

WORK SESSION - November 9, 2004

Mayor William M. Breichner called this Work Session of the Mayor and City Council to order at 4:00 p.m., Tuesday, November 9, 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, City Attorney John Uner and City Clerk D. K. Spickler.

License Agreement: Ellsworth Electric, Hood and Sycamore Streets

James Bender, Assistant City Engineer, presented a license agreement with Ellsworth Electric, Inc. for the Mayor and City Council's review. The agreement is for a fence that is within the City of Hagerstown's right of way at Sycamore and Hood Streets.

It was the general consensus to approve the license agreement.

Music by the Lake Series

Karen Giffin, Public Information Manager, presented a proposal from the Washington County Arts Council regarding the 2005 *Music by the Lake* Summer Concert series. Kevin Moriarty, Executive Director of the Arts Council, was also present.

This series has been growing for the last three years and is a wonderful addition to the City's musical events. With this concert series on Saturdays and the Municipal Band on Sundays, it showcased the bandshell as a wonderful place for concerts.

The Washington County Arts Council is requesting \$ 8,000 for the concerts. In the past, the City has given \$ 6,000, but they would like to do eight concerts this year, as compared to five last year. The Public Information Department also assists in promoting the concerts.

If the Mayor and City Council would approve the \$ 8,000 for the *Music by the Lake* Concerts, funding will be included in the 2005/2006 Public Functions Budget.

The Mayor and City Council agreed to approve the 2005 *Music by the Lake* summer concert series.

Zoning Text Amendments - Setbacks for C4 Zoning District

Kathleen Maher, Planning Director, and Stephen Bockmiller, Zoning Administrator, were

present to discuss the application of this setback requirement and to discuss the suggestions that have been made to amend the proposal.

Mr. Bockmiller stated there are no setbacks required now in the Zoning Ordinance for the C4 district. He recommended a setback of 25', which would be consistent with the industrial district. This setback requirement would apply to all uses in the C4 district, not just to big box development.

Councilmember Moller stated people are most concerned about the parking lots that surround these properties.

Councilmember Metzner stated he hears the most concern about a Walmart store being built in the C4 district. He stated this body has not received a proposal for another Walmart in the City. He asked where the zoning districts are in place that would permit a store such as Walmart adjacent to a residential district.

Staff indicated the only place this would currently be permitted is the Longmeadow Shopping Center area.

Councilmember Aleshire recommended using a 35' setback requirement in order to meet the requirements of the forest conservation ordinance. Ms. Maher indicated a requirement stated in the forest conservation ordinance would be considered a landscape setback. Mr. Bockmiller stated Staff did not look at the possibility of combining the two requirements.

It was the general consensus of the Mayor and City Council to move forward with adopting setback requirements in the C4 zoning district.

Councilmember Metzner stated he doesn't see why C4 should be different than the IR district. He doesn't think the Mayor and City Council would agree to rezoning property to C4 adjacent to a residential area.

The order of the agenda was amended to discuss bond financing needs at this time.

2004/2005 Bond Financing Needs

Alfred Martin, Director of Finance, was present to discuss the 2004/2005 bond financing needs of the City.

When the bond financing was completed in June, it was mentioned that Staff would be

recommending that the 2004/2005 fiscal year non-utility financing be done prior to December 31, 2004, so that the City could take advantage of its “bank qualified” debt capacity in calendar year 2004. If a governmental entity issues less than \$ 10 million in tax exempt debt in any calendar year, it is considered “bank qualified” tax exempt debt. For banks, this means that not only is the interest tax exempt, but they also get an additional income tax deduction for holding it. This lowers our interest cost if we sell the bonds to banks that are looking for this type of tax exempt income to offset other taxable income. To date in calendar year 2004, we have issued \$ 5,995,000 in new and refunding tax exempt debt. This means the City can issue up to \$ 4,045,000 in additional tax exempt debt before the end of December 2004 and have it be “bank qualified”.

The following is a list of the 2004/2005 Bond Financing Needs:

- Eastern Boulevard Widening
- Permit Software
- Fairgrounds Improvements
- City Park - South Parking Lot
- Hager Park Restrooms
- Edgewood/Dual Improvement Design
- Street Resurfacing: Memorial Boulevard and Northern Avenue
- Alley Construction: 1-130 Rear USMD; 1-131 to Washington Street and 1-136
Rear of the Post Office

Construction costs in excess of grant funds for University Plaza

Second Public Works Dump Truck with Salt Spreader and Plow

Borrowing up to \$ 4,000,000 will cover the general bond financing needs identified in the proposed 2004/2005 budget, additions agreed to by the Mayor and Council at the May 8, 2004 Budget Retreat and at two subsequent meetings when the contract for University Plaza and purchase of a second dump truck, plow and salt spreader were approved. Staff has also identified several other additional finance needs which include the reconstruction of Wesel Boulevard from the Lowe’s Distribution Center to Burhans Boulevard, Tablet PC’s for field inspection personnel to use in connection with the new Hanson permits software, additional costs for the A & E parking deck and alley improvement project, and to advance funds for the portion of the Eastern Boulevard widening that is to be paid by developer contributions that will probably not be available when we need to start construction of the road widening. The contributions, when they are received as building permits are issued, would be committed to repay the debt service on the portion of the bonds issued for this purpose.

The financial projection model contemplated a December 2004 debt issuance and therefore

did not reflect any debt payments until the 2005/2006 fiscal year. The new debt will not have any impact on the 2004/2005 fiscal year. At existing tax exempt interest rates of approximately 3.5% fixed for 15 years, annual debt service is approximately 8.5% of the amount financed. Therefore, annual debt service on \$ 4,000,000 would be \$ 340,000 per year. The financial projection model reflected debt service of approximately \$ 190,000 per year on \$ 1,986,000. The additional \$ 150,000 per year would come from the developer contributions along Eastern Boulevard as building permits are issued in future years and improved tax base projections.

In order to complete the financing by the end of December, an enabling bond ordinance would need to be introduced at a Special meeting on November 16, 2004. Approval of the ordinance would be scheduled for November 23, 2004. The ordinance would become effective 30 days later on December 23, 2004. The City would formally close on the bonds and receive the bond proceeds after that date, during the last week of December. Competitive proposals would be solicited from interested banks in late November. During the first week of December, Staff would evaluate the proposals from the banks. A resolution would then be adopted by the Mayor and Council at a Special Meeting on December 14, 2004 to spell out all the details of the bond sale.

In order to address the City's capital funding needs for 2004/2005, Staff is recommending that the Mayor and Council proceed with the proposed financing plan.

Councilmember Nigh stated with the technical problems that are being discovered at the Arts and Entertainment Parking Deck site an additional \$ 200,000 will be needed for that project. She asked if Mr. Bowman will be required to pay the additional money or if the City will. Mr. Zimmerman stated Staff will review the construction agreement to determine this. He stated the project is now being rebid. If the Mayor and City Council are not comfortable with rebidding the project, it will have to be redesigned.

Councilmember Hendershot asked what the expected interest rate will be next year. Mr. Martin indicated he thought they would be about the same as they are now. Councilmember Hendershot stated he asked this because there are a few projects here that have issues that were not anticipated, such as the City Park restrooms. Mr. Zimmerman stated Staff has been looking at other options for the restrooms.

The City has not issued a bond since 1997. Mr. Zimmerman indicated it is unusual for a City the size of Hagerstown to not have any debt for projects. Mr. Martin stated the City needs to show the public where the money is being spent.

Councilmember Hendershot stated he would rather not spend bond money on computers with

a two year shelf life. Mr. Martin stated the purchase of the computers would be completed over several years.

Councilmember Aleshire stated the Council had received a letter showing a large increase in the number of building permits applied for. He asked if enough money has been received from these permits to pay the wages of the employees who complete the permit process. Mr. Martin stated there has not been enough money received at this point.

It was the general consensus of the Mayor and City Council to move forward with the bond issue.

Hospital/Mount Aetna Farm Annexation Proposal

John Urner, City Attorney, presented a combined proposal from Washington County Hospital and the developer of Mount Aetna Farms, outlining their proposed terms for annexing their property near Robinwood into the City of Hagerstown.

Mr. Urner stated he and Mr. Zimmerman and Mr. Martin have been working with members of the Hospital board for some time to work on a negotiation settlement. It is standard procedure to present the results of negotiation to everyone at the same time.

Councilmember Metzner and Councilmember Aleshire left the meeting at this time. When they returned, Councilmember Metzner stated if the Hospital wants to make a public presentation, let them. He is not interested in reading beyond item number 1 in the proposal. Councilmember Aleshire stated he has no interest in discussing this offer or proposal in executive session.

Councilmember Metzner stated the Hospital understood the City giving them the zoning they needed was something that was never on the table. Councilmember Aleshire stated he thought the Hospital wants the City to go through the proposal and deny it and then have the newspaper report the City turned down \$26 million. Councilmember Metzner stated the Mayor and City Council agreed last week it would be inappropriate to make any announcement of acceptance/denial of the proposal to the Hospital before it was made public. He stated as recently as October 9, 2004, the Hospital board said, under oath, they would seek the zoning from Washington County.

Mayor Breichner asked if the Council wanted to discuss the proposal further. It was the general consensus of the Mayor and City Council to not discuss the proposal any further.

Washington County Water and Sewer Infrastructure Commission

During the 2004 Session of the Maryland General Assembly, House Bill 1211 was passed. This bill establishes a 24 member Washington County Water and Sewer Infrastructure Commission to, among other things: (1) study the existing capacity and deficiencies of water and sewer services in Washington County; (2) analyze future growth projections; and (3) consider an efficiency and cost-savings analysis of creating a regional authority that would consolidate the City of Hagerstown and the County water and sewer departments. The commission must develop a long-term plan. An interim report is due to the Washington County Delegation, the Washington County Board of County Commissioners (BOCC), and the Hagerstown City Council by January 1, 2005; a final report is due by June 30, 2006. BOCC and the City of Hagerstown must provide staff for the commission.

Merle Elliott was present to discuss the legislation that created the Washington County Water and Sewer Infrastructure Commission.

Mayor Breichner indicated Kurt Cushwa, Kristin Aleshire and Tim Henry will be appointed to the Commission as the City representatives.

Mr. Elliot indicated the Commission has not met because the City appointments had not been completed. He has also been gathering information.

Councilmember Nigh stated someone familiar with water and sewer should be on the Commission. Mr. Elliott stated the Commission is to study issues related to the existence of water/sewer facilities, treatment, and coordination between various agencies. The Delegation has provided for four working groups. The appointments recommended by Mayor Breichner fit into those working groups to cover all the elements of a water/sewer plant and system. The Commission will look at what kinds of needs there are for water and how to distribute it. This will be the same for sewer.

Councilmember Nigh stated she is concerned that these appointments have not been discussed with Council. Mayor Breichner indicated he had distributed copies of the legislation twice and had not received any recommendations from the Council, except for Mr. Cushwa.

Councilmember Aleshire stated he is surprised that there is not a member of the Washington County Board of Education on the membership roster.

Councilmember Hendershot thanked Mr. Elliott for taking on the responsibility of chairing the Commission. Councilmember Metzner also thanked Mr. Elliott. Councilmember Metzner

stated he does not have any objections to the names submitted, but he also agrees with Councilmember Nigh.

Proposed Annexation - Haven Road

Bruce Zimmerman, City Administrator, and Kathleen Maher, Planning Director, presented a request for a proposed annexation for the Mayor and City Council's consideration. The property is located off Haven Road. It is behind Rest Haven Cemetery and is adjacent to Mack Truck. The current zoning on the property is RM (Residential, Multi-family) and the requested zoning classification is R-3 (High Density Residential).

Krista McGowan, Attorney, and Ken Jordan, the contract purchaser, were also present to discuss the request.

Ms. Maher stated the property is a little more than 54 acres in size.

Councilmember Aleshire asked what the current residential uses are in the area. He stated, based on the existing annexation policy, this property would have to annex in order to be provided services. He asked what the time frame is for development.

Ms. McGowan indicated a time table has not been established. The developer is looking at the possibility of creating a townhome community with 450 units.

Mr. Zimmerman asked Ms. Maher to explain what options they could consider for annexation. Ms. Maher stated the Mayor and City Council could place a density condition on the annexation. They could also place a requirement of a certain percentage of the development to be single family homes. Councilmember Aleshire stated he is not in favor of approving more apartments. Mr. Jordan indicated he is not interested in developing an apartment complex.

Councilmember Aleshire stated he would not be surprised to receive a letter from the Board of Education urging the Mayor and City Council to not annex this property. He pointed out that development could occur even if the property is not annexed. Ms. Maher stated William Blum, Washington County Board of Education, told her that every elementary school in the County is over capacity.

Mr. Urner asked what is included in Washington County's Comprehensive Plan for this area. Ms. Maher stated she understands it is zoned for high density residential housing.

It was the general consensus of the Mayor and City Council to continue working with the

contract purchaser. One of the conditions placed on the annexation may be infrastructure costs for schools.

CHIEF Roslyn Building Lease

CHIEF has presented a proposal to lease space in the Roslyn located at 25 East Franklin Street. The proposal includes:

1. CHIEF would lease 800 sq. ft. on the first floor of the Roslyn Building located at 25 East Franklin Street for a period of one (1) year.
2. During the one (1) year lease period CHIEF shall pay rent at the rate of \$ 8,400.00 (\$10.50 per square foot x 800 square feet). CHIEF shall pay in equal monthly installments of \$ 700.00 per month, in advance on the first day of each month starting December 1, 2004.
3. CHIEF agrees to maintain public liability and property damage insurance in the amount of \$ 1,000,000

It was the general consensus to enter into a lease agreement with CHIEF for space in the Roslyn building.

City Administrator's Comments

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

Mayor and City Council Comments

Mayor W. M. Breichner congratulated Councilmember Hendershot for being chosen as one of Washington County's outstanding volunteers.

Councilmember N. L. Hendershot distributed a checklist for a hospital relocation. The checklist is a series of questions designed to score the need for relocation as opposed to replacement. He completed the survey based on information for Washington County Hospital. The score was very low in the need for relocation. He thinks this survey result says a lot about the agenda behind the hospital's efforts to relocate. He is personally interested in good, affordable health care for the region. He is very concerned that the area will end up with a "for profit" hospital. He believes if Washington County Hospital would consider a \$ 50 million to

\$100 million investment, they could create a state of the art hospital in its current location.

Councilmember K. B. Aleshire pointed out the information provided in the weekly report about someone renting a shed as a living space. The owner of the property was not aware that the tenants were subletting the shed. He reminded residents to not place leaves on the storm drains.

The Planning Commission report indicated an applicant for rezoning stated they couldn't make a project work without high density housing. He stated there would be a developer who could make it work. He asked for a discussion of the Mayor and City Council about the members of the Board of Zoning Appeals.

He indicated he thinks the Board of Education is moving in the right direction by asking that development be limited or prohibited in the City. However, they are addressing the wrong issue because development will occur whether it is outside or inside city limits. He attended the meeting of the Washington County Planning Commission where a Planned Unit Development (PUD) request for the Allegheny Technology Park was discussed. A developer has asked for the PUD in order to allow 1,000 housing units on the site. He stated the technology center would be a better use for this property. He asked the Mayor and City Council to take a strong position on the availability of water service to this site. He questioned the legality of the County using general fund money to pay down the sewer debt. He urged everyone to read the hospital's site selection committee minutes that are available on the City's website.

Councilmember C. N. Moller reminded everyone Thursday Night Out will be held November 11, 2004. This will be a special beginning for the holiday season. She stated the day shelter is located at Faith Chapel.

Councilmember L. C. Metzner asked that the alarm ordinance be reviewed. Mr. Zimmerman stated a discussion is scheduled for the Work Session on December 7, 2004.

He attended the annual sports award dinner at South Hagerstown High School. He stated we need to celebrate the achievements of the youth. Their participation in sports teaches important life skills. He indicated the games played by both teams in the Gridiron Classic show how good our youth really are. Even though the score wasn't close, the comradery was.

Councilmember P. M. Nigh stated the hospital proposal is a moot point, since they have not sought County zoning approval. She stated at a recent union meeting, someone suggested working with the University of Maryland to use the existing hospital as a training area.

She stated she is glad Bob Maginnis (Herald Mail newspaper) has toured the homeless camps in the City. At least he has seen the sites.

She indicated the Mayor had received a letter concerning how angry she appears to be about the homeless issue. She stated she is angry but she takes the citizens concerns and needs to heart. The homeless situation and the duplication of services will kill the City. She is also angry about churches and similar groups who think they are doing a good deed by helping to keep the homeless in the City. This is not good for the City.

Councilmember Nigh expressed concern that it appears apartments are advertised as “rent to own” units and this will circumvent the rental inspection requirement.

She asked who will take care of the storm drains. Mr. Zimmerman stated the Public Works Department will be doing the work. She stated there are a lot of “house” items sitting out on the sidewalks also.

She stated she brought the issue about the alarm ordinance up previously. She stated she would like everyone to know she is a registered democrat and her family can choose their own affiliation. She stated her son commended the Mayor for the presentation at the union meeting he attended.

Mayor W. M. Breichner issued an invitation to all to attend the wreath laying ceremony scheduled for Veteran’s Day (November 11, 2004) at the Court House at 11:00 a.m.

On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember N. L. Hendershot, the Mayor and City Council unanimously agreed by voice vote to meet in closed session at 6:00 p.m. in accordance with the provisions of the Annotated Code of Maryland, State Government Article, Section 10-508(a) #7 to obtain legal advice; #4 to consider a matter that concerns the proposal for a business or industrial organization to locate, expand, or remain in the State and, #9 to conduct collective bargaining negotiations or consider matters that relate to the negotiations. No formal action was taken at the session. The meeting was held in the Council Chambers, 2nd Floor at the City Hall. The meeting was adjourned at 7:30 p.m.

Respectfully submitted,

Donna K. Spickler, City Clerk

Approved: December 21, 2004