

WORK SESSION AND EXECUTIVE SESSION – AUGUST 7, 2012

EXECUTIVE SESSION – August 7, 2012

On a motion duly made by Councilmember A. C. Haywood and seconded by Councilmember M. E. Brubaker, the Mayor and City Council unanimously agreed by voice vote to meet in closed session to consider a matter that concerns the proposal for a business or industrial organization to locate, expand, or remain in the State, #4 (Section 10-508(a) 4) and to consult with counsel to obtain legal advice, #7 (Section 10-508(a) 7) at 3:04 p.m. in the Council Chamber, 2nd 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 A. C. Haywood, Councilmember L. C. Metzner, City Administrator Bruce Zimmerman, City Attorney Mark Boyer, Rodney Tissue, City Engineer, John Lestitian, Director of Department of Community and Economic Development, Jill Estavillo, Economic Development Manager, Michelle Burkner, Director of Finance, Hagerstown Suns representatives Bruce Quinn, Bill Farley and Lew Gordon, and Donna K. Spickler, City Clerk. The meeting was held to discuss lease agreement terms for the Hagerstown Suns. No formal action was taken at the meeting. On a motion duly made, seconded and passed, the meeting was adjourned at 4:22 p.m.

WORK SESSION – August 7, 2012

Mayor R. E. Bruchey, II called this Work Session and Executive Session of the Mayor and City Council to order at 4:34 p.m., Tuesday, August 7, 2012, in the Council Chamber at City Hall. Present with the Mayor were Councilmembers W. M. Breichner, M. E. Brubaker, A. C. Haywood, L. C. Metzner; City Administrator Bruce Zimmerman, City Attorney John Urner and City Clerk D. K. Spickler. Councilmember F. W. Easton was not present.

Kiwanis Park Concept Plan

Rodney Tissue, City Engineer, and Fred Nugent, Kiwanis Club, discussed the plans for Kiwanis Park. The City's 2008 Comprehensive Plan suggests that the City develop public access to the Antietam Creek for recreational purposes. In addition, the City's recently adopted Strategic Plan suggests the development of "...additional recreational use along the Antietam Creek...". To address these issues, staff is suggesting the creation of a park that would provide access to the Antietam Creek while providing amenities that compliments those in other city parks.

In 2008, the developers of the Light Business Park, JBD, LLC (David Lyles and others) generously worked with the City staff and members of the Kiwanis Club to set aside an area of the new Light Business Park for a future public recreational area. It is staff understanding that the Business Park owners are willing to donate a portion of the business park land for the creation of a public park along Antietam Creek. The Kiwanis Club was instrumental in acquiring this donation and they would like to continue their involvement with the park going forward.

A concept plan had been provided to the Mayor and City Council for their review. The concept was developed by a team of Kiwanis members, City staff, landscape architect and coordinated with the developer's consultant. The plan envisions a park of 4.66 acres with over 300 lineal feet of frontage on the Antietam Creek. The park would be accessed from Eastern Boulevard via Imperial Drive to Dynasty Drive. Some of the features are as follows:

1. Kayak/canoe launch areas
2. Entrance sign and gate
3. Walking path with interpretive signs
4. Possible Creek overlook/picnic area

Status of the ruins of the stone house is being discussed and the decision may be driven in part by the requirements of any potential funding agencies.

The approved City Budget for FY 12/13 includes funding for this project. Excise Tax funds, in the amount of \$ 20,000.00, are earmarked for the initial development of the park. Staff would seek State Department of Natural Resource grants for the canoe launch and interpretive signs.

Mr. Nugent stated the park will be unique, and, it will be an asset for the City. Kiwanis members have been waiting to discuss this idea with the Mayor and City Council for many years. The Kiwanis will provide \$ 3,500.00 for the cost of the sign. Members will provide quarterly clean ups at the park, as well as some limited daily maintenance.

Councilmember Haywood stated this location has been identified by the Antietam Watershed as part of a proposed Antietam Creek Water Trail.

Councilmember Brubaker stated this is an excellent project. This was discussed with the Planning Commission when the business park was being developed. He asked about security at this location. Mr. Tissue indicated the park will be gated. Lighting at the businesses will also provide some security. Mr. Tissue stated a blue emergency phone could be installed but this is not included in the budget.

It was the general consensus of the Mayor and City Council to move forward with this project. They thanked the members of the Kiwanis Club for their efforts and hard work. They also thanked Dave Lyles for donating the land.

Public Facilities Bond of 2012

Michelle Burkner, Director of Finance, discussed a Public Facilities Bond of 2012 with the Mayor and City Council.

The anticipated total amount to be issued for the Public Facilities Bond of 2012 is \$ 9,087,000. A summary by fund is listed below:

General Fund	\$ 5,397,000
Parking Fund	\$ 100,000
Water Fund	\$ 2,245,000

Wastewater Fund \$ 1,345,000

A complete project list was submitted for review. The project listing reflects amounts identified in the FY 2012/13 budget document as needing bond proceeds as a source of funding. Included in the General Fund total bond request is \$ 4.42 million for the Multi-Use Sports and Events Center (MUSEC) facility. This amount represents the locally funded portion and is needed for property acquisition, facility design, and site preparation. Additional amounts include \$ 250,000 toward the demolition, site work and purchase of the old MELP property, \$ 296,000 which represents a 50% down payment for the replacement of Engine 1 Fire Truck, and \$ 431,000 for other projects and emergency repair needs. Included in the Parking Fund request is \$ 100,000 for structural rehabilitation and caulking at the North Potomac Street Deck.

The Water Fund includes \$1.17 million for the continuation of the meter replacement program, \$ 415,000 to begin upgrading the Breichner Plant SCADA, \$ 350,000 for the continued replacement of Distribution System infrastructure, and \$ 310,000 for other equipment replacements. The Wastewater Fund includes \$ 580,000 for vehicle and equipment replacements that have been deferred for 3 years, and the remaining \$ 765,000 is for other infrastructure and equipment replacements, repairs or upgrades.

Staff would recommend that this issuance be a General Obligation of the City, backed by its full faith and credit to obtain lower interest rates. Amounts needed for the Parking, Water and Wastewater Funds would be fully paid for by users of those systems. The City has made prudent use of its debt and has adequate capacity to issue new debt while staying well within credit industry benchmarks. Currently, the City is rated Aa3 with Moody's and AA- with Standard & Poor's and both are strong ratings.

Staff is requesting permission to proceed with the bond issue, beginning with introduction of the enabling bond ordinance on August 28, 2012. Adoption of the ordinance would be tentatively scheduled for September 11, 2012. Mayor and Council approval of the bond resolution, which outlines the details of the bond sale, would occur after adoption of the ordinance.

Mayor Bruchey clarified that the fire vehicle purchase would be a 50/50 split with the volunteer fire company.

Councilmember Brubaker stated the Mayor and Council could decide to change to requested amount between the introduction of the ordinance and adoption of the ordinance. He stated this bond issue supports projects they approved when they adopted the budget in May, 2012.

It was the general consensus to include introduction of the enabling ordinance on the August 28, 2012 agenda.

Investment Policy – Revised

This item was rescheduled for August 21, 2012.

Police Officer Recruitment and Retention

Chief Arthur Smith, Captain Mark Holtzman and Karen Paulson, Director of Human Resources, discussed police officer recruitment and retention incentives.

Currently, the City of Hagerstown Police Department has 5 vacancies in funded positions for sworn personnel. In addition to these vacancies, HPD will be hiring 5 additional officers with military veteran status under the COPS grant to fill five of the seven positions that are unfunded in the current budget. With several more vacancies expected to become available through retirements in the next few months, maintaining appropriate staffing levels will become a challenge. The average time to fully train an officer is approximately one year. Turnover in this department is costly, negatively affects operations, and increases overtime and training expense. The demand for qualified officers has increased nationwide and it is vital that Hagerstown remain competitive to attract diverse and qualified candidates. The current union contract is in effect until June 30, 2013, and the following recommendations are in compliance with the provisions of the contract language. All of the recommendations would be funded by school zone enforcement funds.

Staff recommendations for recruitment and retention are as follows:

1. Expand the current \$ 5,000 hiring incentive to include new hires that are hired under the COPS grant. The current incentive applies to currently certified Officers in Maryland.
2. Increase employee referral bonus from \$ 500 to \$ 1,500 to current employees if they refer and the City hires a police officer candidate who is currently certified or hired under the COPS grant.
3. Offer a housing allowance of \$ 100/month for sworn officers who reside within Hagerstown's city limits. In addition to the housing allowance, police who reside within city limits are able to utilize a take home vehicle.
4. Initiate a \$ 1,000 bilingual bonus. This would be a one-time payment at the time of hire. The population is becoming more diverse, and it is vital to increase the department's internal diversity to effectively serve the population.
5. Military Service Credit: With the Police and Fire Retirement committee's recommendation, staff will be presenting an ordinance to the Mayor and City Council to amend the Police and Fire Retirement Plan to include Military Service Credit. This recommended change is applicable to eligible Police and Fire personnel. The current plan for Police Officers and Firefighters hired after June 30, 1998 excludes this benefit. Staff will be recommending up to three years credit. This credit will enhance the benefit calculation by allowing up to three years credit, but will not change eligibility requirements to retire. Adding the military service credit to the Police and Fire Retirement Plan would cost the plan approximately \$ 15,000.
6. Create a Cadet Program and Expand Auxiliary Police – Beginning as early as October 1, 2012, six cadets would be selected to begin walking in the downtown and serving other roles in the police department. The cadets would receive up to \$ 1,500 per semester for college tuition while

working a minimum number of hours as part-time employees through the Auxiliary Police program. By January 1, 2013, additional Auxiliary Police officers could also be hired to expand the hours of operation to 12 hours per day/7 days per week.

Estimated costs for all the incentives are \$ 106,811.00.

Councilmember Brubaker supports these programs. It is a good way to get young people involved and engaged in the community. He suggested the amount for tuition be given based on the number of credits per semester.

Councilmember Haywood recommended increasing the housing allowance. She stated she believes this should be provided for any city employee who lives in the city.

Chief Smith indicated applicants are very interested in the housing allowance.

It was the general consensus to move forward with implementing these incentives, with additional information on costs of increasing the housing allowance.

Update on Historic District Commission Activities

Kathleen Maher, Planning Director, and John Lestitian, Director, Department of Community and Economic Development, were present to discuss the following update on Historic District Commission activities.

Planning staff provided training to the three new Commission members in advance of their first HDC meeting. Certificates of Appreciation will be presented to the three members who were not reappointed. David Pembroke resigned, citing work conflicts. Staff has begun the process to seek additional applicants for the two remaining vacancies on the commission. Mike Gehr is the new chairman and Vickie Hrabal is the new vice-chairman.

All of the properties in the historic districts received a historic resource classification when the National Register historic district nominations were prepared for the four local districts. This system was created to assist in determining relative importance of historic resources when reviewing capital projects that would alter or remove the buildings. While the Maryland Historical Trust no longer uses this system, the HDC continues to use this system as an aid during reviews of major alterations or demolitions.

Staff believe the existing classifications for the downtown buildings may be out of date for some buildings, because the classifications were assigned six years before historic design review began and 22 years before the HDC reviewed work which did not require a building permit. As a result of these two factors, some of the buildings may have been altered to the extent that their current classification is no longer accurate. More accurate classifications would be of assistance to the HDC as they review projects in the future. An estimate was received from an architectural historian to update the classifications on the approximately 200 resources in the Downtown historic district. Staff believes it would be prudent to move forward with that project.

The Certificate of Hardship process in the City ordinance is for projects which propose work that are denied a Certificate of Appropriateness from a strictly historic preservation standpoint, but which may be considered for approval from a hardship standpoint. In the City's ordinance, there are three types of "hardship" scenarios that can be considered: 1) modification or denial of the proposal will cause undue financial hardship to the owner; 2) modification or denial would be a deterrent to a major improvement program which will be of substantial benefit to the city; or 3) modification or denial will not be in the best interests of a majority of the persons in the community. The last two scenarios are generally referred to as the "public benefit hardship".

Last year, a committee of HDC and staff members worked on a draft to amend the Historic Districts and Landmarks section of the Land Management Code to provide more detail on how the "public benefit hardship" procedure would work if such a project was brought forward. At present, it would be up to the HDC to determine if something would create a "public benefit" of enough significance to overcome the "appropriateness" considerations. Determining whether a project is creating "public benefit" is an awkward consideration for the HDC and staff were exploring an alternative process that would have the "public benefit" test being undertaken by the Mayor and City Council. The exact nature of the "test" was to be drafted with input from Economic Development staff. Since State law requires final action on historic district matters to be made by the HDC, staff's idea was to have the Mayor and City Council's decision on the "public benefit" test be transmitted to the HDC as a recommendation for approval or denial of the Certificate of Hardship application. The plan is to reconvene the HDC/staff committee to continue work on this issue. Any recommended change from the HDC would be forwarded to the Planning Commission for the normal text amendment process.

Councilmember Metzner asked for clarification that the Mayor and City Council makes the determination if there is a public benefit of the work and the HDC votes on the determination. Ms. Maher indicated State law does not allow the Mayor and City Council to approve the determination, but they have the authority to make a recommendation.

A request would be reviewed by the Planning Department staff, then Economic Development staff, who would bring it to the Mayor and City Council for consideration. A recommendation from the Mayor and City Council would then be presented to the HDC for review and possible approval.

Councilmember Brubaker asked if the request is reviewed by the Planning Commission.

Ms. Maher stated the current regulations require the project to fail the certificate of hardship. Revised language proposed the request be immediately considered a hardship. There is a list of hardship reasons.

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

Stephen Bockmiller, Development Review Planner/Zoning Administrator, was present for additional discussion of the Land Management Code (LMC) revisions.

A public hearing was held on July 24, 2012. During the hearing Sharon Sheeley requested that Article 4 (Zoning) permit hair care establishments in the R-4 Zoning District, subject to limitations on maximum floor area, location on collector roads and only in multi-unit buildings. Ms. Sheeley desires to open a pet grooming establishment on North Potomac Street. As the Ordinance is written and interpreted, pet grooming businesses are treated the same as barber and beauty shops. Staff recommends approval as a special exception use subject to the following conditions: 1) a limit of 1,000 square feet of floor area for the use, 2) the property be located on a Collector Street (or higher) as shown on the Transportation Map of the Comprehensive Plan, 3) permitted only in a multi-unit building and 4) a plan for signage be approved by the Board of Zoning Appeals as part of the special exception.

Kathy Parkinson (also during the Public Hearing) expressed concern with a variety of proposed amendments, driven by her frustration with an industrial use on a property near her home. The existing draft proposes increasing the required buffer when an industrially zoned property is adjacent to a residential district. In Ms. Parkinson's case, this did not and would not apply, as there is an intervening 90-foot wide industrially zoned property between her property and the industrial property in question. Staff notes that Mrs. Parkinson's concerns draws attention to the following provisions of the draft:

1. A new category of use is proposed: "Rail Transportation Facilities with Outdoor Storage but Without On-Site Processing". The Mayor and Council may wish to discuss removing this use as one that is permitted in the IR district and leaving it as only permitted in the IG District.
2. The land use chart permits (and does not propose to change) "warehousing and storage" in the industrial zoning districts. Mayor and Council may want to consider limiting storage in the IR Zoning District to indoor storage only, but weigh the potential for unintended consequences of such a provision.
3. The industrial performance standards specifically do not address noise. Staff believes that the omission of noise from so inclusive a list of impacts as appears in the Industrial Performance Standards had to be intentional and was intended to be addressed through the noise ordinance. While not in the purview of Planning and Code Administration, the City might consider reviewing and updating the Noise Ordinance to address such issues.
4. The draft proposes to remove the final sentence in g(1) on page 4-57, which requires materials or wastes stored on site to be enclosed or covered. This is a provision of the Ordinance that appears never to have been applied, and was identified for removal. There are numerous businesses throughout the City that no one debates are good to be part of the business community, however do not comply with this requirement. Unintended consequences should be considered if this is to be retained or modified.

A correspondence was received from Mr. Paul Corderman, owner of the former Corderman's Hardware building on West Washington Street, in support of the provision

to extend the expiration period on nonconforming uses from one year to two years.

In response to Councilmember Breichner's concern about the vagueness of the concept of "long term" in dealing with the storage and use of aging semi-trailers for commercial storage, staff suggest the best way to address this is to craft an exception with a time limitation.

Councilmember Metzner asked to discuss the ongoing zoning violation at the property mentioned by Mrs. Parkinson. Mr. Bockmiller stated two violations are occurring – one for operating a scrap yard and another for making changes without site plan approval. Councilmember Metzner stated he understands the violation has been occurring for two years. Mr. Bockmiller stated the original proposed use is very different from the use that is occurring. Staff is in the process of obtaining compliance with the LMC regulations from the business.

Councilmember Metzner stated he understands the Board of Zoning Appeals will not grant standing to a scrap metal competitor to file an appeal. Mr. Bockmiller indicated the Board of Zoning Appeals reviewed the case, even though there was an appeal.

Kathleen Maher, Planning Director, explained that a violator receives a notice of the violation and they have a specified time to correct the situation. Staff is now making weekly site inspections and a cease and desist order will soon be issued.

Councilmember Metzner expressed his concern that the use would still be permitted to occur if Mrs. Parkinson had not come to the Mayor and City Council.

Mayor Bruchey stated there is no doubt Mrs. Parkinson has suffered with this nuisance for some time. He wondered why she did not come to the Mayor and Council sooner. Councilmember Metzner and Councilmember Haywood stated she had approached the Board of Zoning Appeals.

Councilmember Brubaker asked how weekly inspections would catch the sporadic violations. Mr. Bockmiller stated the inspection looks at the associated general use, general site condition and the amount of noise being created.

Councilmember Haywood asked what business classification is listed on this company's business license. Ms. Maher stated the business license is issued by the Clerk of the Circuit Court. She stated the zoning concern is for how a particular property is being used.

Councilmember Metzner pointed out there are other industrial uses in the general area of this business that generate no complaints from the surrounding residents. He expressed his concern that this has been allowed to continue for an extensive amount of time.

Councilmember Brubaker asked that staff pursue this issue vigorously and ensure all ordinances are followed. Mr. Bockmiller stated the basic operation of a permitted use would be trucks entering the site to dump pre-sorted materials and then transferred to

train cars.

The proposed amendments will be discussed again on August 14, 2012.

Change Order 60 West Washington Street – Phase II Renovations

Jonathan Kerns, Community Development Manager, stated staff previously notified the Mayor and City Council that a change order was anticipated for the partition walls and incidental electric in the rear anchor tenant area at 60 West Washington Street. The architect has now completed the design work based on information provided by the University System of Maryland – Hagerstown (USHM)

The area was originally envisioned as three classrooms. The new design includes three classrooms and three offices contained within the original specified area. This is consistent with the proposed lease. The changes from the original design necessitate considerable alterations to the contracted fire suppression and the HVAC systems.

Milton Stamper Builders is preparing a change order which will require Mayor and Council approval. Staff are working with the contractor to finalize the dollar amount of the change order. The estimate is near \$ 100,000.00. The cost of the work will be funded by the Community Development Block Grant. The change order will be funded by unused CDBG funding.

Councilmember Brubaker stated this is a change in specifications and is a major overrun. He asked if USMH would be willing to provide funding for this significant change. Mr. Kerns stated staff has asked USMH to act in good faith with a cost sharing arrangement.

Mr. Zimmerman indicated staff would like to keep moving forward with the work and return to the Mayor and City Council for approval next week. If the change order information is not acceptable, the project will have to be reviewed.

Mayor Bruchey asked if the work could be completed by the first day of classes. Mr. Kerns stated they are trying to meet that deadline.

It was the general consensus to keep approval of the change order on the agenda for August 28, 2012.

CITY ADMINISTRATOR'S COMMENTS

Bruce Zimmerman, City Administrator, reminded everyone the Krumpke Donut 5K will be held on August 10, 2012 at 7:30 p.m. Proceeds benefit the Wounded Warriors program

MAYOR AND COUNCIL COMMENTS

Councilmember M. E. Brubaker met with several State officials yesterday and was able to discuss the stadium and other economic issues in Washington County with them.

Councilmember W. M. Breichner had no additional comments.

Councilmember L. C. Metzner had no additional comments.

Councilmember A. C. Haywood had no additional comments.

Mayor R. E. Bruchey, II encouraged everyone to attend National Night Out, which is being held at Fairgrounds Parks at 7:00 p.m. this evening.

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 6:14 p.m.

Respectfully submitted,

Donna K. Spickler, City Clerk

Approved: September 25, 2012