

54<sup>TH</sup> SPECIAL SESSION, WORK SESSION AND EXECUTIVE SESSION – JUNE 5, 2007

WORK SESSION – June 5, 2007

Mayor R. E. Bruchey, II called this 54<sup>th</sup> Special Session, Work Session and Executive Session of the Mayor and City Council to order at 4:03 p.m., Tuesday, June 5, 2007, 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.

Recognition of Jameek Booth – Winner of the “If I Were Mayor Contest”

Mayor Bruchey congratulated Jameek Booth for being selected as the MML’s 2007 If I Were Mayor Essay Contest winner. Jameek is a student at Salem Avenue Elementary School. He read his essay to the group.

Convention and Visitors Bureau (CVB) Financial Donation

Tom Riford, Director of the CVB, presented a \$ 500.00 check to the City of Hagerstown as a donation to the Swan Fund for City Park.

Mayor Bruchey thanked the CVB for their generous donation.

“HIP” Employee Award Presentation

The winners of the “HIP” award for the months of February and April 2007 are: Wastewater Collection System Department and Paul Fulk, Code Compliance Department.

The Wastewater Collection System Department team completed a survey of the sewer lines four months ahead of schedule, saving the City an estimated \$ 308,000. The group has asked that the monetary award be given to the Police Athletic League and the Tristate Athletic Group.

Paul Fulk designed and coordinated the background work for a computerized tracking system in preparation for implementation of the Hansen Permit System.

Eastern Boulevard (Shaoal) Annexation, A-2006-03

Stuart Bass, Comprehensive Planner, stated the Introduction of the Resolution for annexation for this property was passed on July 25, 2006. A Public Hearing was held on August 22, 2006. This item was last discussed at the January 23, 2007 Work Session. At that time, it was determined to write a letter to the County Commissioners, itemizing some concerns, particularly with respect to Eastern Boulevard.

The Commissioners has indicated the proposed zoning is consistent with current County zoning, that the County will review any proposed connections to County roads, and that mitigation will be required for current offsite stormwater issues. With respect to Eastern Boulevard, the response states that “the Board feels this is a larger issue in need of further discussion between the Board of County Commissioners and the City Council, but should not impact this annexation except for insuring the developer provides additional right-of-way”. The applicant has submitted a letter, requesting a decision from the Mayor and Council.

Councilmember Brubaker is concerned about Eastern Boulevard and the position approving this annexation may place the City in. No design standard has been developed for Eastern Boulevard.

Councilmember Metzner is concerned that annexation on the east side of Eastern Boulevard will imply responsibility for maintenance and upgrades to Eastern Boulevard. He would not recommend approving this annexation. He also recommended defining Eastern Boulevard as a natural dividing line for annexations.

Councilmember Brubaker recommended supporting the annexation but it is critical to work out these issues now, rather than waiting for future projects.

It was the general consensus that the Council is not prepared to decide on approval of the annexation at this time. The developer is seeking annexation in order to obtain water and sewer service at lower rates. A decision needs to be made so the developer can decide how to move forward.

Mayor Bruchey and Councilmember Metzner suggested having City and County staff discuss this further. Councilmember Brubaker will ask that this be scheduled for a discussion with the 2+2 Committee.

It was the general consensus of the Mayor and City Council to include the approval of the annexation resolution on the agenda for June 19, 2007, in order to make some decision.

#### Urban Growth Area (UGA) Expansion for Oliver Farm

The owners of the Oliver Farm, a property southeast of the City on the south side of I-70 are seeking a rezoning and Urban Growth Area expansion with the Washington County Commissioners for a project to develop a shopping center and to donate a 60 acre site for a public high school on land that would access US 40.

It was the general consensus to not discuss this until the County Commissioners take action on the request.

Jason Divelbiss, Miller, Oliver, Baker, Moylan and Stone, understands the City’s decision to not discuss this, but the County has indicated they would wait for the City to

make a decision about the request before they discussed it. He is looking for assurance that the City will discuss the request after the County does.

The City's Water and Sewer Policy states that City water and sewer cannot be provided to properties outside the 2002 Urban Growth Area boundaries unless the Mayor and City Council agree to the expansion of the 2002 UGA boundary line to include the property. The City's Planning Commission felt the UGA should not be expanded in one area without reducing it in another.

More than 150 letters opposing the expansion of the UGA were submitted by mail to the City of Hagerstown.

#### Improvements to the "000" Block of South Potomac Street

Rodney Tissue, City Engineer, stated the 1996 "Downtown Hagerstown Enhancement Plan" prepared for the Chamber of Commerce by LDR included "Traffic Calming/Pedestrian Enhancements" in the South Potomac Arts & Entertainment District. To further implement this downtown plan, and as a follow-up to the meeting with the Mayor and Council in February, staff continued to refine plans to widen the sidewalks in the "000" block of South Potomac Street. The original plan (Fall 2006) included widening the sidewalk on the east side between the Schindle Rohrer building and Antietam Street. In February, a plan was discussed to remove all the on-street parking and loading zones within the block and widen all the sidewalks. However, based on the cost and parking/loading impact, a modified plan is proposed. Closing of South Potomac Street on a regular basis is a separate issue and does not affect this concept plan. The issue of closing the street for certain events or occasionally on weekends should be addressed by the City Council at a later date.

Since concerns of parking and loading zone issues were voiced. Staff met with the Board of Traffic and Parking in April and May to acquire their recommendation on the proposed project. A scaled-back project was developed and reviewed at the Board meeting on May 10. The revised concept plan shows widening of the sidewalk that was included in the original scope on the east side (from the Schindle Rohrer building to Antietam Street) and also includes the sidewalk widening on the west side (from First Hose to Antietam Street). This plan was endorsed unanimously by the Board of Traffic and Parking and staff feels it can be recommended to the Council.

The plan attempts to balance the need for some on-street parking, loading zones, and student drop-off at the future "Barbara Ingram School for the Arts" with the desired goal to widen sidewalks at the restaurants for outdoor dining. Three parking spaces will be retained and several loading zones are proposed. The bus loading area in front of the future School for the Arts could be used as four parking spaces in non-school times. All concrete sidewalks in the block are proposed to be replaced with brick pavers.

The pavement in the block is proposed to be milled and repaved. The new pavement will be stamped and tinted (in certain areas) to improve the aesthetics but more

importantly to send the message to motorists that this is a pedestrian area and to slow down.

Comments from the Fire Chief and the Fire Marshall can all be resolved in the final construction plan preparation and do not impact this concept.

The total cost of the project is now estimated at \$ 475,000. This estimate includes replacing trees, utility adjustments, minor drainage modifications and ADA enhancements. The estimate does not include any dining furniture, or other sidewalk amenities like fountains, benches, etc. In the 07/08 budget, CIP 07-719 provides a \$ 770,000 funding plan for the earlier larger-scope project. To fund the downsized project as outlined, the following budget is proposed:

|  |                  |
|--|------------------|
| Contribution by others                 | \$ 35,000        |
| Grant – State Aid                      | \$ 150,000       |
| Grant – Maryland Heritage Area         | \$ 55,000        |
| Bond Proceeds (Dec 2006 issue)         | \$ 150,000       |
| Additional General Fund Bond Financing | <u>\$ 85,000</u> |
|  | \$ 475,000       |

The areas shown as cafés are to show the possibilities for an outdoor room. The owners of the businesses would not be required to have a café. William Naim, City Attorney, suggested approving a license agreement with the businesses who wished to have a sidewalk café.

Councilmember Nigh asked that handicap accessibility be addressed. Mr. Tissue stated it would be worked into the plan. Mayor Bruchey stated at least 10' of the sidewalk area would remain open in areas where cafés may be located.

It was the general consensus of the Mayor and Council to move forward with this project. Councilmember Nigh is not in favor of this.

The next step is to hold a public meeting to present the plan to the adjoining property owners and tenants within the next two weeks. Comments received during the meeting will be presented to the Mayor and City Council. The project would then move forward with construction design. The design will progress over the summer with the construction contract awarded by the City Council in September 2007. Construction would begin in late October 2007 and would be completed before June 2008.

#### Central Lot Parking Permits

When the separate left-turn lane was designated in the “0” block of North Locust Street, the Mayor and Council passed a resolution to reserve 8 spaces in the Central Parking Lot to be used only by the residents in the northern half of that block. This was to replace the same number of 8 on-street parking spaces that were lost due to the creation of the left-turn lane. One permit is given to each household in the northern half

of the “0” block. They have exclusive use of those 8 spaces on a first-come/first serve basis.

The City Engineering Department was recently contacted by residents of the “0” block of North Locust Street asking for additional spaces. They explained that there are 11 households in this area. Their request is to either expand the number of spaces reserved for the residents, or to allow them to purchase regular permits at a reduced price.

The Board of Traffic and Parking reviewed the request and recommended that the residents be allowed to purchase additional permits at a reduced cost. In July the cost of a monthly permit in that section of the Central Lot will be raised to \$ 40.00 and it is suggested that the reduced cost of the permits be set at \$ 25.00 per month but only for those North Locust Street residents between Alley #4-19 and Franklin Street.

It was the general consensus to approve the request. Any resident in the specified area would be eligible to purchase an additional parking permit.

#### Water Fund Dividend Policy and Declaration of Dividend for 2006/07

Funds were included as a Mayor and Council modification for the 2006/2007 adopted budget in the Water Fund and General Fund for a dividend transfer from the Water Fund to the General Fund in the amount of \$ 250,000. This amount is to be paid out of the Water Fund’s retained earnings from the prior year and is to be from the allowed rate of return that the Public Service Commission allows under the utility basis of rate setting which is used for non-City customers. This dividend was included as part of the cash flow based rate setting model, which the cost of service study consultant, Municipal Financial Services group included in their recent rate study (implemented October 1, 2005). The \$ 250,000 dividend from the Water Fund to the General Fund has also been included in the adopted budget for 2007/2008 and in the financial projections for the next four future fiscal years.

Staff is proposing that the Mayor and Council take action at the regular meeting on June 19, 2007 to approve the Water Fund Dividend Policy and to declare that the \$ 250,000 Water Fund dividend to the General Fund be paid before June 30, 2007 in accordance with the approved budget for fiscal year 2006/2007. Staff has reviewed the Water Fund’s financial condition in accordance with the proposed policy and recommends that a dividend can be declared and paid in accordance with the policy.

It was the general consensus to include approval of the policy and the declaration of the dividend on the agenda for June 19, 2007.

#### City Administrator’s Comments

*Bruce Zimmerman, City Administrator*, stated BluesFest was a very good festival. He pointed out the core group of volunteers is still in place after 12 years. He thanked all who helped with the festival.

Mayor and City Council Comments

*Councilmember A. Parson-McBean* congratulated everyone on the success of this year's BluesFest.

*Councilmember M. E. Brubaker* will be submitting a letter to the editor discussing the fact that he did not receive any questions about his budget proposal but he was asked for comments about a \$ 770.00 expenditure for the Mayor and Council.

*Councilmember L. C. Metzner* stated he thinks Councilmember Brubaker's proposal should be reviewed by the Council. He asked that time be scheduled to discuss the proposal in July. He would also like to discuss Councilmember Cromer's suggestions. Another topic for discussion should be Community Rescue Service. He thanked Karen Giffin, Director of Community Affairs, for all her efforts with making BluesFest a success. He expressed condolences to Harold Churchey's family. Mr. Churchey ran the snack bar at the Court House and will be missed by all.

*Councilmember P. M. Nigh* stated the ceremony at Rosehill Cemetery on May 26, 2007 was very nice. The memorial wall at the Amvets building was dedicated on May 30, 2007. It is a very moving tribute to veterans.

*Mayor R. E. Bruchey, II* stated Councilmember Cromer is recuperating and will be back next week. Lt. Governor Brown toured Hagerstown and was very impressed. Mayor Bruchey participated in the Heritage Ceremony on May 26, 2007. He thanked Councilmember Nigh for attending the Memorial Day Ceremonies. He thanked everyone who helped with BluesFest, especially Karen Giffin.

There is an on-going investigation for a homicide that occurred at Zippers Bar on Jonathan Street. He asked anyone who had information regarding this to please contact the Hagerstown Police Department.

The work session was adjourned at 5:40 p.m.

EXECUTIVE SESSION – June 5, 2007

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 of all members present to meet in closed session at 5:30 p.m. to conduct collective bargaining negotiations or consider matters that relate to the negotiations, #9 and to consult with staff, consultants, or other individuals about pending or potential litigation, #8. 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. The meeting was adjourned at 6:10 p.m.

54<sup>th</sup> SPECIAL SESSION – June 5, 2007

Mayor Bruchey opened the Special Session at 7:01 p.m. On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember A. Parson-McBean, the Mayor and City Council unanimously agreed by voice vote of all members present to meet in Special Session to hold a Public Hearing and to approve an ordinance.

**Approval of an Ordinance: City of Hagerstown Water Quality Bonds**

**Action:** On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember P. M. Nigh, the Mayor and City Council unanimously agreed by voice vote of all members present to approve an ordinance authorizing the City of Hagerstown to issue and sell, upon its full faith and credit, general obligation bonds to the Maryland Water Quality Financing Administration in one or more series, in an aggregate principal amount not to exceed \$6,500,000. Proceeds from the sale of the bonds will be used for the public purpose of financing Phase I of replacing the City's West End Water Reservoir with an above ground storage tank as more fully described in the ordinance together with related expenses and costs of issuance. Staff is hereby also directed to proceed with developing the necessary detailed resolutions and other documents to proceed with the sale of the bonds as directed by this ordinance. The detailed resolution will be presented to this body for approval at a future date prior to the issuance of the bonds as specified in the ordinance.

Public Hearing – Norfolk/Southern Railroad Annexation, A-2007-02

Stuart Bass, Comprehensive Planner, stated the Norfolk Southern Railroad Annexation was formally introduced on April 24, 2007.

The area proposed for annexation is 95.2 acres. The property is located on the southern side of the City, off Oak Ridge Drive. The proposed zoning district is IG (Industrial General). The current County Zoning is PI (Planned Industrial).

The proposed development plan is for an automotive distribution rail facility. Basically, it is an area for off-loading and storage of new motor vehicles, a rail to truck transfer point. Project construction will include grading, paving, fencing, new tracks, and a new entrance road. The property will be surrounded by a fence and landscaped. Primary access will be off Oak Ridge Drive. Initial investment is estimated at \$ 8 to \$ 10 million dollars.

The industrial development of this property would have no impact on Washington County Board of Education facilities with respect to school capacity. There will be no impact to the Washington County Free Library as a result of this proposed annexation.

Sanitary sewer service to this site will be by extension of existing sanitary sewer lines in the general area and will be at the cost of the developer in accordance with the annexation agreement. Water service to this site will be by extension of water lines in the vicinity of the site and will be at the cost of the developer subject to the Water Department's standards, policies, procedures and payment of the applicable fees. The Electric Distribution System is external to the Hagerstown Light Department operating territory. Electrical service will be provided by Allegheny Power. The City of Hagerstown (HLD) normally supplies street light services to public streets and supplies the manpower and equipment to serve a new area once the developer builds the infrastructure. However, there are no public streets associated with this project; therefore, this provision will not apply.

It is noted that this annexation would incorporate the Vardo Rail Yard, which is considered a high hazard area because of the number and type of rail cars that are sitting, switching, or moving through them. Hagerstown Fire Department and Community Rescue service would respond in the event of an incident, (as they likely would now, as a part of the response effort), but incident control becomes the City's responsibility.

Any necessary improvements to existing municipal public roads shall be completed at the direction of the City Engineer at the developer's expense and constructed per the City's Public Ways Construction Standards by the developer. The property has access to West Oak Ridge Drive. Any necessary improvements will require coordination with Washington County and/or the State Highway Administration.

Police protection is provided by the Hagerstown Police Department which will patrol the area on a twenty-four hour basis. No significant impact on service delivery is expected.

Maintenance (i.e. snow removal, mowing of right-of-ways, litter removal) is normally performed by the Public Works Department. No significant impacts are anticipated, as there are no public streets or right-of-ways proposed for this project.

Stuart Bass, Comprehensive Planner, entered the following as Exhibits:

1. Outline for Extension of Services
2. Notification of Annexation to County, Regional and State Planning Agencies
3. Certification of Advertisement for Annexation
4. Annexation Plan

There was no representative from Washington County present at the meeting.

The following testimony was presented:

Greg Nearchos, 10928 Holly Terrace, Hagerstown, Maryland, was representing residents in this neighborhood who are expressing opposition to the proposed annexation.



He stated this annexation was discussed by the County Commissioners earlier today. They were not prepared to make a decision on the consistency issue at this time. He stated the Mayor and City Council have the opportunity to place conditions on the annexation. He presented a petition signed by 150 neighbors to the property expressing their opposition. The reasons are: proposed truck entrance and exit is directly across from an established residential neighborhood, lack of controls to prevent truck access to Halfway Boulevard, Wet Oak Ridge Drive is not designed for heavy truck usage, set back requirements are less restrictive under City zoning, operational noise negatively impacting existing residents, visual spillover of lighting onto residential properties, and proposed usage would not be permitted under the existing County zoning. He stated the neighbors are asking for assistance from the Mayor and City Council.

Jason Rappaport, 16231 Wishard Road, Hagerstown, Maryland, owns property adjacent to this property. He stated this is a residential area and increased traffic would disturb the neighborhood.

Councilmember Metzner indicated the City could place conditions on the annexation in order to protect the neighborhood.

MaryPat Vorreyo, 17940 Oak Ridge Drive, Hagerstown, Maryland, stated this is a peaceful area and she is concerned this type of use nearby will decrease the value of the homes. Many tractor trailer drivers already use Oak Ridge Drive as a shortcut. This creates noise and the road cannot handle more traffic.

Larry Miller, 17925 Oak Ridge Drive, Hagerstown, Maryland, is concerned that the agricultural use will be lost. Tractor trailer traffic is also a big concern. He asked what can be done to protect the character of the neighborhood.

Mayor Bruchey stated the Mayor and City Council would have input if this property is annexed. Councilmember Metzner stated community meetings would be held prior to approving an annexation.

Marvin Mann, Oak Ridge Drive, Hagerstown, Maryland, stated increased truck traffic will cause many problems.

Richard Kennedy, 608 Marion Street, Hagerstown, Maryland, stated the railroad people were drilling holes and excavating on the property during the winter. As much as 20 acres of trees has already been excavated. A stop work order was issued.

Doug Payne, 641 Marion Street, Hagerstown, Maryland, is concerned that Marion Street will be used as an access road. He expressed his concern that this area is already used as a hideout. Increased security will be necessary.

Mayor Bruchey stated no site plan has been submitted to the Mayor and City Council so many of the questions presented cannot be answered at this time.

Councilmember Metzner stated he believes the railroad would probably say the City cannot place conditions on the annexation. He wants to be able to deal with this request and to work with the citizens.

There was no further testimony presented. The record will remain open for ten days for additional comments.

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 7:48 p.m.

Respectfully submitted,

Donna K. Spickler, City Clerk

Approved: July 31, 2007