

Executive Session – December 12, 2017

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 to meet in closed session 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 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, December 12, 2017 at 3:34 p.m. in the Council Chamber, 2nd floor, City Hall, Hagerstown, Maryland.

The following people were in attendance: Mayor R. E. Bruchey, II, Councilmember K. B. Aleshire, Councilmember P. D. Corderman, Councilmember E. Keller, Councilmember L. C. Metzner, City Administrator Valerie Means, Jill Thompson, Director of Community and Economic Development, Amanda Whitmore, Downtown Coordinator, Danelle Hayer, Business Development Specialist, and D. K. Spickler, City Clerk.

The meeting was held to discuss a business proposal and potential membership for the Hagerstown Loan Review Authority and Board of Zoning Appeals. No formal action was taken at the meeting. On a motion duly made, seconded, and passed, the meeting was adjourned at 3:41 p.m.

WORK SESSION – December 12, 2017

Mayor R. E. Bruchey, II called this 30th Special Session, Work Session and Executive Session of the Mayor and City Council to order at 4:01 p.m., Tuesday, December 12, 2017 in the Council Chamber at City Hall. Present with the Mayor were Councilmembers K. B. Aleshire, P. D. Corderman, E. Keller, and L. C. Metzner, City Administrator Valerie Means, Jason Morton, City Attorney, and City Clerk D. K. Spickler.

30th Special Session – December 12, 2017

On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember E. Keller, the Mayor and City Council unanimously agreed to meet in Special Session at 4:01 p.m.

Appointment of Councilmember Shelley McIntire

Action: On a motion duly made by Councilmember P. D. Corderman and

MAYOR AND CITY COUNCIL

HAGERSTOWN, MARYLAND

seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to appoint Shelley McIntire as Councilmember, effective December 19, 2017.

Councilmember McIntire is being appointed to fill the vacancy and complete the remaining term created by the resignation of Councilmember Donald F. Munson. Councilmember Munson's resignation was effective November 10, 2017 and the Mayor and City Council do hereby accept said resignation.

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

Preliminary Agenda Review

Consent Agenda

A. Parks and Engineering:

1. Pool Management Contract for 2018 – Community Pool Service (Rockville, MD) \$ 92,800.00
2. Program Open Space Application

B. Utilities:

1. Arista Contract for Utility Bill Mailing – Postage Change Order – Arista Information Systems (Duluth, GA) \$ 135,432.00

There were no questions about any item on the Consent Agenda or other Preliminary Agenda item. This completed the review. All items are scheduled for approval on December 19, 2017.

Land Management Code Text Amendments – Revision to Cluster Subdivision Requirements

Stephen Bockmiller, Development Review Planner/Zoning Administrator, was present to answer any additional questions regarding proposed amendments to Article 4 (Zoning) of the Land Management Code, Section D (Residential Districts) Subsection 6 (Cluster Developments). A public hearing was held on this proposed text amendment on November 28, 2017. No public testimony was received. The record was held open for 10 days. No additional materials were received.

This proposal is scheduled for a vote to adopt the ordinance at the Mayor and Council's meeting on December 19, 2017.

The following is a bullet-point summary of the primary elements of the proposal:

1. Reverses a prior amendment adopted a few years ago that limited cluster developments to only the RMOD (Residential Moderate Density) Zoning

- District. Historically, cluster developments were permitted in all four residential districts, and this amendment would reinstate that standard.
2. Requires all single family homes, semi-detached homes, two family dwelling structures, triplex dwelling units, quadraplex dwelling units and townhouses to be on fee-simple lots in cluster subdivisions.
 3. Revises the bulk requirements chart for cluster subdivisions to be more conducive to smaller lot development. The cluster provision allows for the reduction in lot sizes if the reduced area is added to open space in the development; however, it is difficult to design effective lots if the permitted reduction in lot area is not partnered with corresponding reductions in setbacks. The existing regulations made little in the way of accommodation for reducing setbacks to correspond with the reduced lot areas.

Since lot yield is calculated based on the district's standard lot area requirement, this amendment will not affect lot yield of any development. A cluster development can only produce as many lots or dwelling units as if it were not being developed as a cluster subdivision.

There were no additional questions or comments. Adoption of the ordinance is scheduled for the December 19, 2017 Regular Session.

Program Open Space (POS) Annual Program

Rodney Tissue, City Engineer, was present to discuss the City's annual Program Open Space application.

This year, staff is intending to apply for funding through POS to be used for the Urban Improvement Project (UIP), specifically for developing the open space behind the Maryland Theatre, Barbara Ingram School For the Arts (BISFA), and University System of Maryland – Hagerstown (USMH). The project cost is \$ 2,150,000, with a \$ 300,000 request for POS funds. This is the City's priority for 2019.

Per the County's funding matrix, this portion of the project will be funded as follows:

- | | |
|---|--------------|
| 1. City of Hagerstown | \$ 1,150,000 |
| 2. State Strategic Demolition Fund | \$ 300,000 |
| 3. State Community Parks and Playgrounds | \$ 200,000 |
| 4. State Program Open Space | \$ 300,000 |
| 5. Costs over the \$ 1950,000 amount will be non-City funds | |

Mr. Tissue stated the initial concept for the plaza includes "back of the house" services for BISFA, daily truck deliveries, busses and trailers for performers at the Maryland Theatre, and school bus loading and unloading.

The Cultural Trail will tie into the area as originally planned, and continue on to the Farmer's Market. A concept plan provided showed the removal of the building at 43/47

Mayor Bruchey stated he strongly supports the removal of the building.

Greg Snook, Hager 5 LLC, stated the building has to be removed. The condition is deplorable. One question to be discussed is whether something is built in that location or if the property is used for the trail. Hager 5 LLC is working with City staff for the anticipated use.

Councilmember Aleshire asked if there is enough room for a parking deck as shown on the concept plan. Mr. Tissue indicated a deck will fit. There is still enough room for the trail to go through the area as well.

Mayor Bruchey asked if District Court will be expanding to the back. Mr. Tissue stated that is the assumption; however the expansion is still several years out. This will likely eliminate the parking that is presently behind District Court.

Councilmember Aleshire stated the parking might be needed at some point. He is in favor of parking decks.

Councilmember Metzner pointed out a significant use of the parking spaces in the deck would be for District Court employees and visitors, Circuit Court employees and visitors, and the Public Defender's office.

Councilmember Corderman asked if the green space will be large enough for events such as Augustoberfest or Blues Fest. It would not be that large, but it may be large enough for wind down or similar events.

Parking details and locations are still being worked out.

It was the general consensus to include approval of the POS application on the December 19, 2017 agenda. The concept plan as discussed by Mr. Tissue was also accepted by general consensus.

Indoor Sports Complex: Financial and Market Feasibility Study

Rodney Tissue, City Engineer, was present to provide information about an indoor sports complex and a Financial and Market Feasibility Study.

During recent goal-setting discussions and also based on input received from the community, there is a significant level of interest for an indoor soccer/sports complex in Hagerstown. Staff understand this would ultimately be a public/private partnership to construct and operate. In order to assess and generate public interest and support, staff recommends that the first step toward making this a reality would be to issue a Request

for Proposal (RFP) for a two-phased consultant study on the financial viability and development of the facility. Then (using the analysis from this study), the City would be well positioned to issue a Request for Proposal soliciting private partner(s)/developers to construct and operate the facility.

If the majority of the Mayor and Council wish to proceed with this project, staff recommends the first step is a Financial and Market Feasibility Study to gauge the opportunities, operating costs, and revenue potential of such a facility. A detailed RFP will be issued but generally staff suggest it would contain the following:

Phase I: Financial Viability including a market analysis and a demand analysis. A five year pro forma revenue and expense projection analysis should be included. Phase I also should develop a recommendation on what the facility should include and possibly a concept floor plan.

Once Phase I work is completed by the consultant and reviewed by the Mayor, Council and City staff, the City will determine if the consultant is authorized to complete Phase II.

Phase II: Project Site Analysis and Development Recommendations – this phase would include an analysis and assessment of construction on an existing City property, to accommodate use as a recreational facility. A conceptual site development plan would be completed that integrates the Phase I facility recommendations. Also included would be recommendations on public/private partnership arrangements regarding the construction of the facility and the entity that should carry out and oversee the operations of the facility.

Mayor Bruchey distributed a letter he intends to send to the Maryland Stadium Authority requesting their commitment for a feasibility study for a multi-use sports and event center in Hagerstown.

Councilmember Aleshire questioned the reason for the letter. Mayor Bruchey stated he has spoken with Dan Spedden, Convention and Visitors Bureau Director, and they agree that requesting a commitment from the Maryland Stadium Authority (MSA) at this time fits together with the anticipated RFP.

Councilmember Metzner stated he is in favor of the multi-use facility and thinks a stadium should be included in the study. The request to the MSA would have more strength if the County Commissioners also participated.

Mayor Bruchey stated people mentioned a stadium when the Washington County Delegation met recently. He thinks this would be within the scope of what people envision for Hagerstown.

Councilmember Aleshire has no interest in tying an indoor sports plex with a stadium/multi-use facility. His proposal of providing property to be used for an indoor facility is simple and straight forward. His idea is for an indoor facility for youth sports. He noted someone is going to construct this type of facility. Hundreds of kids in this community travel to Frederick to play indoor sports. He didn't want the project to become so complex that it takes years to get it completed.

Dan Spedden, Executive Director of the Convention and Visitors Bureau, suggested combining the concepts shows the benefit of offering visitors multiple activities they can participate in. The MSA wants to be involved at the beginning of a project.

Councilmember Metzner suggested separating the indoor sports plex from a stadium in the request to the MSA. Staff should then be allowed to proceed with Phase I for the feasibility study. When the Phase I report is completed, including estimated costs, the Mayor and Council can compare the costs with a new stadium.

Councilmember Aleshire stated the most significant advantage with his proposal and idea is that the City already owns the land.

Mr. Spedden stated the CVB is talking with an investor who is looking for space for 20 fields.

Councilmember Aleshire stated an indoor sports facility isn't for just one sport. Something like this would be a reinvestment in the neighborhoods and a way to receive some value from the families that participate in these events.

Mayor Bruchey stated the City needs to move faster, rather than later. He will revise the letter. Staff should proceed with the RFP for Phase I.

Councilmember Metzner stated the projects are not mutually exclusive. He doesn't want to send a message to the Hagerstown Suns that the City doesn't want them to stay.

Update on Garden Plaza Hotel Inspections

Kathleen Maher, Director of Planning and Code Administration, Police Chief Victor Brito, and Fire Chief Steve Lohr, were present to provide an update on the inspections results of the Garden Plaza Hotel.

The Garden Plaza Hotel is located at 901 Dual Highway. It contains 200 rooms (147 in the two-story hotel and 53 in the rear tower) and is adjacent to the Hager Hall convention facility, the Barefoot Bernie's restaurant, and the Cancun Cantina West night club. In the past, this hotel has operated under the chain brands of the Ramada Inn (pre-195 to circa 2003), the Clarion Hotel, and Rodeway Inn. A Google search does not reveal chain branding of the Garden Plaza Hotel. At present, per recent inspections, the rear tower is used exclusively for extended stay and the two-story hotel is a mix of

transient and extended stay. According to the County Treasurer, the hotel has not been in good standing on payment of the County hotel tax since March 1, 2016. The arrears have been liened against the property tax bill.

Per SDAT, ownership has changed as follows:

1. Turner Development Co. Inc. sold the complex in 1999 to Hagerstown Hotel Associates LLC
2. Millennium Hospitality Holdings LLC acquired the hotel in 2007 and the meeting facility in 2008
3. Hager Hall Associates LLC acquired the restaurant and bar in 2008

In August, the Planning and Code Administration Department received a complaint from a convention attendee of concerning conditions at the Garden Plaza Hotel. The presence of drug paraphernalia in the building and an overdosing person in the parking lot were reported to the Hagerstown Police Department (HPD) by this same convention attendee. On September 11, 2017, HPD handled a homicide at the hotel. On September 21, 2017, the Fire Department conducted a safety inspection of the hotel with the assistance of HPD, Washington County Narcotics Taskforce, and the Planning and Code Administration. The following is a report on the results of these inspections and the level of compliance achieved to date.

Chief Lohr stated the Fire Department has the right to enter all commercial properties based on complaint. The Hagerstown Fire Department's (HFD) inspections have been limited to the Garden Plaza Hotel. Currently, all tenant areas of the former Ramada Inn carry the same street address. HFD recommends that each tenant area be assigned a separate and distinct address to facilitate public safety. Specifically, they recommend a distinct address for Barefoot Bernie's, Cancun Cantina West, Hager Hall, the two-story portion of the motel and finally, the tower portion of the hotel.

The HFD is allowed to legally access buildings based upon the need to conduct fire inspections. Further, the HFD has the right to inspect anytime, based upon NFPA 1, the Fire Code, and NFPA 101, the Life Safety Code. Finally, the HFD may engage in response to any citizen complaint for suspected violations.

Even though the law permits the use of municipal citations (fine) to achieve compliance with code violations, the HFD and the Fire Marshall's (FM) staff have a proud history of always attempting to gain compliance through education and customer service prior to the utilization of fines, even though this is not always timely or completely effective. Clearly, there are instances when citations are required to guarantee the safety of the public. This is the case at the Garden Plaza Hotel.

During CY17, FD records indicate a total of 10 emergency responses to the motel and tower, 6 in 2016, and 7 in 2015. These include high acuity EMS runs and or calls where staffing assistance was required by CRS.

In the same three-year period, the FM's office logged 21 inspections, 12 investigations and several other consultations and referrals. The most serious of these incidents was a fire in the laundry room on July 21, 2017. As a result of this fire, numerous violations regarding fire protection features within the facility were identified. Some of those violations remained open and uncorrected on September 11, 2017, the time of the police incident. Since then, the primary fire protection issues in the tower were corrected and certified.

During the multi-agency inspection, the Planning and Code Administration Department responded to the hotel to assist with power problems and bug infestations in certain portions of the facility. Rooms that did not pass inspection were posted as not permitted to be occupied. As a result, the facility Assembly Permit has not been re-issued. The due date for correction of the current violations is December 6, 2017. Additional actions will occur if the requirements are not met.

Chief Brito noted that on September 21, 2017, members of the Hagerstown Police Department and the Washington County Narcotics Task Force assisted the Hagerstown Fire Department with room inspections at the Garden Plaza Hotel. The HPD was asked to assist with this investigation and wanted to assist due to recent events at the hotel. On September 12, 2017, HPD handled a homicide at the hotel. This homicide was found to be related to prostitution and drug activity that needed to be addressed. During the inspection by the HFD, officers stood by while each room was checked to ensure safety and to look for any criminal violations. No violations were located, but the HPD was thankful for the help the HFD has given to ensure this hotel is safe for any and all guests.

The Planning and Code Administration Department was requested to inspect 7 rooms identified by the HFD during the September 21, 2017 inspection. The rooms inspected were 105 and 271 in the hotel and rooms 1002, 3003, 5008, 5009, and 1012 in the tower. The violations of the Property Maintenance Code can be seen on the notice dated September 22, 2017. Room 1012 of the tower portion of the property was an office for the hotel at one point in time and it was illegally converted into an apartment. This space is currently vacant and will remain vacant until proper permits are obtained to make the space City Code compliant.

A re-inspection of the property was conducted on November 15, 2017 and 8 items remained from the September 22, 2017 notice and 2 additional safety items were identified on this inspection as a violation of City Code. Of the outstanding violations, staff received the following:

1. Documentation from the exterminator and their extermination schedule.
2. Documentation from the electrician for the repairs to the 3 phase service that was inspected during the November 15, 2017 inspection. During the inspection of the electrical panels in the basement it was discovered that some knockouts were missing in the panel boxes.
3. Notification that the window replacements have been ordered and were to be delivered on November 27, 2017.

Outstanding items include:

1. a copy of a valid certification on the elevator
2. Room 105 violations – hotel management are in the process of acquiring the skilled tradesman
3. Room 271 violations – tenants caused the issues and they were to be evicted

A request for re-inspection of the outstanding items on the notice dated November 15, 2017, with a deadline of November 30, 2017 was made on December 4, 2017. The PCAD office has since received the following:

1. notification that the windows have been repaired
2. a copy of the current elevator certification
3. notification that Room 271 has been vacated by the tenants, the plumbing has been repaired in the unit, and the wall violation is in progress

A re-inspection of the property was scheduled for Monday, December 11, 2017.

Chief Lohr noted many chain hotels are transitioning to extended stay facilities. Officials may find many of these units are being used as residences.

Councilmember Aleshire is sure there are other hotels functioning the same way. He asked when this transition is no longer considered a hotel but an apartment building or rooming house. He asked if there is a State law that prohibits “living” in a hotel.

Doug DeHaven, Fire Marshal, stated per City Code, the use is considered a hotel, even though people are living there. He noted about half the units are found to be in violation of City Code for various reasons. If the unit did not have a smoke detector, the tenants were told to vacate the premises immediately. Most of the violations have been addressed. Lack of maintenance has created the need for major improvements. The alarm system must be upgraded.

Councilmember Aleshire asked if any of these violations are under the regulations of the Property Maintenance Code. Ms. Maher noted they are. She also informed the group the City has no definition for extended-stay hotels. Rooming houses are not permitted but the units at the Garden Plaza are described as extended stay units. This can be changed in the City’s Code, if the Mayor and City Council wish to do so.

Jason Morton, City Attorney, stated it could be argued these units are functioning as a residence and therefore would be subject to the rental licensing requirements.

There are no kitchen facilities in the units, so they cannot be rented as a residence. Ms. Maher noted rooming houses are not permitted in that zoning district.

Councilmember Keller stated there is a school bus stop there because homeless people are living there. Ms. Maher asked if there should be zoning districts that allow these uses since there is clearly a need for the extended-stay/residence use.

Councilmember Keller stated Hager Hall is losing a lot of reservations because people can't stay in the hotel portion of the building while attending events. Ms. Maher noted these two uses on a combined property don't work well together.

Councilmember Metzner stated the City is allowing its most vulnerable citizens to live in conditions that aren't allowed in other places. You can't make the assumption that most people living there are criminals and drug dealers. There appears to be a true need for this type of housing.

Councilmember Aleshire stated there are other places within and outside the City that are functioning in this same fashion.

Ms. Maher stated many people would be homeless if these units were not available. She isn't saying the conditions are ideal but there is clearly a need for some other type of housing. She would be concerned if the units are shut down and people are displaced.

Councilmember Metzner asked for demographic information so they can determine what may be needed. It is disconcerting there is a school bus stop there. He wondered what the community should do collectively to take care of these folks.

Councilmember Aleshire stated there are agencies that place individuals in these units.

Mayor Bruchey pointed out they are delinquent on taxes but the property was not sold at a tax sale. He suggested the City could purchase the property.

Councilmember Keller wondered how it can continue to operate as a hotel.

Councilmember Aleshire does not want it functioning and occupied unsafely. The same standards that apply to other housing must apply to this property. Appropriate rules have to be created to address the loop holes that currently exist.

Ms. Maher stated staff could bring back options for addressing the concerns for the Mayor and City Council's review.

The demographic information may be challenging to collect. It would likely involve talking to the people living there and they may be reluctant to provide any information.

Councilmember Aleshire asked if the utilities are up to date. This will be determined.

Chief Lohr stated HFD is working with the owners to get to a state of compliancy with the new standards.

Staff will attempt to collect demographic information and provide options for consideration of regulations for extended-stay hotels, without full kitchen facilities.

Valerie Means, City Administrator, congratulated Councilmember Paul Corderman on his imminent appointment to the House of Delegates.

MAYOR AND COUNCIL COMMENTS

Councilmember E. Keller had no additional comments.

Councilmember K. B. Aleshire had no additional comments.

Councilmember P. D. Corderman had no additional comments.

Councilmember L. C. Metzner congratulated Councilmember Corderman on the appointment to Delegate.

Mayor R. E. Bruchey, II stated because of Councilmember Corderman's appointment, there will be a vacancy on the Council. The exact date of the vacancy is not known at this time. He asked if people who applied for the last vacancy should be asked if they are interested. Councilmember Keller suggested the process be the same as it was last month. Councilmember Metzner stated he has already decided.

It was agreed that an Executive Session should be held after Councilmember Corderman resigns to discuss the previous applications and the next process.

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,

Original signed by D. K. Spickler

Donna K. Spickler
City Clerk

Approved: January 30, 2018