

WORK SESSION AND EXECUTIVE SESSION – MARCH 5, 2012

Mayor R. E. Bruchey, II called this Work Session and Executive Session of the Mayor and City Council to order at 4:07 p.m., Tuesday, March 6, 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 and City Clerk D. K. Spickler.

WORK SESSION – March 6, 2012

Joint Executive Session with Washington County Commissioners – Stadium Project Update

The following County Commissioners and County staff were present: Commissioner Terry Baker, Commissioner John Barr, Commissioner Ruth Anne Callahan, Commissioner Jeff Cline, Commissioner William McKinley, Greg Murray, County Administrator, Vicky Lumm, County Clerk and John Matriano, County Attorney.

Jeff Cline presented a t-shirt to Mayor Bruchey recognizing the March of Dimes March for Babies walk that will occur in late April, 2012.

Mr. Zimmerman provided a memo that summarizes the discussions of a Multi-Use Center.

The goal of the project is to create a Multi-Use Outdoor Sports & Events Center in Hagerstown's City Center at the intersection of Baltimore Street and Summit Avenue. This is more than a baseball stadium project. This is an economic development project and clearly an important catalyst for energizing downtown revitalization.

The benefits of such a project include:

1. Spurring downtown business investment and property revitalization
2. Bringing large additional numbers of people to downtown on a frequent basis, increasing foot traffic and business levels for downtown businesses
3. Retaining Single A Minor League Baseball in Hagerstown, recognizing the positive economic impact this business has in Washington County
4. Expanding entertainment and recreation events in the City Center consistent with the City Arts & Entertainment District
5. Growing business and economic activity consistent with the Shared Objectives for City Center previously endorsed by the Mayor and City Council and the County Commissioners
6. Retaining the Hagerstown Suns by providing a state-of-art facility and securing a long-term lease
7. Increasing attendance at Hagerstown Suns games as a result of a new and improved fan experience

The concept behind this project is creating new enthusiasm and energy within the community. In recent months, the community has been working collaboratively to create the vision and lay the foundation for this project. To date, there has been active

participation from various community members who have contributed their time and support toward this project. The City and the County have recognized this and each have contributed up to \$ 20,000 for a project feasibility study. Ripken Design is under contract to perform this work, which is being coordinated by the Washington County Industrial Development Corporation (CHIEF). In addition to City and County elected officials, the business community has expressed both interest and support in this effort to turn this project into a significant positive force for changing the economic vitality of City Center.

Moving forward, staff recommends that the City lead the project and coordinate the community's efforts with Jill Estavillo, Economic Development Manger, serving as the project manager. Ms. Estavillo, with the assistance of Bruce Zimmerman, City Administrator, will coordinate city staff in developing information, reports, and recommendations for future Mayor and City Council discussions.

The City recommends formalizing a Project Committee. The City will provide leadership to create efficiency and to ensure that the range of work of the committee is coordinated. Staff envisions the role of the project manager includes the following:

1. Convene Project Committee meetings
2. Serve as central gathering point for information
3. Maintain a project action list and timeline
4. Deliver regular project status reports
5. Coordinate response to media inquiries

To make this project happen will require "all hands on deck". The support and active involvement of the County government, State government, business leaders and other members of the community will be critical. It is staff's recommendation that the Mayor and Council and County Commissioners meet regularly in joint session for project updates. This will provide useful information to all local elected officials on a regular basis, and provide both bodies the opportunity to make informed decisions. In addition, staff would request that the County Commissioners authorize County Administrator Greg Murray and other County staff to continue to actively participate in the information gathering, financial analysis, and evaluation of project feasibility that will occur in coming weeks.

At this time, it has not been determined whether the project is feasible. However, the City of Hagerstown and Washington County have the opportunity to further a significant economic development project that, if feasible, will bring much needed pride, vitality and economic activity to the community.

Commissioner McKinley asked how soon The Ripken Group will be presenting their study. Mayor Bruchey stated it may be within two weeks. He anticipates some information will be provided prior to the complete report. The report should be completed by the end of March, 2012.

Councilmember Metzner asked if the timing of the report fits with Mr. Quinn's time frame with Winchester, Virginia. Mayor Bruchey indicated it does.

The Mayor and Council agreed that the County Commissioners and staff need to be involved in this project.

Commissioner McKinley stated the County will look to the City for direction, since the City is taking the lead on the project.

Councilmember Haywood stated they have not discussed the impact on traffic. Mr. Zimmerman indicated a traffic analysis has not been completed. However, a study will have to be done at some point.

Councilmember Easton asked if the Ripken Group will be developing a project timeline. Some of the things to be discussed for the dream to come true are land availability and potential partners.

Mr. Zimmerman stated they would create a schedule of next steps and a timeline. The report will provide a road map for moving forward if that is the chosen direction. Mr. Murray indicated the Ripken Group will serve as a repository for the information as well.

Councilmember Haywood asked if it would be a group that would be managing a new stadium. Mayor Bruchey indicated the lease would dictate the management of the stadium. The current lease states Bruce Quinn manages the stadium. He believes a professional manager will be necessary to coordinate all the activities he envisions at a multi-use facility.

Councilmember Brubaker indicated potential financing could determine the outcome for a multi-use facility.

Councilmember Metzner stated the Council was informed that a decision on a new stadium in Hagerstown would end the discussions between the Suns and Winchester. Mayor Bruchey stated the information has to be gathered and reviewed in order to make an informed decision.

Councilmember Metzner attended a show at a theater in Salisbury that was constructed and operated by the County. Maybe this could be a model for a facility in Washington County. He stated having the vision and courage to say yes to a project is difficult, but someone has to have the courage take a stand. He hopes the discussions will continue with the Board of Education about locating the central office downtown. That idea has been discussed for ten years. Mayor Bruchey stated a committee is gathering information about the Board of Education project.

Councilmember Metzner thanked the Commissioners for the good working meetings that have been held recently.

Commissioner Callahan stated what she calls corporate courage will manifest itself from one project to the next. Both groups have to have the courage to work on projects.

Commissioner McKinley stated seeing the project through for the community would be good. He feels the positives will far outweigh the snags in the road. He mentioned a

quote, “Never let perfection be the enemy of good.”

Councilmember Easton stated it would be good for the City and the County to continue working on projects jointly.

A joint meeting will be scheduled as soon as the study is complete.

Renewal of Enterprise Zone

Jill Estavillo, Economic Development Manager, Kathleen Maher, Planning Director, and John Lestitian, Director of the Department of Community and Economic Development, were present to discuss the Enterprise Zone. 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 redesignation of the Enterprise Zone for a period of ten years from December 14, 2012 to December 14, 2022.

The County Commissioners and the Mayor and Council submitted a joint application to the Maryland Department of Business and Economic Development for the establishment of an Enterprise Zone in 1992. The Enterprise Zone was designated on December 14, 1992 for a period of ten years. In 2002, the County and City achieved the redesignation of the Enterprise Zone for a period of ten years.

The Enterprise Zone provides property tax credits for construction or rehabilitation investments and provides income tax credits for job creation. To qualify for the Enterprise Zone benefits, a business must be located within the zone and meet the minimum requirements for construction/rehabilitation investment or job creation. The Enterprise Zone incentives are available to commercial projects only.

Within the Enterprise Zone, there are 25 properties currently receiving property tax benefits, 21 of which are located within the City. The City proposes to expand the Enterprise Zone in four key areas:

1. City Center – The expansion proposes the inclusion of the entire Downtown-Mixed Use (D-MU) Zoning area. This will also include the entire PEP zone.
2. Rail Corridors – The expansion proposes the inclusion of areas along major rail corridors where a number of major businesses have left, leaving behind vacant and/or deteriorating buildings.
3. East End – The expansion proposes the inclusion of areas negatively affected by the relocation of Washington County Hospital. Vacancy rates have increased in this area as other medical related businesses have also relocated.
4. Additional – The expansion proposes the addition of three properties on the west side of the city, annexed in recent years, which would fall between the existing enterprise zone areas in the County and the proposed expansion. This creates a contiguous zone.

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

1. Hopewell Valley – This area encompasses the County’s economic development target area west of I-81 which is focused on Hopewell Road.
2. Hump Road – As part of the current Urban Growth Area Rezoning proposal, all of the properties along Hump Road that are currently zoned Agriculture are proposed to be rezoned to Industrial General.

The Partners in Economic Progress (PEP) boundaries are nearly all within the existing Enterprise Zone, and the PEP program requires commercial projects to participate in the Enterprise Zone where applicable. The PEP program incentives include an annual grant equal to the city property tax for 5 years, after any other tax incentives have been deducted. The Enterprise Zone incentives are deducted.

In order to meet the April 15, 2012 application deadline, staff proposes holding a public hearing on March 20, 2012 and adopting the resolution on April 3, 2012. The Washington County Commissioners are expected to hold their public hearing on March 20, 2012.

It was the general consensus to move forward with the process for submitting a joint application for redesignation of the Enterprise Zone.

Proclamation – American Red Cross Month

Mayor Bruchey read a proclamation naming March as American Red Cross Month. Julie Barr-Strasburg accepted the proclamation.

Pangborn Rezoning

Kathleen Maher, Planning Director, John Lestitian, Director of Department of Community and Economic Development, and Alex Rohrbaugh, Planner, were present to discuss the Pangborn rezoning request.

Since the December 6, 2011 Work Session when the Mayor and City Council discussed what was presented at the November 22, 2011 public hearing on the Pangborn rezoning and heard from the City Attorney on the merits of the applicant’s legal arguments, the applicant submitted an amendment to their application, dated January 20, 2012, to withdraw their argument for change in the character of the neighborhood as grounds for the rezoning. Their submittal indicated they intend to proceed with their rezoning request based on their mistake argument. On February 17, 2012, the applicant submitted a letter indicating their desire for the Mayor and City Council proceedings to continue without a diversion to the Planning Commission for further deliberations.

Consideration of court cases presented by the applicant’s attorney and the City attorney in support of the arguments as to whether a case has been made that a mistake in the comprehensive rezoning was made on the Pangborn property.

A submittal from the City Attorney was presented to the Mayor and City Council that includes the court cases cited by the applicant in favor of their arguments for mistake and

the court cases cited by the City Attorney in opposition to the applicant's arguments for mistake. The applicant's application, which outlines their legal argument for the rezoning, and the Planning Commission's findings of fact for their recommendation in favor of the rezoning were also presented.

Planning staff defer to the City Attorney on the legal merits of the applicant's presented case. If the Mayor and City Council determine that an adequate case has not been presented that either a mistake was made in the comprehensive rezoning or that POM is the appropriate new zoning, staff would recommend voting this request down and requesting the Planning Commission to review the appropriateness of the land use recommendation for the property as a future Comprehensive Plan update activity.

Councilmember Metzner stated the City designated the zoning on the property based on the request from the applicant. Therefore, there was no mistake made in the original zoning designation. There may have been a mistake by the applicant in requesting the zoning, but not from the Mayor and City Council.

Councilmember Brubaker asked if a zoning designation was recommended to the applicant or if the applicant recommended the zoning. Ms. Maher indicated the Board suggested a zoning classification and the applicant was very receptive to the designation. Councilmember Brubaker stated one option is to return the request to the Planning Commission for further review. The Planning Commission did not hear John Urner's arguments when they reviewed the request. Another option would be for the Mayor and City Council to take action on the request. If the Mayor and Council reject the request, he suggested asking the Planning Commission to review the property in the context of the current use.

Mr. Urner stated this decision is going to decide the merits of this case. Neither rejecting nor approving the request would prevent the Mayor and Council from studying this property in the comprehensive rezoning as a special area. Sending the request back to the Planning Commission would be out of the customary procedural chain for rezoning cases. There is no methodology to do that under Article 66 of the Annotated Code of Maryland or in the City's zoning ordinance. He understands the applicant does not want to have the request returned to the Planning Commission. The issue that is presented by this case is in the record of this case. The Mayor and City Council must decide if the applicant met his burden of proof of a mistake. If the Mayor and City Council find the applicant did not provide burden of proof, then the decision of what zoning to designate for this property does not come before the Mayor and City Council. If the Mayor and City Council find there is proof of a mistake, they could find there is a case for the POM Zoning classification.

Councilmember Brubaker stated a requirement for either change or mistake argument is that it must be fairly debatable. Mr. Urner stated there are tests laid down in the law for what kind of evidence is deemed fairly debatable. There are clear cases that are not probative on this issue. A zoning classification has strong requirements for evidence. A strong presumption that a legislative body determines in comprehensive zoning is correct. Mr. Urner stated, in his opinion, the type of testimony provided for a case of mistake in original zoning is not strong enough to find there was a mistake. The applicant did not

establish that commercial zoning is appropriate for the site. Nothing offered suggests that the Mayor and Council thought anything wrongly for the case. He believes returning the case to the Planning Commission will take time and perhaps negatively affect the applicant. He indicated Ms. Maher addressed how the property was perceived at the time of the comprehensive rezoning. The recommended classification was conceived under good planning review and the applicant was receptive to the classification.

Councilmember Haywood supports a decision finding there was no mistake made in the original zoning.

Councilmember Easton believes the City made a mistake in the original zoning.

Mr. Urner stated the Mayor and Council have to determine if a mistake was made in the original zoning. The applicant was agreeable to the zoning designated in the comprehensive rezoning. The applicant changed his mind within a few months of the comprehensive rezoning.

Councilmember Breichner stated a mistake was not made.

Councilmember Brubaker will vote in favor of the rezoning. The applicant has stated the rezoning will permit economic development and improvement.

Mayor Bruchey stated there are three Councilmembers indicating there was no mistake made in the original zoning and two indicating there was a mistake made.

Jason Divelbiss, Representative for Pangborn Corporation, stated he does not believe the argument for mistake was characterized correctly.

Councilmember Brubaker stated the zoning issue should go back to the Planning Commission as an administrative matter. The Planning Commission should then make a recommendation for the zoning.

Councilmember Easton asked if the land owner would be included in a discussion with the Planning Commission. Mr. Urner indicated they would be.

Councilmember Haywood asked if sending the issue to the Planning Commission is admitting a mistake was made. Mr. Urner stated zoning cases are compartmentalized. The Mayor and City Council's proceeding on this matter is one step at a time. If the Mayor and Council determine they acted correctly in 2009 and did not make a mistake, there is no reason why the issue can't be reviewed in 2012 to see if there is something different in the area. Previous action (mistake determination) would not be a part of the review.

Councilmember Easton and Councilmember Metzner agreed with the recommendation to have the Planning Commission review the zoning. Councilmember Haywood abstained from a vote.

Mr. Urner will develop a written statement that carries out and supports what's been

decided during this discussion. The Mayor and City Council would vote on the statement during the March 27, 2012 Regular Session.

Mr. Zimmerman stated the statement will be included during the preliminary agenda review on March 20, 2012.

Councilmember Easton asked what appeal process would be available to the applicant. Mr. Urner indicated the applicant could appeal the Mayor and City Council's decision to the Circuit Court of Washington County within 30 days of the formal vote.

Councilmember Haywood wants information about how many permits were issued for commercial development projects on Eastern Boulevard during the time this case was being considered. She wants to determine how many professional, mixed use businesses had been started in that corridor.

Mr. Urner stated the information Councilmember Haywood requested cannot be included in the record of this case unless the public hearing is re-opened. Mr. Divelbiss stated he believes this information can be part of the case because it is available to the City.

East Avenue Park Concept

Rodney Tissue, City Engineer, and Jonathan Kerns, Community Development Manager, were present to discuss the East Avenue Park concept. In January, the Mayor and City Council reviewed the concept plan for creating a park at the properties at 101 East Avenue and 144 North Locust Street. At that time, the Council suggested that staff meet with the neighborhood to obtain feedback on the park design as well as a recommendation on the name.

Staff is requesting that the Mayor and Council endorse the following:

1. The selected concept plan.
2. Suggested name for the park.

Staff held a public meeting at the Otterbein Methodist Church on Thursday, February 23, 2012 and approximately 13 residents attended. In addition, feedback was received after the meeting. The consensus of the people that were in attendance is as follows:

- A. Park Design:
 - a. Concept 'A' is the preferred layout. This concept is a more contemporary approach.
 - b. No lights should be provided. The park should be closed from dusk to dawn.
 - c. A police camera is needed to view the park and the City should tightly supervise the park in the evening to be sure it is not misused.
 - d. The City should provide some tables, and provide signs regarding the park hours and ways to control dog litter. Trash collection is also important.
- B. Naming the park – Staff provided a list of potential names for the park and asked the public to offer their own suggestions. The consensus of the

neighborhood is that the park should be named in honor of Margaret Greenawalt and that a backup name would be Cramer Park.

- C. Schedule – If the Mayor and Council concur with the concept plan selected, the following is anticipated:
- a. Early May – Complete the demolition
 - b. March – July – Design and bidding
 - c. August – October – Park construction (majority by in-house Parks Division staff)

Councilmember Brubaker asked how the park would be closed. Mr. Tissue stated it will be posted as being open from dawn to dusk. Police officers and the roving park superintendent will monitor the park after closing.

Councilmember Breichner suggested low lighting at the back wall in addition to other lighting. Mr. Tissue stated infrastructure could be included in the construction phase. He recommended doing a lighting study after the building is removed.

Mr. Tissue mentioned that Margaret Greenawalt lived on Broadway for many years and was a prominent figure during the Civil War era. Councilmember Breichner suggested two other names for consideration: Mayberry Patterson (a leader in creating City Park) and Mr. Hess (Park Board member for many years).

Councilmember Brubaker stated naming the park in memory of Margaret Greenawalt ties to other activities that are being planned to raise awareness of Hagerstown's role during the Civil War.

It was the general consensus to name the park in honor of Margaret Greenawalt and to approve Concept "A" for the layout.

Civil War Railroad Trail Concept

Rodney Tissue, City Engineer, Alex Rohrbaugh, Planner, and Dick Cushwa, Bicycle Advisory Committee, were present to discuss a project. Dick Ebersole and Winslow Wheeler (Bicycle Advisory Committee) were also present.

The proposal is regarding a project to create a bicycle trail that eventually would go from Hagerstown's City Park to Weverton on the C & O Canal near the Potomac River. The trail will be 23.4 miles long. The Bicycle Advisory Committee made the same proposal to the Board of County Commissioners in February and the project appears to be gaining support.

No final decisions on this issue are required; however, the County plans to send a letter of interest to the State to initiate the first phase of the project which would be south of Hagerstown. They are asking that the City sign onto a letter supporting the overall project.

Land along the route of The Civil War Railroad Trail is owned by the Department of Natural Resources and CSX Railroad.

The economic impact of the Great Allegheny Passage Rail Trail is reported to have been more than \$ 32,000,000 in 2007 and more than \$ 40,000,000 in 2008. Various studies have shown that proximity to trails increases the market value of homes and reduces their sales time.

Washington County is already a popular cycling destination, thanks to its low-traffic rural roads, rolling terrain and historical attractions. The C&O Canal and Western Maryland Rail Trail have shown a positive economic impact on the Towns of Hancock, Williamsport and Sharpsburg. Construction of the Civil War Railroad Trail will be another reason for cyclists to visit and stay longer in Washington County, thereby increasing income and jobs in the county. It will also provide a safe means of recreation and commuting for county residents and their families.

Councilmember Brubaker asked how the group feels if mass transit comes to Hagerstown and is slated to be constructed at the trail. Mr. Cushwa stated the law allowing abandoned railroads to be converted to trails also allows the railroad to take back the trail.

Mr. Tissue stated the project will be completed in five phases. The first phase will take five years to complete. The project could be \$ 4,000,000. There is grant money available for these projects. Local funding may eventually be part of the plan, but not at this point in time.

It was the general consensus of the Mayor and City Council to sign a letter of support with Washington County for this long term project.

Mr. Tissue reported the City of Hagerstown has been awarded a \$ 60,000 grant to add additional bike lanes and bike routes in the City. There is no local match required for this grant.

Transportation Priorities

Rodney Tissue, City Engineer, stated each year the Maryland Department of Transportation (MDOT) staff and the Secretary of Transportation tour the State of Maryland to present planned transportation improvements and obtain priorities from the local jurisdictions. Recent state legislation now requires that the local jurisdictions submit their priorities by April. The actual tour will be conducted in late 2012.

Staff will send MDOT the priorities from the City elected officials. Staff offers the following items as their suggested priorities:

1. Highway User Revenues: Continue funding or increase
2. Eastern Boulevard Corridor Improvements – The City supports this Washington County led, multi-phase project that consists of a multi-modal transportation system connecting US Route 40, Maryland Route 64 and Maryland Route 60. Future phases include construction of new diverse routes to disperse traffic and reduce traffic volumes on State routes and the return of existing State intersections back to acceptable traffic operational levels of service. One such route is the construction of Professional Court

- extended.
3. Status of I-70 and I-81 planning studies and long-term improvements.
 4. Transportation Enhancement/Pedestrian Access Program: In cooperation with Washington County, the planning, design, construction, and funding for the proposed Civil War Railroad Trail, a 24-Mile Scenic Pedestrian and Bicycle Trail connecting the City of Hagerstown to Weverton in the southern portion of the County. This proposed project creates tourism, recreational opportunities, healthy living, and economic development opportunities in the community.
 5. The status of the Retrofit Sidewalk Program and Safe Routes to School Program which the City has used in the past.

The Washington County Commissioners sent a letter to the Secretary last week listing the priorities of the County.

Mayor Bruchey wondered why Highway User Revenue (HUR) is not on Washington County's priority list. He stated MML's one priority for this legislative session is HUR. He stated there would only be an increase in HUR if there is an increase in the State's transportation fund. This would have been the year to seek other revenues. HUR should not be the number one priority.

It was the general consensus to approve the transportation priorities, making Highway User Revenues number 2 and Eastern Boulevard Corridor Improvements number 1.

Councilmember Breichner mentioned traffic backs up on Burhans Boulevard regularly. Mr. Tissue stated the room to change traffic flow is constrained in this area; however, some changes have been made in the last two years.

CITY ADMINISTRATOR'S COMMENTS

Bruce Zimmerman, City Administrator, thanked the Mayor and City Council for their participation in and support of the State of the City presentation. Hopefully, everyone realizes the accomplishments of the City.

MAYOR AND COUNCIL COMMENTS

Councilmember F. W. Easton thanked staff for their work on the State of the City.

Councilmember A. C. Haywood thanked staff also. She appreciates the working relationship with the County Commissioners and County staff.

Councilmember L. C. Metzner thanked the Bicycle Advisory Committee for their work on the Civil War Railroad Trail project. There is a lot of excitement for this project.

Councilmember W. M. Breichner received thanks from the public for the State of the City presentation. He stated the Chamber of Commerce and Wright Gardner should be thanked for hosting and sponsoring the event.

Councilmember M. E. Brubaker thanked staff for the professional quality of the State of the City. He thanked all who attended the State of the City presentation today and for their interest in the City.

Mayor R. E. Bruchey, II thanked all staff who had a part in the State of the City. It was good to have many people in the community in the video. People need to stay united.

EXECUTIVE SESSION – March 6, 2012

On a motion duly made by Councilmember F. W. Easton 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 at 6:23 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, Rodney Tissue, City Engineer, John Lestitian, Director of the Department of Community and Economic

Development, and Donna K. Spickler, City Clerk. The meeting was held to discuss possible acquisition of several parcels of land. No formal action was taken at the meeting. On a motion duly made, seconded and passed, the meeting was adjourned at 6:38 p.m.

Respectfully submitted,

Donna K. Spickler, City Clerk

Approved: April 24, 2012