

WORK SESSION – August 19, 2008

Mayor R. E. Bruchey, II called this Work Session and Executive Session of the Mayor and City Council to order at 4:14 p.m., Tuesday, August 19, 2008, 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 Mark Boyer, and D. K. Spickler, City Clerk.

Preliminary Agenda Review

Consent Agenda

- A. Information Technology/Finance: GIS Enterprise License Agreement – ESRI (Redlands, CA) \$ 35,750.00

This will save a significant amount of money because the City will have the original software and will be able to add client pieces to it.

- B. Police Department: Camera System for HPD Parking Lot – Glessner Alarms & Communications (Hagerstown, MD) \$ 33,753.00
- C. Engineering: Sidewalk Installation on Maryland Avenue – Concrete Central, LLC (Hagerstown, MD) \$ 151,216.00
- D. Public Works: Bulk Road Salt – Cargill Incorporated (Olmstead, OH) \$ 82.67 per ton
- E. Community Development: Rehabilitation Contract for 415 Clarendon Avenue – A & L Home Improvements LLC (Smithsburg, MD) \$ 74,421.00
- F. Water/Wastewater Department:
1. Whole Effluent Toxicity Study – Analytical Laboratory Services, Inc. (Middletown, PA) \$ 17,365.00
 2. Myers Submersible Pumps – STH (Frederick, MD) \$ 32,364.00
 3. Backhoe Loader – Standard Equipment Company (Frederick, MD) \$ 77,017.00
 4. Camera Tractor – Raush Electronics USA, LLC (Chambersburg, PA) \$ 45,059.00
 5. Lagoon Maintenance at Willson Plant – Synagro (Baltimore, MD) \$ 54,900.00
 6. Patching Contract Change Order – Huntzberry Brothers, Inc. (Smithsburg, MD) \$ 42,058.00
 7. Construction Phase 1B – Pump Station Improvements (PS4) – C. William Hetzer, Inc. (Hagerstown, MD) \$ 28,584.00

- G. Parks and Recreation: Barrier Free Modular Play Equipment – Miracle Recreation (Martinsburg, WV) \$ 24,299.00

Approval of Memorandum of Understanding (MOU) with Washington County Hospital Association

Councilmember Brubaker asked that time be scheduled during a work session to discuss this agreement. This will be scheduled for the first meeting in September.

This completed the preliminary agenda review.

Request for City Property – Sundial

Kristin Aleshire, County Commissioner and former Councilmember, submitted a request to purchase or obtain the City Park Sundial. He would like to restore the sundial and use it at his private home, located in the City. For a number of years, the sundial was located in City Park. It was removed prior to 2004, when the bell was placed in the park to honor the Girl Scouts. The sundial has been kept in storage and is in need of some minor repair.

Mr. Aleshire is willing to have the sundial repaired and would donate it back to the City at any time.

Councilmember Nigh would like the sundial to remain in the park. Councilmember Brubaker is in favor of having it repaired (estimated at \$ 200 to \$ 300) and placing it back in the park.

It was the general consensus of the Mayor and City Council to have the sundial repaired and placed in City Park.

Protests/Rallies in Hagerstown

During a recent work session, the Mayor and Council expressed concerns about the location of protests and whether or not guidelines could be implemented for these activities.

Mark Boyer, City Attorney, indicated while reasonably time, place and manner restrictions may be imposed, the City cannot act to censor the message or shield the public from “offensive” speech. The only restrictions which are reasonable available are the ability to prevent the protesters from blocking the public right of ways or causing some sort of traffic hazard. The Supreme Court has long recognized that the right to express unpopular political messages in a public forum, especially on a public street, enjoys the highest constitutional protection.

Councilmember Cromer asked if a license or permit could be required for rallies and protests. Mr. Boyer stated a license fee could not be imposed to act as a barrier. If the

rally takes place in a public place, the City would not be able to impose restrictions because the public could avoid the area or they could avert their eyes.

Councilmember Cromer suggested limiting protests during the lunch hour.

Mr. Boyer indicated Washington, DC may be able to restrict protests and rallies because of the clear security issue.

Mr. Boyer will contact the Maryland Municipal League regarding this.

Charter Information – Revised Language and Election Information

During the July 22, 2008 Work Session, the Charter Review Committee presented their recommendations to the Mayor and City Council. As a result of the discussion, the City Attorneys reviewed the proposed language and revised the language in § 206, § 208, § 304 d and § 515. The revised language clarifies that the Mayor has the third deciding vote on non-ordinance matters and those that don't involve the appointment of a Council member or the Mayor.

Mayor Bruchey asked if the recommendation for non-partisan elections is adopted, would there be any party affiliation requirement for filling vacancies. Mr. Boyer indicated this language is consistent with the recommendations of the committee. Councilmember Metzner suggested there could be partisan elections and no party affiliation requirement for filling vacancies. Doug Wright, Charter Review Committee member, indicated this was not investigated by the Committee. Mr. Boyer stated there may be a legal impediment for doing this.

The total cost of the primary and general election in 2005 was approximately \$ 62,000.00. The City's Board of Election Supervisors, along with the Washington County Board of Elections, provides administrative services such as: staffing each polling place with the required number of judges, providing training for the poll workers, overseeing the testing and placement of voting machines and tallying the results after the polls have closed. The City pays for these services.

If the Washington County Board of Elections no longer provided the administrative services, the costs would be essentially the same. The City's Board, along with Staff, would need to organize these services.

According to the County Board of Elections, very few County Boards provide this administrative service to municipalities. The State Election Law does not provide governance for municipal elections. The County Board also indicated if the City's election was held in conjunction with a State, National or County election, there would be minimal fees for the municipal candidates being placed on the ballot.

The Maryland Municipal League indicated that of the State's 157 municipalities, only 22 hold their elections in November. The rest are spread out over the other 11 months, including 77 municipalities that hold their elections in May.

Mr. Wright stated when the Committee began their review of the charter, there was confusion about the wording and the involvement of the County Board of Elections. The Board was asked to attend a meeting to clarify their role. During the meeting, the Board presented a strong recommendation that the City election be moved to coincide with other elections they were conducting. The City's election follows the Presidential election so closely that it is difficult to update the voter information in time for the election. A fall election time was discussed. The Board indicated this timing would be better than the existing schedule but they still recommended that the City election be held with another election. Members of the Committee expressed concern that City issues would be overshadowed by other issues.

Councilmember Metzner stated the scheduling change was recommended as a compromise to assist with the closing of the County books. Since the Board has indicated if the date is not changed they would no longer be able to provide the administrative services to the City, Councilmember Metzner recommended keeping the existing election schedule.

Mr. Boyer informed the Mayor and Council that any change to the Charter can be petitioned to referendum at a special election. In order to avoid the potential need for a special election, any amendments to the Charter should be passed by the end of the year.

Councilmember Brubaker thinks if a charter amendment is recommended, voters should be able to vote on the amendment.

A copy of the proposed Charter is available from the City Clerk's office.

This issue will be discussed again in early October.

CITY ADMINISTRATOR'S COMMENTS

Bruce Zimmerman, City Administrator, reminded everyone that school starts in Washington County tomorrow. He thanked Lt. Reynolds and the police department for their efforts in promoting traffic safety. There is a new elementary school in Hagerstown. He thanked Code Administration for their efforts in getting permits issued for Pangborn Elementary. He mentioned that yard sales at Fairgrounds Park information will be included on an agenda in September.

MAYOR AND CITY COUNCIL COMMENTS

Councilmember A. Parson-McBean thanked Theodore Williams who organized this year's Jamaican festival. The festival will be held on August 23, 2008 at Wheaton Park. Community Chorale auditions will be held on Tuesday, September 2, 2008 and Thursday,

September 4, 2008 at the Maryland Theater from 5:00 – 8:00 p.m. The chorale will perform at the Utility Relief Benefit concert and for the Martin Luther King, Jr. event. More information will be posted on Channel 6.

Councilmember M. E. Brubaker thanked the Board of Education and City staff for their efforts with opening Pangborn Elementary.

Councilmember K. S. Cromer asked for an update on the Utility Relief funds. She reminded everyone that Augustoberfest will be held August 23 and 24, 2008. Bentley's Bagels will be opening in their new location tomorrow.

Councilmember L. C. Metzner encouraged everyone to attend the Jamaican festival and Augustoberfest.

Councilmember P M. Nigh stated there were many advertising signs along the Dual Highway last week. If the signs are in the right-of-way they will be removed. Traffic is backing up on Franklin Street. The City is discussing changing the signal light timing to alleviate some of the back up.

Mayor R. E. Bruchey, II encouraged people to attend the festivals this weekend. The Federal Little League team's next game in the Little League World Series is tonight at 8:00 p.m. He wished them well. A baseball, signed by the team, will be placed in the Little League Hall of Fame because they are the only team to ever win a game without a hit.

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 5:35 p.m.

Respectfully submitted,

Donna K. Spickler, City Clerk

Approved: September 23, 2008