

21ST SPECIAL SESSION AND WORK SESSION – August 8, 2017

Mayor R. E. Bruchey, II called this 21st Special Session and Work Session of the Mayor and City Council to order at 4:00 p.m., Tuesday, August 8, 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, City Attorney Jason Morton, and City Clerk D. K. Spickler.

21ST SPECIAL SESSION – August 8, 2017

On a motion duly made by Councilmember D. F. Munson and seconded by Councilmember E. Keller, the Mayor and City Council unanimously agreed by voice vote to meet in Special Session at 4:00 p.m. Councilmember P. D. Corderman was not present for the Special Session.

Approval of a Resolution: Acceptance of Offer of Quitclaim of Parcel from the Herald Mail Company

Action: On a motion duly made by Councilmember K. B. Aleshire and seconded by Councilmember D. F. Munson, the Mayor and City Council unanimously agreed by voice vote of all members present to approve a resolution to accept the offer of a quitclaim parcel from the Herald Mail Company for the purposes of confirming and extending the area previously quitclaimed and otherwise conveyed to the City.

Approval of a Resolution: Acceptance of Offer of Quitclaim of Parcel from Antietam Paper Building, LLC

Action: On a motion duly made by Councilmember D. F. Munson and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to approve a resolution to accept the offer of a quitclaim parcel from Antietam Paper Building, LLC for the purposes of confirming and extending the area previously quitclaimed and otherwise conveyed to the City.

The Special Session was closed at 4:03 p.m.

City Attorney Jason Morton then left the meeting.

WORK SESSION – August 8, 2017

Land Management Code Amendments – Automobile Repair in I-MU Zoning District and Abandonment of Simplified Plats to Subdivide Existing Townhouse Units

Stephen Bockmiller, Development Review Planner/Zoning Administrator, was present to discuss two Land Management Code Amendments.

The Planning Commission conducted public hearings for two proposed amendments to the Land Management Code, and forwards both to the Mayor and Council with the recommendation that they be adopted and incorporated into the City Code. A Mayor and Council Public Hearing has been scheduled for August 29, 2017.

Text amendment 2017-01 was submitted by a citizen. Citizen initiated text amendments are rare. In this case, the applicant requests that the Mayor and Council amend Article 4 (Zoning) Section Z (Land Use Chart) to include automobile repair as a permitted use, under certain circumstances in the I-MU (Industrial Mixed Use) Zoning District. There are two I-MU Districts in the City – the raw land Harrison properties on Howell Road, and a series of properties bisected by Kuhn Avenue, on the south side of Wilson Boulevard. If the proposal is adopted as written, the amendment would affect only the properties in the latter location. Permitted land uses of the Harrison tracts would be unaffected by this change. This was requested when the applicant purchased property on Wilson Boulevard with the intent to use it for automobile repair, only to find it not to be a permitted use. There is one nonconforming automobile repair facility in this area, and what appears to be a recently commenced illegal use. Both businesses have the potential to become permitted uses by this proposal.

Councilmember Paul Corderman arrived at the meeting.

Councilmember Aleshire asked what previous uses were for the building. Mr. Bockmiller indicated the use was predominately as a warehouse.

Text amendment 2017-02 was brought forth by staff to patch a “hole” in Article 5 (Subdivision and Land Development Ordinance). The purpose of this amendment is to address redevelopment of properties that contained townhouses and were subdivided by simplified plat in the past to place each unit on their own lots for the purpose of resale but the building was subsequently removed. Nonconforming townhouses in the R-MOD District, as well as townhouses on irregular and undersized lots were created, but are not usable in their current configuration. This results in very small lots that are “not for development purposes” (per the language of the ordinance) and cannot be built on unless re-recorded as a final plat (which would be subject to current bulk requirements). This proposal allows the previous simplified plat to be “undone”, and the land returned to its previous configuration prior to the recordation of the simplified plat. This has the potential to affect a handful of properties around the city, should they be redeveloped. The circumstances which brought forward the need for this amendment are quite complex.

Councilmember Aleshire asked if the current setbacks for these lots would stay in place. Mr. Bockmiller stated the setbacks would have to follow City Code regulations and each request could be reviewed by staff individually.

A Public Hearing is scheduled for August 29, 2017 to receive testimony regarding both proposed zoning amendments.

Update on Excessive Use of City Services Program and Rental Licensing Program

Kathleen Maher, Director of Planning and Code Administration, Paul Fulk, Inspections Manager, Police Chief Victor Brito, and Police Officer Gerard Kendle, were present to provide an update on the Excessive Use of City Services Program and the Rental Licensing Program.

The City's Excessive Use of City Services Program became effective on April 18, 2014 with the intent to advance the safety and welfare of neighborhoods throughout Hagerstown by educating landlords on tenant screening and leases and by holding all property owners accountable when chronic nuisance situations occur at their properties. The goal is not to be punitive to property owners but to encourage actions that result in lower calls for service and prevent nuisance situations from occurring and perpetuating in the neighborhoods.

Hagerstown's program was modeled on a nationally recognized "Crime Free Program" and evidence was provided of its success by example of the Village of Mount Prospect in Chicago. The City's program was established through amendments to Chapter 95, Excessive Use of Police Services, and Chapter 197, Rental Facilities. Prior to adoption, the Mayor and City Council deliberated on the merits and parameters of this program from November 2013 through March 2014.

The 2014 amendment process repealed Chapter 95, Excessive Use of Police Services, and replaced it with Chapter 95, Excessive Use of City Services, and amended Chapter 197, Rental Facilities. Chapter 95 applies to all properties throughout the City. Changes to Chapter 95 included the following:

1. Established a definition for Chronic Nuisance Property.
2. Amended the minimum number of police qualifying calls (domestic violence issues are exempt) from 10 to 3 (3 to any individual dwelling unit, but a rising number depending upon the size of the apartment complex or if it is a commercial property) which must be met within a 12 month period prior to becoming a chronic nuisance property.
3. Establishes three as the minimum number of property maintenance standards (sanitation, weeds, and nuisance abatement) which must be met within a 12 month period prior to becoming a chronic nuisance property.
4. Appeals will be heard by an Administrative Hearing Officer.

Changes to Chapter 197 included the following:

1. Require all residential landlords or their property managers to obtain certification as a residential operator or designated agent.
2. Residential operator or designated operator certification can be revoked for chronic nuisance properties if the property owner does not work with the Hagerstown Police Department to address the qualifying police calls and the training requirement.

3. Following two qualifying calls for Police service, property owners/managers are required to attend a one-time, free training seminar on Crime Free Housing (voluntary for all others).
4. Require use of a written lease which contains a Crime Free Housing provision
5. Appeals will be heard by an Administrative Hearing Officer.

Once a property has reached the minimum number of qualifying calls or qualifying property maintenance standards and has been placed on the Chronic Nuisance Properties list, any subsequent calls for service within the following 12 month period will result in fees being assessed to the owner of the property where the nuisance occurs. The first qualifying call after making the list would be \$100, the second would be \$250, and the third and subsequent qualifying calls would be \$500. If a residential landlord is in violation of Chapter 95 and refuses to work with the Hagerstown Police Department to address the police issues at the property and the mandatory training requirement, the property owner's crime free housing operator's certification may be revoked for that property. If this occurs, the property owner's rental facility license for Chapter 197 for the property will be revoked. Operating a rental facility without a license is in violation of Chapter 197 which is a municipal infraction and subject to fines not exceeding \$1,000.

Chapter 197 of the City Code outlines the licensing and inspection requirements for the City's Rental Facilities Program. This code was adopted by the Mayor and City Council in 2003 for the purpose of protecting and promoting the public health, safety and welfare of the citizens of Hagerstown, establishing rights and obligations of the landlords and tenants in the rental of dwelling units, and encouraging the landlords and tenants to maintain and improve the quality of rental housing within the community. An additional purpose is promoting and assuring the safety, health and habitability in the housing conditions in rental facilities in the City, preventing deterioration of rental facilities in the City, supporting property values, and encouraging responsible management and use of rental facilities through licensing and inspection. Periodic adjustments have been made to the program over the years, most recently in late 2016.

In November 2016, PCAD staff provided an update on which housing provider properties were licensed in the program and which were exempt and an assessment of the inspection checklists shared by those providers exempt from the City licensing program.

In light of this research and the prior concerns raised by the City Council regarding the safety of housing provided to the most vulnerable citizens, staff recommended the following revisions to Chapter 197, Rental Facilities, for the Mayor and City Council's consideration. Further research on these recommendations was tabled with the change in administration and advent of the PICCR process.

1. 197-2, Definitions: Modify definition of Rental Facility to include "or units or beds provided to clients of supportive housing providers, whether for consideration or not" at the end of A.
2. 197-2, Definitions: modify the definition of Rental Unit to include "dormitory, homeless shelter, and residential treatment facility."

3. 197-2, Definitions: Add a definition for “supportive housing provider” – A non-profit or for-profit entity that owns or operates housing with or without in-house staff or treatment for elderly, disabled, and/or homeless clients. This does not include nursing homes or hospitals.
4. 197-4, Application, license fee: Add “and dormitory facility” to (2)
5. 197-4, Application, license fee: Add a new (3) for “homeless shelter and residential treatment facility.”
6. 197-4, Application, license fee: Using the rooming house fee system in (2) as a model, the fee system for “homeless shelter and residential treatment facility” in new (3) could be \$100 per facility, plus \$10 per bed
7. 197-6, Inspections: Add “dormitory, homeless shelter, and residential treatment facility” to (2)
8. 197-6, inspections: Change the frequency of inspections for rooming house units, plus “dormitory, homeless shelter, and residential treatment facility,” in (2) from 48 months to 24 months

Due to recurring situations of non-payment of Rental Licensing fees by some landlords, staff suggest allowing liening of unpaid Rental Licensing fees as is allowed in the Vacant Structures Program.

Staff also recommend modifying the interior inspection schedule from an event schedule to a timing schedule due to the large number of units never inspected and fairly common occurrence of non-reporting of tenant turnovers by some landlords.

Chief Brito reviewed the calls for service affecting quality of life. The information includes the majority of public housing locations in the City of Hagerstown. Walnut Towers and C. W. Brooks were excluded from this report as they are senior housing facilities and the calls for service to such locations do not accurately represent the common issues facing citizens. Data was also analyzed from two non-public housing areas to provide a comparison that demonstrates high priority areas for police. The West End neighborhood and Locust Point were chosen because HPD has recently assigned new Community Resource Officers to those locations due to the high volume of quality of life related calls for service.

In this report, only calls for service affecting quality of life were examined; proactive policing related calls were excluded. All traffic related calls such as accidents, towed motor vehicles, and traffic stops were excluded. Other exclusions were assisting other agencies, sector/patrol checks, follow-ups, and check well-being calls. The category for nuisance calls includes animal complaints, code violations, disorderly conduct, disturbance, fireworks complaint, gang graffiti, harassment, intoxicated person, littering, loitering, noise complaint, and public nuisance. These calls were lumped into one category as they are not necessarily representative of a crime but still affect quality of life for residents.

Of the 30,703 calls for service in the city, 1,161 or 3.8% were calls to public housing locations. The majority of these calls (230 or 19.8%) were nuisance related calls. Only 91 (7.8%) of the calls were for violent crime offenses and weapons related offenses.

The total calls for service since the inception of the Excessive Use of City Services ordinance were 2,606. The number of qualified calls after vetting was 1,652. Year to date qualifying calls for 2017 is 282.

Of all the rental units in the City, 12% are units managed by the Hagerstown Housing Authority. The number of qualifying calls in 2016 for these units is as follows:

1. C. W. Brooks 0
2. Walnut Towers 15
3. Potomac Towers 2
4. Gateway Crossing 7
5. Jonathan Street 5
6. Frederick Manor 4
7. Noland Village 12

The total number of qualifying calls for the rental licensing program properties was 624 in 2016.

Councilmember Aleshire noted that not all incidents are reported to the police. Some of those instances have an impact on the neighborhood as well. He asked if a qualifying call is linked to the where the call came from. Chief Brito indicated a call is linked to the location of the incident.

Councilmember Aleshire pointed out some of the worst kept properties are not in the Section 8 program, but that is the perception. If all properties had to adhere to the standards of the Hagerstown Housing Authority, rental properties would show improvement.

Of the properties abated for property maintenance violations, only 23% are for rental properties. Most of the abatements are for vacant and abandoned properties. Some of these are also registered in the City's Vacant Structures Program.

There were 2,255 notices issued for violations of the Qualifying Property Maintenance Standards. Of the 2,255 notices, 410 or 18% of those were identified as Excessive Use. There have been 62 properties identified as Chronic Nuisances since 2014. Properties deemed a chronic nuisance property shall have that designation for one year from the date of the notice. There are 20 active Chronic Nuisance properties. Since 2014, \$ 8,150 of the fees assessed have been liened.

Councilmember noted liens on properties sometimes discourage potential buyers. Staff noted that tax records list the previous owner as the current owner in a foreclosure situation. Councilmember Aleshire stated until the State of Maryland makes it mandatory that the ownership be changed to the bank holding the foreclosure, maintenance issues and notification will continue to be a problem.

Councilmember Aleshire asked how many property owners live outside the City. Staff stated many owners live in Washington County. It is unknown how many live outside the area.

Ms. Maher stated landlords have indicated they see some hope that there are regulations for addressing blighted properties.

Councilmember Aleshire stated it may help to manage the violations if there is a strict time frame established to abate the situation. Councilmember Munson asked if there is a list of chronic nuisance properties available. Ms. Maher indicated there is a list, but it is not made public. Councilmember Corderman stated he feels there should be a list of the repeat offenders readily available to the public. This would require an amendment to the Chronic Nuisance ordinance.

Councilmember Aleshire suggested a local regulation could address the listed ownership issue.

Mayor Bruchey suggested making the fees for the abatement work high enough to make the property owner take care of the property themselves. He asked if the lender is contacted about the abatement. Staff indicated they are notified.

Councilmember Aleshire recommended contacting the lender of a property that has been on the list for 3 years and offering to remove the fines if they transfer ownership of the property to the City.

Mayor Bruchey stated the City could then eliminate the blight caused by the property.

Ms. Maher cautioned that the City would not want to be in a position to have to hold on to the chronic nuisance properties. Abatement of the nuisance takes significant funding.

Councilmember Aleshire stated the City would need a mechanism to determine if the building is salvageable or should be demolished. One option would be to sell it or give it to the adjacent property owners to increase the size of their properties. This would be a better scenario than buildings and properties continuing to deteriorate.

Councilmember Munson wondered if there are state grants that could be used to demolish the buildings. Ms. Maher indicated many State grants are historic in nature and include Maryland Historical Trust requirements.

Councilmember Aleshire stated, as a taxpayer, he would gladly support a one penny increase in the tax rate if that increase was used solely to remove blighted buildings.

Councilmember Corderman inquired if properties currently for sale are included in the vacant structures program. Ms. Maher stated there is an exception for actively market homes.

Councilmember Aleshire pointed out there are a large number of duplexes in the City. He suggested looking into offering a City incentive to landlords who own one half of a duplex to gain ownership of the other half.

Councilmember Corderman stated tax revenue has to increase. There are a number of properties with outstanding tax bills. Ms. Maher stated many of those properties include liens for violations issued by the City. One option to increase interest in these properties may be to clear the lien and give the property to the adjacent property owners.

Mayor Bruchey welcomed the members of the Pony League 14U team to the meeting. They will be going to the Pony League World Series in Washington, Pennsylvania later this week. Members of the team are: Josh Crampton, John Hill, Tyler Crain, Josh Black, David Clever, Cole Brechbill, O'Shane Thorpe, Corey Jamison, Bradley Summers, Michael Keats, Cam Moats, Kyle West, Parker Martin, Ryan Angles, Izaiah Dillinger, Coach Tony West, Manager Steve Berger, and Business Manager Randy Jamison. The Mayor and Council wished them well.

CITY ADMINISTRATOR'S COMMENTS

Valerie Means, City Administrator, had no additional comments.

MAYOR AND COUNCIL COMMENTS

Councilmember D. F. Munson had no additional comments.

Councilmember L. C. Metzner had no additional comments.

Councilmember P. D. Corderman thanked Police Chief Victor Brito and the members of the Hagerstown Police Department for organizing the National Night Out event on August 1, 2017. He recently toured portions of the City with inspector Pam Harris. He saw the good, the bad, and the ugly.

Councilmember K. B. Aleshire has attended the ESAC meetings with Fire Chief Steven Lohr and they continue to address the role the City fire department plays in the County fire system. They expressed their concerns and want to work with the group to find a solution to the issue.

Councilmember E. Keller had no additional comments.

Mayor R. E. Bruchey, II thanked everyone who had a part in another great National Night Out Event. He wished the Pony League All Star team great success.

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 5:30 p.m.

Respectfully submitted,

21ST SPECIAL SESSION AND WORK SESSION
2017
MAYOR AND CITY COUNCIL

AUGUST 8,

HAGERSTOWN, MARYLAND

Original signed by D. K. Spickler

Donna K. Spickler
City Clerk

Approved: September 26, 2017