

66<sup>TH</sup> SPECIAL SESSION, WORK SESSION AND EXECUTIVE SESSION – MARCH 20, 2012

EXECUTIVE SESSION – March 20, 2012

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 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 and to consult with counsel to obtain legal advice, #7 at 3:01 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. W. Easton, Councilmember A. C. Haywood, Councilmember L. C. Metzner, City Administrator Bruce Zimmerman, City Attorney Mark Boyer, Rodney Tissue, City Engineer, Michelle Burkner, Director of Finance, John Lestitian, Director of the Department of Community and Economic Development, Jill Estavillo, Economic Development Manager, Bruce Quinn, Hagerstown Suns Owner and Donna K. Spickler, City Clerk. The meeting was held to discuss a potential member of the Police and Fire Employees' Retirement Committee and amendments to a lease with the Hagerstown Suns. No formal action was taken at the meeting. On a motion duly made, seconded and passed, the meeting was adjourned at 4:06 p.m.

66<sup>TH</sup> SPECIAL SESSION AND WORK SESSION – March 20, 2012

Mayor R. E. Bruchey, II called this 66<sup>th</sup> Special Session, Work Session and Executive Session of the Mayor and City Council to order at 4:18 p.m., Tuesday, March 20, 2012, 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.

66<sup>TH</sup> SPECIAL SESSION – March 20, 2012

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 meet in Special Session at 4:19 p.m.

Public Hearing for Re-designation and Expansion of Enterprise Zone

Jill Estavillo, Economic Development Manager, and Kathleen Maher, Planning Director, were present. Ms. Estavillo stated the purpose of this public hearing is to consider the joint application of Washington County and the Mayor and Council of the City of Hagerstown for the re-designation and expansion of an enterprise zone located partially within Washington County and the corporate boundaries of the City of Hagerstown.

Washington County and the City of Hagerstown are working to jointly submit an application by April 15, 2012 to the Maryland Department of Business and Economic

Development (DBED) for the re-designation of the Enterprise Zone for a period of ten years from December 14, 2012 to December 14, 2022.

The Enterprise Zone provides property tax credits for construction or rehabilitation investments and provides income tax credits for job creation.

In renewing the Enterprise Zone, the City and County propose an expansion of the boundaries of the zone. The proposed expansion is for 4,081 acres, a 2,681 acre increase. The City proposes to expand the Enterprise Zone in four key areas:

1. City Center
2. Rail Corridors
3. East End
4. Additional

The County proposes to expand the Enterprise Zone in two key areas:

1. Hopewell Valley
2. Hump Road

There was no testimony presented, either in favor of or against the redesignation and expansion of the Enterprise Zone.

The hearing was closed at 4:20 p.m. The record will remain open for 10 days for additional comments.

The April 3, 2012 agenda will include a special session in order to approve a resolution to support the recommended expansion and redesignation of the Enterprise Zone boundaries.

On a motion duly made, seconded and passed, the special session was closed at 4:20 p.m.

#### WORK SESSION – March 20, 2012

#### Preliminary Agenda Review

#### **Consent Agenda**

##### A. Department of Community and Economic Development:

1. Approval of Barbara Ingram School for the Arts Street Closure Request
2. Approval of Downtown Alliance Artisan Fair

##### B. Department of Utilities:

###### Wastewater:

1. Replacement of Air Lifts in ENR Filters – Parkson (Ft. Lauderdale, FL) \$ 63,799.00

Councilmember Brubaker asked why these filters are considered sole source. Donnie Barton, Wastewater Operations Manager, stated the filters are custom made and it is difficult to experiment with alternatives since this operation is new. There may be an opportunity in the future to use other filters. Mr. Zimmerman indicated this is part of the ENR State requirements that were recently installed. The City was the 19<sup>th</sup> jurisdiction in the State to meet the requirements. Mr. Spiker suggested scheduling time to tour the facility again to see the operation of this new system.

Water:

1. SCADA/RIO Panel for Willson Treatment Plant – ABB Inc.  
(Wickliffe, OH) \$ 37,450.00

Councilmember Brubaker recommended adding an explanation of why a product/service is sole source to the consent form. Nancy Hausrath, Water Operations Manager, stated this is sole source because of the system the City has.

- C. Police Department: DeskOfficer On-Line Reporting System – CopLogic, Inc.  
(San Ramon, CA) \$ 16,000.00

Chief Arthur Smith reported this system will allow citizens to file a police report on-line. They will be able to take a picture of the activity and send it to the Department.

Councilmember Brubaker stated there should be a notice provided to the person making the report that it was received and reviewed.

**Approval of a Resolution: Approval of Memorandum of Understanding (MOU) with the Washington County Board of Education for School Resource Officer**

A Second Amendment to the original MOU between the City of Hagerstown and the Washington County Board of Education (BOE) for the School Resource Officer Program was presented to the Mayor and City Council.

The amendment includes the following changes/additions:

1. Identification of Evening High School (Antietam Academy)
2. Additional Funding for an Overtime Officer at the Evening High School
3. Automatic Renewal of the MOU

Since the opening of the new Antietam Academy this school year, the BOE has requested one officer to work overtime four days per week to cover the Evening High School program. The additional funding (\$35,000) is sufficient to cover the City's entire costs. This overtime position is in addition to the four School Resource Officers already funded by the BOE.

It was the general consensus of the Mayor and City Council to include approval of the resolution on the agenda for March 27, 2012.

**Acceptance of the “Community Greening Grant”**

Rodney Tissue, City Engineer, reported that the City has received a third grant from the Chesapeake Bay Trust (CBT) to enhance the City's tree canopy. The grant is in the amount of \$ 27,000.

The grant does not specifically require a cash match; however, to maximize the number of trees planted, and similar to earlier grants, staff suggests that the City fund all sidewalk modifications and the cost of tree maintenance. This yields the following budget:

CBT Grant	\$ 27,000
City Cash Match	\$ 10,000 (General Funds in CIP 594)
In-kind Match	\$ 10,000 staff time to manage the project and maintain trees on City land
In-kind Match	<u>\$ 8,000</u> volunteer time to plant trees
	\$ 55,000

Formal acceptance of the grant will be included on the March 27, 2012 agenda.

This completed the preliminary agenda review.

#### Pool Operations for the 2012 Season

Rodney Tissue, City Engineer, stated staff recommends entering into a contractual agreement with the YMCA to manage the Claude M. Potterfield Pool for the 2012 season, as has been done the last three seasons. Karen Meinelschmidt of the YMCA would serve as the primary contact. Mike Flicek, YMCA Executive Director, and Junior Mason, Superintendent of Park, were also present.

In 2011, the City paid the YMCA \$ 18,950 to manage the pool, lifeguards, and conduct lessons, however, this saves the City by not hiring and paying a manager and assistant manager.

The City controls the fee schedule for pool patrons and would continue to market the pool. In 2011, revenues were up 20% from 2010 and expenditures were down 16% from 2010. Total subsidy to the pool was \$ 69,896.00. This is the lowest amount in five years.

The following items are new for the 2012 Season:

1. A new double tube slide will be installed at the site of the former diving board.
2. New concessionaire who will offer a wide variety of food and snacks.
3. No rate changes.
4. Andy Hoffman, Recreation Coordinator, is planning new programmed events.
5. To save costs, staff continues to recommend the closed non-holiday Mondays. Staff recommends opening the season on May 28, 2012 (Memorial Day weekend) and closing on August 20, 2012.

Councilmember Easton reiterated this contract with the YMCA, rather than in-house, for pool operations represents a savings to the City.

It was the general consensus to approve the agreement with the YMCA.

### Pangborn Rezoning

The Pangborn Corporation has submitted a request to rezone their property on Pangborn Boulevard from Neighborhood Mixed-Use (N-MU) to Professional Office Mixed-Use (POM). The basis for the rezoning is that a mistake was made when the property was comprehensively rezoned in 2010 from Industrial General (IG) to N-MU. The Planning Commission recommended in favor based on mistake and change in character (prior to applicant's withdrawal of the change argument). The Mayor and City Council held a public hearing on November 22, 2011 and no one testified in favor of or against the rezoning. The Mayor and City Council held discussions on the merits of the legal arguments for the rezoning on December 6, 2011 and March 6, 2012.

On March 6, 2012, in a straw poll, the Mayor and City Council determined that a mistake had not been made in the comprehensive rezoning and therefore the rezoning request fails. The Mayor and City Council concurred with staff's suggestion that the Planning Commission review this area, along with other areas where circumstances may have changed in the city since 2008, in a future Comprehensive Plan amendment to the Future Land Use Plan map.

Kathleen Maher, Planning Director, and John Urner, City Attorney, stated the next step would be for the Mayor and City Council to approve a resolution to deny the rezoning request based on a Findings of Fact that a mistake was not made in the comprehensive rezoning.

Councilmember Breichner and Councilmember Easton agreed with the Findings of Fact and that a mistake was not made in the Comprehensive Rezoning.

Councilmember Haywood stated, after further examination, she believes a mistake was made with the zoning in the Comprehensive Rezoning. She stated the POM zoning classification fits this property.

Councilmember Metzner and Councilmember Easton stated they believe a mistake was made.

Ms. Maher clarified that the majority of the Council now agrees with the Findings of Fact from the Planning Commission and that a mistake was made in the Comprehensive Rezoning.

Councilmember Metzner asked if a zoning determination is made at the same time a decision is made that a mistake was made in the Comprehensive Rezoning. Mr. Urner stated both issues could be handled in the same decision. The Council will be required to provide Findings of Fact of all the items in the Zoning Ordinance.

The Mayor and City Council will include the rezoning request on the March 27, 2012 Regular Session.

Mr. Urner left the meeting.

#### A & E District Re-designation

Karen Giffin, Community Affairs Manager, was present to discuss re-designation of the A & E District. In December 2001, the State of Maryland approved the City of Hagerstown's application and designated the four blocks around the Public Square as a Smart Growth A & E District and in 2008 the district was approved for expansion to include more modestly sized and priced residential housing on the east side of the existing district. The A&E designation makes certain projects in the district eligible for exemption from the Admission and Amusement Tax and for property tax credits. The City and County both agreed to provide a 50% property tax credit on the increase in assessment which results from a renovation project to create artist housing or space for A&E enterprises. In addition, artists who live in Washington County and derive more than 50% of their income from artistic endeavors or sales in the district are eligible for a State income tax subtraction. The tax incentives available through this program would sunset after 10 years.

In order to continue this program the City of Hagerstown would need to apply for redesignation by the deadline of April 1, 2012. A Public Hearing for public input is scheduled for March 27, 2012. If the Mayor and City Council agree to apply for the redesignation, a resolution will be passed detailing the commitments of the City and the County. Approval of the resolution would be scheduled for March 27, 2012.

Councilmember Easton wondered if a portion of the location for a multi-use facility in the downtown area would be eligible for an exemption from the Admissions and Amusement tax. Mayor Bruchey indicated uses within the district would be eligible for exemptions, but an exemption is not mandatory. Councilmember Metzner suggested if the facility is exempt that different regulations be imposed.

It was the general consensus to move forward with the redesignation of the A&E District process.

#### Franchise Renewal with Antietam Cable Television

Karen Giffin, Community Affairs Manager, Scott Nicewarner, Director of Technology and Support Services, and Bill Nairn, City Attorney, were present to provide an update on the Antietam Cable Television franchise renewal.

The City of Hagerstown and Antietam Cable have both agreed in writing to begin the formal renewal proceedings required of the franchise agreement between the two entities. The current agreement will expire on November 1, 2013.

The process includes subscriber surveys, needs assessments, focus groups, interview, public hearings, past performance review, franchise fee audit, technical evaluation and an

I-Net evaluation. This information will assist the Mayor and City Council in making any decisions necessary regarding the Franchise Agreement.

The City currently receives a franchise fee throughout the duration of the agreement of five percent (5%) of Antietam Cable's gross revenues. In addition, PEG fees of \$ .50 per subscriber per month, or \$ 6.00 per year, are paid to the City. This year, the PEG fees increase to \$ .60 per month per subscriber.

The City of Hagerstown will be issuing a Request for Proposal (RFP) later this month to obtain bids from qualified contractors/vendors to enter into a contract for consulting services for renewal of cable franchises held by the City with Antietam Cable Television, Inc. The City will also be meeting with Antietam Cable Television later this month to finalize a calendar for all items needed for the renewal of this franchise agreement.

Councilmember Easton asked if this is an exclusive franchise. Ms. Giffin indicated it is not. Councilmember Easton asked if staff could explain why Comcast is indicating they cannot provide service in the City. Mr. Nicewarner indicated Comcast could provide service within the City and that this franchise agreement does not prevent other providers from delivering their product to customers. Comcast would have to run their own cable to provide the service.

The agreement will be discussed further as information is collected.

#### Barbara Ingram School for the Arts Street Closure Request

Karen Giffin, Community Affairs Manager, Principal Michael Thorsen, and Assistant Principal Bill Campbell were present to discuss a street closure request.

The Barbara Ingram School for the Arts submitted a request for a street closure of the first block of South Potomac Street on Saturday, May 5, 2012 from 1:00 p.m. to 8:00 p.m. and a rain date of May 6, 2012 from noon until 4:00 p.m. This would be fundraising event for the Barbara Ingram School for the Arts in conjunction with their production of Beauty and the Beast at the Maryland Theatre.

The City of Hagerstown would utilize auxiliary police for the closure and for the setting of the barricades. Therefore, this would be no cost to the City for services. The left lane of traffic will not be blocked so that emergency vehicles can pass if needed.

The City would require a certificate of insurance, naming the City as an additional insured. The School will be required to notify neighboring residents and businesses.

Mr. Thorsen thanked the Mayor and City Council for their past support. Six performances of the show will be presented. The first weekend will be a gala event and the second weekend will be lighter and festive. Mr. Campbell stated they want to create a magical, Disney feeling downtown. Artists and food vendors will be along the street.

It was the general consensus to permit the street closure as indicated. The City purchased an ad in the program for this event and for the holiday spectacular.

Fair Off the Square (Downtown Alliance Artisan Faire)

Karen Giffin, Community Affairs Manager, Gaela Shoop, Events Coordinator, Francine Donachie, Bowman Hospitality, Paul Deputy, Gourmet Goat, Brenda Bush, Easter Seals, and Fred Getz, Pen Mar Realtors, were present to request permission to use the Elizabeth Hager Center Lot.

The Downtown Alliance is a committed group of downtown businesses, property owners, non-profits, houses of worship and residents. The group is bringing new ideas and energy to City Center. They would like to hold a monthly event downtown that compliments the City Farmers Market. The event would be called "Faire Off the Square" and would be held on the Elizabeth Hager Center parking lot. It would feature farmers and artisan vendors and would be run each month on the last Saturday from April 28, 2012 through October 27, 2012. A different non-profit agency would host the event each month, which includes set up and tear down. A certificate of insurance naming the City as an added insured would be provided for each date.

The Alliance is not asking for City staff assistance the day of the event or for any city services. They would need to utilize the electric in the lot and trash receptacles. The Alliance has asked if City staff could accept applications and create a pass through account since the organizations do not have a checking account. They are also requesting help from engineering on a layout of the event.

Mr. Deputy stated they hope to expand the Faire to every Saturday and that it becomes an incubator for vendors who are looking for permanent locations.

Ms. Donachie stated the goal of the Downtown Alliance is to create a better quality of life for citizens, particularly in downtown. Each space will cost \$ 25.00 and \$ 5.00 of the fee will be given to the hosting non-profit organization. The Taste of the Arts will be returning to downtown on May 17, 2012.

The event will be advertised on the Alliance's website, through members and on the City's website.

Councilmember Metzner asked how the Alliance members felt about the success of the St. Patrick's Day 5K event. Both Ms. Donachie and Mr. Deputy indicated it was a good event and created a lot of interest and business downtown. The Alliance provides information to businesses about coming events.

Sandwich board signs will be placed at the City Market on the Faire Saturdays to guide people to the event. Mr. Deputy stated Gaela Shoop works very hard to promote the Market, as well as downtown.

It was the general consensus to allow the Downtown Alliance to utilize the Elizabeth Hager Center parking lot for the Faire.

**CITY ADMINISTRATOR'S COMMENTS**

*Bruce Zimmerman, City Administrator*, stated the first session of the new City College begins on April 2, 2012. This is an opportunity for citizens to learn about City operations. Citizens can sign up on the City's website or by contacting the Department of Community and Economic Development.

### **MAYOR AND COUNCIL COMMENTS**

*Councilmember M. E. Brubaker* likes the efforts being made to move downtown forward. It is good to know that staff, businesses and the community are working together to enhance downtown.

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

*Councilmember L. C. Metzner* complimented staff for their work with the St. Patrick's Day 5K. He stated the Council will wait until the Ripken Study (for a multi-use facility) is completed before reporting on discussions regarding the current lease with the Hagerstown Suns.

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

*Councilmember F. W. Easton* stated the St. Patrick's Day 5K was a great event. He hopes it increases in size. He would like to have more events in the core of the City.

*Mayor R. E. Bruchey, II* expressed condolences to the family of Quinn Hoover who passed away on March 18, 2012 in an automobile accident.

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 5:12 p.m.

Respectfully submitted,

Donna K. Spickler, City Clerk

Approved: April 24, 2012