

WORK SESSION AND EXECUTIVE SESSION – August 15, 2006

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Mayor Robert E. Bruchey, II called this Work Session and Executive Session of the Mayor and City Council to order at 4:00 p.m., Tuesday, August 15, 2006 in the Council Chambers at the City Hall. Present with the Mayor were 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 Mark Boyer and City Clerk D. K. Spickler.

Community Action Council Letter of Support - Property Acquisition

David Jordan, Executive Director of Community Action Council (CAC), was present to provide further information from last week's discussion. Councilmember Aleshire had asked for more information about the success rate, the number of set outs, the number of service calls and the thoughts from the neighborhood for the transitional housing operated by CAC.

In the time period from 09/01/03 through the present, CAC has served 82 households in their shelters. Approximately 275 children were members of these households. Of the 82 families, 7 have been asked to leave the shelter. Set-outs are given twenty-four hours to remove their belongings. If they do not remove their belongings within 24 hours, they will be packed up and disposed of by a cleaning crew. They are not set out on the street.

Shelter residents are given a 60 day maximum stay. If they have followed through with all requirements and have located housing which is not ready for move in, the stay can be extended. The average shelter stay over during the past three years is approximately 45 days.

Of the 82 households served by the shelter in the time period mentioned, only six families had been in the area for less than one year. Of the 82 families served, 73 moved into permanent housing. Forty six households moved into the shelter with no income. In 44 of those households, at least one person became employed while in the shelter program.

There were about 43 service calls during the last three years. A number of the complaints were in 2003, at which time CAC was not self managing the property.

It was noted again that CAC intends to sell the Mulberry Street property when the new facility is operational. The property on W. Washington Street is currently a residential property and the use of the residence will not change.

It was the general consensus of the Mayor and City Council to submit a letter of support for the property acquisition.

Community Action Council Resolution of Support – State of Maryland Community Investment Tax Credit

The Washington County Community Action Council, Inc. (CAC) plans to apply to the Maryland Department of Housing and Community Development for the Community Investment Tax Credit Program (CITC) in order to expand the existing Financial Literacy & Investment Training and Education (FLITE) Program to include an Individual Development Account (IDA) component.

The major goal of including an IDA component is to assist low income families become economically stable by teaching them how to save and invest their earned income to purchase an asset. Additional goals include:

1. Assist customers in understanding the components of budgeting, saving, planning for the future and emergencies
2. Provide the skills needed to become employed and/or increase their income so that they will be able to maintain their housing and meet their household's needs
3. Assist customers in taking the steps toward homeownership
4. Provide opportunities via linkages to community resources to meet household needs
5. Provide skills needed to repair their credit, obtain a credit report

In order for CAC to be considered for funding, a resolution must be passed by the local government indicating approval of the program.

It was the general consensus to approve the resolution.

Preliminary Agenda Review

Amendments to City Adequate Public Facilities Ordinance

A Public Hearing is scheduled to discuss amendments to the City's Adequate Public Facilities Ordinance (APFO). In June, the Mayor and City Council considered staff recommendations for some amendments or interpretations of the City's APFO and directed staff to pursue the amendments. The City Attorney has reviewed the proposed amendments to revise the definition of minor subdivisions and to add a new exemption for modifications to existing development.

Consent Agenda

The following purchases are included on the Consent Agenda:

- A. Water and Sewer Department: Emergency Purchase - Replacement Air Compressor - Compressed Air Services, Inc. (Hagerstown, MD)
\$ 15,244.00

Councilmember Cromer asked if funding was available in the budget for this purchase. Nancy Hausrath, Operations Manager, stated the funding is included in the operating funds. Mr. Zimmerman indicated this purchase was necessary because of an equipment failure.

- B. Police Department: ABA Extreme Level II vests - Atlantic Tactical (New Cumberland, PA) \$ 14,523.60
- C. Engineerring:
 - 1. Street Tree Installation - Botanica Enterprises (Funkstown, MD)
\$ 58,730.00

Councilmember Cromer asked if this bid is for \$ 58,730.00 or for \$ 42,000.00. Rodney Tissue, City Engineer, stated there is \$ 42,000.00 budgeted for these trees. If more money becomes available, Staff will seek permission to purchase the remainder of the trees included in the bid. The trees will be planted in various locations.

- 2. Fifteen Tablet PC's - Vision Business Products (Carnegie, PA)
\$ 51,716.00

Councilmember Cromer asked why the tablet PC's are needed. Rodney Tissue, City Engineer, stated this would allow the inspectors to enter information while they are out in the field and would save time. Citations could be issued more quickly. The replacement funding for desktop units will be used to purchase the tablet PC's. These PC's would be for inspectors in Code Compliance, Planning and Construction.

- D. Public Works: Bulk Road Salt - International Salt Co., LLC (Clarks Summit, PA) \$ 51.29/ton plus a Fuel Price Adjustment
- E. Light Department: Substation/Transformers - Hamby Young Power Supply (Berwyn, PA) \$ 481,884.24
- F. Parks and Recreation: Barrier Free Modular Play Equipment - Miracle Recreation (Martinsburg, WV) \$ 17,699.00

There were no other questions regarding items on the preliminary agenda.

This completed the review of the preliminary agenda.

Trick or Treat

It was the general consensus of the Mayor and City Council to designate Tuesday, October 31, 2006 as Trick or Treat Night. The hours will be from 6:00 to 8:00 p.m.

Request by Demcore Entertainment, LLC to Host a Musical Festival on South Potomac Street

R. Michael Deming of the Demcore Companies has submitted a request for permission to host a music festival on South Potomac Street on October 21, 2006 from 11:00 a.m. to 10:00 p.m. Mr. Deming wants to bring people downtown and highlight the positive things that are happening.

Karen Giffin, Director of Community Affairs, stated representatives of a number of departments including Police, Fire, Engineering, Community Affairs, Light and Public Works met with Mr. Deming to discuss plans for the event. Mr. Deming would like the Mayor and City Council to approve use of South Potomac Street for the festival and to exempt the festival from the Open Containers Law for the day. Mr. Deming is willing to pay for all City Services needed, and he will sign an application/permit and have the required insurance for the event similar to the procedures that are followed for Augustoberfest.

Councilmember Parson-McBean expressed her concern that the event would not be affordable for families. The only admission fee is to enter the permitted areas for alcoholic beverages. Entertainment will be provided in the festival area, free of charge. Councilmember Parson-McBean asked if the festival is for the revitalization of downtown or for an individual. Mr. Deming indicated it is for the revitalization of downtown. The event would be held in one block of South Potomac Street, from the square to Antietam Street.

Mayor Bruchey stated this event would be another opportunity to bring people downtown and showcase Hagerstown.

Councilmember Nigh would prefer to have a festival without alcohol.

The proceeds from the festival will benefit the Maryland Theater.

Councilmember Aleshire stated he finds it odd that the Council encourages activities in the parks and debates requests for events like this.

After considerable discussion, it was the general consensus of the Mayor and City Council to place the approval of the event on the agenda for August 22, 2006.

Market House HVAC System

At the direction of the City Council, Staff had plans and specifications prepared for a new Heating, Ventilation, and Air Conditioning (HVAC) system for the Market House building located at 25 W. Church Street. Staff solicited competitive bids from contractors to construct the system.

Eric Deike, Public Works Department Manager, stated three bids were received for the HVAC system. All three bids were considerably higher than the budgeted amount for the project.

Based upon discussions with the City's consultant that designed the HVAC system and feedback from the bidders, Staff has identified several reasons that the bids may have exceeded the cost estimates. Staff recommends that the project be redesigned in an attempt to address these issues. In accordance with the City's Purchasing Policy, Staff recommends that the Council reject all bids received for this project; direct staff to redesign the project and authorize staff to negotiate with the low bidder on the revised project to bring construction costs more in line with the amount of money budgeted for the project.

It was the general consensus of the Mayor and City Council to reject all bids received for this project. The Mayor and Council also agreed to have staff redesign the project and negotiate with the low bidder on the revised project.

Leash Law

The Washington County Animal Control Ordinance, which was adopted by the City of Hagerstown, does not include a leash law. Based on discussions with Paul Miller, Executive Director of the Humane Society of Washington County, the Mayor and City Council could adopt a leash law; however, the Humane Society of Washington County would be under no obligation to enforce the law or to impound and/or shelter the animals. The following considerations would have to be determined if the City were to adopt its own leash law:

1. What agency would enforce the law?
2. Where would the impounded animals be housed?
3. How would the animals be transported?

As another option, the Mayor and City Council could formally approach the Washington County Commissioners about updating the current Animal Control Ordinance to include a leash law and other additions, as necessary. If the County's Animal Control Ordinance is updated and adopted with a leash law and the ordinance is subsequently adopted by the City of Hagerstown, then the Humane Society of Washington County would be the enforcement agency and would handle impoundment.

Staff would suggest that we make a formal request to the County Commissioners to update the Animal Control Ordinance.

Councilmember Nigh stated a leash law is needed in Hagerstown to ensure animals are fully under control, especially when on sidewalks. Councilmember Metzner agreed and added that something should be added regarding cleaning up after the dogs.

Councilmember Parson-McBean stated other communities have similar laws and citations are sent to the owner of the dog.

Councilmember Metzner stated this could be simple as a leash law for walking dogs on public sidewalks. It was the general consensus of the Mayor and City Council to have the City Attorney look into this and review what other communities have in place.

Old County Jail Monument

This item has been postponed until September 5, 2006.

Review of Draft Ordinance for Vacant Structures

Two ordinances have been developed to address the licensing of vacant structures. Both ordinances are designed to address public health, safety and welfare issues as well as blighting conditions attributed to vacant structures.

The Vacant Commercial Structure Ordinance will be limited to the C-3 (Commercial Central) Zoning district. This limited scope will allow the City to concentrate on the downtown area while limiting any unintended consequences discussed at the previous Mayor and Council workshop on this issue. The scope of the Vacant Residential Structure Ordinance is designed to be City-wide and will consolidate nicely with the current programs.

The second component of this comprehensive approach to addressing vacant structures is from an economic development perspective. A Vacant Structure Re-Use Program is being developed to become effective the same date as the proposed Vacant Commercial Structure Ordinance. Examples of the type of initiatives that may be designed to assist property owners through the Vacant Structure Re-Use Program are:

1. Rent Assistance for specific classifications of stores, similar to the downtown residency initiative
2. Assistance with a professional Marketing Campaign
3. Tax Incentives for renovation of unused/under-utilized street level store fronts
4. Assistance with Historic Tax Incentives

5. Revolving Loan Fund providing low-interest loans

Staff is seeking approval of this comprehensive approach, direction to introduce the Vacant Structure Licensing Ordinances at the August 22, 2006 Mayor and Council Regular Session and direction to develop the economic development component of the strategy.

John Lestitian, Chief Inspector, and Deborah Everhart, Director of Economic Development, were present to answer questions and discuss the program. Ms. Everhart indicated the City may need to provide some funding for this type of program.

Councilmember Cromer stated she did not think it was the Council's intent to develop a licensing program for commercial spaces in addressing the issue of vacant structures downtown. She doesn't believe a licensing program is needed. Mr. Lestitian stated the licensing aspect provides a way to complete an inspection of the building and assessing how safe the structures are and how blighted they are.

The previous discussions in reference to vacant structures included a licensing program.

Councilmember Nigh stated she is tired of vacant buildings and shopping centers. Inspections need to be completed to ensure the buildings are habitable. Once the program is started, she wants it to continue.

Councilmember Cromer indicated a property owner can request an inspection. She wants the vacant buildings taken care of, not licensed. She thinks owners may pay the fee and keep the building empty.

Councilmember Aleshire indicated this is the type of program he envisioned for vacant structures. Councilmember Metzner stated this is the type of program the Council had requested.

Mayor Bruchey understood the goal was to try to get business in the vacant buildings. He asked if the way to do this is through another program, such as a tax increase.

Councilmember Metzner expressed concern that certain buildings are obviously not in compliance but nothing is done. He stated if the goal of the licensing program is public safety, the definition should reflect that.

Mr. Lestitian stated some building owners have been cited for violations, but the cases have gone to court. Some other locations have been sold and the process must start over with the new owner.

Mr. Lestitian stated there is a concern about the safety of vacant residences. These structures do not fall under the rental facilities ordinance. Councilmember Metzner

stated the vacant commercial structure program is still being considered. The concept needs further review and discussion. He suggested scheduling time to discuss with Fire Chief Gary Hawbaker and Police Chief Art Smith the importance of gaining entry into vacant structures.

Councilmember Aleshire stated the rental registration process began this way. He is concerned that the Council will move backward if discussions continue as they have at this meeting. An ordinance was developed to fix a problem. He hopes the community would start to redevelop itself. The proposed ordinance needs to be supported to address the problem of vacant structures.

Mark Boyer, City Attorney, stated programs can be implemented to regulate structures, if done for a reasonable purpose. He will research the tax stature for more information.

Mayor Bruchey suggested that Councilmember Cromer, Councilmember Nigh and Councilmember Metzner discuss an agreeable program with Mr. Lestitian and bring it back for further discussion.

Proposed Amendment to the Rental Facilities Ordinance

Section 197-10B of the Rental Facilities Ordinance currently classifies violations of this Tenant Turnover provision as a misdemeanor. This has resulted in difficulties prosecuting this provision of the ordinance.

After consulting with the City Attorney staff recommends that this section of the ordinance be amended to reflect that a violation of this provision be punished as a municipal infraction of five-hundred dollars (\$500.00). This change will discourage property owners from attempting to bypass the tenant turn-over inspection requirement of the ordinance.

Staff is seeking direction to prepare the ordinance change for introduction at the August 22, 2006 Mayor and Council Regular Session. It was the general consensus to include the introduction of the ordinance on the August 22, 2006 agenda.

Eastern Boulevard Annexation (Shaool), A-2006-03

The Eastern Boulevard property is located on the north eastern side of the City, off Eastern Boulevard, across from the Hillside Manor Development. The proposed annexation is 5.948 acres. The proposed zoning district is R1 (Residential). The current County Zoning is RS (Residential Suburban). The Land Use Plan, as described in the 2002 Washington County Comprehensive Plan, designates the property as Low Density Residential, but also within the Rural Villages (Urban) boundary.

The property owner/applicant is Ben Shaool Construction/Dustin Shaool. With respect to the Washington County Board of Education and Public Schools, the recently adopted Adequate Public Facilities Ordinance will apply to this project.

Rodney Tissue, City Engineer, presented the following comments (by letter) on the annexation petition:

1. The Applicant is advised that, given the volume of traffic and the functional classification of Eastern Boulevard, access to Eastern Boulevard will be severely restricted or denied. Access to Antietam Drive is preferred.
2. This section of Eastern Boulevard is currently in the County. It is highly likely that Eastern Blvd. will be widened to (at least) four lanes in this area. If the City were to annex a portion of eastern Blvd., the City could face serious financial consequences in the future when the roadway improvements actually took place. Mr. Tissue suggested that a Memorandum of Understanding (MOU) on this matter be developed between the City and Washington County prior to approving this annexation.
3. There is an existing storm drainage problem along Antietam Drive near this property and Klick Way. The Applicant will be required to contribute funds to resolve this situation as a condition of approval for any future development plans.
4. Although this is more of a site plan issue, we note that the proposed site layout would likely create buildings with the rear of the dwelling facing Eastern Blvd. This is not a desirable configuration for the City, and the Applicant should strongly consider revising the layout to address this issue.

The Introduction of the Resolution was passed on July 25, 2006. A Public Hearing is scheduled for August 22, 2006, after which time the Mayor and Council may pass or reject the annexation resolution.

Stuart Bass, Comprehensive Planner, stated the traffic issues are going to be associated with the development. Councilmember Aleshire stated one of the biggest issues will be the access to Eastern Boulevard. He suggested adding this requirement in the annexation process. Antietam Drive would probably need to be updated.

Zoning Map Amendment – Hamilton, ZM-2006-02 (Oak Hill Investments) Discussion

A Public Hearing was held on July 25, 2006 before the Mayor and City Council to hear testimony on a proposal to rezone 115 Emmert Road, Hagerstown, Maryland to C2

(Commercial General). The request was submitted by Oak Hill Investment, LLP. The property is 6.88 acres in size. The existing use is vacant land.

The property is located in the Edgewood neighborhood as described by the Comprehensive Plan. It is comprised of a mixture of agriculture, commercial, and residential, with scattered subdivisions and freestanding retail and office establishments oriented to the Dual Highway.

The public review meeting with the Planning Commission for this proposal was held on Wednesday, May 22, 2006. There were no additional comments received during the 10 day period that the record was held open. On June 27, 2006, the Planning Commission evaluated the information and recommended approval of the proposed rezoning.

Public comments raised have included concerns about stormwater management, noise, light trespass and increased traffic.

Councilmember Aleshire asked if the State Highway Administration (SHA) has reviewed this request. Mr. Bass indicated the information had been submitted but no comments were received. Mr. Tissues suggested facilitating a meeting with the SHA to discuss this. Mayor Bruchey stated there is already access and egress on the property at the Hamilton dealership. Councilmember Aleshire would like to know if the owner is planning to use the existing access or to create another one. He is concerned there will be a limited deceleration lane into the existing car lot.

It was the general consensus to include the introduction of an ordinance to approve the rezoning request, based on a change in the character of the neighborhood, on the agenda for August 22, 2006. The Mayor and City Council agreed to schedule the introduction, prior to receiving information from the SHA.

City Administrator's Comments

Bruce Zimmerman, City Administrator had no further comments.

Mayor and Council Comments

Councilmember A. Parson-McBean thanked everyone for their prayers for her father.

Councilmember K. B. Aleshire explained the City will recoup its investment for the new parking deck. National Night Out (held on August 1, 2006) was a very nice event. The average plant flows reported in the weekly report indicate the Water and Sewer Department staff is doing what is necessary to ensure the plant is operating well.

Councilmember K. S. Cromer suggested stricter requirements for berms. The Planning Department will review this and present the information to the Mayor and City Council. Councilmember Cromer stated a letter to the editor recently included inaccurate

information. She stated she would have discussed her vote on the union contracts with the author if she had been contacted. She stated she does not vote based on how popular the vote is.

Councilmember L. C. Metzner had no further comments.

Councilmember P. M. Nigh asked if Deerfield Knolls will be considered part of the South High school district, even though it is closer to North High. Ms. Maher confirmed that it will be. Councilmember Nigh stated this project would be beneficial for the West End. Ms. Maher indicated the County Commissioners have suggested that the developer meet with the Board of Education to try to change the school district to North High.

Councilmember P. M. Nigh stated there have been significant arrests regarding gangs. There is definitely a gang problem in this community. She suggested people start attending the meetings in order to be well informed. The Gang Task Force is working on ways to prevent major problems. She is concerned that the City is still paying for the N. Potomac Street deck. The new deck will benefit downtown, but it will also benefit individuals.

Mayor R. E. Bruchey, II expressed condolences to the families of Hoyle Brandenburg, retired City Light employee, and Norris Mann, owner of Potomac Seafood. He is concerned about the presence of gangs in the community.

The first Movie Night will be held at the University Plaza on August 17, 2006. An expanded Market in the Square will be held that day. The Thursday Noon Plaza Party concert series continues. Augustoberfest will be held on Saturday, August 26 and Sunday, August 27, 2006.

EXECUTIVE SESSION – August 15, 2006

On a motion duly made by Councilmember K. S. Cromer and seconded by Councilmember K. B. Aleshire, the Mayor and City Council unanimously agreed by voice vote to meet in closed session at 6:05 p.m. to consider a matter that concerns the proposal for a business or industrial organization to locate, expand, or remain in the State, #4. No formal action was taken at the session. The meeting was held in the Council Chamber, 2nd floor at the City Hall. The meeting was adjourned at 6:46 p.m.

Respectfully submitted,

Donna K. Spickler, City Clerk

Approved: _____