

EXECUTIVE SESSION – May 9, 2017

Councilmember L. C. Metzner made a motion 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, (Section 3-305(b)), on Tuesday, May 9, 2017 at 3:05 p.m. in the Council Chamber, 2nd floor, City Hall, Hagerstown, Maryland. Motion died for lack of a second.

Councilmember D. F. Munson made a motion 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, (Section 3-305(b)), and to consult with counsel to obtain legal advice, #7, (Section 3-305(b)), and; to conduct collective bargaining negotiations or consider matters that relate to the negotiations, #9, (Section 3-305(b)), on Tuesday, May 9, 2017 at 3:06 p.m. in the Council Chamber, 2nd floor, City Hall, Hagerstown, Maryland. Councilmember E. Keller seconded the motion.

Discussion: Councilmember Metzner doesn't agree that this proposed discussion of collective bargaining is an appropriate topic when a majority of the citizens voted to have binding arbitration in the Charter.

Ms. Means indicated this is also a legal issue. There will be open session discussion of the binding interest arbitration as well. This setting is to discuss legal defense if it comes before an arbitrator.

Motion failed 1-3 with Councilmember D. F. Munson voting Yes.

On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember E. Keller, the Mayor and City Council unanimously agreed by voice vote of all members present 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, (Section 3-305(b)) at 3:09 p.m.

The following people were in attendance: Mayor R. E. Bruchey, II, Councilmember Emily Keller, Councilmember L. C. Metzner, Councilmember D. F. Munson, City Administrator Valerie Means, City Attorney Jennifer Keefer, and D. K. Spickler, City Clerk. Councilmember K. B. Aleshire was not present.

The meeting was held to discuss membership of the Historic District Commission. No formal action was taken at the meeting. On a motion duly made, seconded, and passed, the Executive Session was adjourned at 3:11 p.m.

Mayor Bruchey announced that the Work Session will begin at 3:30 p.m.

WORK SESSION AND EXECUTIVE SESSION – May 9, 2017

Mayor R. E. Bruchey, II called this Work Session and Special Session of the Mayor and City Council to order at 3:32 p.m., Tuesday, May 9, 2017, in the Council Chamber at City Hall. Present with the Mayor were Councilmembers K. B. Aleshire, P. D. Corderman, E. Keller, L. C. Metzner, and D. F. Munson, City Administrator Valerie Means, and City Clerk D. K. Spickler. Councilmember Aleshire was not present at the beginning of the Work Session.

Some agenda items were discussed in a different order than published because of the earlier start time for the Work Session.

Binding Interest Arbitration

Jennifer Keefer, City Attorney, stated the proposed ordinance is in response to the Binding Arbitration referendum. A draft of the ordinance had been presented to the Mayor and City Council for their review. The draft has also been reviewed by a labor attorney.

The draft ordinance lays out a road map for next steps if the City and either the Police or Fire unions reach an impasse during negotiations.

Councilmember Munson believes this to be a fair document. He noted that the City has engaged in binding arbitration on grievances. He believes binding arbitration is grievously unfair to the City. Taxes may increase because of it. He asked if the draft ordinance sets a limit on the amount of an award an arbitrator can grant. Ms. Keefer stated the proposed ordinance indicates the arbitrator may choose the City's proposal in its entirety, the union's proposal in its entirety, or craft a combination of both. The final award would have to be within the range contained between the two final offers.

Ms. Keefer noted that within the Determinations of Neutral Arbitrator Panel section, contiguous counties were used for comparison because they have similar socio-economic demographics. It was the consensus to use this comparison, rather than State wide.

Parameters for factors to be considered by an arbitration panel are included in the document. A timeframe for a decision within 30 days is also included.

Councilmen Corderman wants Councilmember Aleshire to have the opportunity to comment on the language and to ask questions.

Ms. Means indicated discussion will continue. A Work Session discussion was originally planned for a June meeting, with approval possibly by July 1, 2017.

Michelle Hepburn, Director of Finance, was present to continue review of the FY 2017/18 proposed budget.

Last week, the Mayor and City Council discussed ways to reduce expenses to make it possible to reduce to proposed tax rate to match the Constant Yield Tax Rate. An additional \$ 75,000.00 was needed and other one-time cuts were made. A list of the additional items to review was presented.

Councilmember Metzner stated he thinks the Stormwater Fee is really another tax.

Councilmember Aleshire arrived at the meeting.

Mayor Bruchey pointed out a Stormwater Fee will apply to all properties.

Ms. Hepburn stated some expenses are being attributed toward stormwater management, such as mowing, purchase of street sweeper, and other items. Implementation of the stormwater fee will take some time. An RFP for a rate study will be the first step in the stormwater fee process.

Councilmember Corderman stated he believes including the fee in the FY 17-18 budget is premature. Councilmember Aleshire believes the fee can be implemented within 12 months. Councilmember Munson wonders if the fee really will be mandated.

Ms. Means pointed out the State may require the fee even if the Federal government does not.

Councilmember Aleshire noted some entities have been fined already for not implementing the fee.

Stormwater management fee revenue will be included in the FY 17-18 budget.

The budget discussion continued after several agenda items.

Proclamation: Washington County Teen Pregnancy Prevention Month

Mayor Bruchey read a proclamation naming May, 2017 as Washington County Teen Pregnancy Prevention Month. Carroll Laurie and Jim Kercheval, Washington County Teen Pregnancy Prevention Coalition, accepted the proclamation. Other members of the coalition were also in attendance.

Hagerstown Neighborhood Development Partnership, Inc. – 2006-2016

Morgan Plummer, Director, Hagerstown Neighborhood Development Partnership, Inc. (HNDP) was present to provide information about the HNDPs first ten years.

Brenda Gordon, Senior Housing Advisor, Becky Mules, Housing Advisor, and Al Martin, Treasurer, were also present.

Since 2006, HNBP has financed and recorded 71 subordinate mortgages with homebuyers in the City through the Down Payment Assistance Program. They have counseled 14,429 clients with homebuyer, landlord-tenant, fair housing and foreclosure issues. HNBP has facilitated 1,421 home purchases by certifying homebuyers for the Maryland Community Development Administration programs.

Funding has increased through corporate foundations, State and Federal grants. Nearly \$ 14,000,000 in development capital has been generated. HNBP was a key participant in the Barbara Ingram School for the Arts development project. HNBP staff prepared a strategy to address foreclosures in both the City and County.

Mr. Martin stated HNBP is ready and willing to work with the City of Hagerstown as a resource, conduit, and as an additional partner.

FY 2017/18 Budget Review (continued)

Councilmember Munson inquired who would be subject to the stormwater management fee. Ms. Hepburn indicated all properties with impervious surfaces would be subject to the fee. Ms. Means stated a rate study would provide recommendations for applying the fee.

Ms. Hepburn noted adjustments include a \$ 10,000 reduction in event expenses overall. There are four potential adjustments to the CIP Expenditures that would have an impact on the use of balance reserves: Ice Rink Project, Traffic Calming, HPD Paving Project, and Downtown Beautification Project.

A change to the general fund amount for retiree coverage to the Health Insurance Fund is proposed. This change must be agreed upon by the Health Insurance Committee.

The following projects are proposed to be deferred to FY19: Signal Timing Optimization, LED Signal Lights Project, and Signal Controller Upgrades Project. These projects are not time sensitive. The projects include replacing obsolete equipment and changing the trip mechanism at a specific location. Councilmember Keller does not think these projects should be deferred.

Events will be reduced by \$ 10,000.00 overall. It was noted the PAL Country Music Fest is not being held this year and funding was included for it in the proposed budget. The July 4th at Fairgrounds Park will not be an all day event this year.

Staff is seeking grant funding to update the fire training facility. Mayor Bruchey mentioned he has discussed funding of the facility with a potential partner.

Vehicle purchases were then discussed. Two planned General Fund Reserves purchases (one for Department of Community and Economic Development and one for Public Works) could be bond financed and that funding could be used for the HPD paving project and a public art project.

Councilmember Munson asked what the vehicle maintenance costs have been for the two vehicles in question. This information will be provided.

Councilmember Aleshire would rather add the funding for the health insurance and only fund one vehicle replacement.

Mayor Bruchey suggested placing the \$ 40,000.00 in a reserve fund for economic development incentives. It was the general consensus to do this.

Mayor Bruchey noted the amendments reduce the needed tax rate increase to the Constant Yield Tax Rate. Councilmember Munson is concerned that additional tax rate increases will be needed in future years as well. Ms. Hepburn noted that the anticipated deficit for future years will increase each year. Budget discussions will begin during the summer to address these deficits.

Mayor Bruchey stated this administration is charged with returning the City of Hagerstown to a sound financial state.

Ms. Means noted that the public hearing notice for the tax rate is for a higher amount than the Constant Yield Tax Rate. Publication requirements from the State made it necessary to advertise the hearing notice prior to the Mayor and Council's review of the budget.

Councilmember Metzner would like to know how many times the tax rate has been equal to the Constant Yield Tax Rate.

FY 2018 Community Legacy and Strategic Demolition Fund Applications

Kathleen Maher, Director of Planning and Code Administration, and Alex Rohrbaugh, Planner, were present to discuss the City's application for the Community Legacy Program and the Strategic Demolition Fund Program.

The Maryland Department of Housing and Community Development has \$ 6 million in Community Legacy funding for grant and loan awards around the State in FY 2018. Community Legacy funds may be used only for capital projects – bricks and mortar projects or loan/grant programs for brick and mortar projects. The Community Legacy representative at the State has indicated that projects must be ready to go and be completed within two years. While there is no matching requirement, the application needs to show that the project will leverage other funds. The City of Hagerstown has been fortunate to receive a number of Community Legacy awards in the past for various City or City supported downtown revitalization and housing improvement projects.

The Maryland Department of Housing and Community Development (DHCD), has \$ 3 million in Strategic Demolition funding for grant awards around the State in FY 2018. The applicant is required to provide evidence of a match that is equal to 25% of the Strategic Demolition Fund request.

Eligible projects will be capital projects, including but not limited to, demolition of derelict non-contributing structures, site acquisition and assembly to create redevelopment-sized parcels for solicitation or planned development, site development, construction-level architectural and engineering designs, and stabilization of buildings to stay further deterioration and prepare properties for rehabilitation and reuse.

Staff have participated in the Monday morning meetings of the Urban Improvement Project (UIP) partners. At these meetings, possible funding sources have been explored for the various components of that project: expansion of the Maryland Theatre, Board of Education, and University System of Maryland Center at Hagerstown and creation of a plaza and pedestrian bridge behind the buildings on W. Washington Street to link the three components of the project.

A copy of the projected working plan for funding sources for the UIP components was provided to the Mayor and City Council. It is recommended to pursue Community Legacy and Strategic Demolition Fund funding this year for five specific UIP projects as follows:

1. Community Legacy Funding:
 - a. Maryland Theatre Expansion - Grant request of \$ 300,000
 - b. Board of Education Expansion - Grant request of \$ 300,000

2. Strategic Demolition Funding:
 - a. Expansion of Maryland Theatre – demolition of site of proposed addition – Grant request of \$ 500,000
 - b. Expansion of Board of Education- demolition of site of proposed new building – Grant request of \$ 500,000
 - c. Creation of Plaza to Link UIP Projects – underground the utilities behind the buildings on W. Washington Street – Grant request of \$ 500,000

These five projects are consistent with the City's updated Sustainable Community Plan. The Maryland Theatre expansion project is also specifically recommended in the 2014 Community's City Center Plan as Catalyst Project #2. The Board of Education expansion is referenced in the Community's City Center Plan as supporting the Maryland Theatre project. The plaza supports these projects as well as expansion of the University System of Maryland Center at Hagerstown (Catalyst Project #3).

Washington County and the local delegation are strongly encouraging the City to apply for Community Legacy and Strategic Demolition Fund grants to pass-through to the Maryland Theatre expansion project and the Board of Education expansion project and to fund undergrounding utilities for the plaza. The community's funding plans for

UIP were shared with the Secretary of the Maryland Department of Housing and Community Development on April 21, 2017 at a meeting hosted by Senator Serafini.

In support of the City's partners on the UIP project and to emphasize the high priority that is placed on this public-private partnership and the projected impact on downtown vitality of the various components of the UIP, City staff are proposing that the City only apply for these five projects this year.

Senator Serafini and the Washington County Delegation have suggested that \$ 1 million in future City bond proceeds be earmarked for use on the plaza portion of the project.

Mayor Bruchey noted an expansion of District Court will play a big part in what happens with the plaza.

Ms. Maher stated the largest expense will be the underground utilities. Rodney Tissue, City Engineer, mentioned Verizon has estimated it will cost \$ 750,000.00 to move their lines.

It was the general consensus to apply for the two grant programs as recommended and to earmark \$ 1 million in a future bond issue for the plaza portion of the project.

Rezoning – Old Towne Development LLC, 613 W. Washington Street

Alex Rohrbaugh, Planner, was present to discuss the rezoning request for Old Towne Development LLC, 613 W. Washington Street.

The approval (or denial) of the rezoning from RMED to CL is scheduled for May 23, 2017. Staff is seeking direction on how the Mayor and Council wishes to proceed on the rezoning. If the direction is approval of the rezoning, then the Mayor and Council need to include in the Findings of Fact:

1. Agreement with the applicant's justification and the Planning Commission's reasoning concerning mistake in the existing RMED zoning classification
2. The appropriateness of CL zoning for the property

If the direction would be denial of rezoning, the Mayor and Council would need to state for the Findings of Fact the reasoning for such a denial.

The Public Hearing for this proposal was held on Tuesday, April 25, 2017. The record was held open for 10 days, until May 5, 2017. Staff has not received any additional public comment to date.

The applicant (Jake Baer) was the only person to provide testimony. No one else spoke either in favor of or against the rezoning.

At its April 5, 2017 meeting, the Planning Commission considered the rezoning proposal and the testimony provided at the Public Review Meeting. The Commission determined in its deliberations that there was a mistake in the existing RMED zoning classification based on the following:

1. The City did not take into account that 607 West Washington Street (zoned CL) and 613 West Washington Street have been and are under common ownership and were historically used together for a common commercial use; and
2. The City did not consider this during the last Comprehensive Rezoning in 2010.

For these reasons, the Planning Commission recommended the property be rezoned to CL based on the mistake in the existing RMED zoning classification.

Approval of the ordinance will be scheduled for May 23, 2017.

Amendment to Water and Wastewater Policy

Kathleen Maher, Director of Planning and Code Administration, was present to review proposed amendments to the Water and Wastewater Policy to add a new Exception #9 for connection to a proposed new lot of record or existing lot of record for a new single family dwelling or two-family dwelling when well testing failed to gain Health Department approval due to GWUDI issues. The proposal would permit up to three approvals per year by the Utilities Director under certain outlined circumstances.

The City adopted a Water and Wastewater Policy in 2004 to reiterate that extension of water and wastewater services would not be made beyond the Urban Growth Area, as defined in the City's Annexation Policy, unless one of seven exceptions outlined in the policy were granted. The Policy has been amended in 2008, 2009, and 2016.

In December, the City was approached by a landowner who would like to subdivide a lot off his farm for a family member to construct a single-family home. The property is outside the Medium Range Growth Area, so the property owner proposed serving the proposed lot by a well. Staff learned that the Health Department required extensive testing of the proposed new well and finally deemed it not potable due to GWUDI contamination issues. GWUDI is "groundwater under the direct influence" of surface water. Since a proposal to subdivide a new lot for residential development does not meet any of the established exceptions and there is not a system improvement that could be done to meet one of the exceptions, the property is left without recourse on a means of providing water to the proposed SFR lot for a family member.

The Health Department has advised City staff that because of the karst geological formations in the Hagerstown Valley there is the potential for groundwater to be affected by surface water on any given well drilling attempt. Two large areas are noted as being especially sensitive. One area is adjacent to Keedysville and the other is adjacent to Hagerstown. The only acceptable on-site treatment system would involve a certified

water treatment officer to oversee the well. This type of situation has arisen once per year over the past 3-5 years.

City staff considered the information from the Health Department staff and the potential impact to the City water system from such issues in the future. Given the capacity constraints outlined in the Comprehensive Plan and the limited number of occurrences that the Health Department has seen in recent years, City staff drafted a proposed amendment to the City's Water and Wastewater Policy to add a 9th exception that would allow the Utilities Director to approve up to three requests per calendar year, on a first-come, first-served basis, for a new single-family or two-family residence under the following circumstances:

1. The Health Department has provided a request with documentation to the Planning and Utilities Departments that the new well for the proposed new lot or existing lot of record does not meet the minimum criteria for drinking water requirements and the well cannot be approved by the Health Department.
2. The Health Department's analytical results are consistent with COMAR and this analysis identifies contaminants which are precluded from treatment in new wells per State law.
3. The proposed lot or existing lot is contiguous to a right-of-way containing a City water line.
4. Any extension of existing water infrastructure is the responsibility of the landowner requesting service and all required improvements to the water infrastructure shall be in conformance with City Water and Wastewater Standards and Specifications.

Because such requests may occur for land outside the County designated Rrban Growth Area and outside Priority Funding Areas, the proposed amendment would require first receiving the approval of the administrative authority of the County Water and Sewer Plan.

City staff feel the proposed amendment is a reasonable solution to a difficult problem in the County while still respecting the capacity constraints and plans of the City for its utilities.

Councilmember Aleshire is not in favor of the proposed amendment. There is no benefit to the City to do this. Additional exemptions could exhaust the City's resources beyond the area the City has designated as the service area.

Councilmember Metzner stated the City made a decision a long time ago to be the water supplier in Washington County.

It was the general consensus of the Mayor and City Council to include approval of the additional exemption on the May 23, 2017 Regular Session agenda.

Amendment to the City of Hagerstown Police and Fire Employees' Retirement Plan

Karen Paulson, Director of Human Resources, and Susan Delauter, Benefits and Wellness Administrator, were present to discuss an amendment to the City of Hagerstown Police and Fire Employees' Retirement Plan.

Upon a recent review of the Plan, the CBIZ actuary noted that since the City is a governmental plan, they are not required to credit any interest to employee's accounts in the Plan. The only employees who benefit from the 5% interest credit are those who terminate employment and request a refund of contributions from the Plan. In 2016, \$ 5,700.00 in interest was paid to employees who termed and requested distribution of their contributions. There is no change to the 5% interest credit for any voluntary contributions that were transferred from the Maryland State Retirement Plan to the Police Retirement Plan at the start-up of the City of Hagerstown Police and Fire Employees' Retirement plan. Additionally, any interest earning already designated will freeze and no additional interest will accrue as of 07/01/2017. The interest earned will continue to appear on participant's annual statements.

This is a first step to review potential savings for the Plan and the Retirement Committee will be working on other recommended Plan savings in the next several months with the goal of maintaining the future stability of the Plan and bolstering the funded percentage.

The second part of the Amendment involves expanding the timing for an eligible employee to request the buy-back service time when they are rehired or request to buy service time from a prior employer. The current rule is 90 days after hire to complete this process for a rehire. Ed Adkins, legal counsel for the Plan recommends extending that timeline.

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

15th Special Session – May 9, 2017

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 meet in Special Session at 5:15 p.m.

Introduction of an Ordinance: Amendment to the City of Hagerstown Police and Fire Employees' Retirement Plan

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 introduce an ordinance to amend the City of Hagerstown Police and Fire Employees' Retirement Plan to (1) eliminate interest to be credited on employee contributions (other than refundable contributions transferred from the Maryland State Retirement

System) after June 30, 2017, (2) permit a rehired employee to repay a cash-out distribution with interest at any time prior to reaching a termination date, (3) permit the election to transfer prior service with other government employers to be made at any time prior to reaching a termination date, and (4) make administrative clarifications consistent with Maryland law.

Approval of a Resolution: Financial Incentive Agreement with Ares Investment Group, LLC

Action: Councilmember D. F. Munson made a motion to approve a resolution authorizing the City of Hagerstown to enter into a financial incentive agreement with Ares Investment Group, LLC in connection with its redevelopment of the property at 86-98 West Washington Street, referred to as the Hamilton building, and the creation of twenty four (24) new apartments. This incentive will be paid for from general fund Economic Development Incentives line item. Councilmember L. C. Metzner seconded the motion.

Discussion: Councilmember Aleshire stated he is not supportive of providing a financial incentive to a property owner who has other buildings that have multiple code violations. He would like to see the Hamilton redeveloped. He also would like to know what is being done with this property owner's other buildings.

Ms. Maher indicated the owner would like to demolish 66 W. Washington Street but cannot because it is in a historic district. The Historic District Commission has been reviewing the request. The Delta building and the Shockey building appear to be collapsing inward. The structural inspector does not want to enter the buildings to perform an inspection. When the Hamilton project is under way, staff has discussed with the owner addressing the code violations and conditions of the other buildings.

Ms. Frick stated the agreement holds the City harmless.

Councilmember Aleshire would add a clause that requires the other buildings to be brought up to code before any money is provided.

Councilmember Munson understands Councilmember Aleshire's position. He will be supporting the incentive because he thinks the redevelopment of the Hamilton building is vital to the redevelopment of downtown.

Motion carried 4-1 with Councilmember K. B. Aleshire voting No.

CITY ADMINISTRATOR'S COMMENTS

Valerie Means, City Administrator had no additional comments.

MAYOR AND COUNCIL COMMENTS

Councilmember D. F. Munson attended the ground breaking ceremony at the C & O Canal last week in Williamsport. While he was a Senator, he attempted to get the canal developed and now it is taking place. He recognized the efforts of Mayor James McCleaf and Park Superintendent Kevin Brandt. Funding of \$ 7,000,000 has been provided for the restoration from the State of Maryland. The City of Hagerstown will benefit from this project through increased tourism.

Councilmember L. C. Metzner thanked everyone for their work on the budget. He noted he supports the tax rate.

Councilmember P. D. Corderman had no additional comments.

Councilmember K. B. Aleshire stated he does want to see the Hamilton building redeveloped and reused. Other incentives have been approved; however, they were not provided to a property owner that had other buildings with multiple code violations.

Councilmember E. Keller had no additional comments.

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

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 5:34 p.m.

Respectfully submitted,

Original signed by D. K. Spickler

Donna K. Spickler
City Clerk

Approved: June 20, 2017