

78TH SPECIAL SESSION AND WORK SESSION – September 15, 2015

78TH SPECIAL SESSION- September 15, 2015

Mayor D. S. Gysberts called this 78th Special Session and Work Session of the Mayor and Council to order at 3:08 p.m., Tuesday, September 15, 2015, in the Council Chamber at City Hall. Present with the Mayor were Councilmembers K. B. Aleshire, M. E. Brubaker, L. C. Metzner, D. F. Munson, and P. M. Nigh; City Administrator Valerie Means, City Attorney Mark Boyer, City Attorney Jennifer Keefer, and D. K. Spickler, City Clerk.

On a motion duly made by Councilmember D. F. Munson and seconded by Councilmember M. E. Brubaker, the Mayor and City Council unanimously agreed by voice vote to meet in Special Session at 3:08 p.m.

Mayor Gysberts clarified the topic for this hearing is about growing legal crops, not about whether or not to legalize marijuana.

Public Hearing: Land Management Code Amendment – Indoor Plant Cultivation and Processing Facilities

Planning and Economic Development staff presented a proposal to the Mayor and City Council on August 4, 2015 to amend the Land Management Code to allow Indoor Plant Cultivation and Processing Facilities in the City. The Mayor and City Council recommended moving forward with the amendments.

This hearing is the next step in moving forward with the proposed amendments.

Staff see a benefit to modifying the City's zoning regulations to allow an enterprise to conduct an indoor growing operation in certain districts of the City that are not traditionally viewed as likely locations for nursery/greenhouse operations. Examples include hydroponic growing and emerging industries such as aeroponics, indoor vertical farming, and urban agriculture. Such enterprises have the potential to find new and exciting uses and jobs for commercial and industrial buildings which have resisted reoccupation over the years.

Additionally, the ability to accommodate a combined growing and limited manufacturing operation is at times discussed as something that would be economically beneficial. Examples include growing, processing and packaging herbs, teas, potpourri, etc. for sale. Currently, the City's Land Management Code does not allow for the combination of growing of plants and processing/refining of plant materials in one enterprise.

The Planning Commission considered the proposed amendment package on August 12, 2015 and were very enthusiastic about the possibility of bringing food production

closer to the community. Reservations were expressed by one member on the issue of marijuana cultivation, but the majority did not share those concerns. After making revisions to the definitions for Brewery and Distillery, the Commission deemed the package ready for public review.

The Planning Commission held a public review meeting on the proposed amendments on August 26, 2015. At the meeting, one individual spoke in favor of the amendment. In the 10 day period the record was left open, no additional testimony was submitted.

At their September 15, 2015 meeting, the Planning Commission recommended adoption of the proposed amendments.

Kathleen Maher, Planning Director, entered the following into the record as Exhibits:

1. Exhibit 1 – Certificate of Advertisement for the hearing
2. Exhibit 2 – Planning Commission file by reference

The following testimony was presented:

Warren Lemley, President/Manager/Member of Peake ReLeaf, LLC, 9609 Crystal Falls Drive, Hagerstown, Maryland, stated Peake ReLeaf, LLC has located a potential growing facility within the City limits at 540 Western Maryland Parkway. The operation would supply jobs, boost the economy, and increase the tax base. The facility would not be a retail center and there would be no public access to the facility. This would be a growing facility for medical purposes. Security would be very extensive and the facility would be secure. He wants the City government and residents to be happy they are a part of Hagerstown.

Councilmember Brubaker asked what the State of Maryland role is in their process.

Mr. Lemley informed the group that the State of Maryland will be issuing 15 permits statewide. Peake ReLeaf will be submitting an application when the State opens the acceptance period. Most of the Peake ReLeaf team is from Maryland. They have been working in Colorado and have experience in producing medical marijuana. Their company is based in Maryland and they want to remain in Maryland.

Councilmember Munson asked how many jobs would be created with this operation. Mr. Lemley indicated there will be 100 to 150 jobs created.

Carol Loveless, 8519 Timerland Circle, Ellicott City, Maryland, addressed security at the proposed facility. There are State regulations that must be followed. Peake ReLeaf has a high commitment to security. She was employed by the largest security company in the world and has significant experience. Peake ReLeaf met with the Sheriff's Department and they supported the location of the facility. No product will be sold from this site. They have discussed their security plan with representatives from the

Hagerstown Police Department. Police officers will be able to view the video from the cameras that will be installed on the building. She indicated regulations in Maryland are stricter than they are in Colorado.

Mayor Gysberts wondered why the chosen location is close to the Sheriff's Department. Ms. Loveless stated regulations require a secluded area.

Ronald Thomas, 443 Thames Street, Hagerstown, Maryland, is not against this proposed code amendment, however, he encouraged the Mayor and City Council to exclude the cultivation of marijuana.

Ed Baer, 13125 Woburn Road, Hagerstown, Maryland, has lived here for 55 years. He is alarmed by the amount of crime that takes place. Marijuana is illegal and a growing facility should not be considered inside the City limits. Addictions costs taxpayers significant amounts each year.

Mr. Boyer stated the U. S. Attorney's office has indicated it will not enforce federal law prohibiting the use and cultivation of marijuana in States that have medical marijuana statues or legalized marijuana statues. Maryland's Medical Marijuana legislation includes a provision that permits the Governor to suspend the licenses of medical marijuana businesses if there is the likelihood of federal prosecution. He suggested adding a disclaimer to the Zoning Certificate for any of these facilities that states the certificate is valid as long as State regulations allow the cultivation of marijuana.

Councilmember Aleshire stated this discussion is, in fact, about the cultivation of marijuana. Testimony has been presented both in favor of and against the zoning amendment to permit the cultivation of marijuana. This type of activity would not currently be permitted within the City limits. He wondered if it is currently permissible in the County.

Ms. Maher stated staff understand the County staff considers marijuana production as similar to pharmaceutical operations, so therefore it is permitted.

Councilmember Aleshire stated if the State decides to legalize marijuana, even though federal law states it is illegal, approving the zoning amendments permitting the growing of marijuana would be in conflict with the oath he took as Councilmember.

Mr. Boyer indicated a disclaimer on the zoning certificate would not address Councilmember Aleshire's concerns regarding the Oath of Office.

Councilmember Metzner stated he had asked the Mayor to make sure people understood this hearing is not about growing marijuana. Many states are facing the same issue as Hagerstown. There is a significant heroine abuse problem in Hagerstown and arresting people has not solved the problem. He agrees with Mr. Thomas who supports the zoning amendments, if the marijuana component is removed.

Councilmember Nigh stated she would not vote for the zoning amendments as long as marijuana cultivation is included.

Mayor Gysberts pointed out a broader debate across the country is whether issues related to addiction are treated as legislative or legal issues. He asked if the City wants to attempt to capture some of the new and upcoming economic development industries. An increasing number of states are bringing medical marijuana to the forefront. He believes more damage has been caused by legal substances than the use of marijuana.

Councilmember Brubaker disagrees that voting for the amendments would be violating the Oath of Office. The Council is considering a subcategory of the Land Management Code, not authorizing the sale of marijuana on the streets. The amendments would authorize the growing of marijuana, with it being used within the guidelines of a strict state code. If the jobs are not located in Hagerstown, they will be located in other locations and the City loses the economic boost opportunity.

Janet Bartels, 139 S. Mulberry Street, Hagerstown, Maryland, is in favor of the amendments and is excited to see what it can do for the economic, social and educational revitalizing of her neighborhood. She and her husband were working with children to plant a garden in the neighborhood. There could be urban agriculture in the houses at the Bester (Massey) property. A Fair Food network could be started to enhance the food stamp program. Part of the former hospital site could be used for farming.

There was no further testimony presented.

Mayor Gysberts announced the record will remain open for 10 days for additional comments.

The hearing was then closed.

Introduction of an Ordinance: Land Management Code Amendment – Indoor Plant Cultivation and Processing Facilities

Action: Councilmember L. C. Metzner made a motion to introduce an ordinance to amend Chapter 140, Land Management Code, of the City Code. These amendments add brewery, distillery, and indoor plant cultivation and processing facility to the definitions and to the list of permissible uses in the zoning ordinance. The complete details are outlined in the ordinance. Councilmember M. E. Brubaker seconded the Motion.

Discussion: Councilmember Munson stated he is voting in favor of the text amendments, even though he is opposed to the use of marijuana. These amendments are not about marijuana but an attempt to provide an opportunity for economic development. Bringing 100 jobs to the

community is good. He wants to make it clear there will be a full debate if an application to grow medical marijuana in Hagerstown is received.

Motion carried, 4-1 with Councilmember P. M. Nigh voting No.

Approval of an Ordinance: Amending Chapter 79, Curfew for Juveniles, of the City Code

Action: On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember D. F. Munson, the Mayor and City Council unanimously agreed by voice vote to approve an ordinance to amend Chapter 79 of the City Code, Curfew for Juveniles. This amendment would remove the phrase “by the Department of Justice”, to read as follows:

- A. Any juvenile who shall violate any of the provisions of this chapter may be charged with having committed a misdemeanor, punishable by a fine not to exceed \$ 500, and be prosecuted in accordance with Maryland Law.

Approval of Executive Search Services Agreement with International Association of Chiefs of Police

Action: On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember D. F. Munson, the Mayor and City Council unanimously agreed by voice vote to approve retaining the services of the International Association of Chiefs of Police, Inc. for the purpose of conducting Executive search Services for a Chief of Police. The total cost of the professional services is a flat fee of \$ 35,000.00. The funding source will be the General Fund Contingency.

Discussion: Councilmember Munson asked how many candidates the Mayor and Council would be reviewing. Karen Paulson, Director of Human Resources, indicated the field will be narrowed down to about six candidates. The City Administrator will then interview the candidates. Councilmember Munson and Councilmember Brubaker indicated they think the Mayor and City Council should be more involved in the interview process for this important position. Ms. Means indicated she would make a recommendation to the Mayor and City Council and provide them with an opportunity to interview a candidate as well.

The Special Session was closed at 4:19 p.m.

Mark Boyer, City Attorney, then left the meeting.

WORK SESSION – September 15, 2015

Proclamation: General Aviation and Community Airport Month

Mayor Gysberts presented a proclamation to Phil Ridenour, Hagerstown Regional Airport Director, recognizing September as General Aviation and Community Airport Month.

Mayor Gysberts announced the order of the agenda is being amended.

Code Administration Update

Kathleen Maher, Planning Director, and Paul Fulk, Inspections Manager, presented an update on Code Administration activities related to new hires and code amendments authorized by the Mayor and City Council last year.

The Rental Facility Ordinance was implemented in 2010. There were 8,141 units (in 2,967 structures) registered in 2010. The number of units registered has risen to 9,002, in 3,360 structures. Recent changes to the Rental Facility Ordinance include a crime free provision, increased license fee, and authorization of new employees for the Neighborhood Services program. Exterior inspections are completed on an annual basis.

The Crime Free program has resulted in 413 properties receiving a first letter of notification. Of these properties, 109 received a second letter of notification. The third letter of notification was sent to 32 properties. Thirty two properties have been designated as a Chronic Nuisance, and, 15 properties have been assessed a fee for a fourth inspection since the original notification. As of August, 2015, no property has been charged for a fifth inspection.

As authorized, three new Neighborhood Services Inspectors for rental property inspections and administration of other property maintenance and nuisance abatement codes of the City were hired. A new Neighborhood Services Program Specialist to administer the Vacant Structure Program was also hired. A Programs Administrative Specialist was also hired in the front office to assist with processing of vacant structure licensing, abatements, and other Code Administration support activities.

New staff completed in-house training which includes orientation, safety, and legal information. Licensing staff attended the Code Enforcement Zoning Officials Association Fire Codes seminar in June, 2015. New staff are currently enrolled in the International Code Council Campus Online. All licensing staff will have completed the AMA Communications Skills course offered by Hagerstown Community College by September 30, 2015. Licensing staff are currently meeting weekly and having detail oriented discussions on the current Property Maintenance Code of the City of Hagerstown.

With the increase in inspectors, issues are noted before a complaint is made. The number of abatements has increased as well. Inspectors are assigned to zones that were created based on the number of rental structures, units, Neighborhoods 1st group boundaries, trash districts, and the number of parcels.

Councilmember Brubaker asked how successful recovering revenue from liens has been. Staff will gather this information.

There are typically 800 to 900 interior inspections completed annually. Electrical facilities or equipment, interior surfaces, smoke alarms, window or door conditions, and plumbing systems and fixtures, have been the most prevalent interior violations.

Exterior violations are completed annually. The most common violations are: weeds/trash/debris abatements, sanitation, weeds in public right of way, and motor vehicles.

Councilmember Aleshire clarified that interior and exterior inspections are completed on residences, not commercial properties. Mr. Fulk stated that is correct.

Through an online survey, it was determined that residents view sanitation, high weeds, storage of trash receptacles, graffiti, early trash set-out, overgrown trees, vehicles without proper tags, and non-maintained swimming pools as the greatest negative impacts on the neighborhoods.

Next steps for rental facilities include neighborhood improvement plans, additional staff training, identifying unregistered rentals, and identifying unreported tenant turnovers.

To identify vacant structures, utility records are reviewed for no or extremely low usage. Inspectors have knowledge of their assigned neighborhoods and can identify newly vacant structures. Once identified as a vacant structure, inspectors evaluate the property conditions to determine neighborhood impact. A blighted property is any structure that has a pending action to foreclose a mortgage or deed of trust, has blighted conditions, or has been placarded by the City as uninhabitable. A non-blighted property is any structure that has been vacant for a continuous six months period. A total of 677 properties have been identified as vacant residential structures, with 229 being designated as blighted. There are 42 vacant non-residential structures in the City of Hagerstown, with 22 being identified as being blighted.

Of the 719 vacant properties, 28% of owners have paid the registration fee, 22% have been liened and 51% have been billed within the last 60 days.

There are 251 total blighted properties and 166 properties have blighted conditions and may be condemned or in a pending action to foreclose. Eighty five properties are blighted because they are in a pending action to foreclose.

Exterior inspections have been completed on 123 properties. Blighted properties are inspected during the first year in the program. In August, 2015, 180 letters were sent to property owners requesting interior inspections. Inspections are to be completed by the end of 2015. Staff are scheduling inspections regularly with property owners or representatives. The top exterior violations are chipping paint/missing siding, high weeds/weeds in sidewalks, window and door conditions, exterior walls, rear premises ID, accessory structures, roofs and drainage, sanitation, stairs, decks, and porches, and lighting at entry doors.

Mayor Gysberts asked if locating owners of vacant properties has been challenging. Mr. Fulk indicated a number of letters have been returned.

Staff plan to return to the Mayor and City Council in October to discuss some new proposals to provide the City with further enhanced tools to tackle the problems affecting the quality of life in the City's neighborhoods. Staff is looking at alternative ways to address abatements and stronger code mechanisms for habitual offenders. Staff and the City Attorney are still exploring issues related to possible code amendments being considered.

Councilmember Munson thanked staff for this informative update.

Councilmember Aleshire pointed out that a 16% level of vacant structures in one neighborhood may have more impact than the same number in another neighborhood due to the composition of the property uses. If there is a standard for a set level of livability, all neighborhoods would improve.

Mayor Gysberts inquired whether the City can regulate residential treatment facilities, boarding houses, and halfway houses.

Ms. Means has asked the City Attorney for more information on this topic. Ms. Keefer indicated there may be an issue with imposing additional regulations to the State regulated guidelines.

Councilmember Aleshire welcomes a discussion about these facilities.

Presentation of Certificate of Appreciation to Chief Mark Holtzman

Mayor Gysberts presented a Certificate of Appreciation to Chief Mark Holtzman for his 26 years of service to the City of Hagerstown. Chief Holtzman is retiring as of September 16, 2015.

Julianna Albowicz, representing Senator Barbara Mikulski, presented a certificate to Chief Holtzman from Senator Mikulski.

Sonny Holding, representing Congressman John Delaney, presented a Certificate of Congressional Recognition to Chief Holtzman.

Use of Funds for Laser Scanner and Equipment for Western Maryland Regional Crime Lab (WMRCL)

Chief Holtzman was present to discuss the use of laser scanner equipment. The Washington County Narcotics Task Force governing board has approved the funds to purchase of a laser scanner and equipment for use by the WMRCL. There will be no City funds expended for this purchase.

The purchase includes a laser scanner (maintenance, training, and accessories), “Reality” crash software and licenses, and six computers that will be used for the laser scanner. This equipment will be used by the Hagerstown Police Department as well as the Washington County Sheriff’s Office.

Chief Holtzman stated this equipment will allow officers to scan and process a crime scene more efficiently.

It was the general consensus of the Mayor and City Council to include approval of the purchase on the September 29, 2015 agenda.

Body Worn Cameras

Chief Holtzman then discussed body worn cameras for police officers. Maryland law has changed which will allow the use of body worn cameras by police officers. Officers will be able to sync their own video to their smart phone. Things have changed in recent years and everyone has to recognize that officers have to take on more responsibilities. Because wire tapping laws have changed, officers will not be required to provide notification they are wearing body cameras. The internal policy will include language stating notification will be provided, if possible.

A pilot program, including a policy and plan, for body worn cameras will be implemented by the end of September. One camera will be purchased for each of the six departmental units, with one officer in each unit being assigned a camera. Each camera costs \$ 6,000.00. Future budgets will include the purchase of additional cameras.

Councilmember Metzner attended a seminar at the recent Maryland Municipal League convention regarding police cameras. There are two reasons for moving in this direction. Generally, the people making allegations against officers are not the police and the allegations are often not true. Hagerstown police officers do not use excessive force and he attributed this to excellent training. The need for body worn cameras in Hagerstown is not because of anything that has happened in the past. The cameras will help protect Hagerstown’s officers.

It was the general consensus to move forward with this initiative.

Memorandum of Understanding with Way Station, Incorporated for a Mobile Crisis Program

Chief Holtzman, Rick Rock, Washington County Mental Health Authority, and Mindy Morgan, Director of Turning Point, were present to discuss a Memorandum of Understanding (MOU) for a Mobile Crisis Services (MCS) program.

To facilitate the safety of the citizens of Hagerstown as it pertains to persons in crisis, the Hagerstown Police Department and Way Station, Incorporated have discussed the implementation of a MCS. The MOU outlines major areas of past and future collaboration.

The MCS will be staffed by a mental health professional who will respond to requests for emergency outreach from law enforcement. This will connect a person in crisis with a professional to assist them in avoiding hospitalization and the need for future law enforcement contact.

This staff person will be funded through a grant managed by the Mental Health Authority and Turning Point. There will be no costs to the City of Hagerstown for this staff position.

Chief Holtzman indicated the number calls for service in dealing with mentally ill individuals threatening suicide is increasing and is a drain on resources. All officers received crisis intervention and mental health aid training to deal with these calls. By having a MCS program, these people will receive individual attention and there will be follow up after the crisis.

Mr. Rock thanked Chief Holtzman for his recognition of the mental health crisis needs. An officer is trained to address a mental health crisis differently than how they are trained to deal with someone who just robbed a store. Turning Point has a crisis intervention person who can be on the scene with the officer and then work with the person to get them in a more stable environment.

Ms. Morgan stated Travis Walter, Mobile Crisis Unit, would be the designated contact from Turning Point. When called, he will assess the scene and the needs and take the next steps to assist the person and the officer can return to the street.

Mayor Gysberts noted the MOU formalizes the assistance that has been completed informally to this point. Chief Holtzman stated a critical component of the MOU is that Turning Point will be making multiple contacts to check on the person. He anticipates a significant reduction in service hours for officers.

Councilmember Metzner thinks this will be a beneficial service for everyone involved. Mr. Rock stated all counties received money for these positions. This service may help defuse a stressful situation.

Councilmember Brubaker asked if this program will obligate the City of Hagerstown for funding in the future. Mr. Rock indicated funding will be ongoing through the Department of Health and Mental Hygiene.

Councilmember Munson asked if drug issues mask themselves as mental health issues. Mr. Rock said this does happen. Many people use the substance to fill a void.

Councilmember Aleshire noted the MOU refers specifically to mental illness in some sections and to other disabilities in other sections. Mr. Rock stated this is an attempt to address the issue of developmental disabilities as well.

It was the general consensus to move forward with approval of the MOU.

Speed Camera Collection Contract

Chief Holtzman and City Attorney Jennifer Keefer were present to discuss a new contract for speed camera violation collections.

Chief Holtzman encouraged the Mayor and Council to look at ways to retain police officers. The starting pay for officers in Hagerstown has been increased; however, retention remains a challenge.

Chief Holtzman noted there is over \$ 800,000 in unpaid speed camera violations. These violations can be flagged through the Maryland Motor Vehicle Administration. However, there is not the same capability with out of state violators. He suggested the Mayor and City Council consider a new contract with Brekford that will establish a collections program for unpaid citations. This contract will allow for additional collection efforts to take place in an effort to recover outstanding fines. The contract also permits the practice of reporting to credit bureaus in the event collection efforts are unsuccessful. Brekford will retain 28% of all payments with the new contract. The term of the contract is October 1, 2015 through December 16, 2016, which coincides with the expiration of the current contract.

Councilmember Munson noted this is an innovative approach to collect outstanding violations.

Chief Holtzman stated the original citation is \$ 40.00, then a late fee of \$ 20.00 is added. There is no other fee or interest added after the late fee. Councilmember Brubaker stated the City may want to consider escalating the late fees.

It was the general consensus to include approval of the contract on the September 29, 2015 agenda.

Mayor Gysberts thanked Chief Holtzman again for his service.

Councilmember Munson thanked Chief Holtzman. He stated he has been a great Police Chief. He has maintained an excellent department.

Councilmember Aleshire noted the last items on today's agenda prove that Chief Holtzman was the right choice for the Hagerstown Police Department. These items move the City into the era of technology. He thanked Chief Holtzman for his service.

Councilmember Brubaker stated it has been a pleasure working with Chief Holtzman and he thanks him and wishes him well.

Councilmember Metzner has worked with Chief Holtzman for many years. Before he was a good chief, he was a good police officer. He thanked him for his service to the City. Captain Kifer and Captain Langston will continue the good work that has been done.

Councilmember Nigh wished Chief Holtzman and his family well.

Ms. Means thanked Chief Holtzman for his high caliber work. He is leaving the community in good hands.

Chief Holtzman has discussed ideas with the Mayor and Ms. Means. Local government provides the freedom and opportunity to try new things. He thinks the Council will be surprised with some of the programs that are being considered.

CITY ADMINISTRATOR'S COMMENTS

Valerie Means, City Administrator had no additional comments.

MAYOR AND COUNCIL COMMENTS

Councilmember P. M. Nigh hopes the Community Meeting at Bethel Gardens is positive.

Councilmember L. C. Metzner had no additional comments.

Councilmember M. E. Brubaker reported the MML Legislative Committee met and reviewed 12 legislative priorities. The list will be narrowed down and voted on later in the month. He attended the Washington County Coalition meeting last week and those in attendance emphasized the important of all partners participating this year. Items to be presented during the General Session were discussed. He believes that a Community

Revitalization and Investment Zone (CRIZ) could possibly be included on the Coalition's priority list. He met with representatives from Pen Mar Realtors at the site of their new building.

Councilmember K. B. Aleshire reported one member of the Economic Development Commission (EDC) has an interest in reconvening an infrastructure group. He was a member of the original group and found the process to be exhausting and not beneficial.

Councilmember D. F. Munson had no additional comments.

Mayor D. S. Gysberts reported he will be attending the forum for substance abuse. He will be making opening remarks. It is important for this group to know the City is aware there is a serious substance abuse problem in the community. He congratulated the organizers and participants for supporting the Porch Fest event in the Historic Heights Neighborhoods First area. There will be a recognition of the International Day of Peace held in the big pavilion at City Park on September 21, 2015.

There being no further business to come before the Mayor and City Council, on a motion duly made, seconded and passed, the meeting was adjourned at 6:25 p.m.

Respectfully submitted,

Donna K. Spickler
City Clerk

Approved: October 20, 2015