

WORK SESSION AND 63RD SPECIAL SESSION – NOVEMBER 6, 2007

WORK SESSION – November 6, 2007

Mayor R. E. Bruchey, II called this Work Session and 63rd Special Session of the Mayor and City Council to order at 4:05 p.m., Tuesday, October 9, 2007, in the Council Chamber at City Hall. Present with the Mayor were Councilmembers M. E. Brubaker, K. S. Cromer, L. C. Metzner, A. Parson-McBean and P. M. Nigh; City Administrator Bruce Zimmerman, City Attorney William Nairn, and D. K. Spickler, City Clerk.

Hagerstown, A Great Town – Getting Even Better- Barbara Ingram School for the Arts Update

A new series was started called “Hagerstown, A Great Town Getting Event Better” which will highlight impact projects in the community in which the City has played a key role. The purpose of the series is to provide an update on such projects and to celebrate the contribution made by the City to the project.

The first segment in the “Hagerstown, A Great Town Getting Even Better” series is the Barbara Ingram School for the Arts. This critical project for the community and for downtown Hagerstown has reached an important milestone which makes this presentation timely. Kathleen Maher, Planning Director, Dr. Elizabeth Morgan, Superintendent of Schools, and Dale Bannon, Director of System Development, were present to discuss the status of the school and highlights of the partnerships established.

The Barbara Ingram School for the Arts will improve the quality of life in Hagerstown by creating a unique educational opportunity for the community’s youth and by investing \$ 8.3 million in a long vacant building in downtown Hagerstown. This new four year public high school will bring 300 of the community’s most talented youth downtown for the typical academic curriculum as well as specialized training and education in the performing and visual arts. The school will create an exciting venue for education and artistic expression by offering performances, educational workshops, and extensive after-school training in the arts for the children of the county. The school will also partner with neighboring cultural institutions downtown to conserve and sustain resources by taking advantage of nearby facilities, such as the Washington County Free Library, Maryland Theater, and the University System of Maryland.

The Washington County School System hired Cho Benn Holback & Associates on July 12, 2005 to undertake the feasibility study and building analysis for the school. This contract was later extended to include schematic design and construction drawings. Construction bids came in under bid at \$ 7.56 million and the contract was awarded by the Washington County Board of Education (BOE) to Waynesboro Construction on September 18, 2007. Financing bids for the \$ 8,324,000 construction and fit-out project came in under bid at a 4.5% interest rate and the contract was awarded by the Washington County Board of Education to Banc of America Public Capital Corp on

October 9, 2007. The State Board of Education approved the financing plan on October 12, 2007.

The State Board of Public Works approved plans to transfer the property and continue utilization of prior State bond awards on October 17, 2007. The property will be transferred from the City of Hagerstown to Neighborhood Development Partnership, Inc. (HNDP) in early November 2007 to enable the project to utilize \$ 1.2 million in State historic tax credits. HNDP will lease the property to the Board of Education for 30 years with the annual lease payments from the BOE being used to pay off the \$ 8.32 million financing for the project. When the financing is retired, the property will be transferred to the BOE.

City staff assisted the Washington County School System's Arts School study group in 2002 and emphasized the importance of locating the school downtown in the Arts and Entertainment District. City staff worked with Vincent Groh in 2003 and secured the donation of the Henry's Theater property for the purpose of establishing a performing and visual arts school named for his late wife. The City received \$ 685,000 in State grant funding from various sources to assist the project. The City waived \$ 47,380 in building permits fees for the project. The City agreed to transfer the property to HNDP to allow the project to utilize \$ 1.2 million in State historic tax credits.

Dr. Morgan pointed out this will be the first school built in the State of Maryland to take advantage of special financing and tax credits. This will be like other high schools and students will have academic strengths as well as artistic strengths. Students will have to pass a test to gain admission to the school. The majority of students will be from Washington County. Students from other areas may be admitted, by exception. This usually occurs if there is a specific need at the school.

Mr. Bannon stated this is a joint project that is being built by the entire State of Maryland.

Councilmember Metzner stated soon Hagerstown will be associated with education, with the School for the Arts and the University System of Maryland being located downtown.

The ground breaking ceremony for the project will be held on November 13, 2007 at 8:00 a.m. at the Maryland Theater. Construction is scheduled to begin on November 5, 2007 with completion in time for school opening in August, 2009.

Comprehensive Plan

The Draft Comprehensive Plan has been formally recommended for adoption by the Planning Commission. This is the culmination of a long and involved process that began with an initial public presentation and solicitation of input on April 25, 2005.

The Planning Commission met with the project consultant, Environmental Resources Management, on numerous occasions over the summer and fall of 2005 drafting the goals and policy concepts. A working draft of the Plan was completed by March 2006. The Planning Commission then started reviewing and making substantial revisions to the Draft Plan. In late August of 2006, the Planning Commission reached an impasse in their review regarding the conflict between the growth projections in the Medium Range Growth Boundary (sewer service for the next 20 years) and the available sewer capacity to serve such growth. An addendum to the contract was negotiated with ERM to provide additional detailed analysis on this issue.

The Draft Comprehensive Plan was finalized and formally submitted to the Maryland Department of Planning and other interested parties as required by Article 66B 3.07(c) in May of 2007. The Planning Commission also discussed the Draft Plan with the County Planning Commission at their May 30, 2007 regular meeting. A public hearing was then held by the Planning Commission on July 25, 2007. Comments that were received during this period were reviewed and incorporated into the Final Draft of the Plan.

Kathleen Maher, Planning Director, stated a tentative date of November 27, 2007 has been set for the Public Hearing before the Mayor and City Council.

The 2007 Comprehensive Plan is the City of Hagerstown's official statement of policies directing the physical, social, and economic development of Hagerstown for the next 20 years, as well as policies for managing the City's water and wastewater utilities over that time period.

In order to ensure that the City of Hagerstown grows in a fiscally and environmentally sound manner, the 2007 Comprehensive Plan outlines strategies to address the relationship between planned growth and the infrastructure needed to accommodate it. This plan is not intended to meet the requirements of the Municipal Growth Element or the Water Resources Element. Nonetheless, this Plan places particular emphasis on the relationship between projected growth and available water and wastewater resources to serve that growth. It defines a growth boundary and identifies water and wastewater service boundaries, within which the City's utilities would serve projected future demand, while ensuring that vacant and underutilized lands within the existing corporate boundaries will have adequate infrastructure for future development.

The 2007 Comprehensive Plan also provides the land use and growth management policy framework for Hagerstown's efforts to regain and strengthen its role as the primary provider of urban services in the Hagerstown region. Major themes of this Plan include:

1. Growth and Annexation
2. Revitalization of Existing Land
3. Water and Wastewater Limits
4. Improvements to transportation Network
5. Enhancement of Parks and Recreation Opportunities

The 2007 Comprehensive Plan sets forth new City policies that will be implemented through a number of separate decisions, ordinances, and laws. Hagerstown's Zoning and Subdivision Ordinances and maps will be updated and amended to be consistent with the Plan's recommendations. The City's Capital Improvement Program (CIP) should be updated to include specific projects described in the Plan. The Plan also serves as the basis for future amendments to the County Water and Sewer Plan.

Councilmember Parson-McBean asked when a discussion would be held concerning an economic developer. If an economic developer is hired, the Council needs to know what economic development means to the City of Hagerstown.

Councilmember Brubaker suggested planning time during work sessions to discuss the proposed Comprehensive Plan and hold the Public Hearing after these discussions. Mayor Bruchey thanked everyone for their hard work and diligence.

Prior to the Planning Commission Public Hearing, the Comprehensive Plan was available for review for 60 days.

The schedule of discussions will be determined at the November 20, 2007 Work Session meeting.

Councilmember Brubaker thanked staff and the Planning Commission members for working so hard on this revised plan. Many sections were reviewed and revised repeatedly. He became involved in civic affairs to be part of doing what is right. The Comprehensive Plan attempts to manage growth to the benefit of the city and its residents. Surrounding jurisdictions should be encouraged to be involved in the review of the City's Comprehensive Plan.

Sidewalk Café License

Kathleen Maher, Planning Director, and Rodney Tissue, City Engineer, were present to review a license agreement and sidewalk café standards with the Mayor and City Council.

As a followup to the discussion in September, staff has incorporated Council comments and met with several possible users of the Café License program and received significant input from them. They also met with the Washington County Board of License Commissioners (Liquor Board). The standards have been revised based on input and staff now feels they have a final draft for Mayor and Council approval.

In order to obtain a license agreement, it is anticipated that an applicant would bring in a completed application to the Department of Engineering & Code Administration. That department would route the application to the Fire Department and the Planning Department to complete the necessary reviews regarding the license agreement.

The standards include:

1. The license agreement will be administratively approved and enforcement will be performed by the City Engineering and Code Administration Department and the City Police Department.
2. Alcoholic beverages may be served prior to midnight any day of the week or after noon on Sundays. State enabling legislation is pending for the café license and could be approved as soon as June 2008
3. A four foot width of unobstructed sidewalk space for pedestrians must be maintained. Between tables in the sidewalk café space, a minimum three foot width must be maintained for handicap accessibility.
4. Any plans to anchor enclosures in the sidewalk must be approved by the City Engineering and Code Administration Department.
5. Space heaters are permitted upon approval of the Code Official and the Fire Marshall.
6. Amplified music in the sidewalk café areas must comply with the City noise ordinance. If the volume of the music creates a nuisance for adjoining businesses and residents, the City will revoke this privilege in the sidewalk café areas on the public right-of-way.

It is the intent that the owner of the restaurant would be the person operating the café.

Councilmember Cromer pointed out the standards could be modified if something is not working. Councilmember Nigh asked how pollution will be addressed, with smokers being outside in the café area.

Approval of the license agreement will be scheduled for November 27, 2007.

Hagerstown Suns Proposed 2008 Fireworks Schedule

Karen Giffin, Director of Community Affairs, Lewie Thomas, Recreational Facilities Coordinator, and Will Smith, Suns General Manager, were present to discuss the 2008 schedule.

Mr. Smith stated the Hagerstown Suns are seeking approval of the same number of fireworks shows that were approved in 2006 and 2007. In accordance with the restrictions and requirements, all shows are scheduled for weekends and holidays, and fireworks shows will not occur on more than two consecutive days at Municipal Stadium. The total number of shows scheduled is 14. He stated attendance increases on fireworks nights.

Councilmember Cromer and Councilmember Parson-McBean asked for fewer fireworks shows.

After discussion about the number of shows, it was the general consensus to schedule approval of the requested fourteen shows.

Landscape Beautification at City Gateways

Rodney Tissue, City Engineer, stated staff continues their efforts to try to beautify portions of the City as part of the “Livable City” initiative. Of particular importance are the “gateways” into the City. Consistent with this, staff suggests improving the landscaping at the following locations:

1. Prospect Avenue at Pennsylvania Avenue (City property east of Prospect Avenue)
2. Three traffic islands on Eastern Boulevard near Potomac Avenue
3. East Franklin Street at Cannon Avenue (SW corner)
4. Two traffic islands at Virginia Avenue/Wilson Boulevard

Installation of landscaping at islands and other prominent high traffic areas sends a positive message to the public. Staff has attempted to target areas that need additional landscaping and beautification. Planting plans for these areas were endorsed by the Hagerstown Beautification Advisory Committee.

The current budget earmarks funding for landscape improvements of \$ 10,000 from CIP 560 (Traffic Island Improvements). Staff suggests soliciting bids to improve the three islands at Eastern Boulevard at Potomac Street. In the future, staff suggests budgeting to improve the other locations as part of an ongoing beautification program. The Department of Public Works plans to upgrade the landscaping at the southwest corner of East Franklin Street and Cannon Avenue using their operating funds.

Staff requests that Council authorize us to obtain bids for the installation of landscape upgrades at the Eastern Boulevard and Potomac Avenue location only. The most difficult project will be at Virginia Avenue and Wilson Boulevard. It was the general consensus of the Mayor and City Council to include funding in the FY 2008-2009 budget to landscape the three traffic islands on Eastern Boulevard near Potomac Avenue.

Sidewalks (Code, Policy, Issues and Solutions)

Mayor Bruchey stated citizens expressed concerns during the October 23, 2007 meeting that there isn't assistance available for the average citizen for sidewalk repairs. There is a program that benefits those 65 and older. He asked staff to assist him in developing a plan for homeowners who aren't eligible for this program.

John Lestitian, Director of Code Administration, stated installation, maintenance and replacement of public sidewalks generate more of an emotional response from property owners than any other code related issue. The prevailing code places the responsibility for sidewalks on the abutting property owner, except for issues related to street trees or if new sidewalks are constructed as part of a beautification initiative.

Construction Inspectors working on overlay streets, responding to complaints and targeting trouble areas issue several hundred sidewalk notices each year. Such a notice cites the violation and establishes a time frame in which the violation must be abated. Additionally, Licensing Inspectors similarly send hundred sidewalk notices each year. Such a notice cites the violation and destabilizes a time frame in which the violation must be abated. Additionally, Licensing Inspectors similarly send hundreds more notices requiring abatements of sidewalk violations. All of the violation notices are in accordance with the Sidewalk Policy as adopted by the Mayor and Council on September 23, 2003.

Staff has performed some preliminary research into other methods of administering and financing sidewalk repair/replacement programs. The City currently places the burden of hiring a contractor and paying for curb and sidewalk repairs on the property owner whose land adjoins the sidewalk. Some other municipalities award a sidewalk repair contract to a single contractor, and allow residents to use that contractor to perform the required repairs at a fixed unit rate. Still, other municipalities perform all of the curb and sidewalk repairs themselves, and then levy an assessment against the adjoining property owners for their share of the costs. While each of these methods have potential flaws, Staff feels that they contain elements that could be incorporated into the City's plan to improve the effectiveness of the program.

Larry Bayer, Director of Community Development, stated the existing program is through the Community Development Block Grant program. Only three loans have been requested in the last year. The interest rates range from 0% to 6% and is for a five year term. In some instances, payment is deferred until the property is sold.

Councilmember Metzner asked if the owner who receives a violation notice is made aware this program is available. Mr. Lestitian stated they are.

Jim Bender, Assistant City Engineer, stated other municipalities have addressed this issue and the programs offered vary greatly. Some municipalities require the owner to bear the complete cost – including securing the contractor. Others pay for everything. The various programs should be reviewed and the best aspects should be considered in a program for City homeowners.

Councilmember Cromer recommended securing one contractor for a neighborhood and divide the costs amongst all the owners. She thinks the City should be responsible for curb repairs.

Councilmember Parson-McBean asked that grants for residential sidewalks be researched. Rodney Tissue, City Engineer, stated he has looked for grants but has not found any for individual property owners. He stated some of the recent sidewalk repair has been funded with grants from the State and Federal governments.

It was the general consensus to continue working on developing a program for sidewalk repairs.

City Office Space Financial Plan – Renovation of the Roslyn Building and Portions of City Hall

Rodney Tissue, City Engineer, presented a financial plan for the design, construction and long term operation of improved office space at City Hall. Additional City office space would be located in the City-owned Roslyn building (adjacent to City Hall) and the project also includes renovating offices within City Hall.

The total project cost for all components of the project is estimated at \$ 1,245,000 for construction and \$ 75,000 for design. Two options were provided for funding this project. Specifically, one option involves the use of CDBG funds for the renovation of the Roslyn building, while the other plan utilizes different sources. The following list shows the funding plans:

1. Funding Plan Option ‘A’ (Funding for renovations from non-CDBG sources): This option has no additional capital or operating expenditures required from the General Fund other than what is already in the current budget. It does involve the use of the City’s existing, self-supporting Property Management Fund and the reallocation of previously unspent bond financing that was earmarked for the Information Technology (IT) department relocation in City Hall. A final component is the reallocation of existing operating funds to pay the debt service.
2. Funding Plan Option ‘B’ (CDBG funds for renovation): This options uses Federal money to renovate the Roslyn building and eliminates the need for the Property Management Fund to borrow money for the renovation of the Roslyn building as presented in option ‘A’. It is very important to note that due to Federal program restrictions it is not possible to use CDBG funds for the renovation of the Roslyn unless the building is owned by a non-profit entity other than the City. The City could provide financial assistance to the non-profit to renovate the second and third floors of the Roslyn building and then lease this space back to the City.

Staff is prepared to recommend that the Mayor and Council endorse funding Option ‘A’, funding the renovations with non-CDBG funds. Since this option requires no additional capital or operating expenses from the general Fund other than what is already in the current budget and it utilizes the City’s existing self-supporting Property Management Fund, this is a proposal that addresses the need for improved office space, yet does not cost the City additional funds other than the reallocation of previously budgeted funds. It also allows the City to keep their CDBG funds available for other important planned public safety and community development needs.

If the Council endorses a financial plan, staff would begin immediately to select an architect. It is anticipated that this selection process could be completed by December. If the design begins immediately, design would be completed by the end of March, the

award of a construction contract would be in April, with construction starting in June. Financing would be done as part of a bond issue in 2008.

Councilmember Brubaker stated a project of this size should be funded through the City, not CDBG. He asked that this project be considered during the regular budget process. It was the general consensus to consider the project during the budget process.

Utility Relief Benefit Concert

Councilmember Alesia Parson-McBean, Karen Giffin, Director of Community Affairs, and Dave Jordan, Executive Director of Community Action Council (CAC), presented a proposal for a Utility Relief Benefit Concert.

Councilmember Parson-McBean developed a proposal for a concert to raise needed funds for the CAC's "Energy Assistance Program." The concert will be held at the Maryland Theater on Thursday, December 20, 2007 at 7:30 p.m. William Clarence Marshall III, All County Chorus and the Hagerstown Choral Arts are scheduled to perform. Proposed sponsors are the City of Hagerstown, CAC, Maryland Theater and the Washington County Arts Council. Tickets will be \$ 10.00 each.

Councilmember Parson-McBean stated it is imperative for the Mayor and City Council to find a balance to improve the quality of life for residents. Budget cuts are expected from the State that will impact all Maryland residents. The money raised is to assist City residents with heating costs. CAC will control the distribution of the additional assistance.

Mr. Marshall has agreed to perform a one hour concert for \$ 2,000, plus expenses. He is an internationally acclaimed opera singer and performed on July 4, 2007 at the Antietam Battlefield. Ms. Giffin indicated the Washington County Arts Council can be a sponsor of the event because of the high artistic quality of Mr. Marshall's talent.

Other activities on December 20, 2007 will include a silent auction of donated items and a non-perishable food collection.

Councilmember Metzner believes this event will be a nice contribution to City residents. If the City partners with other groups, such as the Salvation Army and the Marine Corp., more people can be helped. This will be a good gift to the community.

Councilmember Cromer suggested charging more for the tickets. Councilmember Parson-McBean stated the fee was chosen to keep it simple. There are 1,300 seats in the Theater and the goal is to have a sold out show. The \$ 10.00 price will help ensure a sell out.

It was the general consensus to create a committee to plan and execute the event.

Councilmember Parson-McBean stated County Commissioner Kristin Aleshire has pledged to purchase 50 tickets. Some of the tickets will be donated to the Commission on Aging, the Alexander House, Elizabeth Court and Potomac Towers. The success of the concert will be measured by the audience diversity, the number of advanced tickets sold, reports from CAC on the number of residents served by this effort and whether or not it becomes an annual event.

63rd SPECIAL SESSION – November 6, 2007

On a motion duly made by Councilmember A. Parson-McBean and Councilmember M. E. Brubaker, the Mayor and City Council unanimously agreed to hold a Special Session to conduct a public hearing to hear testimony on the proposed annexation of Hollyhock Road, Case No. A-07-04.

Stuart Bass, Comprehensive Planner, presented an annexation request for 12.5 acres off of Broadfording Road and Hollyhock Road, located on the western side of the City, (to be commonly referred to as the Hollyhock Road Annexation). The proposed zoning district is C2 (Commercial General). The current County Zoning is HI-1 (Highway Interchange). The Land Use Plan, as described in the 2002 Washington County Comprehensive Plan, designates the property as Industrial Flex.

The introduction of the Resolution was passed on September 25, 2007. There were two published notices advertising the annexation hearing at no less than weekly intervals pursuant to State law.

The commercial development of this property would have no impact on Washington County Board of Education facilities with respect to school capacity. There will be no impacts to the Washington County Free Library as a result of this proposed annexation.

Sanitary sewer service to this site will be by extension of existing waste water mains in the general area and will be at the cost of the developer. Any necessary upgrades to accommodate the project shall be at the expense of the developer. The amount and timing of the allocation of sewer services shall be subject to the City's Sewer Capacity Allocation Program. Sufficient capacity exists to serve this area.

Water service to this site will be by extension of water lines in the vicinity of the site and will be at the cost of the developer subject to the Water Department's standards, policies, procedures and payment of the applicable fees. Any extension of water lines to provide additional water service will be at the sole cost of the owner or developer of the property. Sufficient capacity exists to serve this area.

The Electric Distribution System is external to the Hagerstown Light Department operating territory. Electrical service will be provided by Allegheny Power. The City of Hagerstown (HLD) normally supplies street light service to public streets and supplies the manpower and equipment to serve a new area once the developer builds the

infrastructure. There are no public streets associated with this project; therefore this provision will not apply.

No significant impact on emergency service delivery is expected. Any necessary improvements to existing public roads shall be completed at the direction of the City Engineer at the developer's expense and constructed per the City's Public Ways Construction Standards by the developer.

No significant impacts are expected for parks and recreation facilities, police protection and maintenance of streets and right-of-ways.

Mr. Bass entered the following as exhibits:

- Exhibit 1: Annexation Plan
- Exhibit 2: Notification of annexation to planning agencies
- Exhibit 3: Certificate of Advertisement
- Exhibit 4: Annexation Resolution

The applicant was represented but no presentation was made.

There was no testimony, either in favor of or against the annexation.

Councilmember Nigh asked what type of commercial development will be permitted. Mr. Bass stated C2 is a basic business zoning district. General businesses, offices, hotels and gas stations would be permitted uses.

The hearing was closed at 6:24 p.m. The record will remain open for 10 days for additional comments. Approval of the Annexation Resolution will be placed on the agenda for November 27, 2007.

City Administrator's Comments

Bruce Zimmerman, City Administrator, thanked the Police Department, the Light Department and the Public Works Department for their work during the annual Mummer's Parade.

Mayor and Council Comments

Councilmember P. M. Nigh asked residents to rake up and remove leaves in order to keep the storm drains open. The Cold Weather Shelter is open and she believes they are catering to non City residents.

Councilmember A. Parson-McBean thanked the Mayor and Council for their support of the Utility Relief Benefit Concert.

Councilmember M. E Brubaker stressed to the State Secretary of Transportation there are no significant projects in the next five to six years, other than upgrading Edgewood Drive.

Councilmember K. S. Cromer thought the Mummer's Parade was a success. She thanked the Washington County Library and the Greater Hagerstown Committee for donating books to Mayor and Council members.

Councilmember L. C. Metzner stated everyone should use leadership examples given in the donated book. He stated Attorney General Ganzler apologized for recent comments he made.

Councilmember Nigh thanked the Carpenters union who allowed sex offenders within the City to use the building at Fairgrounds Parks. This allowed all registered sex offenders to be in one location on Trick-Or-Treat night.

Mayor R. E. Bruchey, II stated a special session of the General Assembly will be held. Councilmember Brubaker stated the corporate loophole in the recordation tax should be discussed.

Mayor Bruchey stated an anniversary dinner will be hosted by Deafnet on November 10, 2007. A wreath will be placed at the Courthouse on November 11, 2007, in recognition of Veteran's Day. A ceremony will be held on November 9, 2007 at the monument on Memorial Boulevard. The annual Gridiron Classic football game will be held on November 9, 2007.

Mayor Bruchey expressed sympathy to the family of Edgar Benningfield. The Mummer's parade was a success. Two ribbon cutting events were held today. He would like to see the upper vacant floors in downtown buildings filled.

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 6:38 p.m.

Respectfully submitted,

Donna K. Spickler, City Clerk

Approved: December 18, 2007