

WORK SESSION AND EXECUTIVE SESSION – September 21, 2010

Mayor R. E. Bruchey, II called this Work Session and Executive Session of the Mayor and City Council to order at 4:06 p.m., Tuesday, September 14, 2010, in the Council Chamber at City Hall. Present with the Mayor were Councilmembers W. M. Breichner, M. E. Brubaker, F. W. Easton, A. C. Haywood, L. C. Metzner; City Administrator Bruce Zimmerman, City Attorney John Urner, City Attorney William Nairn and City Clerk D. K. Spickler.

WORK SESSION – September 21, 2010

Preliminary Agenda Review

**Consent Agenda**

- A. Public Works: Bulk Gasoline Purchase – A. C. & T. (Hagerstown, MD)  
\$ 2.3628/gal., Estimated annual cost \$ 307,164
- B. Hagerstown Police Department: Replacement of Boiler – T & P Mechanical Specialist, Inc. (Woodbine, MD) \$ 86,000.00
- C. Water Department: Inventory for Water Fund – Ferguson Waterworks (Winchester, VA) \$ 37,894.10
- D. Department of Parks and Engineering:
  - 1. Preparation of Plats and Legal Descriptions for Split Parcel Annexations – Davis, Renn & Associates, Inc. (Hagerstown, MD) \$ 59,320.00
  - 2. Replacement of Curb and Sidewalk Violations – I-Con International Contractors (Myersville, MD)
    - a) Part A: Abatement of Curb and Sidewalk Violations \$ 17,000.00
    - b) Part B: Replacement of Curb and Sidewalk Damaged by Street Trees – Not to Exceed \$ 24,000.00
    - c) Part C: Retaining Contractor for Possible Use by Private Property Owners - \$ 9,375.00

Rodney Tissue, City Engineer, stated Part C provides an opportunity for residents to have the contractors install their sidewalks. There is no monetary interest for the City with this portion of the bid. A letter will be sent to property owners affected by the scheduled overlay program. The property owner can decide if they wish to have this contractor repair their sidewalk or not.

**Introduction of an Ordinance: Transfer of McBare's Property to Maryland Theatre**

A final agreement for the transfer of the McBare's property was presented to the Mayor and Council for their review. The agreement authorizes the transfer and sale of

the McBare's property to the Maryland Theatre. This agreement was prepared by City Attorney John Urner and reflects the previously discussed goals of the Mayor and Council.

**Approval of a Resolution: Gas and Fuel Contract with Community Rescue Service (CRS)**

Eric Deike, Manager of Public Works, stated the City currently operates a fueling station at 51 West Memorial Boulevard. Diesel fuel and gasoline are pumped from this location and it is utilized by every city department. Community Rescue Service (CRS) also utilizes this facility for their fleet of ambulances and support vehicles. CRS is billed on a monthly basis for the diesel fuel and gasoline obtained from the system. In 2007, the City and CRS entered into a three (3) year contract to sell gasoline and diesel fuel to CRS. The existing contract expired as of June 7, 2010 and a new contract is required.

The only change to the contract wording is the new agreement is for a period of sixty (60) months. The old contract was for a period of thirty-six (36) months.

It was the general consensus to include approval of the agreement on the agenda for September 28, 2010.

**Approval of a Resolution: Road Transfer Agreement – Broadfording Road between Salem Avenue/MD Rt. 58 and Hollyhock Road**

Mr. Tissue indicated the road needs to be reconstructed and widened to allow development to occur. Earlier this year, the Mayor and Council approved a Memorandum of Understanding (MOU) with several small owners for a "road club." No developer has been willing to step forward. If the City accepts the transfer, the road may have to be resurfaced. Funding from the County that has been set aside could be used to complete this project.

Councilmember Brubaker asked if there is a true commitment from the County. Mr. Tissue stated a purchase order has been issued. Staff will work with Mr. Urner to ensure the funding is available.

**Approval of a Memorandum of Understanding: Hagerstown Police Department, Washington County Emergency Services and Washington County Sheriff's Office**

This MOU provides for medical supervision of the SWAT Medics who currently work with the joint City-County Special Response Team. There is no cost to the City associated with the MOU.

Councilmember Haywood asked when the transfer agreement for the McBare's building will be made public. Mr. Zimmerman indicated the agreement is included in the meeting packet for this meeting.

Mr. Urner stated the agreement has been approved by CHIEF. He does not think the Maryland Theatre Board has met formally to discuss the agreement.

Councilmember Haywood thinks it is strange to approve a transfer agreement that has not been formally agreed upon by one of the parties. She believes the sequence is out of order. Mr. Urner stated the agreement would be approved by all parties prior to the effective date. Mr. Zimmerman stated introduction of the ordinance is scheduled for September 28, 2010. Approval would be scheduled for the October regular session.

Mr. Zimmerman informed the Mayor and Council that the sprinkler requirements are included in the ordinance to amend the Building Standards section of Chapter 64.

Mr. Urner then left the meeting.

This completed the preliminary agenda review.

#### Proclamation – Safe Communities Designation

Mayor Bruchey read a proclamation designating September as Safe Communities Month in Hagerstown.

#### Barbara Ingram School for the Arts Mural Designs for Alcove Adjacent Parking Deck on North Potomac Street

Earlier this year, staff proposed working with Barbara Ingram School for the Arts to develop artwork to place in the alcove at the North Potomac Street Parking Deck. The alcove currently has a planter and a bike rack, but this space would benefit from the addition of artwork.

Rodney Tissue, City Engineer, stated the artwork will be installed on the back wall of the alcove, on a “hardy plank” cement board panel that will be fastened in place. This should provide a weather resistant, but removable material for the mural. In addition, staff would also like to enhance the planter with new plants; install a bench as proposed by the school students; reinstall the bike rack; install removable artwork frames on the side walls, and install lighting. Staff feels all this can be done within the \$ 7,000 budget that was presented to the Mayor and Council in July.

Dr. Teresa Roberts and Jordan Cannon presented three designs for the Mayor and Council to choose from. The first design incorporates the historic buildings of downtown Hagerstown with the evolution of the bicycle. The second design shows the history and evolution of the bicycle. The third design is a deliberately naïve design which incorporates historic buildings of Hagerstown with Hagerstown folks enjoying riding bicycles.

The Mayor and Council chose the first design. Councilmember Brubaker wondered if two designs could be chosen if there is enough money in the budget. Mr. Tissue stated it may not be easy to change the artwork.

Councilmember Haywood wondered if people would loiter on the bench that is planned for this area. Dr. Roberts indicated a survey showed that a bench would be preferred by bicyclists in this location.

Councilmember Metzner stated the Bicycle Advisory Committee is looking at new styles of bike racks.

It was the general consensus of the Mayor and Council to move forward with the artwork (design #1) and placement of the bench.

#### Proposed Zoning Text Amendments for Wind and Solar Energy Systems

Kathleen Maher, Planning Director, and Clayton Zug, Planning Inspector, presented the Planning Commission's recommendation to amend the Land Management Code to add provisions for wind and solar energy systems in the city. Because the Code is silent on the subject, wind and solar energy systems are technically not permitted in the city. A public hearing is scheduled for the September 28, 2010 regular meeting of the Mayor and Council.

In January 2009, the Planning Office began research into the wind and solar energy system industry and its regulations. Staff has reviewed model ordinances from around the State and region and met with an employee of the Maryland Energy Administration.

The proposed wind energy system amendments are modified from the City of Cumberland's ordinance, with changes including: 1) limiting free standing wind energy systems to a maximum height of 100 feet; 2) allowing building-mounted wind energy systems; and 3) not requiring Board of Zoning Appeals approval for wind energy systems.

The proposed solar energy system amendments are based on Washington County's zoning ordinance. Ground-mounted solar energy systems would be limited to commercial and industrial districts. Building-mounted solar energy systems would be permitted in all zoning districts with varied height restrictions.

Ms. Maher indicated the Planning Commission spent a great deal of time discussing how these amendments would impact neighborhoods. The amendments promote an easy permitting process. Permits would be approved through staff review. However, uses in the Historical District would have to be approved by the Historical District Commission.

Councilmember Haywood would like to have the City take the lead with installing wind and solar energy systems.

Strategic Plan Focus Area #4

The Mayor and Council discussed Focus Area 4 – An Innovative and Sustainable Government of the Strategic Plan.

Scott Nicewarner, Director of Technology and Support Services, stated Focus Area #4 is an innovative and sustainable government. The goal statement is to invigorate the organization, to identify techniques that allow services to be delivered in the most efficient and cost effective manner.

Objectives include:

- A. Begin the process of developing recommendations by January 2011 to realign our resources and personnel to deliver services more efficiently and timely.
- B. Explore alternative retirement plans for non-safety personnel by September, 2011.
- C. Implement the phases of healthcare reform beginning in July, 2010-2018.
- D. Implement a paperless meeting system by Spring, 2011.
- E. Develop a preliminary budget plan for FY 11/12 by December, 2010.
- F. Completion of MUNIS Municipal Operations project by Summer, 2011.
- G. Propose initiatives to better service our lobby/phone/online customers, January, 2011.
- H. Establishment of a Volunteer Corps as a means of providing services.
- I. Explore opportunities for City/County partnerships to address mutually shared goals (ongoing).
- J. Implement approved revisions to the City's Ethics Code, June, 2011.

Councilmember Breichner suggested adding red light and speed cameras to the objectives. Councilmember Metzner stated the Mayor and Council needs to discuss if the cameras are really an objective. He recommended scheduling a discussion in the near future. Councilmember Breichner pointed out the objective in Focus Area #3 states the benefits of cameras will be studied. Councilmember Metzner stated he is okay with that language.

Objective I. in Focus Area #3 will include looking at personnel and management of the fire department and how the location of fire stations fit into the plan. Councilmember Breichner would like an overview of personnel requirements, chain of command and the number of fire marshals in place. The Fire Department review is scheduled for a work session in December.

Councilmember Haywood stated she has a meeting with County officials to discuss collaboration for revitalization of City/County waterways. She believes revitalizing the entire Antietam Creek from Pennsylvania to West Virginia will fit in with the County plans well.

Councilmember Brubaker noted that Item C in Focus Area #4 should include employee and retiree healthcare.

Mr. Nicewarner reported there are interesting ways to improve the ability of customers to interact with the City regarding their utilities and taxes. He stated the volume of calls has increased over the last year. Improvements are necessary to service the number of customer calls.

William Nairn, City Attorney, arrived at the meeting.

City/County partnerships was moved from Focus Area #3 to Focus Area #4.

The Ethics Code amendments will be scheduled for further review in October, 2010. The recommendations of the Recycling and Trash Task Force will be discussed in October, 2010.

Mr. Nicewarner will make the recommended changes. It is anticipated the strategic plan will be scheduled for approval by the Mayor and Council at the September 28, 2010 meeting.

#### Boards and Commissions Code Revisions

Bruce Zimmerman, City Administrator, stated the Mayor and Council have previously discussed revisions to the City Code related to boards and commissions. As a follow up, suggested changes to Article V of the City Code for General Provisions were presented to the Mayor and Council for their review. This language clarifies that Board and Commission members shall be appointed by the Mayor with the consent of the Council, there will be no term limits, and that terms will be for four years unless specified otherwise by State law or City Code.

The revisions include language addressing the appointment or reappointment of a board member following the expiration of a member's term. The revisions emphasize that Board and Commission meetings shall be conducted in compliance with the Maryland Open Meetings Act and in accordance with the provisions of City's Code of Ethics.

In addition to the Article V revisions, the City Attorney has prepared two ordinances to repeal the Board of Utilities and the Downtown Assessment District, as previously discussed by the Mayor and Council. These two boards no longer exist.

William Nairn, City Attorney, stated the recommendations for a new City's Ethics Commission include five year terms. The language presented would make all other boards have standard terms of four years.

Councilmember Brubaker recommended that the Mayor and Council be notified 60 days prior to the expiration of a member's term, rather than 30 days as suggested in the amendments.

Mr. Zimmerman indicated this language is general, or umbrella language, for all the boards. There will most likely be revisions to language in the individual boards.

Councilmember Brubaker asked if the appointments are to be made prior to the expiration of the term. Mr. Nairn stated the language used is “shall” which is mandatory.

Councilmember Metzner is satisfied with the language as presented. It was the general consensus to include introduction of three ordinances for these changes on the agenda for September 28, 2010.

In the future, Staff would like to return to Mayor and Council for additional discussion on the specific sections of the City Code that deal with individual boards and commissions. In addition it would be helpful to hold future discussions on City Code language pertaining to the appointment of City Ad Hoc committees and task forces.

Road Transfer Agreement – Broadfording Road between Salem Avenue/MD Rt. 58 and Hollyhock Road

This item was discovered during the preliminary agenda review.

**CITY ADMINISTRATOR’S COMMENTS**

*Bruce Zimmerman, City Administrator*, reminded everyone the North Hagerstown High School homecoming parade will be held on Saturday, September 25, 2010. The Convoy of Hope will be held on September 25, 2010.

**MAYOR AND COUNCIL COMMENTS**

*Councilmember M. E. Brubaker* reported the Economic Development Commission held a retreat to discuss a strategic plan. He wants the City to be a part of this discussion.

*Councilmember W. M. Breichner* mentioned the Mayor presented a proclamation to the Hamilton Family during the Hamilton Park Dedication. The event included a tour of the area.

*Councilmember L. C. Metzner* looks forward to working with newly elected officials.

*Councilmember A. C. Haywood* thanked everyone who helped with the rubbish round up. The Hispanic Festival was fun and good food was available. The annual Bark in the Park will be held on September 25, 2010. She will be a guest judge for musical chairs and a talent contest.

*Councilmember F. W. Easton* participated in the rubbish round up. The Autumn Arts Festival was a good event.

*Mayor R. E. Bruchey, II* stated the Hamilton Park Dedication and the Hispanic Festival were good events. With the results of the primary election, the City lost a well respected voice in Annapolis for this region. Senator Don Munson lost the primary election. Mayor Bruchey wished Senator-elect Chris Shank well and he hopes the City's voice will still be heard in Annapolis.

EXECUTIVE SESSION – September 21, 2010

On a motion duly made by Councilmember F. W. Easton and seconded by Councilmember W. M. Breichner, the Mayor and City Council unanimously agreed by voice vote to meet in closed session consider the appointment, employment, assignment, promoting, discipline, demotion, compensation, removal, resignation or performance evaluation of appointees, employees, or officials over whom it has jurisdiction, #1, to consult with staff, consultants, or other individuals about pending or potential litigation, #8, and to discuss public security, if the public body determines that public discussions would constitute a risk to the public or public security, including: (i) the deployment of fire and police services and staff; and (ii) the development and implementation of emergency plans; #10 at 5:25 p.m. in the Council Chamber, 2<sup>nd</sup> Floor, City Hall, Hagerstown, Maryland. The following people were in attendance: Mayor R. E. Bruchey, II, Councilmember W. M. Breichner, Councilmember M. E. Brubaker, Councilmember F. W. Easton, Councilmember A. C. Haywood, Councilmember L. C. Metzner, City Administrator Bruce Zimmerman, City Attorney William Nairn, Rodney Tissue, City Engineer, Chief Arthur Smith and Donna K. Spickler, City Clerk. The meeting was held to discuss possible appointments to the Board of Traffic and Parking, the Board of Technical Appeals and the Bicycle Advisory Committee, to discuss an issue with the City's residential rental properties and to discuss the implementation of an emergency plan for the Hagerstown Police Department. No formal action was taken at the meeting. On a motion duly made, seconded and passed, the meeting was adjourned at 6:49 p.m.

Respectfully submitted,

Donna K. Spickler, City Clerk

Approved: October 26, 2010