

11TH SPECIAL SESSION, WORK SESSION AND EXECUTIVE SESSION –
November 3, 2009

Mayor R. E. Bruchey, II called this 11th Special Session, Work Session and Executive Session of the Mayor and City Council to order at 4:05 p.m., Tuesday, November 3, 2009, in the Council Chamber, 2nd Floor, at City Hall. Present with the Mayor were Councilmembers W. M. Breichner, M. E. Brubaker, F. Easton, A. C. Haywood and L. C. Metzner; City Administrator Bruce Zimmerman, City Attorney John Urner, and Donna Spickler, City Clerk.

Work Session – November 3, 2009

United Way Campaign

Mike Harsh, 2009 United Way Campaign Co-Chair, Dave Warner and John Latimer were present to provide information about this year's campaign. The United Way campaign is community based. Last year, the City employees pledged more than \$ 13,300.00. This amount provided 102 meals for seniors, 250 background checks, school supplies to 71 students, 666 medical prescriptions at the free clinic and other assistance. The need for funding this year is greater than in past years. Continued support from the City employees makes a difference in people's lives. The City campaign will run from November 16 to December 4, 2009.

Chamber of Commerce Request – Southwest Quadrant Parking Deck

Shelby Penn, on behalf of the Downtown Development Committee of the Chamber of Commerce, presented a request to the Mayor and Council to prepare a Request for Proposals to prepare construction plans for a parking deck in the southwest quadrant of the City's downtown.

The Downtown Development Committee of the Chamber has as its top priority the construction of a new parking deck to serve commercial and residential development downtown. An informal survey of committee members in January 2008 indicated a potential demand for 842 spaces. A year later, the Hagerstown Planning Department studied the issue and found a potential demand for parking at 2,290 spaces and a current supply of just 311. Columbia Bank is willing to offer the parking lot behind its West Washington Street branch, a location well situated to serve both commercial and residential needs.

The Chamber recommends that the City take the lead in preparing the RFP and engaging a vendor. They further suggest that the estimated \$ 25,000.00 cost be shared by the City, County, and CHIEF. After the feasibility and preliminary construction analysis has been completed, the Chamber would support and work to build a public/private development partnership including the City, the County and the private sector to actually build the parking deck. Sources of revenue could include the Appalachian Regional

Commission (ARC) and other federal grants, State support, and private investors eager to increase the value of their property by adding parking downtown.

Councilmember Brubaker supports looking at parking issues and making progress on those issues. He doesn't think the City is ready to make a physical commitment. He suggested that Staff work with the County and the Chamber to develop a financial feasibility study before looking at the physical aspects. It would be helpful if the Chamber would find property owners who would be willing to commit to assisting with funding for the deck.

Councilmember Breichner thinks planning ahead for a parking deck is good. The availability of parking will help bring visitors and investors to downtown.

Councilmember Haywood is not convinced having another parking deck will be a catalyst for more business. She would like more information on the parking study.

Ms. Penn indicated the RFP would provide construction plans, with a feasibility study, a schematic analysis of the Columbia Bank site, size and design of the deck and a preliminary cost estimate. The County has provided verbal support, if the City takes the lead.

It was the general consensus to have staff work with Ms. Penn to review the RFP cost issues. A partnership would have to be in place before funding would be considered. Ms. Penn stated the project would not move forward if there isn't public and private support.

County Residential Construction Stimulus Plan – Excise Tax Credits

Kathleen Maher, Planning Director, and Alfred Martin, Finance Director, were present to discuss the City's interest in an excise tax credit program.

On October 13, 2009, the County Commissioners adopted a residential construction stimulus plan that provides credits on the County excise tax under certain conditions. The County excise tax credit would apply to permits within the municipalities. If municipalities want to participate in this stimulus plan, they must approve crediting their 28% of the excise tax by covering the credit with municipal funds. If the municipalities do not participate, the municipality would collect their 28% and then credit the County's 72% of the excise tax. Any credit granted would have to be covered by other City funds, so that the excise tax fund would remain whole. Apartments, modular homes, and mobile homes are excluded from the credits.

Councilmember Brubaker pointed out the City implemented a stimulus program two months ago with the PEP program. He doesn't think the City should consider participating in the excise tax credit program. Councilmember Metzner stated participating would reverse the City's financial policy.

Councilmember Haywood stated this program would not promote the renovation of older buildings.

It was the general consensus to not participate in the County's Residential Construction Stimulus Plan.

Comprehensive Rezoning Phase II

Kathleen Maher, Planning Director, reviewed the previous discussions about Phase II of the Comprehensive Rezoning. The following is a summary of the consensus to this point:

1. Area 4: NE Corner of Potomac Avenue and Manila Avenue, Rezone as recommended to R1
2. Area 7: Jefferson Street, East of Vale Street, Rezone north side to R2, leave south side as C2 and rezone apartment complex from R2 to C2
3. Area 8: South Side of E. Washington Street, Leave as R2
4. Area 12: Eastern Boulevard between Dual Highway and Jefferson Blvd., rezone as recommended; with future text amendments for resulting "non-conforming" commercial
5. Area 14: South Side of Edgewood Drive, Rezone as recommended
6. Area 21: Wilson Blvd. and Kuhn Avenue, Rezone as recommended
7. Area 22: Frederick Street and Wilson Blvd., Rezone as recommended and include lot on west side of Kenley Avenue
8. Area 23: All Star Court, Leave as C2

Areas 5, 6, 9, 10, 13, 15, 16, 17, and 18 were not reviewed since comments had not been received in the Mayor and City Council's public review process.

In response to the discussion on the appropriateness of rezoning the AT land as a part of the comprehensive rezoning, the following is an attempt to explain why the City went from Agriculture (A) zoning to Agriculture Transition (AT) zoning in 2003 and why the present comprehensive rezoning process is recommended as an appropriate time to address these districts. The purpose of the new AT district was to enable agricultural uses to continue on newly annexed land, if desired by the property owner, as a temporary use until the land is rezoned for development. While farms may continue, these uses may not be expanded with respect to area or intensity of usage, nor may the type of agricultural use be altered. The intent was to be sure that any farm land which exists or is annexed into the city does not intensify in usage and become a nuisance to surrounding residential communities in the city.

At present, there are six tracts of land in the city with Agriculture Transition zoning: the Evergreen parcel and adjoining forest conservation easement area, the YMCA, Fairgrounds Park and the neighboring historic house, the Crumrine property (a recent annexation) off Jefferson Boulevard, land along Hebb Road, and a portion of the Hager's Crossing development. None of this land is currently farmed and all but the Evergreen

parcel are occupied by some type of development (or conservation easement) or are under development. All but the Crumrine property are recommended for rezoning as part of the comprehensive rezoning process. The Crumrine property was not recommended for rezoning, since the property owner specifically requested the AT zoning when they annexed in 2005. Their property is occupied by a new single-family residence, but not under agricultural use.

Area 2, Eastern Boulevard and Potomac Avenue and Area 3, YMCA were discussed further.

Councilmember Haywood asked if a POM could be an acceptable compromise for Area 2. She wondered if another hearing would show if the adjacent property owners would be more receptive to a third option. The Planning Commission looked at the operations of the business and recommended R2.

Councilmember Metzner pointed out the Planning Commission recommended R2, as well as a prior Council, after a large amount of debate and litigation agreed that it should not be commercial.

Councilmember Brubaker believes the intensity of the traffic impact influenced the reconsideration. The recommended zoning was discussed at length.

Ms. Maher stated if the property was zoned R2, it would act as a buffer from the intense commercial use at Stonehouse Square.

Councilmember Breichner suggested having the Planning Commission review a POM consideration for the property. Councilmember Metzner is concerned about the amount of traffic and the access conditions at this site.

The Planning Commission will be asked to consider a POM for the property and do whatever they think is appropriate in considering it.

Councilmember Brubaker pointed out that the members of the Council have not accepted the Planning Commission's recommendation for R1 zoning at the YMCA. He suggested looking at the possibility of an NMU for this location. Ms. Maher stated this is one of the districts where the YMCA would be permitted by right.

Councilmember Brubaker suggested having the Planning Commission and staff review an NMU and provide a recommendation.

It was the general consensus to ask the Planning Commission to review Area 2.

11TH SPECIAL MEETING – November 3, 2009

On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember W. M. Breichner, the Mayor and City Council unanimously agreed to meet in Special Session at 5:26 p.m.

Approval of an Ordinance: Water Quality Bonds for West End Water Tanks – Phase II

Action: On a motion duly made by Councilmember L. C. Metzner and Councilmember W. M. Breichner, the Mayor and City Council unanimously agreed to adopt an ordinance as introduced on October 27, 2009 authorizing the City of Hagerstown to issue and sell upon its full faith and credit, general obligation bonds to the Maryland Water Quality Financing Administration, in one or more series, in an aggregate principal amount not to exceed \$ 6,000,000. Proceeds from the sale of the bonds will be used for the public purpose of financing Phase II of the City's West End Water Tanks project as more fully described in the ordinance together with related expenses and costs of issuance. Staff is hereby also directed to proceed with developing the necessary detailed resolutions and other documents to proceed with the sale of the bonds as directed by this ordinance. The detailed resolution will be presented to this body for approval at a future date prior to the issuance of the bonds as specified in the ordinance.

Approval of an Ordinance: Water Quality Bonds for Willson Transmission Mains – Phase IA

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 adopt an ordinance as introduced on October 27, 2009 authorizing the City of Hagerstown to issue and sell upon its full faith and credit, general obligation bonds to the Maryland Water Quality Financing Administration, in one or more series, in an aggregate principal amount not to exceed \$ 5,000,000. Proceeds from the sale of bonds will be used for the public purpose of financing Phase 1A of the City's Willson Transmission Mains as more fully described in the ordinance together with related expenses and costs of issuance. Staff is hereby also directed to proceed with developing the necessary detailed resolutions and other documents to proceed with the sale of the bonds as directed by this ordinance. The detailed resolution will be presented to this body for approval at a future date prior to the issuance of the bonds as specified in the ordinance.

Approval of an Ordinance: Water Quality Bonds for Citywide Collection System Rehab

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 adopt an ordinance as introduced on October 27, 2009 authorizing the City of Hagerstown to issue and sell upon its full faith and credit, general obligation bonds to the Maryland Water Quality Financing Administration in one or more series in an aggregate principal amount not to exceed \$ 2,250,000. Proceeds from the sale of the bonds will be used for the public purpose of financing the Citywide wastewater collection system rehabilitation as more fully described in the ordinance together with related expenses and costs of issuance. Staff is hereby also directed to proceed with developing the necessary detailed resolutions and other documents to proceed with the sale of the bonds as directed by this ordinance. The detailed resolution will be presented to this body for approval at a future date prior to the issuance of the bonds as specified in the ordinance.

Approval of an Ordinance: City of Hagerstown Water Quality Bonds for Salem Avenue Collection System Rehab

Action: On a motion duly made by Councilmember A. C. Haywood and seconded by Councilmember F. Easton, the Mayor and City Council unanimously agreed by voice vote to adopt an ordinance as introduced on October 27, 2009 authorizing the City of Hagerstown to issue and sell upon its full faith and credit, general obligation bonds to the Maryland Water Quality Financing Administration in one or more series in an aggregate principal amount not to exceed \$ 1,000,000. Proceeds from the sale of bonds will be used for the public purpose of financing the Salem Avenue wastewater collection system rehabilitation as more fully described in the ordinance together with related expenses and costs of issuance. Staff is hereby also directed to proceed with developing the necessary detailed resolutions and other documents to proceed with the sale of the bonds as directed by this ordinance. The detailed resolution will be presented to this body for approval at a future date prior to the issuance of the bonds as specified in the ordinance.

Approval of a Resolution: Creation of Ethics Review Board

Action: On a motion duly made by Councilmember F. Easton and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to approve a resolution establishing an Ethics Review Board to review the City's Ethics Code and present to the Mayor and Council written recommendations, if any, for changes to the existing Code. The Committee shall be composed of three (3) members to be

selected by the Mayor and Council. The term of the Committee shall be one year, commencing November 3, 2009 and terminating on November 2, 2010.

The City Attorney shall attend the meetings of the Committee to provide advice, but shall not vote. The City Administrator shall assign employees as necessary to serve as liaison to the Committee and shall provide staff services. These appointees shall not vote.

Discussion: The City Clerk will attend the meetings of the Ethics Review Board.

Appointment of Members to the Ethics Review Board

Action: On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember W. M. Breichner, the Mayor and City Council unanimously agreed by voice vote to appoint the following slate of names to serve on the Ethics Review Board of 2009:

Pastor Stephen Robison
Jeanne Singer
Douglas Wright

The term of the appointment will be from November 3, 2009 to November 2, 2010.

Discussion: Councilmember Haywood asked if there would be a conflict of interest if one of these members filed to run for County Commission.

Mayor Bruchey thinks if an individual decides to run for the office, they would resign from this Board.

The Special Meeting was adjourned at 5:35 p.m.

City Administrator's Comments

Bruce Zimmerman, City Administrator, had no additional comments.

Mayor and Council Comments

Councilmember M. E. Brubaker thanked everyone involved for another successful Mummers Parade. He thanked the Exchange Club for arranging the Veteran's Day ceremony in the public square.

Councilmember W. M. Breichner had no additional comments.

Councilmember L. C. Metzner had no additional comments.

Councilmember A. C. Haywood stated the Humane Society is looking for people to be in their calendar.

Councilmember F. Easton expressed concern that the State of Maryland Public Works division will be recommending an additional \$ 280 to \$ 300 million tomorrow.

Mayor R. E. Bruchey, II agreed that the Mummers Parade was a success. The Gridiron Classic Football Game will be held on Friday, November 6, 2009 at 7:00 p.m. at Mike Callas Stadium at North Hagerstown High School.

Executive Session – November 3, 2009

On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember W. M. Breichner, the Mayor and City Council unanimously agreed by voice vote to meet in closed session to consult with counsel to obtain legal advice, #7, to consider a matter that concerns the proposal for a business or industrial organization to locate, expand, or remain in the State, #4, and to discuss the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation or performance evaluation of appointees, employees, or officials over whom it has jurisdiction, #1 at 5:40 p.m. in the Council Chamber, 2nd 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. Easton, Councilmember A. C. Haywood, City Administrator Bruce Zimmerman, City Attorney John Urner, Donna Spickler, City Clerk, Deborah Everhart, Economic Development Director and Alfred Martin, Finance Director. The meeting was held to discuss an annexation proposal and the process required for annexation, the acquisition of a downtown building and to consider an appointment to the Economic Development Commission. No formal action was taken at the meeting. On a motion duly made, seconded and passed, the meeting was adjourned at 7:14 p.m.

Respectfully submitted,

Donna K. Spickler, City Clerk

Approved: December 22, 2009