

EXECUTIVE SESSION – January 17, 2006

On a motion duly made by Councilmember K. B. Aleshire and seconded by Councilmember K. S. Cromer, the Mayor and City Council unanimously agreed by voice vote to meet in closed session at 3:49 p.m. 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 4:17 p.m.

WORK SESSION – January 17, 2006

Councilmember L. C. Metzner called this Work Session and Executive Session of the Mayor and City Council to order at 4:26 p.m., Tuesday, January 17, 2006 in the Council Chambers at the City Hall. Present was 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 Urner, and City Clerk D. K. Spickler. Mayor Richard F. Trump was not present.

Scheduling Mayor and Council Budget Retreat

In past years, the Mayor and Council have met, generally in January or February, to hold a preliminary discussion on the budget for the coming year. Bruce Zimmerman, City Administrator, stated the discussion would focus on the numbers but would include some discussion of policy issues.

The meeting was scheduled for Friday, February 24, 2006 at 9:00 a.m.

Mayor and Council Policy on Channel Six

Karen Giffin, Public Information Manager, and Eric Hastings, Television/Web Coordinator, were present to provide information about Channel Six.

The City of Hagerstown has been operating Antietam Cable Television for a number of years. The City has the channel through a franchise agreement with Antietam Cable Television. In 2003, equipment was purchased to broadcast Mayor and City Council meetings and to create shows.

In 2005, the City has used the channel to do a number of items such as:

1. To create 36 television programs for channel six on subjects including Western Maryland Blues Fest, 2005/2006 Budget Show, Maymart, City

Hall 9/11 Display Dedication, Hurricane Katrina Relief Efforts, Alsatia Mummers Parade, City Park Lighting, Fourth of July Fireworks at Fairgrounds Park, Online Bill Payments, Augustoberfest, Flag Day Ceremony, Elvis Lives in Hagerstown, Emergency Preparedness Day Dedication Ceremony, Emergency Preparedness Day Dedication Show, Music by the Lake, Thursday Noon Plaza Party, Story Time at University Plaza Jonathan Hager Frontier Craft Days, Neighborhood College, Harvest Hoedown, Fall Parks & Rec Trek, Downtown Ghost Tours, Haunted Hager House, Hagerstown Gridiron Classic, Energy Conservation, Christmas Tree Lighting/Hollyfest, the Nutcracker, Downtown Holiday Open House, Holiday Happenings at City Farmers Market, Veterans Day Ceremony, Holiday Greetings with Richard Trump and Special Tribute to Ruth Monroe. Also, Staff worked with the Fire Department to create a series of programs to inform the citizens about the Hagerstown Fire Department. Shows included: Fire Safety, Smoke Alarm Safety Inspections Program, Fire Station Tour and Fireworks issues with the Fire Marshals.

2. To broadcast eight press conferences
3. To broadcast Mayor and Council meetings including 33 work sessions, 16 special sessions, and 12 regular sessions and other joint sessions
4. To broadcast a slide show (average 100 slides) with information on City programs and events, a downtown tour, and photo gallery

Currently, there are no written policies with the channel. There have been some unwritten policies that have been used. One is to only show slides on City Government sponsored events and programs unless an item is specifically requested by the City Council. Antietam Cable does utilize Antietam Channel 19 for nonprofit organizations to have slides and messages.

Mayor and City Council meetings are not edited.

Councilmember Aleshire does not think written policies are necessary. Councilmember Parson-McBean stated there should be a written policy as point of reference. Councilmember Cromer agreed with Councilmember Parson-McBean. Councilmember Nigh asked Ms. Giffin for an opinion. Ms. Giffin stated a written policy would be helpful.

A policy will be drafted and presented to the Mayor and Council for their review.

University Plaza Concerts and Music by the Lake Summer Concerts

Karen Giffin, Public Information Manager, and Kevin Moriarty, Executive Director of the Washington County Arts Council, were present to discuss activities for the University Plaza.

The new University Plaza is a central area for the downtown and a wonderful place for events. The Public Information Office would like to partner with the Washington County Arts Council in creating activities for the plaza.

Last year, individuals were treated to a variety of regional performances at lunch with the new Thursday noon Plaza Party Music Series. The University Plaza is nestled between the new University System of Maryland Center and its historic neighbors and just steps from the City Square. With the music series at the Plaza, downtown workers and shoppers were given a new opportunity to relax in the sunshine and hear a variety of regional performers. Individuals were encouraged to bring a lunch from any downtown restaurant.

Each week featured a different band and a different style. The series began with Hagerstown's blues tradition to kick off the Western Maryland Blues Fest. The following weeks included steel drum bands, jazz, big band sounds, bluegrass, country, pop and folk, best-of-Broadway, strings, patriotic Americana, classic rock and more.

The second activity is storytelling performers. Building on the success on the Arts Council's successful *Dreams and Heroes* storytelling series around the County, Staff is proposing a new direction for the partnership, one which will bring professional and instructive storytelling performances to children in the center of Hagerstown's Arts & Entertainment District, University Plaza. This is an opportunity for children to enjoy a live dramatic performance, intended specifically for their entertainment and education. This series, employing Maryland performing artists solely, will present a variety of themes including friendship, loyalty, problem-solving, language skills, geography and world cultures, musical expression and movement.

The music series is held each Thursday and the storytelling is held each Wednesday. In order to continue holding these events, the Mayor and Council need to approve funds for the next fiscal year (2006/2007). The amount is \$ 13,729, and is the same as the amount included in the 2005/2006 budget. The June 2006 dates for the music series and storytelling are budgeted for in the current budget.

The Music by the Lake Summer Concert series has been growing for the last four years and is a wonderful addition to the musical events. With this concert series on Saturdays and the Municipal Band on Sundays, the bandshell is showcased as a wonderful place for concerts.

The proposed 2006 dates are July 8, 15, 22, 29, August 5, 12, 19 and 26. The performing will focus on regional bluegrass performers. The projected budget is \$ 17,000. The Washington County Arts Council is asking that the City join in presenting this concert series by providing

\$9,000.00 of the costs. If the Mayor and City Council would approve the \$ 9,000.00, it would be placed in the 2006/2007 Public Functions Budget.

It was the general consensus of the Council to approve the funding as requested for the University Plaza concert series and storytelling and for the Music by the Lake concert series.

Update on Ed McMahon

Ed McMahon, Senior Resident Fellow of the Urban Land Institute, will be speaking on Better Models for Development at the St. James School Fine Arts Center on the evening of January 26, 2006 at 7:00 p.m. The presentation is free to the public.

Mr. McMahon holds the Charles Fraser Chair on Sustainable Development at the Urban Land Institute in Washington, DC. He is nationally known as an inspiring and thought provoking speaker and leading authority on topics related to growth, land conservation, urban design, and historic preservation. Mr. McMahon also spoke at last year's MML conference.

The Planning Department is assisting in publicizing this engagement.

Smoke Testing Program

Chris Bordlemay, Acting Water and Sewer Department Manager, was present to provide an overview of the Sewer Collection System's Smoke Testing Program.

Part of a responsible infiltration and inflow remediation program involves the investigation and identification of deficiencies in the infrastructure. Many communities throughout the country use an odorless, non-toxic, non-staining "smoke" introduced into their collection system as that means of identification. Hagerstown has used smoke testing since the 1970's.

The consent Judgment mandates that a Sanitary Sewer Evaluation Study be conducted, of which smoke testing is an integral component. This study must be completed by December 31, 2007. By incorporating smoke testing into the SSES program, the City will be on track to meeting that deadline.

Smoke testing may allow crews to complete the field investigation portion of the SSES in-house, without having to outsource the work. If the Department were to solely use other means of investigation, such as TV and dyeing, work would be outsourced to enable completion by the deadline.

Public notification is an important part of a smoke testing program because of the potential for smoke appearing in and around buildings. Crews deliver notices 48 hours in advance of a

test. Customers who call in advance of the test who do not want their portion tested because of health concerns will be accommodated. Although health risks are minimal, the City will block off their portion of the system to prevent smoke from reaching them. Portions of the collection system are filled with smoke. Defects are detected.

The City is on-site during the test, taking pictures of escaping smoke and writing down information. Staff is also there to assist with homeowners who have discovered smoke, at their request. Crews have fans that can remove smoke from buildings if necessary. Letters are delivered to owners where deficiencies are in violation of City or County Code. Owners are given a certain amount of time to remedy the deficiency (illegal connection at that point).

As of January 10, 2006, 10 of 34 districts have been tested, totaling 255,426 linear feet of pipe. The following deficiencies have been found:

- 132 Broken or missing clean out caps
- 22 Roof drains connected to the sewer system
- 15 Catch basins that produced smoke
- 20 Locations where smoke exited the ground, blacktop, etc.
- 5 Locations that require further investigation
- 18 Locations where smoke was reported entering a building

The program has been reviewed with the City Administrator and the City Attorney.

Councilmember Metzner stated he is concerned about health and home invasion issues. He is concerned that the City would be telling people they had to dig up their yards and spend a large amount of money to repair a lateral line. He thought there should be some sort of assistance for this type of repair, such as a low interest loan. He thinks there should be a longer notice (not just 48 hours). He expressed his concern that smoke would be introduced into someone's home without their consent.

Mr. Bordlemay stated the City of Hagerstown has the responsibility to operate the sewer system in the most optimal manner. One way to meet that responsibility is to conduct testing.

Councilmember Aleshire reviewed the list of problems that have been located so far. He thinks it would be irresponsible for the City to discontinue the testing at this point.

Councilmember Nigh asked how the Department handles complaints regarding this issue. George Fisher, Collection System Superintendent, stated if a citizen had concerns, they discussed them. He stated Staff members also made arrangements to be at the citizen's home when the test was conducted. Councilmember Nigh pointed out that continuing the testing will most likely reveal more problem areas in which water is entering the sewer system that shouldn't

be. She stated if citizens have concerns regarding this testing, they should contact the Sewer Department.

Councilmember Cromer stated she agrees the testing should continue. She would want to know if the lateral at her house was broken and in need of repair. She also urged anyone who had questions or concerns to contact the department.

Councilmember Parson-McBean stated the City and the residents need to work hand in hand. Mr. Bordlemay stated they would be as accommodating as possible. Councilmember Parson-McBean stated that is what we do as a City and as a part of the neighborhood.

Mr. Urner stated if residents have a health issue and could not leave the house, a different type of test would be used. Mr. Bordlemay pointed out the department is looking for problems in the infrastructure, not for violations.

Councilmember Metzner stated he understands why this is being done and the intentions are good. He thinks a 48 hour notice is too short. He stated a three week notice would be more appropriate. He is concerned about a clash between the government and private citizens.

Councilmember Cromer stated if a problem is found, a notice is issued, not a criminal citation. She asked how long someone has to fix a problem. Mr. Bordlemay stated the time is 90 days.

Councilmember Aleshire suggested considering an ordinance that requires testing for units over 25 years at the time of sale of a property. He recommended waiting until the testing was completed before considering this.

It was the general consensus of the Council to resume the smoke testing.

Raven Rock Stream Restoration Agreement

Chris Bordlemay, Water and Sewer Department Manager, was present to discuss a Project Agreement with the State of Maryland Department of Natural Resources Fish Passage Program.

In partnership with US Fish and Wildlife and Maryland DNR, the City would like to conduct a stream restoration project on Raven Rock Run in the City's Edgemont watershed. The project requires demolition of the existing intake structure and replacement with a series of stepped pools made of native rock. These stepped pools will allow the brook trout and other river species to access additional habitat for forage and spawning. The project will also reduce thermal pollution and increase the dissolved oxygen level.

The previous Mayor and Council approved a letter of intent to allow preliminary design of the project and to call for an agreement to be negotiated. Mr. Bordlemay stated they plan to contribute \$ 5,000.00 from the Capital Account for Watershed Improvements, which is budgeted for FY 06.

Councilmember Aleshire stated the agreement appears to limit the obligation of the DNR from this proposal. He asked if there is a guarantee that this will not adversely affect the city's operation. Mr. Bordlemay stated that consideration will be part of the review process. Councilmember Aleshire stated he is concerned this may not be addressed in a site plan. He would like the organizations to share in the financial responsibility.

Mr. Urner asked why the original structure was built. Mr. Bordlemay stated it keeps a pool of water in place that keeps the intake structure flooded so water can be taken from the stream. The new design will also keep a pool of water in place.

Jim Thompson, DNR Fish Passage Division, stated there is a state law that prohibits any structure from limiting the natural life of the fish. The intake structure will still be there but filled by a different means. Mr. Urner stated he understands the City is agreeing to never go back to an artificial means of collecting water. Mr. Thompson stated they are asking the City to not obstruct the fish.

Mr. Urner asked if the City is agreeing, into perpetuity, to never go back to the first method. He asked if the City finds they can't get water by any other means, are they agreeing that they cannot do anything. Mr. Thompson stated if human lives would be endangered, they would probably make an exception. Mr. Thompson stated a condition could be included in the agreement that the structure could be replaced if there is a problem.

Councilmember Aleshire asked if the replacement would be at the City's cost. He stated the City is not instituting the change. Mr. Thompson stated DNR is confident this will work. They will monitor if for three years and if it fails, they will replace it. After the three years, the City would carry the responsibility.

It was the general consensus of the Council to continue moving forward with the project, as long as the provision for replacement is included in the agreement.

Workforce Housing Program

The Washington County Workforce Housing Force defined workforce housing as that being affordable to those with a household income of up to 120% of area median. Adjusted for family size, a household of four would meet this definition if their combined annual income was \$ 72,000 or less. Even at very favorable rates, the cost of housing in Hagerstown is quickly

exceeding the ability of these families to own a home.

Renting, too, is becoming somewhat problematic as rates in some areas of the City, historically thought of as being affordable, now exceed \$ 900.00 per month. Last summer a three bedroom house in the 200 block of N. Mulberry Street was renting for \$ 950.00 per month, plus utilities.

The following are some ideas or steps the City can take to address this issue. These include ownership, rentals and a combination of each. No one program will effectively address the situation, but by combining programs, it is possible that some meaningful progress can be achieved. They have been arranged in order of the anticipated time to accomplish each. Potential sources of funds have been identified for each.

Calendar Year 2006

House Keys 4 Employees – This is a program which enables eligible homebuyers to receive more assistance than is available through the State's standard Down payment and Settlement Expense Loan Program. Under House Keys 4 Employees, the Community Development Administration will match, dollar for dollar, contributions towards closing costs from participating employers, local jurisdictions, unions and/or non-profit agencies up to a match of \$ 5,000.00. The City must enroll as a participating employer for employees to take advantage of the program. A combination of general fund and CDBG dollars could be used for this program.

Neighborhood Revitalization Strategy Area – This is a designation conferred upon urban areas by HUD which meet certain income and residency thresholds. The regulations concerning certain CDBG programs are realized in these areas. Of particular interest to this discussion is how housing activities are viewed. Under normal CDBG regulations, 100% of single family housing created or rehabilitated with CDBG funds must be occupied by low and moderate income families. In multi-family buildings, 51% of the units must meet that requirement.

However, in a NRS area, all housing activities are looked upon as being a single project. That means that only 51% of the housing units assisted with CDBG funds must meet the low and moderate income test. Staff is in the process of completing an NRSA application. There is no cost associated with establishment of a NRSA.

Single Family Homeownership Program – Expand the existing Single Family Homeownership Program to include households making up to 120% of area median income.

The current guidelines for the Single Family Homeownership Program call for homes to be acquired and rehabilitated by the City utilizing CDBG funds. Homes are then sold to low and moderate income purchasers at the after-rehabilitation appraised value. Purchasers must have sufficient income and credit history necessary to qualify for a first mortgage through the Maryland Mortgage Program, make a \$ 500 down payment and successfully complete pre-purchase counseling through the Hagerstown Home Store.

Among the recommendations of the Workforce Housing Task Force was one for the Board of County Commissioners to allocate \$ 1 million per year for a minimum of five years to be used to expand the single family homeownership programs operated by CAC and the City. The use of non-federal funds would permit the sale of homes to purchasers with incomes above the 80% of median level.

Downtown Residency Initiative – amend the Downtown Residency Initiative to provide greater incentives. The DRI was established to encourage recent college graduates, recently honorably discharged veterans, those who are full-time employees of local, county, state or federal government agencies, and professionals to live in the downtown area. Those renting receive a subsidy of \$ 100 per month for one year and home buyers receive \$ 1,500 toward closing costs.

Staff recommends retaining the current eligibility requirements, but increasing the amount of assistance provided as follows: rental subsidy from \$ 100 per month to \$ 150 per month and the homeowner assistance from \$ 1,500 to \$ 2,500. Additionally, staff recommends that the eligible area be extended on the north from East Avenue to Randolph Avenue. As this is an existing program, the funding would continue to come from the general fund.

Ground Rent/Land Trust – With the increasing real estate values in Hagerstown, we are facing the very real possibility that low and moderate income households will no longer be able to afford to participate in the Single Family Homeownership Program. One way to make the houses more affordable is by charging ground rent. The City would sell the improvements on a piece of property, but retain ownership of the real estate. Homebuyers would purchase the home and any other improvements, but not the ground. Regular rental payments would then be made to the City.

A Land Trust works in much the same way, expect that the controlling entity for

the real estate is a non-profit agency, rather than a public body. Using funding provided by local and state agencies, these non-profits purchase existing structures and raw land. Units are either rehabilitated or constructed and then sold to income qualified purchasers. Deed covenants detail the amount of equity the owner may retain at settlement and require that subsequent purchases meet income qualifications. Several land trusts also own rental properties, profits of which are used as a source of operating funds for the non-profit. There are several sources, including the Federal Reserve Bank, private foundations and tax credit programs, available for funding of a program such as this. Initial real estate could be donated by the City and/or the County.

Councilmember Aleshire stated he supports the house keys for employees but he does not support the method in which it was brought to workforce housing. It appeared that the City would be paying twice. He stated some of these programs will not work without the commitment and involvement of the County. If that commitment is not in place, it will centralize all the moderately priced units in the center of the City. He asked if someone could participate in the house keys for employees program and purchase a unit outside of the City limits. He stated this doesn't seem to benefit the City. Mr. Bayer indicated the role of the City would be as an employer. He suggested that only applications for purchases of homes in the City be accepted. Mr. Bayer stated most City employees would qualify for this program.

It was the general consensus to accept the recommendation for the downtown residency initiative. The funding will be discussed during budget work sessions.

Councilmember Cromer asked what would keep someone from buying a home and reselling it and using it for an investment property. Mr. Bayer indicated there is a time frame for continuing ownership in the agreement.

Mr. Bayer stated the single family homeownership program here will not be possible without a \$ 1 million investment from the County.

Councilmember Aleshire stated he is concerned that neighborhood revitalization will stunt the natural drive of the market to some degree. Mr. Bayer stated this would not be the case. Currently, 100% of the residents in the revitalized homes must meet the qualifications for low/moderate income purchasers. With the change, 51% of the residents must fall within the classification. Current regulations require that any unit with CDBG assistance has to be sold to a low/moderate income family. Under the new program, the home could be sold to anyone. The Council agreed to support this concept.

Mr. Bayer then discussed the project list for 2007. The list is as follows:

Roslyn

**Public-private
Employer House
Multi-family Rental and Condominiums Housing
In-fill Housing**

Councilmember Nigh expressed concern that people would not move into the Roslyn building because of some of the disturbing activity that takes place to the rear of the building. She is also concerned about parking for potential residents.

Councilmember Metzner suggested discussing the 2007 projects at a future work session. A five minute recess was taken.

Zoning Map Amendment Request – Strategic Resources, Portion of Harrison Tract on Howell Road

This item was discussed at a work session on October 11, 2005. At the Council's request and as agreed upon by the applicant's Counsel, a scheduled vote on the resolution was delayed. Staff met with the applicant to discuss Paul Smith Boulevard and the issues surrounding its construction and the proposed rezoning. The Preliminary Traffic Study was discussed at last week's Work Session.

The following issues were previously outlined for the Mayor and City Council's consideration as they review the proposal.

Issues with a regional or city-wide impact:

Generation of Revenue for the City:

1. Further development of this 200 acre tract of land relies on the construction of Paul Smith Boulevard to access the site and alleviate traffic on Howell Road and Edgewood Drive. The City has indicated that this road shall be constructed by developers as development proposals come forward.
2. Without development proposals, Paul Smith Boulevard will not be constructed and the City will not realize tax revenues from development of this 200 acre tract of land.

Traffic

1. Paul Smith Boulevard – will open nearly 300 acres of vacant land for development, while helping to alleviate traffic on Howell Road and Edgewood Drive

2. Howell Road – a rural road which serves a mid-20th century residential neighborhood along the Dual Highway and provides a bypass function of the Dual Highway for through traffic. A new transportation improvement is needed in the area to relieve current traffic columns experienced on this rural road.
3. Dual Highway/Edgewood Drive intersection – additional funding sources are necessary for this transportation improvement project to move forward. The Eastern Boulevard assessment district provides one model for gaining developer contributions to such a project.
4. Dual Highway/Mt. Aetna/Paul Smith Boulevard intersection – additional funding sources are necessary for this transportation improvement project to move forward. The Eastern Boulevard assessment district provides one model for gaining developer contributions to such a project.

These are the zoning issues on this specific request:

Did the applicant convince the Mayor and City Council that there was a change in the character of the neighborhood since 1977? Or a mistake in the original zoning of 1977?

1. If Yes, is R2 zoning the appropriate new zoning classification for the proposed 28 acre parcel? If R2 is not appropriate, why does the Mayor and City Council feel that this is the case? Would another zoning classification be more appropriate?
2. If No, why does the Mayor and City Council disagree with the applicant's arguments on change or mistake? Of the facts that were presented, which were inaccurate or in error? Are there additional facts which discount their change or mistake arguments which were not presented?

The following are some of the background and fiscal issues related to the Howell Road rezoning discussion. The land involved in the request was part of a much larger tract of land that was known as the Henrietta Smith Farm. It was annexed into the City in 1962 under the condition that no City taxes would be due until the land was developed. For over 40 years, the majority of this property, except for several parcels along the two existing roads, has remained undeveloped. No City taxes have been paid to help support general City services. The high cost of installing the public infrastructure has deterred private development of a majority of the site to date.

The proposed residential development on 28 acres of the 180 acre tract provided an opportunity to get the road built and extend the water and sewer lines into the interior of the

property with private developer financing. This achieves several important planning and community development goals, such as:

1. Provides the opportunity for private contributions to build the infrastructure necessary to develop the rest of the parcel with office or other IR permitted development.
2. It provides a residential buffer to the existing County residential neighbors
3. It develops, sooner, a new arterial road to provide better access to this area and will take traffic pressure off Howell Road
4. The construction of the new access road, R. Paul Smith Boulevard, allows the remaining 12 acres of IR land between the new road and Howell Road to be developed into office sites with access to the new road rather than Howell Road.
5. The construction of the new road will allow for additional new development in the area that will be able to help support other needed off site road improvements with developer contributions for projects such as the Edgewood Drive/Dual Highway intersection improvements and other intersection and road improvements in the I-70/Dual Highway area.

The City could start to realize significant new tax revenues from development of this area that would contribute to its overall revenue base. If the 28 acres were developed as proposed in the developer's concept plan, a total of 175 town homes would be constructed. At an average sales price of \$ 250,000 to \$ 275, 000 those 175 homes would result in an assessed market value of \$ 43,750,000 to \$ 52,500,000. At the current City tax rate of 79.8 cents per \$ 1000 of assessed value, the City's additional tax revenue for real estate taxes would go from \$ 0 to \$ 349,125 to \$ 418,950 per year. The opening of the remainder for office or other IR use development would bring in additional tax revenues that could exceed \$ 1 million per year.

Councilmember Metzner stated a significant amount of information has been presented to the Mayor and Council concerning this rezoning request and staff is asking for a decision from the Council.

Councilmember Aleshire stated he does not think there was a mistake made in the original zoning. This land provides the largest economic opportunity in the corporate limits of the city. He is concerned the Edgewood/Dual Highway intersection will not be able to handle the traffic from future development.

Councilmember Nigh asked which property owners had been approached by the developer in reference to selling their homes. Jason Divelbiss, Miller, Oliver, Baker, Moylan and Stone, stated the owners on Mt. Aetna Road have been approached.

The sewer plant has been at this location since at least 1920. Councilmember Nigh asked if the people purchasing lots are aware of the possibility of odors from the plant. Mr. Divelbiss stated they would certainly be aware of the location of the sewer plant. He stated there could be a disclaimer included in deed agreements.

Councilmember Nigh asked where this development stands in regard to sewer allocation. Kathleen Maher, Planning Director, stated as with any project, they would have to get in line like everyone else.

Councilmember Nigh stated she understands the property was annexed with the understanding that no taxes would be paid until it was developed. She thinks there should be a reduction in taxes for the people who live here since there will be a large amount of tax base increase if the property is rezoned.

Al Martin, Finance Director, stated fiscal information is being researched for the development. The income from the development will be substantial. Councilmember Nigh stated she is concerned about services and would like to see the taxpayer get a reduction in their taxes. She asked how the developer would be held responsible for the road so that the construction does not revert to the City.

Ms. Maher stated often something like this road construction is a condition of the rezoning. Mr. Divelbiss stated it would a condition of the development rather than the rezoning.

Councilmember Nigh stated there needs to be more industrial development in that area.

Councilmember Aleshire asked how long the homes outside the corporate limits along Howell Road have been there. Mr. Martin stated the homes were there before Dual Highway became a four lane roadway. Ms. Maher stated the property in question was annexed without zoning and zoned IR in 1977. Councilmember Aleshire asked if a buffer would be required if an industrial use locates on the property. He asked what will protect the new residential development from any adjoining inconsistent use. He suggested requiring the owner to put a buffer in place if the property is going to be rezoned.

Mr. Zimmerman indicated the rezoning request is for 28 acres of the larger area. Councilmember Aleshire asked if the Mayor and Council would be changing the character of the neighborhood by granting the rezoning request.

Mr. Zimmerman stated the property was annexed in 1968 and there has been no development. There was very little development, until recently, under the IR classification. The developers are indicating that residential development on 28 acres would allow them to develop the remaining property.

Councilmember Aleshire stated he is not looking for a quick build scenario and he is concerned this will be like Eastern Boulevard with the traffic problems. Mr. Zimmerman stated the discussion last week showed the traffic issues have been addressed. They are not perfect, but the solutions are acceptable. He stated the City has an opportunity that it hasn't had since 1962.

Councilmember Parson-McBean stated to do nothing would be careless. Now, the City has the opportunity to have R. Paul Smith Boulevard built by the developer.

Councilmember Cromer stated she understands the highest traffic counts will be in the morning and in the evening as people leave for work and return from work. She also understands that an office would create more traffic than residential development and it would be increased traffic throughout the day.

Councilmember Metzner, Councilmember Cromer and Councilmember Parson-McBean are in favor of granting the rezoning request.

Mr. Urner asked what findings of fact should be used in order to support the basis for rezoning of this 28 acres. This is a discreet 28 acres mentioned here. He stated he would understand findings of a mistake in the original zoning if the entire tract was included. Councilmember Metzner stated the reason only 28 acres is being considered is because that is how the request was made. Councilmember Metzner suggested Mr. Urner and Staff meet to develop the findings of fact. Approval of the rezoning request may be included on the agenda for January 31, 2006.

Mr. Urner then left the meeting.

Code Compliance Program Updates

John Lestitian, Chief Inspector, and Rodney Tissue, City Engineer, were present to discuss the Code Compliance Programs.

The Office of Code Compliance (OCC) grew out of the Property Maintenance/Code Enforcement Section. Many changes have been directed by the Mayor and Council over the past five years to improve the quality of the existing building stock in the City. The OCC is an enforcement office. They tell individuals and/or corporations to do things that they may not

want to do, have planned to do or be able to afford to do. This creates conflict and managing this conflict is key to the success.

Mr. Lestitian presented a power point presentation. The OCC is committed to becoming a force for positive change, to building public trust and to building a healthy community. The core elements of the department are the employees: Vicki Hastings, Paul Fulk, Amanda Miller, Jon Kerns, Suzanne Kyler, Ron Bowers, Heather Detrick and Sue Schlossnagle. The Code Compliance Mission Statement is: The Code Compliance Team shall actively invite all citizens to join in our efforts to improve the quality of our housing stock, to seek out properties in violation, to work with the responsible parties to ensure the abatement of violations and to hold firmly accountable those who do not comply with City Code.

The OCC completes inspections for the Rental Licensing Program, Proactive Nuisance Abatement and Community Enhancement. They work with responsible parties to develop action plans, to discuss the totality of the circumstances, to share resources, to follow-through and to resolve unique circumstances. They hold firmly accountable those who choose to violate the Code. The Code Compliance Team is to create an environment and culture conducive to voluntary code compliance to improve the quality of life in Hagerstown.

On average, five thousand inspections are conducted each year. The average inspection has 3 violations which translates into approximately 15,000 determinations made by staff each year. On average, five appeals are filed each year.

The Rental Licensing Program promotes and assures safety, health and habitability in rental housing conditions. It prevents deterioration of rental facilities and supports property values. It encourages responsible management and use of rental facilities. Staff is proposing developing a plan to expand the program to include vacant and condemned residential structures.

The additional paperwork mandated by the new Lead Law cost the office several hundred administrative hours. Ninety percent of property owners have submitted the appropriate information, compared to the 100% compliance rate of previous years.

Nuisance Abatement comprises 15% of the inspection workload. There are sanitation violations; weeds, trash and debris and motor vehicles. The Community Enhancement Program was developed in 2004 to inspect the exteriors of owner-occupied, vacant, and commercial buildings throughout the City. In response to concerns, the program is in the process of being revised. Due to the volume of Rental Licensing Program inspections, Community Enhancement Program inspections have dwindled to represent less than 5% of the inspections that are conducted.

There will always be an enforcement office because they tell individuals and/or corporations

to do things that they may not want to do, have planned to do, or be able to afford to do. This creates conflict and managing the conflict is the key to the office's success.

The Mayor and City Council need to provide direction on whether or not they wish to expand the rental licensing program to include vacant or condemned residential structures. Councilmember Metzner stated he thought the body would support this. Councilmember Aleshire stated they should determine if they were going to extend the program beyond the sunset provision. Councilmember Metzner stated he didn't think there would be any question that it would be continued.

Councilmember Aleshire stated he would support expanding the program to include vacant or condemned residential buildings. Councilmember Cromer asked if this would cover only rental residential. Mr. Lestitian stated it would be for all residential properties.

The definition of part of the proposal would include a provision for a property in which the owner moved out and the house is on the market. Councilmember Metzner suggested having another discussion scheduled for vacant residential properties.

Councilmember Nigh asked who performs the inspections for the Lead Law program. Mr. Lestitian stated the landlord is responsible for having the inspection completed and the inspector must be certified.

Mr. Lestitian stated the Office is making good progress with the nuisance abatement program. Councilmember Nigh stated she understands one vehicle is allowed in a back yard. Mr. Lestitian stated no untagged vehicles are allowed on the property.

Mr. Lestitian pointed out the Office of Code Compliance has never issued a citation for snow removal, or for graffiti removal. This does not mean citations won't be issued, just that citations have not, as yet, been issued.

Councilmember Nigh is concerned about the limited time frame that is allowed for graffiti removal. She is tired of the owner being held responsible for graffiti. Mr. Lestitian stated they will work with people to find someone willing to assist with the removal of graffiti. Councilmember Nigh stated some places still have graffiti that she reported. Mr. Lestitian stated they try to work toward voluntary compliance.

The Sunset Provision in the Rental Licensing program expires in 2007, but the Mayor and City Council may address the issue at any time. If anyone has questions regarding this, they should contact Mr. Lestitian.

Mr. Lestitian stated it is important to consider an adjustment in the fee schedule for rental licensing, as the budget continues to increase due to the cost of benefits.

Construction Code Adoption

Mike Heyser, Building Inspector, and Rodney Tissue, City Engineer, were present to discuss a construction code.

Staff is preparing ordinances for the purpose of updating various codes used as guidelines for construction of various types of structures. The City's Building Code, Electrical Code, Plumbing Code, and Mechanical Code will be included in these updates, and it is Staff's intention to present these to the Mayor and Council for approval in February, 2006.

The various codes are published nationally by the International Code Council and the National Fire Protection Association and are updated every three years. The City of Hagerstown has used these codes for several decades and have adopted updates as needed.

Codes can be adopted as published or with local amendments. During the February workshop, staff will be outlining proposed local amendments as well as changes in construction requirements that will become effective if and when the codes are approved.

Pangborn Park Gardens Concept Plan

Rodney Tissue, City Engineer, was present to discuss Pangborn Park.

Staff is proposing a "Master Improvement Plan" for the City-owned gardens at Pangborn Park. Staff is seeking Council input on the plan and authorization for the Parks Department to further develop the plan over time.

The City obtained the property from the Pangborn Corporation in 1939. Through the vision and generosity of Thomas W. Pangborn and John C. Pangborn the seven and one-half acre tract of land situated in the northeastern section of the community was given to the City for the establishment of a public park. Under the terms of the grant, the site was to be a formal garden, combined with a fully equipped recreational field and complete picnic facilities.

The gardens have never been significantly altered or improved. Staff, working with Mahan Rykiel & Associates (the designers of University Plaza), has developed a concept plan for the southern half of the gardens.

The major components of the plan include the following:

1. The removal of the existing non-functioning fountain and pool, and the replacement with a water feature at the southern end of the garden near the

trellis.

2. Modifying the trellis with an opening on the central access of the gardens. It is envisioned this would be a great place for weddings, or to just enjoy the gardens.
3. An increased lawn panel would reduce the amount of garden area but retaining a manageable amount of perennial and ground cover plantings. Lawn cover area would allow the City to make it easier to maintain the area, while maintaining what Staff hopes would be a better quality of plantings.
4. A raised planter in the center of the garden area could be used for seasonal plantings or a statue.
5. Additional varied features such as pavements, benches and planting/lawn panels.

The Parks and Recreation Department has a grant of \$ 10,000 that could be used for some of this work. Mr. Tissue stated they are also proposing to do most of the work in-house.

Councilmember Parson-McBean stated she would like to see the fountain stay the same. Councilmember Metzner indicated the cost could be as high as \$ 50,000. Councilmember Cromer wondered if one of the service groups may be interested in donating a fountain for Pangborn Park. Councilmember Metzner suggested continuing with the project and try to keep the fountain.

City Administrator's Comments

Bruce Zimmerman, City Administrator thanked the Mayor and City Council for their discussions of the agenda items during this meeting. He stated an inventory of the downtown properties was placed in each councilmember's mailbox. For further information, they may contact him or Deborah Everhart, Economic Development Director.

Mayor and Council Comments

Councilmember K. S. Cromer thanked the Hagerstown Police Department and the Hagerstown Fire Department for their quick response during the recent anthrax threat to the city. She stated she thought Tim Rowland's (Herald Mail Company) column may not have been wise. She thinks the column may anger the person who made the threat.

Councilmember Cromer stated she has received questions about the start of the recycling program. Mr. Tissue stated the co-mingled collection program will begin during the week of April 23, 2006. The pickup day will be different for different sections of the City. Mixed paper and co-mingled recycling will be picked up on the same night in each zone, but not necessarily on the night the mixed paper is picked up now. Bins are available by calling the recycling hotline at 301 739-8577, ext. 106. Bins will be delivered to anyone who calls. Mixed paper bins are available now and the co-mingled bins will be available in March. The bin does not have to be used, but garbage bags cannot be used. It is suggested that items for recycling be rinsed out. Brochures with additional details will be provided to all residents. An informational campaign will be held before the recycling begins. Garbage collection will remain at two days per week. The yard waste pick up program will resume in the Spring.

Councilmember Nigh stated she would be interested in seeing how much the tonnage to the landfill was changed by starting a recycling program. Mr. Tissue will ask for that information.

Councilmember P. M. Nigh stated she is concerned about the area on Franklin Street that a citizen e-mailed her about. She is concerned about another area that is very bad. There needs to be manpower out there to take care of these problems. She expressed great concern that vagrants are now at REACH. There are many calls for police to the REACH shelter. It has to be realized that the city police department is not a taxi cab for vagrant transport. If REACH wants to provide transportation, they need to come up with the money. She expressed concern that CRS responds to a number of calls that are not emergencies. She stated the REACH shelter is listed as an address for some people on the sex offender list. She finds this completely unacceptable. She stated there is a problem with a property on Washington Street. Mr. Zimmerman will gather the most recent information in reference to a nuisance attorney.

She stated there was an article in USA Today indicating some researchers fear new hospitals will drive up costs for patients. She MDE has responded now, saying it is really up to the City and County to decide if allocation is provided, but for the good of the community it really should be approved.

She asked what happens to the money that may not be used for projects such as Washington Gardens. It was stated this is a loan and they are borrowing the money. If they don't use it all, they wouldn't borrow it. She also asked what happens to the money that was granted to New Beginnings. Councilmember Parson-McBean stated she will research this.

Councilmember K. B. Aleshire agreed with the USA Today article. In the last five years, there has been a 47% increase in costs, but a decrease in the number of hospital beds. He feels the new hospital will increase health care costs but not provide any better care.

He stated the response from MDE is another example of the inconsistency of that organization. He expects that the Joint Service Agreement request will be discussed at a future work session. He wondered why an engineering design was being worked on for Deerfield Knoll, since it has not yet been approved for a PUD. He stated he voted against the Mike Callas Stadium at North High site plan during the Planning Commission review. He stated the design was presented and a decision was asked for within the same meeting. This is not enough time to review the plan. He stated the ARC indicated to the previous Mayor and Council the land at Linwood and Sweeney Drive would be used solely for their use. This plan calls for utilizing most of the area around the stormwater management pond as their open areas. To him, this is not usable open space. Conditions need to be added so this does not happen.

He stated the State annexation report shows how slow the City of Hagerstown is annexing. He would like to know what will be done to replace the vacant Recreation Superintendent position. He expressed his concern about parking tickets that were issued after Christmas. Those tickets were abated. Mr. Zimmerman stated the City Code addresses parking holidays, which are different from city holidays. Councilmember Aleshire suggested extending the free parking at Christmas through the end of the year. He stated a letter from Randy Cohen indicating they have a new approach for a project is the same idea that has been voted down before. He stated this type of project would take a new development and make it the new downtown. He stated this is in conflict with the Mayor and Council's vision for downtown. He stated the University System of Maryland request for \$ 25,000.00 should be considered as part of the budget. He indicated he also felt the format for the State of the City last year included inappropriate questions and comments from the panel. He stated he has faith that Brien Poffenberger, Executive Director of the Chamber of Commerce, will not allow this to occur again this year.

Councilmember A. Parson-McBean stated she attended the Martin Luther King, Jr. ceremony at Hagerstown Community College. Ruth Monroe and Bill Mason were honored at the ceremony. She also attended the 20th annual Martin Luther King, Jr. Scholarship banquet. She thanked Councilmember Metzner for also attending the event. She thanked Debbie Everhart, Director of Economic Development, for providing the materials to make the City's table look good. She also thanked Captain Charles Summers for attending. She asked Rodney Tissue to respond to a request from Florence Mills asking for information about the bus stop relocations. She will provide a copy of the letter.

The first Minority Business Program luncheon will be held on Monday, January 23, 2006 at the Clarion. She thanked Ms. Everhart for organizing the luncheon and for working diligently with her during the past several months.

Councilmember L. C. Metzner expressed the Council's condolences to the family of Jane Burhans, who passed away January 4, 2006. Mrs. Burhans was Mayor Burhans' wife but she

Work Session and Executive Session
Mayor & City Council
Hagerstown, Maryland

January 17, 2006

was also active in the City on her own. She was responsible for designing the City's flag and was instrumental in starting the Sister City Program. She will be missed in the community.

He stated someone when into cardiac arrest at the Martin Luther King, Jr. banquet. He thanked the emergency response people who were there within 35 seconds.

He discussed the letter from the MDE. He stated the opinion is very unclear. He asked for a clarification.

There being no further business to come before the Mayor and City Council, on a motion duly made by Councilmember K. B. Aleshire and seconded by Councilmember A. Parson-McBean, the meeting was adjourned at 7:55 p.m.

Respectfully submitted,

Donna K. Spickler, City Clerk

Approved:_____