

EXECUTIVE SESSION - NOVEMBER 23, 2004

On a motion duly made by Councilmember C. N. Moller 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 at 5:08 p.m. in accordance with the provisions of the Annotated Code of Maryland, State Government Article, Section 10-508(a) #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 Room 407, 4th Floor at the City Hall. The meeting was adjourned at 5:45 p.m.

REGULAR SESSION - NOVEMBER 23, 2004

Mayor W. M. Breichner called this 73rd Session of the Mayor and City Council to order at 7:00 p.m., Tuesday, November 23, 2004, in the Council Chamber at City Hall. Present with the Mayor were Councilmembers K. B. Aleshire, N. L. Hendershot, L. C. Metzner, and C. N. Moller; City Administrator Bruce J. Zimmerman, City Attorney Bill Nairn and City Clerk D. K. Spickler.

The invocation was offered by Councilmember Lewis C. Metzner. Councilmember Metzner stated Councilmember Nigh was to give the invocation, but was unable to attend this evening's meeting. He announced that Councilmember Nigh's 37 year old daughter, Danielle, has been diagnosed with cancer. The family is attending a consultation with the doctor this evening. He asked that everyone keep the Nigh family in their thoughts and prayers. The Pledge of Allegiance was then recited.

Mayor Breichner announced the Rules of Procedure for this meeting will be followed as adopted May 28, 2001. It was announced that the use of cell phones and electronic devices during meetings is restricted and that all correspondence for distribution to elected officials should be provided to the City Clerk and should include a copy for the City Clerk for inclusion in the official record.

The next scheduled meetings are: Work Sessions beginning at 4:00 p.m. on Tuesday, December 7, 2004; Tuesday, December 14, 2004 and the Regular Session on Tuesday, December 21, 2004 at 7:00 p.m.

Mayor Breichner reviewed the citizen rules for testimony and comments.

APPOINTMENTS

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 of all members

present to appoint Kristin Aleshire, Kurt Cushwa and Tim Henry to the Washington County Water/Sewer Commission.

Mayor Breichner swore in the following Fire Police officers: Wade Hornbaker, Ralph Lapole, Craig Miller, Tom Sterrett and John Stottlemeyer. David Iseminger was unable to attend this meeting.

PRESENTATIONS

Tom Cochran, South End Fire Company Engine Company 5, presented a \$ 10,000 check to the City. This is the first installment of a three year commitment for a portion of the cost of the new fire trucks. The Mayor and City Council thanked Engine Company 5 for their donation.

MINUTES

On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember C. N. Moller, the Mayor and City Council unanimously agreed by voice vote of all members present to approve the minutes for Mayor and City Council meetings held on October 12, 2004, October 19, 2004 and October 26, 2004.

CONSENT AGENDA

On a motion duly made by Councilmember C. N. Moller and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote of all members present to approve the Consent Agenda as follows:

- A. Police Department: Uniforms - Hoffman's (Hagerstown, MD) \$ 15,377.00
- B. Fire Department:
 - 1. Truck 1 and Truck 4 Emergency Repairs - Kimble's Truck & Auto Repair (Hagerstown, MD) \$ 37,582.84
 - 2. Generator Replacement on Truck 4 - Emergency Vehicle Specialist (Hagerstown, MD) \$ 17,728.35
- C. Engineering:
 - 1. Abatement of Weeds, Trash and Debris - Servtech Custodial, Inc. (Hagerstown, MD) Labor/Operator \$ 28.00/hr., Brush Clearing Equipment \$ 1.00/hr., Mowing Equipment \$ 1.00/hr.
 - 2. Virginia Avenue Sidewalk Retrofit - Concrete Central, LLC (Hagerstown, MD) Not to Exceed \$ 50,000.00
 - 3. 2005/2006 Street Overlay List

- D. Purchasing: Joint Chemical Bid
Potterfield Pool \$ 15,120.00
Waste water treatment plant \$ 295,337.00
Water treatment plant \$ 282,376.00
- E. Public Information: 2005 Western Maryland Blues Fest Proposed Budget
\$ 200,000.00

UNFINISHED BUSINESS

A. Approval of an Ordinance - Zoning Ordinance Text Amendment - Mixed Use Zoning

Action: On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember C. N. Moller, the Mayor and City Council unanimously agreed by voice vote of all members present to adopt an ordinance to amend the Zoning Ordinance text to allow for mixed-use buildings in the R3 district.

D. Approval of an Ordinance - 2004 Public Improvement Bond

Action: Councilmember L. C. Metzner made a motion to approve an ordinance as introduced authorizing the City of Hagerstown to issue and sell, upon its full faith and credit, general obligation bonds in one or more series in an aggregate principal amount not to exceed \$ 4,000,000. Proceeds from the sale of the bonds will be used for the public purposes described in detail in the ordinance together with related expenses and costs of issuance. Staff is hereby also directed to proceed with developing the necessary detailed resolutions and other documents to proceeds with the sale of the bonds as directed by this ordinance. The detailed resolution will be presented to this body for approval at a future date prior to the issuances of the bonds as specified in the ordinance. Councilmember C. N. Moller seconded the motion.

Motion carried 3-1, with Councilmember Aleshire voting No.

NEW BUSINESS

A. Introduction of an Ordinance - (Case No. ZM-2004-05) Dahbura Enterprises, LLC Kensington, LLC Eastern Boulevard, R2 to C2

Action: Councilmember L. C. Metzner made a motion to introduce an ordinance for a

Zoning Reclassification and Zoning Map amendment, Case No. ZM-2004-05, to rezone 19.33 acres, more or less, of land located off of Eastern Boulevard from R2 (Residential) to C2 (Commercial General). Councilmember N. L. Hendershot seconded the motion.

Motion carried 3-1, with Councilmember Aleshire voting No.

B. Introduction of an Ordinance: C4 Setback Zoning Amendments

Action: Councilmember C. N. Moller made a motion to introduce an ordinance amending Chapter 68, Zoning Ordinance, of the City Code, to add setback requirements in the C4 (Regional Shopping Center) District and a definition for the term, “Pad Site”. Councilmember L. C. Metzner seconded the motion.

Motion carried 3-1, with Councilmember Aleshire voting No.

C. Introduction of an Ordinance: Determination that 446 W. Washington Street is No Longer Needed for a Public Purpose

Action: On a motion duly made by Councilmember K. B. Aleshire and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote of all members present to introduce an ordinance determining that the real property known as Parcel “B” part of Parcel No. 2 of Liber 1981, Folio 722 is no longer needed for a public purpose and that it be conveyed to the owner of 446 W. Washington Street without compensation. All costs associated with the transfer shall be the responsibility of the owner of 446 W. Washington Street.

D. Resolution: Charter Amendment - Election Laws

Action: On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember K. B. Aleshire, the Mayor and City Council unanimously agreed by voice vote of all members present to approve a resolution amending the Charter of the City of Hagerstown by deleting and repealing certain portions of Article V, *Registrations, Nominations and Elections*, and replacing said sections with new language conforming to Maryland Election Law.

E. Approval of Amendments to the Annual Action Plan for the Community Development Block Grant Program

Action: Councilmember L. C. Metzner made a motion to amend the FY 2004/2005 Annual Action Plan for the Community Development Block Grant Program by the

addition of a Public Facilities and Improvement activity known as St. John's Shelter for the Homeless-Rehabilitation of 16 Randolph Avenue and that \$ 41,700 in CDBG funds be provided for the activity. Councilmember C. N. Moller seconded the motion.

Motion carried 3-1, with Councilmember Aleshire voting No.

F. Approval of Fire Department Homeland Security Grant

Action: On a motion duly made by Councilmember C. N. Moller and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote of all members present to approve of a \$ 313,786 United States Department of Homeland Security, Assistance to Firefighter Grant to be used for purchase of approved equipment by the Hagerstown Fire Department. The grant requires a local 10% cash match of \$ 31,378 from the City.

G. Approval of License Agreement: Sycamore and Hood Streets

Action: On a motion duly made by Councilmember K. B. Aleshire and seconded by Councilmember N. L. Hendershot, the Mayor and City Council unanimously agreed by voice vote of all members present to enter into a Right-of-Way/Easement License Agreement with Ellsworth Electric, Inc. to utilize a portion of the public rights-of-way along Hood Street and Sycamore Street to construct masonry pillars and a fence around the rear of the property at 89 West Lee Street.

H. Approval of Grant Funded Position for Hope Six Community Officer

Action: On a motion duly made by Councilmember C. N. Moller and seconded by Councilmember N. L. Hendershot, the Mayor and City Council unanimously agreed by voice vote of all members present to approve the Agreement for Gateway Crossing/Elgin Station Community Police Officer, which includes:

- * The acceptance of funding from HHA in the amount of \$ 75,000.00
- * The establishment of a community police officer position to be stationed at Elgin Station and assigned to the Gateway Crossing/Elgin Station Community Center for a period of two years.

This approval comes with the understanding that the position/assignment will end after the two year period described in the agreement.

I. Approval of Program Open Space Projects FY 2006

Action: On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember C. N. Moller, the Mayor and City Council unanimously agreed by voice vote of all members present to approve the Program Open Space FY 2006 Projects for the upcoming application, submitted November 18, 2004.

J. Approval of City Hall Security Program

Action: On a motion duly made by Councilmember K. B. Aleshire and seconded by Councilmember C. N. Moller, the Mayor and City Council unanimously agreed by voice vote of all members present to approve the funding to create part-time security positions in City Hall. These positions will provide both increased security for City operations and staff, and assistance to citizens in City Hall. The estimated cost of this new program for the remainder of this fiscal year will be approximately \$ 24,600. Funding for this expense will come from the current year General Fund budget contingency.

K. Lease Agreement: CHIEF, 25 E. Franklin Street (Roslyn Building)

Action: On a motion duly made by Councilmember C. N. Moller and seconded by Councilmember N. L. Hendershot, the Mayor and City Council unanimously agreed by voice vote of all members present to approve of a one year lease for CHIEF located at 25 East Franklin Street.

L. Lease Agreement: 309 Valley Road, Fire Police

Action: On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember C. N. Moller, the Mayor and City Council unanimously agreed by voice vote of all members present to approve a renewal of the existing lease for the Hagerstown Fire Police Association located at 309 Valley Road. Rent will continue at an annual rate of one dollar (\$1.00) payable in advance on the first day of this yearly term.

CITIZEN COMMENTS

Christi Hatcher, 1544 Kensington Drive, Hagerstown, MD 21740 stated she is representing the Home Owner's Association of Woodlands North. Two other homeowners were also present. They were Dorothy Mitchell, 1619 Woodlands Run, Hagerstown, Maryland, and James Failor, 1509 Kensington Drive, Hagerstown, Maryland. They are opposing the rezoning of Parcel 647, which was requested before the Mayor and City Council on November 9, 2004. The property is

located off Haven Road. She presented pictures of the area to the Mayor and City Council. This is the only tree buffered area near Woodlands North. The forest on this 54 acres is home to many creatures. She stated if development occurs on this property, it will eliminate the forest and create a significant increase in traffic. She asked that something be considered that would meet the needs of everyone involved in the area. She suggested incorporating the attributes of the forest with creatively placed low density housing. She read a letter of opposition from Virginia Bentz who was not able to attend the meeting. Ms. Bentz is concerned about the cost of building the necessary road. She is also concerned about the capability of the water/sewer system to handle the increase in service. Ms. Bentz also asked the Mayor and City Council to continue the effort to keep the hospital in the City.

Councilmember Metzner stated this parcel is in the County and if the City does not annex it, they have no jurisdiction to restrict housing. In no situation would he be in favor of the City paying for the road.

Councilmember Aleshire stated the City could require the developer to preserve the forest and use that to meet the requirements of the Forest Conservation Act, instead of allowing them to locate forestry off site. He also stated the City cannot change the zoning on a property that is located outside the City limits.

Ms. Hatcher asked if finding an endangered species on the property would stop development. Councilmember Aleshire stated it would be the developer's responsibility to certify that endangered species would be protected.

Staff will meet with Ms. Hatcher to discuss the rezoning issue further.

CITY ADMINISTRATOR COMMENTS

Bruce Zimmerman, City Administrator, stated a significant rental licensing case has been heard. Rodney Tissue, City Engineer, stated William Colvin, who owns 832 and 834 W. Washington Street, has been taken to court. The judge ruled in favor of the City and Mr. Colvin received suspended jail time and a fine. The Rental Licensing Ordinance is working to protect residents of the City of Hagerstown.

There will be no change in the trash collection schedule due to the Thanksgiving Holiday. However, there will be no paper collection this week.

COUNCIL COMMENTS

Councilmember C. N. Moller welcomed two new businesses to downtown. They are Beautiful Sky Gifts and Marcell's. She thanked the students at North Hagerstown High School

and South Hagerstown High School for providing music at the tree lighting program.

Councilmember L. C. Metzner stated the possible life threatening incident experienced by Sgt. Wood and other members of the police department the night of the Mummers parade reminds him what the police officers and other employees face. He thanked everyone who works hard for the City and he is proud they are a part of the city. He stated Councilmember Nigh and her family is in the Council's prayers and he asked for the same throughout the community. He wished everyone a Happy Thanksgiving.

Councilmember N. L. Hendershot echoed Councilmember Metzner's thoughts for Councilmember Nigh and her family. He hopes they get a good report from the doctor. He wished everyone a Happy and Safe Thanksgiving.

Councilmember K. B. Aleshire received a letter stating the Washington County Healthcare Coalition has entered the Certificate of Need (CON) process as an interested party. He finds it odd they were accepted with such ease when the City had to state their reason repeatedly. He stated a letter from the Washington County Commissioners, signed by Greg Snook, indicating the Commissioners fully support the relocation of the hospital was included in the first CON application. Apparently the Commissioners have not been as silent as the newspaper thinks they have been. He hopes the Herald Mail receives a copy of all the information.

Mayor W. M. Breichner expressed his wishes for a safe holiday for everyone.

There being no further business to come before the Mayor and City Council, on a motion duly made by Councilmember K. B. Aleshire and seconded by Councilmember L. C. Metzner, the meeting was adjourned at 7:51 p.m.

Respectfully submitted,

Donna K. Spickler, City Clerk

Approved: December 21, 2004