

**4<sup>TH</sup> REGULAR SESSION – JULY 26, 2005**

**Mayor R. F. Trump called this 4<sup>th</sup> Session of the Mayor and City Council to order at 7:00 p.m., Tuesday, July 26, 2005, in the Council Chamber at City Hall. Present with the Mayor were Councilmembers K. B. Aleshire, K. S. Cromer, L. C. Metzner, P. M. Nigh and A. Parson-McBean; City Administrator Bruce J. Zimmerman, and City Attorney Mark Boyer.**

The invocation was offered by Councilmember P. M. Nigh. The Pledge of Allegiance was then recited.

Mayor Trump announced the Rules of Procedure for this meeting will be followed as adopted June 21, 2005. It was announced that the use of cell phones and electronic devices during meetings is restricted and that all correspondence for distribution to elected officials should be provided to the City Clerk and should include a copy for the City Clerk for inclusion in the official record. Deborah Everhart was acting as the City Clerk for this meeting.

The next scheduled meetings are: Work Sessions beginning at 4:00 p.m. on Tuesday, August 2, 2005, Tuesday, August 9, 2005, Tuesday, August 16, 2005, the Regular Session on Tuesday, August 23, 2005 at 7:00 p.m. and a Goal Setting Retreat on Tuesday, August 30, 2005 at 3:00 p.m.

**PUBLIC HEARINGS**

**Green Property Annexation, A-05-04**

Stuart Bass, Comprehensive Planner, stated on the advice of the City Attorney due to administrative matters it is being requested that this Public Hearing be tabled until the Regular Session to be held on August 23, 2005.

On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember A. Parson-McBean, the Mayor and City Council unanimously agreed by voice vote to table the Public Hearing until August 23, 2005.

**MINUTES**

On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember P. M. Nigh, the Mayor and City Council unanimously agreed by voice vote to approve the minutes for Mayor and City Council meetings held on June 14, 2005, June 21, 2005 and July 12, 2005.

### **CONSENT AGENDA**

On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember K. B. Aleshire, the Mayor and City Council unanimously agreed by voice vote to approve the Consent Agenda as follows:

- A. Public Information: Augustoberfest Application Permit, August 13, 2005 and August 14, 2005
- B. Engineering:
  - 1. Jonathan Street Streetscape Design – KCI Technologies (Hunt Valley, MD) \$ 270,738.46
  - 2. Two Chevrolet Colorado Pickup Trucks – Hertich Fleet Services (Denton, MD) \$ 20,796.00
- C. Parks and Recreation:
  - 1. Jacobsen G-Plex III Reel Mower – G. L. Cornell (Gaithersburg, MD) \$ 17,431.56
  - 2. Four Gravely Tractors – Gravely Lawn and Power (Hagerstown, MD) \$ 25,246.68
- D. Water and Sewer Department
  - 1. Water Pump – STH, Inc. (Frederick, MD) 11,658.00
  - 2. Automatic Transfer Switch – A. R. & E (Hagerstown, MD) \$ 24,050.00 l Services (Exton, PA) \$ 24,612.00

### **UNFINISHED BUISNESS**

#### **A. Resolution: Approval of Haven Road Annexation**

**Action:** On a motion duly made by Councilmember K. B. Aleshire and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to table the resolution for the approval of Haven Road Annexation.

#### **B. Resolution: Approval of Light Property Annexation**

**Action:** Councilmember K. B. Aleshire made a motion to adopt an Annexation Resolution and Petition for Terri L. Light (Narvon) and Stephen C. Palmer (Trustee) for property located east of Eastern Boulevard and south of Jefferson Boulevard. The property to be annexed is 29.374 acres in size and is intended to be added to and made part of the adjacent municipal lands.

Mark Boyer, City Attorney, made a point of order that since this motion had been previously tabled, a motion must be made to remove the resolution from the table.

Councilmember K. B. Aleshire made a motion to remove the Light Property Annexation from the table. Motion died for lack of second.

Councilmember L. C. Metzner asked that the Light Property Annexation be scheduled for further discussion at a future work session.

Mr. Boyer stated that a motion has already been made to approve the resolution and does not need to be made again. In order to discuss the matter, it must be removed from the table.

It was noted that the motion to table the approval at the June 21, 2005 meeting had included the date of this meeting. Mr. Boyer indicated in that case, a motion should be made to table the approval of the resolution.

Councilmember L. C. Metzner made a motion to table the approval of the resolution for the Light Property Annexation. Councilmember K. C. Cromer seconded the motion.

Motion carried, 4-1 with Councilmember K. B. Aleshire voting no.

**C. Resolution: Approval of Crumrine Property Annexation**

**Action:** Councilmember L. C. Metzner made a motion to table approval of the Crumrine property annexation. Councilmember K. S. Cromer seconded the motion.

Motion carried, 4-1 with Councilmember K. B. Aleshire voting No.

**D. Resolution: Approval of Green Property Annexation**

**Action:** On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember K. S. Cromer to table the resolution approving the Green Property Annexation.

**E.. Approval of an Ordinance: Excise Tax and**

**F. Approval of an Ordinance: Adequate Public Facilities Ordinance**

**Action:** On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember K. S. Cromer, the Mayor and City Council unanimously agreed by voice vote to table the approval of these ordinances until the Washington County Commissioners complete their consideration of their Adequate Public Facilities Ordinance.

**H.. Approval of an Ordinance: Acquisition of 441 Jonathan Street**

**Action:** On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember P. M. Nigh, the Mayor and City Council unanimously agreed by voice vote to approve an ordinance to consider the acquisition, rehabilitation and resale of property known as 441 Jonathan Street under the City's Single Family Home Ownership Program, with an acquisition cost of \$ 31,000 to be funded by the City's Community Development Block Grant Fund.

**NEW BUSINESS**

**A. Resolution: Acceptance of Dedication Offer – Observatory Drive and Kasinof Avenue**

**Action:** On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember K. S. Cromer, the Mayor and City Council unanimously agreed by voice vote to accept the offer of dedication of "Observatory Drive" and "Kasinof Avenue", as described in the attached resolution as prepared by the City Attorney.

**CITIZEN COMMENTS**

Mayor Trump stated five citizens had indicated they wished to address the Mayor and City Council in regard to the Light Annexation. He stated the policy is that three people are allowed to speak on an issue. Councilmember Metzner stated he thinks the intent to limit the spokespersons is for an organized group. He would find it difficult to limit individual citizens to two or three people to speak on the same topic.

Bob Hatch asked for a recess in order to determine who would speak about the Light Annexation. Mayor Trump allowed a three minute recess.

The following people will speak in reference to the Light Annexation: Sally Hatch, Shirley Weisbacker and Edward Schilling.

Sally Hatch, 1201 Jefferson Boulevard, Hagerstown, Maryland, stated the developer's plan should fit the land. The land should not be redeveloped to fit the developer's plan. This property contains flood plains, buffers, historical properties and natural habitats. The Comprehensive Plan for the City states a sensitive areas element is required in each plan. Protection of these areas will have substantial impact on the adjacent properties. The value of open space buffers is recognized as an essential part of land development.

Shirley Weisbacker, 1225 Jefferson Boulevard, Hagerstown, Maryland, owns two lots on Jefferson Boulevard along with her husband. There is an easement with the State on one of the properties. She stated they are concerned with stormwater runoff on their lot.

She read a portion of the requirements for stormwater management in the annexation petition. She requested that their lot be included in the stormwater management requirements for the Light property annexation. They want to continue to live comfortably and not have problems with stormwater runoff.

Edward Schilling, 1155 Jefferson Boulevard, Hagerstown, Maryland discussed the potential traffic problems as a result of the annexation of the Light property. Two access points will be required and he is concerned that a right in, right out traffic pattern will cause Jefferson Boulevard to be widened.

Jason Divelbiss, Miller, Oliver, Baker, Moylan and Stone (Attorneys), Hagerstown, Maryland was present to discuss the developer's perspective of the Light Annexation. Meetings have been held with the neighbors of the proposed annexation. The majority of the concerns that have been expressed in relation to this property are development issues. They are not related to the annexation or to the proposed change in zoning from residential to commercial classification. There will be a forested buffer area of 40'. They are offering to limit the height of the commercial buildings if they are to be located within 100' of this buffer area. This would create an additional buffer. The developer understands the traffic concerns the neighbors have. The State Highway Administration will be heavily involved in the traffic patterns. The annexation resolution addresses the stormwater management concerns that have been expressed.

James Laird, 1903 Maplewood Drive, Hagerstown, Maryland, was present to discuss the issue of forest conservation. He stated he felt he was being cut short when he was stopped at the last Mayor and City Council meeting. He expects all speakers to be treated consistently. Citizen participation is an important part of the democratic process. He suggested that the City purchase a timer for the meetings. There is a State forest conservation act that requires on site re-forestation on lots of more than one acre that are disturbed. He stated developers routinely convince the Hagerstown Planning Commission that re-forestation cannot occur on site. Payment in-lieu of planting is routinely approved by the Planning Commission. Citizens express their concerns about the land being stripped to the Planning Commission and those concerns are not addressed. He asked that the Mayor and City Council review the membership roster of the Planning Commission and make necessary changes. He stated he feels the Planning Commission's priority is to please the developers.

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

*Bruce Zimmerman, City Administrator*, mentioned that there was a failure in the telephone system at City Hall on Monday. The system should be repaired by the end of the day on Wednesday.

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

*Mayor R. F. Trump* thanked everyone for their patience during this hot spell. He encouraged everyone to attend the Augustoberfest and the Jonathan Hager Craft Days.

*Councilmember L. C. Metzner* stated he will continue to weigh the concerns of the property owners in relation to the Light Annexation property. His concern continues to be that if the annexation is refused, they may have to deal with the County with different zoning. He asked for Prayers for the astronauts in space and men and women overseas.

*Councilmember K. S. Cromer* congratulated the Pony League for their participation in the post season playoff. She stated they won the sectionals in Ohio and now they are playing in Pittsburg. They are doing well in the tournament. On July 16, 2005, Councilmember Cromer attended the 19<sup>th</sup> annual sports hall of fame induction. Two retired city employees were honored at the banquet. Firefighter of the Year is Richard Jordan and Police of the Year is Steven Cromer.

*Councilmember P. M. Nigh* stated the Music by the Lake series of concerts is doing very well. She thanked the Arts Council, and Karen Giffin and other staff members. She stated Crestview residents called about the street not being paved following a sewer repair. It has been two months since the repair occurred and the road has not been paved.

Councilmember Nigh presented a sign in response to an article written by Tim Rowland that referred to members of the Council being "Trumpettes". She read a letter from J. Michael Nye in reference to the approval of the Certificate of Need granted by the Maryland Health Care Commission. Mr. Nye expressed his concern that the impression was given that no opposition was presented to the Certificate of Need. Mr. Nye stated he had submitted a letter of opposition. During the approval, Mr. Nickolay stated the downtown site would be more costly because of delays with property acquisition. With or without annexation, there will be water and sewer limitations. There are many unknown cost factors for the Robinwood site. Mr. Nickolay claimed he was confident that zoning would be approved. Mr. Nickolay stated there was community support for the Robinwood site. Only thirty four letters were received and this does not appear to be strong community support. Councilmember Nigh stated that Mr. Hamil indicated there would be no economic impact on the City because of the proposed East End Development Plan. She stated there was a plan prepared but was not discussed or approved. The approved schedule in the CON, states that zoning approval must be received in the next few months in order to begin construction by January, 2006. Mr. Nye indicated he felt the MHCC has done the community a disservice by approving a CON that cannot proceed in a timely manner due to zoning approval. The hospital board has continually blamed the City for the delays. In fact, the CON application first submitted contained flaws and it was suggested by the MHCC that the application be redrafted. It is unfair to continue blaming the City for the delays. Councilmember Nigh stated she sent a letter to the MHCC voicing her concern that it appears there was a previous agreement with the hospital. She stated the statements made by Mr. Nickolay that there was community support was not true. She gives her support to her colleagues as they express their concerns that lies have been submitted by the hospital board of directors. The City has not caused the delay of a possible relocation of the hospital to

Robinwood. She stated she is concerned the taxpayers will experience increases to cover the infrastructure needs.

*Councilmember A. Parson-McBean* thanked Ruth Monroe for making sure the kids of the Jonathan Street community are able to enjoy the fruits of summer.

*Councilmember K. B. Aleshire* stated all Council members received a correspondence from the EDC that they are requesting City staff's assistance to fast track the hospital project. He asked why the EDC is involved in the process. The Mayor and City Council has established a clear direction in the relocation. Bruce Zimmerman, City Administrator, advised the County Administrator that a process has been established and that the Mayor and City Council would be willing to discuss the water and sewer issues with other elected officials. City Staff members will not be attending any meetings.

There being no further business to come before the Mayor and City Council, on a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember A. Parson-McBean, the meeting was adjourned at 8:10 p.m.

Respectfully submitted,

Donna K. Spickler, City Clerk  
(by video)

Approved: \_\_\_\_\_