

WORK SESSION – October 13, 2009

Mayor R. E. Bruchey, II called this Work Session of the Mayor and City Council to order at 4:05 p.m., Tuesday, October 13, 2009, in the Council Chamber, 2nd Floor, at City Hall. Present with the Mayor were Councilmembers W. M. Breichner, M. E. Brubaker, F. Easton, and A. C. Haywood; City Administrator Bruce Zimmerman, City Attorney John Urner and D. K. Spickler, City Clerk. Councilmember Metzner was not present.

H1N1 Flu Update

Earl Stoner and Melissa Lewis from the Washington County Health Department provided information about the H1N1 virus. Mr. Stoner indicated there is a pandemic with the H1N1 virus, based on its ability to spread, not on the severity of the virus. There have been 10 confirmed deaths in Maryland from H1N1. In most cases, there were serious underlying medical conditions as well. A community outreach campaign is taking place. He stated they have placed an order for 8,400 doses but have only received 700. They are focusing on getting the vaccine to the front line staff (health care individuals) and to elementary school children. The most important thing is to keep the community educated about the virus.

Susan Parks, Director of Nursing, stated the school system uses a specific definition of an outbreak. An outbreak is indicated if absenteeism is doubled from the previous year and five children are sent home in one day, or 25% of the classroom show flu like symptoms.

Mr. Stoner stated he understands no complications from the vaccine have been discovered during the clinical trials. He urged everyone to get vaccinated for H1N1 and seasonal influenza.

Hagerstown Suns Request for 2010

Lewie Thomas, Recreation Facilities Manager, Junior Mason, Superintendent of Parks, and Bob Flannery, Hagerstown Suns, were present to discuss the 2010 fireworks schedule.

Bob Flannery, Hagerstown Suns President and General Manager, submitted a request for permission to hold 14 post-game firework shows in 2010. The first post-game fireworks show they are requesting is on Thursday, April 8, 2010, the opening game of the 2010 season. The Suns need approval for this particular date because the lease states that firework shows will only be held on weekend dates. They feel that in conjunction with the 30th anniversary of professional baseball returning to the City of Hagerstown, it would be a terrific way to start the season with a post-game fireworks show.

Mr. Flannery reported five of the top ten crowds occurred in 2009.

It was the general consensus to approve the schedule, including fireworks on opening day (which is a Thursday). Bruce Zimmerman stated formal approval will require a waiver from the noise ordinance.

Mr. Flannery is also requesting for the Suns to have the opportunity and permission to sell a premier partnership sponsorship to one business which would include renaming of the Municipal Stadium. An example would be "XYZ Ballpark" or "XYZ Stadium." Included in the premier partnership sponsorship package is signage on the back of the 1st base bleachers, on the outside wall (visible on South Cannon Avenue) and a sign in the parking lot (Eastern Blvd. and Memorial Blvd.)

Receiving permission to sell a premier partnership is time sensitive. There are also other logistics in the sponsorship package that takes time to complete. They are requesting permission now so they can begin to approach local businesses. The length of the sponsorship would be five years.

Councilmember Brubaker would like to help the Suns but doesn't like the idea of naming the field after a commercial entity. He asked staff to consult with the Maryland Stadium Authority to make sure the proper language is in place to protect the City.

Councilmember Easton supports the idea.

Staff will discuss this with the Stadium Authority and determine what to include in an agreement to protect the City's interest and bring it back to the Mayor and City Council for further discussion.

Phase II Comprehensive Rezoning

Kathleen Maher, Planning Director, and Stuart Bass, Comprehensive Planner, presented a staff analysis of testimony received from the Public Hearing that was held on September 22, 2009. This report does not include any of the nine areas that did not receive any comments. Staff is asking if the Mayor and Council wish to accept the planning commission's recommendation or make changes for the remaining areas. The analysis is as follows:

1. Area 2 (Evergreen)
 - a. Various development option alternatives were presented. These were put together for the Planning Commission showing how the corner could develop commercially or residentially. Existing development examples were overlaid at the same scale on aerial views of Area 2 properties.
 - b. Site access – when the State reviewed the plans for the CVS in the early 2000's, they indicated that an entrance on MD 60 would probably not be approved. Since that time, MD 60 has been re-aligned in that area and it is even less likely that an entrance will be approved on MD 60 for this parcel. According to the City Engineer, the entrance off Eastern Boulevard would

most likely be approved only for right-in, right-out at the extreme eastern end of the property.

- c. Additional public comment – received two letters from nearby residents supporting the R2 rezoning as a compromise solution.
- d. City Attorney’s opinion – since arguments have been made for and against both the commercial and residential zoning options contemplated, the City Attorney feels that an appropriate alternative option for the Mayor and City Council would be to leave the land west of the Hamilton Run proposed for R2 zoning as AT and then let the owner come forward in the future for a piecemeal rezoning when they are ready for a specific development.

2. Area 3 (YMCA)

- a. Status of YMCA with Rezoning to R1 – The YMCA is currently a permitted by right existing development in the AT zone. With R1 zoning, this type of use is a special exception use requiring approval by the BZA. The City Attorney gave his opinion that the YMCA would rezone with a vested right to the special exception so it would change zoning with the special exception already in place. If in the future, the YMCA wished to expand their operations on the site, they would need to go to the BZA for the expansion of a special exception use.

Councilmember Haywood expressed her concern that this change would cause additional costs for an expansion. Councilmember Easton asked why the zoning would be changed to allow only one use.

John Urner, City Attorney, pointed out the YMCA would have zoning expenses, even if this change is not made.

Councilmember Haywood doesn’t understand why the Mayor and Council would not take into consideration the property owner’s request for specific zoning. She doesn’t understand why all the agricultural zoning is being phased out. Ms. Maher indicated when the zoning was set, the Shank farm was still operating as a farm. This is no longer the case. Mr. Bass indicated the AT district was created so the City could annex land and match the county zoning. It was never intended to be a zoning district forever.

There was some discussion about keeping the zoning at AT. If the YMCA wishes to expand, they could argue a change in the neighborhood. Ms. Maher pointed out the change in the neighborhood would have to be proved from the 2009 implementation of the Comprehensive Plan, not from the original 1977 zoning. This would make it more difficult to prove a change.

The zoning for the YMCA (Area 3) property will be discussed further.

Councilmember Brubaker stated the Council needs to decide what is best for Area 2 (Evergreen) property. He thinks if the property retains the AT zoning there would be map amendments at a later date.

Ms. Maher indicated the property owners would prefer to have commercial zoning.

Councilmember Easton asked if there is other residential zoning near the YMCA. Councilmember Brubaker stated there are residential uses, but the access is not from Eastern Boulevard. Councilmember Easton asked why the Planning Commission feel that 12 homes would be better than a restaurant. Councilmember Brubaker stated they feel it would have less impact than the homes across the street.

Mr. Urner stated each proposed zoning classification is a compromise between the Planning Commission, the property owners and the residents.

Councilmember Haywood asked what is the likelihood the proposed uses would have back yards facing Eastern Boulevard. Councilmember Brubaker stated this would be a difficult site. Councilmember Haywood would support keeping the zoning at AT and discuss zoning during the site plan review. Councilmember Brubaker pointed out the Council does not approve site plans.

Councilmember Breichner supports the Planning Commission's recommendation for Area 2. Councilmember Easton does not support the recommendation. He finds it difficult to visualize how a restaurant would have less impact on existing uses than residential uses.

Mayor Bruchey understands the Planning Commission's reasoning for their recommendation. He would not want to live in a neighborhood with limited access.

It was the general consensus to discuss Area 2 at a future work session.

A break was taken from 5:50 p.m. to 6:00 p.m.

The discussion continued with Area 4.

3. Area 4 (RV Lot at corner of Potomac Avenue and Manila)
 - a. Additional Public Comment – received four letters from residents supporting rezoning as protection for neighborhood; property owner objected to rezoning during Planning Commission process.
4. Area 7 (Jefferson Boulevard)
 - a. Additional Public Comment - owner of former Gravelly Center submitted letter objecting to rezoning from C2 to C1. Reasons cited were size (13,000 sq. ft.) and configuration of building not being conducive to the neighborhood serving uses permitted in the C1 district. Staff would agree that this building is out of scale for the location and reuse in its present configuration is a challenge. Re-occupation might be easier if the building were subdivided into smaller lease spaces, but that is tough to call. If the Mayor and City Council decides that rezoning this property is

inappropriate, at least one other property will also have to remain C2 in order to avoid “spot zoning.” At the hearing, the owner of the vacant lot two properties to the west stated he was opposed to the C1 rezoning.

Councilmember Easton asked if there would be opposition for the Laundromat to remain C1. Ms. Maher indicated not at the Planning Commission level. Ms. Maher stated DeafNet had opposed the C2 zoning but has since rescinded the opposition because of text amendments that will be presented to the Mayor and Council. Councilmember Easton pointed out that two of the five property owners are opposed to the change. He asked if Staff’s recommendation would change because of this. Ms. Maher indicated Staff supports the Planning Commission recommendation.

Councilmember Haywood would support keeping the zoning at C2, based on the fact that the majority of property owners want C2 zoning.

Councilmember Easton and Mayor Bruchey support C2 zoning for all five properties on the south side. Councilmember Brubaker supports the Planning Commission’s recommendation of C1.

It was the general consensus to support R2 and C2 zoning on the north side.

5. Area 8 (E. Washington Street and Cleveland)

- a. Should the C2 zoning be extended across E. Washington Street – the Planning Commission felt that E. Washington Street would be a good dividing line between the C2 and R2 zoning on N. Cleveland. With this rezoning, the house at 430 E. Washington Avenue would be the lone property on E. Washington Street not zoned C2, if you do not count the house at the corner of E. Washington and N. Cleveland.

Councilmember Haywood stated the property owners are opposed to the rezoning and their opposition should be considered. Mayor Bruchey stated he understands the Planning Commission’s recommendation but the property owners are not supportive of their use becoming non-conforming. Ms. Maher stated no opposition was presented at the Planning Commission hearing.

It was the general consensus to leave the zoning at R2.

6. Area 12 (MKS Business Park)

- a. Status of Mid-Atlantic Vet Hospital with Rezoning to POM – with the pending commercial text amendments, veterinary clinics with all operations indoors will be permitted by right in the C2 and C4 districts and by special exception in the C1 districts. As a part of the Land Management Code update this fall, staff will recommend an amendment to allow this use by right in the POM, too, since it functions like any other medical office building which is allowed in the POM. In the mean time, the veterinary hospital would be considered a legal non-conforming use.

- b. Status of Existing Retail and Restaurants with Rezoning to POM – The majority of the existing development in the MKS Business Park has developed in a manner which is consistent with the proposed POM zoning. There are a few stand alone retail/restaurant types of businesses that would become non-conforming with the change to POM zoning (e.g., First Look Photo, L.J.'s restaurant, Sagittarius Salon). Rather than retract the proposed POM zoning boundaries to exclude these areas, it might be more appropriate to create a text amendment that allows retail and restaurant operations in existence prior to the effective date of the Phase II rezoning to be permitted a special exception uses rather than non-conforming (or not permitted) uses. This change could be incorporated with the Land Management Code updates that staff are currently working on.

It was the general consensus to accept the Planning Commission's recommendation for Area 12.

7. Area 14 (Edgewood next to Martin's Grocery Store)
C2 to POM. The property owner indicated they were opposed to the zoning but did not speak at the hearing.

It was the general consensus to accept the Planning Commission's recommendation for Area 14.

8. Area 21 (land south of Third Street)
 - a. Should land south of Third Street retain zoning applied to the north – The owner of the land south of Third Street stated that he wants industrial zoning for his residential-sized lot south of the paper right-of-way of Third Street. The Planning Commission felt that Third Street should be the dividing line between the industrial and residential zoning, because the lots are too small for industrial development without gaining variances to all the setback requirements. In addition, the land south of Third Street outside the city is a residential neighborhood.
9. Area 22 (Food Lion Shopping Center on Wilson)
 - a. Status of vacant parcel west of Kenley Avenue at Wilson – The owner's attorney stated that when the special exception was approved for the commercial development at the Kenley project, the commercial percentage of the tract included this lot. Staff researched this issue and found that the 1985 special exception that approved one-third of the property for commercial development did include this out parcel. The subsequent owners of this vacant parcel have paid commercial prices for the land upon transfer of ownership. The owner of the vacant parcel contacted staff about this parcel after the Planning Commission's public hearing and, during their review of public comments, the Commission decided not to include this parcel in the C2 rezoning because they wanted to end the C2 zoning along Wilson Boulevard at the public street. There was no

discussion of the special exception history at that time. Given the fact that the balance of the land developed commercially under that 1985 special exception is recommended for rezoning to C2, staff feels that it would not be inappropriate to include this remaining vacant parcel in the C2 rezoning, as well.

10. Area 23 (All Star Court)

- a. Additional Public Comment – received letter from property owner requesting the abandonment of his prior request for rezoning from C2 to I-MU. As noted by staff in the public hearing, this rezoning is not recommended in the Comp Plan, but was requested by the property owner. Therefore, staff do not have a problem with dropping this rezoning proposal.

It was the general consensus to accept the Planning Commission's recommendations for Area 21, Area 22 and Area 23.

Mayor Bruchey announced the next item that will be discussed is the cell tower request.

Proposed Police Radio Tower Lease

Chief Arthur Smith, Hagerstown Police Department, and Alfred Martin, Finance Director, reported the City was approached by Shentel Communications (Sprint) about leasing space on the police building radio communications tower. Space is already leased to another cell phone company. In addition, the tower is used for the Police Department's radio communications purposes.

Chief Smith, Captain Moulton and Mr. Martin met with representatives of Shentel on site to go over the requirements for them to use the tower, their needs for space for their equipment near the tower and the City's needs to replace any lost parking spaces at the site. They will need to use one parking space next to the tower for their equipment, as the other cell company is doing. They are willing to construct, at their expense, at least two parking spaces to replace the one that their equipment will take up.

The rent pricing will be \$ 2,100 per month or \$ 25,200 per year. The initial lease term would be for five years with four automatic renewal terms of five years. A lease with Shentel will increase the annual revenue from renting space on the tower to \$ 50,000 per year.

It was the general consensus to schedule approval of the lease for October 27, 2009.

Strategic Planning: Discussion of Next Steps

To follow up on the discussion during the September 29, 2009 meeting, time has been included on this agenda to discuss potential approaches and the next steps toward

working on a strategic plan for Hagerstown. This will build on the prior discussion of community trends and budget issues that were the focus of the September 29, 2009 retreat.

As mentioned to Mayor and Council, one frequent approach utilized by organizations as an initial step toward developing a strategic plan is to assess their strengths, weaknesses, opportunities, and threats. This is often referred to as a SWOT Analysis.

Staff would recommend that a combination of the Mayor and council and department managers undertake a SWOT Analysis to begin the strategic plan process. Such an analysis would focus on both the community and the organization and could consist of responses to the following questions:

1. What do you think are the three most pressing needs facing Hagerstown?
2. What do you think are the strengths and weaknesses of Hagerstown?
3. What are the most important opportunities we have before us in the next 2-3 years?
4. What potential threats is Hagerstown facing?

In addition to the four above questions, the analysis can also focus on important aspects of the operations such as the identity and core values.

Staff would develop a questionnaire to be completed by City elected officials and department heads to begin the SWOT Analysis. The information from the completed questionnaire could then form the basis of future discussions on the City's strategic plan.

Both the Mayor and Council and staff have expressed strong interest in strategic planning and reinforced the importance of developing a long term plan for Hagerstown. This represents a new initiative which extends beyond the development of a work plan or list of project priorities and can be a critical effort to guide the City government and serve the community well into the future.

Councilmember Haywood suggested limiting the number of responses to numbers 2, 3 and 4 at one answer each.

Councilmember Breichner feels the analysis should be limited to the Mayor and Council for the first step in the process. This should be the general concept of what the Mayor and Council envisions.

Mr. Martin indicated a priority list would be developed from all responses, both from the Mayor and Council and staff. He indicated the initial questionnaire usually spurs a brain storming session.

The questionnaire will be given to Mayor and Council members and department heads. The Mayor and Council will respond to all four questions with five responses. Department managers will respond to all four questions with three responses.

Utilities Division Project Update: R.C. Willson Phase 1A, Citywide Collection System Rehabilitation and Salem Avenue Collection System Rehabilitation

Michael Spiker, Director of Utilities, stated the City will receive a \$ 300,000 grant administered by the USDA as approved in the 2009 Omnibus Spending Bill. Staff worked through Senator Mikulski's office in order to complete the funding request. A formal request has been submitted to the EPA and the MDE for review. The project entails the replacement of two aging 24 inch water mains, constructed of cast iron and concrete, with two new 36 inch ductile iron water mains to the limits of City of Hagerstown property (475 feet each) at the water treatment plant, the replacement of a valve vault, a 2MVA diesel powered electric generator, motor control center, internal transformers, and variable frequency drives for the high service pumps. Carl Belt Incorporated submitted the most cost effective bid of \$ 4,646,754.24. The City is required to award the notice to proceed before December 31, 2009.

Stimulus funding will be available for use by the City for this project also.

The City was awarded \$ 800,000 by the MDE through the Bay Restoration Grant Fund for the Collection System Rehabilitation. The project was awarded \$ 1,422,563 in grant funding through the ARRA. This process addresses the Inflow and Infiltration (I&I) of system related flow in the wastewater collection system by replacing or re-lining existing defective pipe and other associated infrastructure. Miller Pipeline Corporation submitted the most cost effective bid of \$ 4,610,945.

CIP 780 was developed using an engineering estimate developed by the Wastewater Division and Black & Veatch. \$ 3,088,000 was budgeted for FY 10 and FY 11, leaving a deficit of \$ 1,522,945 if the project were to go forward as designed. Wastewater staff is currently negotiating with the affected parties whereas a contract will be developed with a not to exceed cap of the budgeted amount. This would require the City to utilize the MDE SLRF 9% interest funding of approximately \$ 827,437.00

The Salem Avenue Collection System Rehabilitation project will address the partial collapse of the wastewater collection system main and the defective lateral connections on Salem Avenue from Winter Street to Burhans Boulevard. The project was budgeted at \$ 1,042,000 and staff has been notified that the City will receive up to \$ 1,000,000 in 0% interest loan monies from the MDE.

CIP 779 contains \$ 1,042,000 budgeted for FY 10. K. H. Martin submitted a bid of \$ 631,505.50 for this project. Questions regarding the MWBE process used by D. H. Martin are currently being discussed by the MDE and the City, therefore a final decision regarding the acceptance of this bid has not been approved. The notice to proceed must be issued before December 31, 2009.

It was the general consensus to move forward with these projects as outlined.

Planned MDE Drinking Water & Water Quality Bond Financing

Alfred Martin, Finance Director, reported the City's bond counsel, Lindsey Rader is preparing enabling ordinances to allow the City to issue public improvement bonds through the Maryland Water Quality Financing Administration by December 31, 2009 for four water and wastewater projects which have either just been awarded contracts to start construction or which are about to be awarded. Financing committees have been secured from MDE for state and federal subsidized loan financing rates for these projects. The projects are the West End Water Tanks – Phase II, Willson Transmission Mains – Phase IA, Citywide Collection System Rehab and Salem Avenue Collection System Rehab.

The ordinances are expected to be introduced on October 27, 2009 and approved the following week on November 3, 2009. They would become effective on December 4, 2009. Because of the use of federal economic stimulus funds by the MDE to help finance these loans for us, the bids need to be awarded and the loans closed with MDE by December 31, 2009

The Mayor and City Council agreed to proceed with the bond financing.

CITY ADMINISTRATOR'S COMMENTS

Bruce Zimmerman, City Administrator, stated a joint meeting with the County Commissioners is tentatively set for November 17, 2009, beginning with an executive session at 3:00 p.m.

MAYOR AND COUNCIL COMMENTS

Councilmember M. E. Brubaker had no additional comments.

Councilmember W. M. Breichner had no additional comments.

Councilmember A. C. Haywood had no additional comments.

Councilmember F. Easton mentioned the advertising used by Little Caesar's. There is a person outside waving people in.

Mayor R. E. Bruchey, II stated Councilmember Metzner was unable to attend the meeting today because his father-in-law is in the hospital at Walter Reed Medical Center. He reminded everyone that the ribbon cutting at the Barbara Ingram School for the Arts and the unveiling of the new name for Cramer Alley will take place on October 20, 2009.

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 7:25 p.m.

Respectfully submitted,

Donna K. Spickler, City Clerk

Approved: November 24, 2009