

WORK SESSION – August 2, 2005

Mayor Richard F. Trump called this Work Session of the Mayor and City Council to order at 4:00 p.m., Tuesday, August 2, 2005 in the Council Chambers at the City Hall. Present was Mayor Trump, City Council Members K. B. Aleshire, K. S. Cromer, L. C. Metzner, P. M. Nigh and A. Parson-McBean, City Administrator Bruce Zimmerman, City Attorney John Urner, and City Clerk D. K. Spickler.

Preservation Design District Commission Information

Robert Hershey, Chairman, Preservation Design District Commission (PDDC), was present to provide an overview of the responsibilities of the PDDC.

The PDDC was established as a way to promote historic preservation. There are four Preservation Design Districts in the City. Historic Preservation increases property values, contributes to the quality of life, and safeguards Hagerstown's historical heritage. Federal and State tax credits are available for properties within the Districts.

Members of the PDDC are appointed by their discipline, not by the person. The Commission meets twice each month. The Commission uses two sets of guidelines when reviewing projects.

Councilmember Aleshire mentioned that homes outside the districts are not subject to PDDC approval. However, the homeowner can apply for landmark status and essentially become their own district and be eligible for the benefits.

Mr. Hershey stated most people are interested in rehabilitation rather than demolition of the buildings. The Commission's guidelines are intended to help reinforce the character of the historic districts and protect their overall appearance, improve the quality of development, protect the value of public and private investment, indicate approaches to design and increase public awareness of historic architecture. The Commission's guidelines are not intended to control the use of interior space, control the appearance of interiors or to guarantee that all new construction will be compatible with a historic setting.

Mayor Trump thanked Mr. Hershey and the members of the PDDC for their dedication and good work.

Light Annexation

Kathleen Maher, Planning Director, were present to review the proposed Light Annexation. The following "big picture" items associated with this annexation were discussed:

1. Annexation Policy – The City adopted an Annexation Policy in 2002 to ensure

that new development outside the City using city water and sewer utilities would annex into the City if the land was contiguous to our boundaries or sign an agreement binding them to offer the property for annexation if the land ever became contiguous to City boundaries. The policy was successfully defended in a tough legal battle with the County, the Home Builders, and two developers in 2003 to preserve the right to require annexation as a condition of receiving City water and sewer service. As the City is now bearing the fruits of this policy with multiple annexation requests, it should be remembered what the City was trying to accomplish when the policy was adopted and defended.

Councilmember Metzner stated he does not feel that denying zoning is denying the annexation petition. The Annexation policy was passed to prevent growth on the outskirts of the City that the City couldn't control. For him to approve the zoning, the applicant would have to apply for zoning and have no opposition from the surrounding county residents.

John Urner, City Attorney, stated the annexation process includes a comparison of the existing zoning and the proposed zoning. If the zoning is compatible, it can be changed immediately. If it is not compatible, zoning cannot be changed for five years after annexation. When considering annexation requests, the governing body must consider the jurisdiction the annexation will be in and determine whether or not it fits with the comprehensive plan. He stated a good deal of the focus during these annexations, and particularly this one, has (wrongly) focused on site plan review.

Councilmember Metzner suggested if the owner had asked the County for commercial zoning, like he feels they should have, the Mayor and City Council would not have asked for all the conditions.

Mr. Urner stated the Mayor and City Council can deny the annexation request. Councilmember Metzner asked if the City would still have to provide water and sewer service. Mr. Urner indicated the City would not. Mr. Urner stated again that site plan review occurs after an annexation is approved and compatible zoning is applied.

2. Zoning – If the Light property were already located within the City, the applicant would have no difficulty in proving that a change in the character of the area had occurred since the City's Zoning Ordinance was adopted in 1977. The County has already indicated that they do not have a problem with commercial zoning for this property in their review of the annexation petition. If the City does not annex the Light property, the applicant would have little difficulty in proving a case for rezoning in the County.
3. Traffic – Eastern Boulevard is presently experiencing traffic problems due to the high volume of users traversing the corridor as an eastern bypass of the City and to gain access to the employment and service center which has developed along the road within the City.

In order to fund the necessary widening work to the roadway within the City, the City has established an Eastern Boulevard Assessment District. If the City does not annex the Light property and it develops as planned outside the City, we will experience additional traffic on Eastern Boulevard from this development without generating any revenues from the development for the Assessment District fund to improve the roadway.

4. Schools – Rezoning of this property to commercial would remove the need for the County to plan for and fund the demand for school seats which a property of this size would generate with a residential development project.
5. Revenue for the City – With commercial zoning, this nearly 30 acre parcel would probably generate a similar number of commercial lots as exist on Opal Court. In FY 2006, the City will receive \$ 65,984.69 in base property tax revenue from the properties on Opal Court.
6. City Services - Water service is available to the property. Sewer service would be available as prescribed in the City's Sewer Capacity Allocation Program. If developed in a similar manner to Opal Court, an office park would generate very similar levels of service from the City's Fire and Police departments whether it is in or outside the City due to mutual aid agreements. The new public street to serve the development would connect with the MKS business park street network and would be maintained in a similar manner.

Bruce Zimmerman, City Administrator, indicated that Staff thinks the annexation makes sense. Ms. Maher indicated the Planning Commission reviewed the annexation and recommended approval.

Councilmember Aleshire stated he thinks the Mayor and City Council need to discuss where they stand, instead of continually tabling the annexation. He stated he thinks this is a prime example of the annexation policy and what it is designed to do. It gives the City a way to control and gain benefits from growth and the service areas. He thinks the applicant has answered the questions necessary for annexation.

Mayor Trump asked if the Councilmembers are in favor of the annexation. Councilmember Metzner stated there are four favorable votes, and possibly five. This will be added to the agenda for August 23, 2005.

#### Fire Prevention Code Amendments

Gary Hawbaker, Fire Chief, and Charles T. Brown, Sr., Fire Marshal, presented an ordinance making revisions to the Fire Prevention section of the Code of the City of Hagerstown. They are proposing to add and change sections of the code that will allow for increased revenue through

permit fees and Municipal Infractions.

It was the general consensus of the Mayor and City Council to move forward with the code amendments.

#### Sewer Capacity Allocation Program

The Maryland Department of the Environment (MDE) has submitted comments on the draft Sewer capacity Allocation Program (SCAP). MDE has indicated that if the City deletes the sections of the SCAP which they cannot approve, they will issue approval of the SCAP. The section which they cannot approve involved proposed methods to gain allocation from I&I projects and unused allocation of existing customers.

David Shindle, Water and Sewer Department Manager, stated the sections of the SCAP indicated will take some time to work through. Rather than delaying the implementation of the SCAP, Staff is recommending deleting those three items and moving forward with approval from MDE.

The three items are: Sections IX. Policy for Allocation Gains from I&I Projects, Section X. Policy for Regaining Customers' Unused Allocation and Section XI. Policy for Increased Usage by Existing Customers.

Councilmember Cromer asked how removing these three sections will affect the City. Mr. Shindle indicated this will prevent the City from gaining extra allocation from I&I projects and from customers' unused allocation.

Ms. Maher indicated the SCAP is set up to be reviewed on an annual basis. The next review will occur in January, 2006.

Councilmember Metzner stated the Mayor and City Council either needs to adopt a sewer allocation policy that is going to allow the hospital to get allocation, if granted by MDE, or withdraw the open letter to MDE asking for the allocation for the hospital. Mr. Urner stated the allocation is not available at this time, but it is scheduled for review in January.

Mr. Zimmerman stated the plan will be reviewed in six months and then annually thereafter. He stated it would be helpful for Staff to move from the interim plan to the SCAP plan.

Councilmember Aleshire stated he does not agree with MDE's response to the plan. He stated there is inconsistency. It appears they are striking out something because it doesn't apply to the consent order and then express concern about something that would actually help the City.

Mayor Trump suggested deleting these items and reviewing the plan in six months. He

expressed concern about damaging the relationship that is being formed with MDE. Councilmember Aleshire stated the City has already asked for an exemption from a policy that has not even been implemented.

Ms. Maher stated MDE is asking how to determine what would be gained from I&I projects. Mr. Urner stated he thinks MDE will approve the plan with Sections IX, X and XI deleted. The calculations for recovery are extremely complicated. Mr. Urner believes MDE needs more time to review the information.

Councilmember Parson-McBean stated she attended the MDE session at the Maryland Municipal League convention. MDE is working through their approval process. She agrees that we need to be consistent.

Councilmember Cromer stated she does not think MDE is being inconsistent.

After considerable discussion, it was the general consensus of the Mayor and City Council to submit the SCAP without the three sections discussed and to hold a special session next week to approve the revised plan. Councilmember Cromer stated she understands the three sections are being deleted but she stated the City should continue working with MDE to have these sections included in the plan in January.

### Tusing Warehouse Project

Deborah Everhart, Director of Economic Development, was present to discuss the Tusing Warehouse Building.

Ms. Everhart stated individuals have expressed interest in a number of non-profit and for-profit ventures. A few examples include a boxing club, an arts center, an outdoor concert venue utilizing the building for support services and the parking lot for events, a business incubator, and mixed-use with residential units above undetermined commercial uses.

As new opportunities for the Tusing Warehouse are explored, staff would like to offer the following strategy as the plan for getting this building revitalized and on the tax rolls:

1. Reach out to developers in other cities who are drawn to funky urban architecture for unique, exciting projects.
2. Offer as City goal for the building an active use that would bring excitement and foot traffic. Staff recommends as a suitable and preferred use a fun, casual restaurant that would work well in a warehouse type of space with the possibility of a covered deck overlooking the downtown for outdoor dining and socializing. Such a place could have the inviting character of a New Orleans or Santa Fe

eatery and night spot.

3. Place an advertisement in a metro paper specifically seeking investors/developers in this type of project as referenced under #2
4. Prepare a Request for Proposal, advertise and mail
5. Include in package a marketing piece on downtown – investment trend, unique environment of historic architecture, exciting special events, good companion businesses, new restaurants pending to create strong dining niche in our region

A turn around time of no more than 45 days is recommended. All proposals will include information about the financial position of the submitter. A detailed plan will be required so that the Mayor and City Council would have a more active role in how the area is developed.

Councilmember Metzner suggested addressing the proposals already on the table from local people, from for-profit and not-for-profit groups. He suggested preparing an RFP after that. He would like to have more input into what goes into the building. Any use would have to fit in with the major festivals that take place in that area.

Councilmember Cromer asked why the last proposal was submitted so long ago. Ms. Everhart stated the process took a long time. All interested parties had three months to submit their proposals. Staff then reviewed the proposals and met with the Mayor and City Council. After this point, the developer would begin the financing process.

Councilmember Nigh stated she is not concerned about how long the process takes. She is concerned that the City is paid back for the money they have invested in the Tusing Warehouse. She suggested advertising in larger cities to bring more money in.

It was the general consensus of the Mayor and City Council to advertise for Request for Proposals on a broad basis. Projects from individuals will not be discussed until after the RFP time closes.

#### License Agreement: Builders FirstSource

Deborah Everhart, Director of Economic Development, presented a license agreement between the City of Hagerstown and Bowman Baker LLC, owner and Builders FirstSource, Lessee, for property the City of Hagerstown owns and known as South Burhans Boulevard/Virginia Avenue Overpass Right-of-Way.

This License Agreement was previously given to Bowman Baker, LLC and Lowes, Inc. while Lowes Distribution occupied the property. Since that time, Lowes Distribution has relocated to

Wesel Boulevard and Builders FirstSource is now occupying the site on South Burhans Boulevard, as shown on the attached plat. They have requested that the City of Hagerstown allow them to occupy this area for storage purposes.

Councilmember Nigh asked what the starting pay for employees at Building FirstSource is. Ms. Everhart stated she would find out.

It was the general consensus of the Mayor and City Council to have a resolution prepared for the license agreement and add approval to the August 23, 2005 agenda.

#### Lease Agreement: Department of Social Services

Deborah Everhart, Director of Economic Development, presented a license agreement between the City of Hagerstown and Potomac Building, A Limited Liability Company of Maryland for 94 parking spaces in the City owned parking lot on West Church Street. The Lease starts at a rate of \$ 32.50 per space per month with a \$ 1.50 increase per space each year over the next five (5) years. This Lease is conditioned upon Potomac Building leasing property located at 120-128 North Potomac Street to the State of Maryland Department of Social Services. One of the conditions of the Lease to the Department of Social Services is that Potomac Building provide parking for employees.

It was the general consensus of the Mayor and City Council to have a resolution prepared for the license agreement and add approval to the August 23, 2005 agenda.

#### City Administrator's Comments

*Bruce Zimmerman, City Administrator*, stated the Jonathan Hager Craft Days will be held at the Hager House on Saturday, August 6 and August 7, 2005. Activities include craft vendors and musical entertainment. The work on Memorial Boulevard is nearly complete and the road should be opened by the end of the week.

Mr. Zimmerman pointed out that the weekly report includes reports of City employees going above and beyond the call of duty. Employees have assisted with a stolen bicycle incident and with helping a family displaced by a fire.

#### Mayor and Council Comments

*Mayor R. F. Trump* applauded City employees for providing assistance. He reported The Grand Venice (including Perkins restaurant) opened this week. Ribbon cutting ceremonies were held at Michele's Restaurant and the Cloak and Cupboard.

*Councilmember A. Parson-McBean* stated the Jamaican Festival will be held on August 20,

2005. This is the festival's sixth year. There will be a golf tournament held on August 19, 2005. She stated speeding on Jonathan Street needs to be addressed. She stated she was asked by someone at Noland Village what the City was going to do about what is happening there. Perhaps the City should require some form of security.

*Councilmember K. B. Aleshire* stated he would not support any sort of barrier in front of the museum. He stated a request for in-kind services has been received from the museum. He hopes if the request is for a barrier at the museum, there would be an opportunity to discuss it.

Bruce Zimmerman, City Administrator, stated he attended a meeting of the Virginia Council of Churches. The group works with an interfaith group who help place refugees as they enter new communities. He stated there was no request for support or assistance from the group. Councilmember Cromer stated she does not have anything against refugees, but there are a lot of people here that our local churches could help.

Councilmember Aleshire stated the Council needs to be in agreement with the amount of support for the design work from the City for the Edgewood/Dual Highway intersection upgrade. At a recent meeting with the State Highway Administration, it was made clear that the City of Hagerstown has not committed to any funding for construction.

Councilmember Aleshire stated he finds it interesting that the last time there was a letter to the editor from Tom Immer he was listed as a writer and his most recent letter indicated he was a resident of the City. He stated the letter seemed to be attacking in its tone.

*Councilmember L. C. Metzner* stated everyone should remember the words "give me your tired and poor." He stated some of this group would not be here if refugees had not been allowed.

He attended a concert in the park and stated the park is beautiful and the caretakers do a wonderful job. He would appreciate more information about the museum as well. He stated he will continue saying no to the City contributing one third for anything but the design work for the Edgewood/Dual Highway intersection.

*Councilmember K. C. Cromer* stated she agrees with Councilmember Aleshire in reference to the State Highway Administration project. She suggested including time during a meeting to discuss the shootings that are occurring at Noland Village. She suggested sending a letter to the Housing Authority telling them they need to do something about what is going on there. She thinks the Council needs to stand behind the citizens. The City does not have the police resources to have a person there 24 hours a day, 7 days a week.

She stated she received a copy of the design and wording that will be used on the monument at Memorial Boulevard. She agrees with the wording.



Councilmember Cromer visited the smart house in Potomac, Maryland. The house highlights the uses of broadband technology. The topic of broadband will be brought back before the Mayor and City Council. She suggested this may provide some competition for Antietam Cable Television.

*Councilmember P. M. Nigh* asked how long the refugee program has been in place. Mr. Zimmerman stated he is not sure. Councilmember Nigh stated the problems with the homeless people are increasing. Police officers are now responding to calls to remove people from porches. She stated there needs to be some kind of air circulation at the City Market. She suggested looking at air conditioning for next summer. She agreed with Councilmember Parson-McBean about the speeding problems. She asked if citations can be issued for loud radios. Acting Chief Charles Summers indicated citations can be issued. She stated there is a growing problem with paintballs. She agrees that something needs to be done at Noland Village.

Councilmember Nigh stated an area in town was hit by graffiti on Saturday. A juvenile has been identified as the one who did this. She wants the public to be aware this is occurring and she hopes volunteers will be able to help paint over the graffiti.

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 meet in closed session at 6:26 p.m. in accordance with the provisions of the annotated Code of Maryland, State Government Article, Section 10-508(a) #4 to consider a matter that concerns the proposal for a business or industrial organization to located, expand, or remain in the State, #7 to consult with counsel to obtain legal advice and #8 to consult with staff, consultants, or other individuals about pending or potential litigation. No formal action was taken at the session. The meeting was held in the Council Chamber, 2<sup>nd</sup> floor at the City Hall. The meeting was adjourned at 8:01 p.m.

Respectfully submitted,

Donna K. Spickler, City Clerk

Approved: