

WORK SESSION AND EXECUTIVE SESSION – December 1, 2009

Mayor R. E. Bruchey, II called this Work Session and Executive Session of the Mayor and City Council to order at 4:09 p.m., Tuesday, December 1, 2009, in the Council Chamber, 2<sup>nd</sup> 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, City Attorney William Nairn, and Donna Spickler, City Clerk.

Work Session – December 1, 2009

Washington County Community Lobbying Coalition

Brien Poffenberger, Chamber of Commerce, reported the Washington County Community Lobbying Coalition has successfully lobbied for issues important to the entire community, many of which directly impact the City. Like in years past, the process to develop the agenda began with a series of meetings to which the entire leadership of all Coalition partners was invited. The group began in the summer with brainstorming sessions designed to identify issues important to the community. The partners agree that, as in years past, the agenda should include only items with a specific State “ask”. After reviewing the list, the partners agreed that the lobbying program’s greatest value this year would be to protect the State’s current commitments to Washington County.

Throughout the program’s history, the Coalition has used the lobbyists as a “trip-wire” to alert the group to issues or problems early so the community can respond. This year, the traditional request list was replaced with a “watch list” of issues that, though not comprehensive, gives a good overview of partners’ concerns:

- Dual Highway/Edgewood Drive
- Library
- USMH
- Gaming Revenue
- HCC (Science Building)
- State Police Barracks
- Forestall shifting State costs to local governments
- Stimulus grants for which the partners can advocate
- Mt. Aetna Farms infrastructure
- Community Action Council transportation program

The lobbying program’s goal has always been to match specific community needs with specific opportunities at the State level. The one project that matched the two criteria – a specific “ask” and no Maryland tax money – was the Big Slackwater repair on the C & O Canal.

The National Park Service received \$ 12.1 million in federal stimulus money, and needs an additional \$ 4.4 million to complete the project. The Park Service has identified the Transportation Enhancement Program.

To support the “trip-wire” function of the State lobbyist, the Big Slackwater project, and the broader work of the Coalition, the Coalition is requesting \$ 5,000 from the City of Hagerstown.

Councilmember Haywood asked why non-contributing partners are at the coalition meetings. Mr. Poffenberger stated some have tax statements that prohibit a contribution but they still participate, such as Greater Hagerstown. However, all members in attendance are members of the Chamber of Commerce. Councilmember Haywood suggested a detailed mission statement for the group and competitive bidding for the lobbyist.

Councilmember Breichner mentioned that the Museum is looking for support for a bond bill. He suggested adding this to the watch list.

Councilmember Easton pointed out this is a good collaboration of different agencies. He would suggest that the City have a list ready for the first meeting of the group.

It was the general consensus of the Mayor and City Council to provide \$ 5,000 in funding support to the coalition.

#### Courtyard Project/Washington County Museum of Fine Arts

Tom Newcomer, President, Denis Rocco, Facility Committee, and Rebecca Massie Lane, Director, were present to discuss the enclosure of the Museum’s central courtyard.

The enclosure will provide 3,000 square feet of additional programmatic space. The courtyard is currently a beautiful space, but not a useable one; it is subject to being too hot, too cold, or wet, and thus not dependable for planning programs or events. The space, once enclosed, will be utilized for gathering and orientation of tour groups, including school children, the elderly, and disabled, as well as bus tours from outside of our region. It will add a much-requested coffee and snack service area. This new space will provide new venues to host lectures, performances, and interactive art activities, all identified in a city-wide arts discussion as a high priority need in the community.

The value of the project is \$ 1.9 million and to date, \$ 1.638 million has been raised. The Board is requesting a waiver/grant of the permit fees association with the construction. Mr. Newcomer also asked the Mayor and Council to consider including a CIP allocation to the museum in future budgets and for support of the bond bill that is pending.

The project will be put out for bid in mid-January. It is anticipated that five local contractors will bid on the project. The Board hopes to have the contracts ready to sign by the end of February.

Rodney Tissue, City Engineer, estimated the permit fee would be several thousand dollars.

The Board may also be asking for space to park construction equipment after the site plan is finalized.

Mayor Bruchey asked for more information on the cost of the permit. This will be discussed in January.

Doub Property Annexation, Case No. A-2008-02

City Attorney John Urner was present to discuss the Doub Property Annexation. Since the applicants submitted a revised petition in March, 2009, the City Attorney recommended that the City re-introduce the amended annexation petition and hold another public hearing on the amended petition. An amended petition has been presented for the Mayor and Council's review.

Councilmember Haywood does not support waiving real estate taxes for 10 years. It was the general consensus to waive taxes for five years.

Councilmember Brubaker asked that a clause be added noting this property would not be exempt from any future public utility tax. Mr. Urner stated this was not necessary; the property would be subject to future taxes, as implemented.

Mr. Urner reminded everyone these items were offered by the petitioner, based on comments from the Mayor and Council. The petitioners indicated they were prepared to comply with the items, but the annexation is not contingent on them.

Councilmember Metzner asked if B.i. of the petition implies taxes would not be imposed for an additional five years. Mr. Urner indicated it does not. He will review the language and make it clear.

Councilmember Easton asked if the buses would be purchased by the petitioner and then given to the City. Mr. Urner indicated this was an attempt to provide transportation between the site and downtown. Councilmember Brubaker indicated the City could decide how to use the buses. Councilmember Haywood believes the provision for buses is contrary to the City's economic vision. Mayor Bruchey stated the City has been attempting to find ways to draw people from the Prime Outlets to downtown. A bus for transportation to this site would bring more people downtown.

Councilmember Haywood does not support a big box development at a gateway to the City of Hagerstown. Councilmember Metzner stated the comprehensive plan indicates

both areas (on the other side of Interstate 70) are right for this type of development. He stated if the Mayor and Council are not going to review the comprehensive plan he supports this development. Councilmember Haywood stated there must be a balance of “big box” developments. There are more than enough in the City. Mr. Urner pointed out the petition does not say the development will be “big box.” Councilmember Brubaker indicated the City’s regulations regarding large retail stores are stricter than the County’s regulations. If development occurs outside the City, there won’t be any tax revenue.

It was the general consensus to include #8, provision for two buses, in the agreement.

Mr. Urner mentioned that the agreement contains a minimum requirement of a forty foot vegetated buffer. This is a larger buffer than required. Councilmember Haywood thinks it should be larger in order to protect the existing residential uses. It was the general consensus to keep item #4 in the agreement at a 40’ buffer and to include a buffer requirement for the Landis road area.

Mr. Urner stated item #6 (in the agreement) requires all buildings to have four front views. Councilmember Brubaker asked that “At the request of the City” be added to the beginning of item #7.

A revised petition and agreement will be presented for the Mayor and City Council’s and the petitioner’s review. Approval of the annexation may be included on the agenda for December 22, 2009.

Mayor Bruchey stated he was adding a discussion on the tax differential to the agenda. A recess was then taken.

#### City/County Tax Differential Consultation with City Attorney

Alfred Martin, Finance Director, discussed the Mayor and Council’s consideration of the County’s recent proposal to move to a tax rate differential from the current payment in lieu of services model. Staff understands that a majority of the Council may be leaning towards supporting the County’s tax rate differential proposal. It is important to discuss what options the City has with the County under State law regarding tax differentials. It is also important to understand what needs to be done to preserve the City’s options to meet and confer with the County to discuss and review their new tax rate differential proposal or other proposals for County tax offset for the City, if the Mayor and Council choose to do so. Staff is also concerned about protecting the City from last minute changes by the County to the proposed tax differential model, without City input, prior to adoption of next fiscal year’s budget.

The City Attorney’s research indicates that there is a limited window of opportunity under State law to advise the County of the desire to meet and confer with them on tax differential.

William Nairn, City Attorney, stated Section 6-306 of the Annotated Code of Maryland requires counties to annually meet and confer with the municipalities in their county regarding a tax setoff. The section states that the county may grant a tax setoff to the municipality. (These counties have been referred to as “may” counties). The code guidelines include the municipality making a request at least 180 days prior to the approval of the annual budget setting forth a proposal of what they City would like the set off to be – a differential or a rebate. Mr. Nairn indicated this may be the best opportunity the Mayor and Council have to be a partner in a discussion regarding the calculations and details of the proposal with the County Commissioners. If the Mayor and Council wish to make this request, it needs to be done by the end of December, 2009.

It was the general consensus to send a letter to the County indicating the City is interested in discussing the tax set off and the details of the tax differential proposal.

All duplicated services should be considered in the differential. Councilmember Brubaker would like to determine why Frederick and Annapolis receive a higher rebate, in comparison to Hagerstown.

#### City Administrator’s Comments

*Bruce Zimmerman, City Administrator*, stated trees in the downtown area will be sprayed to deter birds. The last yard waste collection will be December 16, 2009.

#### Mayor and Council Comments

*Councilmember M. E. Brubaker* had no additional comments.

*Councilmember W. M. Breichner* had no additional comments.

*Councilmember L. C. Metzner* had no additional comments.

*Councilmember A. C. Haywood* had no additional comments.

*Councilmember F. Easton* had no additional comments.

*Mayor R. E. Bruchey, II* had no additional comments.

#### Executive Session – December 1, 2009

On a motion duly made by Councilmember W. M. Breichner and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to meet in closed session 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 6:15 p.m. in the Council Chamber, 2<sup>nd</sup> Floor, City Hall, Hagerstown, Maryland. The following people were in attendance: Mayor R. E. Bruchey, II, Councilmember W. M.

Breichner, Councilmember M. E. Brubaker, Councilmember F. Easton, Councilmember A. C. Haywood, City Administrator Bruce Zimmerman, and Donna Spickler, City Clerk. The meeting was held to discuss an employment contract. No formal action was taken at the meeting. 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: January 26, 2010