

EXECUTIVE SESSION – August 16, 2016

On a motion duly made by Councilmember D. F. Munson and seconded by Councilmember P. M. Nigh, the Mayor and City Council unanimously agreed by voice vote of all members present 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, (Section 3-305(b)), to consider a matter that concerns the proposal for a business or industrial organization to locate, expand, or remain in the State, #4, (Section 3-305(b)), and to discuss public security, if the public body determines that public discussions would constitute a risk to the public or public security, including: (i) the deployment of fire and police services and staff; and (ii) the development and implementation of emergency plans, #10, (Section 3-305(b)), on Tuesday, August 16, 2016 at 3:11 p.m. in Room 407, 4th floor, City Hall, Hagerstown, Maryland.

Councilmember M. E. Brubaker and Councilmember L. C. Metzner were not present for the vote but arrived during the meeting.

The following people were in attendance: Mayor D. S. Gysberts, Councilmember K. B. Aleshire, Councilmember M. E. Brubaker, Councilmember L. C. Metzner, Councilmember D. F. Munson, Councilmember P. M. Nigh, City Administrator Valerie Means, City Attorney Mark Boyer, Michelle Hepburn, Director of Finance, Police Chief Victor V. Brito, Rodney Tissue, City Engineer, Jill Frick, Director of Community and Economic Development, Kathleen Maher, Director of Planning and Code Administration, Jonathan Kerns, Community Development Manager, Terry Irwin, Projects and Program Coordinator, and D. K. Spickler, City Clerk.

The meeting was held to discuss membership of the City Ethics Commission and the Hagerstown Housing Authority, to discuss three separate business proposals, and to discuss a security proposal. No formal action was taken at the meeting. On a motion duly made, seconded, and passed, the Executive Session was adjourned at 4:29 p.m.

WORKS SESSION – August 16, 2016

Mayor D. S. Gysberts called this Work Session and Executive Session of the Mayor and City Council to order at 4:38 p.m., Tuesday, August 16, 2016, 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, and City Clerk D. K. Spickler.

Rebecca Massie-Lane, Executive Director of the Washington County Museum of Fine Arts (WCMFA), Al Martin, President of the Board of Directors of the WCMFA, Martha Morris, Associate Professor, Museum Studies Program at George Washington University, Washington, D.C., and Robert Burns, Director, Mattatuck Museum, Waterbury, Connecticut, were present to discuss the Museum's accreditation.

There are four accredited museums in Maryland. These museums are held to high standards and reviews are completed every 10 years. Ms. Morris and Mr. Burns are acting as peer reviewers during this process.

The City of Hagerstown and the WCMFA has enjoyed a partnership since the museum opened in 1931 (85 years ago). At that time, a 99 year lease was signed. It will be up for renewal soon.

Mayor Gysberts mentioned he visited Brookgreen Gardens in Murrells Inlet in South Carolina recently. The City of Hagerstown has an agreement to use the image of the statue of Dianna of the Hunt, which is owned by Brookgreen Gardens, as the image for the cultural trail. The trail will link two Arts and Entertainment Districts together – the area of South Potomac Street and the City Park including the museum. He stated the partnership with the museum has been mutually beneficial. The City's forefathers recognized the importance of the arts and supported the creation of the museum.

Ms. Morris indicated the AAM appreciates the support local government is providing to museums across the country.

Mayor Gysberts stated it takes good leadership and vision to say art is a valuable investment that has to be maintained.

Mr. Martin indicated the museum staff has been preparing for this assessment. The assessment and on-site reviews ensure the WCMFA follows best practices in the museum industry.

Councilmember Munson pointed out the museum is one of the seven core organizations the Mayor and City Council include in the budget each year. He thanked Ms. Massie-Lane for her outstanding leadership.

Street Closure Request: Fireball Run Productions – September 27, 2016

Erin Wolfe, Communications Manager, and Lauren Metz, Events Coordinator, were present to discuss a street closure for the Fireball Run live production. Fireball Run is an adventure-travel television series and live action competition. Airing on multiple television platforms, most notably Amazon Prime, Fireball Run tells the story of forty teams traveling across the United States in a quest for America's most obscure and

historic artifacts. However, Fireball Run is not simply an adventure-travel television series – each episode of the series benefits the Child Rescue Network and each racing team is assigned 1,000 missing child flyers to distribute along their journey. According to the series creator, Fireball Run has reunited 47 children with their families in the first nine seasons of the show.

The City of Hagerstown has been selected as a mid-destination interactive city for contestants to visit while traveling across the Mid-Atlantic region. The anticipated filming time for this production will not exceed three hours. During this time contestants will be required to visit two historic locations in the downtown area before spending downtime in the vicinity of the Public Square. While specific sections of downtown will be blocked from pedestrian traffic, this production is intended to be enjoyed by the entire community and people of all ages are welcome to visit Public Square while filming is underway.

For all events, plans may be modified for safety and traffic issues, and event times are subject to change.

It was the general consensus to include approval of the requested street closure on the August 30, 2016 Regular Session agenda, providing the organizers adhere to the established guidelines for special events.

2016 Land Management Code Updates

Stephen Bockmiller, Zoning Administrator, was present for discussions following the public hearing on the 2016 Land Management Code amendments. Introduction is planned for September.

The ten-day comment period following the public hearing of July 26, 2016 passed on Friday, August 5, 2016. Comments have been received on two issues:

1. Beekeeping: The City received email communication from Mr. Frederick Smith, regarding beekeeping in the City. Mr. Smith does not live in the City but keeps some hives on a very large (150+ acres) unimproved tract near the edge of the City. That communication was forwarded to the Mayor and Council on August 10, 2016. Staff presentation on July 26, 2016 was incomplete and additional explanation is necessary. Per definitions in the Code, beekeeping is currently prohibited, and this has been administered as such. The proposal clarifies the existing prohibition. Prohibiting beekeeping is not a new initiative. If the Mayor and Council believe this is a use that should be permitted, a text amendment to implement that will be necessary.
2. Satellite Simulcast Betting Facility: The City Attorney recommends that the definition of this use be more detailed than the current proposal of “as defined by the Annotated Code of Maryland” to cite the references in State Code as follows:

“Satellite Simulcast Betting Facility – A facility owned or leased by a person with a permit granted by the State Racing Commission to conduct satellite simulcast betting, as that term is defined in Maryland Business Regulation Code Ann §11-815, as amended from time to time, and which conforms to all requirements of Maryland Business Regulation Code Ann S11-815, et seq., as amended from time to time. (Zoning)”

At the Mayor and Council’s hearing, Councilmember Munson asked if anything of substance came out of the Planning Commission public hearing on this matter. To clarify staff’s response on July 26, 2016, three persons appeared at the hearing to comment on the provisions regarding home based child care. The comments received did not result in substantive changes to the proposal advertised, but a minor adjustment was made to the editor’s note at the bottom of the proposal.

The following address Mayor and Council comments from the Work Session and the Public Hearing:

1. Definition of Driveway – In the issue of front yard parking lots, it was mentioned that a definition of driveway should be added to the ordinance. The question was also asked whether permits are necessary to pave residential driveways. The answer to this question is no. This means it is possible that someone could pave a parking pad in their front yard without being aware of the regulation (if it is adopted). This could be resolved by creating a simple permit application for limited review with no review fee or a token review fee, however that is not administered by the Land Management Code and would not be part of this package.

In reviewing this issue, the conversation seemed to focus on when a “curb cut is required or requested”. However, the language of the ordinance proposal is silent on this issue and silence should address this concern. The proposal deals with how driveways would be installed on properties – regardless of whether a curb cut is necessary or not.

Staff views this as an important issue for the streetscape reasons cited in the proposal package. Also, City ordinances do not typically distinguish between concrete or asphalt paving and gravel paving. The consensus of Planning Staff and the Planning Commission is that a proliferation of gravel driveways and parking pads in the front of houses would damage the quality of the residential communities.

Since adding a definition that was not part of hearings is a substantial change, a new proposal with hearing would be required. If the elected officials determine this is something that should happen, there are two options: 1) adopt and administer the provision as-is with commitment from staff to include a definition in the 2017 package to follow, or 2) withdraw this

proposal and resubmit it with a definition of “driveway” attached in the 2017 package.

2. Height of Retaining Walls – The question was asked why the setback for a retaining wall increases when the wall goes above 60 inches in height when a building permit is only required when the wall exceeds 48 inches. This was not considered during the review process. There is nothing structurally that requires these to be consistent, but it would be more efficient if they were. Therefore, staff recommends that the increase in the setback from 3 feet to 6 feet apply when the wall exceeds 48 inches (needing a permit) rather than the proposed 60 inches. Walls below 48 inches would be required to adhere to the 3 foot setback. No building permit is required for these, but there are other features, such as sheds under 100 square feet that do not require permits but still are subject to setbacks, so this is not unprecedented.
3. Process for Confirmation of Nonconforming Use – Concerns were raised whether an application for confirmation for a nonconforming use made to the Board of Zoning Appeals should be de novo or an administrative appeal after the Zoning Administrator declines to confirm the nonconformity. In order to address Councilmember Aleshire’s and Councilmember Brubaker’s concerns while preserving the intent of the provision and process, staff suggests the following adjustment:
“In the event that the Zoning Administrator declines to confirm the existence of a nonconforming use, the applicant may apply to the Board of Zoning Appeals seeking confirmation. The case would be heard by the Board de novo.”

Staff believe this would address Councilmember Brubaker’s concern that the proposal is too tightly written to completely prohibit consideration of the Zoning Administrator’s opinion on the matter, and some of Councilmember Aleshire’s concern.

Many jurisdictions place this authority strictly within the purview of the Board of Zoning Appeals. The City’s process allows the Zoning Administrator to confirm nonconformities (but not expand or change them) on a parallel authority with the Board of Zoning Appeals. It is in the best interest of the property owner as well as the city to create a public record of nonconformity, so staff make the process as easy as possible and do not charge a review fee for the process to encourage applications. There is no public noticed involved in this process to vicinal property owners. Therefore, as a practical matter, the Zoning Administrator will only confirm nonconformity if documentation is abundantly clear.

If the documentation or history is “murky” or if the confirmation is likely to draw public concern, the zoning administrator is likely to not confirm the

nonconformity. This will require the applicant to seek approval from the Board of Zoning Appeals, which will require posting of the property and notice to adjacent property owners.

Staff does not want to discourage property owners from applying through the more user-friendly administrative process for fear that they cannot obtain confirmation from the Zoning Administrator. If the applicant is unsuccessful at the administrative level, they are in a lesser position with the BZA by being forced to file an administrative appeal of the Zoning Administrator's decision than if they applied initially to the BZA. If they bypassed the Zoning Administrator altogether and filed directly with the BZA, they would not have to meet the burden of demonstrating that the Zoning Administrator made a mistake. The above adjustment to the language preserves Staff's ability to enter its own evidence in front of the BZA regarding any concerns with the documentation while not penalizing applicants for initially applying through the administrative process the system prefers them to use.

Mr. Bockmiller stated bees are considered livestock in the definition because they are primarily kept for their byproduct. Councilmember Aleshire stated if the area is large enough, he does not have any concerns about beekeeping.

Councilmember Metzner suspects people who do beekeeping are aware of the places that are not appropriate. He suggested not changing the language and continue to enforce the regulations and using common sense.

Councilmember Aleshire does not like the idea of encouraging beekeeping in traditional residential neighborhoods.

Councilmember Aleshire stated there should be a minimum height established for setback requirements for retaining walls. Mr. Bockmiller suggested including language stating setback regulations do not apply when the wall is two feet high or less.

It was the general consensus to include introduction of an ordinance to amend the Land Management Code as discussed on the September 27, 2016 Regular Session agenda. Adoption would be considered in October, 2016.

60 West Washington Street: BuroBox Update

Jill Frick, Director of Community and Economic Development, and Amanda Whitmore, Downtown Coordinator, were present to provide an update on the status of the BuroBox, the Entrepreneur Resource Center at 60 West Washington Street.

The BuroBox will be a membership-based, co-working space with two offices available for lease, a larger room suited with chairs, tables, and couches, a conference room, and a partners' room. The larger room will foster innovation between both

fledging entrepreneurs and existing businesses in the community and be capable of handling many different functions, such as classes, seminars, study groups and causal coffee chats.

Members will be able to sign up for a Basic membership at \$ 50.00 per month. In addition, two offices will be available to lease for \$ 50 more per month (total of \$ 100) which includes a lockable office, a dedicated desk and chair, unlimited access to the BuroBox, and 50 more black and white copies than a Basic membership. All members will receive the following: a membership kit, a business mailing address, high-speed internet access, free use of lockers, and access to free or discounted workshops and events. Staff will present rules and regulations and membership agreements at a September Mayor and City Council meeting.

Programming will draw from the community partners of the center, including SCORE, SBDC Maryland, the Chamber of Commerce and Frostburg/USMH. Some of the ideas for specific programming include SBDC Maryland offering their Ready, Set, Go business seminar and SCORE offering their How to Really Start Your Own Business series of instructional forums. The programming will constantly adjust to meet the specific requirements of the members. The partners' room will be utilized by the community partners to hold causal meetings with clients and smaller seminars.

Staff envision a BuroBox opening date in October, 2016. It is envisioned that the BuroBox will be self-operating with members accessing the space with membership key access. DCED staff will be onsite frequently during the initial months to ensure a smooth launch. Volunteers and interns may also provide future onsite support. The operation and needs of the space will continually be adjusted and equipment added as needed.

Staff, in consultation with USMH, has created a conceptual mockup of the building branding and signage which identifies the building as "60West". With the Mayor and City Council support, staff will take the necessary steps to secure a signage company and obtain approval from the Historic District Commission.

The space can comfortably accommodate 25 people, or roughly 7 members per month.

The idea of the BuroBox is to help startup businesses get established. Members would be short term tenants.

Agreements will be drafted for the Mayor and City Council's review in September.

CITY ADMINISTRATOR'S COMMENTS

Valerie Means, City Administrator had no additional comments.

Councilmember L. C. Metzner attended the Main Street picnic last week along with Councilmember Nigh and Councilmember Munson.

Councilmember P. M. Nigh had no additional comments.

Councilmember D. F. Munson had no additional comments.

Councilmember K. B. Aleshire had no additional comments.

Councilmember M. E. Brubaker had no additional comments.

Councilmember P. M. Nigh stated cameras on the streets are important for fighting crime.

Mayor D. S. Gysberts reminded everyone that school starts on August 17, 2016 in Washington County.

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 5:22 p.m.

Respectfully submitted,

Original signed by D. K. Spickler

Donna K. Spickler
City Clerk

Approved: September 27, 2016