

WORK SESSION AND EXECUTIVE SESSION – MARCH 13, 2012

Mayor R. E. Bruchey, II called this Work Session and Executive Session of the Mayor and City Council to order at 4:08 p.m., Tuesday, March 13, 2012, in the Council Chamber at City Hall. Present with the Mayor were Councilmembers W. M. Breichner, M. E. Brubaker, F. W. Easton, A. C. Haywood, L. C. Metzner; City Administrator Bruce Zimmerman, City Attorney Mark Boyer and City Clerk D. K. Spickler.

WORK SESSION – March 13, 2012

Washington County Historical Society

Linda Irvin-Craig, Executive Director of the Washington County Historical Society, was present. The Washington County Historical Society is planning its 2012 Mad Hatters' Ball, which has become the signature fundraiser for the organization. The Society is requesting a sponsorship from the City in the same amount as was provided last year, \$ 1,500.00.

The proceeds from this event go directly to the programs of the historical society offered to both local citizens and the traveling public, who visit the museums, and most importantly, access the genealogical library and local archival collection. Visitors came from as far away as Sitka, Alaska, in 2011.

Many of the research visitors stay for several days to a week. Tours are scheduled from Anne Arundel and Baltimore County. Both these groups of 35 to 40 will be dining in local restaurants and one group will spend the night.

The Miller House will be reopening on March 31, 2012 with a Firefighter Exhibit. This year's Mad Hatters' Ball will be held on April 14, 2012, which is the 100th anniversary of the sinking of the Titanic. Food will be from the Titanic menus.

Ms. Irvin-Craig stated the Historical Society is working with City staff regarding the Hager House. The Hager House building is owned by the City, while the items are owned by the Historical Society.

Mr. Zimmerman indicated \$ 2,340.00 is included in the City's budget for the Historical Society. Funding for an additional \$ 1,500.00 is available in Agency Funding. It was the general consensus to provide a sponsorship for the 2012 Mad Hatters' Ball of \$ 1,500.00.

Speed Cameras in School Zones

Chief Arthur Smith provided an update of the current status of the speed cameras in school zones project. Cameras were installed today on Northern Avenue, which is the first location. The next location for cameras is at Winter Street School. The cameras will be operational Monday through Friday, from 6:00 a.m. to 8:00 p.m.

By law, the first thirty days after the initial installation of the first cameras is a warning period. Tickets will be issued starting April 14, 2012. There is no warning

period after April 14, 2012.

He is hoping the program will yield an 80% decrease in the number of drivers speeding in school zones. Training for the ticketing process started last week. This system will reduce the amount of time a patrol officer spends writing tickets and appearing in court.

Utilities Department Update

Michael Spiker, Director of Utilities, Nancy Hausrath, Water Operations Manager, Donnie Barton, Wastewater Operations Manager, and Nathan Fridinger, Light Operations Manager, were present to provide information about the Utilities Department.

Electric

Staff completed the Maryland Energy Administration EmPOWER Grant by installing 111 programmable thermostats for owner occupied residences within the service territory. The expenditure of \$ 28,132.50 is projected to save the participating customers 199,800 kWh per year, which equates to about \$ 18,000 per year. Staff will continue to explore grant opportunities which will assist in lowering the amount of energy used by customers.

The existing Wholesale Power Service Agreement was extended for a period of one year, from the initial expiration date of May 31, 2013 through the new expiration date of May 31, 2014. The megawatt hour (MWh) charge for service during the one year extension period will become \$ 54.57. The wholesale rate reduction translates to savings for the 17,419 residential, commercial and industrial customers.

Staff will continue to gather baseline information, utilizing consultants, legal counsel, and trade data, regarding the ownership of generation assets, offsets in renewable energy standards, or rates that are structured differently than the typical wholesale power supply contracts. Savings of this nature may be used to offset the expected increase in future energy costs. Additionally, staff will continue with the current conservative approach regarding Wholesale Power Supply Agreement extensions as long as the market allows for a decrease in the out year costs.

Water

The completion of the construction and subsequent operation of the second 6.4 million gallon West End Water Tank (Phase II of the West End Reservoir Replacement Project designated as the Hellane Park Tank) occurred in the spring of 2011. The Water Division is now in full compliance with the Maryland Department of the Environment Finished Water Covered Reservoir Rules.

The R.C. Willson Transmission Main Replacement/Electrical Upgrade Project is complete with all work accomplished with minimum system disturbances. Phase 1A of this project entailed the completed installation of water transmission mains and the associated valves. It also addresses an electrical upgrade project which allows a full

requirement backup generator that can fully operate the facilities during a commercial power outage. Mr. Spiker indicated a plant would not be down for more than an hour or two.

The Water Division has set a goal for the replacement of all residential meters by 2016. This will allow for system billing accuracy, the reduction in unallocated water, and reduce customer billing complaints associated with human error.

Staff will continue to work with Hazen & Sawyer and the MDE regarding Phase IV Improvements for Stage 2 DPBR Compliance. The project is currently at 35% completion of the design of the planned upgrades.

The Water Division will continue with the \$ 350,000 budgeted system rehabilitation and main replacement projects through the leak detection program, hydrant and valve program, and through coordinated efforts with the City/County/State roadway rehabilitation projects.

Wastewater

Staff refined the processes as they relate to the Enhanced Nutrient Removal (ENR) initiatives at the Wastewater Treatment Facility (WwTP). This included the additional flow channel and upgrade to the headworks process, the addition of the Parkson Dynasand Filter process and the Ultraviolet Disinfection process which replaced the Ozone Disinfection.

As of January 31, 2012, the Wastewater Treatment Plant has operated 46 consecutive months without a Discharge Monitoring Report Violation per the State Discharge Permit. The WwTP continues to operate within all operational guidelines set forth by the MDE.

The City operation joined the list of one of nineteen of the sixty seven major wastewater plants in Maryland who have achieved the MDE's Enhanced Nutrient Reduction (ENR) mandates for meeting the requirements of the ever more stringent Chesapeake Bay Initiative. The City's plant has reached the limit of technology with its effluent levels of 3 mg/l for Nitrogen and .3 mg/l for Phosphorous.

These improvements have allowed the MDE to re-evaluate the rated capacity, and beginning in January 2011, the permit reflects an increase to 10.5 mgd for rated capacity at the treatment plant.

Work continues on the Citywide Inflow and Infiltration Project. The total project was funded at \$ 3.2 million with the remainder \$ 827,440 funded through a 0% interest loan from MDE. The project removes non-system related flow in the wastewater collection system from extraneous sources. Removing this flow from the treatment process lowers expenditures at the wastewater treatment plant and allows for a recapture of allocation. As repairs are made, the lines are viewed with a camera to determine if the leak has been repaired. Smoke testing is used to determine where leaks are located. Councilmember Breichner mentioned water lays in the area of the Terrace when it rains. Mr. Barton stated they are aware of this and are reviewing the situation.

Administration and Collections Staff will utilize the Capacity Management Operation and Maintenance evaluation and procedure documentation. This document allowed the Wastewater Division to meet former MDE Consent Judgment mandates and plan for the future maintenance and operation needs of the wastewater collection system.

Councilmember Brubaker stated the document showing the advantages of living in the City should include electric rates. Michelle Burker, Director of Finance, stated the information is included as a footnote since City Light service is not available to all residents.

Mr. Spiker reported State mandates are expected for MAMWA and Bio-Solids Applications. State mandated fees are anticipated for the Flush Tax Second Generation.

Peddler's License and Temporary/Transient Dealers Regulations

Stephen Bockmiller, Zoning Administrator, and Donna Spickler, City Clerk provided information about Peddler's Licenses. Staff is seeking direction from the Mayor and City Council to address gaps in the current legislation. Areas to be considered include: food vendors, snow cone stands, construction site deliveries/sales, produce stands, give aways, and enforcement of regulations. Revised classifications and definitions would allow a more comprehensive review of permit requests. The current fee structure has not been revised since 1992 and should be reviewed.

Chapter 176 of the City Code defines Peddlers as follows:

1. Class I Peddler - Selling from a wagon, pushcart or other vehicle. The license fee is \$ 125.00 per year. Examples include food carts and magazine salesmen.
2. Class II peddler - Selling only from packs, baskets or similar containers. This license fee is \$ 50.00 per year. An example would be someone who travels through a neighborhood, on foot, selling items from a back pack.

The Code also includes regulations for temporary/transient dealers. The minimum fee for this type of merchant is \$ 1,000.00. The vendor must provide a surety bond of \$ 10,000.00. Outdoor furniture sales and a stationary seafood trailer are examples of a temporary/transient dealer.

Councilmember Metzner asked if door-to-door sales people are required to have identification. He stated they should have something that must be displayed, without a resident having to ask if they have a permit. They should have to exhibit some type of identification. Ms. Spickler indicated each vendor is issued a license (on a paper).

Councilmember Easton asked if there are exemptions for non-profit groups. Many of the magazine sales people are working for a non-profit group.

Councilmember Metzner suggested adding language to the Code to cover fundraising activities from groups such as Boy Scouts, Girl Scouts or local schools and similar local organizations. This would include neighborhood snow cone and lemonade stands.

Councilmember Brubaker stated retailers have to pay property taxes and their customers have to pay sales tax, both of which contribute to the good of the community. A peddler does not have to pay taxes and should be contributing as well.

Councilmember Haywood stated the fees are very low. She asked what rates are being considered. Ms. Spickler indicated information from other municipalities will be considered to determine a reasonable fee.

Councilmember Metzner suggested creating another class specifically for door-to-door sales. This fee should be the highest.

Councilmember Haywood suggested considering a monthly fee.

Councilmember Easton asked that examples be stated when a draft ordinance is scheduled for review.

Mr. Bockmiller stated peddlers are not covered under the Zoning Ordinance but there are some overlaps with the Peddler's Regulations. He and Ms. Spickler have been working together to ensure the two ordinances fit well together.

The Mayor and City Council directed staff to work with City Attorney Mark Boyer to develop a revised Peddler and Transient Dealer ordinance for their review.

Land Management Code Amendment – Multi-Family Design Standards

Kathleen Maher, Planning Director, was present to provide follow up information from the Public Hearing that was held on February 27, 2012.

No one testified at the public hearing, however, three letters of opposition to aspects of the proposed amendments were received within the 10 day period the record was left open. The opposition is as follows:

1. DynaCorp – Supports amenities requirements and is opposed to requirement that “parking shall be to the rear of the structure.”
2. Fox and Associates - Opposed to the requirement that buildings be oriented to streets and parking be located to the rear.
3. Divelbiss & Associates – Opposed to requirement that parking shall be in the rear yard with alley access or in side yard, that the buildings shall present a public view to the street or pedestrian corridor, and that buildings be architecturally compatible with existing structures.

Ms. Maher stated the definition of a multi-family use is three or more units in a building. A townhouse is one unit per building. Mr. Zimmerman stated the amendments address the impact on the resident and the impact on the sustainability of development. Ms. Maher stated one question to answer is “Are we building what they love, or just what they are willing to tolerate because they can't afford anything else.”

In drafting the proposed multi-family design standards with the Planning

Commission, staff did not consult with the local development community because of the dissatisfaction with the types of multi-family developments that were being constructed or planned in the community.

While staff respects the stated concerns about flexibility and unique characteristics of sites, there appears to exist a basic philosophical difference approach between the City's intent and the expressed views. Staff believes that multi-family developments should look like neighborhoods with a pedestrian orientation rather than more closely resembling office parks. Staff believes it is important to knit these developments into the surrounding fabric of the community rather than isolating them. Staff believes it is important to design developments that engender affection in the residents for their "community" and not merely tolerance. This philosophy for residential development, often termed new-urbanist, has been implemented in other regions of the county.

There are undoubtedly more sophisticated regulations that could be written to achieve the stated intent. This more simplistic approach may be lacking, but staff felt a change was needed and that this would help to get the City there.

Mayor Bruchey asked for examples from other communities of what their multi-family residences look like. Ms. Maher will obtain pictures from Montgomery County.

Councilmember Easton speculated that some of the concerns were raised because projects have been started using the old regulations. Ms. Maher indicated all three letters are in reference to one development. Councilmember Easton asked if the development, with the current standards, would be grandfathered in. Ms. Maher stated they should submit site plans now.

Councilmember Easton asked if multi-family includes public housing.

Councilmember Haywood asked how many parking spaces are required and what requirements are included for setbacks for parking lots. Ms. Maher stated staff is reviewing the most appropriate number. There are no setback requirements for parking lots, only buildings. However, landscaping would be required.

Councilmember Brubaker stated the language allows the Planning Commission to require amenities of many types. This would be left up to the reasonable discretion of the Planning Commission. Ms. Maher indicated there are not specific requirements for amenities.

Councilmember Easton asked how new developments can be required to have amenities that a community does not currently have. Ms. Maher stated an alternative is for the City to create the amenity. As development grows outward without open space and other amenities, the City would have to provide them. Councilmember Easton asked how many developments have a community pool currently. He is concerned the requirement of certain amenities could get out of hand.

Councilmember Metzner stated the community of Urbana has this type of development and it looks very nice. Ms. Maher stated there are separated uses in Urbana

but the roadways are interconnected.

Councilmember Haywood wondered what reasoning would be used to determine what amenity would be required in a certain development/community. She does not think the City should mandate any additional qualifiers. She is not comfortable with the flexibility

Councilmember Brubaker stated the Planning Commission is trying to avoid large developments that don't have amenities. Ms. Maher stated a pool is planned at Collegiate Acres. She believes the Planning Commission would be satisfied with the open space that is shown, without the pool.

Councilmember Metzner stated the amenities do more than provide visual niceness. Amenities create a feeling of community. He stated a review of how many police and fire calls are made from developments without amenities would be interesting. Doing nothing, in his opinion, is unacceptable.

Ms. Maher stated if the requirements were included in the Zoning Ordinance, the only flexibility would be through the Board of Zoning Appeals process. Greater flexibility could be gained through the land development code.

Members of the Mayor and City Council would like to see examples of developments with similar regulations (amenities and parking).

These amendments will be scheduled for further discussion.

CITY ADMINISTRATOR'S COMMENTS

Bruce Zimmerman, City Administrator, had no additional comments.

MAYOR AND COUNCIL COMMENTS

Councilmember M. E. Brubaker had no additional comments.

Councilmember W. M. Breichner had no additional comments.

Councilmember L. C. Metzner had no additional comments.

Councilmember A. C. Haywood had no additional comments.

Councilmember F. W. Easton had no additional comments.

Mayor R. E. Bruchey, II had no additional comments.

EXECUTIVE SESSION – March 13, 2012

On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember W. M. Breichner, the Mayor and City Council unanimously agreed by voice vote to meet in closed session to discuss the appointment, employment, assignment,

promotion, discipline, demotion, compensation, removal, resignation or performance evaluation of appointees, employees, or officials over whom it has jurisdiction, #1, to consider the acquisition of real property for a public purpose and matters directly related thereto, #3 and to consider a matter that concerns the proposal for a business or industrial organization to locate, expand, or remain in the State, #4, and to consult with counsel to obtain legal advice, #7 at 5:28 p.m. in the Council Chamber, 2nd Floor, City Hall, Hagerstown, Maryland. The following people were in attendance: Mayor R. E. Bruchey, II, Councilmember W. M. Breichner, Councilmember M. E. Brubaker, Councilmember F. W. Easton, Councilmember A. C. Haywood, Councilmember L. C. Metzner, City Administrator Bruce Zimmerman, City Attorney Mark Boyer, Michelle Burker, Director of Finance, Jill Estavillo, Economic Development Manager, Rodney Tissue, City Engineer, John Lestitian, Director of Department of Community and Economic Development, and Donna K. Spickler, City Clerk. The meeting was held to discuss various personnel issues, a lease agreement and economic development projects. No formal action was taken at the meeting. On a motion duly made, seconded and passed, the meeting was adjourned at 6:58 p.m.

Respectfully submitted,

Donna K. Spickler, City Clerk

Approved: April 24, 2012