$ 6 million. A split of 1/3 of the cost for each jurisdiction is not acceptable. Two letters need to be sent. One letter would be to commit to the \$ 150,000 in funding for the design work. The other would be a broader discussion for the remaining amount. He stated the City would be signing on to the County's letter. Mr. Martin stated formal approval would be necessary. He stated there is a need to work with the business community on Franklin Street to revitalize that area. One idea he presented was a parking deck. Some plan for parking is needed.

*Councilmember A. Parson-McBean* thanked Councilmember Cromer for stating the issue presented to the Ethics Commission would not have gone that far if the apology had been printed. She stated she does not read the newspaper and was not aware it had not been printed. She stated no one on this Council called to ask her any questions about that day. She contacted Councilmember Aleshire because of the comments he made. She stated Councilmember Nigh knew where she was that morning. Councilmember Nigh stated that is true, but Councilmember Parson-McBean did not divulge that information, so she did not either. The Police Department helped her because they were aware she was traveling without her bodyguard and they were protecting her. She chose the two organizations because her family and her community had to withstand a lot of scrutiny. She has faith in the Mayor and this issue had to be discussed in open session. It is part of her attempt to make her community aware of how important the process is. She doesn't agree with the decision made by the Ethics Commission. It is sad when words are taken in different contexts and used to make something ethical into something unethical. She will never say what she did was unethical. She will no longer allow this ugliness to happen, and she will serve her community.

*Mayor R. E. Bruchey, II* stated a joint meeting will be held with the Board of Education on Tuesday, March 28, 2006 at 6:00 p.m. There will also be an executive session scheduled for 5:30 p.m. on that day. The Roundball Classic event was a good event. He also offered condolences to Mr. Lewis' family. He stated he appreciates the public's and staff's time.

Work Session and Executive Session  
Mayor and City Council

March 21, 2006  
Hagerstown, Maryland

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 7:18 p.m.

Respectfully submitted,

Donna K. Spickler, City Clerk

Approved: \_\_\_\_\_