

WORK SESSION AND EXECUTIVE SESSION – JULY 17, 2012

WORK SESSION – July 17, 2012

Mayor R. E. Bruchey, II called this Work Session and Executive Session of the Mayor and City Council to order at 4:10 p.m., Tuesday, July 17, 2012, in the Council Chamber at City Hall. Present with the Mayor were Councilmembers W. M. Breichner, F. W. Easton, A. C. Haywood, L. C. Metzner; City Administrator Bruce Zimmerman, and City Clerk D. K. Spickler. Councilmember M. E. Brubaker was not present.

Eric Deike, Director of Public Works, provided an update about the street closure at the railroad underpass on Memorial Boulevard. Ground water would not recede starting last month. The drain line, which was installed in 1917, was partially filled with silt. Clearing the silt did not solve the drainage problem. Tree roots have entered other portions of the line. Manholes are being installed to provide access to work on the line. Both the Water and Wastewater Departments have worked with Public Works to solve this situation. C. William Hetzer, Inc. will be digging the trenches for the work. Memorial Boulevard will be closed for several weeks.

Preliminary Agenda Review

**Consent Agenda**

- A. Department of Parks and Engineering:
  - 1. Surveying Vehicle, Unit 710 – Sport Chevrolet Co., Inc. (Silver Spring, MD) \$ 15,987.00
  - 2. Thermoplastic Pavement Markings – Alpha Space Control Company, Inc. (Chambersburg, PA) \$ 50,095.00
- B. Department of Utilities:
  - 1. Water: Various Water Pipe Sizes – LB Water Service, Inc. (Chambersburg, PA) \$ 70,692.40
- C. Department of Community and Economic Development:
  - 1. Application Permit for Augustoberfest – August 25, 2012 and August 26, 2012, Augustoberfest Charitable Foundation – Central Parking Lot and Surrounding Area

**Approval of Grant Acceptance: Chesapeake Bay Trust Grant for Watershed Implementation Plan (WIP)**

Jim Bender, Assistant City Engineer, reported that in March, 2012, the City submitted a grant application request to the Chesapeake Bay Trust for funding to conduct a stream restoration needs analysis and a stormwater retrofit study. Both of these tasks are key components of the City's portion of the Washington County Watershed Implementation Plan (WIP), which sets stormwater pollution reduction goals. Recently, the Trust notified the City that they have approved a grant in the amount of \$ 22,000 to complete these tasks. Because the proposed \$ 22,000 award is less than the \$ 35,000 originally

requested, staff will have to refine the scope of work for the consultant that will prepare the studies.

Given the estimated future cost of compliance with the WIP program, staff recommends acceptance of this grant to help defray the City's costs to meet State and Federal requirements. It was the general consensus to include acceptance of the grant on the agenda for July 24, 2012.

### **Approval of Emergency Procurement Ratification for 36-40 N. Potomac Street**

Jonathan Kerns, Community Development Manager, stated in January of 2012 the Mayor and City Council awarded the contract for façade renovations at 36-40 N. Potomac Street to Modern Construction Services, Inc. The total value of the original contract agreement was \$ 71,200.00.

During the initial stages of the renovation, the front brick wall was exposed and found to be in danger of collapse. After consultation with a structural engineer, it was determined that the wall would need to be demolished and reconstructed. Due to the wall's proximity to the public sidewalk, the contractor was directed to complete the demolition immediately to alleviate any threats to public health, safety, and welfare.

The net cost of the emergency wall demolition and reconstruction totaled \$ 49,377.15 and the contract value increased from \$ 71,200.00 to \$ 120,577.15. This project is completely funded by Community Development Block Grant funds.

It was the general consensus to include approval of the emergency procurement for 36-40 N. Potomac Street Façade Renovations in order to comply with the City Purchasing Policy on the July 24, 2012 agenda.

This completed the preliminary agenda review.

### **Antietam Cable Television Presentation**

Karen Giffin, Community Affairs Manager, and Brian Lynch, President and General Manager of Antietam Cable Television, were present to discuss the recent change of the City's PEG Channel from 6 to 25 on Antietam Cable Television. Mr. Lynch also provided an update on the transition from analog to digital service.

Mr. Lynch indicated the City of Hagerstown and Antietam Cable Television customers were notified of this change in May, 2012. City staff had asked Antietam Cable for assistance with helping customers identify with Channel 25 as the City's channel.

Antietam Cable, in partnership with the Herald Mail newspaper, is trying to provide more localized news and weather to viewers. They chose Channel 6 because it is within the range of broadcast stations. News from Washington County will be the focus of the broadcasts. Antietam Cable is running a "crawler" across the bottom of the screen on Channel 6 notifying viewers of the City's new channel.

Mr. Lynch stated Antietam Cable started an all digital transition last year. Digital services provide better picture and sound quality. This change is more efficient.

Lease Agreement: University System of Maryland – Hagerstown at 60 W. Washington Street

Christy Blake, Downtown Business Recruitment and Retention Manager, Dr. Mark Halsey, University System of Maryland – Hagerstown Executive Director, and Erin Harman, Director of Advancement and Outreach, were present to discuss a lease agreement for 60 W. Washington Street.

Staff has been working for several months with representatives from the University System of Maryland – Hagerstown (USMH) and Frostburg University to facilitate the expansion of USMH programming into the City owned property adjacent to the current USMH building. The USMH will occupy the rear anchor portion of the 60 West Washington Street property for instruction classrooms, conferences, general offices and other purposes.

The proposed lease agreement outlines the following terms:

1. Term July 1, 2012 through June 30, 2017
2. \$ 27,000 annual rent
3. \$ 2,250.00 monthly rent
4. \$ 10.00 per square foot at 2,700 square feet of useable space
5. Option to renew for two additional periods of five years at approximately a 5% increase
6. Non-exclusive use of the adjacent common area
7. Tenant responsible for janitorial and cleaning services
8. Anticipated sublease to the Board of Education for Barbara Ingram School for the Arts' students, all other sublet options require written approval from the City.

Ms. Blake indicated the Attorney General has asked for changes with the indemnification clause. The changes will be incorporated into the lease that will be submitted for the Mayor and City Council's approval on July 24, 2012.

Dr. Halsey stated the University appreciates being the tenant in this new location. The additional space will provide classrooms for up to 95 students. Space for six offices is included in this area. The classrooms will be used in the Fall 2012 semester. They are recruiting additional universities and programs.

Councilmember Metzner stated it is good see the university downtown being successful and finding it necessary to expand. This is a good partnership between the City and the University.

Dr. Halsey thanked all the people who are working with the scholarship program. The University has 19 different scholarships available, including one funded by the City of Hagerstown. As the population increases, so will the need for scholarships.

### Synagro Contract Extension for Wastewater

Michael Spiker, Director of Utilities, and Joseph Moss, Wastewater Operations Manager, were present to discuss a contract extension with Synagro. Thomas Maestri, Synagro, was also present.

The Department of Utilities Wastewater Division has been discussing contract options related to the Wastewater Pelletizing Operations currently operated by Synagro. Both entities have enjoyed a relationship in excess of twenty years whereas they convert the solid waste component of the process into pellets which are then land applied as a soil amendment or disposed of by other means, depending upon market conditions. The Wastewater Division owns the building, equipment and the associated hardware with Synagro supplying the technology, labor, and disposal. The Division currently pays a monthly operational fee of \$ 93,423.40 which is the FY 12 average. Any equipment upgrades required to maintain facility operational compliance are billed to the Division at a rate of 15% above actual cost.

Cost comparisons are approximations and will be finalized in the final contract documents. Currently, the operation produces approximately 15 dry tons per day during a 4.5 day week. If either of the City staff requested options are approved, a Design Build Owner Operated (DBOO) facility would be constructed adjacent to the existing facility utilizing a new Drum Dryer with de-watering supplied by either a Belt Filter Press (BFP) or Centrifuge equipment. Each variation has a different set of operational conditions related to odor control, reduced fuel consumption, differing operation and maintenance costs, etc., that will be studied and reviewed before the final contract is submitted for approval. The DBOO option will possess a twenty year contract term.

Mr. Spiker stated a recommendation for approval will be submitted to the Mayor and City Council for consideration in September or October. The proposal will include an incremental phase-in plan.

### 2012 Comprehensive Land Management Code Revisions

Kathleen Maher, Planning Director, and Stephen Bockmiller, Development Review Planner/Zoning Administrator, were present to continue the discussion on revisions to the Land Management Code (LMC).

The Mayor and City Council discussed the proposed amendments during the meeting on July 10, 2012. Staff presented a list of benefits to the community. The discussion during the meeting centered on the Quality of Life benefits.

Some highlights include: anti-clustering provision in the D-MU for bail bonds and parole/probation offices, minimum requirements for commercial bus stops and terminals, prohibiting use of semi-trailers and sea-containers for long-term storage purposes, allowing public parks in all zoning districts, requiring landscape buffers around vehicle impound lots, adding regulations for mobile homes, updating demolition by neglect provisions for Historic Districts, allow front yard fences in residential districts if no more

than 3 feet in height, provisions for review of cemeteries found on new development sites, allowing social service industries in IR and IG and updating the Floodplain Management ordinance to follow new MDE model.

Councilmember Easton asked about the regulations for temporary signs. Mr. Bockmiller indicated temporary signs are allowed to be used long-term if used for fundraising purposes.

Councilmember Haywood asked if the amendments would prohibit the Hagerstown Suns from having digital signs. Mr. Bockmiller stated language is included in the amendments to regulate digital signs because drivers can be distracted by the signage. Digital media is being added to the list of regulated, acceptable signs.

Councilmember Breichner asked about the definition of long term storage. Mr. Bockmiller stated there is no time limitation at this point. The use of sea containers is regulated within the Code. Councilmember Breichner suggested that long term storage be defined as 6 months.

Councilmember Haywood asked about the requirements for mobile home parks. Mr. Bockmiller stated the proposed amendments only allow mobile home parks in the R3 zoning district. Councilmember Haywood believes there should be design standards equal to those for businesses.

Mr. Bockmiller stated there are regulations suggested for bail bond companies.

Mayor Bruchey asked why the height limit for front yard fences is not 4 feet instead of 3 feet. The Planning Commission felt a 3 foot fence would be more ornamental in nature, which should be the intent of a front yard fence. Councilmember Metzner stated this is a considerable recommendation from the Planning Commission.

Councilmember Easton stated it will be good to have regulations for yard sales. He asked if expanding the floodplain maps will make it difficult for residents to purchase flood insurance. Mr. Bockmiller stated FEMA has not updated the floodplain maps for several decades. The new ordinance will limit new development and dictate how property can be developed in floodplain areas.

A Public Hearing before the Mayor and City Council for the proposed amendments is scheduled for July 24, 2012.

#### Pavement Preservation Program

Rodney Tissue, City Engineer, was present to discuss the Pavement Preservation Program. The goal of the program is to maintain City streets and parking lots at the highest level but at the lowest cost. Maintaining the streets is a core function of the City and street maintenance is one of the biggest capital investments that the City makes from the General Fund each year.

Spending on the program varies from a low of \$ 312,347 in FY 07 to an all time high

of \$ 840,000 in FY 10, which was assisted with \$ 404,000 in Federal ARA "stimulus" funds received as pass through from Washington County.

The cost of hot installed asphalt has increased from \$ 55 per ton in FY 07 to the current \$ 70.40 per ton in the current bid. Prior to FY 09, the City's only method of pavement maintenance was milling and re-paving. Since then, crack filling, patching and slurry paving has been added to the program. The City maintains about 111 centerline miles of streets. Approximately three to six centerline miles are treated each year.

The key to implementing preventive maintenance techniques and maintaining a pavement management program is developing and maintaining an inventory of pavement conditions. In the past, City staff drove the streets of the City and assessed the streets based on visual observation. However, the state of the art practice is collecting pavement data by using a mobile data collection system that collects the data and assists in managing the road assets and the pavement condition. This program is known as a Pavement Asset Management System. Staff is preparing a Request for Proposals from firms to complete this automated data collection for the City.

Staff continues to recommend that the pavement preservation funding be increased each year and that all of the State Highway User Revenue funds go toward the Pavement Preservation Program.

Staff is recommending the award of the pavement preservation contract to Craig Paving, Inc. in the amount not-to-exceed \$ 610,000. The list of streets include: Wilson Boulevard Overpass, South Walnut Street, Marshall Street, St. Claire Street, Hamilton Boulevard, Mercer Drive/Garst Court, Alley #2-80, Manila Avenue and Summit Avenue.

Councilmember Easton asked why slurry seal is not being used all the time. Mr. Tissue stated staff is monitoring several areas to see how it holds up over a few years.

Mayor Bruchey stated the bricks at the intersection of Franklin Street and Canon Avenue need to be repaired. Mr. Tissue stated the intersection is maintained by the State Highway Administration and he has reported the problem to them.

It was the general consensus of the Mayor and City Council to include the contract for pavement preservation on the agenda for July 24, 2012.

### Revised Investment Policy

Michelle Burkner, Director of Finance, stated over the last year, the Finance Department has worked to make revisions to the Investment Policy, which was last revised in July, 1996. The Investment Policy is a guide utilized by staff in the Finance Department and provides rules and guidance with regard to investing the financial assets of all funds except those that are specifically excluded by Mayor and Council action, restrictive covenants of a bond or other City agreements.

A summary of the changes are as follows:

1. A policy summary section was added to provide direction and clear goals.

2. Revisions were made to the investment objectives. Those revisions are intended to establish the city's priorities for the investment and management of public funds as they relate to safety of principal, liquidity and return on investments.
3. The Delegation of Authority section was revised. This section now formally recognizes that the authority to invest public funds is derived from the Maryland State Annotated Code. The Investment Officer is designated as the City employee with the authority to invest funds in compliance with all State statutes and City provisions. The Investment Committee member titles were revised to reflect departmental restructuring.
4. A table outlining the maximum allowed to be invested by investment type was added to section XI. Diversification. The portfolio shall be diversified to ensure reduction of overall portfolio risk.
5. The language for Section XII. Maximum Maturities was revised from "normally not to be for more than a year and never more than 18 months" to a maximum of 3 years from the date of purchase.
6. Removed the language restricting the investment amount to not more than \$1-1.5 Million in any one institution.

Councilmember Easton stated there is a better rate of return on longer term Certificates of Deposit. Ms. Burker stated the State requires that funds not be at risk. A long term commitment would reduce the City's ability to provide immediate funds for operating needs.

Councilmember Breichner asked if the reserve funds are in long term investments. Ms. Burker stated the cash balance is \$ 33,000,000. There are separate policies for the pension trust and other funds, which are restricted types of cash. This policy is strictly for unrestricted cash.

Ms. Burker indicated the City participates in the Local Government Investment Pool. Staff would like to be able to move money from this pool, as it is not a high earning investment.

The proposed policy will be discussed again in August, after the Mayor and City Council have had time to review the information provided.

Update on Leases: Hagerstown Neighborhood Development Partnership (HNDP) and Rhubarb House

John Lestitian, Director of the Department of Community and Economic Development, was present to discuss two lease extensions/amendments.

The lease with Hagerstown Neighborhood Development Partnership is a lease extension. The only substantive change is an adjustment to make the lease month-to-month. The Director of HNDP is aware of this proposed change. Staff recommends this change to give the City flexibility. The rent amount remains at \$ 1.00.

The Comprehensive Plan discourages offices in store fronts. Having offices locked into a year-long lease for \$ 1.00 affects the overall value of the property. Councilmember Metzner stated representatives from the Home Store have indicated the month-to-month lease is damaging to them. He suggested achieving the same goal with a year long lease with notice of termination clauses included. It was agreed to include a six month termination notice in the lease. Mr. Lestitian will work with legal staff to revise the lease.

The lease with the Rhubarb House is a second amendment to an existing lease. The substantive change is to continue the last negotiated monthly rent of \$ 600/month until February, 2013.

It was the general consensus to approve the changes as discussed.

### **CITY ADMINISTRATOR'S COMMENTS**

*Bruce Zimmerman, City Administrator*, had no additional comments.

### **MAYOR AND COUNCIL COMMENTS**

*Councilmember F. W. Easton* had no additional comments.

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

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

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

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

### **EXECUTIVE SESSION – July 17, 2012**

On a motion duly made by Councilmember A. C. Haywood and seconded by Councilmember F. W. Easton, 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 (Section 10-508(a) 1 (i)), to consider a matter that concerns the proposal for a business or industrial organization to locate, expand, or remain in the State, #4 (Section 10-508(a) 4) and to consult with counsel to obtain legal advice, #7 (Section 10-508(a) 7) at 5:53 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, Chief Arthur Smith, Rodney Tissue, City Engineer, John Lestitian, Director of Department of Community and Economic Development, Jill Estavillo, Economic Development Manager, Michelle Burkner, Director of Finance, and Donna K. Spickler, City Clerk. The meeting was held to discuss various personnel issues, appointments to the Hagerstown

Housing Authority, City Ethics Commission and the Hagerstown Redevelopment Authority, acquisition of downtown property and private investment in the downtown area. No formal action was taken at the meeting. On a motion duly made, seconded and passed, the meeting was adjourned at 7:26 p.m.

Respectfully submitted,

Donna K. Spickler, City Clerk

Approved: August 28, 2012