

35TH SPECIAL SESSION, WORK SESSION AND EXECUTIVE SESSION – January 11, 2011

Mayor R. E. Bruchey, II called this 35th Special Session, Work Session and Executive Session of the Mayor and City Council to order at 4:02 p.m., Tuesday, January 11, 2011, 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.

35TH SPECIAL SESSION – January 11, 2011

On a motion duly made by Councilmember W. M. Breichner and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote of all members present to meet in Special Session at 4:03 p.m.

Approval of an Ordinance: Accepting Offer of Sale and Authorizing the Purchase of 60 West Washington Street

Action: On a motion duly made by Councilmember W. M. Breichner and seconded by Councilmember F. W. Easton, the Mayor and City Council unanimously agreed by voice vote of all members present to approve an ordinance authorizing the purchase of property known as 60 West Washington Street, Hagerstown, Maryland for \$ 220,000, and related closing costs. The funding sources identified for the purchase include, \$ 50,000 Maryland Community Legacy Grant, \$ 75,000 from the Downtown Revitalization Fund, and the balance from the CIP Fund Balance.

On a motion duly made, seconded and passed, the special session was adjourned at 4:03 p.m.

Councilmember Brubaker arrived at the meeting. He stated he also approves this ordinance.

WORK SESSION – January 11, 2011

Recommended Zoning Text Amendments for Wind and Solar Energy Systems

Kathleen Maher, Planning Director, and Clayton Zug, Planning Inspector, were present to further discuss recommended zoning text amendments for wind and solar energy systems.

Ms. Maher announced that Mr. Zug has accepted a position with Camp Hill, Pennsylvania.

In a previous discussion, the Mayor and City Council indicated support for all of the proposed zoning text amendments for wind and solar, including changes suggested by staff for building mounted wind and solar energy systems (height increased from 4 feet to 10 feet for flat roofs) and ground mounted solar systems in commercial and industrial districts (increase square footage from 20% of lot to only meeting setback requirements), except for the issue of ground-mounted solar in residential districts.

Following months of research by staff and discussions by the Planning Commission, the Commission has recommended that ground-mounted solar systems not be permitted in the Residential Districts. Their reasoning was that the roof is the appropriate location for solar in a dense residential environment.

As a result of prior Mayor and City Council discussions where dissatisfaction was expressed with the limitations proposed by the Planning Commission on ground-mounted solar in residential districts, staff looked at alternatives to accommodate the expressed desire for a more flexible approach that would not be too intrusive in a dense residential environment. After this review, staff recommends accommodating ground-mounted solar in residential districts with a treatment to match how sheds and garages are accommodated in the zoning ordinance as follows:

1. Permit as an accessory use to a permitted use in the district
2. Lot area, height and setback requirements:
 - a) cover no more than 900 square feet of the lot
 - b) height maximum of 10 feet
 - c) meet all setback requirements

Staff also suggests re-evaluating the wind and solar provisions after the amendments have been in place for 12-18 months to determine City satisfaction with the results of the proposed text on individual applications.

Councilmember Easton asked if there is an appeal process for residents. Ms. Maher indicated a special exception cannot be granted by the Board of Zoning Appeals for height requirements, which this regulation would be. However, the Mayor and City Council could change the regulation, if they wished to.

Councilmember Brubaker suggested looking at whether or not to allow owners to appeal the placement of the solar panels.

Councilmember Haywood suggested discussing the wind and solar regulations with members of the Historic District Commission so they are aware of what residents may be requesting.

It was the general consensus of the Mayor and City Council to introduce an ordinance for wind and solar regulations at the January 25, 2011 meeting.

Washington County Animal Control Ordinance

Chief Arthur Smith and Paul Miller, Executive Director of the Washington County Humane Society, were present to discuss the recently adopted revisions to the existing Washington County Animal Control Ordinance.

Chief Smith indicated the Ordinance became effective January 1, 2011 and each of Washington County's incorporated municipalities will now need to adopt this ordinance so that the Humane Society may utilize the same within their jurisdictions. Mark Boyer, City Attorney, has indicated the City may not need additional action to adopt the updated ordinance.

Mr. Miller stated the new language includes a two tier approach to vicious and dangerous dogs. The Humane Society will be able to intervene at an earlier stage with a potentially vicious and dangerous dog. They may be able to avoid a future incident by working with the dog and the owner. An owner will be allowed to petition for removal of their dog from the list. Changes are being implemented in the licensing program. Owners will be able to purchase a license for up to three years.

Chief Smith pointed out that the City's amendments indicate a vicious and dangerous dog has to be removed from the City. He does not think the removal should be extended to the potentially dangerous designation. Councilmember Metzner asked how many events are needed for a dog to be designated as vicious. Mr. Miller stated two incidents is the benchmark, unless there has been severe injury.

Councilmember Haywood asked how a situation in which a neighbor dog entered a fenced yard and was bitten by the residing dog would be handled. Mr. Miller stated each case is reviewed individually. He stated this case would be considered a self defense case because the dog would be on its own property.

Mayor Bruchey asked how complaints are handled if a Humane Society officer has not witnessed the incident. Mr. Miller stated they try to determine if the complaint is valid. If so, they talk to the owner of the animal and advise them of the issue.

Mr. Miller stated this ordinance does not include a leash law. It does include language that an animal must be under the control of the handler.

Mr. Miller thanked Chief Smith for the continual cooperation from the Hagerstown Police Department with animal complaints.

State Highway Administration Right-of-Way (Interstate 70) Annexation and Beltway Properties V LLC Annexation

Kathleen Maher, Planning Director, and Alex Rohrbaugh, Planner, were present to provide information regarding two annexation requests.

The first is the SHA Right-of-Way (Interstate 70) Annexation. The subject property is located to the south of the Doub Property and just north of the right-of-way of Interstate 70. The property is owned by the State Highway Administration (SHA) which was conveyed to the State in the 1960's. The total area of annexation is 5.32 acres and is currently vacant. The City of Hagerstown is the petitioner and is requesting the annexation in order to make the City contiguous to annexable lands south of Interstate 70. Because this area is right-of-way owned by SHA and is not on property tax rolls, the City does not require owner consent or petition for annexation. SHA was notified of the annexation proposal, and Staff has not received any comment from them to date. The total area of annexation is approximately 5.32 acres.

The proposed zoning for the property is C4 (Regional Shopping Center) and POM (Professional Office Mixed), effectively continuing the existing zoning classifications of the Doub Property south to the I-70 right-of-way. The current County zoning is HI-2 (Highway Interchange-2).

The second annexation is known as the Beltway Properties V LLC annexation. The subject property is located to the south of the Collegiate Acres development and to the north of Salem Avenue (MD Route 58). Collegiate Acres LLC is the petitioner for annexation and wishes to acquire the rear portion of the property at 12835 Salem Avenue, which is currently owned by Beltway Properties V LLC. The purpose of the annexation is to allow for a more regularly configured area for Parcel 3 of Collegiate Acres and more flexibility in site layout for that proposed 105-unit multi-family development. The area to be annexed encompasses the rear section of Beltway Properties' narrowly configured lot. In order to convey the land in the proposed annexation to Collegiate Acres, the petitioner plans to submit a subdivision plan concurrent with the annexation review process. The total area of annexation is approximately 1.41 acres.

The proposed zoning for the property is R3 (Residential), which is consistent with the existing zoning of the adjoining section of the Collegiate Acres property (Parcel 3). The current County zoning is HI-1 (Highway Interchange-1).

After introduction of the resolutions, staff will advertise the proposed annexations for Public Hearing. It was the general consensus to move forward with the annexation process for these two properties.

Councilmember Metzner expressed his concern about the traffic pattern at the intersection of Terps Boulevard and Cearfoss Pike. The intersection is dark and drivers may not realize this is a four lane highway. The City's Engineering Department will contact the County regarding this.

Best Western Grand Venice Hotel – Dual Highway

Deborah Everhart, Director of Economic Development, and Rodney Tissue, City Engineer, discussed a request from the owners of the Best Western Grand Venice Hotel.

The owners are proposing to remove the motel units from over the town drain and request City consent for both the removal and possible reconstruction.

In 1989, the City of Hagerstown entered into an Agreement entitled Deed, Deed of Easement, and General Agreement with Vidoni Limited Partnership and Venice Venture Limited Partnership. This agreement established the following: a storm sewer easement, a town drain easement, and a maintenance agreement for a storm water management area. The agreement states that prior to any demolition of the motel units from over the town drain, express written consent of the City would be necessary. Additionally, no structure can be placed over the town drain without the prior written consent of the City.

Councilmember Brubaker stated if demolition or construction creates engineering concerns there should be a provision in an agreement that it be secured or closed and that any redevelopment plan should be forwarded to the Planning Commission and the Mayor and City Council.

Mayor Bruchey indicated the owners are considering making the easement area a parking area, without constructing a new building. If the owners decide to construct a building at this location, they would return to the Mayor and Council with a redevelopment plan.

Councilmember Breichner suggested reviewing any parking area plans if it is over the area of the slab covering the drain.

It was the general consensus to approve an agreement for the demolition of the motel units.

Hagerstown Suns – Fireworks Schedule and Other Items

Rodney Tissue, City Engineer, and Bill Farley, Hagerstown Suns General Manager, were present to discuss the fireworks schedule and other issues.

The Suns propose the following twelve fireworks dates: April 15 and 22, May 6 and 27, June 3 and 17, July 1, 3, 8, 22, August 5 and September 2. One date is to be scheduled for Volvo's 50th Anniversary Celebration.

It was the general consensus of the Mayor and City Council to approve the twelve fireworks shows.

The Suns have asked to have additional events at the Stadium. Specifically they include: college and high school baseball games, appropriate concerts, festivals (i.e. Chili Cookoff, Beer & Wine Festival), private parties, fundraisers, non-game day Thirsty Thursdays, utilizing video scoreboard (they are installing) for sporting events/showings.

City Attorney Mark Boyer has drafted language revising Provision II Use, and Provision VII Scheduling and Dates of Use of the lease to address these concerns. Under

this proposal, college and high school baseball games are pre-approved and do not require additional input from the City; non-baseball events suggested by the Suns would require staff approval (of those specific events in the proposed lease language). Concerts, private parties, and non-game day Thirsty Thursday events raise concerns about whether or not they should be approved.

Councilmember Metzner stated events requiring Liquor Board approval or approval is required by an ordinance should be the only ones presented to the Mayor and City Council.

Councilmember Breichner stated he is concerned about holding concerts at the stadium.

Councilmember Easton would like to see the list of events increase from year to year.

Tony Dahbura, Co-owner, stated it is important to the owners that the Suns be an asset to the community. They want to provide events that bring the community together.

Councilmember Brubaker stated there should be a hold harmless agreement for all the extra events.

A list of events requiring a liquor license will be provided to the Mayor and City Council.

Mr. Dahbura indicated a critical matter for the future of the stadium is the shortage of parking. They are still on track for discussing remodeling the stadium in the future, which would potentially decrease the amount of parking. He stated the parking lot for Washington County Hospital on Mill Street would be ideal for additional parking. The City has discussed the feasibility of constructing a walking trail from Mill Street to Memorial Boulevard. Mr. Dahbura stated he has discussed the use of the parking lot with Washington County Hospital officials. He stated formal dialogue with these officials is needed.

Mr. Tissue asked if the idea is to have a user agreement for the parking lot. Mr. Dahbura indicated the Suns owners think the City should obtain the property. Councilmember Breichner thinks this is a good idea.

A video scoreboard is being installed at the stadium. A structure will have to be built that will require a building permit. The Mayor and City Council agreed to allow the structure to be built.

Department Review – Fire Department

Acting Chief Kyd Dieterich and members of the Hagerstown Fire Department (HFD) were present to provide an overview of the department.

The objective for the HFD is to provide for the safety of firefighters and deliver to customers a high and consistent quality of service and life by using recognized standards and recommendations that insure adequate staffing and response times.

The HFD is staffed by 82 career people and 15 volunteers. The annual budget is \$ 6.1 million. They responded to 2,250 calls for service last year. The system includes six volunteer stations. These stations have eating and sleeping quarters. The Fire Department headquarters are located at the Market House.

Growth in the city has increased in population and total square miles during the last 20 years. The average response time to a call is 4 minutes. There is a minimum of 17 firefighters on the scene of a significant fire. This includes two personnel on every truck.

Despite incentives, volunteerism in America has declined through the years. There are extensive training requirements for volunteers and career firefighters in order to keep up with the latest techniques. Career training has a minimum of 607 hours per year. The jobs become more complex each year.

National Standards for staffing levels implement the “2 in 2 out” policy. What this standard calls for is two firefighters to enter a structure fire utilizing a “buddy” system and two firefighters to be immediately ready to enter the structure to rescue them. The National Fire Protection Association (NFPA) standards apply to the HFD. NFPA 1710 Standard which is for “substantially career departments” defines response and staff standards. This basically requires the first responding unit to arrive at the scene within four minutes 90% of the time along with four to six qualified firefighters and the full assignment (rest of responding units) to arrive within eight minutes 90% of the time with a total of sixteen or more qualified firefighters depending upon the type of service needed. In 2009, the HFD had 261 days with minimum manning.

The Fire Marshall Division consists of a Senior Fire Marshall, two Deputy Fire Marshalls, a Public Educator and a community liaison. Twenty eight arson arrests were made by the division in 2008. The division also reviews building plans and completes inspections. More than 20,000 smoke detectors have been installed in residences since 1983. A new program has been implemented targeting fall risk and safety.

Members of the International Association of Firefighters, Local 1605, write and secure grants and assist in determining training requirements for firefighters. They sponsored two fire operations 101 classes for City officials and the local media. IAFF sponsors an annual bonanza, with profits to date of \$ 500,000. This is used to assist the community in many ways. IAFF also provides an Honor Guard for various functions. Approximately \$ 3.5 million has been secured through grants, most of which were written by HFD staff.

Future plans include:

1. Replace one engine in 2012. Cost per engine is approximately \$ 400,000
2. CIP budget includes plans to relocate two fire stations in the next six years. This will lower response times to the west areas of the City.

3. Continue partnership with the City volunteer companies that has resulted in almost \$ 1,000,000 of financial assistance
4. Continue to apply for Federal Grants
5. Expand Head Start Program and Older Adult Safety Program
6. Survive the current economy

Councilmember Brubaker asked what agreements are in place with other fire departments. Chief Dieterich indicated there are no formal agreements but good working relationships have been established.

The City contributes \$ 3,000 to each volunteer company. The companies also receive funding from the Washington County Commissioners and through the Washington County Gaming Commission. The City contribution is used for incidentals within the group. The utilities are paid for by the Commissioners.

Councilmember Easton asked if the information for the number of calls could be detailed into large fires, small fires, in city, out of city, with injuries, fatalities, and commercial fires. Chief Dieterich will provide this data.

Councilmember Easton wondered why calls have increased since 1985. Chief Dieterich indicated demographics have changed. HFD also now assists CRS on medical calls.

Councilmember Easton asked where the City ranks with other municipalities in Maryland with career firefighters, according to the NFPA guidelines. Chief Dieterich stated Hagerstown would rank high when compared to Cumberland and Allegheny County.

The volunteer companies receive money from the Gaming Commission, as well as from other sources. Chief Dieterich indicated the financial stability of the companies is very good.

The Mayor and Council thanked the Hagerstown Fire Department for this presentation and thanked them for their service.

CITY ADMINISTRATOR'S COMMENTS

Bruce Zimmerman, City Administrator, had no additional comments.

MAYOR AND COUNCIL COMMENTS

Councilmember F. W. Easton stated the City Center has another performing arts school called the School of Rock. He expressed condolences to the Smithsburg family whose son died in Afghanistan and the victims of the shooting in Arizona.

Councilmember A. C. Haywood has made a New Year's resolution to be an entirely local consumer for one year. She established a blog about local food production at www.haywoodeatshagerstown.wordpress.com.

Councilmember L. C. Metzner had no additional comments.

Councilmember W. M. Breichner extended thoughts and prayers to Councilmember Metzner's mother who is currently in the hospital.

Councilmember M. E. Brubaker stated his thoughts go out to the victims in Arizona, the family in Smithsburg and Councilmember Metzner's family. He hopes the new year includes many blessings.

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

EXECUTIVE SESSION – January 11, 2011

On a motion duly made by Councilmember A. C. Haywood and seconded by Councilmember W. M. Breichner, the Mayor and City Council unanimously agreed by voice vote to meet in closed session to discuss the appointment, employment, assignment, promoting, discipline, demotion, compensation, removal, resignation or performance evaluation of appointees, employees, or officials over whom it has jurisdiction, #1, and to consider the acquisition of real property for a public purpose and matters directly related thereto, #3 at 6:08 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, Acting Fire Chief Kyd Dieterich, Bobby Dawler, Jim Sprecher, Travis Barkdoll, Brian Snyder, Eddie Bryan, and Donna K. Spickler, City Clerk. The meeting was held to discuss an appointment to the Police and Fire Retirement Plan Committee and consideration of a building acquisition. No formal action was taken at the meeting. On a motion duly made, seconded and passed, the meeting was adjourned at 6:49 p.m.

Respectfully submitted,

Donna K. Spickler, City Clerk

Approved: February 22, 2011