

83RD SPECIAL SESSION AND WORK SESSION – September 16, 2008

Mayor R. E. Bruchey, II called this 83rd Special Session and Work Session of the Mayor and City Council to order at 4:06 p.m., Tuesday, September 16, 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 William Nairn, and D. K. Spickler, City Clerk.

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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 hold a Special Session at 4:07 p.m.

**Approval of a Resolution: Joint Application to Expand the
Hagerstown/Washington County Enterprise Zone**

Action: On a motion duly made by Councilmember M. E. Brubaker and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to support a joint application with the Board of Washington County Commissioners to expand the Hagerstown/Washington County Enterprise Zone.

**Public Hearing – Consolidated Annual Performance and Evaluation Report
(CAPER) for FY 2008**

In accordance with Title I of the National Affordable Housing Act, the City of Hagerstown has prepared its consolidated reporting submission governing its performance applicable to the community development formula grant program and progress in meeting consolidated plan priority needs and objectives.

This public hearing is being held to obtain citizens' comments regarding the Draft CAPER. The City intends to submit the FY 07/08 CAPER to the U. S. Department of Housing and Community Development on September 29, 2008.

This CAPER provides details of the operation of Hagerstown's CDBG program for the fiscal year from July 1, 2007 through June 30, 2008. The budget for the program during this period was \$ 2,802,997, which included a CDBG entitlement grant of \$ 962,490, anticipated program income of \$ 1,233,492 and carryover from the previous year of \$ 607,490. Expenditures for the period totaled \$ 1,700,878.

There was no testimony presented. The record will remain open for 10 days for written comment. Councilmember Parson-McBean noted she had submitted her comments previously.

The special session was then closed.

Preliminary Agenda Review

The appointment of Richard McCleary to the Hagerstown Housing Authority will be scheduled for approval on September 23, 2008.

Consent Agenda

- A. Police Department: Replacement of Water Heater – Miller & Anderson
(Hagerstown, MD) \$ 11,000.00
- B. Engineering: Madison Avenue Parking Lot Improvements – Huntzberry Bros.,
Inc. (Smithsburg, MD) \$ 16,560.50
- C. Public Works: Signal Controllers – RGA, Inc. (Powhatan, VA) \$ 10,915.00
- D. Water/Wastewater Department:
 - 1. Pump Control Valve – HD Supply Waterworks, LTD (Martinsburg,
WV) \$ 12,584.73
 - 2. Water Distribution Sampling Stations and Automatic Flushing Devices
– HD Supply Waterworks, LTD (Martinsburg, WV) \$ 11,557.20
 - 3. Water Meters – Four and Six Inch – HD Supply Waterworks, LTD
(Martinsburg, WV) \$ 26,055.00
 - 4. Water Meters = ¾” and ½” – L/B Water Service, Inc. (Chambersburg,
PA) \$ 200,657.00
 - 5. Copper Tubing – Noland Supply (Hagerstown, MD) \$ 13,344.00
 - 6. Miscellaneous Inventory Items – HD Supply Waterworks, LTD
(Martinsburg, WV) \$ 17,447.17

Councilmember Metzner suggested including something in the purchasing policy that covers purchases of items, such as copper, that fluctuate in price. Mr. Zimmerman indicated there is a provision for emergency purchases which affect operations. That provision was applied for the copper purchase.

**Approval of Resolution: Lease for Center for Business and Training, 14 N.
Potomac Street**

The Community Development Department is requesting that the Mayor and Council approve a lease for the Center for Business and Training, Inc., located at 14 North Potomac Street, Second Floor. It was the general consensus to include approval of the lease on the regular session agenda.

Approval of Easement for Reconstruction of Alley 3-38

In July 2008, the Mayor and Council approved a contract with Huntzberry Brothers to reconstruct Alley #3-38, which is located north of the 100 block of East Baltimore Street.

Before construction begins, City Attorney William Nairn recommends obtaining a Deed of Easement from the downstream property owner, to allow the flow of surface drainage from the alley to flow across the downstream private parking lot. It was the general consensus to approve the easement.

This completed the preliminary agenda review.

Utilities Department Update Related to the Washington County Hospital Project Contract Request

Michael Spiker, Director of Utilities, reported the Utilities Department (UD) continues to work with Hospital staff, Frederick Seibert and Associates, and ARRO Consulting in regard to the required water and wastewater infrastructure needs of the new hospital. The Maryland Department of the Environment approved the development of a Flow Transfer Agreement between the City of Hagerstown and Washington County to accommodate the wastewater flow generated by the new facility. This was approved by both entities in August, 2006. The Hospital has assumed the role of developer and has paid full cost for all services and fees rendered by the City. The UD has billed the Hospital for 115,000 gallons per day of water and wastewater benefit and allocation fees. The City has received payment for the Wastewater Division in the amount of \$ 2,875,000 and the Water Division in the amount of \$ 1,437,500. Initial discussions regarding the project commenced in 2004 and initial cost estimates were developed for wastewater upgrades in the neighborhood of \$ 1.5 million. The City's requested upgrades have significantly increased the yet to be determined cost, which may approach or exceed \$ 3 million.

The Water Division will provide domestic service through the existing system of water storage and water distribution, with service provided through multiple meters on the site. The hospital will install a 700,000 gallon privately owned and operated water tank that will be utilized for fire flows, when required.

The Wastewater Division required system upgrades to accommodate the increase in wastewater flows. The Wastewater project will entail the abandonment of Pump Station 18 at Stanford Drive. Easements will be required on Direct Mail Processors property and American Red Cross property. City staff has begun negotiations for the purchase of this property with the local administrative board of the Red Cross.

As discussed earlier, the Utilities Department will expend budgeted funds in regard to the requested upgrades of the wastewater main and pump station replacement. Determination of the expenditures will occur after the bidding process occurs, during the late summer or early fall of 2008. This process will entail a line item review of each aspect of the process by the administrative, engineering, and consulting staff of both entities.

Staff will require input from the Planning Department and Economic Development Department in regard to future development projections for the aforementioned areas so that a definitive EDU projection can be developed. This information can then be

formulated into a calculation using the yet to be determined amount of the City contribution to the project. Each EDU for wastewater is currently \$ 4,400 for in City customers and \$ 5,000 for outside City customers.

An agreement to identify the respective responsibilities and financial commitments with respect to enhancements to the City's wastewater infrastructure was presented for the Mayor and City Council's review.

The hospital would make improvements to the system that would be higher than the required improvements. The bidding process would determine the project costs and the hospital would pay for the additional improvements.

Councilmember Metzner expressed concern that additional funds would be necessary for designing the two projects. He asked for a potential price range before the Mayor and Council make a commitment with a contract. He asked what a realistic expectation is for additional development in the area.

Mr. Spiker asked if the Mayor and Council wish to move forward with the contract or stop all discussion and just construct the 600,000 gallon tank and let the other parties construct what they need. If the Mt. Aetna farm development is not expected in 15 to 20 years, should the City construct the tank?

Alfred Martin, Finance Director, indicated the benefit fees are necessary in order to be assured of having the funds to pay for the infrastructure through a bond issue.

Councilmember Metzner is concerned that growth will not occur as predicted. Councilmember Parson-McBean asked if federal grants from the transportation department are being considered. Mr. Spiker indicated the State must be approached first.

Councilmember Cromer expressed concern that the City is considering spending a significant amount of money on a project that is in the County. Mr. Spiker indicated the project is within the City's service area. He stated equivalent dwelling unit (EDU) numbers would be assigned when the development plans are presented. This will allow the City to recoup the investment. It may take 30 to 40 years before the investment is returned.

Councilmember Brubaker expressed concern there is no prior cost for the basis of the project. He asked if the hospital would share in any costs for upgrades. Donnie Barton, Wastewater Operations Manager, indicated the hospital would not be permitted to recoup their costs.

Mayor Bruchey stated if the City decides not to enter this contract, the hospital will only build the tank and nothing else.

Councilmember Nigh asked if property owners with a septic system will be required to be connected to the City's system. Mr. Spiker stated the City cannot require a customer to connect to the system if it is in front of the property. The amount of the connection fee ranges from \$ 4,400 to \$ 5,000. New development in the Robinwood area that would flow through the new pumping station would be part of a special assessment district.

Mr. Zimmerman stated it is clear there is concern about the cost sharing and cost recovery. He stated Staff will look at future growth and present different strategies for the Mayor and Council's consideration.

City Bond Financing Needs

Alfred Martin, Director of Finance, was present to discuss the 2008/09 bond financing needs. The current financing needs must be completed by the end of December 2008 to cover project funding commitments that are already underway and to take advantage of what may be a more favorable interest rate environment than earlier in the year. In order to do this, the debt issuance process must be started by October, since a public bond sale will be necessary, because the amount needed to borrow is over \$ 10,000,000 and will not allow the City to be bank qualified in 2008. The larger bond size should generate more interest from investment banking firms and help lower borrowing costs.

Mr. Martin pointed out the Bond Financing Needs schedule show that it is recommended that the City borrow up to \$ 19,000,000. This will cover the general bond financing needs identified in the proposed 2008/09 budget, unfunded financing commitments on already approved projects and additional needs identified after the approved budget was adopted for other commitments the City has made or higher anticipated project costs.

In order to address capital funding needs for 2008/09 as identified in the budget, prior meetings and in this memo, staff is recommending that we proceed with the proposed financing plan. Staff would like to complete our financing before the end of the current calendar year. Staff will bring back separate proposals for the water and sewer MDE financing needs as the City gets approval from MDE to proceed with them in their own separate financing approval process.

A twenty year repayment plan may be considered because of interest rates and costs.

This bond issue will be discussed again in October. The enabling bond ordinance would have to be approved in early November in order to complete the financing before December 31, 2008.

Northeast Quadrant Neighborhood Survey

Meghan O'Brien, Community Resources Coordinator, presented the result of a survey of the Northeast Quadrant Neighborhood. To better assist in developing a plan to

rejuvenate the Northeast Quad of the city, a community survey was created to help city staff better understand the issues this neighborhood faces. The survey results will aid with the neighborhood plan to improve quality of life for those who live, work and visit this neighborhood.

Beginning on June 11, a combination of city staff and citizen volunteers in teams of two, administered a community survey in the Northeast Quad. This area includes the north side of East Washington Street north to the railroad tracks and from both sides of North Potomac Street east to include Cannon Avenue.

Three hundred twenty-four surveys were completed. This yielded a response rate of 32%. Fifty-three percent of those to complete the survey were homeowners.

When asked if they felt safe being outside during the day, 84% responded they felt either very safe or somewhat safe. At night this dropped to 50%. When asked about neighborhood problems, parking at 58% and traffic at 55%, were the only two issues which more than 50% of those survey indicated were either big or somewhat of a problem.

A neighborhood plan will be developed and presented to the Mayor and Council for their review.

239 North Locust Street – Former Alms House

Rodney Tissue, City Engineer, and Larry Bayer, Community Development Manager, were present to discuss the Alms House. In November 2004, the City of Hagerstown acquired the property at 239 North Locust Street, commonly known as the former Alms House. To date, the City has removed the deteriorated garage and shed and continually removes weeds, trash, and debris. The property is experiencing other code violations on the exterior of the structure that must be addressed. Furthermore, the City needs to develop a long term plan for this property.

A Request for Proposal was released shortly after the building was purchased. Staff has talked to developers but have been unable to generate any interest in reuse of the building. Community Legacy Project Funding was awarded, which was intended to be passed through to a developer. One potential developer, Hagerstown Restorations withdrew from the project in January, 2007.

Two options for long-term use of the property were presented for consideration. The first option creates a small “parklet” in front of the main building structure and the creation of eight public parking spaces at the rear of the building. The estimated cost of this option is \$ 95,000, plus the cost of addressing the code violations of \$ 40,000. The second option would be to maximize parking on the site but retaining the building. This option adds two additional spaces in the front and eliminates the parklet area. The estimated cost is \$ 90,000 plus the cost of addressing the code violations of \$ 40,000.

Councilmember Parson-McBean suggested partnering with someone to restore the historical significance of the building. Councilmember Cromer and Councilmember Nigh have indicated they would like to see the building become part of a civil war walking tour.

Councilmember Cromer stated Virginia MacGruder found newspaper articles showing the building was used as a makeshift hospital and people were buried there.

Kathleen Maher, Planning Director, indicated the property could be designated as a historical site through Maryland Historical Trust. This is a long and involved process. Another option would be to apply for a National Heritage Area, which is a local designation.

Councilmember Cromer is not in favor of either option for creating parking at the Alms House.

Councilmember Metzner is not in favor of making a decision that would allow a third party to decide what can be done with City property.

It is estimated that \$ 340,000 would be needed to restore the building enough to house a museum.

It was the general consensus to eliminate the outstanding Property Maintenance Code violations and spend approximately \$ 40,000 to complete the maintenance on the exterior of the structure. The Mayor and Council also agreed to start the local protection process. Use of the building will be discussed at a future work session.

A recess was taken at this time.

Jonathan Street Project Status Report

Rodney Tissue, City Engineer, stated the project on Jonathan Street continues to progress slowly due to the amount of rock that has to be removed to replace the sanitary sewer. While the drilling and shooting of the rock is going well, staff feels that the changed condition of the bedrock over the sanitary sewer has slowed the work to a point where the contractor no longer feels the project is consistent with what he bid. Staff has monitored the progress and feels that a different approach is needed. Therefore, staff is recommending that all waterline and sanitary sewer lines construction be deleted from the contract with the Ardent Company and directing City staff to complete this work. Staff from the Water and Sewer departments have indicated they would embrace the challenge of this work on this street. The benefits of City staff completing this work are as follows:

1. By using City staff, possible change orders from Ardent due to the unforeseen rock are avoided.

2. By using City staff, it provides more control of water and sewer construction, which is an important consideration on this difficult and challenging project.
3. Deletes approximately \$ 1,500,000 of services from the contract. However, the City staff plans to capitalize the work that the City forces do, but the Water and Sewer Department can control the amount of staff time that is capitalized towards this project.

Staff recommends that the Water and Sewer Department complete all of the water and sewer work in the 200 block (Church Street to Bethel Street) by November 2008. The project would be shutdown because the temporary waterline would freeze during the winter. In March 2009, the project would be resumed. Assuming the installation of the water and sewer goes well with the City forces in the 200 block, that they would continue replacement of the water and sanitary sewer in the 300 and 400 blocks and Ardent would follow starting in the 200 block to complete the remainder of the contract which includes storm drain, sidewalk, paving, etc. If the Water and Sewer Departments do not feel that they can complete the work in the 300 and 400 blocks, then this winter, staff will rebid the contract due to the changed conditions of the bedrock over the sanitary sewer. It is anticipated that a re-bid price will be higher.

Mr. Tissue expressed his appreciation to the Utility Department for their willingness to work on this project.

Councilmember Parson-McBean asked if more staff would be needed. Mr. Spiker indicated work has been reassigned in order to have a crew on the site. Councilmember Parson-McBean suggested that local people be hired as seasonal help if additional staff is needed.

Mr. Tissue stated Staff is working within the budget the Mayor and Council approved. Mr. Spiker indicated additional staff is not anticipated. The Mayor and Council accepted this plan.

Proposed Contract Extension – Refuse & Curbside Recycling Collection

Rodney Tissue, City Engineer, provided a follow-up to the Mayor and Council's discussion of the Refuse and Curbside Recycling Collection Contract. The contract expires at the end of 2008, but allows for an extension of an additional three years. Per the contract, equitable collection rate price adjustments would be made based on the Consumer Price Index (CPI) movement in January 2009, January 2010, and January 2011. Using this price index, Allied and the City achieve a fair and equitable adjustment based on actual inflation rates.

In addition, the contract extension would also include a modification to the fuel recovery fee. In lieu of a flat \$ 600 a month fee, Staff recommends utilizing the Department of Energy's website where fuel cost fluctuations can be determined and an equitable adjustment be made to Allied's contract based on the actual cost of fuel.

On July 15, 2008, Council requested that staff and Allied develop a way for the City to be compensated or share in the revenues received from the growing recycling income. Curbside recycling within the City has been successful and participation is slowly growing. This revenue sharing is not in the current contract. For the contract extension, staff proposes the following rebate program for the mixed paper and commingled items:

1. Proposal for Mixed Paper rebate – since rebates are not part of the current contract, staff negotiated with Allied to obtain possible rebate procedures. The contract would establish a floor at 65 tons per month for paper. When the amount of paper recovered is more than 65 tons for the month, Allied will rebate back to the City 25% of the fund they receive for every ton over 65 tons.
2. Commingled – Allied reports they are now receiving about \$ 40.00 per ton for commingled products. There is no published rate for commingled products. Using a floor of 30 tons, the formula to rebate to the City would be as follows (assuming 40 tons collected in a given month): $40 \text{ tons} - 30 \text{ tons} = 10 \text{ tons} \times \$40/\text{ton} \times 25\% = \$ 100.00$ rebate to the City

Staff recommends that if Council wishes to consider other practices, such as automated collection, once per week trash collection, use of totes, mandatory recycling, and recycling rebate programs, that a Task Force be established to study the possibilities.

It was the general consensus of the Mayor and Council to extend the contract for a three year period and to form a Task Force to study other options.

2008 Citizen Recognition Award/Board and Commissions Luncheon

Karen Giffin, Director of Community Affairs, recommended that the Annual Boards and Commissions Luncheon be held on Friday, November 21, 2008. Staff recommends that the luncheon be held at the Academy Theatre at 12:00 p.m.

It was the general consensus to hold the luncheon on November 12, 2008 at the new location.

The Doleman Black Heritage Museum

The Board of Directors of The Doleman Black Heritage Museum are having a fundraiser on October 19, 2008 at the University System of Maryland at Hagerstown in Downtown Hagerstown.

Karen Giffin, Director of Community Affairs, and Board of Director Members Charles Doleman, President, Rosemary Doleman Lucas, Vice President, Janice Kelsh, Secretary, Teresa Holmes and Jay Kelsh were present to discuss the fundraiser.

The Board of Directors would like the City of Hagerstown to be a partner in this event by underwriting the in-kind City services which would be \$ 200. This cost was estimated by Eric Deike, Manager of Public Works. Also, a donation of \$ 1,000 is being requested. If the Mayor and Council would approve this request, the \$ 1,200 would come from the 2008/2009 Community Affairs – Marketing and Promotion Budget.

The Doleman Black Heritage Museum Incorporated is a nonprofit organization. The focus of this organization is the preservation and display of African American historical artifacts in Washington County, Maryland. Their goal is to establish a permanent facility to house and maintain the collection. They would like to start having special outings, special programs, and fundraisers to meet the goal.

The first event will be held on October 19, 2008. The event is intended to educate the general public, as well as the African American community, about the lifestyles and contributions of those who came before them.

Councilmember Parson-McBean stated there is great support for the Doleman Black Heritage Museum. Senator Munson has supported the effort and would like to submit a bond in January, 2009. A meeting and tour of the collection is being planned with Secretary Skinner to gain additional support.

It was the general consensus of the Mayor and City Council to partner in this event. Information will be shown on Channel 6 also.

Transfer of \$ 58,000 from General Fund to Economic Redevelopment Fund

Alfred Martin, Finance Director, stated the Mayor and Council approve the sale of land in the old City Industrial Park off Commonwealth Avenue to the Mulch Man for \$ 58,000. This sale of land was unexpected and was not included in expected revenues for last fiscal year. It was suggested by the Mayor that it would be good to carry over these unexpected revenues to be used in future years for enhanced marketing for economic development and the community. One way to do this would be to transfer the funds from the City's General Fund to the economic Redevelopment Special Revenue Fund as of June 30, 2008. This would enable the \$ 58,000 to be carried forward to be used for these purposes in a separate special revenue fund in future years after June 30, 2008 rather than closed out at fiscal year end and melded into the General Fund surplus.

The Mayor and Council would then have the flexibility to approve a plan for the use of these funds for marketing for economic development and the community at a future date.

Staff would recommend this action since the revenues were not expected and to allow for their future use for marketing for economic development and the community.

Councilmember Brubaker asked that the Council review the use of the funds before the money is expended.

It was the general consensus of the Mayor and Council to approve the transfer.

Charter Review – City Elections

Mayor Bruchey stated the City Code calls for a human relations commission. This commission was in place and ceased to exist in April, 1987, when the terms expired from the last three members. He asked the Council to consider reappointing this commission. If there was a local commission, it may alleviate some of the complaints made to the State Human Relations Commission.

Councilmember Parson-McBean stated it is important for the City to have a Human Relations Commission. This would allow people in the community to have a say in how they feel they've been mistreated by employers and businesses in the community. Because the commission is in the code, Councilmember Parson-McBean stated the Council owes it to residents the opportunity to register their complaints.

The Mayor and Council then reviewed the latest version of the proposed amended Charter. Mayor Bruchey indicated the Mayor and Council have to decide if they wish to propose changing the election time frame and whether to hold partisan or non-partisan elections.

Councilmember Metzner stated the Charter Review Committee unanimously agreed to propose changing the election date, but not to the schedule requested by the Washington County Board of Elections. He does not believe the Committee would have recommended changing the election date if they had been aware the Election Board would not assist with City elections in the same manner if the date was not changed to the gubernatorial or presidential schedule. He supports the recommendations of the Committee, including keeping the election date the same as it is.

Councilmember Cromer supports keeping the election date the same and continuing with holding partisan elections. The Democratic Central Committee members have indicated they would oppose changing the election to non-partisan.

Councilmember Brubaker is considering the issues that have been presented to him regarding the changes.

Councilmember Parson-McBean supports keeping the election date the same and to continue with partisan elections.

Councilmember Metzner stated another option is to put the question on the ballot in the 2009 election.

The proposed charter will be revised to remove the language regarding election date and partisan changes.

CITY ADMINISTRATOR'S COMMENTS

Bruce Zimmerman, City Administrator, had no additional comments.

MAYOR AND CITY COUNCIL COMMENTS

Councilmember P. M. Nigh thanked everyone who participated in and planned the Patriot Day remembrance. She asked that the newspaper at least publish the start time for Mayor and Council meetings. The full agenda is no longer printed in the paper. She announced the Prescription Bus will be at Municipal Stadium on Monday, September 22, 2008. She asked that Character Counts banners be purchased for the entrance building at Fairgrounds Park. It was the general consensus of the Mayor and Council to permit the banners to be placed on the building.

Councilmember L. C. Metzner congratulated Antietam Fire Company on their 200th anniversary. The open house was a nice event. Another veteran's trip is being planned for October 22, 2008. He hopes there will be two buses making the trip this time and that the County will participate.

Councilmember K. S. Cromer thanked the people responsible for having a new sidewalk installed at the old Shockey Building on Summit Avenue. The sundial has been repaired and placed in City Park, on the east side of the Mansion House.

Councilmember M. E. Brubaker had no additional comments.

Councilmember A. Parson-McBean thanked Chief Arthur Smith for dealing with an issue on Pennsylvania Avenue.

Mayor R. E. Bruchey, II thanked the Council for working through the difficult items on the agenda.

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 7:05 p.m.

Respectfully submitted,

Donna K. Spickler, City Clerk

Approved: October 28, 2008