

58th REGULAR SESSION AND WORK SESSION – NOVEMBER 27, 2018

The Work Session scheduled for 6:00 p.m. on November 27, 2018 was cancelled.

58TH REGULAR SESSION – November 27, 2018

Mayor R. E. Bruchey, II called this 58th Regular Session of the Mayor and City Council to order at 7:03 p.m., Tuesday, November 27, 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, City Attorney Jennifer Keefer, and City Clerk D. K. Spickler.

The invocation was offered by Councilmember Shelley McIntire. The Pledge of Allegiance was then recited, led by Ryan Barnett, Eagle Scout.

Mayor Bruchey announced the Rules of Procedure for this meeting will be followed as adopted December 20, 2016. It was announced that the use of cell phones during meetings is restricted and that all correspondence for distribution to elected officials should be provided to the City Clerk and should include a copy for the City Clerk for inclusion in the official record.

The next scheduled meetings are: Work Sessions beginning at 4:00 p.m. on Tuesday, December 4, 2018, and Tuesday, December 11, 2018, and the Regular Session on Tuesday, December 18, 2018. No meeting will be held on Tuesday, December 25, 2018.

APPOINTMENTS

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 appoint Christina Davis, with a term to expire October 31, 2019, and Colin Ploscaru, with a term to expire May 30, 2019, to the Planning Commission.

PROCLAMATION

Mayor Bruchey read a proclamation naming December 1, 2018 as World AIDS Day in Hagerstown, Maryland. World AIDS Day serves as a reminder for citizens to educate themselves about HIV, to find out their HIV status through testing, to receive care if infected, and to always demonstrate compassion for those infected and affected by HIV and AIDS. Michael Jones, Rise Up Hagerstown, accepted the proclamation.

GUESTS

Hagerstown Gridiron Classic MVP Presentation

The 2018 Hagerstown Gridiron Championship Classic was held at School Stadium at South High on November 2, 2018. The final score was South Hagerstown 43 – North Hagerstown 0. Mayor Bruchey stated he was impressed with the sportsmanship displayed by both teams during the game.

South Hagerstown High School MVP Jayswah Sanon received a scholarship check from Paul Crampton Contractors. North Hagerstown High School MVP Jakob Connor received a scholarship check from Sunrise Rotary, which was presented by Zachary Kieffer.

CITIZEN COMMENTS

Irving Lara, 416 Virginia Avenue, Hagerstown, Maryland, has lived in Hagerstown for several years. He thinks the Mayor and City Council are doing a good job and have good interaction with citizens. He is concerned about the request from the Town of Funkstown for City utilities that was discussed recently. After reviewing the Comprehensive Plan and the new *vision2035* plan, he doesn't think there is sufficient allocation to approve the request. From his estimate, the request exceeds the accepted amount the Mayor and Council have discretion to provide. He understands wanting to help neighboring towns, but this is a long term commitment.

North Hagerstown High School students Walter West and Savin Gaines (hospitality and tourism program) and Megan Aleshire and Josh Clemmer (Student Government Association SGA) discussed an idea for the City Farmers' Market. They want to reignite the market as it is a crown jewel of Hagerstown. Their goal is to keep vendors and patrons happy and to get youth interested in the market. They are planning to host a HUGging (Helping to Unify and Grow our City!) event at the City Market on December 1, 2018. A kids' corner, run by the NHHS Educator's Rising program, will provide youth with the opportunity to make ornaments. There will be a variety of handmade holiday crafts being sold by groups from throughout the area, including student groups. The NHHS SGA is planning to hold a ticket auction at the market and have had several items donated from the community. These proceeds will go the NHHS SGA Be Smart, Don't Start campaign which addresses the use of drugs and alcohol by youth.

Paula Stotler, 431 Dual Highway, Hagerstown, is the manager of the Family Diner who wants to open a Hooka Lounge at the former lounge location at the Best Western on Dual Highway. Current zoning does not permit this use and she asked that the zoning be amended to make a Hooka Lounge a permitted use.

Ryan Barnett completed his Eagle Scout project at the REACH shelter. His project was to increase security for the people who need the shelter's services. He wants to help homeless people get back on their feet. Homelessness can happen to anyone.

Vicky Smith, 513 W. Franklin Street, Hagerstown, Maryland, expressed her concern about the property at 535-537 W. Franklin Street. Her family is now the oldest family in the 500 block of W. Franklin Street. The property at 535-537 W. Franklin Street has been in disrepair for a long time and something needs to be done. In 2010, she contacted the City about the roof at that property, which is still not repaired. The Herald Mail published a story about the property in 2015, and still nothing has been repaired.

Mayor Bruchey asked Kathleen Maher, Director of Planning and Code Administration, to contact Ms. Smith about this.

PUBLIC HEARING

2018 Land Management Code Amendments

A Public Hearing was held to receive testimony on the proposed 2018 package of amendments to the Land Management Code (LMC). Staff provided an overview of the substantive changes at the November 6, 2018 Work Session. Kathleen Maher, Director of Planning and Code Administration, and Stephen Bockmiller, Zoning Administrator/Development Review Planner, were present for the hearing.

Every year, Planning staff and the Planning Commission review issues that have arisen over the prior year and formulate a package of amendments to the Land Management Code. This code contains the City's regulations for zoning, subdivision and land development, forest conservation, and floodplain management.

The Planning Commission completed their review of the 2018 package at their meeting on October 24, 2018 and forwarded the package for the Mayor and City Council's consideration.

Following the public hearing, the Mayor and City Council determine the validity of what has been presented, make changes as appropriate, and then pass an ordinance to amend the code.

If a citizen wishes to seek a specific amendment to the code outside the City-initiated process, an application is reviewed by the Planning Commission and the same process of public hearings and Mayor and Council action begins as it would with City-initiated amendments.

The following Exhibits were entered into the record:

- Exhibit 1 – Planning Commission Official File
- Exhibit 2 – Certificate of Advertisement

The 2018 LMC Text Amendments package includes a variety of recommendations which are divided into three groups – General proposed amendments, amendments to bring the code better into alignment with the Fair Housing Assessment Standards and State Code requirements, and proposed amendments to the sign provisions in the LMC to bring the code into better alignment with a recent Supreme Court ruling on regulation of temporary signs and sign content in general.

All the proposed amendments have been grouped under the following themes:

1. Protecting neighborhood character and enhancing safety in the community – the most substantive change would be inclusion of Crime Prevention through Environmental Design (CPTED) principles in development standards for site plans.

2. Increasing housing choices and diversity – Substantive changes in this category are the addition of Rooming Houses to the code and modification of how Group Homes are permitted.
3. Expanding economic opportunity and permitting greater flexibility in the code
4. Setting clear expectations for the public investors – A large number of amendments are proposed which are fairly minor changes but provide more clarity.
5. Improving resiliency from environmental hazards – Proposed changes add more clarity on Floodplain management requirements with most substantive changes being the requirement that public and private streets, driveways, alleys, and parking areas have driving surfaces above the base flood elevation, unless otherwise approved by the BZA.
6. Providing suitable locations for social and medical services and at intensities consistent with surrounding neighborhoods – Amendments to be better in alignment with Federal and State provisions regarding protected classes and local code regulations. Staff and the Planning Commission deliberated on the issues involved, sought public input and gained input from one area provider before finalizing the recommendations as presented in the memo.
7. Streamlining the process and clean-ups to the code - A large number of minor changes to correct terminology, expand upon definitions, provide greater clarity on requirements, remove unnecessary requirements, and fix oversights from prior amendments. Perhaps the most substantive changes involve the Forest Conservation Ordinance by increasing the non-compliance penalty fee and creating a provision for the Planning Commission to review Forest Conservation plans for County projects proposing tree conservation or planting easements within the City.
8. Updating the on-premise sign regulations – amendments due to a recent U.S. Supreme Court decision that caused jurisdictions all across the county to re-evaluate how content is considered within their sign codes. Staff modeled this draft after the Town of Gilbert, Arizona, adjusting it for structure to fit within the LMC.

Mr. Bockmiller stated a correspondence from Frankie Corsi was submitted to the Mayor and City Council today, requesting an amendment to the Land Management Code which would allow hair, nail and skin care stores in the Industrial – Restricted (IR) zoning district.

A text amendment is proposed to define rooming houses as a facility with sleeping rooms to rent. Rooming houses would be permitted in several zoning districts with the approval of the Board of Zoning Appeals.

The amendments include a provision to allow off-site plantings to meet the Forest Conservation requirements. All requests would require prior Planning Commission approval.

Amendments to the sign regulations provides clarity that signs can't be limited based on content. The regulations take into consideration size of signs and the number of signs.

Mayor Bruchey pointed out this means campaign signs are limited. Mr. Bockmiller indicated any sign would be limited.

Councilmember Metzner pointed out there will be more discussion about these regulations.

Councilmember Heffernan appreciates the clarification on set back requirements on wireless communication facilities. He agrees the entire communication section needs to be rewritten. The MML legislative priority for 2018 is retention of local jurisdictions' ability to govern their cities. There is concern that municipalities may lose control of regulations.

Councilmember Keller disagrees with the requirement for 24 hour supervision for rooming houses. This would be too restrictive and wouldn't accomplish helping the homeless.

The following testimony was presented:

Raj Patel, owner of the Garden Plaza, applauded the Mayor and City Council for not moving forward with hotel licensing. The rooming house he is proposing for the tower at the Garden Plaza will be beneficial for Hagerstown. It is difficult to get loans for projects in Hagerstown because zoning regulations are so strict.

Irving Lara, 416 Virginia Avenue, Hagerstown, Maryland, asked if the sign regulations would apply to Christmas decorations. Ms. Maher clarified that decorations would not be considered signs.

No further testimony was presented.

The record will remain open for 10 days for additional comments.

Mayor Bruchey stated a Work Session discussion will be scheduled for December 11, 2018.

CITY ADMINISTRATOR'S COMMENTS

Valerie Means, City Administrator, reminded everyone the City Park tree lighting event is Friday, November 30, 2018 from 6:00 p.m. to 9:00 p.m.

MAYOR AND COUNCIL COMMENTS

Councilmember K. B. Aleshire had no additional comments.

Councilmember A. Heffernan reminded everyone the Christkndl Mrkt will be held on Saturday, December 1, 2018 beginning at noon.

Councilmember E. Keller thanked John Barr for his service to the citizens of Washington County.

Councilmember L. C. Metzner had no additional comments.

Councilmember S. McIntire stated it is exciting to see the City's youth take an interest in City functions.

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

MINUTES

On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember A. Heffernan, the Mayor and City Council unanimously agreed by voice vote to approve the minutes, as presented, for the Mayor and Council meetings held on October 2, 2018, October 9, 2018, October 16, 2018, and October 23, 2018.

CONSENT AGENDA

On a motion duly made by Councilmember E. Keller and seconded by Councilmember L. C. Metzner, the Consent Agenda was approved as follows:

A. Fire:

1. Heating Replacement for Station 3 – Harrell's Services (Sharpsburg, MD) \$ 20,610.00
2. Vehicle Replacements – Keystone Ford (Chambersburg, PA) \$ 61,606.83

B. Parks and Engineering:

1. LED Retrofit Luminaire for City Parks – Traffic Systems and Technology (Manassas, VA) \$ 41,400.00
2. Potterfield Pool Improvements – DRD Pool Management (Hunt Valley, MD) \$ 100,457.00
3. Traffic Engineering Services – Sabra Wang & Associates (Columbia, MD) and KCI Technologies (Sparks, MD)

C. Public Works:

1. Bulk Diesel Fuel and Gasoline – A.C. & T. Co., Inc. (Hagerstown, MD) \$ 433,336.00 (\$1.6768/gal. for Diesel and \$ 1.5815/gal. for Gasoline)

D. Utilities:

1. Water: B84B Hydrants – Core & Main (Montrose, VA) \$ 35,176.00
2. Water & Wastewater: Bulk Chemical Purchase – Wastewater Division \$ 373,910.00 (multiple vendors) and Water Division \$ 793,728.48 (multiple vendors)
3. Wastewater: Collection System Rehabilitation Phase 1A – Mr. Rehab, Inc. (Mechanicsburg, PA) \$ 207,235.21

UNFINISHED BUSINESS

There was no Unfinished Business.

NEW BUSINESS

A. Approval of Owner's Consent for Annexation of Foggy Bottom Farm and Other Lands

Action: On a motion duly made by Councilmember A. Heffernan and seconded by Councilmember S. McIntire, the Mayor and City Council authorize, as the City being the owner of 11.934 acres of land, more or less, also known as the "Watters Property" or "Foggy Bottom Farm", for the Mayor to sign on behalf of the Mayor and City Council the document identified as "Consent of Property Owner(s)" for the purpose of initiating the annexation of that property and others into the corporate limits of the City of Hagerstown.

B. Introduction of Resolution: Annexation of Foggy Bottom Farm and Other Lands

Action: On a motion duly made by S. McIntire and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to introduce an annexation resolution for an annexation known as the "Foggy Bottom Farm and Other Lands", for three properties located between Antietam Creek and Yale Drive. The portion of property to be annexed is approximately 101.03 acres in size and is intended to be added to and made part of the adjacent municipal lands.

C. Approval of Annexation Plan for Foggy Bottom Farm and Other Lands

Action: On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember A. Heffernan, the Mayor and City Council unanimously agreed by voice vote to adopt an annexation plan for the Foggy Bottom Farm and Other Lands Annexation (A-2018-01).

D. Introduction of a Resolution: Annexation of Antietam Creek Creek Bed

Action: On a motion duly made by Councilmember S. McIntire and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to introduce an annexation resolution known as the Antietam Creek Creek Bed Annexation. The portion of property to be annexed is approximately 1.47 acres in size and is intended to be added to and made part of the adjacent municipal lands for the purpose of creating logical and regular municipal boundaries in conjunction with the annexation of adjacent lands incorporated into the City through Case No. A-2018-01.

E. Approval of Annexation Plan for Antietam Creek Creek Bed

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 adopt an Annexation Plan for the “Antietam Creek Creek Bed” Annexation (A-2018-02).

F. Introduction of an Ordinance: Entering into an Agreement for the Provision of Sanitary Sewer Between the City of Hagerstown and the Town of Funkstown, MD

Action: On a motion duly made by Councilmember S. McIntire and seconded by Councilmember E. Keller, the Mayor and City Council unanimously agreed by voice vote to introduce an ordinance entering into the Agreement for the Provision of Sanitary Sewer between the City of Hagerstown and the Town of Funkstown, Maryland. The referenced parcel is within the corporate boundaries of the Town of Funkstown and identified as being all of Liber 1246 Folio 983 containing 44.11 acres.

G. Introduction of an Ordinance: Authorizing Acceptance of a Deed in Lieu of Foreclosure for 117 S. Locust Street

Action: On a motion duly made by Councilmember E. Keller and seconded by Councilmember S. McIntire, the Mayor and City Council unanimously agreed by voice vote to introduce an ordinance authorizing the acceptance of a deed in lieu of foreclosure for the property located at 117 S. Locust Street. This property was acquired and sold by the City through the CDBG Homeownership Program and the City remains the primary mortgage holder after providing homebuyer financing to the current owner. The current owner has vacated the property with a remaining balance on the mortgage note and has asked the City to accept the property in lieu of foreclosure. All deed in lieu of foreclosure documents for the property are part of the meeting material.

Discussion: Councilmember Aleshire noted there are several properties being discussed during this meeting that are in disrepair. He thanked staff for working with the Housing Authority for volunteering to become the intermediary to take the homes and fix them up to get them back on the market. Through this process, homeownership will be possible for people who may not have the opportunity otherwise. He does not believe converting hotels into long-term living facilities is appropriate.

H. Introduction of an Ordinance: Authorizing the Sale of Property Located at 441 N. Jonathan Street

Action: On a motion duly made by Councilmember S. McIntire and seconded by Councilmember E. Keller, the Mayor and City Council unanimously agreed by voice vote to introduce an ordinance authorizing the sale of City-owned property located at 441 N. Jonathan Street to the Hagerstown Revitalization Corporation (HRC) for the sum of \$ 1. The HRC, a subsidiary of the Housing Authority of the City of Hagerstown, will carry out additional renovation activities to revitalize the property with the

eventual goal of homeownership occupancy. The sale will be in accordance with all terms and conditions outlined in the Purchase Agreement.

I. Introduction of an Ordinance: Authorizing the Sale of Property Located at 443 N. Jonathan Street

Action: 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 to introduce an ordinance authorizing the sale of City-owned property located at 443 N. Jonathan Street to the Hagerstown Revitalization Corporation (HRC) for the sum of \$ 1. The HRC, a subsidiary of the Housing Authority of the City of Hagerstown, will carry out additional renovation activities to revitalize the property with the eventual goal of homeownership occupancy. The sale will be in accordance with all terms and conditions outlined in the Purchase Agreement.

J. Introduction of an Ordinance: Authorizing the Sale of Property Located at 212-214 N. Jonathan Street

Action: On a motion duly made by Councilmember E. Keller and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to introduce an ordinance authorizing the sale of City-owned property located at 212-214 N. Jonathan Street to the Hagerstown Revitalization Corporation (HRC) for the sum of \$ 1. The HRC, a subsidiary of the Housing Authority of the City of Hagerstown, will carry out additional renovation activities to revitalize the property with the eventual goal of homeownership occupancy. The sale will be in accordance with all terms and conditions outlined in the Purchase Agreement.

K. Approval of a Resolution: Memorandum of Understanding with the Hagerstown Housing Authority for Environmental Review Management

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 a resolution authorizing entry into a Memorandum of Understanding (MOU) with the Housing Authority of the City of Hagerstown. This MOU is required to formalize the City's partnership with the Housing Authority for Federal Environmental Review Management as required by the United States Department of Housing and Urban Development.

L. Approval of a Resolution: Memorandum of Understanding for Police Academy

Action: On a motion duly made by Councilmember S. McIntire and seconded by Councilmember E. Keller, the Mayor and City Council unanimously agreed by voice vote to approve a resolution approving the Memorandum of Understanding with the Washington County Sheriff's Department and the Hagerstown Community College for the purposes of establishing a joint Washington County Police Academy.

The term of this agreement shall be for a period of one year from January 1, 2019 and will automatically renew unless otherwise terminated as set forth hereinafter.

M. Approval of a Resolution: Authorizing a Financial Incentive Agreement between the City of Hagerstown and 339 Antietam, LLC

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 a resolution authorizing the City to enter into a financial incentive agreement with 339 Antietam LLC in connection with its renovation project at 28 E. Baltimore Street to be paid for from the General Fund Economic Incentives line item.

Discussion: Mayor Bruchey stated this is one of many projects that the City partners with a private entity to create something great. There are many incentives people don't take advantage of.

N. Approval of Noise Ordinance Exemption – Krumpe's Donut Drop

Action: 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 to approve an exemption from the City of Hagerstown's Noise Ordinance under section 155-5 of the Code of the City of Hagerstown for the High Rock Krumpe's Donut Drop on December 31, 2018.

O. Approval of Disparate Funding Agreement for JAG Grant FY2017

Action: On a motion duly made by Councilmember K. B. Aleshire and seconded by Councilmember A. Heffernan, the Mayor and City Council unanimously agreed by voice to approve of a disparate agreement, which is required for a JAG, grant that HPD approved and received.

The Washington County Sheriff's Office and the Hagerstown Police Department received funding for crime reduction initiatives/efforts under the Local Edward Byrne Memorial Justice Assistance (JAG) Grant. Due to the fact that Washington County has been certified as a disparate

jurisdiction by the Department of Justice this year, Hagerstown Police Department is required to facilitate their portion of the funding through its BJAG grant. The County and the City shall accept the amounts of \$ 12,563.00 for Washington County and \$ 21,098.00 for the City as allocated under the Local JAG award for FY 2017.

P. Approval of an Amendment to the City's Water and Wastewater Policy

Action: Councilmember L. C. Metzner made a motion to approve an amendment to the City of Hagerstown Water and Wastewater Policy. This amendment adds a tenth exception for connection of City water to essential public services provided by a government body. Under this exception, the County Commissioners or other affected government agency must provide a recommendation for award of the exception for an essential public service and the Utilities Director must provide a recommendation as to whether the water system can meet the average day, peak day, and fire flow requirements for each request for service. If water system upgrades are required to meet average day, peak day, and/or fire flow, all costs for upgrades will be the responsibility of the agency requesting service, as approved by the City Utilities Department. For requests outside the County-designated Urban Growth Area or outside Priority Funding Areas, the request for service must first receive approval from the administrative authority of the County Water and Sewer Plan. Councilmember S. McIntire seconded the motion.

Discussion: Councilmember Aleshire is voting against this amendment because essential public services has not been effectively defined.

Motion carried 4-1, with Councilmember K. B. Aleshire voting No.

Q. Approval of Mayor and City Council Goals and Priorities for 2018 through 2020

Action: On a motion duly made by Councilmember E. Keller and seconded by Councilmember S. McIntire, the Mayor and City Council unanimously agreed by voice vote to approve the Goals and Priorities for 2018 through 2020 as included in the packet material. The Goals and Priorities outline the Mayor and Council's Vision and Mission for Hagerstown along with the Goals and Objectives that will guide the City's current and future focus and work plan through this administration. The Goals and Priorities will be reviewed on a regular basis and possibly updated by consensus of the Mayor and City Council.

R. Approval of a Motion to Renew City-Wide Mowing Contract: 3/15/19 – 12/15/19

Action: On a motion duly made by Councilmember K. B. Aleshire and seconded by Councilmember E. Keller, the Mayor and City Council unanimously

agreed by voice vote to authorize and approve the renewal of the City-Wide Mowing Contract for the contract term of March 15, 2019 through December 15, 2019. This is year one (1) of two (2) optional one-year renewals. The total contract amount is \$ 111,057.40.

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 8:51 p.m.

Respectfully submitted,

Original signed by D. K. Spickler

Donna K. Spickler
City Clerk

Approved: December 18, 2018