

EXECUTIVE SESSION – October 2, 2018

On a motion duly made by Councilmember S. McIntire and seconded by Councilmember K. B. Aleshire, the Mayor and City Council unanimously agreed by voice vote to meet in closed session to discuss the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation or performance evaluation of appointees, employees, or officials over whom it has jurisdiction, #1 (Section 3-305(b)), on Tuesday, October 2, 2018 at 3:00 p.m. in Room 407, 4<sup>th</sup> floor, City Hall, Hagerstown, Maryland.

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, Wendy Nussbaum, Director of Human Resources, and Donna K. Spickler, City Clerk.

The meeting was held to discuss various personnel matters. Ms. Nussbaum and Ms. Spickler left the meeting at 3:10 p.m. Councilmember Heffernan took notes of the remainder of the closed meeting. No formal action was taken at the meeting. On a motion duly made, seconded, and passed, the meeting was adjourned at 3:50 p.m.

53<sup>RD</sup> SPECIAL SESSION AND WORK SESSION – October 2, 2018

Mayor R. E. Bruchey, II called this 53<sup>rd</sup> Special Session and Work Session of the Mayor and City Council to order at 4:06 p.m., Tuesday, October 2, 2018 in the Council Chamber at City Hall. Present with the Mayor were Councilmembers K. B. Aleshire, A. Heffernan, E. Keller, L. C. Metzner, and S. McIntire, City Administrator Valerie Means, and City Clerk D. K. Spickler.

53<sup>rd</sup> Special Session – October 2, 2018

On a motion duly made by Councilmember E. Keller and seconded by Councilmember K. B. Aleshire, the Mayor and City Council unanimously agreed by voice vote to meet in Special Session at 4:06 p.m.

**Approval of an Ordinance: Authorizing the Sale of Property Located at 28-48 E. Baltimore Street**

**Action:** On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember S. McIntire, the Mayor and City Council unanimously agreed by voice vote to approve an ordinance authorizing the sale of City-owned property located at 28-48 E. Baltimore Street to 339 Antietam, LLC for the sum of \$ 30,000. The sale will provide the opportunity for approximately \$ 300,00-\$ 500,000 of private investment to create retail

space for Hub City Vinyl and Gameroom Garage II. The sale will be in accordance with all terms and conditions outlined in the Purchase Agreement.

Discussion: Councilmember Aleshire noted this is the 10<sup>th</sup> large building/property in the last three years that has been or is in the process of being redeveloped. He is concerned there will no space for people to park when the projects are completed without a third parking deck.

**Approval of a Resolution: Execution of a Residential Lease Agreement for 38 North Potomac Street**

**Action:** On a motion duly made by Councilmember K. B. Aleshire and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to approve a resolution authorizing the execution of a residential Lease Agreement at the City of Hagerstown property located at 38 North Potomac Street in Hagerstown, Maryland. The lease will be between the City of Hagerstown and Lisa Foucart and shall be in effect from November 1, 2018 to April 30, 2019.

**Approval of Agreements with Washington County Historical Society**

**Action:** On a motion duly made by Councilmember A. Heffernan and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to approve agreements with the Washington County Historical Society (WCHS) regarding the artifact collection of the Hager House. The “incoming” agreement refers to artifacts owned by the City that will be covered by WCHS’s insurance. The “outgoing” agreement refers to artifacts owned by WCHS that are currently on display in the Hager House. The agreements are for the period from 08/15/2018 to 08/15/2023.

The Special Session was closed at 4:09 p.m.

Work Session – October 2, 2018

Proclamation

Mayor Bruchey read a proclamation recognizing October, 2018 as Fire Prevention Month in Hagerstown. Doug DeHaven, Fire Marshal, accepted the proclamation. Fire Chief Steve Lohr thanked the Fire Marshal’s staff for visiting homes to make sure residents have working smoke detectors.

Chief Lohr led a moment of silence in memory of Dale Hill who recently passed away unexpectedly. Mr. Hill had been a long time leader in fire service in Washington County.

State Department of Assessments and Taxation Visit

Scott Nicewarner, Director of Technology, Communications, and Support Services, welcomed Melissa Adelsberger, Maryland State Department of Assessments and Taxation (SDAT) Supervisor of Assessments for Washington County, to the Work Session. Ms. Adelsberger was present to provide an overview of the real property assessment process.

The State reassesses property every three years. The next triennial assessment in Hagerstown will be in 2020. The assessor has latitude in determining the most appropriate method of valuation to estimate the market value of the property. Indicators can include estimate of construction costs, estimate of land value, application of Market Value Indicator, and statistical validation with sale of properties, as well as physical attributes of the improvements. Notices are sent to property owners which includes value information and appeals information. Increases are phased in over a three year period. Decreases remain the same for three years.

Commercial properties are evaluated using the Marshall Valuation Cost method and includes land value estimates, sales comparison checks, and application of the income approach when appropriate.

Revaluation is required when a zoning classification is changed at the owner's request, a change in use or character occurred, substantially completed new construction which adds at least \$ 100,00 in value to the property, erroneous calculation or measurement, rezoned property pursuant to Tax Property Article §8-22, or subdivision occurs.

Assessment increases are capped at 10% statewide and 5% for properties within Washington County. The cap is only applied to owner occupied residential property and does not transfer. With the sale of a property, the taxable assessment becomes the basis for the new buyer's property tax calculation.

Property owners have 45 days to file an appeal. A first level appeal is reviewed and heard by a supervisor in the assessment office. A decision is made based on that hearing. If the appeal is not granted, another notice is sent to the property owner. At that point, the property owner may file an appeal to the Assessment and Taxation Appeals Board within 30 days. This appeal is independent to the SDAT office. If the appeal is still not awarded, the owner can appeal the assessment to the Maryland Tax Court. If the owner is still dissatisfied, they may appeal the decision to Circuit Court.

Mayor Bruchey asked what makes an assessment go down. Ms. Adelsberger indicated sales analysis in the housing market can cause a reduction in assessments.

Councilmember Aleshire stated it appears the biggest challenge for assessments for the City is the economy driven analysis and the cap on the assessment increase. There is no cap on a decrease to protect the entity from a fall. It seems the State would want to implement a cap on the decreased assessment.

Ms. Adelsberger understands Councilmember Aleshire's concern but the process is established by at a different level of government. That type of change would require legislation.

Michael Higgs, Acting Director, stated the City has the ability to set the cap at any level they wish, There is no input or regulation from the State. He stated the assessment office is neutral.

Councilmember Aleshire asked what direction the department has for using the market to drive assessment valuation. Mr. Higgs stated the IAA is the organization that sets standards for the assessment process. There is no matrix to buffer a loss but the Constant Yield Tax Rate (CYTR) helps to stabilize the fluctuations in the assessable base. Ms. Adelsberger pointed out their office has no control over the process.

Ms. Adelsberger stated that the group Hagerstown is in includes the Maugansville and Halfway areas. Their office only uses comparable sales within Hagerstown for assessments in Hagerstown.

Councilmember Aleshire asked why some portions of Hagerstown experienced increased assessments while the majority did not. Ms. Adelsberger pointed out market rate analysis shows homes sell better in some areas than others.

Mr. Higgs stated location drives everything in the values. They mirror what has occurred. They don't set what occurs. If the market today dropped with home values, the effect will be delayed because of the three year cycle.

Mr. Nicewarner noted the City receives 40-50 appeals each year. Many are minimal amounts and others are significant. He asked what mitigating factors are considered for a downward assessment award. Ms. Adelsberger stated home owners often provide information that the Assessment Office was not aware of. It could be a correction to the number of bathrooms in existence or ceasing use of a living space (such as a finished basement). If the appeal goes to the Property Tax Appeals Board the reasons are varied. Remarks are now provided from the Appeals Board. The Appeals Board members are local county citizens. They are appointed by the County Commissioners.

Mayor Bruchey stated it is difficult to look at Hagerstown's future 5 to 10 years from now knowing that at any time a recession can upset the assessment valuations.

Councilmember Aleshire stated the CYTR does not mean a lot to him. He understands it is the rate that would produce the same revenue as the prior year. Most taxpayers only view it as a changing tax rate, no matter what the justification.

Mr. Higgs stated their office, by law, cannot dictate an increase in the jurisdiction's tax rate. He suggested the City contact the Washington County Delegation about their concerns with the CYTR notification requirements.

Mr. Nicewarner noted the City implemented a two tier tax rate for FY 2018/2019. While looking at the land use records to determine which properties were used as apartments, staff found some properties were classified as commercial and some as residential. He asked what is used to classify the land use code. The assessor uses the land use code to apply the classification. If there are three or less apartments, the property is considered residential. If there are 4 or more apartments, it is considered commercial. However, if there is a retail use mixed with the residential use, it could be classified as either residential or commercial, depending on the percentage of retail/commercial use of the property. The Alexander House is classified as commercial because of the retail use and cell tower leases. Walnut Towers and Potomac Towers are classified as residential, even though there are cell tower leases there.

Councilmember Aleshire asked who determines if a property is exempt. Ms. Adelsberger stated a property owner submits an exemption application that is reviewed by the Assessment office. The Assessment office then determines if the exemption is permitted. If available, they also review leases to help determine if an exemption is valid.

Councilmember Aleshire wondered if the entire property is exempt if a church leases a space for Sunday services. Ms. Adelsberger stated the space used for services would be exempt as the State law says property used for religious purposes is tax exempt. If a church leases a space to someone for a non-religious purpose, that space is taxable.

Councilmember Aleshire asked if State law that prevents a jurisdiction from implementing a cap to counteract a decrease. Mr. Higgs thinks there is a law prohibiting this. He recommended discussing this with the City Attorney.

There were no other questions for Ms. Adelsberger or Mr. Higgs.

#### Reconstruction of Pangborn Park Born and Stabilization of Hamilton Run

Rodney Tissue, City Engineer, and Keith Moore, Frederick Seibert and Associations, were present to review the plans to reconstruct the pond at Pangborn Park.

Pangborn Park was developed by the Pangborn Corporation in the early 1900s. Through the generosity of Thomas and John Pangborn, the seven and one-half acre tract of land was given to the city in November of 1935. Under the terms of the conveyance, the City has to retain the land as a park.

The park includes a 1.1 acre pond. Staff believe the City oversaw the construction of the pond in the 1930s as part of a Works Progress Administration project. In 1990, the City dredged the pond and made other repairs. The pond was formerly used for ice skating in the winter. With respect to fishing, according to the Department of Natural resources, the rules for Pangborn pond are very specific...only people that are under age 16, over age 65, or blind may fish there year round. No license is required for those under age 16 and no license is required for those groups on the designated "Maryland Free Fishing Days".

The condition of the pond has deteriorated significantly. Issues include the following:

1. Sediment in the pond yields a water depth of only a few inches on the north end. Unlike City Park Lake, this pond is primarily fed by Hamilton Run and is therefore subject to the constant deposition of sediments, especially in storm events. Staff believe the inlet can be re-designed to minimize the sediment load into the pond.
2. The perimeter walls are deteriorating. Originally these appear to be stone walls but at some point were covered with concrete/cement.
3. The scum drain system on the east side of the pond has completely failed.
4. The outlet structure is deteriorated and doesn't meet current pond safety design standards.

For these reasons, Mr. Tissue recommended to the City Council last September that plans begin to reconstruct the pond in 2019. The goal for the project is to dredge about 2,000 cubic yards of sediment from the pond, replace the pond's inlet and outlet structures, restore the adjacent stream, and obtain TMDL credits.

The consensus of the City Council last September was to replace the perimeter wall and not install a soft natural edge. Staff has worked to find a cost effective solution for the wall. Mr. Moore proposed using a ready rock product, which is meant to last.

The final plan includes the following enhancements:

- 1.. Dredging and removing up to a few feet of sediment. Washington County has again granted the City permission to haul the dredged material to the landfill for no charge where it will be dried and used for daily cover.
2. Replacing the perimeter walls around the pond, this is about 1/3 of the project's cost
3. Replacing the outlet structure
4. Replacing the inlet structure since it allows sediment into the pond and the structure appears to take too much flow from Hamilton Run
5. Restoring Hamilton Run since it is experiencing bank erosion on the west bank. The east bank is composed of a stone wall which is in various states of deterioration. The consultant recommends removing portions of this wall and returning the channel to a more natural condition. The project also includes replacing any invasive trees along Hamilton Run and installing grade control structures on Hamilton Run.
6. The City stocks the pond for fishing so there needs to be accessible designated fishing locations or cease this practice altogether
7. New sidewalk around entire lake and adding accessible pedestrian access to the pond from the Pangborn Boulevard sidewalk.

The stream restoration and possibly the dredging will also provide the City TMDL credits for the State-issued stormwater permit.

The engineer's cost estimate for the project is \$ 925,000. Funding for the project will be taken from an upcoming bond which Finance staff will review with the Council later this calendar year. Bidding the project will not occur until funding is secured, but given the condition of the pond, Mr. Tissue recommends that the work be completed in 2019.

Mr. Tissue reported staff has unsuccessfully applied for grants to help with some of the cost of the project. Mayor Bruchey suggested seeking Program Open Space funding.

Councilmember Keller asked if ice skating will be possible after the restoration project.

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

### Beautification of Railroad Overpasses

Rodney Tissue, City Engineer, and Police Chief Paul Kifer, were present to discuss ideas to beautify the railroad overpasses on Route 40, Antietam Street, and Church Street. These bridges, that are utilized by Norfolk Southern Railroad and CSX Railroad, were built in the 1950's as part of the grade separation project.

The sidewalks under both the Route 40 bridges at Franklin Street and Washington Street are approximately 10 feet wide so half of the sidewalk on both sides could be used for beautification.

The Antietam Street bridges are different from Route 40 in that there is a 15' area of soil between sidewalk and the southern bridge abutment. The north side has a narrow sidewalk. The options presented could be placed at the back of the sidewalk on the south side only. Large heavy rock or gabion treatments could also be used at this location. Estimated costs for rocks or gabion treatments are \$ 6,000 to \$ 23,000.

The Church Street bridges are also different from Route 40 in that the sidewalks are much narrower and there is no room to install any of the options.

To provide color LED lighting per the sketches, City Light requires metering and would need to cross the street to light both sides. Therefore, the cost estimate to do this type of lighting is \$ 30,000 per bridge. A simple, inexpensive option would be to ask City Light to replace all the current wall pack lights with an adequate number of standard LED's. This would brighten the overpasses with a white, clean light.

Staff offered the following options:

1. Option 1: Ornamental Fencing: This option includes an ornamental commercial-grade aluminum railing/fence about 6 feet high. A gate would be needed for authorized access. Estimated cost is \$ 40/LF to \$ 80/LF for fencing depending on the amount of aesthetic detail. Color to be determined. Time frame for building and installation is about 8 weeks.

2. Option 2: Mural Panels: This option includes a square-tube fence frame about 8'feet high and installing hardy board panels on the frame that are covered with murals. This would be a perfect, but large, project for art students because they could paint the panels in the class room and then the City would install the panels in the field. A gate would be needed for authorized access. Estimated cost is \$ 10/LF for the panels, \$ 50/LF for the frame and an allowance for art supplies. Time frame for this option would be the longest as it would take months for students to create the murals.
3. Option 3: Sculpture/Decorative Panels: This option includes finding “off the shelf” decorative laser-cut metal panels about six to eight feet high attached to a steel frame. A gate would be needed for authorized access. Estimated cost is between \$ 150/LF and \$ 200/LF depending on the material and complexity of design. Time frame for bidding and installation is a few months.
4. Option 4: Custom Graphic Panels: This option includes custom graphic (wording like Hagerstown or a positive message) panels about six or eight feet high. A gate would be needed for authorized access. Estimated cost is \$ 150/LF for a custom cut graphic. Time frame for bidding and installation is a few months.

Chief Kifer noted these options fit within the SEPTED guidelines as well. As staff discussed the options, they looked at maintenance requirements as well. There have been several people staying under the bridges on Antietam Street. Hagerstown Police Department staff have discussed assistance options for these homeless people with the Homeless Coalition. Chief Kifer stated there is concern for the safety of the people staying under the bridge and for the people who stop to give them items.

Councilmember McIntire noted if the goal is to reverse the community negative appearance at these locations and beautify the area; the City should get the community involved.

Most members of the Mayor and City Council support the art panel option. Mayor Bruchey stated he thinks boulders on Antietam Street would be appropriate, since it is more of a utility street. Councilmember Aleshire would rather see river rock in that location.

Mayor Bruchey noted the sidewalk clearance is enforced across the City. When items collected by the people encroach on the sidewalk, the police department ensures the sidewalk clearance is observed. HPD is doing what they can to get help for the homeless people who stay under the bridges.

Mr. Tissue noted funding for any of these options is not budgeted. He will have a rendering and more detailed cost estimates completed for the next discussion.

### Licensing of Hotels

Kathleen Maher, Director of Planning and Code Administration, and Fire Chief Steve Lohr were present to follow up on discussions held at the February 20, 2018 meeting on

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the idea of developing a hotel licensing program. Paul Fulk, Neighborhood Services Manager, and Doug DeHaven, Fire Marshal, were also present. This idea was initially introduced to the Mayor and City Council in a PCAD update on August 15, 2017 and arose again during discussions for the Garden Plaza Hotel inspections, due to concerns over the health, safety and general welfare of visitors and extended-stay occupants in Hagerstown's hotels.

The main areas of concern for staff are the following:

1. Maintenance of hotels fall below codified standards for fire safety and property maintenance
2. Lack of training of staff on fire protection, emergency incident, and evacuation standards
3. The use of hotel units for extended stay which were not designed for such occupancy and thus lead to unsafe living conditions
4. The use of hotels as dwelling units or rooming house units in zoning districts which do not allow such uses

Additionally, staff have concerns about hotels operating in the community which are not in good standing on required State, County and City taxes or on City utility payments.

As discussed on February 20, staff's research of hotel licensing have found that a number of jurisdictions in Maryland have hotel licensing programs and a number of jurisdictions around the country have codes regulating extended-stay hotels. In Maryland, staff found hotel licensing programs on the books in Annapolis, Anne Arundel County, Baltimore County, College Park, Cumberland, Howard County, Gaithersburg, Laurel, Ocean City, and Rockville. Staff have visited a number of jurisdictions over the past several months to learn about hotel licensing and rental licensing in those jurisdictions.

Staff goals for a City hotel licensing program would be to ensure:

1. Hotel patrons are safe
2. Hotels meet required life safety and building code requirements
3. Hotel rooms are not used for extended-stay unless the rooms comply with minimum standards for such habitation
4. Hotels are compliant on payment of required taxes and utility fees

In addition to visiting other jurisdictions, staff have conferred with local Convention and Visitors Bureau staff, the County Treasurer, and staff of Homewood Suites to hear their thoughts and concerns, as they have explored potential strategies to address the City's concerns.

PCAD and Fire staff have reviewed what has been learned and devised a tiered strategy to address licensing and inspections of the hotels in Hagerstown and a revocation process for hotels which are not compliant with the licensing requirements. The proposed fees for the tier system are based on a study of fees in other jurisdictions.

There are three tiers, each with specific criteria and fee structures, summarized as follows:

1. Tier 1 – hotel operates under a chained-brand and is in good standing, or is a Bed-and-Breakfast or Short-Term Rental and complies with Property Maintenance Code, is fully sprinklered and alarmed for fire protection, constructed or had a substantial renovation within the past 12 years, no valid complaints to the City, annual fee \$ 75/building plus \$ 5/guest room.
2. Tier 2 – hotel operates under a chained-brand and is in good standing, or is a Bed-and-Breakfast or Short-Term Rental and complies with Property Maintenance Code, is not fully sprinklered and alarmed for fire protection, more than 12 years since facility was constructed or had a substantial renovations, no valid complaints to the City, annual fee \$150/building plus \$10/guest room.
3. Tier 3 – hotel is independent of any chained-brand, hotel is not in good standing with their chained-brand, Bed-and-Breakfast or Short-Term Rental does not comply with Property Maintenance Code, valid complaints to the City, annual fee \$300/building plus \$20/guest room.

Under all three Tiers, there are re-inspection fees for any code required corrections. If the hotel fails to meet correction deadlines set by the Fire Marshal or PCAD staff, the license will be suspended or revoked, depending on the severity of the code violations. Revocation of a license results in closure of the hotel.

A license will be reinstated when the Fire Marshal and PCAD determine violations have been corrected, the County Treasurer indicates hotel is in good standing on County hotel tax and County real property tax, the City indicates hotel is in good standing on utility fees, fines, inspection fees, and real property tax, and the hotel pays the full license fee.

Staff believe that a hotel licensing ordinance would be advisable to ensure regular inspections of hotels for health and safety conditions and to outline the required occupancy standards and minimum provisions which a hotel unit must contain in order to be occupied for extended-stay.

Staff recommend such a hotel licensing provision be a stand-alone ordinance in the City Code with administration and inspections undertaken as a partnership of the Fire Department and PCAD.

Staff recommend forwarding of hotel licensing fees to the Fire Department to assist with additional staffing resources in the Fire Marshal's office. Additional staffing in PCAD is not recommended for the administration of this proposed program.

If a hotel licensing program were to regulate out the use of hotels as permanent housing for individual and families in need, staff would recommend that the Mayor and City Council consider amendments to the Land Management Code (LMC) to allow rooming houses in the City under certain conditions.

Proposed amendments to the LMC have created a definition for rooming house and a proposal for zoning district locations and conditions for operation of such facilities. The Planning Commission's public review meeting on the 2018 package of LMC amendments was on September 26, 2018. It is anticipated that the package will be forwarded to the Mayor and City Council in late October or early November.

It was the consensus of the Council to remove the license fee for a Tier 1 hotel.

Councilmember Aleshire asked how staff determine if someone is using the property as a dwelling unit. Ms. Maher indicated the determination is made through observation.

Councilmember Keller wondered if there is a plan for relocating people displaced by shutting down a facility where rooms are being used as residences. She does not want the closure to cause additional negative issues. Councilmember Aleshire is also concerned about the possibility of a mass relocation of people as well.

Ms. Maher indicated there is not currently a plan but a proposal is pending for boarding houses in certain zoning districts.

Mayor Bruchey indicated public input meetings on the proposed amendments will be scheduled later in October and in November, if necessary.

#### **CITY ADMINISTRATOR'S COMMENTS**

*Valerie Means, City Administrator* had no additional comments.

#### **MAYOR AND COUNCIL COMMENTS**

*Councilmember S. McIntire* had no additional comments.

*Councilmember L. C. Metzner* had no additional comments.

*Councilmember A. Heffernan* reported furniture is being dumped in front of people's home (the furniture does not belong to them) and they can't get it removed without paying for a pick up. He wondered if there is a way to address this issue. Ms. Means will look into this.

*Councilmember K. B. Aleshire* thanked everyone involved in making the Thunder in the Square event successful.

*Councilmember E. Keller* announced fundraising for Washington Goes Purple continues tonight at the Green Turtle.

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

53<sup>RD</sup> SPECIAL SESSION, WORK SESSION, AND EXECUTIVE SESSION      OCTOBER 2,  
2018  
MAYOR AND CITY COUNCIL      HAGERSTOWN, MARYLAND

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 6:18 p.m.

Respectfully submitted,

*Original signed by D. K. Spickler*

Donna K. Spickler  
City Clerk

Approved: November 27, 2018