

EXECUTIVE SESSION – April 10, 2018

On a motion duly made by Councilmember A. Heffernan and seconded by Councilmember S. McIntire, 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, demotions, 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)), on Tuesday, April 10, 2018 at 3:00 p.m. in Room 407, 4th floor, City Hall, Hagerstown, Maryland. Councilmember Aleshire and Councilmember E. Keller arrived after the vote was taken.

The following people were in attendance: Mayor R. E. Bruchey, II, Councilmember K. B. Aleshire, Councilmember A. Heffernan, Councilmember E. Keller, Councilmember L. C. Metzner, Councilmember S. McIntire, City Administrator Valerie Means, City Attorney Jennifer Keefer, City Attorney Jason Morton, Michelle Hepburn, Director of Finance, Jill Thompson, Director of Community and Economic Development, Eric Deike, Director of Public Works, Rodney Tissue, City Engineer, Megan Flick, Planner, Stephen Bockmiller, Zoning Administrator and Planner, Jonathan Kerns, Community Development Manager, and Donna K. Spickler, City Clerk.

The meeting was held to discuss membership of the Board of Zoning Appeals, to discuss a lease agreement with City counsel, and pending litigation. No formal action was taken at the meeting. On a motion duly made, seconded, and passed, the meeting was adjourned at 3:49 p.m.

WORK SESSION – April 10, 2018

Mayor R. E. Bruchey, II called this Work Session and Executive Session of the Mayor and City Council to order at 4:00 p.m., Tuesday, April 10, 2018 in the Council Chamber at City Hall. Present with the Mayor were Councilmembers K. B. Aleshire, A. Heffernan, E. Keller, S. McIntire, and L. C. Metzner, City Administrator Valerie Means, and City Clerk D. K. Spickler.

FY2018/19 Budget Review

Michelle Hepburn, Director of Finance, was present to continue the FY 2018/19 Budget review. She reviewed the Constant Yield Tax Rate notification from the State of Maryland. The assessable base value per the February 2018 Constant Yield Notice memo reflects an expected real property assessed value of 2,537,56,450, which is a decrease of 0.09% over current levels. The City projection assumes a slightly higher average assessable base value which includes personal property values. Each penny on the real estate tax rate generates additional revenue of \$ 266,000. Each penny on the personal property tax rate generates additional revenue of \$ 13,000. Based on historical

trends, a 1% growth in the assessable base is included in the proposed budget. This reflects the typical increase in the assessed value during the second year of the triennial assessment.

Many property owners, especially on the corporate side, file appeals of the assessment every year. Estimates of successfully appealed assessments are also a factor in the Constant Yield Tax Rate.

An additional \$ 776,000 in revenue is needed to cover the commitments made in contracts, to build a foundation for future infrastructure improvements, and maintain services at the same level.

If a tiered tax rate is not used, the \$ 776,000 is equivalent to a 3 cent tax rate increase for all properties. Scott Nicewarner, Director of Communications, Technology, and Support Services, reported the classes can be divided into non-owner vs. owner occupied properties. Apartments would be considered non-owner occupied and a separate rate could be applied to all apartments. Division by number of units is not possible with the existing software.

Councilmember Metzner stated it seems that four or more apartments is a business and he would consider a higher tax rate for these commercial uses.

After discussion about the different classifications of commercial properties, it was the general consensus to apply a different tax rate to the State defined apartment class (4 or more units).

Councilmember Aleshire noted many townhouses are rental properties but will not be included in the apartment class definition. He is also concerned about the developments near Pangborn Park.

Councilmember Heffernan stated the units that create more calls for service (police, fire, trash, etc.) should be taxed at a higher rate.

Councilmember Keller recommended a 2 cent rate increase for all properties and 11 cents for apartments. Councilmember Metzner does not support 11 cents.

Councilmember Aleshire stated the single unit properties essentially absorb the additional cost for service oriented calls for multi-unit properties if the tax rate is the same for all properties.

Ms. Hepburn stated the average value of homes in Hagerstown is \$ 150,000. A 3 cent tax rate increase on a \$ 150,000 home would increase the tax bill by \$ 45.00 per year. More than half of the increase covers public safety costs.

Mayor Bruchey pointed out an 11 cent tax rate increase on a 4 unit property would only increase the per unit cost by 2.7 cents.

Councilmember Metzner expressed his concern that an 11 cent tax rate increase would add to the negative perception of Hagerstown that has been discussed repeatedly. He thinks a better plan would be to gradually increase the tax rate. The landlord can't increase the rent immediately to tenants because leases are in place.

Councilmember Heffernan pointed out the tenant will ultimately be paying for a tax rate increase.

Mayor Bruchey stated the owner occupied properties cannot continue to subsidize apartment units.

Councilmember Keller suggested looking at other ways to eliminate the \$ 776,000 deficit. Councilmember Aleshire stated capital and wages/benefits drive the budget. If reduction of services is not considered, he doesn't see anywhere in this budget to find \$ 776,000. It is still the Mayor and Council's job to try to reduce the deficit.

Councilmember Metzner noted the largest cost is public safety, which will not be cut. He thinks a 3 cent tax rate increase is reasonable. He has faith in staff that they have reviewed the budget and eliminated expenses.

Ms. Means noted capital purchases and projects that have been deferred repeatedly are funded in this proposed budget.

Councilmember Aleshire stated finding savings in public safety is not on the table and neither is capital funding.

Councilmember Metzner pointed out the largest multi-entity project (Urban Improvement Project) is close to beginning and capital funding is needed. The 3 cent and 5 cent tax rate increase discussed would provide needed funding.

Mayor Bruchey has questions about the budget that he intends to email to staff.

Councilmember Aleshire does not think the 3 cents and 5 cents is fair. The apartment rate should be higher to address the disparity.

Councilmember McIntire would prefer that increases in the rate be phased in, rather than all at once.

Review of the 2018/19 proposed budget will continue during the next Work Session.

Hagerstown Suns: Proposed Fifth Amendment to Lease at Municipal Stadium

Rodney Tissue, City Engineer, and Travis Painter, Hagerstown Suns General Manager, were present to discuss a fifth amendment to the current Suns Lease. The Suns originally requested a two year extension of their lease at Municipal Stadium for the 2019 and 2020 baseball season. The request is now for a three year extension.

All terms from the current lease and amendments (including the \$35,000 annual rent) remain unchanged. Key points in this amendment include the addition of a \$ 100,000 “Early Termination” clause and a continued commitment from the City to invest up to \$ 35,000 each season for Stadium upgrades.

Councilmember Metzner asked if the lease would be transferred to a new owner if the team is sold. Mr. Tissue indicated a new lease agreement would be required if the team is sold.

Councilmember Aleshire does not support a three year extension or the \$ 35,000 City investment in the facility.

Mayor Bruchey noted the Suns pay the utilities and the admissions and amusement taxes.

It was the general consensus to move forward with the approval of a three year extension to the contract.

FY 2019 Community Legacy and Strategic Demolition Fund Applications

Kathleen Maher, Director of Planning and Code Administration, and Megan Flick, Planner, were present to discuss the FY 2019 Community Legacy and Strategic Demolition Fund Applications (SDF). Mayor and Council authorization is needed to begin the process to submit FY 2019 applications to the State’s Community Legacy Program and Strategic Demolition Fund Program, as well as adoption of a resolution in support of the City’s applications. The deadline for grant applications is May 16, 2018.

The goal of the programs are to provide funding to local governments and community development organizations for essential projects aimed at strengthening declining urban areas through a comprehensive approach that includes activities such as business retention and attraction, encouraging home-ownership and rehabilitation, and commercial revitalization. Projects must be consistent with the goals and strategies outlined in the City’s Sustainable Community Plan and the projects must be located in the City’s Sustainable Community Area.

The Maryland Department of Housing and Community Development has \$ 6 million in Community Legacy funding and \$ 3.5 million in Strategic Demolition Fund funding for grant and loan awards around the State in FY 2019. Community Legacy funds may be used only for capital projects – bricks and mortar projects or loan/grant programs for brick and mortar projects. The City’s 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 Strategic Demolition Fund may be used for pre-construction costs of a project – acquisition, demolition, architectural and engineering services, etc. and the matching requirement is 25%.

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 proposal for applications to Community Legacy and SDF this year is to continue fund raising for the Urban Improvement Project (UIP) and to assist the Doleman Museum with pre-construction activities associated with moving the museum to a new home. Last year, with the assistance of Senator Serafini, the UIP was awarded \$ 900,000 in SDF funds to assist with pre-construction costs for the Maryland Theatre expansion, the Board of Education expansion, and the plaza project. Under the guidance of DHCD staff, it is proposed to request another \$ 900,000 for UIP spread over applications to both Community Legacy and SDF. As directed by Mayor and City Council, it is also proposed to request funds to assist the Doleman Museum Board of Directors in their efforts to acquire and renovate the old Coke Plant at 465 Pennsylvania Avenue as the new home of the Doleman Museum. The projects are consistent with the City's Sustainable Community Plan. In addition, the Maryland Theatre expansion project is also specifically recommended in the 2014 Community's City Center Plan as Catalyst Project #2 and the Board of Education expansion is referenced as supporting the Maryland Theatre project.

The proposed applications are as follows:

1. Urban Improvement Project – Community Legacy – Grant Request \$ 400,000, Local Match \$ 6.7 million (County, BOE, City, private)
2. Urban Improvement Project – SDF – Grant Request \$ 500,000, Local Ma \$ 6.7 million (County, BOE, City, private)
3. Doleman Black Heritage Museum – SDF – Grant Request \$ 250,000, Local Match \$ 62,500 of in-kind services and other (Doleman)

The plan for the UIP requests is to leave the application flexible in terms of disbursement plans to the individual components of the UIP and then lock in the disbursement plan with the grant agreements if funds are awarded. This allows determination of greatest need at the time of grant agreement preparation with the State in the 4th quarter of this year.

The Doleman Museum plan for a SDF program request is \$ 250,000. This would cover the \$ 120,000 acquisition cost of 465 Pennsylvania Avenue and the projected need of \$ 130,000 for architectural services.

It was the general consensus of the Mayor and City Council to apply for the grants as discussed.

Neighborhood Services Code Amendments – Follow-up

Kathleen Maher, Director of Planning and Code Administration, and Paul Fulk, Neighborhood Services Manager, were present to review the Neighborhood Services Code Amendments and to clarify the Mayor and City Council's thoughts on the changes

discussed to the Rental Facility Ordinance and to present possible revocation proceedings for consideration.

Chapter 197 is focused on dwelling units and rooming house facilities and is silent on housing in the form of dormitories, homeless shelters, and residential treatment facilities. Councilmember Aleshire has expressed concerns about this oversight in the past. 24% of the licensed rental units in the City have never had interior inspections because the owners or property managers fail to report tenant turnovers- which is the trigger for interior inspections in the ordinance. Newly constructed dwelling units are exempted from the program for a period of time, but not completely updated existing dwelling units. If a tenant refuses entry to the dwelling unit, gaining access for inspections and repairs is challenging. If property owners refuse to pay the license fee, report tenant turnover, keep the rental property in good condition, be in good standing with the Crime Fee ordinance, etc., the code does not have a revocation process that results in closure of the units at the affected property or any other property owned by the offender.

Mr. Fulk reported other jurisdictions do not transfer rental licenses as the City does. When properties are sold, it needs to be reported to the City. This does not happen currently.

The existing definition of rental units excludes rooming units in a rooming house facility. Staff proposes an amendment to include rooming units contained in a rooming house, a dormitory, homeless shelter, and residential care facility in the definition of rental units. The license fee for these units was then discussed.

Councilmember McIntire does not think barracks style sleeping rooms in a homeless shelter should be counted in a license fee. Councilmember Aleshire suggested using \$ 10.00 per unit for consistency.

Councilmember Keller is concerned about the impact additional fees could have on homeless shelters, such as REACH. If these changes are implemented, the facilities should be notified prior to collecting the fees.

Staff discussed rental standards with REACH recently. They review many things but not overcrowding conditions.

Mayor Bruchey noted these facilities may have been within the regulations 10 years ago but the City Code has changed. Mr. Fulk noted the Property Maintenance Code has not changed.

Councilmember Aleshire expressed his concern that standards may be minimized for the most vulnerable residents.

Councilmember Metzner considers the most vulnerable people to be those living at the Garden Plaza. He recommended having staff look at the facilities and provide a report of the conditions.

Ms. Means noted the other amendments could be implemented now and further review of homeless shelters could be considered.

Councilmember Keller understands staff's concerns but she wonders how standards can be applied to a facility that is run mostly by volunteers.

Councilmember Aleshire is concerned there could be different standards (depending on the size of the facility) for entities offering the same basic service.

Councilmember Heffernan stated the same standards should apply to all entities of this nature. He thinks the City of Hagerstown should inspect the facility and provide an assessment of the code deficiencies before any citations are issued. The Mayor and Council and City staff have a duty to make sure people are safeguarded, whether they are homeless or not.

Councilmember Metzner wondered if there are smoke or carbon monoxide detectors at homeless shelters.

Mr. Fulk stated other jurisdictions have set standards for homeless shelters and some are included in rental facility programs.

Councilmember Aleshire asked if it would make sense to include the homeless shelters in the hotel/motel licensing regulations that are being considered. Mr. Fulk stated the consensus was to license these facilities to the current standards for rental properties.

Councilmember McIntire is also concerned that any additional fees will be a hardship for these entities.

Minimum safety standards were then discussed. The standards should be applied to the shelter in general and not per bed. It was suggested staff look at these facilities and determine the extent of deficiencies. Ms. Maher suggested this could occur during an annual inspection by the Fire Marshall. It was agreed that licensing homeless shelters will be discussed further. References to homeless shelters will be removed from the proposed amendments at this time.

The inspection schedule was then discussed. A set schedule of inspection would remove the responsibility of the landlord to notify the City of a turnover. Mr. Fulk noted that there is a wide array of timing for inspections with other jurisdictions.

The proposed amendment is to require exterior and interior inspections every 36 months. Interior inspections would be scheduled by the City. The landlord could be present for the scheduled inspection.

Mayor Bruchey suggested that rooming houses be inspected every 48 months instead of every 36 months. He asked if this amendment has been discussed with the landlord

association. He noted that many meetings and discussions were held prior to the implementation of the rental licensing program. He suggested talking with other jurisdictions about their inspection schedule. Mr. Fulk stated Hagerstown is the only jurisdiction that requires an inspection at tenant turnover rather than on a set schedule.

Councilmember Keller stated it would bother her if someone came into her rental home every three years if nothing has changed. She understands the need to have routine inspections but she feels this would be invasive.

The Fire Chief has expressed concerns about hoarding and life safety issues. If staff never gets inside a rental unit, they won't know of these situations.

It was the general consensus to set the inspection schedule at 36 months.

Ms. Means stated a standard inspection schedule is being proposed for the safety of the community and the safety of citizens. It is not meant to invade someone's home.

Councilmember Metzner stated it may appear that a set schedule of inspection is an invasion of privacy. In reality, a majority of the units are fine. He hopes the 25% that haven't been inspected will be a top priority. After the inspections on the 25% are completed, the Mayor and Council could consider developing a staggered or tiered schedule.

Based on the number of inspectors (6) and the number of units to be inspected each year (3,000), each inspector would have to complete 2.2 inspections per day. Ms. Means noted additional staff is not being requested.

If staff is denied access to a rental unit, there needs to be a right of entry provision. An amendment is proposed to add a right-of-entry for staff via warrant if access is denied for inspections and right-of-entry for landlords to make any necessary repairs. This provision is already included for the property maintenance code and for known violations.

Mayor Bruchey wondered why the City would not work with a landlord to jointly file for a warrant to let the City into the property.

Notices would be sent noting the timing of a scheduled inspection. An inspector would not just show up for an inspection. All inspections will be scheduled through the landlord. A warrant would also assist the landlord in gaining access to the rental unit to make any necessary repairs.

Mayor Bruchey does not want City staff entering a place with a warrant without the landlord being present.

The Mayor and City Council agreed that new construction would be exempt from inspection for 36 months following completion. A property upgraded to the PEP standard will also be exempted from inspection for 36 months.

The proposed amendments includes creating a provision in the lease requirement for the tenant to consent to entry for inspections by the Department for compliance with the ordinance.

The provisions for revocation of a rental license were then discussed. Mr. Fulk noted that no licenses have been revoked in the last 12 years. The current language for revoking a license does not require the unit to be vacated. Amendments to require the property to be shut down in the event the license is revoked and to impose a reinstatement fee to renew the license are included.

Councilmember Metzner thinks requiring a tenant to vacate a property if the license is revoked (not including for life safety issues) needs to be discussed further. He would not want people put out on the street for a lesser reason for the license being revoked.

Mr. Fulk noted that if a property is condemned, staff work with the housing groups to find alternative housing for the affected tenants.

Councilmember Metzner noted the proposed fine of up to \$ 1,000 per day and a reinstatement fee of \$ 500 is substantial enough to be effective. He would rather have the fine imposed than requiring tenants to vacate the property.

Councilmember Aleshire wondered if an immediate inspection could be required if a license is revoked.

Staff will work with the City Attorney to draft an ordinance for the proposed amendments discussed during this meeting.

CITY ADMINISTRATOR'S COMMENTS

Valerie Means, City Administrator, had no additional comments.

MAYOR AND COUNCIL COMMENTS

Councilmember E. Keller commended Michael McGinnis at Antietam Academy for his efforts to provide a calming place for students.

Councilmember K. B. Aleshire asked that staff send a letter he wrote to the Maryland Stadium Authority clarifying the position of the Council, rather than the Mayor, regarding a study for a stadium. He indicated at a recent Mayor and Council meeting that he would be submitting this letter. He then left the meeting.

WORK SESSION AND EXECUTIVE SESSION
2018

APRIL 10,

MAYOR AND CITY COUNCIL

HAGERSTOWN, MARYLAND

Councilmember A. Heffernan congratulated Eagle Scouts Adam Mason and Tim Harvard on their accomplishments. It is great to see the level of caring these young men have for others.

Councilmember L. C Metzner stated art is a vital component to education and the economy. He is glad that Board of Education realizes that the Barbara Ingram School for the Arts is an important aspect for students.

Councilmember S. McIntire reminded everyone that the golf course grand opening will be held on April 14, 2018. She encouraged everyone to attend.

Mayor R. E. Bruchey, II reminded everyone April 12, 2018 is opening day for the Hagerstown Suns. He asked that all Councilmembers read the letter Councilmember Aleshire is sending to the Maryland Stadium Authority. Each should indicate if they want the letter to be sent.

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 6:34 p.m.

Respectfully submitted,

Original signed by D. K. Spickler

Donna K. Spickler
City Clerk

Approved: May 22, 2018