

55TH SPECIAL SESSION, WORK SESSION AND EXECUTIVE SESSION –
OCTOBER 4, 2011

Mayor R. E. Bruchey, II called this 55th Special Session, Work Session and Executive Session of the Mayor and City Council to order at 4:07 p.m., Tuesday, October 4, 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; City Administrator Bruce Zimmerman, City Attorney John Urner, City Attorney William Nairn and City Clerk D. K. Spickler.

55TH SPECIAL SESSION – October 4, 2011

On a motion duly made by Councilmember W. M. Breichner and seconded by Councilmember F. W. Easton, the Mayor and City Council unanimously agreed by voice vote to meet in Special Session at 4:07 p.m.

Approval of an Ordinance: Amending the City Code, Chapter 29, Elections

Action: On a motion duly made by Councilmember W. M. Breichner and seconded by Councilmember M. E. Brubaker, the Mayor and City Council unanimously agreed by voice vote to approve an ordinance to amend Chapter 29 of the City Code entitled Elections by adding a new Article III, Campaign Financing, to adopt the Maryland Campaign Financing Law with certain amendments.

Discussion: Councilmember Brubaker stated he understands staff recommends implementing this amendment now to have financing regulations in place as people file for office. Future revisions may be necessary to the basic language.

**Approval of a Settlement Agreement: Carolina Transformer Contribution
Action Plaintiffs**

Action: On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember W. M. Breichner, the Mayor and City Council unanimously agreed by voice vote to approve the “Settlement Agreement” between the Carolina Transformer Contribution Action Plaintiffs and the City of Hagerstown. Upon execution of the “Settlement Agreement” a payment of \$ 37,000.00 (thirty seven thousand dollars) will be remitted to the aforementioned party as agreed upon under Item 2 “Payment” of the Terms and Agreement Section. The expenditure of \$ 37,000.00 (thirty seven thousand dollars) will be funded through the Electric Division Capital Retained Earnings, account number 50-350000.

Discussion: Councilmember Metzner and Councilmember Brubaker pointed out this settlement reduces the City's exposure for liability of stored transformers as economically as possible.

Public Hearing

Tractor Supply Company Annexation, A-2011-02

Kathleen Maher, Planning Director, and Alex Rohrbaugh, Planner, stated a proposal for annexation has been made to annex property at 11935 Hopewell Road, just west of Interstate 81. Also included in this annexation are portions of right-of-way for Interstate 81 and Western Maryland Parkway (these rights-of-way make the City contiguous to Tractor Supply). This annexation is a follow-up to a pre-annexation agreement consented to by Tractor Supply when the site requested water service in 2004. The City of Hagerstown is the petitioner for annexation, and Tractor Supply has consented to the annexation.

The proposed annexation was introduced on August 23, 2011. The Annexation Plan was also adopted at this time. The area of the subject property is approximately 64.9 acres, and the size of the Tractor Supply property is 52.9 acres. The proposed zoning for the properties is IG (Industrial General), and the current County zoning is IG (Industrial General). The two zoning classifications are generally consistent, and the change does not require express approval from the County Commissioners.

There were four published notices advertising the annexation hearing at no less than weekly intervals. The Annexation Plan was provided to the appropriate County, Regional, and State Planning Agencies, at least 30 days prior to the Public Hearing. After the Public Hearing, the Mayor and Council may pass or reject the annexation resolution. If the resolution is passed the annexation becomes effective in forty-five (45) days.

At the time of filing of the Annexation Petition, there were no registered voters residing in the area to be annexed. This property is contiguous to and adjoins the existing corporate areas of the City. Upon the effective date of the annexation, a phase-in schedule will be in effect for City real property taxes on the parcel. The schedule is included as part of the annexation petition.

Mr. Rohrbaugh entered the following as Exhibits:

- Exhibit 1: Certificate of Advertisement
- Exhibit 2: Planning Commission File by Reference

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

The record will remain open for 10 days for additional comments.

On a motion duly made, seconded and passed, the special session was adjourned at 4:14 p.m.

WORK SESSION – October 4, 2011

North Hagerstown High School Homecoming Parade Request

Karen Giffin, Community Affairs Manager, stated the North Hagerstown High School would like to host a Homecoming Parade on Saturday, November 5, 2011 from 9:30 a.m. to 10:30 a.m. Approximately 100 to 150 people will be in the parade. The football game will be held at 2:00 p.m. on Saturday, November 5, 2011.

Lindsey Reynolds, teacher at North Hagerstown High School, stated the homecoming game will be at 2:00 p.m. on Saturday, November 5, 2011, and, the parade will follow the same route as last year.

The parade route would utilize Oak Hill Avenue, Park Lane and Saint Clair Street. If the Mayor and City Council approve the parade, North Hagerstown High School would have to furnish the City of Hagerstown a certificate of insurance with the City as an added insured, notify the neighborhoods in which the parade will occur, complete a parade permit and set out cones at intersections specified by the City's Parks and Engineering Department.

The City would have one officer assist with the parade for two hours, which would cost \$ 80.00. This would be taken out of the Community Affairs Budget.

It was the general consensus of the Mayor and City Council to allow the parade to be held as stated.

Fireworks at Fairgrounds Park – Fireworks Request for Proposal

Karen Giffin, Community Affairs Manager, and Ted Bodnar, Chair of Fireworks at Fairgrounds Park, were present to discuss the fireworks show. The City of Hagerstown has hosted the Fireworks at Fairgrounds Park Event for ten years. The three year contract with the fireworks provider ended July 4, 2011. In order to move forward with this event and to secure a contractual price, City staff is requesting approval to complete a request for proposal for the fireworks display for the next three years. The request for proposal would include a technical and price portion. Mr. Bodnar and City staff will review the bids.

Mr. Bodnar stated the committee will be looking at ways to reduce costs, without reducing the size of the fireworks show. Councilmember Metzner stated he hopes this event continues.

It was the general consensus to send out a request for proposal for the fireworks show.

Ms. Giffin reminded the group that Harvest Hoedown will be held on Saturday, October 8, 2011 at Fairgrounds Park.

Yearly Safety Review FY 2011

Donna Frazier, Director of Human Resources, and Kevin DeHaven, Safety and Loss Coordinator, presented the annual safety report to the Mayor and City Council. Ms. Frazier reported it was an excellent year for employee safety.

Injuries were lower this year, most likely due to the furlough days. There were fewer slips and falls. Indemnity reserves increase the numbers significantly. The reserves are included in the calculation of the annual premium.

Mr. DeHaven reported Injured Workers Insurance Fund (IWIF) looks at the loss ratio in establishing the premium. He cited an example of a \$ 300,000 claim, which contributed to a high loss ratio in 2006/2007. The claim was a result of an accident cause by someone else. The city tried to be reimbursed from the other insurance company but only received a portion of the amount. IWIF and the City worked diligently to try to recoup more of the money.

The policy was put out for bid this year. The City of Hagerstown has a number of high risk groups. Two companies bid and IWIF was the lowest. The other bidder had concerns about exposure risks within the Light Department.

Employee safety meetings are held quarterly. Training is provided to educate employees in the safety programs that directly affect their safety and health. The goal for Fiscal 2012 is to continue the training opportunities that have been offered. This goal involves the direct input from each department. The key to a safe workplace is the employees; education of those employees provides the starting point to gauge success.

Proposed South Prospect Street Streetscape Project

Rodney Tissue, City Engineer, and Jonathan Kerns, Community Development Manager, were present to discuss a streetscape project on South Prospect Street.

The South Prospect street neighborhood is an outstanding and beautiful historical neighborhood. Adding to the charm of this neighborhood, the sidewalks are typically brick and much of the curb is granite or limestone. The street is so unique that the Code of the City of Hagerstown provides special treatment of this street in Chapter 216-21 which was designed to preserve and protect the historic integrity of the curbs and sidewalks. This includes forbidding the use of concrete sidewalk in favor of brick, the curb reveal can be less than the normal six-inch standard, and the curbs and sidewalk can have irregularities and still be acceptable.

A major issue on this street is the sidewalk issues caused by the street trees. Section 216-42E of the Code of the City of Hagerstown states the following regarding “street trees”:

“Curbs, curb and gutter or sidewalks damaged by street trees (as defined in this chapter) shall be replaced by the City of Hagerstown. Curb, curb and gutter or sidewalks damaged by any other trees shall be replaced by the adjoining property owners.”

On South Prospect Street, this is a significant issue where many of the mature trees (that are species not suitable as street trees) are damaging and raising the brick sidewalks. Some trees are even damaging the pavement of the street. Because of this, staff recommend that the City complete a project where they work closely with the local Historic Heights Neighborhood First Group to develop plans to address all the streetscape issues. The scope of work of the proposed project should include:

1. Removal and replacement of selected trees
2. Installation of additional street trees of proper variety
3. Resetting brick sidewalks damaged by the street trees
4. Addressing sidewalk repairs that are the responsibility of the adjoining property owner by “fronting” the funds and completing the work as part of the overall contract and assessing the property owners or giving them the option to complete the work themselves.
5. Iron tree boxes could be offered to property owners who wish to install them at their cost.

The estimated cost of the work the City is responsible for is \$ 160,000.00. In addition, the City may choose to “front” another \$ 75,000 in work that is the responsibility of the property owners. Staff is suggesting that the Mayor and City Council re-appropriate unspent 2009 bond proceeds to fund this streetscape project and address the street tree damage issues. Staff feels that they can develop contract documents over the next few months and obtain consensus with the neighborhood group to yield a project that meets everyone’s objectives. If the Mayor and Council approve the funding, staff would return in late winter for approval of a contract to complete the work.

The idea of installing ornamental street lights has been discussed for South Prospect Street numerous times in the past and is an ongoing request. City Light’s policy is that the neighborhood would have to fund the light installation. The most recent estimate of cost as prepared by City Light staff is \$ 347,167.00.

Councilmember Easton asked if stamping is available for the sidewalks. Mr. Tissue stated stamping is not really an acceptable material. Councilmember Metzner wondered if it would be a reasonable alternative.

Councilmember Haywood believes brick would be the most economical over time.

Trees that are on the Forest Service's approved list would be used to replace trees that would be removed.

Bruce Zimmerman, City Administrator, stated the areas damaged by street trees will be repaired, not the whole area. Anything irregular or hazardous will be replaced as well.

Notices will be sent to home owners indicating repair work will be done.

Councilmember Brubaker suggested exploring ways other jurisdictions take care of sidewalks. He asked how homeowners would pay for the work, if bond proceeds are used for the financing. Mr. Tissue indicated a payment plan would be established.

Councilmember Metzner expects to hear from other neighborhoods for this type of repair.

Some home owners may be eligible for Community Development funding, if they meet income eligibility guidelines. If the sidewalks are not taken care of the City could issue a bill for the abatement and then work with people if they ask for assistance.

The policy for street lights and ornamental lighting will be followed in this project area. The main expense for the ornamental lights is the cost to run it under the road.

It was the general consensus of the Mayor and City Council to reprogram unspent 2009 bond proceeds to fund the work.

CITY ADMINISTRATOR'S COMMENTS

Bruce Zimmerman, City Administrator, mentioned that October 5, 2011 is the annual United Way Day of Caring. Many employees will be participating in this event by volunteering to help with home improvement projects for several City residents.

MAYOR AND COUNCIL COMMENTS

Councilmember F. W. Easton stated working with the Day of Caring is a great experience.

Councilmember A. C. Haywood is looking forward to Harvest Hoedown.

Councilmember L. C. Metzner had no additional comments.

Councilmember W. M. Breichner stated the Thunder in the Square event was very successful. He welcomed the travelers from Wesel, Germany.

Councilmember M. E. Brubaker stated the State Transportation Secretary will be in Hagerstown on October 6, 2011.

Mayor R. E. Bruchey, II stated Thunder in the Square was a great event. The restaurants downtown were busy all evening. He thanked the Alsatia Club, Karen Giffin and other City staff for putting this event together. He had dinner with the visitors from Wesel on Friday evening. He reported Max Grinnell, Urbanist, will be the speaker at the Eggs and Issues meeting on October 5, 2011.

EXECUTIVE SESSION – October 4, 2011

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 consider the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation or performance evaluation of appointees, employees, or officials over whom it has jurisdiction, #1 and to protect the privacy or reputation of individuals with respect to a matter that is not related to public business, #2 at 5:10 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, Donna Frazier, Director of Human Resources, Fire Chief Kyd Dieterich, Rodney Tissue, City Engineer, Michelle Burkner, Director of Finance, and Donna K. Spickler, City Clerk. The meeting was held to discuss a lease for a City residential 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 at 5:21 p.m.

Respectfully submitted,

Donna K. Spickler, City Clerk

Approved: November 22, 2011