

WORK SESSION – June 3, 2008

Mayor R. E. Bruchey, II called this Work Session of the Mayor and City Council to order at 4:04 p.m., Tuesday, June 3, 2008, in the Council Chamber at City Hall. Present with the Mayor were Councilmembers M. E. Brubaker, K. S. Cromer, L. C. Metzner, P. M. Nigh and A Parson-McBean; City Administrator Bruce Zimmerman, City Attorney John Urner and D. K. Spickler, City Clerk.

Edgemont Watershed Hunting Permit Process 2008

Michael Spiker, Director of Utilities, was present to discuss hunting permits. In order to identify the definitive process that will be followed in 2008 regarding hunting on the City of Hagerstown's approximately 1300 acre Edgemont Watershed property, he offered the following points:

1. 50 permits will be issued
2. Applications will be accepted from Washington County residents and individuals external to Washington County
3. Applications from residents external to Washington County will only be considered if less than 50 applications from residents of Washington County are received.
4. A non-refundable \$ 10.00 permit application fee will be required.
5. A copy of the applicant's valid hunting license will be required with the application.
6. The submittal of applications will commence on July 1, 2008 and end on August 15, 2008.
7. A valid hunting permit and parking permit will be assigned to each successful applicant.
8. Notification to the successful applicants will be mailed before September 15, 2008.
9. The aforementioned process information will be advertised in June, 2008 in the Herald Mail.

It was the general consensus of the Mayor and Council to follow this process for issuing hunting licenses.

Amendments to Water and Wastewater Policy

Kathleen Maher, Planning Director, and Michael Spiker, Director of Utilities, were present to provide further information for amendments to the Water and Wastewater Policy.

Staff previously presented recommendations for amendments to the Water and Wastewater Policy as a result of changes recommended in the Comprehensive Plan. The revised Annexation policy and the 2008 Comprehensive Plan (both adopted on April 22, 2008) identify the Medium Range Growth Area (MRGA) as the limits of City water and

wastewater service. Because there are unique situations where the provision of such services beyond the MRGA is desirable or required, the Water and Wastewater Policy needs to be amended to enumerate those exceptions to the Annexation Policy for service beyond the MRGA.

Since the February 19, 2008 meeting, staff have met with the City Attorney to discuss the proposed amendments and have modified exception number three and added four more exceptions for the provision of water and/or wastewater beyond the MRGA:

3. Modification – existing lots of record between the MRGA and the UGA
4. New – redevelopment of properties with existing customers
5. New – properties subject to pre-existing water and/or wastewater agreements
6. New – economic development projects in targeted areas (*provision in 2008 Comprehensive Plan*)
7. New – properties with pre-annexation agreements (*exemption in Annexation Policy*)

The City Attorney has some concerns about the possibility of creating larger enclave barricades around the City if the City provides water and/or wastewater outside the MRGA without requiring pre-annexation agreements. City Planning staff would support requiring pre-annexation agreements as a condition of receiving one of the exceptions in the policy.

Councilmember Brubaker asked what the extent is for existing lots of record. Mr. Spiker indicated this information will be provided. Councilmember Brubaker stated the Comprehensive Plan is calibrated to the amount of capacity the City would be able to serve.

Another discussion of the amendments will be scheduled.

#### Haven Road Annexation – Development Plan

Kathleen Maher, Planning Director, was present to discuss a proposal by Ken Jordan, the owner of the Haven Road annexation property, to modify the concept plan for this development to change the two-over-two condominium townhouse units (a multi-family land use type) to condominium apartment units (another type of multi-family land use).

The Haven Road property is zoned R3. The Planning Commission approved a concept plan for this project in June 2006, which showed 37 single-family detached units, 151 townhouse units, and 188 two-over-two condominium townhouse units. According to Mr. Jordan, his proposed modification would not increase the number of units proposed in the two-over-two townhouse section nor would it modify the footprint of the buildings. The proposed change would not result in a land use change or a change to the concept plan, at this time. Planning staff is supportive of the requested modification change. The proposed change would be possible per the zoning ordinance, but would

need to be reflected on the development plan (formerly known as preliminary plat) when it is submitted for review.

The City annexed the Haven Road property on November 22, 2005 and then re-annexed the property to correct an enclave issue on February 26, 2008. The annexation petition for this property included detailed requirements on how the property could be developed, including a maximum number of units (376), buffering requirements, planned egress points, the nature of sewer allocation, the pacing of the development, the location of the single-family units, and the following statement regarding unit types:

“...the property will be used for single-family detached, townhouses, and multiple family dwellings consisting of two-over-two townhouse condominiums...”

If the Mayor and City Council are agreeable to the change, staff will work with the City Attorney on the appropriate steps necessary to amend the annexation agreement for this property.

The annexation agreement specifies the units will be condominiums. The City Attorney would have to determine the legality of condominiums vs. apartments.

Councilmember Brubaker suggested adding language that condo apartments are required.

Councilmember Metzner stated he doesn't think the Council approved rental units. He would not oppose permitting the change from 2 over 2 condos to 2 over 2 condo/apartments, but if the units are to be rental units, the Council would need to reconsider.

The City Attorney has determined that if the Mayor and City Council would like to accommodate this requested change to the concept plan for the development, it will require an amendment to the annexation resolution which contains the annexation petition for the property.

#### Doub Farm Annexation

Kathleen Maher, Planning Director, stated a letter was received from the applicant of the Doub Farm annexation requesting that the Mayor and City Council provide a letter to the County Commissioners which requests express approval of the zoning for this annexation. The County Commissioners have relayed this request for a letter from the Mayor and City Council through County staff to both the applicant and City staff.

While the requested zoning is inconsistent with the existing County zoning of HI-2, the requested C4 and POM zoning are consistent with the land use recommendations for

this parcel in the City's 2008 Comprehensive Plan. In order to annex the property with the requested zoning, the County Commissioners must grant express approval of the change in zoning or the requested zoning would have to wait five years following annexation.

The City Attorney drafted a letter for the Mayor and City Council's consideration.

Mayor Bruchey stated the letter does not indicate the City will annex the property if the express approval is granted but it does start the process.

Councilmember Metzner would prefer to discuss the annexation with the County Commissioners. A joint meeting is scheduled for Tuesday, June 10, 2008.

Mr. Urner stated the applicant would like the city to move through the annexation process. Article 23 of the Code of Maryland states when property is annexed, that municipality then has exclusive jurisdiction to plan and zone for the property. If the City adopts this property, it becomes the sole decider of its development, planning and zoning. The only provision limiting that is if the municipality does not have express consent of the County. If express consent is not granted, the zoning on the property cannot be changed for five years. The request to the County is not for a given zoning classification but for land uses consistent with the City's Comprehensive Plan. If the County does not respond, that is considered a denial. The County is requesting that the Mayor and Council send a request for the determination.

The property has been designated as business employment and commercial in the Comprehensive Plan.

Councilmember Metzner stated an R-1 land use would probably be more compatible if the Faison development occurs. Councilmember Brubaker stated the recommendation was business employment and he thinks Highway Interchange would be suitable and serve the citizens better.

Ms. Maher reminded the Mayor and Council without express consent from the County, the property could not be developed as proposed for five years.

Mayor Bruchey pointed out the letter to the County would only be requesting their consideration of express consent for the zoning classification.

John Urner, City Attorney, stated the annexation process specifies the first presenter at an annexation proceeding is to be the County, so they have a specific opportunity to come in and express their opinion. The County has been silent in the past but they are seeking

an opportunity to express an opinion in this matter. He views the request as an indication they are going to review the annexation request and provide some kind of response. He recommended sending the request and see what response is provided.

Councilmember Brubaker supports sending the letter. He pointed out denial of express consent does not mean the other shopping center can automatically move forward. Water and sewer service still must be secured. He prefers that the City be the party that approves the design of whichever shopping center is built and receives the revenue associated with that.

It was the general consensus of the Council to send a letter to the County Commissioners to ask them to consider providing express consent for a business employment zoning classification for the Doub Farm Annexation.

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

*Bruce Zimmerman, City Administrator*, stated the Jonathan Street project has started and portions of the street will be closed for a short period of time next week. After the initial work at the Jonathan and Church Street intersection, the street will be closed to traffic until the fall of 2009. Newsletters are being distributed to inform residents of the work. He complimented everyone involved with the BluesFest for their help this year.

### **MAYOR AND CITY COUNCIL COMMENTS**

*Councilmember P. M. Nigh* had no additional comments.

*Councilmember L. C. Metzner* thanked everyone for their efforts during BluesFest.

*Councilmember K. S. Cromer* thanked the BluesFest Committee, City staff and volunteers for a job well done.

*Councilmember M. E. Brubaker* mentioned the Maryland Preservation Conference was held in Hagerstown last week. He thanked everyone who worked on BluesFest.

*Councilmember A. Parson-McBean* echoed the comments about the BluesFest. She would prefer more traditional blues at the event. She stated the end result of the Jonathan Street project will be worth the inconvenience. She commended staff, specifically Bruce Zimmerman and Al Martin, for working through a difficult discussion about the tax rate during the May 27, 2008 meeting.

*Mayor R. E. Bruchey, II* thanked the BluesFest Committee and the volunteers for their efforts. Even with the rainy weather on Saturday, the event was well attended.

A joint meeting will be held on June 10, 2008 at 3:00 p.m. with the County Commissioners to discuss the Consolidated Communication Center. Take home vehicles

will also be discussed on June 10, 2008. He asked Council members to review the memo that was provided regarding this topic.

Mayor Bruchey will be meeting with people from Cameroon to discuss a Sister City association. The preservation conference was a good event.

There being no further business to come before the Mayor and City Council, on a motion duly made, seconded and passed, the meeting was adjourned at 4:57 p.m.

Respectfully submitted,

Donna K. Spickler, City Clerk

Approved: July 29, 2008