

66TH SPECIAL SESSION AND WORK SESSION – DECEMBER 4, 2007

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Mayor R. E. Bruchey, II called this 66th Special Session and Work Session of the Mayor and City Council to order at 4:06 p.m., Tuesday, December 4, 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 John Urner, City Attorney Mark Boyer, and D. K. Spickler, City Clerk.

On a motion duly made by Councilmember P. M. Nigh and seconded by Councilmember M. E. Brubaker, the Mayor and City Council unanimously agreed by voice vote to meet in Special Session.

Approval of a Resolution: City of Hagerstown Drinking Water Bond, Series 2007

Action: On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember M. E. Brubaker, the Mayor and City Council unanimously agreed by voice vote to approve a resolution authorizing the City of Hagerstown to issue and sell, upon its full faith and credit, a general obligation bond to the Maryland Water Quality Administration in an aggregate principal amount of \$ 6,457,500. Proceeds from the sale of the bond will be used for the public purpose of financing the cost of various activities related to replacing the West End Reservoir including a new water storage tank, upgrades to Pump Station No. 4 and other related improvements and costs of issuance for the bonds as more fully described in the resolution.

The issuance of this bond was previous authorized by City Ordinance O-07-16 which was passed by the Council and approved by the Mayor on June 5, 2007. This resolution spells out the details of that authorized financing and will allow the completion of the financing for this project which the City entered into contracts for on June 19, 2007.

Staff is hereby directed to take all necessary actions to proceed with the sale of the bond as directed by this resolution.

Discussion: Alfred Martin, Finance Director, indicated the interest rate has been set at 0.4%. The total effective rate will be 0.9%, with administrative fees.

The Special Session was closed at 4:11 p.m.

WORK SESSION – December 4, 2007

Bottle Club Ordinance

Chief Arthur Smith, Hagerstown Police Department, and Robert Everhart, Washington County Liquor Board, were present to discuss an updated version of a draft Bottle Club Ordinance. The most recent revision to the Ordinance is in Section 62-2 which not only makes it illegal to operate a Bottle Club, but also to permit the operation of a Bottle Club within the corporate limits of the City. An ordinance was recommended several years ago to address public safety concerns, such as underground nightclubs, floating parties and “bring your own bottle” parties.

Councilmember Cromer asked if this ordinance would apply to a private office party. Chief Smith indicated it would not because the party is not open to the public and no admission is being charged.

Mayor Bruchey asked if it applies to a restaurant that is open to the public but has no admission fee that allows patrons to bring a bottle of wine with them. Chief Smith stated there are two versions of the ordinance for the Mayor and Council’s consideration. One allows patrons to bring alcohol with them, the other prohibits this.

Councilmember Metzner stated businesses that have been allowed to have patrons bring their own wine should be permitted to continue this practice.

Councilmember Parson-McBean asked if selling beer at a rent party would be permitted. This type of party would be prohibited.

Mr. Everhart stated the Restaurant Association feels it is unfair to permit some restaurants to allow patrons to bring their own beer or wine while others are required to have a liquor license. One of the concerns is whether anyone would be checking the ages of the patrons.

The Mayor and Council will review the concerns and discuss this again in January, 2008.

Program Open Space (POS) Proposed Projects for FY 2009

A revised list for the POS projects was presented for the Mayor and City Council’s review. Page 1 includes proposed projects for FY 2009 and Page 2 includes projects for the out-years. With the Mayor and Council’s direction, the prioritized list will be submitted to the County for funding consideration in time to meet the December 21, 2007 deadline.

Mayor Bruchey indicated the Potterfield Pool project should be first on the list, followed by the park benches and picnic tables at City Park.

Councilmember Cromer asked if the soccer field irrigation project could be funded by the user group. Bruce Zimmerman, City Administrator, indicated the user group is following the requirements of the agreement. Junior Mason, Parks and Recreation Supervisor, stated 90% of the users are City residents. Councilmember Metzner suggested considering replacing the grass with artificial turf.

Councilmember Metzner thinks the Mayor and Council will have to assist the Colt League and National Little League with their fields in the near future.

Councilmember Nigh asked what other leagues have done, for example, loans for field repairs.

Councilmember Cromer wants the Dog Park on the POS funding list.

Councilmember Brubaker has encouraged the City to submit a larger funding application. The City only receives a small portion of the total funding available, even though it is the largest municipality.

Mayor Bruchey suggested asking the County to fund half the irrigation system with their POS funds and transfer the savings to the Outdoor Skate Park request.

Councilmember Parson-McBean suggested moving the acquisition of the Coke Plant from the FY 2012 list to a closer time.

Councilmember Metzner is concerned about asking for substantial funding for projects that have not been started, such as \$ 50,000 for the dog park.

A new item on the list is the restrooms at Pangborn Park. The restrooms need to be updated. The list will be updated with the changes discussed and submitted to the County for consideration.

Worker's Compensation Trends

Donna Messina, Director of Human Resources, Kevin DeHaven, Safety and Loss Control, and Mike Howard, Injured Worker's Insurance Fund (IWIF), were present to discuss the City's Worker's Compensation experience.

Over the last five years, the City has had the benefit of reduced premium rates and lower premium costs. Another positive trend during that period has been a loss ratio well below 1.0 over those five years. The Loss Ratio is the premium divided into the losses (costs) of injuries throughout each department.

Over a five year period, prior to FY 2006, the City averaged a loss ratio of .418. In FY 2006, the total cost of losses versus the worker's compensation premium (loss ratio) was .91. The FY 2007 period, as it currently stands, is at a 1.70 loss ratio with

\$ 1,085,532 in losses versus a premium of \$ 638,649. The experience modification factor is expected to go above 1.0 for the first time in two years, which would result in a higher premium for Fiscal 2009. Twenty claims out of 115 first reports of injury for Fiscal 2007 are attorney represented with an indemnity reserve of \$ 504,387. These factors, and others, indicate costs will rise for Worker's Compensation insurance.

In order to offset these rising costs, several initiatives have been established. The initiatives include:

1. Human Resources Department (HR) meets with IWIF on a quarterly basis to review claims and adjust reserves.
2. Several meetings were held with employees to review worker's compensation procedures and to discuss ways to improve on issues the employees brought to the HR Department's attention.
3. HR met with department managers and reviewed the injury trends. Several topics included how the costs are derived from settlements, and ways each department can improve the overall safety performance of their departments.
4. A second meeting was held with the operational managers whose departments had the greatest injury losses. This meeting was held to develop corrective action that will benefit the organization in the future.
5. A larger meeting was held with a presentation by IWIF that included the managers and supervisors, union presidents, and included the members of the city-wide safety committee. The meeting was set up with the objective of creating a dialog between the insurance representatives and those in attendance.

Ideas for controlling rising costs include:

1. The State mandate for temporary total disability for an employee placed off of work is 66 2/3 of their salary tax free. Current contract language that pays employees 100% of their salaries, which makes insurance companies less inclined to write new policies for the City. In addition, a change in contract language would encourage employees to return to light duty.
2. Physical fitness requirements for police and fire – The heart and lung presumption under Maryland worker's compensation statute is one of the leading causes for the higher losses as reflected in the Fiscal 2006 and Fiscal 2007 policy periods. Physical fitness requirements will not only reduce our liability, it will ensure police and fire personnel are physically capable of performing their duties during high intensity emergency responses.
3. Maintain departmental safety committees and facilitate dialog between supervisors and employees. Safety committees and tool box talks heighten safety awareness by making employees part of the safety program.

4. Injury Reviews- managers need to review the injury reports to ensure corrective action is identified and utilized after an injury has occurred.

With a collective effort from each department, Staff believes the City can control the current trend, but change is necessary to set the tone for fiduciary responsibility to the City taxpayers.

Housing Development – 500 Block of South Potomac Street

Larry Bayer, Manager of Community Development, and Dave Jordan, Executive Director of the Community Action Council, provided an update on the progress of the housing development project.

This project will construct four duplex dwellings and one single family detached unit for a total of nine units on the vacant parcels in the 500 block of South Potomac Street across from Bester Elementary School. These units, which will be architecturally compatible with the neighborhood, will sell for \$ 130,000 to \$ 135,000 and will provide the owners with a 1,200 to 1,500 square foot home which features alley access to off-street parking and fair sized rear yards. These units are not intended to be low-income housing but moderate-income housing for those with household earnings similar to entry-level police officers, fire fighters, lower level managers at area businesses or teachers.

The project is an example of how workforce housing can be created in Washington County and will set the stage for the future development of workforce housing. One intended result of the project will be the creation of a Land/Housing Trust. The land the units rest on will be retained by the Land Trust to maintain the workforce housing affordability in the long term. The homeowner will purchase only the improvements.

During the August 21, 2007 meeting with the Mayor and Council, Mr. Bayer and Mr. Jordan were directed to seek participation from the County Commissioners. At their November 6, 2007 meeting, the Commissioners agreed to provide \$ 400,000 for the project and to support the creation of a housing trust to continue the development of workforce affordable housing in the county. Combined with the commitment previously received from the Hagerstown Housing Authority, \$ 750,000 is now in place for the project. Additionally, CAC has submitted an application for \$ 300,000 in HOME funds from the Maryland Department of Housing and Community Development.

Preliminary contact has been with a local, well established, company to complete the necessary site work. This contractor has expressed strong interest in being part of the project. Contact has also been made with a local modular home builder. This company is in the process of changing their business model to include direct sales to developers and they have been working to develop designs which will meet the established requirements of floor space and exterior appearance.

One additional benefit of this particular project will be the potential use of the students at the Technical High School to participate in the construction of the single

family detached unit. This particular unit will also be developed as handicapped accessible.

The Mayor and Council action requested is approval on the commitment of \$ 500,000 in CDBG funds and to move forward with the site plans and preparations to transfer the property to CAC.

Councilmember Nigh expressed concern that the homes would be used as rental units. Mr. Jordan stated there would be covenants in the agreement to prohibit this.

Councilmember Parson-McBean expressed her concern that the large amount from CDBG funds may hinder other programs. Mr. Bayer indicated this is in a separate fund from what is available for non-profit organizations.

Councilmember Parson-McBean stated when money is provided to non-profit organizations, the quality of life is increased for their clients. With this project, the City is investing in a home, which will improve the quality of life, but the monetary return will be over a period of time. Mr. Bayer indicated the City could transfer the repayments to the fund available for non-profit organizations. He also indicated the County has agreed that their \$ 400,000 investment can be circulated back into the program.

It was the general consensus of the Mayor and City Council to approve the commitment of \$ 500,000 in CDBG funds and to move forward with the site plans and preparations to transfer the property to CAC.

A ten minute recess was taken.

Quit Claim Request – County Club Road

Rodney Tissue, City Engineer, provided a summary of the quit claim request made by Jerry Spessard for the unobstructed section of Country Club Road. This section of the Country Club Road right-of-way has limited value for connectivity in the north end of the City. The interconnection of Belview Avenue, Woodland Way and Northern Avenue may be possible in the future. However, if the Country Club Road right-of-way became the only means of connecting Woodland Way extended with the surrounding street network (specifically The Terrace), then this right-of-way should be kept and used as a public street.

A public hearing was held by the Mayor and City Council on October 23, 2007 to hear testimony regarding the quit claim request.

The Mayor and City Council must decide if there is likely or not to be a future public purpose served by this right-of-way. If the Council is undecided as to whether this right-of-way would be needed at some future time to serve a public purpose, then staff recommends that City Council not recommend the abandonment of this right-of-way. This was the conclusion that was reached by the Planning Commission in November.

The Mayor and Council stated they appreciate the work the Planning Commission does. It was the general consensus to accept the recommendation to deny the quit claim request.

Review of Draft 2007 Comprehensive Plan – Management of Growth and Wastewater Capacity

Kathleen Maher, Planning Director, Doug Wright, Planning Commission Chairman, and Stuart Bass, Comprehensive Planner, were present to discuss the draft Comprehensive Plan's recommendations for the management of growth and the wastewater capacity for the next 20 years.

The Planning Commission and the consultant, ERM, debated and explored the issue of growth management and wastewater capacity management for many months. This was the single most complex issue the group faced. The group feels that the recommendation in the Plan provides a reasonable solution to the issue of growth and wastewater capacity while ensuring the protection of City interests in the future. Most notably, ensuring that vacant land in the City will have adequate wastewater to serve it when the land is ready for development in the future.

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. The Plan provides direction for managing the City's water and sewer utilities over that time period.

The Plan recommends policies to strengthen the City's role as the primary provider of urban services, to increase economic development and to promote prosperity and fiscal stability.

Between 1950 and 2000, the City of Hagerstown lost population to the suburbs. With the former policy of allowing growth to occur on the utilities without annexation, by 2000, the City of Hagerstown's share of the total County population had declined to 27.8% while the suburbs around the City had climbed to 40.6% of the County population. As the City's population percentage declined and the suburbs around the City grew with higher income residents, the economic health of the City suffered. By 2000, the median family income was 22% lower than the County average and over two-thirds of the population in the urban area living below the poverty level resided within the City. An imbalance has grown between the City of Hagerstown and the suburbs, as a more affluent population has emerged surrounding an urban core of lower property values and income levels.

As the urban center to the County, the City provides public facilities which are used by the suburban neighbors but with very little direct fiscal or economic benefit from the new development outside the boundary. Because 60% of the City budget is dependent upon property taxes collected within the city, it is imperative that the City capture the

growth that occurs around the City to help generate the revenues necessary to support services and make the City prosper.

The City needs to capture more of a share of the growth that is occurring around it. This will strengthen the positioning in the region and allow the City to increase tax revenues, diversify the socio-economic base, and improve the capability of attracting higher-paying jobs to Hagerstown and Washington County.

In the Hagerstown Urban Growth Area (UGA), there are three wastewater treatment plants with a total of 33,460 EDU's of capacity available to serve new development. A report from the Washington County Water and Sewer Infrastructure Commission (June, 2006) found that potential development in the UGA could create a net wastewater shortfall of more than 42,000 EDU's (4.6 EDU's per acre). With upgrades to the City Wastewater Treatment Plant, 11,053 EDU's of capacity is available for new development.

The Plan recommends strategies to ensure that growth occurring in the region benefits the City and does not merely sap resources. The amount of growth and the location of growth are topics addressed in the Plan. The Plan recommends a Medium Range Growth Area which is smaller than the County-designated Urban Growth Area. This boundary was selected for the following reasons:

1. includes a large portion of the existing residences and businesses that receive City services
2. includes or makes contiguous many parcels on which the City holds pre-annexation agreements or has discussed annexation with owners
3. creates a rational City boundary following natural and human-made features
4. balances the City's growth needs with the expressed economic development plans of Washington County
5. serves as a reduced wastewater service boundary that the City can be sure of having adequate capacity to accommodate

The Plan's recommended Medium Range Growth Area will also serve as the City's wastewater service territory for the next 20 years. This area is smaller than the County-designated Urban Growth Area to ensure that wastewater capacity will be available to serve a reasonable amount of new development outside the current City boundaries PLUS the infill development and redevelopment needs within the City. Once the upgrades and expansions to the City Plant are completed in 2011, the City's Plant alone, without the need for Flow Transfer, could serve this projected demand through 2027 and have 2,246 EDU's remaining for future development.

Councilmember Brubaker stated the Comprehensive Plan's Medium Growth Area fits within the established Urban Growth Area. The City is trying to provide services within a reasonable and realistic area.

City Administrator's Comments

Bruce Zimmerman, City Administrator, had no additional comments.

Mayor and Council Comments

Councilmember A. Parson-McBean informed the Mayor and Council that more than 900 tickets have been sold for the Utility Relief Benefit Concert that is being held on December 20, 2007 at the Maryland Theater. Donations are also being accepted. A press conference was held and will be shown repeatedly on Channel 6. She thanked those responsible for the demolition of the house at 337 Jonathan Street.

Councilmember M. E. Brubaker had no additional comments.

Councilmember K. S. Cromer had no additional comments.

Councilmember L. C. Metzner stated the City Park Lighting event was very good. Many people attended. He thanked everyone for their work on this event. A bus trip to the World War II Veterans Memorial is being planned. He thanked several City businesses, who have pledged to provide funding for this event.

Councilmember P. M. Nigh thanked all who have been working with the Utility Relief Benefit Concert. Recognition will be given to those who have contributed. A food collection will be held also. Donations will also be taken at City Hall. She thanked Karen Giffin and Debbie Everhart for calling potential sponsors. Louise Dawson donated a hand made afghan for the raffle to be held.

Mayor R. E. Bruchey, II thanked everyone who participated in the tree lighting at City Park. There was a large crowd present. He congratulated those working on the Utility Relief Benefit. He stated it appears this event will make a big difference for residents.

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 6:36 p.m.

Respectfully submitted,

Donna K. Spickler, City Clerk

Approved: January 29, 2008