

WORK SESSION AND EXECUTIVE SESSION – OCTOBER 18, 2011

Mayor R. E. Bruchey, II called this Work Session and Executive Session of the Mayor and City Council to order at 4:00 p.m., Tuesday, October 18, 2011, in the Council Chamber at City Hall. Present with the Mayor were Councilmembers W. M. Breichner, M. E. Brubaker, F. W. Easton, A. C. Haywood, L. C. Metzner; and City Administrator Bruce Zimmerman.

WORK SESSION – October 18, 2011

Sponsored Announced for Holiday Events

Karen Giffin, Community Affairs Manager, announced that Sheetz, Inc., Columbia Bank, the Hagerstown-Washington County Convention and Visitors Bureau, Verizon Wireless, Volvo Powertrain and PNC Bank have provided at least \$ 1,000 to sponsor City events and activities. Many other organizations and people have provided funding as well. The Mayor and City Council thanked all these sponsors for their support.

Preliminary Agenda Review

Consent Agenda

- A. Hagerstown Police Department: Qualtrax Software – Qualtrax Compliance Software (Christiansburg, VA) \$ 29, 550.00
- B. Public Works: Parking Master Plan of the City Center – Rich & Associates, Inc. (Southfield, MI) \$ 33,464.00

Eric Deike, Public Works Manager, stated this study is being conducted in conjunction with the Chamber of Commerce. Mr. Zimmerman stated the information will be used to determine future needs for the City of Hagerstown.

Councilmember Metzner asked if the general fund is subsidizing the parking fund. Mr. Zimmerman indicated a transfer from the general fund was avoided by raising the parking meter rates.

Councilmember Metzner suggested delaying the study until potential projects are considered and developed. Mr. Zimmerman stated the potential projects will be included in the study as they develop.

Councilmember Brubaker wants to make sure financial data is included in the study.

Mr. Deike stated a scope of services was included in the bid package and the recommended bidder has completed hundreds of studies.

- C. Department of Utilities:
 - 1. Wastewater Division: Repair Nitrified Recycle Pump – AR&E (Hagerstown, MD) \$ 11,507.00

- D. Department of Community and Economic Development:
 - 1. Rehabilitation Façade Rehabilitation at 36-40 N. Potomac Street – Milton Stamper Builders (Hagerstown, MD) \$ 60,000.00

- E. Fire Department: Kidde Smoke Alarms – Kidde, Residential & Commercial Division (Mebane, NC) \$ 10,348.56

Introduction of an Ordinance: Amending Chapter 60, Vehicles and Traffic

This ordinance will permit the parking regulations in Chapter 60 to be enforced by any personnel designated to do so by the City Administrator, or his designee. This could include the Chief of Police, the Department Manager of Public Works or any other City department. The revised Section 60-3 still permits any peace officer to enforce any of the regulations contained in Chapter 60. This would include Fire Marshalls as well as sworn HPD officers.

Councilmember Breichner is concerned how this amendment will be applied by staff. This amendment expands the enforcement authority beyond the HPD.

Chief Smith stated there are no changes in towing. The amendments also apply to the Auxiliary Police.

Councilmember Metzner recommends adding making it a requirement that the designation of personnel to enforce Chapter 60 is done by the City Administrator, with the Council's approval. He does not have a concern with this administration or personnel, but wants to ensure continuity in the future.

The ordinance will be revised prior to the regular session.

Approval of a Resolution: Acceptance of Street – Terps Boulevard

The City has always contemplated accepting Terps Boulevard. The street was designed and constructed per the Public Ways Construction Standards. It was the general consensus to accept the street.

Approval of a Resolution: Storm Drainage Easement for Salvation Army

Jim Bender, Assistant City Engineer, reported the Salvation Army submitted a site development plan for the construction of a new gymnasium and office space on land that they own near their facility at 525 George Street. An existing underground brick arch storm drain crosses the site where the new building would be constructed, along with an adjoining parcel of land that will be developed as a parking lot. The Salvation Army

agreed to relocate the portion of the existing arch drain that would be under the new building, and to provide a storm drainage easement along both the new pipes and the existing arch drain that remains across the width of their property. Staff feels that the proposed relocation and easements are in the best interests of the City.

Councilmember Haywood stated the Council requested information about the people they serve, regarding demographics and where they are from. She does not believe a response was received.

Mr. Lestitian stated the Salvation Army provided correspondence indicating the clients were from the Hagerstown/Washington County area, but not specific locations.

Councilmember Haywood will not approve anything with the Salvation Army until the requested information is provided.

Mayor Bruchey stated he recalls the information was requested when the Salvation Army asked for funding in the budget. When the funding was not included in the budget, he did not think the information was still desired.

Councilmember Metzner stated this easement is not for any monetary commitment.

Councilmember Haywood stated her refusal to support the agreement is not in light of the gravity of the request, it is about the spirit of cooperation.

Councilmember Metzner stated there is duplication of services for many of the people served by the Salvation Army. He doesn't see these services being provided anywhere else in the County, just in downtown Hagerstown.

Mayor Bruchey asked Mr. Lestitian to secure the requested information from the Salvation Army.

Approval of a Resolution: Community Legacy Grant Application – 60 W. Washington Street and 36-40 N. Potomac Street Grant Application

Approval of a Resolution: Maryland Housing Rehabilitation Program Application – 36-40 N. Potomac Street

John Lestitian, Department of Community and Economic Development Director, discussed several grants with the Mayor and City Council. Three projects are being submitted for two grants, if the Mayor and City Council approve the applications. The projects are:

1. Community Legacy:
 - a. \$ 100,000: Small business incubator at 60 W. Washington Street
 - b. \$ 100,000: Artist Lofts & Gallery at 36-40 N. Potomac Street
2. Maryland Housing Rehabilitation Program:

\$ 300,000 to renovate the existing mixed-use building and to provide artist housing and increase the number of art galleries in the Arts & Entertainment District.

Mr. Lestitian stated these applications are a new funding plan for the project, since the City was not awarded the RBEG fund. Of thirteen applications, the City was second.

Approval of City Center Holiday Parking Program

Eric Deike, Manager of Public Works, reported staff is requesting that the Mayor and Council to approve modifying the existing parking rates to allow for two hours of free parking in the North Potomac Street Deck and Arts & Entertainment Deck from November 21, 2011 through January 2, 2012.

Approval of Wholesale Electric Power Supply Contract Extension with Allegheny Energy Supply Company, LLC

Michael Spiker, Director of Utilities, reported negotiations between Allegheny Energy Supply and the City have concluded with an accepted contract extension and a new price point for the term of the extension. The existing Power Service Agreement will be extended for a period of one year, from the initial expiration date of May 31, 2013 through the new expiration date of May 31, 2014. The megawatt hour (MWh) charge for service during the one year extension period will become \$ 54.36. This extension price represents a reduction of approximately 15% of the existing \$ 64.85 per MWh charge.

Approval of a Purchase: Design Engineering Services for Phase IV RC Willson – Disinfectant By-Product Rule 2 – Hazen and Sawyer Environmental Engineers and Scientists (Baltimore, MD) \$ 1,190,249

Mr. Spiker reported the R. C. Willson Water Treatment Plant Phase IV Improvement Project (Engineering Design) is being completed to work towards achieving compliance with the U.S. EPA Disinfectant By-Product Rule 2. This work will result in the final designs, bid ready documents, and bidding services for upgrades/improvements to the Willson Plant. Funding for this project will be a future bond issue. The funding application was submitted to MDE for review, ranking and approval. The project approval was received in August, 2011 and includes \$ 1.5 million in principal forgiveness.

Councilmember Breichner expressed his concern this purchase is an add-on for more than \$ 1,000,000. It should be bid. He would like to see a cost analysis of the benefit of recycling.

This will be discussed during the Work Session.

Approval of a Contract: Trash and Recycling Collection Services

Rodney Tissue, City Engineer, stated the contract presented for approval is Option D, which includes once per week pickup for trash, recycling and yard waste. Option D also includes a recycling incentive program. Residents can continue to use the same recycling bins, if they choose to. If they wish to participate in the recycling incentive program, a bin with a computer chip in it will be issued.

Educational material will be distributed to residents, along with the new recycling bins. The recycling tote includes a picture of what items are acceptable for recycling.

Residential properties within one to two blocks of downtown will continue to have twice weekly pickup. Commercial operations in this area will be offered pickup also.

Emergency Procurement Ratification – Demolition of 149 West Washington Street - \$ 106,705.65

John Lestitian, Director of Department of Community and Economic Development, stated the building at 149 West Washington Street was in the process of being razed by the owners. The roof had been removed, the rear walls compromised and significant loads placed on the platforms. The demolition work had stalled on numerous occasions.

On September 16, 2011, staff were alerted to the partial collapse of this structure. Staff found that the base of the west wall of the structure had collapsed. In consultation with a structural engineer, staff evaluated the condition and determined that the structure was extremely unstable and presented an imminent threat to public safety. The owners were unable to take appropriate action. Staff determined that immediate action had to be taken to eliminate the threat of collapse. The only viable solution was to raze the structure. City Code allows staff to take whatever action deemed necessary to meet such an emergency and to complete the necessary labor to carry out such a task.

Allegany Wrecking and Salvage was available and responded immediately. The demolition is now complete. The total cost of the demolition to include all tipping fees is \$ 106,705.65.

The cost of the demolition will be paid out of the Property Abatement Account. The charges will then be invoiced to the property owner and a lien will be placed on the property to recover the costs.

This completed the preliminary agenda review.

Korean War Veteran's Monument

Rodney Tissue, City Engineer, and Jim Mobley, Chairman of the Monument Committee Korean War Veterans Association, were present to discuss a Korean War Veteran's Monument with the Mayor and City Council.

In March, during the public stakeholders meeting regarding the development of Memorial Park, a group of Korean War Veterans attended and stated their desire to see a monument installed in the community. Over the next several months, the group processed multiple sites, both within the City and outside the City limits. This summer, Steve Bockmiller escorted the group to look at many sites within the City parks and public spaces. Through the process of elimination, the group focused on the large island adjacent Potomac Avenue and Mealey Parkway. They are not interested in placing their monument in Memorial Park.

The Veterans group has submitted a request to place the monument adjacent Mealey Parkway in the large traffic island near the “Zentmyer Memorial.” This location has been endorsed by the Antietam Chapter 312 of the Korean War Veterans Association. They are not asking for any funds or work from the City, only permission to allow the monument to be located on the Mealey Parkway island. They would like to construct the monument for dedication on July 27, 2013, which is the 60th anniversary of the signing of the cease fire.

If the Mayor and Council endorse this request, staff suggests that the City Attorney develop a simple agreement between the parties regarding the construction of the monument, the adjacent landscaping and long-term maintenance of the monument.

Councilmember Metzner thanked the veterans for their service and supports the placement of the monument.

Councilmember Easton stated he is honored the veterans chose to locate a monument in the City. He hopes they will also participate in the memorial park that is planned.

Councilmember Brubaker stated it would be nice to have something in the memorial park honoring the Korean Veterans as well.

Tractor Supply Annexation Discussion

Alex Rohrbaugh, Planner, stated the public hearing for the Tractor Supply Company Annexation was held on October 4, 2011. No comment has been received from the County, to date. Staff received routine comments from the State concerning Priority Funding Area (PFA) certification for the annexation.

The record was held open for a period of 10 days after the Public Hearing. As of October 13, 2011 no public comment has been received.

Design Engineering Services for RC Willson Phase IV – Disinfectant By-Product Rule 2 Project

Michael Spiker, Director of Utilities, and Nancy Hausrath, Water Operations Manager, were present to discuss design phase engineering services for the Disinfectant

By-Product Rule 2 (DBPR2) compliance. Mr. Zimmerman stated this project was bid in November, 2010.

On August 10, 2011, the City was notified by Maryland Department of the Environment that the funding application which was submitted in January 2011 had been approved. MDE has approved \$ 9.16 million in funding with \$ 1.5 million in principal loan forgiveness.

This project will result in the necessary upgrades at the after treatment plant and within the distribution system to achieve compliance with the DBPR2, the Backwash Recycle Rule and maintain continued compliance with NPDES requirements. MDE approved the DBPR2 sampling sites in August 2009 and system sampling began shortly thereafter for Total Organic Carbon, UVB254 and Trihalomethanes. The testing data developed a baseline which allowed the City to begin the Engineering Study to evaluate the most beneficial method(s) to achieve compliance with the Stage 2 Disinfectant By-Product Rule. Hazen and Sawyer was selected to complete the Study and provided recommendations for system upgrades. The draft Phase IV Study is complete and will be submitted to MDE for approval. Per MDE, the Design Phase of this project must begin in November, 2011 to ensure funding. Construction must begin by December 1, 2012.

Utility Department staff is recommending Mayor and Council approval of the proposal from Hazen and Sawyer for Engineering Design Services for the R.C. Wilson Water Treatment Plant Phase IV Improvements – Stage 2 DBP Rule Compliance Project. Hazen and Sawyer is currently under contract with the City for the Study portion of this project. Approval of the Design Phase Engineering Proposal is a change order request to the existing contract. The design phase engineering fee is \$ 1,190,249 and the project is currently budgeted at \$ 8,640,000 through FY 14.

Councilmember Metzner stated he understands if this proposal is not approved in November, the City may not be eligible for funding through MDE.

Councilmember Breichner expressed his concern that the study portion of this project was bid, but the design phase was not.

Councilmember Easton asked what might happen if this was put out for bid.

Mr. Spiker indicated Hazen and Sawyer was the only firm of the four that submitted bids that met the qualifications for the study.

Councilmember Breichner stated this \$ 1,000,000 plus project needs to be bid. He wonders how these projects will affect rates.

Mr. Spiker indicated this proposal was reviewed like others have been. A team reviews the proposals and recommends the firm that meets the requirements. Hazen and Sawyer is familiar with the system and they met all the parameters of the original bid.

Mr. Zimmerman stated using Hazen and Sawyer is similar to using other engineering firms for previous projects. Hazen and Sawyer has worked extensively on key elements of the system in recent years. Mr. Spiker and Ms. Hausrath have been able to negotiate a lower cost through lengthy discussions with Hazen and Sawyer. The cost was lowered more than \$ 1,000,000.

Ms. Hausrath indicated the institutional knowledge that Hazen and Sawyer has of the system is valuable. Costs from other firms would be increased because of the time they would require to become familiar with the City's system.

Councilmember Metzner does not want to risk losing funding for this project. He is concerned that putting out an RFP will cause the City to risk losing \$ 1.5 mil funding and may increase the cost. He recommended discussing bidding projects similar to this one at a future work session.

Councilmember Haywood stated she believes a reliable firm would have to spend a lot of time reviewing new compliance standards and regulations from MDE in order to keep current.

Ms. Hausrath indicated staff always applies for grant or low interest loan funding when applications are submitted to MDE. Notice of the award of the principal forgiveness funding was received in August. Staff has been working closely with representatives from Hazen and Sawyer in order to meet MDE's criteria and deadline to be eligible for the loan.

Councilmember Easton is not willing to postpone the decision on this proposal because of the possibility of losing the funding. He does not want to have to use this criteria for making a decision in the future.

Councilmember Brubaker indicated a change order of this size should only be used in the case of emergencies. He wondered if MDE would be willing to extend the deadline. He pointed out that, in some cases, bidding out a contract results in lower prices. He used the example of the trash and recycling contract.

Mayor Bruchey asked staff to request an extension of the deadline for awarding the contract from MDE. He hopes an answer would be provided by the end of the week.

Councilmember Breichner stated there are many qualified engineering firms looking for work because of the economy. He indicated he feels Hazen and Sawyer is qualified. He believes the City could get a better price by bidding out the work.

It was the general consensus to include awarding the contract to Hazen and Sawyer on the agenda for October 25, 2011.

The agenda was adjusted to discuss the bond proceeds at this time.

Plan for Reprogramming 2009 Bond Proceeds

Bruce Zimmerman, City Administrator, reviewed the plan for reprogramming 2009 Bond Proceeds.

On September 13, 2011, the need to reprogram unspent bond proceeds from the City's 2009 tax exempt bond issue and the timing of that bond reprogramming was discussed. As mentioned previously, the City should make every effort to use bond proceeds within three years of the original issue date, or by September, 2012.

The Mayor and Council have already authorized the use of those prior bond proceeds from several projects. The projects which the Mayor and Council have already authorized for use of unspent bond proceeds are the Digby Lot project (\$200,000), the Fairgrounds Park Road (\$160,000), the Antietam Fire Company station renovations (\$200,000), the Pavement Preservation Program (\$131,000), improvements to the Golf Course club house (\$ 40,000), curb and sidewalk repair caused by street tree damage on South Prospect Street (\$ 235,000), and construction of a pocket park in the northeast quadrant of the City (\$ 190,000). The total amount already reprogrammed is \$ 1,156,000 and \$ 275,000 remains unprogrammed.

Completion of renovations to the building located at 60 W. Washington Street (the former CVS building) for a business incubator is considered to be a top priority by staff. Staff was notified on September 21, 2011 that the application for Federal USDA grant funds to renovate the former CVS building was not approved. The project includes outfitting the building as a business incubator with tenant spaces for new business development in the City Center area. The project is already underway; and, one tenant already occupies space that was renovated in Phases I & II.

Now that the grant funding has been denied, funds are needed to complete Phase III of the renovation process. Phase III includes renovations to the rear office area for an anchor tenant, and 2 entrepreneurial tenant spaces. To ensure that the renovation project moves forward, staff is recommending that the remaining \$ 275,000 be allocated to this project. Staff would like the Mayor and Council's input regarding the use of the remaining \$ 275,000 in unspent bond process for this for this project.

Councilmember Easton asked if this money should be used for planned infrastructure future projects.

Mr. Zimmerman stated the funding for the project at the former CVS building shows the City's commitment to the downtown and should continue to be renovated. Projects dealing with infrastructure are included in future plans.

It was the general consensus to approve the bond reprogramming.

A five minute recess was taken.

Fire Marshalls Discussion

Chief Kyd Dieterich, Hagerstown Fire Department, Doug DeHaven, Fire Marshall and State Fire Marshall Bill Barnard, were present to discuss the Fire Marshall's office.

In the 1970's, the Fire Marshall's office was known as the Bureau of Fire Prevention and consisted of a Deputy Chief and six inspectors. In the 1980's the office change dot that of Fire Marshal's Office with a Senior Fire Marshal and two Assistant Fire Marshals. During the late 80's - early 90's the Public Fire Educator's office was added to the department. An Assistant Public Fire Educator was added later. Today, the Fire Marshal's office consists of a Senior Fire Marshal and two Deputy Fire Marshals.

Hagerstown City Fire Marshal staff is now required to meet the National Standards Professional Qualifications for the Standard for Professional Qualifications for Fire Inspectors, Standard for Professional Qualifications for Fire Investigators and Maryland Police and Correctional Training Commission – Basic Level Officer. In addition to the required training, all Hagerstown City Fire Marshal's have obtained training levels above the requirements. Training includes Firefighter Certification, Emergency Medical Technician (Basic), Hazardous Material Operations Certification, Public Fire and Life Safety Educator Certification, Fire Instructor Certification and ATF or FBI Post Blast Investigation School.

Thirteen other jurisdictions in the State of Maryland maintain their own Fire Marshall's office.

The Fire Marshall's office performs fire and life safety inspections, as well as inspection and testing of protection systems. More than 1300 inspections have been performed so far this year.

Other duties include ground base sparking devices, blasting permits and plan review and approvals. The number of building permit and fire system plan reviews issued for 2011 through August, 2011 is 485.

The Fire Marshal's office completes investigations for all fires/explosive incidents and threats within the City. Fire and explosive incidents include bomb threats and suspicious packages/devices. They investigate burns and injuries from fire explosion incidents. They also respond as requested to incidents where fireworks are being discharged. In 2011 (through August, 2011) there were 292 events, resulting in 62 investigations.

As allowed by law, the Hagerstown City Fire Marshal's office conducts criminal and driving record checks for all city volunteer fire companies and applications for employment with the Hagerstown Fire Department. They conduct public education programs. Life Safety initiatives include school programs, Children's Village, community program and smoke alarm distribution.

The Fire Marshal's office also collects and maintains information to assist emergency responders during an incident. They process information into the Fire Department database that is accessible during an emergency.

The City Fire Marshals work a 48 hour work week. Each is assigned an on-call week. The work schedule for the on-call increases hours of the day a Fire Marshal is working, lowering the necessity of overtime.

In 2010 Building Permits charged \$ 55,551.38 in Fire Marshall review fees. The FM Office also charged \$ 7,318.00 for fire system reviews. In 2011, Building Permits charged \$ 25,184.30 in FM review fees. The FM Office also charged \$ 9,060.00 for fire system reviews.

Currently there are 10 vacancies within the fire department. As a result of open positions within the Fire Department, the Hagerstown City Fire Marshal's staff has been coordinating between the Water Department and the Fire Department to paint and inspect all fire hydrants on the Hagerstown Water System within the City. The Fire Marshal has assumed the responsibility to quality control all fire reports and assures reporting requirements of all fire incidents within the County, State and Federal reports. The Fire Marshal coordinates with county 911 center updates/changes occurring with the City requiring data changes in the CAD system. The FM office also coordinates to assist residents needing outside agencies for recovery following a fire or other emergency.

The Fire Marshal now covers as the 2nd due officer when the Fire Chief is not available.

The benefits of the Hagerstown City Fire Marshal's Office include:

1. Prompt response to citizen complaints allowing the issue to be addressed immediately, increasing safety/reducing risk.
2. As the AHJ (agency having jurisdiction), building permit reviews of downtown buildings are often reviewed against "existing occupancies" versus work being in compliance as "new" reducing some requirements, a cost savings for developers
3. As AHJ, we have a vested interest in the success of renovations of building, especially those in the center city area.
4. Prompt response to incidents by the FM office, reduces the amount of time fire and/or police are committed at the incident scene. Limited resources are returned to service.
5. Prompt responses to fire/explosion scene increases the ability to identify witnesses and suspects, protects any evidence presence which increases the ability to close cases successfully.

Chief Dieterich stated he does not think it is in the City's best interest to change the staffing of the City's Fire Marshal's office.

Mr. Barnard is the Maryland State Fire Marshall. He stated the State office works closely with local jurisdictions and depends on them significantly. The two offices complement each other. The local Fire Marshal's office provides services beyond what the State office is able to do, especially with public education services. He stated the State office could perform the work, but it would not be at the same level of service, particularly the time of service.

Councilmember Breichner asked if the county governments pay for the services of the State Fire Marshal's office. Mr. Barnard stated the individual/applicant pays for services, based on an established fee schedule.

Councilmember Breichner asked what the cost is for the City's Fire Marshal's office. Chief Dieterich referred to the budget. With wages and benefits, the total cost is over \$ 200,000.

Councilmember Breichner stated he is concerned about the cost for the Fire Marshal's office, when the State provides the same services within other jurisdictions.

Councilmember Metzner stated he understands the State office and the City office do entirely different things. He stated the City has attempted to charge fees that are appropriate for the services rendered. Hagerstown is not the only community with its own Fire Marshal's office.

Councilmember Breichner stated the only fees raised were for responding to vehicle accidents. Councilmember Metzner stated other fees were increased.

Councilmember Easton questioned if the City should be paying someone \$ 70,000 for providing public information when they could be paying someone \$ 30,000. If the City did not have a Fire Marshal's office who would be completing the inspections and investigations. Is there a time when the State would be doing some of the work the City's office typically does?

Mr. Barnard stated they assist the local jurisdictions upon request. Regulations for life safety and fire codes have become more complex, increasing the need for review by the Fire Marshal's office.

Councilmember Easton asked if the State would provide fire safety education if the City did not have a Fire Marshal's office. Mr. Barnard stated it would be ideal to have a public educator within each regional office, but that is not the case.

Fire investigations in Baltimore County and Baltimore City are performed by the police department. Mr. Barnard stated this is not the ideal situation. The fire marshal should be involved from the beginning of the investigation. A critical component is the use of smoke alarms. They not only save lives, they decrease property damage.

Mayor Bruchey asked if the information provided for the numbers of incidents/investigations and actions are a combination of effort between the fire fighters and the fire marshals. Chief Dieterich indicated this is correct.

Councilmember Metzner believes the question to consider is whether or not the fire department can handle 13 vacancies instead of 10. He stated the fire marshal's office should not be eliminated.

Councilmember Breichner stated the city taxpayers are paying for a service that could be provided by the State of Maryland.

Councilmember Metzner stated the basic question is if the additional services the City receives are what the citizens want. He stated the logical question is if the City wants to entrust someone to provide the services over which they have control.

Councilmember Haywood asked if it was cost effective to have employees in the fire marshal's office painting fire hydrants. Chief Dieterich stated they are not painting the hydrants, they are inspecting them and mapping the water line size.

Councilmember Metzner stated employees are willing to do work outside their job description. Councilmember Haywood stated this is because employees realize their jobs are not secure. She stated the division of labor needs to change.

Councilmember Breichner stated as a city taxpayer he is paying for fire services in the City and in the County. He stated this is a duplication of services.

Mr. Barnard stated the State office does not duplicate services of local jurisdictions. He pointed out when services are requested from the State there could be delays. This would not apply to investigations.

Mr. Zimmerman stated the Fire Department is functioning much differently than in the past. The Chief is staffing a shift.

Councilmember Haywood suggested reviewing the requirements of inspection for things like hood systems in a restaurant. Several groups review the same project.

Mr. Zimmerman stated the options noted in the discussion include:

1. Relying on the State to provide Fire Marshal services
2. Seek revenue from the State for services provided by the City Fire Marshal

Councilmember Metzner stated there has been a tremendous personnel change in the last few years. We have relied on the City Administrator and Department Heads to guide us with these changes. He stated he is hearing that staff does not think the Fire Marshal office should be eliminated.

Councilmember Easton thought this discussion was an information session, not a decision making session. He does not think any of the members of the Mayor and Council will say the department does not work hard. The Council's challenge is to keep the department sound and continue to provide safety to citizens.

Councilmember Haywood wondered if a deputy chief is needed, since the fire marshal is filling in for that position. She believes the entire system needs to be reviewed in order to make it easier for employees to operate and be successful with department goals.

Mr. Barnard stated prevention programs are critical.

Councilmember Brubaker appreciates the information and he will be reviewing the process of other jurisdictions.

Consideration of Amendments to Sprinkler Ordinance

Mayor Bruchey stated a local developer has asked that he be exempt from the sprinkler requirements that were approved by the Mayor and City Council late last year. Per the city attorney there is no provision for exempting a developer from the requirements.

Mayor Bruchey asked if the Council wished to consider amending the regulations to match different fire rating parameters. He indicated this developer uses fire rated materials that would provide a one hour burn time.

Councilmember Metzner stated he would not consider amending the code based on building materials. He may consider an amendment if a proposal for very specific circumstances within a development were presented that had been reviewed by staff. He wondered how the cost of less expensive building material and a sprinkler system compared to more expensive building material and no sprinkler system.

Mr. Barnard stated a sprinkler system is a life safety system, primarily for the occupants. It is also a life safety system for the fire fighters. It is not a property protection system. Materials used today are more synthetic and creates a quicker flash over.

Councilmember Metzner asked for specific information from staff for this developer and development.

Councilmember Easton asked if there is any other developer with similar progress. John Lestitian, Department of Community and Economic Development Director, stated he will find out. He stated this development is in process. He understands building permits have not been issued for the homes the developer is discussing.

Councilmember Brubaker stated he would have to review the request and the specific reasons for the request of exemption.

Councilmember Haywood asked if the standards for building material is specific to the City of Hagerstown. Mr. Lestitian stated the standards are from the International Building Code.

Councilmember Breichner stated he heard there is a video showing a burning building without sprinkler systems. Chief Dieterich indicated there is and he will provide the information to the Mayor and City Council.

Councilmember Easton stated he did not support the sprinkler requirement and he would support providing a grandfather clause for this development and any others.

Mayor Bruchey stated it does not seem fair if a developer had built one home without a sprinkler system and is now required to build a home with a sprinkler system.

Councilmember Brubaker stated a citizen complained about this same development for several months. This complaint was not discussed at a work session. Mayor Bruchey stated it may not have been on the agenda but the situation was discussed by staff. Councilmember Brubaker expressed concern that the developer is getting special privileges which the citizen did not receive.

Councilmember Haywood stated the developer would not pave the roads for more than a year. She does not think he is not paving the road in protest. She believes the developer is not able to afford the construction at this point. She stated she believes until developers stop building "piece of crap houses" the Council need to make sure every citizen is protected.

Councilmember Metzner wondered if the State would be allowing cities and counties to opt out of any future requirements.

Mr. Lestitian was asked to provide additional information regarding the regulations and exemption possibilities.

User Agreement with Hagerstown Fairgrounds Softball Association

Rodney Tissue, City Engineer, and Mike Kelbaugh, President of HFSA, were present to discuss renewal of the user agreement with the Hagerstown Fairgrounds Softball Association. Since the inception of Fairgrounds Park, the Hagerstown Fairgrounds Softball Association has utilized the three softball fields and the central plaza concession stand in Fairgrounds Park. Over the years, the use of the facility by the group has grown dramatically and the group now oversees 1030 games, including 22 tournaments in a typical year. In 2007, the HFSA worked with the City to install lighting on one of the fields. The HFSA has been prompt on all payments to repay the loan for the lights and have utilized the field lighting to the City's satisfaction.

Staff recommends the Mayor and Council approve a resolution for the renewal of a User Agreement between the City of Hagerstown and the Hagerstown Fairgrounds Softball Association. Some of the highlights include:

1. The agreement is for five years, from January 1, 2012 to December 31, 2016. Optional renewals occur after that.
2. The City may terminate the agreement at any time with 90 days written notice.
3. The HFSA has sole and exclusive use of two of the fields, but has a joint use of the third field.
4. The HFSA may sublet the fields to other parties and may charge other parties user fees.
5. The HFSA shall maintain the fields, and the City will maintain the restrooms. The HFSA pays no rent.
6. The HFSA will pay for field lights, gas, telephone, and any additional portable restrooms. The City will pay for non-field light electricity, water and sewer, and trash hauling.
7. The HFSA shall indemnify and hold the City harmless from all losses and damages and they shall provide the City with a Certificate of Insurance.

Councilmember Metzner mentioned that the memo and agreement are unclear regarding subletting the fields. The language will be revised.

Mr. Kelbaugh thanked the City for permitting the league to use the field. He invited them to visit during a tournament weekend.

The Mayor and City Council agreed to approve the agreement, with the mentioned revision.

Hagerstown Greens at Hamilton Run

Rodney Tissue, City Engineer, presented a revised proposal from the September 13, 2011 discussion for the Mayor and Council's consideration.

Staff proposed the following plan for improvements at the golf course in the upcoming months:

1. Staff is requesting that \$ 40,000 of unspent bond proceeds be provided to purchase materials for the upgrade of the clubhouse and adjacent plaza. Although this work will cost more than this amount, by using staff labor over the winter months, staff can greatly leverage the funds to complete the rehab of the clubhouse. A modern clubhouse is critical to the image of the course and the current facility has not been significantly improved in 60 years.
2. Staff proposes renovation of the upper level of the clubhouse building for the sale of green fees, golf equipment, and limited concessions. Staff believes that the lack of concessions hampers the course and would greatly improve the experience for the golfers.

As suggested by Council, staff has evaluated concessions at other golf courses and found that full concessions (with a grill and kitchen) is likely not the most cost effective approach. Top selling items are beer, Gatorade, hot dogs, chicken/ham salad sandwiches and bottled sodas.

Market analysis lead staff to conclude that space should not be provided for a concessionaire in the clubhouse, but rather utilize golf course staff, they can do both golf course transactions as well as the sale of simple concession items.

Regarding the sale of alcohol, golf courses such as Blackrock take in the majority of their concession income from the sale of alcohol, mostly beer. Staff would suggest that in the year after the renovation, that they evaluate the sale of beer at the golf course where the City would obtain a Class "C" (golf course) on sale only liquor license from the Board of Liquor License Commissioners for Washington County (also known as the Liquor Board), and sell beer with a suggested limit on the purchase quantity per customer. Staff believe the concessions programs needs to be started before the added complexity of alcohol sales is introduced. However, they are open to the direction of the Mayor and Council if they feel it should proceed sooner. The estimated profit of beer sales would be \$ 10,000 to \$ 15,000 annually.

With these improvements, staff believes a modest increase to the golf fees could be justified. To save funds, staff suggests closing the course during the winter, from approximately mid-December to early March. Staff is investigating the use of cameras and monitoring equipment to better protect the assets from being vandalized. The City needs to market the course more aggressively. Steps are being taken to continue to diversify the use of the golf course for tournaments, disc golf, and student golf teams in the area. In 2010, the City had no tournaments and no leagues. Staff is correcting that situation and they anticipate five or six tournaments in 2012 and the creation of two or three leagues.

Mayor Bruchey asked staff to consider instituting a membership fee.

Councilmember Easton suggested providing access to WIFI service. He asked if any consideration has been given to prohibiting foot traffic on the course when closed.

Mr. Zimmerman pointed out there is still a sizable subsidy for the golf course in the City's budget.

It was the general consensus of the Mayor and City Council to move forward with the proposals and recommendations presented.

Development Plan Update/36-40 North Potomac Street

John Lestitian, Director of the Department of Community and Economic Development, and Jonathan Kerns, Community Development Manager, provided an update on the development plan for 36-40 North Potomac Street.

The City acquired this property on August 31, 2011 with the intent to make improvements to the exterior and to develop a plan for artist housing which would include a cooperative gallery space. The building was acquired with Community Development Block Grant Funds. There are two distinct aspects to this project: 1) a development plan and 2) a program plan. The development plan is the brick and mortar aspect. The program plan involves the operation of the facility post construction.

Development Plan:

Staff recommend that the redevelopment of this property be completed in three phases.

1. Phase I – Renovation of façade, storefronts and commercial space
Phase I is ready to move forward and includes the renovation of the façade and storefronts. Staff have received approval from the Historic District Commission and the Maryland Historic Trust for these improvements. This phase includes light renovation of the commercial space to create a cooperative arts gallery. Phase I is funded with CDBG funds.
2. Phase II – Renovation of Residential Units
Phase II of the plan is to renovate the four (4) residential spaces into artist housing. Staff plan to seek funding for this phase from the Maryland Department of Housing and Community Development. Funding will be sought through the Maryland Housing Rehabilitation Program (MHRP) as a low interest loan. Staff plans to seek the maximum amount of \$ 300,000.00. These funds require the residents have incomes not to exceed 80% of the State median income. The maximum income for one person is \$ 44,950 and \$ 51,350 for two persons. The loan payments will be made from the rents received.
3. Phase III – Additional Upgrades
Phase III of the plan includes additional upgrades to the cooperative gallery space, a new rear deck and landscaping (green space) near the parking lot. Staff plan to seek Community Legacy funds for this phase.

Program Plan:

Staff have toured an artist's housing project in Baltimore and have researched the programming component of such an operation. Initial discussions with partners in the arts community are taking shape. Although there is much work to do in this area, the general concept is to partner with an arts organization(s) to facilitate the occupancy of the residential units and operation of cooperative gallery space. The City would act in a support role.

The Mayor and City Council agreed to continue moving forward with this project.

CITY ADMINISTRATOR'S COMMENTS

Bruce Zimmerman, City Administrator, had no additional comments.

MAYOR AND COUNCIL COMMENTS

Councilmember M. E. Brubaker informed the group the Economic Development Commission will be discussing the infrastructure needs of the City and the County during their meeting tomorrow. The Planning Commission will be meeting to consider expansion into industrial zones.

Councilmember W. M. Breichner agrees with the complaints about the location of the new senior center being at Hagerstown Community College. He suggested asking the County Commissioners to reconsider this location. He believes a good site would be at Franklin and Prospect Streets. This would have ample parking and is close to the bus terminal.

Councilmember L. C. Metzner agreed with Councilmember Breichner.

Councilmember A. C. Haywood had no additional comments.

Councilmember F. W. Easton agreed with Councilmember Breichner. He asked that a letter be sent to the Commissioners. He stated the new trash and recycling contract will provide citizens with good service, at a cost savings.

Mayor R. E. Bruchey, II agreed that the senior citizen site should be reconsidered. A letter will be sent to the Commissioners expressing the Mayor and Council's request to reconsider the location. The first annual International Film Festival in Hagerstown was well attended and a good event. He hopes attendance will increase each year. He thanked everyone involved in this event.

EXECUTIVE SESSION – October 18, 2011

On a motion duly made by Councilmember A. C. Haywood and seconded by Councilmember W. M. Breichner, the Mayor and City Council unanimously agreed by voice vote to meet in closed session to consider the acquisition of real property for a public purpose and matters directly related thereto, #3 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 7:20 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. W. Easton, Councilmember A. C. Haywood, Councilmember L. C. Metzner, City Administrator Bruce Zimmerman, and John Lestitian, Department of Community and

Economic Development Director. The meeting was held to discuss acquisition of property and various personnel issues. No formal action was taken at the meeting. On a motion duly made, seconded and passed, the meeting was adjourned.

Respectfully submitted,

Donna K. Spickler, City Clerk
By video

Approved: November 22, 2011