

WORK SESSION - OCTOBER 16, 2007

DEDICATION OF PANGBORN PARK FOUNTAIN AND GARDENS DEDICATION
– October 16, 2007

The fountain at Pangborn Park was dedicated on Tuesday, October 16, 2007 at 3:00 p.m. The fountain was co-sponsored by Dan Ryan Builders.

WORK SESSION – October 16, 2007

Mayor R. E. Bruchey, II called this Work Session of the Mayor and City Council to order at 4:03 p.m., Tuesday, October 16, 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 Mark Boyer, and D. K. Spickler, City Clerk.

Proclamation - Conflict Resolution Day

Mayor Bruchey presented a proclamation to Valerie Main in recognition of Conflict Resolution Day. The Washington County Community Mediation Center will be hosting an open house entitled “Creating a Peaceful Society Educational Event” on Thursday, October 18, 2007 from 6:00 p.m. to 7:30 p.m.

CSX Railroad Crossings Project Update

Jason French, Director of Public Affairs in Maryland for CSX Transportation, was present to discuss the CSX Railroad Crossings. Mr. French spoke about the recent railroad crossing upgrades at Oak Hill Avenue and Walnut Street, and the repairs made at Virginia Avenue and Summit Avenue. Mr. French also offered insight into the proposed increase in rail traffic on the CSX line that crosses Northern Avenue, Pennsylvania Avenue and enters into the center of the City.

The repairs at Northern Avenue and Pennsylvania Avenue were expedited and completed prior to the start of the school year. Repairs to Oak Hill Avenue and Walnut Street were completed at the end of September and first week of October. Minor repairs were completed at Virginia Avenue and Summit Avenue during the first week of October. Mr. French stated the crossing at Summit Avenue does not warrant major repairs at this time.

There will be increased train traffic in Hagerstown. Two additional trains will run six day per week on the Lurgan Sub. The inbound train will travel through Hagerstown at approximately 2:45 a.m. The outbound train will travel through Hagerstown at approximately 11:00 p.m. The speed of the trains may increase also. The increased traffic will help retain and expand existing business and attract new business. Thirty five people will be employed at the facility. There will also be reduced highway congestion.

Mr. French stated constituents can contact him directly.

Councilmember Cromer stated the crossing at Summit Avenue definitely needs to be repaired. Councilmember Parson-McBean agreed.

Councilmember Brubaker asked if the increased speed will start north of Pennsylvania. This is correct. Councilmember Brubaker asked if train traffic from the Port of Baltimore will be diverted through Hagerstown. Mr. French stated CSX does not re-route traffic and they don't believe it is the best way to go.

The Mayor and City Council thanked Mr. French for providing this information.

Preliminary Agenda Review

There will be no meeting held on October 30, 2007.

Consent Agenda

A. Public Works:

1. ¾ Ton Pickup Truck – Miller Brothers Ford, Inc. (Ellicott City, MD)
\$ 19,343.00
2. Bulk Road Salt – Cargill Incorporated (Olmstead, OH) \$ 57.03 per ton

B. Water and Sewer:

1. Design and Construction Engineering Services for Headworks
Improvement Project – Black & Veatch (Gaithersburg, MD) \$ 438,300.00
2. Turnkey Project to Replace PSA Control System – Mixing and Mass
Transfer Technologies, LLC (Peekskill, NY) \$ 77,425.00
3. ¾ Ton Pickup Truck – Miller Brothers Ford, Inc. (Ellicott City, MD)
\$ 20,702.00
4. Replenish Water Fund Inventory – HD Supply Waterworks, LTD
(Martinsburg, WV) \$ 31,724.98
5. Water Meters and Parts – HD Supply Waterworks, LTD (Martinsburg,
WV) \$ 107,577.72
6. Lagoon Cleaning – Synagro (Baltimore, MD) \$ 215,913.00
7. Design, Bidding and Construction Phase Services for Second Tank at
West End (Amendment to Existing Contract) Hazen and Sawyer
(Baltimore, MD) \$ 610,077.00

Construction of the second water tank is anticipated to begin in the Spring of 2009. When the project is complete, there will be an increase in water pressure.

H. Engineering:

1. South Potomac Street Streetscape Improvements – Milton Stamper

- Builders (Hagerstown MD) \$ 425,823.00
2. Demolition of 337 N. Jonathan Street – Allegany Wrecking (Hagerstown, MD) \$ 14,700.00
3. Street Tree Contract – Botanica Enterprises (Funkstown, MD) \$ 38,500.00

Councilmember Cromer asked if the City plants trees if requested by the property owner. Mr. Tissue stated this is still the case. Trees are not planted if a property owner does not want a tree. Councilmember Cromer stated she received a complaint that a tree was planted, even after the owner said they didn't want it. Mr. Tissue asked for further information in order to investigate the complaint.

- D. Community Affairs: Application/Permit – Augustoberfest Charitable Foundation, Inc. – Salute to the Schmankerl Stube Bavarian Restaurant 20th Anniversary – May 16, 2008

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

Mark Boyer, City Attorney, reviewed the history of the sunset provision. It is the opinion of the City Attorney that the ordinance can or could have been amended at any time in the last four years. There is no prohibition to removing the sunset now.

Councilmember Metzner tabled the discussion at the last meeting because he was confident that the legal opinion would be what was reported.

In order to vote on the approval of the ordinance, it must be removed from the table.

Introduction of an Ordinance: Authorization of Sale of Lot No. 7 – Hagerstown Industrial Park

Deborah Everhart, Director of Economic Development, stated this property was sold by the City of Hagerstown to Manny Shaoon for \$ 6,500 on February 2, 1984. Unfortunately, the property was found to be unsuitable for development because of trash and materials that had been placed on the site. It was determined that by no means would this lot be considered adequate to support a structure of any kind. Therefore, on January 27, 1987, the property was transferred back to the City for the same amount.

Mr. James Harsh, trading as "The Mulch Man" expressed an interest in purchasing this property for his business. He would not have a need to build a structure on the property, and this lot appears to meet his needs for storage. An updated appraisal of the property was performed by Bowers Appraisal Services, LLP, and determined the value to be Fifty Eight Thousand Dollars (\$ 58,000).

It was the general consensus of the Mayor and City Council to proceed with the sale of Lot No. 7 to James Harsh.

This completed the preliminary agenda review.

Downtown Information Meeting

Deborah Everhart, Director of Economic Development, reported the City of Hagerstown will be hosting quarterly informational meetings on what is happening downtown Hagerstown. The first meeting will be held on Thursday, October 25, 2007 at 8:15 a.m. in the Council Chamber. It is anticipated that each meeting will feature three business owners and/or developers in the downtown area. Anyone with an interest in finding out more about what's happening in downtown Hagerstown is encouraged to attend the meetings.

Additionally, the program will be rebroadcast on Channel 6 for those unable to attend the meetings.

The speakers at the first meeting will be developer Jason Goldberg, developer Skip Tovornik and business owner Charles Sekula. Each meeting will have different speakers.

Councilmember Parson-McBean stated the speakers should be a diverse mix. She also recommended holding meetings at different times.

Municipal Stadium Lease

Mark Boyer, City Attorney, and Karen Giffin, Director of Community Affairs, presented a revised version of the proposed Municipal Stadium Lease between the City of Hagerstown and MBP Hagerstown Baseball, LLC. This version of the Lease included the previously submitted fireworks provision, basically unchanged. However, at the request of the Mayor and Council, Mr. Boyer also included an optional fireworks provision which will require approval of the fireworks shows on an annual basis.

Councilmember Metzner stated the optional fireworks provision is appropriate.

Councilmember Brubaker asked if approval of the fireworks schedule by October 1 of each year provides enough time to schedule fireworks for the following year. Will Smith, General Manager, stated it would be close but the scheduling can be completed. Councilmember Metzner stated the date of October 1 could be changed.

The number of fireworks shows is not in the lease but it is in the optional lease provision.

It was the general consensus to use the optional lease provision and to approve the lease.

Improvements to the “000” Block South Potomac Street – Award of Construction Contract

Rodney Tissue, City Engineer, was present to discuss the construction contract for the improvements to South Potomac Street.

Based on the City Council’s general endorsement of the project in June, staff has prepared construction documents for the improvements in the “000” block of South Potomac Street. The contract documents were completed and recently bid and staff is returning to Council with a recommendation of the award.

The bids were obtained on October 9, 2007 and three bids were received. The apparent low bidder is Milton Stamper Builders with a bid of \$ 425,823.00. In the 07/08 budget, CIP 07-719 provided \$ 770,000 in funding for what was an earlier, larger scope project. However, for this downsized project, the budget can be modified and the following budget scenario is what the staff suggests:

1.	Contributions by others	\$ 35,000
2.	Grant – State Aid	\$ 130,000
3.	Grant – Maryland Heritage Area	\$ 55,000
4.	Bond proceed from the December 2006 issue	\$ 150,000
5.	Additional General Bond Financing <u>or</u> Downtown Beatification Fund carryover	\$ 85,000
	Total Funding Available	\$ 455,000

Staff recommends this \$ 455,000 be used to fund the contract plus a \$ 12,000 allowance to upgrade the street light fixtures and circuits and a \$ 17,000 allowance if unforeseen conditions arise.

Milton Stamper has indicated they can begin construction the first week of November. A portion of the work will be completed this fall and the project will be completed in the spring. If Council approves the project on October 23, 2007, staff will finalize the funding, and have a public meeting (probably October 25, 2007) with the stakeholders to review the schedule. At that meeting, Mr. Stamper will be requested to provide his plans for progressing the work.

Mr. Tissue and Kathleen Maher, Planning Director, are meeting with the local restaurant owners to finalize the café requirements. This is progressing well and the plan is to have this ready for the City Council in November for approval.

Bruce Zimmerman, City Administrator, stated the meeting with the stakeholders is being held due to the impact to holiday shopping.

Councilmember Nigh expressed her concern that the retailers will be adversely affected by this project. She asked if widening the sidewalks on both sides of the street

has been approved. Mr. Tissue stated it was discussed and approved in June. Mayor Bruchey stated staff was instructed to bid the project at that time.

The initial project was to widen the sidewalks on the east side of the street. It was later expanded to include the west side.

Councilmember Cromer stated she remembers the other contributors being willing to provide additional funding. Mr. Zimmerman stated the project in the CIP budget was at a higher cost. Councilmember Cromer stated it appears the businesses that are being benefited have reduced their contribution. Mayor Bruchey indicated the ratio of the contribution to the new cost is the same. Councilmember Cromer believes the businesses that will benefit from this project should make higher contributions. Councilmember Metzner pointed out the project will benefit the City.

Councilmember Parson-McBean stated business owners made a request for the project and they should increase their contributions.

Councilmember Metzner stated it seems as if the City talks to investors about coming to downtown and when they come, the Council says they shouldn't do anything for them. Councilmember Parson-McBean stated if they leave, someone else will benefit from the City's investment.

Councilmember Metzner stated a consultant proposed expansion of these sidewalks in order to provide space for outdoor cafés more than 10 years ago.

Councilmember Brubaker stated the City needs to move forward with the project. The investment will be returned due to the increased benefits to the Arts and Entertainment District.

Approval of the award of the construction contract will be on the agenda for October 23, 2007. Councilmember Nigh will not vote to approve the award. Councilmember Parson-McBean stated she will vote yes, but if constituents contact her, she may reconsider. Councilmember Brubaker and Councilmember Metzner will approve the contract. Councilmember Cromer is undecided.

Exemption from Rental Licensing – Relationship to Owner

Rodney Tissue, City Engineer, John Lestitian, Director, and Gary Lambert, Program Manager, were present to finalize the proposed Relation to Owner exemption. As a result of research, staff recommends against defining "family." Rather, staff suggests that if it is the direction of the Mayor and Council to exempt from the Rental Facilities Ordinance certain relationships to the owner of a single unit rental facility that those relationships simply be delineated.

The recommendation is as follows:

The following relationships to the owner of a single unit rental facility are exempt from the fee and interior inspection requirements of the Rental Facilities Ordinance: child, parent, grandparent, grandchild, sibling, or in-law (using a prefix of the other relationships mentioned). Documentation of such relationships as determined by Department Policy must be presented at the time of the Request for Exemption.

This recommendation is limited to single unit rental facilities and does not extend to multiple unit structures. Staff research and further examination of policies in other jurisdictions concludes that extending the exemption to multiple unit structures will result in an increased risk of undetected life safety violations which will lessen the safety of the remaining tenants in the structure. Additionally, based upon a review of previous complaints/inquiries about a potential exemption staff believes that the intent and scope of the exemption is met in limiting the exemption to single unit rental facilities.

Councilmember Parson-McBean suggested including stepchild as an exemption.

Councilmember Brubaker suggested periodical checking in case the relationship changes.

Inspections will still occur at turnover. The exemption does not exempt the rental unit from the program but from the license fee. This is a new classification of a new exemption.

Staff is working with the landlord association to update the property maintenance code. Mr. Lestitian stated a proposal may be ready by the end of the year.

It was the general consensus of the Mayor and City Council to have Mr. Boyer prepare an amendment for introduction consistent with the recommendations.

Demolition of 337 Jonathan Street

Rodney Tissue, City Engineer, was present to discuss the demolition of the structure at 337 Jonathan Street.

The structure at 337 Jonathan Street is an abandoned building and is a blight in the community. The owner of the structure, according to state records, is Charles Summers who has apparently abandoned the property. Mr. Summers borrowed approximately \$ 60,000 from Howard Marker in the past, but Mr. Marker has since passed away and attempts to contact the Marker estate have been unsuccessful. Therefore, there is no clear cut owner.

The Code Administration staff, particularly Jonathan Kerns, has been very diligent in attempting to have this building removed. On September 6, 2007, a Judge ordered the building demolished and permitted the City to abate the problem.

Staff subsequently prepared a contract to obtain bids. The low bid on the demolition was Allegany Wrecking (Joel Merrbaugh) in the amount of \$ 14,700. Upon completion of the demolition, the City will attempt to bill the owner who will probably not pay. A tax lien will then be filed on the property. However, during the tax sale, it is very likely that the property will not be purchased as the value of the liens for the demolition, plus prior City liens of over \$ 5,000, plus prior taxes owed of over \$ 4,000 will likely be greater than the value of the property. Therefore, Council is advised that there will be a very low probability of recovering the costs on this demolition. However, due to the condition of the structure, and the blighting nature of the property, staff feels that the City should proceed with the demolition. The "Property Abatement Work Charge" account has \$ 20,000 budgeted for this type of expenditure where an abatement would be completed but there is no expectation to be able to recoup the costs. Staff is recommending that the City move forward with this demolition.

It was the general consensus of the Mayor and Council to schedule approval of the contract for October 23, 2007.

CITY ADMINISTRATOR'S COMMENTS

Bruce Zimmerman, City Administrator, had no additional comments.

MAYOR AND COUNCIL COMMENTS

Councilmember L. C. Metzner stated the letter to the editor from Commissioner William Wivell was surprising. He doesn't know how Commissioner Wivell voted on the flow transfer agreement, but it states "rates will be based on the usage of outside customers." The people who really have an issue are the City residents. In 2006, the City paid \$ 180,000 to the County and all the City customers absorbed the expense. The rate for outside the City customers is lower than other rates nationwide. A cost of service rate study was completed in 2005 and the Mayor and Council chose to not raise the rates as high as recommended by the study. The proposed rates were discussed during public work sessions and a Public Hearing was held. He urged the County Commissioners to discuss this issue with the City.

Councilmember P. M. Nigh stated the Harvest Hoedown was successful again this year. She has asked that a flea market also be held in the Spring. She is concerned that skilled crafts instruction is not being offered at the schools.

Councilmember K. S. Cromer asked if the street overlay work could be completed at night. Rodney Tissue, City Engineer, stated this has been tried. The contractors typically do not want to work during the overnight hours and the rates are higher. Wilson Boulevard will be finished by the end of October.

Councilmember Cromer recommended forming a City of Hagerstown Economic Development Commission. She is concerned the existing Economic Development Commission does not focus on Hagerstown. This would help Ms. Everhart and the

Economic Development office. She asked to include a discussion of this suggestion at a work session.

Councilmember M. E. Brubaker attended Governor O'Malley's briefing on budget proposals. The proposals will save families and individuals money on income tax. More information is available at the Governor's website. The presentation at Northern Middle school regarding use of land in the north end of Hagerstown was very well done. He thanked the citizens for attending the meeting.

Councilmember A. Parson-McBean stated the presentation at Northern Middle was very enlightening. She thanked everyone for the expressions of sympathy to her and her family.

Mayor R. E. Bruchey, II reminded everyone of the following events: Alsatia Mummer's Parade, October 27, 2007 at 7:00 p.m., Trick or Treat, October 31, 2007 from 6:00 p.m. to 8:00 p.m. and Downtown Live, October 20, 2007.

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 6:16 p.m.

Respectfully submitted,

Donna K. Spickler, City Clerk

Approved: November 27, 2007