

48th REGULAR SESSION AND WORK SESSION

WORK SESSION – March 27, 2007

Mayor Robert E. Bruchey, II called this Work Session of the Mayor and City Council to order at 4:12 p.m., Tuesday, March 27, 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, and A. Parson-McBean, City Administrator Bruce Zimmerman, and City Clerk D. K. Spickler. Councilmember P. M. Nigh was not present.

The meeting was held with the Washington County Board of Education. The following members of the Board of Education were present: Dr. Elizabeth Morgan, Roxanne Ober, President, Wayne Ridenour, Vice President, Edward Forrest, William Staley, Bernadette Wagner, Paul Bailey and Ruth Anne Callaham.

The meeting was held to discuss plans for the Barbara Ingram School for the Arts. Vincent Groh donated the Henry's Theater building at 7-11 S. Potomac Street to the City of Hagerstown in 2003 for the purpose of establishing a performing and visual arts high school named for his late wife. In 2006, the City entered into a lease on the property with the Washington County School System for 20 years for \$ 1.00 per year. The School System will be responsible for all of the costs to construct and operate the Barbara Ingram School for the Arts.

Roger Giles, Director of System Development, Washington County Public Schools, stated the School for the Arts began with a recommendation from Study Groups in 2002. The school will be a regional charter-like public high school for the visual and performing arts, with comprehensive academically challenging and engaging educational programs for 200 students. The multi-facility program will include the Washington County Free Library, Maryland Theater, Museum of Fine Arts and University System of Maryland. It will be planned and operated collaboratively with a Board of Directors and Foundation Board members and school system staff.

Kevin Quinn, Wye River Group, indicated the financing of facility capital costs will be through tax exempt bonds, state historic tax credits, the Department of Business and Economic Development, Community Legacy Funds and other grants, sponsorships, donations and low-cost, subordinate financing.

In order for the facility to apply for the state historic tax credits, it must be owned by a non-profit entity, who in turn will lease the building to the school system for a long term lease. A suitable 501 (c)(3) organization must be identified. Preliminary approval of the project must be obtained from the State Superintendent of Schools.

The Maryland Economic Development Corporation (MEDCO) will develop a draft Development Agreement which describes the rights and responsibilities of WCPS, the City of Hagerstown, the 501 (c)(3) organization and MEDCO with respect to the ownership, development, financing and use of the Project. MEDCO will also develop a

financing timetable that ties to the development timetable and integrates review/approval meetings of MEDCO and the investment community.

Dr. Morgan stated construction needs to begin by June of 2007 in order to take advantage of the tax credits. She anticipates construction will be completed by 2009.

The Board will be issuing a report of the trades offered in schools on April 17, 2007. The number of students involved in the industrial technology programs is increasing.

Ms. Ober stated the Board wants to work with the City to determine if there are alternative financing or grant funding opportunities. Fundraising was mentioned as a possibility.

Councilmember Metzner stated the vision for downtown Hagerstown presented to the Mayor and City Council twenty years ago is coming to life.

Councilmember Parson-McBean asked how student eligibility will be determined. She is concerned that not all talented and gifted students are academically gifted. The founding Board of Directors will set the guidelines for admittance, which will include an audition.

Tom Newcomer, Hagerstown Neighborhood Development Partnership (HNDP), stated the School for the Arts will be a welcome addition to downtown and the HNDP is willing to be the non-profit lease holder.

Mayor Bruchey asked staff to pursue locating additional funding. The projects in the Arts and Entertainment District are creating excitement.

The work session was adjourned at 5:10 p.m.

48TH REGULAR SESSION – MARCH 27, 2007

Mayor R. E. Bruchey, II called this 48th Session of the Mayor and City Council to order at 7:05 p.m., Tuesday, March, 2007, in the Council Chamber at City Hall. Present with the Mayor were Councilmembers M. E. Brubaker, K. S. Cromer, L. C. Metzner, P. M. Nigh and A. Parson-McBean; City Administrator Bruce Zimmerman, City Attorney William Nairn and D. K. Spickler, City Clerk.

The invocation was offered by Councilmember Lewis C. Metzner. The Pledge of Allegiance was then recited.

Mayor Bruchey announced the Rules of Procedure for this meeting will be followed as adopted March 28, 2006. It was announced that the use of cell phones and electronic devices during meetings is restricted and that all correspondence for distribution to elected officials should be provided to the City Clerk and should include a copy for the City Clerk for inclusion in the official record.

The next scheduled meetings are: Work Sessions beginning at 4:00 p.m. on Tuesday, April 3, 2007, Tuesday, April 10, 2007, Tuesday, April 17, 2007, and the Regular Session on Tuesday, April 24, 2007 at 7:00 p.m.

APPOINTMENTS AND NEW BUSINESS ITEM

A. Resolution: Establish Charter Review Committee

Action: On a motion duly made by Councilmember K. S. Cromer and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to approve a resolution establishing a Charter Review Committee to review the City Charter and present to the Mayor and Council written recommendations, if any, for changes to the existing Charter. The Committee shall be composed of nine (9) members to be selected by the Mayor and Council. The term of the Committee shall be one year, commencing April 1, 2007 and terminating on March 31, 2008.

The City Attorneys shall attend the meetings of the Committee to provide advice, but shall not vote. The City Administrator shall assign employees as necessary to serve as liaison to the Committee and shall provide staff services. These appointees shall not vote.

B. Appointment of Charter Review Committee Members

Action: On a motion duly made by Councilmember K. S. Cromer and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote that the following slate of names be selected to serve on the Charter Review Committee of 2007:

Noel Brady
Georgiann Breichner
Patricia Burrs
Anthony Campello
Kelly S. Cromer
John Dunlap
Dr. Kenneth Krell
Lewis C. Metzner
Douglas Wright

The term of the appointment will be from April 1, 2007 to March 31, 2008.

Councilmember A. Parson-McBean stated she opposes the appointment of Anthony Campello.

C. Oath of Office to Charter Review Committee

The Oath of Office was then administered to the Charter Review Committee members.

Councilmember K. S. Cromer made a motion to appoint Michael Deming to the Hagerstown-Washington County Economic Development Commission. Councilmember L. C. Metzner seconded the motion.

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

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 appoint David Gysberts to the Hagerstown Planning Commission.

CITIZEN COMMENTS

David Earley, 11846 White Pine Drive, Hagerstown, Maryland, asked for an apology from Councilmember A. Parson-McBean for her comments to a reporter about white people.

Mike Shifler, 13804 McIntosh Circle, Clear Spring, Maryland, (brother of Jeff Shifler) stated his family was shocked about what his brother did. His brother made a big mistake and his family doesn't know what to say. He is attempting to apologize to the community and he hopes the sentencing helps resolve the matter. He stated neither he nor Jeff is racist. He did not like a comment made by Councilmember A. Parson-McBean at the hearing in Baltimore. Councilmember Parson-McBean stated she did not make the comment. She indicated she read from a printed victim statement, which did not include any comment about white men.

Myron Martin, 13219 Maugansville Road, Hagerstown, Maryland, signed up to speak but declined to do so.

James Devine, P. O. Box 2217, Hagerstown, Maryland, discussed the homeless population. He believes the numbers are underestimated. He believes a lack of leadership at the hospital has caused problems in the community. He hopes the Charter Review Committee involves citizens in the process. A Crime Task Force should be established to determine how to decrease the amount of crime in Hagerstown.

MINUTES

On a motion duly made by Councilmember K. S. Cromer and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to approve the minutes, as presented, for Mayor and Council meetings held on February 6, 2007, February 13, 2007, February 20, 2007, February 27, 2007, March 6, 2007 and March 13, 2007.

CONSENT AGENDA

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 approve the consent agenda, as follows:

- A. Water/Sewer:
 - 1. Mowing Contract for Various divisions – Randy’s Multi-Services (Clear Spring, MD) \$ 17,525.00
 - 2. Water Distribution meters – HD Supply Waterworks, Inc. (Martinsburg, WV) \$ 113,072.19
 - 3. ABB 2007 Annual Software Service Contract – ABB, Inc. (New Berlin, WI) \$ 16,980.00
 - 4. Purchase and Installation of Anthracite Filter – EMH Environmental, Inc. (Glenwood, MD) \$ 69,600.00
 - 5. Distribution – Leak Detection System – Flow Metrix, Inc. (Maynard, MA) \$ 12,500.00
- B. Parks: Mowing and Trimming Contract – 2007 Season (4 year contract, 2007 through 2010) – Ground Envy (Hagerstown, MD) \$ 78,320.40 for all four seasons (2007 Season \$ 17,640.00, 2008 Season \$ 18,874.80, 2009 Season \$ 20,296.00, 2010 Season \$ 21,069.60 – Subsequent seasons to be awarded each year)
- C. Police: Camera Package for Expansion of Downtown System – Simplex Grinnell (Hagerstown, MD) \$ 17,363.00
- D. Engineering:
 - 1.. Supplemental Environmental Project (SES) – Valley Road Storm Drain Channel Restoration – Biohabitats (Baltimore, MD) \$ 260,000.00
 - 2. Signal Improvements at Burhans Blvd. and Sherman Avenue
 - a. Traffic Signal Modifications at Burhans Boulevard at Sherman Avenue – Valentine Electric, Heating and Air, Inc. (Hagerstown, MD) \$ 23,290.00
 - b. Widening Burhans Boulevard – Milton Stamper Builders (Hagerstown, MD) \$ 27,972.00
- E. Light:
 - 1. Two 2007 Ford F-150 Pickup Trucks to Replace Unit 101 and Unit 102 – Norris Ford (Baltimore, MD) \$ 34,264.00
 - 2. Three 21007 Chevrolet Silverado Pickup Trucks to Replace Unit 122, Unit 123, and Unit 126 – Criswell Chevrolet (Gaithersburg, MD) \$ 57,108.00

F. Community Development: Rehabilitation Contract for 33 Elizabeth Street –

Milton Stamper Builders (Hagerstown, MD) \$ 68,305.00

UNFINISHED BUSINESS

A. Approval of an Ordinance: Zoning Text Amendment to Modify Cluster Regulations, ZT-2006-04

Action: Councilmember L. C. Metzner made a motion to adopt an ordinance for a text amendment to the City Code, Chapter 68, Article I, Section 68-25 G (c), to modify the Cluster Regulations. Councilmember M. E. Brubaker seconded the motion.

Motion carried, 4-1 with Councilmember K. S. Cromer voting No.

B. Approval of an Ordinance: Creation of a New Zoning District POM (Professional Office Mixed-Use) District, ZT-2006-05

Action: 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 adopt an ordinance amending Chapter 68, Zoning Ordinance, of the City Code, to add a new zoning district, POM (Professional Office Mixed-Use).

C. Approval of an Ordinance: General Zoning Text Amendments, ZT-2006-06

Action: 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 adopt an ordinance amending Chapter 68, Zoning Ordinance, of the City Code, with a series of general amendments to clarify some sections, provide additional criteria in some districts, and to provide additional guidance and criterion for the construction of fences.

D. Approval of an Ordinance: To Prohibit Vicious and Dangerous Animals Within the Corporation Limits of the City of Hagerstown

Action: Councilmember P. M. Nigh made a motion to approve an ordinance to amend Chapter 87, Dogs and Other Animals, by adding a new Subsection 35. This amendment will require the owners of animals, which have been designated as dangerous, pursuant to the current Washington County Animal Control Ordinance, to remove the designated animal from the City of Hagerstown. This amendment does not alter the definition of dangerous animals as set forth in the current Washington County Animal Control Ordinance, nor implement any breed specific definition of

dangerous animals. Councilmember A. Parson-McBean seconded the motion.

Councilmember L. C. Metzner made a motion to table the approval of the ordinance until the next regular session. Councilmember K. S. Cromer seconded the motion to table.

Councilmember Metzner wants to make sure the ordinance allows an appeal process for owners who did not appeal the designation to the Animal Control Board. He also asked for additional information on the process that is used to determine which animals are vicious and dangerous.

Councilmember Nigh stated her niece was attacked by a dog four years ago and she has attended appeal hearings. The Animal Control Board is more lenient than she would be.

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

This will be discussed at the Work Session on April 10, 2007.

NEW BUISNESS (continued)

A. Introduction of an Ordinance: Rental License Fee Increase for 2007 and 2008

Action: Councilmember P. M. Nigh made a motion to amend the annual license fee in the Rental Facilities Ordinance. The non-refundable annual license fee shall be \$ 45 per unit (effective June 20, 2007), consistent with a recommended increase in the 06/07 City budget and \$ 50 per unit (effective June 20, 2008). Councilmember L. C. Metzner seconded the motion.

Motion carried, 4-1 with Councilmember K. S. Cromer voting No.

Councilmember Cromer stated she voted No because the motion included increases for the next two years. Councilmember Brubaker asked that the timing of the increase coincide with the budget.

B. Introduction of an Ordinance: Acquisition of 2.79 Acres of Land Adjacent Monet Drive and Fairgrounds Park

Action: 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 introduce an Ordinance for the acquisition of 2.79 acres of real estate located south of Monet Drive in the

City of Hagerstown, MD from PDR Paradise, LLC. This property will be obtained in order for the City to complete a “Supplemental Environmental Project” as required by the Maryland Department of the Environment. The land will be obtained for no monetary consideration. The Mayor and City Council further moved that this land parcel will be considered part of Fairgrounds Park.

C. Resolution: Supporting Maryland Department of Housing and Community Development Neighborhood Businessworks Program Financing to City Theater, LLC

Action: Councilmember K. S. Cromer made a motion to adopt a resolution supporting Maryland Department of Housing and Community Development Neighborhood Businessworks Program financing to City Theater, LLC. Councilmember L. C. Metzner seconded the motion.

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

D. Resolution: Approval of New Lease with Department of Labor, Licensing and Regulation, 2-6 N. Potomac Street

Action: On a motion duly made by Councilmember K. S. Cromer and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to adopt a resolution approving a ten year lease for Employment and Training of the Department of Labor, Licensing and Regulation for the premises known as 2-6 North Potomac Street, First Floor.

E. Resolution: Authorizing Contract for 2007 Summer Camp Programming with Hagerstown YMCA

Action: 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 adopt a resolution authorizing the execution of a contract for the Hagerstown YMCA to operate a play camp program at Hellane Park and Pangborn Parks serving 60 children per day at each site at a cost of \$ 33,076, for an eight (8) week period during the summer 2007 season.

F. Resolution: Authorizing Contract for 2007 Summer Camp Programming with Memorial Recreation Center, Inc.

Action: 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 adopt a resolution authorizing the

execution of a contract for Memorial Recreation to operate a play camp program at Wheaton Park, serving 60 children per day at a cost of \$ 16,070 for an eight (8) week period during the summer 2007 season.

G. Resolution: Authorizing Contract for 2007 Summer Camp Programming with Girls, Inc. of Washington County

Action: On a motion duly made by Councilmember P. M. Nigh and Councilmember M. E. Brubaker, the Mayor and City Council unanimously agreed by voice vote to adopt a resolution to authorize the execution of a contract for Girls, Inc. to operate a play camp program, at their location, serving an additional 45 children per day above their program level at a cost of \$ 15,000, for an eight (8) week period during the summer 2007 season.

H. Resolution: Authorizing Easement Agreement with McDonald's Restaurant, 316 East Washington Street

Action: 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 adopt a resolution authorizing the execution of an easement agreement between the City of Hagerstown and McDonald's Corporation for storm drainage facilities at their property located at 316 East Washington Street.

I. Approval of Request to Use Vacant Lot at S. Potomac St./W. Memorial Boulevard for Carnival

Action: On a motion duly made by Councilmember P. M. Nigh and seconded by Councilmember K. S. Cromer, the Mayor and City Council unanimously agreed by voice vote to approve the request from the Funkstown Rod and Gun Club and the Downsville Ruritan Club to utilize the vacant lot at S. Potomac Street and W. Memorial Boulevard for a carnival from April 26, 2007 through May 5, 2007. Set up will begin no earlier than April 24, 2007 and clean up will be completed by May 6, 2007.

J. Approval of an Amendment to the FY 2006-2007 Annual Plan for the Community Development Block Grant Program

Action: On a motion duly made by Councilmember P. M. Nigh and seconded by Councilmember M. E. Brubaker, the Mayor and City Council unanimously agreed by voice vote to amend the FY 2006-2007 Annual Plan for the Community Development Block Grant Program by creating two new activities: North Locust Street Streetscape Improvements with a budget of \$144,000 and Pedestrian Signal Installation with CDBG budget of \$ 6,000.

Funding of North Locust Street Streetscape Improvements will be as follows: \$120,000 will be reprogrammed from Neighborhood Development leaving \$3,648 in that activity and \$24,000 from Community Opportunity leaving \$76,000 in that activity. \$6,000 will be reprogrammed from Community Opportunity leaving \$70,000 remaining in that activity to provide funds for Pedestrian Signal Installation.

CITY ADMINISTRATOR'S COMMENTS

Bruce Zimmerman, City Administrator, mentioned that George Andreve, retired Community Development Department Manager, passed away.

MAYOR AND COUNCIL COMMENTS

Councilmember M. E. Brubaker was enthused by the presentation on the Barbara Ingram School for the Arts.

Councilmember A. Parson-McBean attended the Leadership Training Institute at the National League of Cities Congressional Cities Conference. Two of the topics were Building Coalition and Connecting Cultures in Youth and Local Economic Development.

Councilmember L. C. Metzner stated the Barbara Ingram School for the Arts will be another boon to downtown.

Councilmember K. S. Cromer fully supports the Barbara Ingram School for the Arts.

Councilmember P. M. Nigh attended a ribbon cutting ceremony at the new McDonald's on the Dual Highway. She has spent time in Annapolis during the last three weeks lobbying in opposition to the legislation for appealing hospital zoning decisions. She stated a great deal of money has been spent to clean up downtown and close problem taverns. She stated there must be a "no tolerance" attitude for problems, especially when the Barbara Ingram School opens.

She expressed condolences to the friends of George Andreve, who passed away on March 9, 2007. Mr. Andreve was the Community Development Department Manager for thirteen years and made the department successful. She also expressed sympathy to the family of Robert Spickler, of Spickler's Market. Mr. Spickler operated the market since 1947.

Mayor R. E. Bruchey, II also expressed sympathy to the loved ones for Mr. Andreve and Mr. Spickler. An Arbor Day celebration will be held on April 4, 2007. An egg roll will take place at the Hager House on April 7, 2007.

He stated the positive development and revitalization that has occurred in the downtown core in the last eight to ten years has been the work of a private and public partnership. There will be things to be worked out and he believes the people in the Arts and Entertainment District realize this. He pointed out there are more arrests during the annual Mummer's Parade than there were on St. Patrick's Day. He stated the revitalization has to keep moving forward.

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 8:08 p.m.

Respectfully submitted,

Donna K. Spickler, City Clerk

Approved: