

73<sup>RD</sup> SPECIAL SESSION, WORK SESSION AND EXECUTIVE SESSION – JUNE 5,  
2012

EXECUTIVE SESSION – June 5, 2012

On a motion duly made by Councilmember M. E. Brubaker and seconded by Councilmember W. M. Breichner, the Mayor and City Council unanimously agreed by voice vote to meet in closed session to discuss (i) 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 3:05 p.m. in the Mayor's Office, 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, Jonathan Kerns, Community Development Manager, Rodney Tissue, City Engineer, Jill Estavillo, Economic Development Manager, John Lestitian, Department of Community and Economic Development Director, Michelle Burkner, Director of Finance, and Donna K. Spickler, City Clerk. The meeting was held to discuss various personnel issues and 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 4:25 p.m.

73<sup>RD</sup> SPECIAL SESSION – June 5, 2012

Mayor R. E. Bruchey, II called this 73<sup>rd</sup> Special Session, Work Session and Executive Session of the Mayor and City Council to order at 4:38 p.m., Tuesday, June 5, 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, and City Clerk D. K. Spickler.

On a motion duly made by Councilmember M. E. Brubaker and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to meet in Special Session at 4:38 p.m.

**Approval of a Resolution – Approval of the FY 2012/2013 Community  
Development Block Grant Annual Action Plan**

**Action:** On a motion duly made by Councilmember M. E. Brubaker and seconded by Councilmember F. W. Easton, the Mayor and City Council unanimously agreed by voice vote to approve a resolution approving the FY 2012/2013 Annual Action Plan for the Community Development Block Grant program, authorizing the Mayor to file an application for

financial assistance with the U.S. Department of Housing & Urban Development in the amount of \$ 661,780 for the Community Development Block Grant program, and further authorizing the Mayor to execute all other documents relating to the City's Community Development Block Grant program for FY 2012/2013.

**Approval of 60 W. Washington Street Contract Phase II Renovations – Milton Stamper Builders (Hagerstown, MD) \$ 469,000**

**Action:** On a motion duly made by Councilmember A. C. Haywood and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to approve the low bid of Milton Stamper Builders to complete the Phase II Renovation Contract for 60 West Washington Street at a cost of \$ 469,000. Phase II renovations will include three new entrances along University Plaza, a new corridor and common area with restrooms, two finished shell spaces ready for tenant fit out, and new HVAC, electric, plumbing, and fire suppression systems throughout the building. Funding for this project will come from reprogrammed bond funds in addition to State and Federal funding.

On a motion duly made, seconded and passed, the special session was closed at 4:40 p.m.

WORK SESSION – June 5, 2012

Councilmember Metzner reported the executive session topics were various personnel issues and a discussion about a significant private development in the downtown corridor.

Proclamation to Lt. Lawrence Angle II

Mayor Bruchey, II presented a proclamation to Lt. Lawrence E. Angle, II, who recently returned from his first tour in Afghanistan. Lt. Angle serves as part of the 25<sup>th</sup> Infantry Division in support of Operation Enduring Freedom. He carried flags from Maryland, Washington County and Hagerstown to various locations throughout his deployment. He returned all the flags to Mayor Bruchey. He also provided photographs of his unit with the flags in different locations.

Hagerstown Police Department – Civilian Awards

Chief Arthur Smith presented awards to civilians as follows:

Letters of Appreciation:

Carol Hann

Louise Dawson

Phil Nussesar

Certificate of Honor – Courageous  
Jessica Phenicie

Certificate of Honor – Invaluable  
Felicia Smiley

Volunteer Service Awards  
Auxiliary Police  
Citizens on Patrol  
Victim Witness Unit

### Proposed Pit Bull Ordinance

Police Chief Arthur Smith presented a proposed pit bull ordinance. Paul Miller, Executive Director of the Human Society of Washington County, was also present. This reflects the City's response to a recent Maryland Court of Appeals decision which in effect finds that Pit Bull type dogs are more dangerous than other breeds. It also affixes strict liability for bites on both the owner and the landlord of the owner.

This ordinance requires certain safety measures be instituted for Pit Bull type dogs within the City. It governs how the dogs are confined at their place of residence and requires a leash and muzzle when in public. It would not require the seizure of the dog but would allow criminal charges to be placed against the person who owns or is in control of the dog. When appropriate, warnings would precede criminal charges.

Owners of Pit Bull type dogs can, by virtue of the temperament of their particular dog, avoid being covered by this ordinance by having their dog successfully evaluated by the Mason Dixon Kennel Club (this can be done locally for a reasonable fee) and by having a chip installed in the dog (also available locally for a reasonable fee).

This consideration developed from complaints that people were intimidated by pit bulls not being on leashes. A dog would be much less intimidating if it had a muzzle and was on a leash. This ordinance would be City wide.

Councilmember Easton asked if the County is adopting an ordinance requiring measures for pit bull type dogs. Mr. Miller stated he has not heard if the Commissioners are considering a revision to the Animal Control ordinance.

Councilmember Easton asked why there is not a leash law for dogs in the City.

Mr. Miller stated muzzling could create problems if the handler is not properly trained. Muzzles won't stop bites within the family. San Francisco successfully reduced the pit bull population and the number of bites reported by requiring spaying or neutering of all pit bull type dogs. The Humane Society supports a County wide leash law.

Councilmember Haywood asked if a full body harness would be more effective than a muzzle. Mr. Miller indicated some harnesses encourage pulling.

Councilmember Haywood stated the biggest issue is the street sale of pit bull puppies downtown. An important factor is the owner's understanding of their responsibility with the dog. She does not think a breed specific ordinance will be effective.

Mr. Miller indicated the Maryland General Assembly will be holding a hearing on a pit bull law on June 19, 2012.

Councilmember Metzner stated the ordinance being presented requires the dog to be leashed or muzzled. This appears to be an attempt to keep people from being intimidated by this breed of dog. It is not protecting people from harm. He cautioned this may not be the type of legislation the City should pursue. He supports prohibiting dogs running loose in the City. Chief Smith indicated enforcement would be difficult due to limited resources to track down people who are allowing their dogs to run loose.

Mr. Miller encouraged the Mayor and City Council to approach the County about a leash law. Councilmember Metzner wondered if a leash law could be passed for specific geographic areas.

Mayor Bruchey clarified the consensus is to support a leash law which makes the owner responsible for their dogs. Mayor Bruchey stated this discussion was prompted by his request to Chief Smith for ideas for ways to control nuisances. Part of the discussion was the fact that people don't clean up after their dogs. A mutt mitt should be on every trash can downtown.

#### Loan Program for Curbs and Sidewalk Notices

Rodney Tissue, City Engineer, was present to discuss curbs and sidewalks. In the past, the Community Development Block Grant program has funded a few loans for curb and sidewalk replacement. Funding for this program has been reprogrammed, so staff is suggesting that the following loan assistance be provided for curb and sidewalk replacements:

1. Provide up to \$ 30,000 annually for curb and sidewalk replacement loans.
2. No income eligibility requirements.
3. No credit requirements.
4. Loans would be issued at 5% interest.
5. The terms would be:
  - a. Less than or equal to \$ 2,000 – 2 years with monthly payments
  - b. Greater than \$ 2,000 but less than or equal to \$ 5,000 – 3 years with monthly payments
  - c. Greater than \$ 5,000 – 4 years with monthly payments
6. In the event the loans are not paid and the loan is defaulted on, a tax lien would be placed on the property. The Department of Parks and

Engineering would issue the notices and make citizens aware of the loan program and the Department of Finance would set up the billing of the loan repayment and tract payments to the City.

It was the general consensus of the Mayor and City Council to move forward with this program.

Memorial Park – Phase I Construction

Rodney Tissue, City Engineer, reported over the last year, staff has completed a concept plan, the construction documents, and obtained the various state and local permits for the completion of the Phase I of Memorial Park. Phase I includes grading, removal of the cover over the Marsh Run, initial landscaping, walking paths and signs. Subsequent phases will include a plaza and a possible memorial wall. Staff is planning to complete the Phase I work in-house, City Light will install the lighting system, and will only use contracted labor as necessary to do work that requires a professional license (electrical).

The budget for Phase I includes the following:

FY 11/12 fund balance	\$ 34,950
FY 12/13 proposed funds	<u>\$ 36,000</u>
Total	\$ 70,950

Funding for the materials for the project is 100% CDBG funds and staff time will be charged to the operating budget.

It was the general consensus of the Mayor and City Council to move forward on this project.

Land Management Code Amendments – Multi-family Design Standards

Kathleen Maher, Planning Director, was present to continue discussion on the Planning Commission's proposed amendments to the Land Management Code for multi-family design standards.

The Mayor and City Council held a public hearing on the proposed amendments on February 28, 2012. No one testified at the hearing; however in the 10 day period following the hearing, staff received three letters of opposition from the local development community: DynaCorp, Fox and Associates, and Divelbiss and Associates. The opposition focuses on the requirements that buildings be oriented to streets and parking be located to the rear of the structures. Opinions offered that flexibility needed to be left in the hands of the developers and that multi-family developments are stand alone and therefore do not need to be oriented to streets or be architecturally compatible with their surroundings.

On March 13, 2012, the Mayor and City Council discussed the testimony received while the record was open. While offering respect to the concerns about flexibility and unique characteristics of sites, staff provided the following alternative view point on the design of multi-family developments:

1. Multi-family developments should look like neighborhoods with a pedestrian orientation rather than more closely resembling office parks;
2. It is important to knit these developments into the surrounding fabric and transportation network of the community rather than isolating them;
3. It is important to design developments that engender affection in the residents of their "community" and not merely tolerance.

The Mayor and City Council requested that staff return with examples from other communities of the types of multi-family design staff is seeking to gain with the proposed amendments.

The type of design the amendments are seeking is often called Traditional Neighborhood Design (TND). Such developments have interconnected street networks (within the development and external to the development), buildings oriented to streets with strong pedestrian networks, mixtures of uses, parking hidden behind buildings and/or in garages or otherwise screened from view, and, where space allows, public amenity areas. Multi-family developments in Washington County follow the "conventional suburban model" which tends to isolate such developments on cul-de-sacs, orient the buildings toward parking lots, provide a very minimal and usually disjointed pedestrian network, and few if any "designed" open space/amenity features. Examples were provided in the power point presentation at the March, 2012 work session. The nearest well-known example of TND style development is Kentlands in Gaithersburg, Maryland. Portions of the Villages of Urbanna in Frederick County follow TND design principles.

Councilmember Haywood believes requiring the architecture to be compatible limits the growth and expansion of the City's architectural base. The diversity of architecture in Hagerstown is one of its greatest features.

Ms. Maher stated the requirements are currently in the Zoning Ordinance. If they were in the Land Management Code there would be greater flexibility.

Councilmember Easton would like clarification of the amenities plan. He wondered what the expectations would be for builders.

Ms. Maher stated amenities are not specific in order to provide flexibility.

Councilmember Metzner stated the Mayor and City Council are looking out for the best interest of the citizens with amenities. By these requirements, developers will be responsible for providing amenities.

Councilmember Brubaker stated that residential high density units can create situations with insufficient amenities.

Councilmember Haywood expressed her concern that good urban design is being discouraged in this process.

Councilmember Brubaker indicated this language allows the Planning Commission to review the amenities plan. Councilmember Easton wants assurance the amenity plan would not be stricter for private developers than for government entities. Councilmember Metzner stated he would hope that would be the case. Ms. Maher indicated everyone would be held to the same standards, no matter who owned the property. Councilmember Easton stated the City should protect the most vulnerable citizens.

If the proposed requirements for amenities were included in the Land Management Code, it would provide the flexibility that has been discussed. The Planning Commission can waive design standards on a case-by-case basis if the requirements are in the subdivision and land development ordinance.

Councilmember Brubaker stated the risk involved with this proposal is inconsistency and unequal treatment for developments.

A draft of the proposed amendments will be presented to the Mayor and City Council for their review.

#### Historic District Commission

During the Mayor and City Council Work Session of April 10, 2012, it was the general consensus to update the membership list of the Historic District Commission (HDC) and to maintain the HDC, but possibly with changes in the regulations. In addition, per Mayor and City Council direction, staff have received applications from both current members and other interested citizens to serve on the HDC.

Article 66B of the State Code outlines the provisions for the make-up of Historic District Commissions, the provisions for designation of historic districts and the provisions for historic design review in Maryland. The City's Land Management Code builds on enabling legislation. Article 2, Section B, of the City's Land Management Code builds on that enabling legislation and outlines the authority, duties, and composition of the City's Historic District Commission.

Mayor Bruchey indicated a discussion of whether or not to keep the HDC has already been held. Councilmember Easton thought this agenda item was to discuss the functioning of the HDC.

Councilmember Breichner stated he feels the board is a detriment to redevelopment to downtown Hagerstown. Rehabilitation and restoration of buildings is simply unaffordable for many developers. It is very expensive to rehabilitate an older building.

Councilmember Brubaker indicated there are provisions for hardship cases.

Councilmember Breichner stated that process is time consuming and cumbersome. Some buildings cannot be restored. Something drastic needs to be done because the downtown center is being demolished by neglect.

Councilmember Haywood stated the City has not restored the Alms House because it is too expensive. She agrees with Councilmember Breichner.

Councilmember Brubaker asked if the HDC is the obstacle. He recalled buildings were demolished in Rockville. The downtown was rebuilt and 15 years later it was demolished. It took a long time for Rockville to recover.

Councilmember Metzner wondered if the reason there is not redevelopment downtown is the HDC. No developer/owner has approached him stating this is the case. He asked for information about how many projects have been denied. He stated specific issues and cases could be discussed and resolved.

Councilmember Haywood stated an example of an owner not being permitted to renovate their property is the one on Oak Hill Avenue who spoke to the Mayor and City Council several years ago. She stated this is a procedural issue, not a personal one.

Councilmember Easton thought alternatives would be considered during this meeting. Councilmember Breichner and Councilmember Haywood stated they have not seen alternatives.

Mayor Bruchey stated he is concerned the HDC seems to be unable to look at the entire project. He is also concerned temporary advertising banners are not permitted on buildings in the historic district, i.e. the Discovery Station. The only recourse for appeal is through the court system. He believes the appeal process should include the Mayor and City Council. The HDC has approved more projects than they've denied. He wondered how the HDC could be incorporated into a redevelopment entity.

Councilmember Brubaker stated other communities are successful with rehabilitation within a historic district. He thinks one issue is that Hagerstown developers can't command the rent amount per square foot that they can in other locations.

Councilmember Metzner stated specific issues should be discussed and resolved, rather than discussing eliminating the regulations. Councilmember Haywood stated individual circumstances indicate the regulations should be reviewed.

Councilmember Brubaker stated the proposed amendments for the Land Management Code includes language making the HDC regulations less stringent.

It was the general consensus of the Mayor and City Council to review the applications and update the HDC membership.

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

*Bruce Zimmerman, City Administrator*, thanked staff, volunteers and the community for their support of the Blues Fest.

### **MAYOR AND COUNCIL COMMENTS**

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

*Councilmember A. C. Haywood* thanked all the volunteers and leaders in the community.

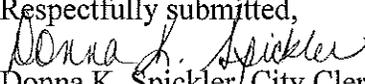
*Councilmember L. C. Metzner* also thanked volunteers and service members. He would like to discuss an elected official being an ex-officio committee member of the Hagerstown First Leadership Committee. This is a leadership group from Neighborhoods First. It was the general consensus that Councilmember Metzner should serve as the Council liaison.

*Councilmember W. M. Breichner* suggested having defibrillator units on the first and second floor of City Hall.

*Councilmember M. E. Brubaker* visited many small businesses in the area recently that manufacture unique products. Long term employment prospects remain an issue in the area. He thanked everyone who attended Blues Fest.

*Mayor R. E. Bruchey, II* thanked everyone involved with the Blues Fest. Businesses downtown were busy during the weekend. He attended the Mitch Akers Memorial at Hagerstown Suns Stadium on June 3, 2012. More than \$ 10,000.00 was raised during the event for a memorial scholarship fund. He stated the discussion on pit bulls stemmed from his concern about people being nervous when they see a dog downtown. He is concerned that people talked about being intimidated downtown. He asked people to be conscientious and clean up after their dogs as well.

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 6:41 p.m.

Respectfully submitted,  
  
Donna K. Spickler, City Clerk

Approved: July 24, 2012