

WORK SESSION AND EXECUTIVE SESSION – JULY 10, 2012

WORK SESSION – July 10, 2012

Mayor R. E. Bruchey, II called this Work Session and Executive Session of the Mayor and City Council to order at 4:05 p.m., Tuesday, July 10, 2012, in the Council Chamber at City Hall. Present with the Mayor were Councilmembers W. M. Breichner, M. E. Brubaker, F. W. Easton, A. C. Haywood; City Administrator Bruce Zimmerman, and City Clerk D. K. Spickler. Councilmember L. C. Metzner was not present.

COPS Hiring Grant

Chief Arthur Smith and Captain Mark Holtzman were present.

Chief Smith reported the City has been awarded the Justice Department's COPS hiring grant. This grant provides for the hiring of five police officers and pays the majority of their salary and benefits for three years. The grant is for \$ 625,000. The City would be responsible for the remainder of the officers cost for three years and for salary and benefits for the 12 month retention period which follows the three year grant cycle. The City costs are estimated at \$ 370,000. This cost would mostly be incurred in the fourth year of the grant.

This grant may not be used to pay for police officer positions which are currently funded in this budget cycle but will enable the department to restore funding for five of the seven unfunded sworn positions. There is no additional requirement to maintain any level of staffing beyond what the City would have done absent this grant.

Chief Smith noted that hiring will be limited to post 9-11 veterans. Timing will depend on the location of an entrance-level academy for these recruits.

Chief Smith reported accepting this grant would not prevent the Department from holding vacancies if necessary due to future budget constraints.

This grant will provide a wider hiring base for new police officers. The grant will not cover training through a police academy. The first academy opportunity for the new officers will be in January, 2013.

This was a competitive grant and Hagerstown was the only city in Maryland to receive an award this year. It was the general consensus to include acceptance of the grant on the July 24, 2012 Regular Session agenda.

Councilmember Brubaker asked if productivity savings were occurring with the installation of the speed cameras. Chief Smith reminded the Council the department is already holding several vacant positions. The speed cameras will help productivity by reducing the amount of time the department spends responding to speed complaints.

Mayor Bruchey stated the cameras are calibrated twice per day. Captain Holtzman stated a certificate from both reviewing officers is included in each daily packet.

East First Street Rezoning, ZM-2012-01

Alex Rohrbaugh, Planner, stated the purpose of this discussion is to review public input received during the June 19, 2012 Public Hearing for the proposed East First Street rezonings and determine intended action on the rezoning requests. The applicants are requesting a rezoning from R1 (Residential) to IG (Industrial General) for Area 1 and a rezoning from R1 (Residential) to POM (Professional Office Mixed) for Area 2.

During the Public Hearing, Mr. Frederick of Frederick Seibert & Associates, Inc., who represented one of the applicants, explained the applicants' request for rezoning based on mistake in the existing R1 zoning classification for both Areas 1 and 2. Mr. Sneckenberger from Hagerstown Block Company (one of the applicants) also provided testimony concerning the history of the two sites. No one testified in opposition to the rezoning.

The public record was held open for 10 days following the Public Hearing and closed on June 29, 2012. During that time, staff received an e-mail from a property owner (Mrs. Humphries) adjacent to Area 2 on Kenwood Drive. The e-mail from Mrs. Humphries states that following the Public Hearing, Mr. Sneckenberger met with four adjacent property owners in the Kenwood area to hear their specific concerns. In addition she talked with Mr. Sneckenberger about the possibility of installing a fence between her property on Kenwood Drive and 645 E First Street so as to alleviate any concerns over future uses in the building. While the e-mail does not specifically request the City impose such conditions on the rezoning, it is not possible under State law to impose conditions on piecemeal rezonings in general.

The applicants are requesting the rezonings on the argument that there was a mistake in the existing zoning classification because the City did not consider the fact that these properties were used non-residentially or whether the existing zoning was appropriate, and as a result these areas were inadvertently overlooked on the Future Land Use Map of the 2008 Comprehensive Plan, and subsequently, the Comprehensive Rezoning.

At its May 9, 2012 meeting, the Planning Commission found in favor of the applicant's arguments for mistake in the existing zoning classifications for both Areas 1 & 2 and in favor of the appropriateness of the requested rezonings and; therefore, recommended approval of the rezonings.

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

2012 Comprehensive Land Management Code Revision and Multi-Family Design Standards Amendments

Kathleen Maher, Planning Director, and Stephen Bockmiller, Development Review Planner/Zoning Administrator, were present to discuss amendments to the Land

Management Code (LMC).

Mr. Bockmiller stated a Public Hearing is scheduled for July 24, 2012 on the comprehensive amendments to the LMC. The Planning Commission voted to recommend approval of this comprehensive package of amendments on June 27, 2012. Begun in 2010 as the second phase of a two-phase project, these proposals are intended to address the policies of the 2008 Comprehensive Plan and bring the several ordinances of the LMC up to current standards.

In 2008, the Mayor and City Council adopted the LMC, a larger single ordinance that consolidated the provisions of all four development-related ordinances into a single document. These were the Zoning Ordinance (which included some site design standards), Subdivision Ordinance (which also included some site design standards), the Floodplain Management Ordinance and the Forest Conservation Ordinance. This was done for the following purposes:

1. Consolidate duplicate provisions and resolve conflicting provisions of competing ordinances
2. Reorganize the document into a more user-friendly format, reducing verbiage in order to position the City competitively for development by offering clean, clear and concise development standards and an efficiently managed plan review process
3. Eliminate structural disorganization created by decades of patchwork amendments
4. Update the aging regulations and standards to meet the City's current needs
5. Implement the policies of the Comprehensive Plan
6. Review the Zoning Ordinance for ways of improving the City's competitive position with surrounding jurisdictions as related to plan review process and permitted uses within districts.

Although a few content amendments were included, this first step was intended for re-organizational purposes only and did not address updating the content of the Code.

With this new structure in place, beginning in 2009, staff and the Planning Commission revised the content on a comprehensive basis, to determine the Code's existing strengths and weaknesses, problems and performers, obsolete provisions and areas that do not need updating. This review of hundreds of pages of existing ordinances was exhaustive and resulted in scores of changes, adjustments, additions, deletions and "tweaks" in the proposed comprehensive amendments. These comprehensive revisions will balance the following two competing interests:

1. Clarify the City's processes and expectations so that developers have clear guidance on what is expected of their proposed developments and a timely review process that does not create undue delays in the plan review process.
2. Improve existing design standards to elevate the quality of development expected in order to help revitalize the City, improve the tax base, and encourage economic development while protecting the quality of life for citizens.

Mr. Bockmiller indicated this project was completed by staff. Estimates of similar projects done by consultants are between \$ 90,000 and \$ 120,000.

The amendments provide benefits to the community by enhancing quality of life and increasing economic development. Highlights of the amendments include:

1. More streamlined for ease of use
2. Simplify development review process by increasing thresholds for site plan review
3. Extend period for expiration of non-conforming uses
4. Simplified manufacturing land uses
5. Increase flexibility for re-use of old buildings
6. Updated parking provisions for theaters, auditoriums, stadiums, etc.
7. Add new land uses to zoning ordinance
8. Reduce minimum lot size requirements for schools, churches, and funeral homes
9. Add provisions for regulation of temporary uses

Councilmember Haywood asked why wineries and vineyards are included in the new land uses but breweries are not. Mr. Bockmiller indicated breweries would be treated as a restaurant in the zoning ordinance.

Mayor Bruchey asked if a microbrewery, attached to a restaurant, would be a permitted use. Kathleen Maher, Planning Director, indicated it would be allowed as an accessory use. Councilmember Haywood suggested it would be a wise decision to make as much room for a winery or brewery as possible within the Zoning Ordinance, as they are both popular businesses.

This discussion will continue at the July 17, 2012 meeting. The quality of life enhancement benefits will be discussed at that time.

Ms. Maher presented a proposal from staff on an alternative method to configure the proposed multi-family design standards in the LMC.

The Planning Commission has forwarded proposed amendments to the LMC to create improved design standards for new multi-family developments in the City. The intent is to create more attractive developments which orient buildings toward streets, screen parking from public views, contain interconnected roadway and pedestrian networks, incorporate appropriate public open space amenities for residents, and provide a better assurance of sustainability through tenant turnover.

During the Mayor and City Council's public review process, staff received written opposition from three members of the local development community over the philosophy behind the amendments and their concerns about lack of flexibility in designs.

At the June 5, 2012 Mayor and City Council meeting, staff proposed an alternative means of incorporating the new design standards into the LMC as a means of creating more flexibility for the development review process. In this alternative, the majority of

the proposed standards would be shifted from the Zoning article to the Subdivision and Land Development (SALDO) article. Most of the other existing site plan standards which had been in the zoning article are already in the SALDO through a LMC amendment a few years ago. The difference between the Zoning and SALDO location for design standards is that the Planning Commission has the capability of waiving SALDO standards during the site plan review process. If design standards are located in the Zoning article, the only deviation possible is through a variance from the Board of Zoning Appeals on only certain requirements.

Staff's proposed alternative approach to incorporate the Planning Commission's proposed design standards into the LMC was submitted for the Mayor and City Council's review. The rear yard setback would remain in the Zoning article, so that BZA approval would be required for a variance. The remainder of the design standards would be incorporated into the existing Commercial Development Design Standards in the SALDO article. Because site plan standards do not specify numerical values for minimum or maximum building setbacks, the following alternatives are proposed to accommodate the intent of the proposed amendments in the alternative LMC location for the standards:

1. The zoning article's minimum front setback in the R3 and R4 would be set at 0 feet – to allow the application of the “located near the primary public street” standard in the SALDO design standards.
2. The proposed maximum front setback of 15 and 25 feet in the zoning article would be dropped in favor of application of the “located near the primary public street” standard in the SALDO design standards.

Staff believes this proposed alternative is preferable for the following reasons:

1. It puts the site plan standards in the article of the LMC that currently contains all the other site plan standards for the standard zoning districts.
2. It provides more flexibility for designers during site plan review.
3. Clear guidance is provided to the Planning Commission and the applicant when waivers are requested and considered via the delineated statements of intent for the standards in the SALDO.
4. It meets the intent of the proposed amendments while providing the flexibility which the development community is requesting and which the Planning Commission is accustomed to utilizing during site plan review.

Councilmember Haywood stated the language should be changed to “or” if the Commission can determine that the applicant meets the intent of the ordinance.

Councilmember Brubaker stated the revisions provide more flexibility.

It was the general consensus to move forward with the Multi-Family Design Standards amendments.

Mayor Bruchey welcomed Brion Dick who was attending the meeting from Boy Scout Troop 05. He is working toward a merit badge.

FY 2013 Community Legacy Application

Kathleen Maher, Planning Director, stated staff is seeking authorization to begin the process to submit an FY 2013 application to the State's Community Legacy Program, as well as adoption of a resolution in support of the City's application. The deadline for submittal of grant applications this year is July 30, 2012.

The goal of the Community Legacy (CL) program was to provide funding to local governments and community development organizations for essential projects aimed at strengthening declining urban areas through a comprehensive approach that includes activities such as business retention and attraction, encouraging home-ownership and rehabilitation, and commercial revitalization. In 2012, the City's projects must be consistent with the goals and strategies outlined in the City's Sustainable Community Plan and the projects must be located in the City's Sustainable Community Area.

The Maryland Department of Housing and Community Development has \$ 6 million in Community Legacy funding for grant and loan awards around the State in FY 2013. While there is no matching requirement, the application needs to show that the project will leverage other funds. The average award amount is anticipated at \$ 100,000.

The City has been fortunate to receive a number of Community Legacy awards in the past for various City or City-supported downtown revitalization and housing improvement projects. The City also received companion awards totaling \$324,262 from other State programs as a part of the Community Legacy requests in FY 2002 and 2003.

Last year, the State approved a Sustainable Community Plan Area for Hagerstown. The Sustainable Community Plan replaces the Community Legacy Plan and updates the goals for the revitalization of the urban core.

The following project list meets the current priorities and is consistent with the expectation of the Maryland Department of Housing and Community Development for Community Legacy projects:

1. City Center Property Acquisition/Environ Project – Acquire a downtown property for renovation for re-occupation. The property will be disclosed when the City has secured an option on the building. CL funds would be used to renovate the façade and an interior storefront space.  
CL Request: \$ 100,000  
Match: \$ 220,000 (CDBG)  
TOTAL: \$ 320,000
  
2. City Center Façade Program for Mixed-Use Buildings – Funding program to encourage upgrades to facades of mixed-use buildings in the City Center. Proposed plan is to make a \$ 15,000 CL grant and \$ 15,000 CDBG loan available per project and to undertake four such projects within the two years of the CL award period.  
CL Request: \$ 100,000  
Match: \$ 60,000 (CDBG)  
TOTAL: \$ 120,000
  
3. Memorial Park, Phase III – This summer, the City will be undertaking

Phase I of this project to create a Memorial Park at the corner of S. Potomac Street and Memorial Boulevard. Phase I includes lighting, landscaping, fencing, paths and uncovering Marsh Run. Notification of a grant fund award has been received for Phase II, which is the “memorial plaza” feature in the park. CL grant funds would be requested for Phase III, which is the “wall of honor” feature.

CL Request: \$ 70,000

Match: \$ \_\_\_\_\_ Previously expended CDBG funds

TOTAL: \$ 70,000

It was the general consensus of the Mayor and City Council to include approval of a resolution in support of the application on the July 24, 2012 agenda.

### Partners in Economic Progress (PEP) Program Update

Christy Blake, Downtown Business Recruitment & Retention Manager, and Kathleen Maher, Planning Director, were present to provide an update on the impact of the Partners in Economic Progress (PEP) Program.

The intent of the PEP Program, as created in 2009, was to partner with developers by offering incentives to renovate buildings within the PEP Zone while also assisting with attracting business to the renovated building. The program offers incentives through various City departments including:

1. Waiver of development-related fees
2. Property tax grant-back for five years following completion of the renovation
3. Discount parking fees for building tenants for five years
4. Rent relief for upper floor commercial tenants for two years.

The PEP program is marketed at events, in networking sessions, through meetings with prospects, and via the City’s web site and Hub City 6. The PEP program is administered by the Department of Community and Economic Development and applicants are screened and approved by a City staff committee comprised of the following staff:

1. Planning Director
2. Finance Director
3. Community Development Manager
4. Code Inspections Manager

Since 2009, the PEP program has approved seven building renovation plans for the PEP incentives and provided PEP incentives to five of the buildings. In addition, the PEP program has provided Upper Floor Commercial Space Rent Relief grants to seven businesses in two of the PEP-approved buildings. As a result of the business’s partnership dissolving, one recipient chose to close their Hagerstown office after two years; and therefore the City is recapturing a portion of that business’s Upper Floor Commercial Space Rent Relief grant. All other tenant recipients are still located in the PEP-approved buildings. Three PEP-approved buildings were at tenant fit-out stage when the program was adopted in 2009 and three additional buildings approved

following adoption of the program are currently under renovation with marketing underway for tenants.

To date the program has assisted in generating the following:

1. \$ 20,280,000 in building rehabilitation investment of six projects (includes “planned” for in-progress projects)
2. \$ 4,445,600 increase in property assessment for three completed projects
3. 72,953 square feet of office space
4. 68,510 square feet of retail and restaurant space
5. 27 new jobs

To date, the City has contributed the following to the private sector:

1. \$ 78,789 in Upper Floor Commercial Rent Relief Incentive
2. \$ 9,314.86 in Economic Rehabilitation Incentive Grant (property tax grant)
3. Pending: \$ 7,766.08 in Economic Rehabilitation Incentive Grant (property tax grant) for current year

The goal of the PEP Program was to support private sector investment that contributes towards the revitalization of the downtown. To date, the program has assisted several exciting downtown development projects, but additional steps need to be taken to attract investment to the downtown. The economic development sub-committee of the Sustainable Community Work Group met a number of times last year and discussed alternative methods to reduce the risk for lenders, so that downtown developers and businesses could more easily secure loans to make projects feasible. Staff will continue to explore these ideas with community members to widen the partnership opportunities that help to realize the goals of a revitalized downtown and report back to Mayor and City Council.

Currently, the program provides 50% matching grants to reduce annual rent payments on upper floor, non-residential space. A recommendation is being made to make office tenants on the first floor of commercial buildings eligible for 50% matching grants in circumstances where the building has a common entrance for all interior tenants and/or the space does not have display windows for the interior space.

Staff is looking at possibilities for future funding of the program. Community Legacy funds are not eligible for enhancing the PEP program.

Councilmember Brubaker asked how this program is marketed. Ms. Blake indicated staff has canvassed in other communities providing this information. Residents are also made aware of the program.

Mayor Bruchey asked if the video presented during this meeting is aired on Channel 6. Ms. Blake stated the presentation is new and was created for this meeting. It can and will be aired.

Councilmember Haywood stated staff should keep track of how many people view the video on the City’s website.

The Mayor and City Council thanked staff for the good presentation.

### City-wide Neighborhood Investment

Jonathan Kerns, Community Development Manager, was present to review and highlight the City-wide projects, programs, and initiatives that have been and are being implemented throughout the City.

The City strives to be the location of choice for a diverse and dynamic citizenry. In order to achieve this vision, multiple City Departments carry out projects, programs, and initiatives that invest in neighborhoods. These efforts demonstrate a solid commitment to developing a proud and prosperous community through neighborhood investment.

#### Capital Improvements:

1. Street Improvements – Overlay and Paving
2. Handicap Accessibility for sidewalks
3. New Sidewalk Installation
4. Crosswalk Safety and Intersection Improvements
5. Traffic Island Beautification
6. Tree Planting
7. South Prospect Streetscape Improvements
8. Neighborhoods 1<sup>st</sup> Traffic Solutions – these projects have created traffic calming solutions on Summit Avenue, resolved sight distance for Henry Avenue and Park Lane and prevented tractor trailers from using South Prospect Street

#### Recreation and Parks:

1. Bicycle Lanes and Bicycle Routes
2. Memorial Park – new park at the intersection of Memorial Boulevard and S. Potomac Street
3. Margaret Greenawalt Park – new pocket park at the intersection of N. Locust Street and East Avenue
4. Hellane Park Walkway Improvements
5. Potterfield Pool Improvements
6. Greens at Hamilton Run Clubhouse Renovation
7. Mills Park Hiking/Biking Trail

#### Public and Neighborhood Services

1. Girls Inc. Kids Café
2. Community Free Clinic
3. Children in Need
4. Community Action Council Summer Camp Meals Program
5. Senior Living Alternatives
6. Neighborhoods 1<sup>st</sup> Activities
7. Homeowner Rehabilitation Programs
8. Homebuyer Assistance

#### Economic Development

1. Small Business Center Phase I and Phase II – located at 60 W. Washington Street. Think ReInk opened in August, 2011.
2. Artist Lofts and Gallery at 36-40 N. Potomac Street - façade renovations nearly complete, interior work scheduled to begin in 2012
3. Business Revolving Loan Fund
4. Partners in Economic Progress Program
5. Minority and Women-Owned Business Program

#### Public Safety

1. Data Driven Traffic Enforcement (DDACTS) – use of historical data for certain crimes and traffic accidents with injury to develop specific neighborhood in which to focus highly visible traffic enforcement to reduce crime and disorder.
2. Crime Free Multi-Unit Housing Program – program intended to gain the cooperation of landlords and property managers to use methods to reduce crime in their rental units.
3. Speed Camera in School Zones – traffic calming measures at schools
4. Hagerstown Fire Department Free Smoke Alarms

Mr. Zimmerman stated this is a good summary of the programs that have been made possible with the resources provided by the Mayor and City Council during the last three years. These programs make the City better.

Councilmember Brubaker pointed out these programs/projects are taking place despite significant revenue setbacks. Hagerstown has developed a way to move forward even in difficult economic times.

Mayor Bruchey thanked the citizens for participating in these programs.

#### 60 W. Washington Street – Renovation Update and Required Utility Work

Jonathan Kerns, Community Development Manager, provided an update on the building renovations at 60 West Washington Street and reviewed the need to upgrade the water service to the building.

The renovation work at 60 West Washington Street is progressing well. The interior demolition, the rough openings to the plaza and the interior framing is complete. Additionally, the sprinkler system is designed and requires an upgrade to the water service. Staff have developed a plan to complete the water service upgrade while controlling expenses and meeting the tight time line for the completion of the project.

Staff proposes that the Utility Department complete the required upgrade to the water service. The materials and labor for the work would be paid for from the Economic Re-development Fund over the course of three years. Staff have reviewed the fund balance and sufficient funds are available for this use.

The Utility Department has estimated the cost of the upgrade to be approximately

\$ 33,000. This includes all labor and materials for the upgrade and the required repairs to the street and sidewalk.

Mr. Kerns stated a change order is expected for work for a new tenant within the next week.

It was the general consensus of the Mayor and City Council to approve the plan for the water line, including the three year repayment to the Economic Re-development Fund.

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

*Bruce Zimmerman, City Administrator*, had no additional comments.

### **MAYOR AND COUNCIL COMMENTS**

*Councilmember M. E. Brubaker* attended the MML Conference in June. He discussed budget, transportation, the environment and specific issues with State officials during the conference. The MML Fall Conference will be held in Hagerstown in October, 2012.

*Councilmember W. M. Breichner* had no additional comments.

*Councilmember A. C. Haywood* thanked everyone who organized the Fireworks at Fairgrounds Park event. It was well attended and enjoyable.

*Councilmember F. W. Easton* thanked staff for the presentations during the meeting. There are a lot of positive things happening in Hagerstown. Many small things add up to a better community. The second annual Bike Night was a good event. He thanked everyone involved.

*Mayor R. E. Bruchey, II* thanked everyone for their efforts with the fireworks event and Bike Week. He is looking forward to increases in the PEP program, which will help revitalization.

### **EXECUTIVE SESSION – July 10, 2012**

On a motion duly made by Councilmember A. C. Haywood and seconded by Councilmember F. W. Easton, the Mayor and City Council unanimously agreed by voice vote of all members present to meet in closed session to discuss the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal,

resignation or performance evaluation of appointees, employees, or officials over whom it has jurisdiction, #1 (Section 10-508(a) 1 (i)), to consider a matter that concerns the proposal for a business or industrial organization to locate, expand, or remain in the State, #4 (Section 10-508(a) 4) and to consult with counsel to obtain legal advice, #7 (Section 10-508(a) 7) at 6:06 p.m. in the Council Chamber, 2<sup>nd</sup> Floor, City Hall, Hagerstown, Maryland. The following people were in attendance: Mayor R. E. Bruchey, II, Councilmember W. M. Breichner, Councilmember M. E. Brubaker, Councilmember F. W. Easton, Councilmember A. C. Haywood, City Administrator Bruce Zimmerman, John Lestitian, Director of Department of Community and Economic Development, Michelle Burkner, Director of Finance, Christy Blake, Downtown Business Recruitment & Retention Manager, Jonathan Kerns, Community Development Manager and Donna K.

Spickler, City Clerk. The meeting was held to discuss various personnel matters, acquisition of a downtown property and a substantial private investment in the downtown area. No formal action was taken at the meeting. On a motion duly made, seconded and passed, the meeting was adjourned at 7:21 p.m.

Respectfully submitted,

Donna K. Spickler, City Clerk

Approved: August 28, 2012