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### Hagerstown City Council reluctant to waive 2004 road impact fee

#### Some businesses in Eastern Boulevard Improvement Fee District say ordinance is unfair

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The Hagerstown City Council Tuesday night was reluctant to waive a 2004 road impact fee without revisiting the intent of its creation.

Representatives of three properties off Eastern Boulevard asked the council to waive its Eastern Boulevard road assessment fee, questioning the fee's fairness.

The city adopted an ordinance in April 2004 that established the Eastern Boulevard Improvement Fee District for a section of the city just north of Dual Highway on both sides of Eastern Boulevard.

The ordinance imposed a fee of \$3 per square foot on office and nonresidential construction, \$5 per square foot on retail space and \$1,000 per residential unit in the fee district, with the goal of recouping a third of the capital costs, or \$1.4 million, which the city invested in widening and repairing Eastern Boulevard.

The council asked city staff members to provide it with additional information to help it make an informed decision about the waivers after two of the three requests raised questions about the ordinance's fairness.

Dr. Rose Navin Wood, owner of Eyecare Professionals, requested a waiver of the fee, claiming in a letter to Mayor Robert E. Bruchey and the council that the original developer of the shopping center where her lot sits paid extensively to widen Eastern Boulevard when the center was built.

"I feel that including my building site that is in the Centre at Antietam Creek in the area required to finance the further Eastern Blvd. improvements was an oversight," she wrote.

Attorney Jason Divelbiss said in a letter to Bruchey that if the fee is assessed against his client, Trilogy Enterprises LLC, which purchased property in the Light Business Park, it would pay a fee of \$162,000.

He told the council that the approximately 30-acre business park was residentially zoned when the council adopted the fee in 2004. If it is fully commercially developed, it would generate about half the \$1.4 million the city sought to recoup, he said.

"It goes back to fairness," David Lyles of David Lyles Developers said of the Light Business Park. He said he did not think the council's original intent was for the small business park property to pay 50 percent of the fee's goal.

Divelbiss also represented the Bergman Eye Center at Kensington Commercial Park, which requested a waiver of its fee anticipated to be about \$60,000, he said in a letter to the mayor.

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Debbie Everhart, city economic development director, said city staffers recommended denying the waiver requests, offering instead a payment plan with no interest. Fees up to \$50,000 could be paid over a five-year period, while fees in excess of \$50,000 could be paid over a 10-year period, she said.

Everhart said Tuesday that \$50,000 was a high fee.

Councilman Lewis C. Metzner, who was on the council when the fee was established, said the intent was to recoup some of the cost of widening the road. Since the shopping center developer paid to widen a portion of the road, then the intent was met, he said.

However, maps of the improvement fee district include the entire shopping center, and other properties that have since been developed on out-parcels at the center have paid the fee, the staff said.

Councilman Forrest W. Easton questioned applying Metzner's standard, asking the council if it would feel the same way should a future developer level the shopping center and start over.

Councilman Martin Brubaker said as it stands now, taxpayers are shouldering the cost of the road, since only a small amount has been paid through this fee.

Councilwoman Ashley C. Haywood requested additional information, saying more was needed to make an informed decision on any of the requests.

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