

Mayor R. E. Bruchey, II called this Work Session of the Mayor and City Council to order at 4:02 p.m., Tuesday, August 14, 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, City Attorney Jennifer Keefer, and City Clerk D. K. Spickler.

Proclamation

Mayor Bruchey read a proclamation naming August, 2018 as Forget Me Not Drive Month. Ralph S. Tagg, Disabled American Veterans Chapter 14, accepted the proclamation.

Washington County Fire & Emergency Medical Services Study Final Report

The Washington County Fire and Emergency Services report was completed by VFIS Education, Training, And Consulting. Dr. William F. Jenaway is the Lead Consultant of VFIS. Dr. Jenaway was scheduled to attend this meeting but was unable to. David Hayes, Director of Washington County Emergency Services, Dale Hill, President of Washington County Volunteer Fire and Rescue Association (WCVFRA), and Fire Chief Steve Lohr provided an overview of the 2018 Fire and EMS Study Results. The overview was presented to the Washington County Commissioners earlier today.

The report is intended to provide guidance and support work with the Fire and EMS Companies staff as they develop and sustain a Standard of Response Cover (SORC), Effective Fire-fighting Force and strategic plan for fire and rescue services within Washington County, Maryland. VFIS ETC assisted in the development of key information and review of self-assessments, and interpretations made by the Fire and EMS Companies in development of the ultimate final products. The nation's volunteer fire service is changing. Given the extent of these changes, and, at times the lack of awareness or even unwillingness to accept external forces on community fire protection, it is important to help drive change before it drives an organization.

Director Hayes stated the review started in March, 2017. The Commissioners authorized the \$ 47,000.00 expense for the study to begin the process to develop a plan that incorporates fire and rescue services to address the changing practices and society for emergency services and be the leaders of where the services are headed. Washington County provides property and liability insurance for the companies outside the City limits.

During the study, members from all 26 volunteer companies, Washington County Emergency Operations, and the WCVFRA were interviewed. Director Hayes thanked the Mayor and City Council and Chief Lohr for being willing to participate in the study, for the first time he remembers.

The Systematic Evaluation Process used by VFIS-ETC accomplished more than just the development of a document. It challenged individuals to think and look critically at paradigms, values, philosophies, beliefs, and desires. It challenged all involved to work in the best interest of the team. In addition, it provided those involved with an opportunity to participate in the development of a long-term direction and focus. There are significant short-term and long-term decisions that need to be made.

VFIS ETC was hired to evaluate Financial Planning, Field Operations, and Planning. The basic finding of the study is that while a number of good practices are in place, long term planning and more coordination is needed. There are 28 recommendations noted in the report. These recommendations have been grouped into 6 phases for completion and consideration. Director Hayes realizes not everyone will like all the results but it is necessary to review them. What is wanted may not be what is currently in place. The recommendations and comments are intended to create discussion - controversial, even if negative - to work toward enhancement of the system. Some of the recommendations are in the process of being implemented, in particular pump testing and aerial device testing.

Chief Lohr thanked the Commissioners for including the City's fire service in the study. Everyone needs to work together if the issues are to be solved.

Next steps for the County Commissioners to consider are conducting subsequent local review following the presentation, direct further considerations/actions to the County Manager/Finance Director, County Fire-EMS Director, Department Fire Chiefs, and the WCVFRA, what should a tax be and from source should it come, and plan for adjustments over the next 12 to 60 months.

Councilmember Aleshire reiterated his concern that City taxpayers provide about 18% of the total spent on County wide emergency services. As the Commissioners consider next steps, including a tax, he is concerned that City residents will be expected to pay more than their fair share for emergency services, given they already pay more than any other municipal taxpayer. Several of the recommendations are not as equitable to the City and its taxpayers. He wondered if it is the desire of the group to maintain the volunteer system as long as possible or to move to a fully paid fire system. That conversation will have to include the potential impact to the City.

Director Hayes agreed specific conversations will need to occur. A fully paid service will cost taxpayers more. Councilmember Aleshire stated he would agree with moving to county-wide paid emergency services if City residents are not included in a County tax/fire fee. Director Hayes stated this is something the Commissioners would have to review.

Councilmember Keller noted one of the recommendations, county-wide application and background checks for volunteer membership, would be a good practice to implement as soon as possible. Director Hayes stated driving records are reviewed on a regular basis. Chief Lohr reported the City's Fire Marshal's office works with the

Hagerstown Police Department to complete a background check of all employees of the fire department.

Director Hayes asked the group to develop questions based on their review of the report during the next 45 days. The questions will be submitted to Dr. Jenaway for responses. He reported they would like to move forward with accepting the report within 60 days.

Follow-up on Rental Licensing Provisions – Revocation and Inspection of the Uninspected

Kathleen Maher, Director of Planning and Code Administration, and Paul Fulk, Neighborhood Services Manager, were present to discuss the proposed code amendments to the Rental Facilities Ordinance following multiple work sessions and two public hearings.

There are six code amendments for consideration. Staff has proposed amendments to address the Mayor and City Council’s priorities of inspecting the never inspected and closure of units subject to revoked licenses. Staff has also included proposed amendments for four previously discussed ideas which they believe the Mayor and City Council would support.

Inspection Schedule

Approximately 24% of the licensed rental units in the City have never had interior inspections because owners or property managers fail to report tenant turnovers – which is the trigger for the interior inspections in the ordinance.

Staff proposes amendments that create a definition of “Safety Inspection” as a standard for the type of inspection to be conducted on a unit that has never been previously inspected by the department and is currently occupied. Included within the definition is that the annual Hagerstown Housing Authority tenant-based Section 8 inspection shall be in lieu of the city-required safety inspection. A policy would be established to delineate the code sections to be inspected during a safety inspection. The “Safety Inspection” would focus on sanitary conditions of the unit and any unsafe conditions.

A list of the items included in a Safety Inspection was provided.

Modifications to Section 197-6, Inspections would include “newly licensed rental units or existing rental units previously never inspected shall be inspected within 30 days of application for new units and upon scheduling by City staff for existing units which have never been inspected”. A policy would be established to be administered by the department, to conduct inspections for all currently registered properties that have never been inspected to be completed within 2 years from the effective date of the policy. The policy would also include a prioritization system for rental units never inspected.

Councilmember Metzner stated hoarding issues would be something the landlord may not be aware of. He wondered if the landlord would be cited for such a condition. Mr. Fulk stated the condition would be noted during the inspection but the landlord wouldn't be cited at that point. Code and Inspection staff always attempt to help alleviate the situation before issuing a citation.

Councilmember Aleshire mentioned the list of items and stated the term "unit habitability" seems vague. He suggested a clearer term. Councilmember Heffernan stated this term seems too subjective.

Ms. Means wondered if hoarding conditions could be clearly defined in the list of items inspected. Councilmember Metzner stated hoarding is a mental issue and he doesn't see how the City could enforce a probation against hoarding. He also noted that owner-occupied buildings would have to be included.

Mayor Bruchey asked what happens if the inspector feels the unit is not habitable, even if the unit passed on the list of items. Mr. Fulk indicated the unit would be condemned at that point.

Councilmember Keller doesn't think an inspection should be conducted if a unit has been occupied by a long time tenant.

Councilmember Aleshire thought the general consensus was that every unit is inspected once. With no violations noted, the unit is placed in the four year rotation. Ms. Means noted that is the direction staff thought was relayed.

Councilmember McIntire thinks it would be intrusive to inspect a unit with a long time tenant.

Councilmember Metzner noted relying on the landlord to report tenant turnover, which triggers an inspection, puts the City back in the position of dealing with the problem landlords. Landlords who participate and follow the program need to be recognized. The focus should be on the landlords who don't have a good rapport with the City. He wondered how other jurisdictions deal with these situations. Mr. Fulk stated other jurisdictions conduct mandatory inspections on a set rotation.

Councilmember Heffernan stated it is the tenant's responsibility to notify the landlord of a problem. Mr. Fulk stated studies show that tenants are apprehensive to report problems and don't want to create a bad situation.

Councilmember Metzner stated he was against rental licensing in the beginning, until he saw some of the places where people were living. They didn't complain because they had a place to live. The problem is that the tenants that should call won't because they won't have a place to live. The proposed rotation schedule for inspections takes the responsibility away from the tenant to report issues.

Councilmember Heffernan stated he hopes an inspection would not be intrusive in an occupied unit. He wondered if every electrical outlet would have to be checked.

Councilmember Keller asked that a Mayor and City Council goal setting session be scheduled. She stated she thinks it is up to the Council to develop what their goals are and what the goals for Planning should be. The Mayor and Council need strategic goals defining what they expect and would like to see with the rental licensing and inspection program, PICCR, parks and recreation and a marketing strategy.

Councilmember McIntire noted this was discussed when she and Councilmember Heffernan were appointed and no date was set.

Councilmember Keller wondered if there is a goal for the inspection program. Councilmember Metzner stated he thinks there is and that is that every rental be inspected using a priority system. He thinks the main question is whether or not to inspect occupied units.

Councilmember Aleshire pointed out staff is making an assumption that a unit is occupied based on a review of the utility bills. Councilmember Metzner stated a problem landlord could keep the bill in their name and the tenants name would not show up.

Councilmember Aleshire has talked to several landlords and they have asked that the City not make a monumental change that they have to comply with when they are already complying with the current regulations. At the same time, staff indicates there are issues that need to be addressed. He believes the proposed amendment of a basic safety inspection is the simplest point. He has compromised as much as he can to minimize the impact on good landlords and satisfy the need for staff to inspect the units.

Councilmember Keller and Councilmember McIntire do not want the person who has been living in a unit for many years to be subject to an inspection.

Councilmember McIntire asked how other jurisdictions handle uninspected units. Mr. Fulk stated they do mandatory inspections. Hagerstown is the only jurisdiction that does inspections only at turnover.

Mayor Bruchey asked if exterior inspections include grass in the sidewalk. Mr. Fulk indicated they do. Mayor Bruchey suggested removing tall grass in the sidewalk from the point system proposed. Tall weeds do need to be addressed.

Ms. Maher reminded the group that inspection fees pay for the department's operation costs.

Mayor Bruchey suggested continuing with the presentation. Mr. Fulk inquired if the majority wishes to discuss the remaining proposed amendments. Councilmember Aleshire stated if there isn't a majority willing to approve the amendments for

inspections, he wondered if it makes sense to discuss the remaining proposed amendments.

Councilmember McIntire asked if there is a way to include occupied properties in an inspection schedule that staff knows is in violation.

Councilmember Aleshire noted the priority list could be adjusted to make long time occupied units lower on the list.

Councilmember Heffernan wondered if the City could enlist the landlord association's help with identifying unregistered and problem apartments. Councilmember Aleshire is not comfortable with the landlord association or any other group providing assistance. The Mayor and City Council should provide staff with direction to contact the landlord to verify the length of tenancy.

Mr. Fulk stated the inspection division's goal is to make sure everyone has a safe place to live.

Councilmember Metzner thinks the Council collectively agrees they would like to exempt long time tenants if that is possible. He does not have an issue if staff talks to a tenant and verifies things are ok.

Councilmember McIntire asked if property owners are notified electronically of a pending inspection. Mr. Paul stated staff's thought is a letter would be sent to the landlord to schedule an inspection.

Councilmember Aleshire stated, if there is an amendment exempting a unit from inspection for long time tenants, he thinks it should simply be that the landlord responds to the letter and indicate the length of the tenancy.

Mr. Fulk clarified that the consensus is that verification of the same tenant since the beginning of the program or a Section 8 inspection would exempt that unit from a Safety Inspection.

It was noted that these proposed amendments would not be implemented until July 1, 2019.

Revocation Provisions

When property owners refuse to pay license fees, report tenant turnovers, keep the rental property in good condition, be in good standing with the Crime Free ordinance, etc., the code does not have a revocation process that results in closure of the units at an affected property.

Staff proposes amendments to Section 197-12, Revocation, to include vacating any property within 60 days of a revoked license if corrections are not made to be in

compliance with the City Code. A new subsection would be created to establish a point system to determine the standing of the property.

Ms. Means noted that the goal is not to revoke license but to ensure good living conditions.

Program Exemption

Newly constructed dwelling units are exempted from the program for a period of time, but completely updated existing dwelling units are not.

Staff proposes modifications to Section 197-4.(g) License Fee, to add exemption to licensing for “existing dwelling units updated to the City’s Partners in Economic Progress (PEP) program standards for 48 months following issuance of U& O permits.

Proposed amendments also include modifying Section 197-6.C Inspections, to include the existing dwelling units exempted from the licensing.

Lien License Fees

From time to time, property owners are non-compliant on payment of annual license fees for Chapter 197. This chapter allows for the liening of fines and late fees, but not the license fees for this program.

Staff proposes amending Chapter 197 by copying the provisions in Chapter 89 Donation Bins and Chapters 232 and 233, Vacant Non-Residential/Residential Structures, that allow the City to lien unpaid license fees on the real property tax bill for the property or to collect through other civil proceedings.

Transfer Fee

Rental Facility Licenses are transferable with no fee; however, these transfers occur and go unreported to the office causing delays in the event of emergency situations or effective communication.

Staff proposes creating a subsection in Section 197-4, License Fee, for a transfer fee of \$ 25 with the following provisions:

1. If a property transfers to a new owner or property management company and the department is not made aware of the transfer within 30 days of the transfer, a transfer fee shall apply. Unreported transfers of 60 days or more shall make a new application with the appropriate licensing fees applied.
2. Transfer notifications associated with the annual registration renewal are not subject to a transfer fee. This period would be from May 1 to June 30.

Include Dormitory in License Program

Chapter 197 is focused on dwelling units and rooming house facilities and is silent on housing in the form of dormitories.

Proposed amendments would modify the definition of “Rental Unit” to include Dormitory 197-2 , Definitions, add “and dormitory facility” to (2) Section 197-4.G, Application, license fee using the rooming house fee system, and add “dormitory” to (2). Section 197-6.A, Inspections

Councilmember Aleshire wondered if facilities like REACH, W House, the Wells House, or the new one across from the library will still be excluded from the rental licensing inspections. Ms. Maher indicated that facility is classified as a hospital, which is not included in the rental licensing program.

Councilmember Aleshire assumed they are receiving some level of review on the safety items. He is interested in a listing of the facilities that are excluded and who they fall under to determine if they are being reviewed. The program needs to cover all living areas, especially for the most vulnerable citizens.

Ms. Maher stated nursing homes would have to be included in the program in order to cover nursing care.

Introduction of an ordinance for the proposed amendments will be scheduled for August 28, 2018, with approval scheduled for September 25, 2018. The amendments would be implemented beginning on July 1, 2019.

Councilmember Aleshire then left the meeting.

Public Safety Nuisance Abatement

Jennifer Keefer, City Attorney, was present to discuss possible abatements of nuisances. She stated she is most often asked about illegal drug activity.

Section 14-120 of the Real Property Article of the Maryland Code provides municipalities with authority for the abatement of nuisances (as defined within the statute). This is a potential tool for dealing with properties used in connection with illegal drug activity. Ms. Keefer provided a brief summary of the relevant portions of the statute.

For purposes of this statute, a “nuisance” is defined as a property that is used: (1) for the illegal manufacture or distribution of controlled dangerous substances (CDS) or controlled paraphernalia; (2) for the illegal storage or concealment of CDS in sufficient quantity to reasonably indicate an intent to manufacture, distribute or dispense CDS or controlled paraphernalia; or (3) by persons who assemble for the specific purpose of illegally administering CDS.

A municipality is authorized to pursue abatement of nuisance properties by filing proceedings in the District Court of Maryland against: (1) the owner; (2) the operator (includes property manager or other person authorized to evict a tenant); and/or (3) the tenant (whether or not a party to the lease).

Upon proper notice and service, the matter would be scheduled for a hearing. If the court determines that a nuisance exists, then the court may order any appropriate injunctive or equitable relief. This can include ordering a tenant to vacate the property within 72 hours, if the court finds that the tenant knew or should have known of the existence of the nuisance. If the court finds that the owner/operator knew or should have known of the existence of the nuisance, the court may order the owner/operator to submit a corrective plan

In general the courts will only go as far as is absolutely necessary to achieve the desired result; in other words, they will impose the least restrictive method(s) to achieve abatement of the nuisance. However, if the tenant does not comply with the court's order, the court may order restitution of the property to the owner/operator. If the owner/operator does not comply with the court's order, then the owner/operator may be found in contempt, and the court may order that the property be sold at the owner's expense, or that the property be demolished if (1) it is unfit for habitation; and (2) the estimated cost of rehabilitation significantly exceeds the estimated market value of the property after rehabilitation.

The activity has to be linked to the property and the police department is looking into tracking methods.

Ms. Keefer indicated the City would have to go through a set procedure before seeking to take the property.

Councilmember Keller noted Martinsburg, West Virginia has used similar legislation and has shut down 26 nuisance properties so far. She wondered if the City could do this as well. Ms. Keefer indicated this is possible, if the City has the tools in place to remedy the nuisance and isn't receiving compliance. The first step would be a corrective plan. If that is not followed, the City could approach the court for compliance.

Councilmember Heffernan clarified that the statute could be used to potentially shut down a building that is being used to house and conceal fentanyl. The City would file a proceeding against the owner and if the owner failed to follow through on a corrective plan, it could be taken to the court for further action. Ms. Keefer stated that is correct and the City would have the ability to seek a court order that the property be sold.

Councilmember Metzner pointed out that scenario would not likely happen. The City would rather have compliance than have the property sold.

It was the general consensus of the Mayor and City Council to move forward with this possibility.

WORK SESSION
2018

MAYOR AND CITY COUNCIL

CITY ADMINISTRATOR'S COMMENTS

AUGUST 14,

HAGERSTOWN, MARYLAND

Valerie Means, City Administrator, reminded everyone that Augustoberfest is being held on August 18 and 19, 2018.

MAYOR AND COUNCIL COMMENTS

Councilmember E. Keller thanked the Parks and Recreation Department for organizing the Dash and Splash event. The Summer Slide event was good.

Councilmember A. Heffernan had no additional comments.

Councilmember L. C. Metzner read information from the City of Aberdeen that shows their citizens where their tax money is spent. According to the information, 4% of Aberdeen's general fund budget goes to the Ripken Stadium. A portion is also funded from hotel/motel tax.

Councilmember S. McIntire asked Mayor and Council members to communicate by email for preferable dates for a goal setting session. She thanked Beth Everhart, Customer Services Supervisor, for her efforts to assist a customer after hours.

Mayor R. E. Bruchey, II reported he and Police Chief Kifer have been discussing quality of life issues for residents.

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 6:51 p.m.

Respectfully submitted,

Original signed by D. K. Spickler

Donna K. Spickler
City Clerk

Approved: September 25, 2018