

**CITY OF WESTMINSTER, MARYLAND
MAYOR AND COMMON COUNCIL MEETING
MARCH 28, 2011**

QUORUM:

A meeting of the Mayor and Common Council was held in the Council Chambers at City Hall, 1838 Emerald Hill Lane, Westminster, Maryland on the evening of March 28, 2011, at 7:00 P.M. Mayor Utz; Council President Halstad; Council Members Albert, Chiavacci, Pecoraro and Wack; City Administrator and Acting City Clerk Wolf; Chief of Police Spaulding, Director of Planning, Zoning, and Development Beyard, Director of Public Works Glass, and Director of Recreation and Parks Schroers; and City Attorney Levan were present. Acting City Treasurer Ehlers was excused from attending.

Robin Davidov of the Northeast Maryland Waste Disposal Authority presented the Mayor and Common Council information regarding the proposed incinerator project between Carroll and Frederick Counties. She spoke of the Authority's past projects in Baltimore City and Montgomery County. She explained that the waste-to-energy (WTE) facilities are fully enclosed, there are no odors that leave the facility, and it makes electricity in a much cleaner way than burning coal. Ms. Davidov stated that most communities, including Carroll County, have a couple of alternatives on what to do with their waste after recycling, such as landfilling in the County, transporting to landfills in Pennsylvania, or building a WTE facility. She explained that environmentalists have spent a lot of time and energy in making these facilities compliant with very stringent air emission regulations. While the WTE facilities have emissions, but they are all closely measured and regulated.

Ms. Davidov stated that new landfills require about 600 acres for thirty years of filling before a new site is needed; whereas a WTE facility would use about eleven acres and last more than fifty years, which is a much better use of land and water. She added that the new facility in Frederick will use wastewater from the sewage treatment plant for processing, not potable water. She added that central Maryland is the epicenter of electricity congestion in the Mid-Atlantic. There is not enough power in the immediate area; therefore, it needs to be brought in from West Virginia or a new power source needs to be built. The electricity from the proposed WTE facility would be used by the counties. They will have the first rights for use and it also gives them stability on electric prices.

She explained that this project would be owned by the Authority on behalf of its members and the counties and municipalities that use the facility will contract with them for waste disposal. The Authority will sell revenue bonds to pay for this facility and the electricity that is sold will repay those bonds. She stated that they a public procurement for the company that will design, build, and operate this facility and selected Wheelabrator Technologies, Inc. for their price and guarantees.

Ms. Davidov stated that the Authority has financial projections that were done in 2007 that they have been updating. She added that they do not know final cost of the facility, but will before the County votes on the project. The Authority has compared projections to what the County's out-of-pocket cost would be to continue to go to Pennsylvania. She stated

that they have submitted their permits for this project and are expecting to have them back in a year. Once the permits are received, they will have a final cost.

She explained that the new WTE facility would create about a thousand construction jobs and forty permanent, high-paying jobs. Ms. Davidov informed the Mayor and Common Council that waste facilities have been around for thirty years and the technology continues to improve.

Mr. Pecoraro thanked Ms. Davidov for her presentation. He stated that they read about this project in the newspapers, but no one has come to the City of Westminster to share any information. He questioned the current status of the project and what would happen should one of the counties decide not to move forward with the project.

Ms. Davidov explained that the permits were submitted in February and they expect that it will take a year to get the major ones back. She continued to say that once those permits are received, they be able to get final pricing to bring to the counties. Once the counties decide, they will move forward with the project to financing, then to construction. She explained that if Carroll County did not want to move forward, then Frederick County would have the opportunity to bring in other partners to the project.

Mr. Pecoraro stated that Carroll County does not have a waste collection/operation of its own; it is either contracted out or people make their own deals with private haulers. He inquired as to what was the City's relationship was in this process and could they contract with the County or would it have to be with the Authority.

Ms. Davidov explained that because the City is a customer of the landfill, the City could use the WTE facility. The City would have to make arrangements with the County since they have the capacity reserved.

Mr. Pecoraro stated that in addition to using the County's landfill, the City of Westminster also ships waste out of state.

Dr. Wack clarified that the City contracts with a hauler who makes those arrangements. Essentially, the City is a free agent and its relationship is with the haulers. The City received a cost for a certain volume of trash and it is paid over a contracted period. He added that where the waste goes is up to the hauler. He explained that the City's connection to this project is going to be determined by what the cost is to the hauler and what the hauler will present to the City as a bid.

Mr. Pecoraro added that Westminster has traditionally made decisions independent of what the County has done. He stated that the City found the hauler method to be less expensive than what the County offered.

Mr. Chiavacci inquired about the situation in Harrisburg, Pennsylvania and their financial problem ties to the WTE facility that they built.

Ms. Davidov explained that Harrisburg owned the old facility and tried to run it themselves for years and the facility had to be retrofitted. The company that was brought in to do the

retrofitting did not have any performance bonds, left town, and left Harrisburg in a lot of debt. She added that there are 83 WTE plants in the United States that are running effectively.

Ms. Wolf questioned whether or not the City of Westminster can still haul its trash to the incinerator should the County decide not to do forward. Ms. Davidov was unclear on the answer to Ms. Wolf's inquiry.

Mr. Pecoraro inquired about the timeline for construction and when it would become operational. Ms. Davidov replied that they are expecting the plant to be opened in July 2015 as long as the permitting works out.

President Halstad questioned whether or not Carroll County could decide at a later time that they wanted to join should this particular board pass on the project.

Ms. Davidov confirmed and added that as long as there was room.

Mayor Utz conducted the public hearing on Zoning Text Amendment No. 11-1 (Ordinance No. 823) to amend Section 164-100.A of the Westminster City Code to authorize outdoor carnivals in the City's Planned Regional Shopping Center (PRSC) Zone. He opened the hearing at 7:41 pm. Mr. Beyard explained that in an effort to increase its marketing and appeal, TownMall of Westminster started sponsoring limited carnival under the umbrella of the City. The first one that they did was in conjunction with the Special Olympics and they are currently working on one with the Westminster Recreation and Parks Department. He stated that to provide some certainty in working with the mall's management, the City has tried to come up with some language that would satisfy their interest, but at the same time keep the connection to the community and the number of carnivals to a minimum due to competition. Mr. Beyard explained that the text amendment provides this allowance in the PRSC Zone, but would have to be permitted by the City of Westminster. The City would review the permit application and either allow or deny the event.

Robert Cumberland, President and CEO of the Westminster Fire and Hose Company No. 1 explained that he and his company is in favor of the zoning change. He stated that they have very limited ways to raise funds to purchase capital equipment in Westminster and it would be a way for them to be involved and support their endeavors since they do not get that money in any way other than fundraising projects. He added that they also have a neighboring department that does not have a carnival that is one of our first due mutual aid departments; therefore, they may benefit from this also.

Leon Fleming, President of the Carroll County Volunteer Emergency Services Association stated that they are not opposed to the zoning change, but they would like to hear about the scheduling due to the fire departments around Westminster having carnival events throughout the summer months. He added that funding is key for them and they do not want something taking away from that.

Robyn Clark, General Manager of the TownMall of Westminster explained that when addressing scheduling conflicts, they look at all the schedules of events for everything. She stated that they do not want to be a competition so they are particularly sensitive to

community events such as Fallfest. She added that the mall would like to be able to partner, sponsor, and help fund the event, as well as create some traffic to the mall.

President Halstad requested clarification as if the City's denial or approval of the permit could be based solely on the timing of the request.

City Attorney Levan explained that it could be based on factors which were uniformly applied that are related to the public's interest. She added that she was not sure that the denial could be related directly to the economic success of a competing endeavor. She continued to say that if it were in the public interest to have certain public events based on a certain distance apart, there is likely a way to draft those criteria that are arbitrary or preferential.

Mr. Pecoraro questioned whether or not that language would have to be in the ordinance.

Ms. Levan stated that there would have to be a separate provision for carnival permits.

Having no more comments from the public, Mayor Utz closed the public hearing at 7:56 pm.

MINUTES:

Upon motion of Mrs. Albert, seconded by Mr. Chiavacci and unanimously passed, the minutes of the Council meeting of March 14, 2011 were approved.

CONSENT CALENDAR:

Dr. Wack moved to approve the Consent Calendar, which consisted of the approval of the February 2011 Departmental Operating Reports. Mrs. Albert seconded the motion and it passed unanimously.

REPORT FROM THE MAYOR:

Mayor Utz reported that he has received some nice letters in his office in recent weeks. He informed the Common Council that he and the city staff sent letters out to many public entities, including the Carroll County Public School System to inform them of the homes available at Union Crossing. He explained that he received a letter in return from Steve Guthrie, CCPS Superintendent, stating that he allowed the briefing to go out to all staff members in the school system announcing and promoting the sale of those homes for the City of Westminster. Mayor Utz continued to say that he also received a letter from city resident Joann Wilson regarding the Westminster Family Fitness Center staff that assisted her and went out of their way when her car would not start, adding that the staff did an outstanding job making sure she got on her way. Finally, Mayor Utz reported that the spring games for the Carroll County Special Olympics will be held at Westminster High School on April 27th, with a rain date of May 4th.

ORDINANCES AND RESOLUTIONS:

Ms. Wolf summarized that Resolution No. 11-1 would implement an interim short plan year for the period between April 1, 2011 and June 30, 2011 for the City's Flexible Benefits Plan. She stated that City offers this plan to its employees, in conjunction with United Healthcare, who is its healthcare provider. She explained that last year the City switched the term of that program year to move to a July 1st to June 30th plan year. She added that Resolution No. 11-1 would move the Flexible Benefit Plan to the same dates which would change no other terms, but extend that plan for three months. Ms. Wolf stated that this is the IRS plan that allows money to be set aside, tax free, for healthcare or family care. Mr. Pecoraro inquired as to whether or not the employees who participate in the plan have to spend any funds that they will have accumulated in that three month period at the end of that period, before the new one begins or will it carry on through the course of the year. Ms. Wolf explained that it is a prorated amount and will not carry on. Upon motion of Mr. Chiavacci and seconded by Dr. Wack, Resolution No. 11-1 for a Short Year Flexible Benefit Plan was unanimously approved.

Mr. Beyard reported that, after conversing with City Attorney Levan to properly assure that all questions have been answered correctly, the Mayor and Common Council can either act on the approval of Ordinance No. 823 or hold off until the next meeting.

Mr. Pecoraro feels that the City may need to do an additional ordinance to clarify some other section of the code to ensure that the City has the authority it needs to require a different schedule than the mall management might want. He added that there could be a future possibility where that might be needed. He stated that the only reason the Mayor and Common Council would want to delay the vote is if City Attorney Levan thinks that the appropriate thing to do would be to put that language in the ordinance.

City Attorney Levan stated that her concern is not whether the specific criteria for the permitting needs to go into the ordinance, but whether or not this ordinance should say that the use is permitted, subject to the property owner obtaining a permit under whichever chapter of the code is chosen.

The Mayor and Common Council made the decision to postpone the vote on Ordinance No. 823 until the April 11th meeting.

DEPARTMENT REPORTS:

President and C.E.O. of the Westminster Fire and Hose Company No. 1 Bob Cumberland reported that he recently attended the Fire Department Instructors Conference in Indianapolis for seminars and training, as well as view new apparatus and inventions. He stated that the fire department is in the process of updating their self-contained breathing apparatus (SCBA) units. The \$219,000 that the department will be spending on the thirty new SCBAs will come out of their capital campaign.

Mr. Glass reported that the annual roadway paving project began today with C.J. Miller grinding the road surface at Sullivan Avenue. He also announced that they found a suitable replacement truck for the one that was destroyed in an electrical fire in early

March. The replacement is \$30,000, but still needs to be outfitted with the radio and plow equipment, but Mr. Glass is confident that they will be able to do this without exceeding the \$36,000.

Mr. Schroers reported that the annual Corbit's Charge Ball was held Saturday, March 26th at the Longwell Armory where approximately 100 people attended. He announced that on April 9th, the City has scheduled its spring clean-up with McDaniel and Carroll Community Colleges. He stated that there will be 150-200 volunteers that will be doing community service projects not only for the City of Westminster, but for the Boys and Girls Club, the Senior Assisted Living Center on Old Schoolhouse Road, and other locations for non-profit organizations. Mr. Schroers reported that also on April 9th, at Dutterer Family Park is the 3rd Annual Walk a Mile in Her Shoes events through Rape Crisis Intervention Service of Carroll County. He explained that participants will start at Dutterer Family Park, travel through downtown Westminster, and finish at the City Park where there will be a closing ceremony. Finally, he stated that April 23rd will be the City's Annual Easter Egg Hunt which is being sponsored by the Westminster Kiwanis Morning Club.

Chief Spaulding reported that on Wednesday, March 23rd they held the Annual Department Awards Ceremony at the Carroll Arts Center. The event was taped by CMC and will air on channel 19 once the final cuts are made. He thanked Mayor Utz and Councilman Wack for attending the wonderful event. He then stated that March 15th marked the end of the first year of automated enforcement with the red light cameras. They are in the process of developing a comprehensive report for the Mayor and Common Council.

Mr. Beyard reported that there will be an educational work session on April 13th in the Council Chambers to get an update with the electronic sign issues. This will be a joint meeting of the Mayor and Common Council and the Planning and Zoning Commission, as well as a representative of the industry. He explained that this has been a hot topic since many towns are struggling with how to allow businesses to advertise while at the same time dealing with the distracted driver issues. Dr. Wack questioned whether or not the electronic signs that are already along Route 140 are in the city limits. Mr. Beyard explained that the only sign that is currently within city limits was not in city limits when it was originally approved. He stated that the Commission has never approved an electronic sign on Route 140 and they are hesitant to do so without some standards since the City's sign ordinance dates back to the mid-70's. Dr. Wack stated that he is glad that they are doing this, but he does not foresee a happy outcome no matter what the final decision will be. He added that the signs are extremely effective and that is why they are so popular.

Ms. Wolf reported that she and the Mayor met with Dr. James Lightner, Chairperson of McDaniel College's Inauguration Committee who is doing his fourth presidential inauguration at McDaniel College. She explained that between April 9th and April 16th, the college will be a very busy place with major activities planned for each evening and over 300 people invited to participate. She added that Mayor Utz will be the first person to speak as he welcomes President Casey to the community. She stated that this will be the president's time to give his vision for his tenure at the college. Ms. Wolf announced that on April 6th the City will be hosting the Maryland Municipal League's orientation for new officials in Carroll and Frederick Counties. At this time, she stated that the MML will be doing an Academy of Excellence class. Finally, Ms. Wolf recognized that Mark Mellendick

from the Wastewater Treatment Plant has been selected as the Employee of the Month for February for taking on the responsibility of chairing the Safety Committee.

CITIZEN COMMENTS:

Lori Graham of 118 Pennsylvania Avenue thanked Dr. Wack for reinforcing how the Planning and Zoning Commission is struggling with the electronic signs and distracted driver issues. She thanked Chief Spaulding as well for inviting her to their annual awards ceremony. Ms. Graham then announced that on May 15th, there will be a memorial motorcycle ride for the foundation that she set up for her husband. She stated that formal invitations will be sent to the Mayor and Common Council.

Don West of Waste Not! Carroll explained that his group has been studying the incinerator for the past two years. He stated that he wanted to offer that there are at least two sides to the incinerator issue. He informed the Mayor and Common Council that he would be glad to come back and discuss their take on the WTE facility.

President Halstad agreed that to be fair they should hear both sides, but he feels that there is not a rush since a final decision will not be made for at least a year, but whatever the County decides will not necessarily bind the City.

Mr. West explained that he feels Carroll County will know its direction sooner than a year. He stated that his understanding is that the City will not be able to take its trash to the incinerator, adding that it would have to come through Carroll County at the landfill as a transfer station. He felt that there were some inaccuracies and possible omissions during the earlier WTE facility presentation.

Dr. Wack stated that from his understanding of the entire project, the City should not get involved with it because of its complexity. He continued by saying that it is so capital intensive and the commitment, depending on what sort of involvement the County would seek from us, would be long term. He feels that the Mayor and Common Council would be serving the citizens poorly if the City got involved with a project of that magnitude.

Mr. Pecoraro stated that he felt it was worth hearing more about the WTE project because he was under the impression that the County would expect that the city's waste stream would be part of this. He thought it was better to get the information from the Authority so that they would be better informed, should the County approach the City.

Richard Haddad, the Carroll County representative of the Cumberland Valley Chapter of Associated Builders and Contractors stated that he worked very closely with Carroll County and the Authority with this project and that the Carroll County Chamber of Commerce endorsed the project after examining it. Mr. Haddad agrees with Mr. West in that he does not think the City will be able to take its waste to the Frederick facility should Carroll opt out. He added that there are repercussions should the County opt out and, unless it finds a replacement; the County will have a pretty severe financial penalty to pay. He explained that Howard County is presumed to be ready to stand in, but any excess capacity that would be available to anybody would depend upon whether or not Frederick and Carroll (or Howard) uses all the capacity, then they could decide what capacity they

want to sell to someone else. Mr. Haddad stated that Carroll County's primary motive in doing this, aside from the fact that the financials work for them, is long term stability in waste disposal; a critical function in any government entity. He added that cities and towns in Carroll County account for between one third and one half of the waste stream of the County, so that the idea that Carroll needs the waste of its cities and towns, if it is going to be successful, is extremely accurate. This would give the municipalities some leverage with the County in terms of offering input and commentary. Mr. Haddad feels that it is a good idea for the Mayor and Common Council, after hearing all the sides and examining all the issues, to consider whether or not the longer term stability that Carroll would get by participating in this project is worth a look because it would provide longer term stability of Westminster and the other towns given that the County has an obligation, by law, to provide for the waste disposal for the municipalities. The City does not have to bring its waste to the Carroll County site, but the County has to provide a place for the City to bring its waste to so that if the County was to be in this project, Westminster has access to whatever advantages there are at that facility.

Lyndi McNulty of 195 West Main Street thanked Councilman Chiavacci, on behalf of the Kiwanis Club of Greater Westminster, for his performance at the annual Rock Ball event. She added that all of the profits from the event are donated to the children of Carroll County for events such as the Easter Egg Hunt.

ADJOURN:

Council President Halstad adjourned the meeting at 8:36 PM.

Respectfully Submitted,

Elizabeth L. Fahey