

EXECUTIVE SESSION – January 10, 2006

On a motion duly made by Councilmember K. S. Cromer and seconded by Councilmember A. Parson-McBean, the Mayor and City Council unanimously agreed by voice vote to meet in closed session at 3:19 p.m. to consider a matter that concerns the proposal for a business or industrial organization to locate, expand, or remain in the State, #4, to consult with counsel to obtain legal advice, #7, to consult with staff, consultants, or other individuals about pending or potential litigation, #8 and 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. No formal action was taken at the session. The meeting was held in the Mayor's Office, 2nd floor at the City Hall. The meeting was adjourned at 4:27 p.m.

WORK SESSION – January 10, 2006

Mayor Richard F. Trump called this Work Session and Executive Session of the Mayor and City Council to order at 4:39 p.m., Tuesday, January 10, 2006 in the Council Chambers at the City Hall. Present was Mayor Trump, City Council Members K. B. Aleshire, K. S. Cromer, L. C. Metzner, P. M. Nigh and A. Parson-McBean, City Administrator Bruce Zimmerman, City Attorney John Uner, City Attorney William Nairn, and City Clerk D. K. Spickler.

Sale of Gamewell Alarm Boxes

Eric Deike, Manager of Public Works and Fire Chief Gary Hawbaker were present to discuss the sale of the Gamewell Fire Alarm boxes. There are currently ninety six boxes in the City's possession from the now defunct public alarm system. These boxes can be made available for sale. Staff believes there will be more interested buyers than available alarm boxes.

Beginning in 2004 and completed in 2005, the Gamewell Fire Alarm system was shut down. Most of the pull boxes mounted on private property were given to the property owners with the responsibility of removing the boxes and associated wiring. Staff removed the remaining boxes mounted on city properties or in public right-of-ways. The boxes are in varying degrees of condition from those with very new paint to those that need painted. Many of the boxes still contain the gear mechanisms. Staff only owns a few keys. The majority of the boxes would be sold without a key.

Staff recommends that a lottery system be implemented to determine who will be able to purchase the available Gamewell alarm boxes. The Hagerstown Fire Department would oversee the lottery whereas interested buyers would receive a ticket to be drawn at a later date. Each interested party would receive one ticket. The boxes would be sold "as-is" for \$ 100.00 each. The ninety six boxes would be divided into two categories. Seventy five percent of the boxes

(72 boxes) would be available for sale to current City of Hagerstown Fireman, retired city firemen and volunteer firemen. The remaining twenty five percent (24 boxes) would be available for sale to current city employees, retirees, city residents, current city public officials, and former city public officials.

Councilmember Metzner suggested using the alarm boxes as awards for dedicated fire and police employees. He suggested having the people in the emergency services departments determine how to present them.

Chief Hawbaker stated there are many current firefighters and retired firefighters that would like to have one of the boxes. He stated it would be difficult to start handing out boxes and possibly miss someone. The award should be a new one.

Mayor Trump suggested that these would be named as a special recognition.

Councilmember Nigh stated one box should be auctioned off to bring some money back to the City. She suggested selling ticket for the one box. She pointed out that some people were promised one of the boxes but they never received them. The number of people promised a box is uncertain.

Councilmember Aleshire suggested auctioning ten of the boxes. If there is a lot of public interest, they could possibly auction more.

Chief Hawbaker suggested holding a lottery for ten of the boxes and save the others for the Firefighter of the Year or the Chief's Award.

Councilmember Aleshire suggested that tickets be sold at the bonanza being held by IAFF 1605. After some discussion, it was agreed that tickets would not be sold. People interested in a box would submit their names and a drawing would be held. The winning ticket holders would pay \$ 100.00 for the box at that time. Councilmember Aleshire wants to make sure people can submit their names at the bonanza.

It was the general consensus of the Mayor and City Council to hold a lottery for ten of the Gamewell Alarm Boxes and sell them for \$ 100.00 to the winning ticket holder. Seventy five percent of the boxes will be available to current City of Hagerstown Fireman, retired city firemen and volunteer firemen. The other twenty five percent will be available to current city employees, retirees, city residents, current city public officials, and former city public officials.

Maryland State Department of Education Summer Food Program Presentation

Bruce Schenkle, Program Specialist, and Robin Zeigler, Branch Chief, both of the School and

Community Nutrition Programs Branch of the Maryland State Department of Education, presented a certificate of appreciation to the City of Hagerstown and the Washington County Community Action Council (CAC) for the Summer Food Program. The program provides nutritious meals to children during the summer months at the City playgrounds and other sites when school is not in session.

David Jordan, CAC Executive Director, and Sherry Neil, CAC Summer Food Program Administrator, discussed the program. The CAC is requesting that the City of Hagerstown increase the budget from \$ 7,500.00 to \$ 9,500.00 to allow for the expansion of the Summer Food Service Program (SFSP). CAC currently has 7 sponsored sites and 1 organization expressing interest in participating in the program. Although the number of children attending the program has increased, the State feels that not all children who are eligible for the program are being reached. Each year it is the program's goal to increase the number of children receiving a lunch during the summer.

Since 1989, CAC has partnered with the City of Hagerstown to provide the SFSP. The program operated for 8 weeks from June 20, 2005 through August 12, 2005 offering lunch and activities to the children of the City of Hagerstown. The lunches are free to anyone 18 and younger and the activities are sponsored by the YMCA, Wheaton Park (Memorial Rec), and the Boys and Girls Club of Washington County. The City of Hagerstown also provided approximately \$ 50,000 in support to the YMCA, Girls, Inc. and Memorial Rec for the summer programs they operate. Girls Inc. did not participate in the Summer Food program last year.

Every year CAC has received a successful monitoring review from MSDE. As a result of changes in the administration of the program, it was a requirement that USDA monitor the program this year. The feeding locations and program administration were successfully monitored by MSDE and USDA on two separate occasions. USDA indicated that CAC has a model program that should be utilized as a training site.

The program operates on a reimbursement basis. CAC submits a claim for the reimbursable lunches consumed and the actual costs associated with operating the program during the month. The City of Hagerstown pays the difference between the State Reimbursement Rate and the Board of Education cost per lunch. The City also reimburses the costs for leftover lunches and children receiving second lunches. CAC continues to work with each site to create ways to keep the leftovers to a minimum.

Customer Service Staffing

Ray Foltz, Assistant Finance Director, and Nelia Tidler, Billing and Customer Service Supervisor, were present to discuss the need for an additional Customer Service Representative. This additional staffing was not budgeted for in the current fiscal year, but Staff firmly believes

this is necessary to continue to meet and exceed the customer needs.

The Customer Service function is the front line face of the City of Hagerstown in providing services to the citizens and rate payers such as:

1. Establish and manage utility accounts including connection, disconnection of service, resolution of customers' complaints and questions on bills
2. Process payments of water and sewer connection fees and benefit charges to post payments to correct accounts
3. Provide information to mortgage/settlement companies regarding water/sewer account and update records accordingly. The number of requested have increase from ten per week to at least twenty per day.

At one time customers accepted that they must deal with government in person and pay by cash or check. Today, that is not an acceptable level of customer service. Accordingly, the City has expanded how customers can do business with the City. Beginning in 2004, customers were allowed to pay automatically with deductions from their checking accounts. Last April, customers were allowed to pay by credit card, by phone and through the internet. These additional payment options improved customer satisfaction but placed additional customer service demands on the Customer Representative.

In addition, the tremendous growth in development and property transfers in the community is having an impact on this operation, as well, as the Planning and Zoning and Permits and Inspections Departments. There has been a dramatic increase in the number of accounts added each month and in the number of property transfers and mobility of the renters within the rental units throughout the City.

The Department tried to address these increased customer service demands by re-hiring one of the retirees as part-time help in July, 2005. In August, 2005, temporary help was utilized. Since then, three temps have been trained but for various reasons they have not been with the City on a long-term basis. Training and re-training temporary help is costly and inefficient but was a quick partial solution.

The following goals and challenges will require extra staffing:

1. Continue to meet and exceed the customers' expectations of prompt, effective and efficient customer service.
2. Replace Utility Billing System – It is anticipated that the City will migrate from

the HP3000 platform by January 2007. Migration to another platform is not an option for the City, as support for HP3000 was discontinued in October 2004.

3. Provide added services to customers
4. Additional internet based/online application, account inquiry and other customer service needs.

To meet the City's mission of providing superior services, Staff is recommending hiring an additional Customer Service Representative to reduce the need for temporary staffing. Funding of the new position will be shared by the Light, Water and Sewer Funds and General Fund. Estimated cost for this IBEW union position for fiscal 05/06 is \$ 16,000.00.

Councilmember Aleshire asked if renovations would be needed for the department to accommodate an additional person. The Customer Service counter is set up for four people and no alterations would be necessary.

Councilmember Metzner pointed out that this position would not involve a large amount of general fund money. Most of the cost will be covered from the electric and water/sewer budgets. He stated he thinks the additional staff is appropriate, based on the amount of service customers expect.

Councilmember Cromer wondered why the position couldn't be considered as part of the new budget. Mr. Foltz indicated the department needs to start developing a process for a new utility program now in order to have it completed by January, 2007. Ms. Tidler needs to be available to assist with this. At this time, she is helping wait on customers and is not available. There are a number of technological issues to be addressed. Councilmember Cromer asked if that would be more of an Information Technology (IT) issue. Mr. Foltz indicated that Scott Nicewarner, IT Manager, will be working with the Customer Service Department. Councilmember Cromer stated as technology increases, the need for staff is decreased. Mr. Foltz stated the technological features are not in place yet and they need to develop the programs.

Councilmember Cromer asked how many supervisors are in the Customer Service Department. Ms. Tidler stated there are the billing coordinator, the billing and customer service supervisor, and the Customer Service Department supervisor. Councilmember Cromer stated there seems to be enough supervisors.

Mr. Foltz stated the largest investment in developing the process is the "people" time needed to develop the new programs and services.

Councilmember Aleshire asked when the number of customer calls changed. Ms. Tidler

stated there was an increase in the number of customer contacts in 2005. Mr. Martin indicated that the customer wants the convenience of technology. Mr. Zimmerman there are more utility accounts and more customers.

Councilmember Cromer stated it seems to her that if a customer can make a payment on-line, it should free someone's time. Mr. Martin stated the department is trying to enhance the ability to serve the customers better. At this time, all the information is taken over the telephone. Mayor Trump stated a staff person is needed to handle the transaction and the technology.

Councilmember Metzner stated he would not want to have customers call the City and never get to talk to a person.

Councilmember Parson-McBean asked if the job is getting done now. Ms. Tidler stated everyone in the department has to stay beyond their quitting time just to be able to keep up with the demands. Councilmember Parson-McBean asked if the customers are being served right now. Mr. Foltz stated they try to go above and beyond to serve the customers and they want to continue to improve service.

Councilmember Parson-McBean asked if temporary employees could be used for five months, until the next budget is passed. She stated she has been hearing it is better to use temps with the intent they may become City employees and now she is hearing the opposite. Ms. Tidler indicated the system is complicated and is a lot to learn. Four people have been trained but none have stayed.

Councilmember Metzner pointed out that it is very unusual to have staff, from the supervisory level to the union level, all say an additional person is needed.

Councilmember Parson-McBean stated she wants to know that one additional person is going to make a difference in the number of complaints she receives on a regular basis.

Mr. Foltz stated a new person could be trained within six to eight weeks after being hired. A new software system will include features for dealing with customers online.

It was the general consensus of the Mayor and Council to approve an additional Customer Service Department employee. They also agreed to start advertising for the position now, prior to the formal approval scheduled for January 31, 2006.

Harrison/Howell Road Rezoning and Traffic Discussion

Rodney Tissue, City Engineer, was present to discuss the Harrison/Howell Road Rezoning request. The Harrison/Howell Road Rezoning was last discussed at a Mayor and Council

meeting on October 11, 2005. At that meeting, the Mayor and Council indicated that prior to reaching a final decision in the request to rezone 28 acres from IR to R2, staff should return with additional information on traffic issues and the construction of Paul Smith Boulevard. Staff met with the applicant several times to discuss Paul Smith Boulevard and the issues surrounding its construction and the proposed rezoning.

The developer has completed a Traffic Feasibility Study that compares development based on the current zoning (assumes the trend of medical offices would continue on this property) versus the proposed residential development scenario if the land is rezoned. The Traffic Feasibility Study indicates the proposed residential rezoning of 180 units will generate less traffic than the medical offices that can be built under the existing zoning. (morning peak hour 893 vehicles for medical; in comparison 180 condominium units morning peak hour would be 83 vehicles)

As a result of review, staff is recommending the following comments and conditions:

1. A condition of the site plan or rezoning approval for the residential units should stipulate that Paul Smith Boulevard be constructed within a 100 foot right of way from Howell Road to Route 40 consistent with the City's long range plans. The developer must be able to obtain an access permit from the State Highway Administration (SHA) for Route 40 to fulfill the plan as shown. At this new intersection, the developer must fund and construct any improvements on Route 40 required by SHA, including a traffic signal. Two lanes of Paul Smith Boulevard shall be built by the developer in conjunction with the residential development. Paul Smith Boulevard will likely need to be widened by developers to four lanes when the road is completed from Alternate 40 to Route 40.

With this initial construction of Paul Smith Boulevard, a connection from Howell Road to Route 40 (near the Four Points) will be provided. This new road will reduce the volume of certain traffic movements at Edgewood Drive and Route 40, even with the additional 180 units of residential development. However, the traffic volumes for other movements will increase at this intersection due to the new development.

The widening project at Edgewood Drive and Route 40 being contemplated by the State, County and the City should be completed, or at least under construction, prior to the proposed residential units being occupied. This appears to be a workable requirement with the developer's timeframe.

2. An assessment district should be established by the City for the Harrison Farm to collect funds towards the improvements of Edgewood/Route 40 and Mt. Aetna/Route 40. This development is a potential source of private revenue to

fund needed improvements on Edgewood Drive and Route 40 in lieu of tax funds.

3. While the scope of the Traffic Feasibility Study may be adequate to address specific concerns of the City Council regarding the re-zoning of the site, a more comprehensive traffic impact study addressing all affected intersections will need to be completed at the site plan and subdivision review phase, to fully assess the traffic impacts of the proposed development, especially when the medical offices are proposed.
4. The driveways (for the units associated with the proposed rezoning) must access via new local streets to Paul Smith Boulevard (and not Howell Road) to justify why the trips are using that road in lieu of Howell Road as claimed in the study. In other words, the City wants to do all they can in the design so that the new residents use Paul Smith Boulevard in lieu of Howell Road.
5. Without actual hourly counts on Edgewood Drive near the proposed intersection with the Paul Smith Boulevard, any conclusions drawn from the cursory traffic signal warrant analysis cannot be verified.

Councilmember Aleshire asked if the development that is occurring right now is consistent with the traffic generation numbers reported here. Mr. Tissue stated the numbers are consistent with the study.

Councilmember Metzner stated he wanted to make sure the road was built, prior to development and that seems to be the direction the developer is following. Councilmember Cromer agreed.

Councilmember Aleshire stated he wants Edgewood Drive to be improved before development as well. His goal is to protect the economic areas and this is the largest in the City. This is a goal for the Economic Development Commission as well.

Councilmember Metzner stated it would be good to move forward with the Mt. Aetna connection when Paul Smith Boulevard is completed to Interstate 70.

Mr. Tissue stated the owners will try to purchase three properties and would like to have that cost taken off the development fees. He hopes the whole intersection project would be set up as a longer term.

Councilmember Aleshire stated he believes the land should be developed differently. He thinks it is inappropriate to rezone to residential strictly for the sake of adding more residential units. Councilmember Metzner asked why Councilmember Aleshire is opposed to residential

development in this location. Councilmember Aleshire stated this is one of the best places for higher economic development. Councilmember Aleshire asked how the infrastructure would impact future rezoning requests, based on a change in the character of the neighborhood. Mr. Urner stated he thinks it would be unlikely that a rezoning in this area will be based on a change in the neighborhood. Mr. Urner indicated he thought the Council may be setting a precedent if they rezone this 28 acres and then rezoning requests are made for the balance of the land.

Councilmember Aleshire stated the Council needs to consider whether or not they are more interested in providing housing for commuters or in providing economic opportunities for citizens.

Councilmember Parson-McBean is satisfied that the traffic study shows there will be congestion. She is not in favor of putting any development there.

Councilmember Nigh stated she would be in favor of industrial development. She understands that traffic will increase with any development that occurs.

Mr. Tissue pointed out that additional development can occur under the existing zoning. Residential development creates less traffic.

Jason Divelbiss, Attorney with Miller, Oliver, Baker, Moylan and Stone, stated commercial development would help to alleviate some of the traffic congestion.

Mayor Trump stated there will be additional information presented from the Planning Department at next week's work session regarding this rezoning request. Mr. Urner left the meeting at this time.

Snook Annexation

Kathleen Maher, Planning Director, and Stuart Bass, Comprehensive Planner, provided information regarding the proposed zoning of the annexation request reflected in the petition for the Snook Annexation. Mr. Bass stated a revised presentation has been presented to the Mayor and City Council for their consideration. The applicant's proposal for R1 zoning for the land North of MD 144 will permit single-family and two-family development which is consistent with the County land use plan recommendation for low density residential.

The applicant proposes IR zoning for the north portion of the land South of MD 144 and C2 zoning with some conditions on land use for the south portion of the property. The IR proposed zoning is consistent with the County land use plan recommendation for Industrial Flex. The petition states that after 5 years, the land will become zoned R2. State law prevents the City from granting the requested R2 zoning for a period of five years, because the County

Commissioners did not give their “express approval,” as the originally requested R2 zoning was substantially different from the County Land Use Plan recommendation. In Staff’s opinion, the proposed zoning of C2, with the proposed land use conditions, is consistent with the Industrial Flex recommendation in the County Land use plan for office parks, hi-tech communication and technology facilities, and minor commercial uses that support job centers. Legal opinion on this issue is that it is a judgment call for staff and the Mayor and City Council and not a legal matter.

In summary, the petition has been modified to reflect the proposal for R1 zoning north of MD 144, and south of MD 144, IR with a reversion to R2 after 5 years, and C2 zoning with conditions on the southern portion of this tract.

There are differing opinions regarding the proper language for the petition regarding the request for R2 zoning after the five (5) year time expires on the northern portion of the land south of MD 144. Comments from the Maryland Department of Planning stated that the property retained the County Zoning until the five (5) year period expired or at such time as the County Commissioner’s gave their approval. This process is also stated in a recent court case. This seems impractical, as the City has no means to administer a County zoning district in the City, since the County zoning ordinance has no jurisdiction within the City of Hagerstown.

Staff also consulted with Mr. Richard Colaresi, a land use attorney. Mr. Colaresi’s opinion is that if the County does not grant express approval of the zoning change, the property is annexed with a comparable zoning to the County Land Use Plan and then in 5 years the applicant may request rezoning through the normal process (“change or mistake” or comprehensive rezoning).

Finally, the experience of Myersville provides another approach, where if Fredrick County does not grant express approval of the zoning change, the property remains with comparable zoning upon annexation and is given the requested zoning in 5 years. Councilmember Aleshire could provide further guidance on how this alternative has worked.

In short, Maryland State law is sufficiently complex to allow for differing opinions. Staff would support either Mr. Colaresi’s approach or the Myersville approach if so desired by the Mayor and City Council.

Councilmember Metzner asked how the Council could responsibly consider approving a petition that guarantees the zoning will be granted after five years, which Mr. Colaresi indicates is illegal. He stated he would be in favor of approving the zoning in five years, but realistically, none of the present Council may be here in five years. He stated the owners of the property that is annexed would need to have faith that the Council would follow through with the zoning request at the end of the five years.

Mr. Zimmerman stated that different opinions were received from different municipalities, as

well as from different attorneys.

Councilmember Metzner would like something included in the petition that states the Council will approve the zoning, if it is legal to do so.

Councilmember Cromer would like to speak to Mr. Colaresi about his opinion. She stated she understands he is indicating the law is open to interpretation. Councilmember Aleshire stated Mr. Colaresi is saying it is not legal and the City is saying there is flexibility. Councilmember Cromer asked if the County Commissioners may reconsider their opinion. Mr. Bass stated nothing would change before it is necessary for the Mayor and Council to vote on the annexation.

Councilmember Cromer stated she understands the Council cannot give a future promise on a zoning designation but she believes other municipalities do it. Councilmember Aleshire stated he is aware of a similar occurrence, but the language in the resolution addressed the future zoning.

Councilmember Cromer asked what risks or liability the City would be subject to if the Council approved the future zoning. Councilmember Aleshire stated one possibility to consider is whether or not the County would take the City to court if the City moves forward.

Councilmember Aleshire recommended amending the petition to indicate the zoning would be changed at the end of the five year period.

Councilmember Cromer asked why this has to be decided at this meeting. Mr. Bass stated the petitioner is limited by time parameters and he must make a final decision by January 11, 2006.

Mr. Divelbiss stated the only option for amending the petition is that the City approve deferring the zoning until the five year period expires, or at such time that the County Commissioners reconsider and grant express approval. Councilmember Metzner asked if the Council was being asked to guarantee they would reconsider the zoning in five years. Mr. Divelbiss stated they are asking for a guarantee the zoning would be changed at the end of five years.

Councilmember Aleshire asked what concerns the Planning Department has about this issue. Mr. Bass indicated there is concern about the practical matter of having County zoning inside the City limits.

Mr. Divelbiss stated the petitioner has determined he isn't willing to proceed without some assurance that the required zoning will be granted at the end of five years. Kathleen Maher,

Planning Director, stated they did not ask for a legal opinion on taking in zoning that the City doesn't have that they can't administer.

Mr. Divelbiss proposed amending item 5 of the Annexation Petition to remove the sentence that states the property shall be zoned by the City IR (Industrial Restricted). Councilmember Cromer stated this would mean the Council would be voting on a zoning classification the City doesn't have. Councilmember Aleshire stated he doesn't think the county zoning should be mentioned in the resolution. Ms. Maher stated the property has to have some zoning. It cannot be annexed as R2 because the County has not granted express approval. Mr. Divelbiss indicated the County Commissioners made it clear they would entertain another request for express approval.

Mayor Trump asked if the Council was ready to vote on the amended petition. Councilmember Aleshire stated this is being amended in a way that the attorney said it could not be done. Councilmember Metzner said the worst case scenario is that the City gets sued and they say it is the petitioner's problem. He stated the people who should be most concerned are the petitioners.

Mr. Divelbiss indicated the petitioner would be willing to entertain a different amendment that would remove the statement that the zoning would be changed at the expiration of the five year period with no further action. Councilmember Metzner stated there a statement should be included acknowledging that the City agrees this is subject to Maryland Code Law.

Ms. Maher asked what zoning the property would have for the five interim years. Councilmember Aleshire stated if the County doesn't approve the zoning, it isn't approved for five years. It is up to the developer to come back and ask for consistent zoning or ask for rezoning; or go back to the county government. Ms. Maher suggested the revised Zoning Map show the zoning as R2, with a note indicating there would be no development for five years.

Mr. Divelbiss restated the revision to the Annexation Petition. The following changes will be made:

Deleted: Therefore, until the five (5) year period expires or the Commissioners grant express approval to the requested zoning, whichever occurs first, the portion of the Property located South of MD Route 144 and North of the line shown and described on Exhibit II extending from Insurance Way shall be limited to the uses specified in and contemplated by the "Industrial/Flex" land-use classification in the Washington County Comprehensive Plan (2002) and, as recommended by the City of Hagerstown Planning Commission, shall be zoned by the City IR (Industrial Restricted).

Upon the expiration of the five (5) year period or the grant of express approval by the Commissioners with no further action required by the City,...

Added: Therefore, subject to the terms and conditions of Maryland Code, Article 23A, §9(c)

The final paragraph of section 5 will now read: Therefore, subject to the terms and conditions of Maryland Code, Article 23A, §9(c), the portion of the Property located South of MD Route 144 and North of the line shown and described on Exhibit II extending from Insurance Way shall be zoned R-2 (Residential) with the use restrictions specified *infra* in Paragraph 6 of this Petition.

Councilmember Cromer stated she thinks will raise questions.

On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember

K. B. Aleshire, the Mayor and City Council unanimously agreed to meet in Special Session at 6:34 p.m.

15th SPECIAL SESSION – January 10, 2006

Adoption of Annexation Resolution – (Snook), Case No. A05-07

Action: Councilmember L. C. Metzner made a motion to adopt a resolution and petition of annexation for Todd M. Snook for property located on the west side of the City, north and south of Maryland State Route 144. The property to be annexed is 66.67 acres in size and is intended to be added to and made part of the adjacent municipal lands. This approval will be predicated upon the amended petition as set forth verbally today by the petitioner's counsel. Councilmember K. B. Aleshire seconded the motion.

Motion carried, 3-2, with Councilmember P. M. Nigh voting No and Councilmember K. S. Cromer abstaining from the vote.

On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember K. B. Aleshire, the Special Session was closed. A five minute recess was taken prior to continuing the Work Session.

WORK SESSION – January 10, 2006

William Nairn, City Attorney, was present for this portion of the Work Session.

BJ Custom Designs

Deborah Everhart, Economic Development Director, was present to provide information about BJ Custom Designs. BJ's Custom Embroidery is located at the intersection of South Burhans Boulevard, Sherman Avenue and Sweeney Drive in the Hagerstown Business Park. Five years ago, BJ's constructed and opened their business employing 10 people, today they employ 60 people and have outgrown their present building. They are requesting approval from the City to expand their existing building by constructing a 15,000 sq. ft. two-story addition. This addition will provide for an enhanced visual appearance along Burhans Boulevard and Sherman Avenue. The materials proposed will be stucco and glass. A proposed concept plan and an architect's rendering were presented for review.

BJ's Custom Embroidery has requested two setback variances from the Board of Zoning Appeals to be heard on January 18, 2006. The purpose of this presentation is to provide the Mayor and Council with information on a business located in the Hagerstown Business Park. No action is required by the Mayor and Council at this time.

Transfer of Land to the Boys and Girls Club

This item was removed from the agenda and will be discussed at a later date. Councilmember Metzner will be contacting the Rosen family (who donated the land) for further information.

Concept Plan for Land Near the Department of Public Works

Rodney Tissue, City Engineer, and Eric Deike, Manager of Public Works, were present to discuss a conceptual development plan for 3.94 acres of City owned property at 50 West Memorial Boulevard. Staff is seeking Council input on the plan and authorization to further develop rezoning, subdivision, and site plans for the subject property.

The City purchased the property at 50 West Memorial Boulevard (opposite Public Works and Bester Elementary School) in September 1996. At that time, the intention for the property was for the relocation of Community Rescue Service. These plans did not materialize and the property has remained vacant other than a portion for parking of Public Works and Water Department employees, twice annual Dumpster Program, and some minor storage of Public Works materials. Staff recognizes that the property is in a key location opposite the Public Works facility and could effectively meet the future needs of the Public Works Department. Another component of the project is the ability to subdivide off a portion of the land fronting South Potomac Street to develop income to fund a portion of the development plan.

The Development Plan includes the following components:

1. Department of Public Works Needs – The Plan shows that the project includes the construction of a 40' x 132', 9 bay equipment pole-building for storage of trucks, salt spreaders, and a wash bay, 41 space parking lot for employees, a salt dome and material storage area. This site would be accessed by a pedestrian bridge over Marsh Run for pedestrian access from the Public Works and Water Department facility. Vehicular access would be an improved road at South Potomac Street at the existing alley at the north end of the site. An estimate of the costs for the project is \$ 350,000 for the proposed building, \$ 175,000 for the salt dome and \$ 375,000 for the site work.
2. Community Development Properties – at the north end of the site, fronting South Potomac Street, the City (Community Development Department) owns four lots that are currently vacant. In order to develop these lots fronting South Potomac Street, the area would need to be re-zoned to an R2 designation, something the Comprehensive Plan endorses. With the construction of the new entrance to the Public Works facility, a small portion of this lot would have to be taken to provide the access. The land could be developed into 2 duplexes with an estimated market value of \$ 150,000, or 3 single family lots with an estimated market value of \$ 150,000 or 6 townhome lots with an estimated market value of \$ 240,000. Larry Bayer, Director of Community Development, endorses the overall project and is comfortable with the re-subdividing of the property as directed.
3. Other Building Lots - At the south end of the lot, fronting South Potomac Street, the residual portion of the 50 West Memorial Boulevard property could be developed as residential. In order to develop these lots fronting South Potomac Street, the area would need to be re-zoned to an R2 designation, something that the Comprehensive Plan endorses. The land could be developed into 2 duplex units with an estimated market value of \$ 150,000, or 3 single family lots with an estimated market value of \$ 150,000 or 6 townhome lots with an estimated market value of \$ 280,000.

Councilmember Parson-McBean would prefer the housing be workforce housing. Councilmember Metzner would prefer the housing be home ownership. Mr. Tissue stated the first step will be to move forward with rezoning the property.

City Administrator's Comments

Bruce Zimmerman, City Administrator, indicated one of the work session items next week will be to discuss a date for a budget retreat.

Mayor and Council Comments

Councilmember P. M. Nigh asked if it is possible to roll-over money into the next budget year from unused Council expense money. Mr. Martin indicated the allocation is not part of the budget but is an administrative action. Council can direct Staff to review the expense account policy and Staff would be happy to do so. Mr. Zimmerman stated a discussion will be scheduled for a work session in the near future. She expressed concern that the Councilmember who is to be the representative on the Community Rescue Service (CRS) board has not attended any meetings. There has been no communication from CRS to the Councilmember. She asked how much revenue from gaming the City receives. Mr. Martin will find out.

Councilmember Nigh stated she wants to make certain the State of the City will not be the same format as last year. The Chamber of Commerce has scheduled the State of the City and she will give the new director a chance. However, if it is confrontational again this year, her voice will be heard. She suggested that the City holds its own State of the City address.

She asked where the paint-out was held to remove graffiti as listed in the weekly report. She thanked Staff for the violations that were issued for mud on the road at the Hope VI project. Mr. Tissue stated the roads are in much better condition now. She stated she has been searching for the sign that sat on her desk for two weeks. It has been missing since December 2, 2005 and she would like for it to be returned.

Councilmember L. C. Metzner stated he agrees with Councilmember Nigh about the State of the City address. The City should have input into the format of the program. He doesn't think anyone here will tolerate the same format as last year. He stated there will not be smoke testing tomorrow, as scheduled. This will be discussed at a work session before any testing is scheduled. He hopes everyone had a happy holiday and a happy new year. He is looking forward to a good year working with everyone.

Councilmember K. S. Cromer thanked Robin Weedon for taking the time to write to her. She congratulated Sheetz for their new store on Pennsylvania Avenue. She received an email concerning the groups of people who gather in front of stores on E. Franklin Street. The writer was very concerned about the drug and gang activity that is occurring. She wanted to make sure the police are aware of this problem. She wants to make sure downtown is safe. She received a complaint about a parking ticket that was issued on December 26, 2005. Mr. Zimmerman indicated all tickets that were written on that day have been waived.

Councilmember Cromer discussed a workshop called TLC (from the National League of Cities (NLC)) which provides information for coaches nationwide. She suggested it would be wise to be aware of who is mentoring and coaching children. She will pass the information to the Parks and Recreation Department. She also has information from NLC about a brochure

geared toward economic success. She will provide the information to Mr. Zimmerman and Ms. Everhart. She stated she is very concerned about the number of empty buildings downtown. This issue has not been scheduled for discussion at a work session, even though several Councilmembers had requested it. She would like to discuss what the City is going to do about these empty buildings. They make the City appear unsafe. Mr. Zimmerman stated he understood the discussion would be about taxing the owners of vacant buildings. He has found that the City probably cannot tax the owners, but staff is gathering information from communities that have started a licensing program. Councilmember Parson-McBean would like an inventory of the vacant buildings.

Councilmember Cromer stated she doesn't think code enforcement is doing enough in the downtown on this particular issue. She stated she believes code enforcement is targeting the wrong people. They should not be going after homeowners. So many developers are allowed. She gave an example of an 86 year old woman who was taken to court by the City for not removing graffiti from her garage. The graffiti was put there by kids. She stated she was very upset when she heard this. She doesn't think this is what code enforcement should be doing.

She stated it is wonderful that new businesses want to locate in the City but she thinks they should be guided to the downtown. She thinks more should be done to bring business to downtown. She is finding that children are living at home longer because they cannot afford to pay rent. Rent is high and all the utilities and fees are going up. Everything is going up except salaries. She feels this is up to economic development and this should be worked on. She wants the smoke test discussion to be on the next work session agenda. Mr. Zimmerman stated it may not be on next week's agenda because the agenda is very full. Staff's intent is to meet with the attorneys and have all the information available. She stated she thought the City had a deadline for completing the smoke testing. Mr. Zimmerman stated he was not aware of a deadline.

Councilmember Cromer asked if the compensation study was completed. Donna Messina, Human Resources Director, stated a large percentage of questionnaires were returned and the company needed extra time to review them. Audits and external surveys are scheduled to be sent out next week. Ms. Messina stated the company has assured her the study will be completed by mid-February. Councilmember Cromer stated the alley behind Summit Avenue was very bad following December's snow storms. Councilmember Metzner stated the City does not have the equipment to plow alleys. Mr. Deike stated the City does salt a lot of the alleys. He stated the Public Works Department used backhoes following the ice storm in December to break up the accumulation of ice. Councilmember Cromer stated people were continually getting stuck in this alley. Mr. Deike stated they will watch that alley more closely.

Councilmember Cromer then discussed the school resource officer. The funding for this position was a grant for three years and the City paying for one year. The funding source ends this year. She stated this is a wonderful program and is a tremendous asset for the schools.

Councilmember Metzner stated Police Chief Art Smith had assured the Mayor and Council that the Board of Education would be providing funding for this program. Mr. Zimmerman confirmed that the Board of Education was contacted to make sure the program continued. Councilmember Cromer stated she hopes everyone had a happy new year.

Councilmember A. Parson-McBean stated she hopes everyone had a happy new year. She thanked everyone for the cards, letters and well wishes. She stated she sees the Code Compliance issue differently than Councilmember Cromer. She stated her neighborhood would be inundated with violations if not for the work of the Code Compliance Office. She thinks the employees are doing their jobs; there are just so many things to take care of. She expressed concern that the camera systems are not operating properly. She does not want anything in the City that is not working. She stated she has heard from residents about the cab companies operating in the City. She has heard complaints about abusive drivers and drivers that charge more fare when it is snowing. She issued a notice to the cab companies that these things will not be tolerated.

She stated there are two good events coming up. The first is the Martin Luther King Scholarship banquet on January 15, 2006. The first minority business luncheon will be held on Monday, January 23, 2006.

There being no further business to come before the Mayor and City Council, on a motion duly made by Councilmember K. S. Cromer and seconded by Councilmember L. C. Metzner, the meeting was adjourned at 7:34 p.m.

Respectfully submitted,

Donna K. Spickler, City Clerk

Approved: _____