

35<sup>th</sup> Special Session – October 3, 2006

Mayor R. E. Bruchey, II called this 35<sup>th</sup> Special Session to order at 4:00 p.m. Present with the Mayor were Councilmembers K. B. Aleshire, K. S. Cromer, P. M. Nigh, A. Parson-McBean; City Attorney Mark Boyer, and City Administrator Bruce Zimmerman. Councilmember L. C. Metzner was not present.

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 open the 35<sup>th</sup> Special Session.

**Resolution: Agreement with Hagerstown Washington County Industrial Foundation, Inc. and Hagerstown Venture, LLC**

**Action:** Councilmember K. B. Aleshire made a motion to approve a resolution authorizing the City to enter into an agreement with the Washington County Industrial Foundation and Hagerstown Venture, LLC. This agreement applies to approximately 143 acres located within the Hunter's Green Business Park. The agreement will authorize the city to extend water services to this property without requiring the property to be the subject of an annexation agreement. In return the property owner will provide the City a Payment in Lieu of Taxation as specified in the agreement. The property subject to this agreement is neither located in nor contiguous to the corporate limits of the City of Hagerstown. Councilmember A. Parson-McBean seconded the motion.

Discussion: Councilmember Nigh expressed her concern that this approval will be made without knowing what will be located on this property.

Councilmember Cromer stated the Council needs to be consistent with enforcing the Annexation Agreement.

Councilmember Aleshire stated it appears to be a conceptual approach to a bigger picture of future development. He hopes the County and City can work together to develop a plan that will benefit the City.

Motion carried, 2-2 with Councilmember K. S. Cromer and Councilmember P. M. Nigh voting No. Mayor R. E. Bruchey, II voted Yes to break the tie.

**Approval of an Ordinance: Zoning Map Amendment, Hamilton ZM-2006-02**

**Action:** On a motion duly made by Councilmember K. B. Aleshire and seconded by Councilmember A. Parson-McBean, the Mayor and City Council unanimously agreed by voice vote of all members present to adopt an ordinance for a Zoning Reclassification and Zoning Map amendment, Case No. ZM-2006-02, to rezone 6.88 acres, more or less, of land located off of 115 Emmert Road, from R1 (Residential) to C2 (Commercial General).

Discussion: Councilmember Nigh thanked Jason Divelbiss, Miller, Oliver, Baker, Moylan and Stone, for discussing this rezoning with Mr. Martinez, who testified at the public hearing.

Work Session – October 3, 2006

Proclamation: Domestic Violence Awareness Month

Mayor Bruchey presented a proclamation to Captain Mullendore and CASA, designating October, 2006 as Domestic Violence Awareness Month.

Proclamation: Character Counts!

Mayor Bruchey presented a proclamation to Carolyn Brooks, recognizing October 15–23, 2006 as Character Counts! week.

On a motion duly made by Councilmember K. B. Aleshire and seconded by Councilmember P. M. Nigh, the Mayor and City Council unanimously agreed by voice vote of all members present to close the Special Session.

Absentee Voting of Council Members

Mayor Bruchey announced this item would be discussed in open session, rather than in executive session.

Mark Boyer, City Attorney, stated the Mayor and City Council could temporarily suspend the Rules of Procedure if the Council wishes to permit absentee voting. If the Council desires to suspend the Rules of Procedure at this time, it should specify for what length of time and for which meetings the rules will be suspended; it should establish a criteria for verification of the identity of the absent member; it should provide that the absent member's participation not be counted toward establishing a quorum, and most importantly, it should provide for a means for participation and voting for the absent member which permits public observation (e.g. speaker phone).

Mayor Bruchey stated a speaker phone system was tested earlier today and Councilmember Cromer could be heard clearly. The conversation will be heard in the Council Chamber and on air.

A special session will be held on October 10, 2006 to consider temporarily suspending the rules to allow Councilmember Cromer to participate in Council meetings during her recovery from surgery.

Councilmember Parson-McBean asked if this will be based on these circumstances or on other circumstances. She would like to consider establishing a procedure for illnesses or other circumstances.

Mayor Bruchey would not be in favor of a permanent suspension of the Rules of Procedure.

#### Alsatia Mummers Parade

Karen Giffin, Community Affairs Director, and James McCleaf, II, Alsatia Club, were present to discuss the 82<sup>nd</sup> Alsatia Mummers Parade, which will be held on Saturday, October 28, 2006. This year the Alsatia Club needs help in raising funds for the cash prizes for different award categories. The total needed is \$ 8,500.00. The Alsatia Club would like staff to help raise funds. The Alsatia Club would like to have permission for company banners to hang on the deck, list sponsors on Antietam Cable Channel Six, and list sponsors on the City of Hagerstown website.

Also, the Alsatia Club needs help with manpower the night of the parade. They are asking for help from the community and would like the City's Community Affairs Office to help promote the need for volunteers.

A \$2,000 donation was made last year. Of this donation, \$1,000 was given from the Public Functions Budget and \$1,000 in lieu of vendors fees. A donation of \$1,000 was again budgeted in the Public Functions Budget and if the Mayor and Council would agree, another \$1,000 could be given from the Public Functions Budget or if needed from general fund contingency.

It was the general consensus of the Mayor and City Council to allow City staff to help raise funds for the parade. Banners will be hung on the deck and sponsors will be listed on Channel Six and on the City's website. The Mayor and City Council also agreed to make a \$ 2,000 donation to the Alsatia Club.

#### City Participation in Community Affairs

Mayor Bruchey stated the first issue that will be discussed is the United Way Campaign. He presented a revised incentive plan for City employees who make a donation to United Way. The revision includes a chance to win one of three prizes in four different levels. The prizes include time off, a golf package and gift certificates.

Councilmember Parson-McBean, Councilmember Cromer and Councilmember Nigh are not in favor of providing any time off in the incentive plan.

Scott Nicewarner, Information Technology Manager, stated the United Way goal has been set at \$ 20,000 and incentives will help reach that goal.

The prizes are being provided by the City. A line item has not been determined at this time. There will be two chances to win in each level.

Councilmember Aleshire stated he figures the cost for the prizes will be less than \$1,000. The hours are approximately equivalent to this cost, using an average wage rate of \$ 20.00/hour.

Councilmember Cromer asked if someone who submits their pledge form at the Downtown Agency Fair will be eligible for the level prizes. Mr. Nicewarner indicated they will be.

Mayor Bruchey stated he will personally pay for the Mayor's Award.

The United Way Day of Caring was then discussed. Eric Deike, Public Works Manager, and Michael Spiker, Director of Utilities, were present to discuss the projects being planned. Mr. Spiker stated there are more than 40 volunteers who will be working at six properties within the City to help disadvantaged residents. The residents were identified by the Office of Code Compliance. One project will be completed at Star Center, a United Way member agency. This is a one day event.

Councilmember Nigh stated she would prefer that volunteer work be done on the employee's own time. This is a government and the Council is responsible for ensuring the taxpayer's money is spent wisely.

Councilmember Parson-McBean stated the City does not have an avenue for paying for volunteer work.

Bruce Zimmerman, City Administrator, stated this is a special community event. The City is a recipient of volunteer work from other organizations. Much of the work for BluesFest and Augustoberfest is done by volunteers. He stated many employees do volunteer work on their own time.

Councilmember Cromer stated if someone is being paid, they are not volunteering.

Mayor Bruchey asked if the Council would be agreeable to having salaried employees participate in the Day of Caring. The Councilmembers are agreeable to this.

The next item discussed was a School Based Mentoring Program. Donna Messina, Human Resources Director, and Robert McKee, Big Brother/Big Sisters of Washington County, were present. Mayor Bruchey stated a question was asked if employees could

participate in this program for one hour per week. Employees receive two 15 minute breaks and one 30 minute lunch break per day and several employees have indicated they would use that time to participate.

Councilmember Parson-McBean asked if this would be permitted, by law, since the breaks must be given. Councilmember Cromer stated she doesn't think an employee can work straight through their eight hours without a lunch break. Ms. Messina stated employees can use their break time however they choose to.

Mayor Bruchey stated he believes there may only be 10 minutes outside of the employee's break time needed to participate in this mentoring plan.

It was the general consensus of the Mayor and City Council to allow participation in this program. The number of participants will be limited to two per department.

#### Comprehensive Plan Progress Report and Budget

Kathleen Maher, Planning Director, and Doug Wright, Planning Commission Chairman, were present to discuss the Comprehensive Plan.

The Planning Commission met with the project consultant, ERM, five times over the summer and fall of 2005 drafting the goals and policy concepts for the *2006 Comprehensive Plan*. In March, 2006, the Planning Commission started reviewing and making substantial revisions to the consultant's draft Comp Plan.

In late August, staff contacted ERM to explain the scope of the revisions which the Planning Commission have requested and the need for assistance tackling the conflict between the growth projections in the Medium Range Growth Boundary and the available sewer capacity to serve such growth. The Commission has requested City and County staff assistance in gaining a better understanding of commitments already made for sewer service outside the City and the status of such developments, as a means of further studying the growth projection vs. sewer capacity issue.

In early September, staff received a letter from ERM stating that, because of the tightness of the project budget, in order to make the unforeseen wholesale revisions to the draft Comp Plan and to provide assistance in resolving the growth-sewer conflict, they would either need additional funds or amend their contract to end work after the Planning Commission's revisions have been made. ERM has estimated that it will require an additional \$9,200 to provide the requested assistance and stay with the project through the Mayor and City Council's review.

For staff, amending ERM's contract so that their participation ends following completion of the Planning Commission draft is unacceptable. Staff would not have the resources to make the further revisions which will arise during the public review process with State agencies and the community, the Planning Commission's public hearing, the Mayor and City Council's public hearing, and the Mayor and City Council's review. In

addition, because of the tough choices the Comprehensive Plan will have to make in regards to sewer service for new development and because of the close scrutiny which the Plan recommendations will receive from the community and the State, professional assistance is crucial to ensure that the basis for these conclusions is justifiable.

Staff recommends that the additional \$9,200 be paid to ERM to ensure that the City prepares the best document possible to guide the City for the next 20 years in a responsible and efficient manner. The Sewer Department has indicated that they could provide \$7,500 for the growth-sewer work. The Finance Director has indicated that General Fund reserves could be used for the \$1,700 needed to address the other changes made by the Planning Commission to the Plan. Once ERM is notified to proceed under this plan, the difficult work of resolving the growth-sewer conflict can resume.

It was the general consensus of the Mayor and City Council to approve the funding.

#### Eastern Boulevard (Shaool) Annexation

Stuart Bass, Comprehensive Planner, presented revisions to the annexation agreement that were discussed by the Mayor and City Council. The conditions include right-of-way access for future widening of Eastern Boulevard, seeking additional access, forest conservation easement, addressing stormwater issues, and contribution to the road improvement that is currently underway.

Councilmember Aleshire asked if access will be denied on Eastern Boulevard. Mr. Bass indicated access will not be denied to Eastern Boulevard.

John Uner, City Attorney, stated this property owner does not have the ability to achieve what is being asked of him. Asking him to investigate alternative access is vague and indefinite. Rodney Tissue, City Engineer, stated he understands that a property owner in that area is willing to sell his property. If access is by Eastern Boulevard it will cost the owner a great deal of money. This condition will be reviewed.

The City is awaiting a response from the property owner.

#### Bond Financing Needs

Alfred Martin, Finance Director, presented a financing schedule to issue general obligation bonded debt by December 31, 2006. He stated the City has been holding off on moving forward with the financing needs for 2006/07 to reduce the debt service cost in the current fiscal year. By waiting, the City has better cost and timing estimates on several major CIP projects such as Eastern Boulevard widening, Edgewood/Dual Highway intersection improvements and Jonathan Street. However, this needs to be completed by the end of December, 2006 to take advantage of the lower interest cost of issuing "bank qualified" debt and while current interest rates are attractive.

Staff is recommending that the City borrow up to \$9,965,000. This will cover the general bond financing needs identified in the proposed 2006/07 budget and additional needs identified after the approved budget was adopted for other commitments the City has made or higher anticipated project costs. The needs schedule breaks out, in a separate column, those projects the City has previously committed to, must do or which leverage significant grant funds and private contributions. These are all projects that are important to serving the community and strengthening the infrastructure.

In order to address the capital funding needs for 2006/07 as identified in the budget, prior meetings and in this memo, staff is recommending that we proceed with the proposed financing plan. Issuance of the bond will reduce the interest cost for the non-MDE financing needs. The water and sewer needs, since they will be financed through the Maryland Department of the Environment (MDE) at subsidized rates, would not be impacted by whether or not they were bank qualified. The debt service impact on the operating budget would be 10% of the amount borrowed. Mr. Zimmerman stated this amount is included in the budget.

Councilmember Aleshire stated he does not think some of the smaller projects should be included in the bond financing.

It was the general consensus of the Mayor and City Council to move forward with the bond issuance. Mayor Bruchey stated this will be discussed again in two weeks.

Councilmember Nigh asked how much the County has contributed toward the new parking deck. Mr. Martin stated the County committed \$ 600,000, which has been received. The City then requested an additional \$ 300,000. No response has been received.

#### Vacant Structures Ordinance

This discussion was postponed until Councilmember Metzner is present.

#### City Administrator's Comments

*Bruce Zimmerman, City Administrator*, had no additional comments.

#### Mayor and Council Comments

*Councilmember P. M. Nigh* stated there was an attack by a pit bull recently and the City needs to do more to protect people.

*Councilmember K. S. Cromer* will not be present for six to eight weeks but anticipates participating in the Council meetings.

*Councilmember K. B. Aleshire* asked if the United Way issue and school mentoring program will be presented for a vote. Mayor Bruchey indicated it will not.

*Mayor R. E. Bruchey, II* mentioned many activities at the City Market. The Fairgrounds 5k, the Community Yard Sale and the Harvest Hoedown will be held on October 14, 2006.

The International Association of Firefighters would like to donate a lighted decoration for City Park that reads “Merry Christmas from IAFF” to the City. Councilmember Aleshire stated he does not have a problem with the Merry Christmas wording. Councilmember Cromer agreed.

EXECUTIVE SESSION – October 3, 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 of all members present to meet in closed session 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 Chambers, 2<sup>nd</sup> floor at the City Hall.

Respectfully submitted,

Donna K. Spickler, City Clerk  
(by video)

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