

58th SPECIAL SESSION, WORK SESSION AND EXECUTIVE SESSION – August 21, 2007

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Mayor R. E. Bruchey, II called this 58th Special Session, Work Session and Executive Session of the Mayor and City Council to order at 4:02 p.m., Tuesday, August 21, 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 John Urner, City Attorney Mark Boyer, and D. K. Spickler, City Clerk.

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 meet in Special Session.

Approval 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 K. S. Cromer and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to approve an ordinance to authorize the transfer of the City owned property located 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.

The Special Session was then closed.

WORK SESSION – August 21, 2007

Preliminary Agenda Review

Consent Agenda

- A. Engineering: Potterfield Pool Whitecoat – ATS Pool Construction (Rockville, MD) \$ 92,823.00
- B. Water and Sewer:
 - 1. Grinder Pumps – Fluid Solutions (Taneytown, MD) \$ 24,440.00
 - 2. Eight Inch Meters – HD Supply Waterworks, LTD (Martinsburg, WV) \$ 21,340.00

3. Lagoon Cleaning – Synagro (Baltimore, MD) \$ 82,350.00
4. Meters for Residential Meter Program – L/B Water Service, Inc. (Chambersburg, PA) \$ 149,531.92
5. Change Order 3 – Construction Phase Engineering Services for the West End Tank – Hazen and Sawyer (Baltimore, MD) \$ 95,588.00

C. Parks and Recreation: Barrier Free Modular Play Equipment – Miracle Recreation (Martinsburg, WV) \$ 24,299

Michael Spiker, Director of Utilities, stated residents in the area of the West End Tank replacement project have been notified that construction will begin soon. Construction is expected to begin in September and will last approximately 18 months. A meeting for residents will be held after construction begins.

The purchase of the play equipment is funded through a Community Parks and Playgrounds grant from the State of Maryland.

Introduction of an Ordinance: To Remove Sunset from Rental Licensing Program

Councilmember Cromer asked why this is being considered 12 months in advance of the sunset date. Mayor Bruchey indicated he thought the consensus of the Council was to keep the program in place and discuss amendments at a later time.

This completed the preliminary agenda review. (4:12 p.m.)

Upstairs: Downtown Hagerstown

There exists a surplus of downtown real estate on the upper floors with significant development potential. Sharon Disque, Executive Director of Hagerstown Neighborhood Development Partnership, Inc., and Kathleen Maher, Planning Director, discuss a report that evaluated the potential for redevelopment of that vacant space, identified challenges associated with redevelopment opportunities, and outlined several recommendations.

In the process of evaluating redevelopment opportunities in Downtown Hagerstown, the staff of the Hagerstown Neighborhood Development Partnership (HNDP) estimated that more than 500,000 square feet of vacant space looms over street level. This large surplus of existing real estate offers significant potential to attract new residents to the City's core. Filling the upper floors has become a focus of their project.

By closely studying the Updegraff buildings, HNDP identified the hurdles to redevelopment, whether those be the construction costs, regulatory issues, or market conditions.

The team effectively performed the "due diligence" of a hypothetical investor. Building design, construction estimate, building code and zoning ordinance

requirements, financing – in these issues lie the reasons why building owners have chosen not to invest in “Upstairs: Downtown Hagerstown.”

Whether new construction or renovation of an existing building, the success of a project depends upon how it compares with existing and planned units targeting the same consumer. Under current market conditions, this property’s highest and best use is residential.

The study team considered commercial/office uses, as well. Square foot rents for office space in Downtown presently average approximately 20% lower than that of residential units, reflecting the weaker demand by the commercial sector. Given these factors, redevelopment of the Updegraff buildings as residential units poses less risk to the investor.

Established apartment and condominium buildings in the greater Hagerstown area tend to offer a minimum of amenities. Unlike its suburban competition, 43 – 53 West Washington offers future occupants architecturally distinct features, larger interior spaces, proximity to retail conveniences and dedicated green spaces.

The estimated cost of the project is \$ 2,345,217.

Successful redevelopment depends upon a variety of conditions, but local government has an opportunity make regulatory changes that directly affect a project’s feasibility. Below are actions which, if adopted, would help overcome significant barriers to new investment and the creation of new housing units:

1. Parking: Large building within the Downtown lack available land to accommodate the existing parking requirement.
 Recommendation: Modify the City’s Zoning Ordinance, reducing the requirement to zero (0) spaces for all existing buildings within the C3 District.
2. Adequate Public Facilities Ordinance: Unless a project creates five (5) or fewer new condo residential units, the APFO presents conversion of vacant commercial space to apartments/condos.
 Recommendation: Continued support by City and county elected officials for application of the ordinance’s revitalization clause is essential to project success.
3. Water and Sewer: Existing water and sewer allocations assigned to Downtown’s older, larger buildings cannot meet the demand created with adaptive reuse as residential units, and the costs for additional allocation add a significant financial burden.
 Recommendation: Explore opportunities to offset the utility charges for connections for new dwelling units, either directly or indirectly.

4. Excise Tax: Given the significant hurdles associated with redevelopment of upper floor space in a tight, urban setting, the exemption of properties in the C3 District from the County excise tax is essential.
Recommendation: Continue to exempt projects in the c3 District from the excise tax.
5. High Project Costs: Acquisition prices, renovation costs, market rate rents and condo prices presently create a situation where the cost of renovating a building exceed the finished value of the project.
Recommendation: Create a revolving loan fund to provide below-market gap financing for these projects.
6. Local Property Taxes: Existing tax credit programs adopted by the City and County in 2006 do not apply to projects where vacant commercial space is converted to residential units.
Recommendation: Modify the existing Residential Rehabilitation Program to include projects that create new units within existing buildings in the C3 District.
7. Federal and State Historic Tax Credits: These programs can provide a significant and necessary piece to the financing package, making upper floor redevelopment feasible.
Recommendation: Support and endorse the use of these programs.

Kathleen Maher, Planning Director, informed the Mayor and City Council the Planning Commission is holding a public hearing this week to take testimony regarding the parking restrictions. This will then be presented to the Mayor and City Council. Councilmember Brubaker stated he expects the amendments to be supported by the Planning Commission. The City will have to be involved in parking downtown at some point.

Ms. Maher asked if there are grants, tax credits or other assistance for installation of elevators. Ms. Disque indicated the cost of the elevator is relatively small in larger projects. The recommendation was made to revise the revolving loan program to assist with costs for an elevator.

Councilmember Brubaker noted the return on the investment of the sample project is not very attractive. Ms. Disque stated it would probably be more profitable for the owner to sell the building instead of renovating it. Councilmember Metzner stated solutions have been presented that should be considered.

Councilmember Nigh asked how many properties had second floor residences at one time. Ms. Disque stated many of the upper floors are still used as residences.

Mayor Bruchey recommended asking for the County's assistance in funding a revolving loan program for this type of project. Ms. Disque thought it would be

reasonable to think a portion of the County's workforce housing fund could be used. Councilmember Brubaker suggested funding from the Community Betterment Fund. Ms. Maher stated it would be something to think about for the next Community Legacy application.

Proposed City Ordinances – Leash Law and Pet Droppings

Chief Arthur Smith and City Attorney Mark Boyer were present to discuss the Washington County Animal Control Ordinance and what it does and does not cover.

The City of Hagerstown has adopted the current Washington County Animal Control Ordinance which contains no provisions similar to what would be considered a "leash law". The ordinance does require that a dog or other animal must be under control of the owner or other person capable of restraining the animal when off of the owner's property. Thus, a dog running loose would be in violation unless the owner could demonstrate control. This violation would be enforced by personnel of the Humane Society of Washington County. While a revised County Ordinance, including a leash provision, has been drafted, no action has been taken to enact same for an extended period of time.

As for pet droppings, the current County Ordinance makes is a violation for an animal to urinate or defecate on the property of another without consent (a City amendment to that ordinance allows the animal owner a chance to remove the waste in a sanitary manner). It is also a violation for an animal to defecate on public property unless the waste is removed in a sanitary manner. Again, violations of this section of the ordinance are enforceable by the Humane Society.

Based on current staffing levels at the Humane Society it is unrealistic to assume that violations of the above would be investigated in a timely fashion. One alternative to the adoption of new City legislation would be for the appropriate forms to be developed jointly between the Humane Society and the City which could be filled out by citizens, HPD or Code Compliance personnel and forwarded to the Humane Society for their administrative handling. This would remove the necessity of their personnel responding to these complaints. The person making a complaint would also have the option of bypassing the Humane Society and making their complaint directly to the County Office of Permits and Inspections. The complaint would then be forwarded to the animal Control Board for their review and handling.

Should the Mayor and Council choose to adopt additional provisions related to these topics, enforcement would be required by City Staff. There are options in this regard as to sanctions. Violations could be criminal in nature or civil as deemed appropriate. Mr. Boyer stated if the violation is a criminal act, cases would have to be heard in District Court. This may create a back log on the court dockets.

Mr. Boyer indicated the only instance in which a leash is required is in the dog areas in the park. If the City imposes a leash law it will be more stringent than the Washington

County Animal Control ordinance and enforcement issues will have to be addressed. He recommended that cases be heard in front of an administrative body.

Councilmember Metzner supports the passage of a leash law. However, he would only support a law that requires dogs on public sidewalks to be on a leash.

Mayor Bruchey is not in favor of a leash law or a complaint form. He would support an extensive education program and responsible pet ownership. He believes the first step should be education on Channel 6 and other outlets.

Councilmember Parson-McBean an educational program would be a good way to let people know the leash law will be enforced.

It was the general consensus of the Mayor and City Council to have the Mr. Boyer draft an ordinance implementing a leash law. The Washington County Humane Society will provide forms for reporting violations of the “pooper scooper” section of the Animal Control Ordinance. Educational information will be presented to residents on Channel 6 and in other formats.

Request to Modify and Expand City Office

A group of staff recently began discussion the common needs for office space in City Hall. City Hall is over 60 years old and the needs have changed considerable. Most City Hall departments are cramped or have inadequate space for the number of staff. The layout of many offices does not adequately support the staff and operations. Some issues need immediate attention while some are longer-range needs.

Staff looked at many possibilities of where additional office area could be developed including:

1. Elizabeth Hager Center: Some of the upper floors above Teleworks are undeveloped. Upon investigation it would be quite expensive to remodel and not very practical.
2. Roslyn Building: The City has made a significant investment of over \$ 1,000,000 to remodel the first floor and to install the elevator and mechanical systems for this building and address structural deficiencies. Staff suggests that City-government office space would be an appropriate use in this structure. The second floor remodeling in this building would be fairly straight forward and could meet the needs of many staff. The third floor is in a similar situation except additional demolition would be needed. A bridge between City hall and this building is suggested.
3. Fifth Floor of City Hall: There are some drawbacks to this area for office space. There is a very limited amount of windows and the need to transfer elevators is problematic. Although there are areas on the fifth floor that would make adequate office space, an abundance of office space is not available there.

4. 44 North Potomac Street: Staff investigated the building immediately south of City Hall. The building is being remodeled and will be occupied and rented.

The City has discussed the potential of relocating some operations to the upper floors of the Roslyn Building. This is one reason the building was purchased by the City, and staff has begun to focus on the possible use of this building for City operations. As we strive to fulfill our mission statement of providing "...superior services to make the City a location of choice...", staff feels that additional and improved office space for City Hall functions is warranted.

Staff is requesting the Mayor and Council to allow them to develop a plan to use the upper floors of the City owned Roslyn Building and remodel the 4th floor of City Hall. If this is permitted, staff will return to the Mayor and Council for their consideration of the plan.

John Uner arrived at the meeting and Mark Boyer left the meeting.

Mr. Zimmerman stated this information is a follow-up with some space issues that have been discussed with the Mayor and City Council, such as the Information Technology Department. Some funding has been included in the bond issue, but a specific funding plan has not been developed.

It was the general consensus of the Mayor and City Council to move forward with expanding City offices into the Roslyn Building and to develop a funding plan.

Housing Development – 500 Block of South Potomac Street

Larry Bayer, Manager of Community Development, and Dave Jordan, Executive Director of Community Action Council, were present to discuss a plan to create owner-occupied housing units on the City owned property located in the 500 block of South Potomac Street, across the street from Bester School. This is in keeping with the City's long standing goal of creating additional owner-occupied housing opportunities.

On January 31, 2006, the Mayor and Council adopted a concept plan for the City owned property in the 500 block of S. Potomac Street which outlines two primary uses of the property: expansion of equipment and material storage for Public Works on the rear portion and construction of owner-occupied "workforce" housing along South Potomac Street.

Utilizing a combination of local, state and federal funding sources, a plan has been developed which will permit the construction of 8-9 homeownership units which will sell for \$ 130,000 - \$ 135,000 per unit. These units will be designed to be architecturally compatible with the neighborhood and will provide the owners with a 1,200 sf home which features alley access to off-street parking and fair sized rear yards.

Under the proposal, Community Action Council will act as the developer of the project. In order to utilize CDBG funds in the project, a non-profit HUD recognized community based development organization such as CAC must be the developer of the property. Staff chose to work with CAC for a number of reasons. CAC participates in the Individual Development Account program, which assists potential homeowners in saving toward down payment. The staff is experienced in dealing with various state and federal agencies and has the expertise to undertake such a project and see that it is completed within a reasonable time period, and CAC already owns one of the buildings which will be in the middle of the finished project.

The preliminary budget is \$ 1,690,000, excluding the land. In order to meet the target sales price, representatives of the Maryland Department of Housing and Community Development and HUD have been contacted and have identified at least \$ 700,000 in grant funds which will be available to the project. Under this concept, after repayment of loans and other costs, all new proceeds would go into a housing trust to allow for the continuation of this program in other locations.

Permission from the Mayor and Council is requested to proceed from concept to development planning.

Councilmember Parson-McBean expressed concern the housing price is too high. Mr. Bayer stated a number of subsidies are being included to reduce the price to \$ 135,000, but other options could be considered. Councilmember Parson-McBean suggested utilizing practices from other places around the country.

Mr. Jordan stated a land trust is being considered, where the land is not part of the property. He stated potential purchases would be firefighters, teachers and police officers. Councilmember Parson-McBean stated people need to go from affordable housing to attainable housing.

Councilmember Metzner asked if the plan has been discussed with the Board of Education, because of the proximity of Bester School. Mr. Zimmerman indicated the plan had been reviewed with the Board previously. It will be discussed again.

Purchasers of homes in the Hope VI project area were allowed to keep equity realized if they sold the homes. The project on S. Potomac Street utilizes \$ 80,000 in subsidies and this amount would be kept in the program. It would not become part of the equity if the home is sold.

Councilmember Nigh expressed concern that the homes could be used as rental properties. The Land Trust document could prohibit this.

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

CITY ADMINISTRATOR'S COMMENTS

Bruce Zimmerman, City Administrator, stated a public information meeting regarding the project on Eastern Boulevard will be held on August 22, 2007 at 5:30 p.m. in the Council Chamber. The meeting will be televised on channel six and people will an opportunity to email questions during the meeting.

MAYOR AND COUNCIL COMMENTS

Councilmember K. S. Cromer had no additional comments.

Councilmember L. C. Metzner asked that snow removal at Cortland Manor be discussed. He asked who enforces conditions placed on projects by the Board of Zoning Appeals. He thanked Senator Ben Cardin for visiting Hagerstown. He suggested participating in the joint lobbyist plan again this year and then consider hiring a lobbyist for Federal issues.

Councilmember P. M. Nigh thanked Western Enterprise Fire Station for their assistance to Community Rescue Service (CRS). CRS moved to Western Enterprise recently. She also thanked the Antietam Fire Station. She reminded everyone that school starts on August 22, 2007 and to drive carefully. She pointed out that Citizens on Patrol did not receive gaming commission funding due to a technical problem.

Councilmember M. E. Brubaker had no additional comments.

Councilmember A. Parson-McBean thanked the groups and individuals who made the Jamaican Festival a success. She received a letter from Senator Cardin indicating there are many State and Federal programs designed to address the issues she raised to him. He offered the assistance of his office. She asked that the Council decide what assistance to ask for from Senator Cardin.

Mayor R. E. Bruchey, II informed everyone that, due to inclement weather, the swimming portion of the "Swim to Stock Shelves" event scheduled for today from 6:00 to 9:00 p.m. at Potterfield Pool has been cancelled. Pool staff will be on site to collect nonperishable food item conations. Augustoberfest will be held on August 25 and August 26, 2007. The Music by the Lake Concert Series continues Saturday, August 25, 2007.

He reported the trial of four ten hour days at the police department has been successful. There are as many as 16 officers on the street at one time now. He stated the technical problem with the COP funding was that a former board member did not sign the application.

EXECUTIVE SESSION – August 21, 2007

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 of all members present to meet in closed session at 5:44 p.m. 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 to consider a matter that concerns the proposal for a business or industrial organization to locate, expand, or remain in the State, #4. 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 6:10 p.m.

Respectfully submitted,

Donna K. Spickler, City Clerk

Approved: September 25, 2007