

57TH SPECIAL SESSION, WORK SESSION AND EXECUTIVE SESSION – AUGUST 14, 2007

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Mayor R. E. Bruchey, II called this 57th Special Session, Work Session and Executive Session of the Mayor and City Council to order at 4:03 p.m., Tuesday, August 14, 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, City Attorney Mark Boyer, and D. K. Spickler, City Clerk.

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 meet in Special Session.

Award of Contract: Eastern Boulevard Widening

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 award Contract No. 04-07-S-12 for the widening of Eastern Boulevard North to Craig Paving, Inc. for the amount of \$ 3,790,960. The Mayor and City Council also agreed to allocate a total of \$ 4,425,000 for the project to cover additional costs to other vendors and contingencies as outlined in the Engineering Department memo dated August 9, 2007. Funding shall be from prior year's budget carryover for this project, the Water Fund, the Light Fund, and proceeds from a planned General Fund bond financing.

Introduction of an Ordinance: Authorizing the Transfer of 9-11 South Potomac Street, Barbara Ingram School for the Arts, to Hagerstown Neighborhood Development Partnership, Inc.

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 to authorize the transfer of the City owned property located at 9-11 South Potomac Street to the Hagerstown Neighborhood Development Partnership, Inc. This property is being transferred for the purpose of providing a location for the Barbara Ingram School for the Arts and will allow this Board of Education Project to fully qualify for Maryland Historic Tax Credits and to comply with Internal Revenue Service provisions governing the tax-exempt funding for the construction of the school.

William Nairn, City Attorney, stated the consent of the State Board of Public Works is needed and that is why the ordinance is contingent upon their approval.

WORK SESSION – August 14, 2007

City Independent Auditor Meeting with the Mayor and Council

New auditing standards encourage the auditors to speak with the governing body of an organization, in this case the Mayor and Council, as part of the audit process, internal controls, their role and management's role. This is in addition to the traditional presentation of their opinion on the financial statements and internal controls and any recommendations for improvements at the end of the audit.

Mike Manspeaker, Smith Elliott Kearns and Company, CPA's, was present to discuss with the Mayor and Council to explain what an audit is, the audit objectives and outline the audit procedures they will use.

Mr. Manspeaker stated the objective of an audit is to determine the fairness of the financial statements. An audit is not a fraud investigation or an internal control review. Areas of weakness are reported, if discovered. One of the most critical aspects in completing an audit is an open line of communication between management and auditors. The audit is a comprehensive review of all funds (general and enterprise). When the audit is complete, the Mayor and City Council will receive a report from Smith, Elliott, Kearns and Company.

Edward Tovornik, Jr. (Renaissance Center) – Support of Financing from Neighborhood BusinessWorks Program

Deborah Everhart, Director of Economic Development, was present to discuss the adoption of a Resolution for Edward (Skip) Tovornik, Jr. Mr. Tovornik's project includes the rehabilitation and adaptive reuse of the Holiday Motel as office condominiums. The total project cost is \$ 3,300,000, with a requested loan from the State in the amount of \$ 500,000.

The Neighborhood BusinessWorks Program is part of the "Smart Growth" initiative to help stimulate investment in Maryland's older communities. Loans provide flexible gap financing to small businesses locating or expanding in locally designated neighborhood revitalization areas throughout the State.

Councilmember Metzner thanked Mr. Tovornik for rehabilitating one of the most problematic buildings in Hagerstown. Mayor Bruchey stated Senator Cardin walked past this property during a recent tour and he is impressed with what is happening in Hagerstown.

It was the general consensus to support the financing and to schedule approval of the resolution for the Regular Session on August 28, 2007.

Shared Staff Position – Community Development and Hagerstown Fire Department

Larry Bayer, Community Development Manager, Gary Hawbaker, Fire Chief, and Mike Weller, Public Fire Education Officer, were present to discuss a new position within Community Development and the Hagerstown Fire Department to be known as Community Resources Coordinator.

Staff is requesting approval of this position. The functions of the new position will be as follows:

Community Development – responsible for developing, conducting and analyzing studies and surveys necessary to determine housing and other community needs; preparing and implementing multi-neighborhood plans; assisting with the development of plans required by the US Department of Housing and Urban Development; and will assist the Community Development Coordinator in support of the Neighborhoods 1st program

Fire Department – responsible for developing, implementing and leading two specific fire prevention initiatives: Personal responsibility Initiative and SAFE – Smoke Alarms for Everyone Program

In support of both departments, this position will research and prepare applications for grants and other assistance to augment existing funds to carry out fire prevention and community revitalization program.

This proposal reflects support for the City of Hagerstown to use existing grant funding sources to designate a cost neutral staff position to be shared between the departments of fire and community development. This would be a 100% grant funded position. Twenty five percent of the employee cost would be from grants awarded to the Hagerstown Fire Department and the remaining portion would be CDBG funded.

Mr. Weller stated the State of Maryland is very supportive of the Fire Department's efforts with fire prevention initiatives. The State has issued an automatic extension of the grant. Since the beginning of 2007, 550 smoke alarms have been delivered to homes. Safety information is also provided.

Chief Hawbaker stated he is proud of the Fire Department for reaching out to the community and to people whose second language is English. Mr. Bayer stated Community Development wants to focus on neighborhood issues as well as housing and this joint position will assist in that effort.

An existing position would be expanded to create this new position. It would not be advertised. It was the general consensus of the Mayor and City Council to approve the creation of this position.

Rental Licensing Program Review

As discussed with the Mayor and Council in January, 2007, staff is conducting a review of the Rental Licensing Program. Some of the questions being examined include the scope of the program, the related property maintenance code and the inspection schedule.

The Rental Licensing Program is an integral aspect of the City's Revitalization Program and serves to enhance the safety and quality of the housing stock. The program has earned a positive reputation among investors, tenants and other interested parties. Recently, several jurisdictions have contacted staff seeking advice on creating a successful program.

As a preliminary matter, staff seeks direction from the Mayor and Council to prepare the introduction of an amendment to remove the sunset provision of the ordinance. The ordinance is scheduled to sunset in June, 2008, but as a practical matter, staff requires direction at this time. Staff is also seeking an opportunity to discuss issues such as program exemptions and licensing requirements.

Rodney Tissue, City Engineer, John Lestitian, Director of Office of Code Compliance, and Gary Lambert, Program Manager, were present.

Staff is asking for direction on whether or not the program should continue. The inspectors are still discovering unacceptable living conditions. All rental facilities must be registered, with the exception of certain exemptions. Annual exterior inspections are completed. Interior inspections occur not more than every three years, unless there is a turnover in tenancy.

Councilmember Cromer asked when this issue was presented to the Mayor and City Council. Mr. Lestitian stated he understands it was a number of years prior to 2001. Mr. Tissue stated several interim measures were tried before implementing the rental licensing program.

The Office of Code Compliance relies on volunteer compliance for reporting tenant turnovers. A citation can be issued if someone fails to register a rental property.

Councilmember Cromer asked how a new landlord knows what is expected of them. A large part of Mr. Lambert's job is education. Brochures are handed out and forums are held at Hagerstown Community College. The Department will explain the process to landlords.

The Office of Code Compliance also offers inspections prior to the purchase of a home, for a reasonable fee.

Councilmember Cromer asked what the cost of the program is. Mr. Lestitian stated the amount of the license fee is to cover 60% of the total budget.

Councilmember Cromer suggested revising the exemptions. New construction should be exempt for three to five years. She asked that family members living in rental properties be exempt from the license fee. Mr. Lestitian stated the Mayor and City Council would have to define family.

There was considerable discussion regarding the definition of family members. It was suggested to review similar programs for definitions. Councilmember Brubaker indicated there are definitions for immediate family that are legally binding.

Councilmember Metzner stated staff is not asking the Mayor and Council to make changes to the program. They are asking for guidance. This program has been a series of compromises. One of those is the sanctity of home ownership.

Councilmember Cromer asked why one of the exemptions was set at the owner, plus one unit. Councilmember Metzner stated it was reasonable to expect that in a duplex building, the owner would live in one of the duplexes. Councilmember Cromer stated the owner of a multi-unit apartment building could live in one of the units. She stated she feels this should also be exempted from the program. An exemption of this type will create administrative issues.

Councilmember Parson-McBean stated the question is whether or not to keep the program intact. She stated she believes houses are well-maintained and in better shape since the program started. Mr. Tissue stated the program also provided the opportunity to have a code compliance department that could provide the inspections needed to make the difference with properties such as the Holiday Hotel.

General fund support of the program has risen to \$ 220,000.00. Mr. Lestitian indicated it takes a large amount of resources to administer the rental license program and to address nuisance issues.

Councilmember Metzner stated the program should not end and the sunset provision should be removed. He would like to discuss the exemptions at a later date. Councilmember Brubaker asked for information from other municipalities. Councilmember Parson-McBean suggested that no exemptions be provided.

Councilmember Nigh asked what the rental vs. owner occupied ratio is for Hagerstown. Mr. Lestitian estimated the ratio to be 40% rental to 60% owner occupied.

It was the general consensus of the Mayor and City Council to draft an ordinance to remove the sunset provision of the Rental Facilities Ordinance.

The issue of exemptions will be discussed at a future work session. One of the main issues is whether or not to exempt residences if they are occupied by family members of the owner.

City Attorney Mark Boyer left the meeting at this time.

Jonathan Street Streetscape and Utility Replacement Project Update

The design of the Jonathan Street project is substantially complete. Staff is requesting Mayor and Council authorizations to obtain construction bids for this major Capital Improvement Project.

The project includes:

1. Provide one lane of travel with a four foot wide gore or bike lane along the western (left) curb line
2. Replace water main, sewer line, storm drain, gas main and all service laterals to the right of way line
3. Provide new pavement, and replace the curb, sidewalks and stoops (as necessary) along both sides of the project
4. Provide trees where possible and where approved by the adjoining property owners. Provide longer tree planters with ground cover but no continuous plantings along the street
5. Bump out curb lines (widen sidewalk) at the intersections and current "No Parking" areas only
6. Crosswalks shall be stamped, tinted concrete
7. No benches will be added but trash cans installed at each intersection
8. Expand the "Medal of Honor" triangle for better aesthetics and for traffic calming. This must be coordinated with the Board of Education and the local businesses
9. Provide 10-foot high ornamental pedestrian lights
10. Burying the overhead wires is NOT included, based on Council's decision in October, 2006

Assuming the project is fully funded for work to begin in fiscal year 07/08, then staff believes that this project could be advertised for bids in late September of this year. The bidding process would continue for about one month and the award of the construction contract would occur at the November regular session. Work would commence this winter or next spring and would be complete by the spring of 2009.

The latest design engineer's cost estimate of the project (based on the 98% complete plans) is \$ 4,475,000 including all the improvements mentioned above. This estimate assumes the road can be closed to thru traffic and that the project will generally be worked one block at a time. It appears that the "market" is favorable for bidding as contactors are seeking work. However, this will be a difficult project that will progress slowly and that could drive the costs higher.

To fund this project, the Water and Sewer utilities will fund their respective line replacement. The Light Department will fund the street lights. The utilities will also pay a prorated share of the pavement restoration, traffic control, mobilization, etc. This yields the following estimate of funding from various sources:

1.	General Fund (storm drain, streetscape)	\$ 2,400,000
2.	Water Funds (water line replacement)	\$ 900,000
3.	Sewer Funds (sewer line replacement)	\$ 900,000
4.	City Light (street lights)	<u>\$ 275,000</u>
		\$ 4,475,000

In early November, staff recommends another public hearing to obtain a final input from the community on the project. While staff will try to minimize impact, **this project will be very difficult and the impact on the local residents will be significant. The traffic control will require the blocks to be closed to thru traffic, inconveniencing the adjoining property owners.** It is important that the neighbors of the project understand what is being accomplished, the reason for the work, and the ultimate benefits.

Councilmember Parson-McBean stated the Jonathan Street community is anxious for this project to begin.

It was the general consensus of the Mayor and City Council to obtain construction bids for the project.

Councilmember Cromer asked if the project could be completed over several years, since budget deficits are anticipated in future budgets. Councilmember Parson-McBean indicated this would not be acceptable. The project is primarily a utility project and a large portion will be bond financed.

City Administrator's Comments

Bruce Zimmerman, City Administrator, asked Rodney Tissue to provide an update of street projects. Mr. Tissue indicated the railroad crossing on Northern Avenue and Belview Place are being repaired this week. CSX is not responsive for requests to repair other railroad crossings in the City. Councilmember Metzner would like signs to be placed at the rough crossings guiding motorists to contact CSX to report damage to their vehicles.

The overlay project on Northern Avenue should be completed by the time school starts on August 22, 2007. Work is continuing on Marshall Street and should be completed by the end of September. After completion of the Maryland Avenue intersection work, Wilson Boulevard will be overlaid.

Mayor and City Council Comments

Councilmember P. M. Nigh expressed sympathy to Daniel Elmlinger's family. There will be a refugee forum at Hagerstown Community College on September 19, 2007. Incidents of graffiti have increased. She asked everyone to contact the police department to report graffiti. She thanked Mike Spiker, Director of Utilities, for having the trees

cleared from lines on Frye Avenue. She thanked the Public Works Department for taking pictures of the graffiti.

She stated the City of Hagerstown and the Washington County Sports Foundation jointly agreed to terminate the operating agreement. The City of Hagerstown is currently working on ways to operate the facility as an ice rink on a short term basis, while working on a long term plan for the facility. The City is not looking to hire an Ice Rink Manager, but is currently talking with a user group about an operations agreement. The Hagerstown Youth Hockey Association has been able to fix the ice at the rink.

Councilmember L. C. Metzner had no additional comments.

Councilmember K. S. Cromer asked if the Mayor and Council were aware that the Code Enforcement and Permits departments were combined. She asked why this change did not come before the Council. Rodney Tissue, City Engineer, stated Code Enforcement and Permits are not separate departments. They are part of the Engineering Department. In order to process permits in a timely manner, it is necessary for the people in permits to focus on plan review and permit issuance. The employees in enforcement were operating under different procedures and training levels varied. To address these issues, the permits and code compliance titles have been merged into one division called Code Administration. John Lestitian has been appointed the Director of the Code Administration Division. He will be in charge of both Code Compliance activities and Permit activities. This reorganization does not require hiring of any additional staff and the cost is minimal, approximately \$ 2,000.00. A memo outlining the restructuring had been provided to the Mayor and City Council earlier.

Councilmember Cromer reminded the members of the Mayor and Council that an executive session is a closed session and the discussions are to be kept confidential.

Councilmember M. E. Brubaker stated there is a public hearing regarding the Urban Growth Area on August 16, 2007.

Councilmember A. Parson-McBean had no further comments.

Mayor R. E. Bruchey, II reminded everyone the Jamaican Festival will be held on August 19, 2007. He thanked everyone who attended the National Night Out event on August 7, 2007. Citizens on Patrol (COPS) did not receive funding from the Washington County Gaming Commission. He stated this is a good program and it should continue.

EXECUTIVE SESSION – August 14, 2007

On a motion duly made by Councilmember A. Parson-McBean and seconded by Councilmember K. S. Cromer, the Mayor and City Council unanimously agreed by voice vote of all members present to meet in closed session at 6:10 p.m. to consult with counsel to obtain legal advice, #7. No formal action was taken at the session. The meeting was

held in the Council Chamber, 2nd floor at the City Hall. The meeting was adjourned at 6:30 p.m.

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Respectfully submitted,

Donna K. Spickler, City Clerk

Approved: September 25, 2007