

71<sup>st</sup> SPECIAL SESSION - November 2, 2004

Mayor William M. Breichner called this Special Session of the Mayor and City Council to order at 4:00 p.m., Tuesday, November 2, 2004 in the Council Chambers at the City Hall. Present was Mayor Breichner; City Council Members K. B. Aleshire, N. L. Hendershot, L. C. Metzner, C. N. Moller, P. M. Nigh; City Administrator Bruce Zimmerman, and City Clerk D. K. Spickler.

**Public Hearing: Amendment to the CDBG Annual Action Plan - St. John's Shelter**

This Public Hearing is being held regarding amending the FY 2004/05 Annual Action Plan to include the rehabilitation of St. John's Shelter as Public Facility activity with a funding amount of \$ 41,700.00.

The purpose of the public hearing is to permit interested parties an opportunity to comment on the amendment. The record will remain open until November 17, 2004 to receive additional comments.

The following testimony was presented:

Lauren Bayer, Community Development Department Manager, stated the funding amount will assist St. John's Shelter with the rehabilitation of 14/16 Randolph Avenue. This is the second phase of the project. The total cost of work for this phase is \$ 62,000. The required public notice has been filed.

Councilmember Nigh asked where the money will be coming from. Mr. Bayer stated it is carry over funds in the program.

There was no further testimony, either in favor of or against the proposed amendment. The hearing was adjourned at 4:05 p.m. The record will remain open for 10 days for additional comments.

WORK SESSION - November 2, 2004

Parking Permits for On-Street Metered Spaces

Rodney Tissue, City Engineer, and Tim Young, Engineer, presented information regarding a proposal to establish a Parking Permit Program. Requests are occasionally received to create a permit program to allow a permit holder to park on the street without putting money into the meters. The requests often come from downtown business owners or residents. Similar to

passes currently issued for specific parking lots, these passes would be sold on a monthly basis and would be valid at any on-street metered parking space.

The Board of Traffic and Parking did not offer a formal recommendation on the matter. They did point out that parking meters were installed to maintain a turnover of parking and thus help provide available parking for customers of downtown businesses. In the past, that Board has recommended that permits not be sold that would allow anyone to park all day at a metered space.

This issue was last discussed by the Mayor and City Council in December, 2000. Items to consider related to this proposed program include:

1. Registration: a method would need to be established to describe how to obtain a permit.
2. Cost: The Board of Traffic and Parking thought that a permit such as this would be a privilege and the cost should be high enough to discourage excessive sale of these permits. A cost of \$ 100.00 to \$ 150.00 per month does not seem unreasonable for this privilege.
3. Use: If permits are sold, they could be block-by-block, street-by-street or for the entire downtown. Many permit holders may want to park in the same area of downtown and thus reduce available parking at nearby businesses. The holder of this permit would not have a reserved space. Even though they have a permit, it would not mean they will always find a space. This permit would only exempt them from putting money in the meter.
4. Enforcement: If these permits are sold, the City must provide a sticker on the vehicle or a hanging permit on the mirror.
5. Parking Rules Apply: This permit would not exempt the holder from obeying other ordinances and laws governing on-street parking.
6. 30-Minute Meters: Consideration should be given as to whether or not these permit holders would be allowed to occupy 30-minute meter spaces.
7. Parking Lots: Parking lots already have monthly permits available which vary in cost. The number of permits sold is controlled by the space availability in each lot. For these reasons, we would recommend that street permits not be combined with parking lot permits.

Mr. Tissue stated some other communities have parking permits for residents. These communities recommend purchasers be city residents and only apply to two hour or longer meters.

Councilmember Metzner stated one of the main ideas behind parking meters is to ensure turnover. A parking permit would be detrimental to that concept. He is not in favor of providing parking permits, unless there would be a specified area outside of the commercial district.

Councilmember Moller agreed that merchants need the turnover. As a former business owner she knows this is important.

Mayor Breichner stated he has noticed people working in the stores are parking in front of their businesses.

Councilmember Aleshire stated he would recommend more short term meters to counteract employee parking and that any consideration of parking permits be outside the unit blocks.

Alfred Martin, Finance Director, stated the meters are designed to create turnover and the higher use parking lots and meters were set at a higher rate to create shorter term parking. Mr. Young stated the request was received from a restaurateur and the owner of an apartment building. Mr. Martin stated it was said at a downtown merchants meeting that some businesses are in the catering business and they are continually coming and going. They would use a parking permit as a loading zone. Councilmember Metzner thought an actual loading zone would be more appropriate. Councilmember Nigh stated some of the restaurant owners had requested longer time meters, i.e. three hours.

It was the general consensus of the Mayor and City Council to not pursue a parking permit program. Mr. Tissue stated information on the other parking concerns raised at this meeting will be provided.

#### Mixed-Use Zoning Text Amendments

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Kathleen Maher, Planning Director, was present to address the issues identified at the October 26, 2004 meeting in reference to the Mixed-Use Zoning Text Amendments. The questions raised at that meeting are as follows:

1. Are we creating a conflict with the maximum permitted height in the R3 district?  
Response: In the R3 district, the maximum permitted height for a building is 5 stories or 60 feet. While the proposed text requires a minimum building height of 3 stories for mixed use buildings, the maximum would remain at 5 stories or 60

feet.

2. Is the permissive language for commercial uses on the 1<sup>st</sup> floor appropriate?  
Response: The word “may” was included for the 1<sup>st</sup> floor commercial occupation, because multi-family is permitted by right in the R3 district. It seemed illogical to staff to require commercial in perpetuity on the 1<sup>st</sup> floor of these buildings if the future desire would be to convert the building to 100% multi-family - a permitted use in the R3 district. With “shall”, the 1<sup>st</sup> floor would have to be occupied by commercial or remain vacant, if for some reason commercial uses were not viable in the building.
3. Is the 66% minimum requirement for residential uses appropriate?  
Response: Staff recommends that the 66% minimum of residential uses remain in place, because it was not the intent to permit 100% commercial uses in the predominantly residential R3 district.
4. Rather than stating that the mixed use buildings “shall be located along an arterial” shouldn’t the language read “shall have direct access to an arterial”?  
Response: Either wording would meet the intent of the proposal.

Councilmember Aleshire would prefer the language “direct access” in Item #4. He understands the logic of the proposed amendment but he thought the intent was to provide a permitted use for mixed commercial/residential development. He would hope there would be some mechanism in place to keep the building a mixed use.

Ms. Maher stated it would be the BZA that would give the permission for the mixed use. She asked if BZA approval would be required if the property would be converted to total residential. Councilmember Aleshire stated that would be logical. Ms. Maher stated the BZA would not deny the conversion because a residential would be allowed by right. Councilmember Aleshire is not comfortable with that part of the ordinance.

It was the general consensus of the Mayor and City Council to make the changes and bring it back for approval at the November meeting.

#### City Light Purchase Power Adjustment Information

Michael Spiker, City Light Manager, and Karl Kohler, City Light Assistant Manager, were present to discuss a mid-year Purchase Power Adjustment, the proposed change to the Hagerstown Light Department (HLD) Tariff as filed with the Maryland Public Service Commission, and a request for future consideration of an adjustment to the base rate.

The HLD adjusts the costs of the Purchase Power on a calendar year basis. The calculations are performed by staff, submitted to consultants for review, audited and approved by the Maryland Public Service Commission (PSC). The expected revenues are not meeting the monthly costs as projected in the yearly Purchase Power Adjustment (PPA) due to a decline in the projected sales of electricity. A request has been filed with the PSC seeking authorization to revise the current PPA factor. The PSC has granted the authorization to implement this change beginning November 1, 2004, at which time HLD customers will experience an approximate 9% increase in the PPA component of their bills.

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

Prior to 1994, the HLD's tariff allowed for monthly adjustments in the Purchase Power Adjustment. Mr. Spiker is proposing a change in the tariff, which will allow the PPA to be instituted on a monthly basis instead of a yearly basis. This will allow for better management of revenues by adjusting the fuel component of the bulk power charges monthly instead of projecting the expected usage twelve months in advance.

This is a tariff change and has to be approved by the PSC. The Mayor and City Council agreed to seek PSC approval.

An adjustment to the base rate of return to the operational portion of the Hagerstown Light Department operations has not occurred since the middle of the 1990s. A study was conducted in 1996, at which time a readjustment of costs between the rate classes was submitted to the PSC and approved. Mr. Spiker is requesting permission to work with rate consultant, Al Clark of Fred Saffer and Associates. The HLD will submit past financial information, updated financial projections, and tariff language to study the feasibility of submitting a request, for approval by the Mayor and City Council, to revise the base rates, to the PSC. Mr. Spiker stated he would anticipate a January work session date for the rate case study information to be presented to the Mayor and City Council.

Mr. Spiker stated the City has forty commercial and industrial electric accounts presently served by Allegheny Power. The rate caps on these accounts will expire on January 1, 2005. Deregulation allows the City to go out and seek other generation for these accounts. Mr. Spiker stated the HLD is asking for permission to act on behalf of the Mayor and City Council to obtain the best rates for these accounts. Mr. Zimmerman pointed out these accounts are all for City facilities outside the city light system.

It was the general consensus of the Mayor and City Council to grant permission to seek other generators for these accounts.

### City Hall Security

Bruce Zimmerman, City Administrator, and Arthur Smith, Police Chief, recommended that steps be taken to increase security in City Hall. Mr. Zimmerman stated City governments are increasingly considering the need for additional security in the City Halls and other municipal facilities. In recent months, he has met with staff from Finance, Police, Public Works and Human Resources to consider approaches to enhancing security in City Hall. The public's access to City Hall, the number of entrances to the building, the comfort level and exposure of City employees and the need to secure operations were all taken into consideration.

Based on these discussions, there is a strong interest in adding Security Guards in City Hall, both to create a security presence for employees and also assist the public as they enter the building. The recommendation is to hire three retired police officers, or others with law enforcement experience to fill these positions. An operational station would be established on the first floor for them and jackets would be provided to identify them for employees and the public.

In addition, opportunities have been identified to enhance security through the installation of some security cameras for other entrance points into the building, a buzzer alert system for City Hall offices, and a magnetic swipe-style door lock to better control access to financial operations. Identification badges are currently being provided to employees.

This expenditure was not contemplated in preparing the current year's budget. The total capital cost for the purchase of equipment, building materials, buzzer alert systems, cameras and telephones is estimated at \$ 6,975.00. Assuming a starting date of approximately December 1, 2004, staff estimates the personnel costs associated with the three guards would be \$ 17,600.00 for the seven remaining months of this fiscal year. Funding for this unbudgeted expense would come from the current year General Fund budget contingency. Future year budgets would need to include funding of this operational expense.

Chief Smith stated the Security Guards would assist the public and provide a more user friendly experience for visitors to City Hall. No metal detectors are proposed in this plan. Councilmember Moller stated she thinks there is a need to assist the public in finding the correct offices in City Hall.

Mayor Breichner stated this would also address the issue of security when there are meetings after normal business hours.

Councilmember Moller suggested placing a camera outside the garage door to the basement at City Hall.

Councilmember Nigh stated this is needed due to the situations that exist at this time in the nation. Councilmember Hendershot asked that when the selections are made for the guards, keep in mind these people will be the ambassadors of the City. They should be pleasant and helpful. Councilmember Nigh stated they also need to know how to provide security.

It was the general consensus to proceed with this program, with a December 1, 2004 start date.

#### Cable Public Access Television

Karen Giffin, Public Information Manager, and Eric Hastings, Channel 6/Website Coordinator, were present to review models of Public Access Television.

Ms. Giffin and Mr. Hastings visited Carroll County and Montgomery County to view their Public Access Television facilities. Both facilities were funded through a percentage of a County franchise tax. Montgomery County Public Access has a budget of approximately \$ 2 million and Carroll County has a budget of \$ 350,000. Both counties created an independent non-profit board to create policies for the facilities. Both boards were a broad base community board.

Both places had a wide variety of programming and a small guideline of policies for the programming. For example, Montgomery Community Television's guideline is that it must be something that originates or is occurring in Montgomery County.

The individuals they met with agreed that the reason Public Access worked in their counties was the partnerships that they had made. Both organizations had partnerships with the government, school system, colleges, and non-profit community. However, the Public Access Channels were separate from government channels.

Another similarity between the two Public Access Television organizations was a training factor. Both had excellent training programs on television and computer equipment. In fact, individuals had to take a number of training classes before they were allowed to work with the equipment.

Ms. Giffin and Mr. Hastings presented a power point presentation on Public Access Television. Ms. Giffin stated it is evident the community has to work together on a project like this. The programs at the technical schools and the community college would be utilized..

Councilmember Moller asked if this was a project the City and the County could work on jointly. Mr. Martin stated the Technology Partnership has discussed the possibility of the County implementing a franchise tax like the City has.

Ms. Giffin informed the Mayor and City Council that the Hagerstown Public Access Channel group (HPAC) now wants to help with programming and they are not asking to be the designated service provider. They are definitely interested in using the channel, but not as the main provider. Mr. Martin stated there is an opportunity to look at this channel on a broader basis. The franchise fees collected by the City are all fully committed.

Mr. Zimmerman stated this is follow up information and no decision is needed. Councilmember Hendershot recommended getting the University of Maryland and Washington County Public Schools involved in this opportunity. He stated a plan for responsibility of funding sources and funding options could be developed. Ms. Giffin suggested including the Washington County Library and Antietam Cable in the plan.

Councilmember Aleshire stated the funding will ultimately come from cable subscribers. He has not received any correspondence from the subscribers opposing the possibility of additional franchise fees. Mr. Martin stated he thinks what is being recommended is looking at something being done on a county wide basis. He thinks City residents are paying their fair share.

Ms. Giffin stated there would be a definite separation between the government channel and a public access channel. It is important to keep the two separate.

Mr. Zimmerman asked if the Mayor and City Council want Staff to continue to pursue this concept. It was the general consensus to do so.

### Holiday Tree

Karen Giffin, Public Information Manager, stated the City Park Lighting will be held on December 3, 2004 at 7:00 p.m. However, the holiday tree historically located in the middle of the lake may need to be relocated because of the construction project. A final determination will be made on the location of the tree by November 19, 2004 depending on the status of the construction project.

Mr. Tissue stated the progress of the construction depends on the weather. If the weather turns to winter, work will stop. Otherwise, the contractor would prefer to continue working as long as possible. Mr. Zimmerman stated this job is making major improvements to the park and the contractor is doing a good job.

### City Administrator's Comments

Bruce Zimmerman, *City Administrator*, pointed out the Finance Department has again been recognized for excellency in finance practices. He thanked the Department and stated this proves



there is a high level of financial integrity. He thanked the Public Works Department, the City Light Department, the Public Information Office and the Police Department for their efforts with the annual Alsatia Mummers Parade.

#### Mayor and City Council Comments

*Councilmember C. N. Moller* stated it is obvious by the attendance that the Alsatia Mummers Parade is important to City residents. She congratulated Senator Donald Munson for his 30 years of service to the community and to the State of Maryland.

*Councilmember K. B. Aleshire* also thanked the City departments involved in assisting with the parade.

He stated he is confident the Health Care Commission (HCC) is acting in an appropriate manner and they are questioning the points in the hospital's application. They will make sure a new location will be the most feasible and cost effective location for the citizens. He is concerned that school expansions will continue and there will be less green space and playground area for students.

Councilmember Aleshire stated the number of building permit applications has doubled from last year. He asked how many more units are going to be approved before an impact fee is imposed. He stated this process needs to move faster. Councilmember Metzner asked if there is a way to implement the fees for those going through the permit process now. Mr. Martin stated Staff and consultants have indicated it is important to pay for school improvements appropriately. He stated what would work best is a program that is implemented by the County and then adopted by the City. Councilmember Hendershot asked how close the County is to adopting an Adequate Public Facilities Ordinance (APFO). Councilmember Aleshire stated the City needs to move forward with implementing an impact fee in order to ensure the projects affecting the infrastructure are the ones that are sharing in the fee responsibility. This issue will be discussed further at a work session in December.

Councilmember Aleshire urged everyone to vote.

*Councilmember N. L. Hendershot* stated it was good to be able to attend the meeting. He agreed the impact fee implementation needs to be addressed in order to provide funding for increased infrastructure needs, including school expansion.

He stated the Alsatia Mummers Parade is something this community should be proud of. He had the opportunity to work with James McCleaf, President of the Alsatia Club, this year. He hopes the parade continues.

He also urged everyone to vote. He believes there will be a record turnout for this presidential election. He reminded everyone that the Gridiron Classic is being held on November 5, 2004. He stated he understands the Hospital's Certificate of Need application will be docketed on November 12, 2004. He has reason to believe the City will not be standing alone this time as an interested party.

*Councilmember P. M. Nigh* stated Trick or Treat (held on October 31, 2004) was very nice. She stated a task force is meeting tomorrow to discuss animal control in Washington County. She hopes this group will have a solution to the growing problem with pit bull terriers.

She discussed the meeting with the Healthcare Coalition. She stated when she speaks, she speaks for those who can't or won't speak for themselves. She stated she carries a white towel with her, not as a truce, just because. The Coalition's comments have not been fair to the City. The members of the Coalition outrage her. She stated for those who think women are second class citizens, they should realize women are here and are not going away. She doesn't appreciate people who speak untruths.

*Councilmember L. C. Metzner* echoed the sentiments about the parade. He also urged everyone to vote.

*Mayor W. M. Breichner* reminded everyone about the Gridiron Classic. He stated the two previous games have been good and this one promises to be also.

There being no further business to come before the Mayor and City Council, on a motion duly made by Councilmember N. L. Hendershot and seconded by Councilmember L. C. Metzner, the meeting was adjourned at 5:36 p.m.

Respectfully submitted,

Donna K. Spickler, City Clerk

Approved: December 21, 2004