

76<sup>TH</sup> SPECIAL SESSION, WORK SESSION AND EXECUTIVE SESSION – AUGUST 14, 2012

EXECUTIVE SESSION – August 14, 2012

On a motion duly made by Councilmember W. M. Breichner and seconded by Councilmember A. C. Haywood, 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 Room 407, 4<sup>th</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, Councilmember L. C. Metzner, City Administrator Bruce Zimmerman, City Attorney Mark Boyer, Jill Estavillo, Economic Development Manager, Rodney Tissue, City Engineer, Gary McGuigen, Maryland Stadium Authority, Bruce Quinn, Bill Farley, Eric Krupa, and Doug Harris, Hagerstown Suns, and Donna K. Spickler, City Clerk. The meeting was held to discuss a lease with the Hagerstown Suns. No formal action was taken at the meeting. On a motion duly made, seconded and passed, the meeting was adjourned at 5:06 p.m.

76<sup>TH</sup> SPECIAL SESSION – August 14, 2012

Mayor R. E. Bruchey, II called this 76<sup>th</sup> Special Session, Work Session and Executive Session of the Mayor and City Council to order at 5:10 p.m., Tuesday, August 14, 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, L. C. Metzner; City Administrator Bruce Zimmerman, City Attorney William Nairn, City Attorney Mark Boyer, and City Clerk D. K. Spickler.

On a motion duly made by Councilmember W. M. Breichner and seconded by Councilmember M. E. Brubaker, the Mayor and City Council unanimously agreed by voice vote to meet in Special Session at 5:10 p.m.

**Introduction of an Ordinance: Determining Property No Longer Needed for Public Purpose and Authorizing Transfer of the Same – Property Generally Known as Unilever Wastewater Pretreatment Plant**

**Action:** On a motion duly made by Councilmember W. M. Breichner and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to introduce an ordinance making a determination that 1.4 acres on the north side of Kenly Avenue in Hagerstown, Maryland, known generally as the Unilever Wastewater Pretreatment Plant, is no longer needed for a public purpose. It is in the best interest of the City to transfer the property to Unilever Manufacturing (US), Inc. who currently uses the wastewater pretreatment plant for their adjoining facility.

On a motion duly made, seconded and passed, the special session was closed at 5:12 p.m.

WORK SESSION – August 14, 2012

Lease Agreement – United States General Services Administration

Jonathan Kerns, Community Development Manager, presented a proposed lease agreement with the U.S. General Services Administration to the Mayor and City Council for consideration. The lease is for office space in the Elizabeth Hager Center, located at 14 N. Potomac Street, Suite 200B-Room S9. It is currently occupied by SCORE.

Key terms and conditions of the proposed lease include:

1. Lease to be effective through January 31, 2020
2. Annual rent of \$ 2,333.59 (\$ 194.47 monthly) for 322 usable square feet of office space

It was the general consensus to move forward with the lease as presented.

City Attorney William Nairn left the meeting.

State Sprinkler Code and Local Recommendation

Blaine Mowen, Chief Building Plan Reviewer, and Gary Lambert, Programs Manager, were present to review Building Code Update options regarding residential sprinklers.

Staff has been reviewing the 2012 International Codes for adoption as the City of Hagerstown Building Code. Residential fire sprinkler systems are contained in the 2012 International Residential Code.

On May 2, 2012, the Governor approved HB366/SB602, “Prohibiting a local jurisdiction, with specified exceptions, from adopting local amendments to the Maryland Building Performance Standards if the local amendments weaken specified automatic fire sprinkler systems provisions contained in the Standards.” The new requirement includes all residential dwelling types in regulations for sprinklers. The City currently exempts single-family detached dwellings.

During the review process, information was received from the Maryland Department of Housing and Community Development providing an interpretation of the residential automatic fire sprinkler requirement of the Maryland Building Performance Standards as it relates to HB 366/SB 602, which stated if the City adopted amendments prior to October 1, 2012, the existing exemption for single-family detached dwellings could remain in effect until January 1, 2016. The State sprinkler requirement will become effective January 1, 2016, with no exemptions permitted.

The two options (either of which requires amending the Building Code) are:

1. Keep the current residential sprinkler language as previously adopted by

the Mayor and City Council as an amendment to the 2012 International Residential Code. The current amendment exempts single-family detached dwellings along with additions and alterations to existing buildings not already provided with an automatic residential fire sprinkler system. These exemptions would be effective until January 1, 2016. At that time, State Law would require the City to include single-family detached dwellings in requirements for sprinklers.

2. Change the current residential sprinkler language as previously adopted by this Council to include: (1) the exemption for single-family detached dwellings, alterations and additions to existing buildings not already provided with an automatic fire sprinkler system; and (2) two-family dwelling unit lots served by an existing water line from a water main to the meter pit that is less than 1 inch in nominal size and was installed before May 1, 2011. These exemptions would be effective until January 1, 2016. The second item was developed by the State.

If the Mayor and City Council still desires to exempt single-family detached dwellings from the sprinkler requirement, immediate action is necessary to meet the October 1, 2012 deadline.

It was the general consensus to proceed with Option 2 as presented. A Special Meeting will be held on August 21, 2012 to introduce an ordinance to amend the building code. Approval of the ordinance will be scheduled for August 28, 2012, in order to meet the October 1, 2012 effective date deadline.

City Attorney Mark Boyer left the meeting.

#### Recommendations for PEP Program Amendments

Christy Blake, Downtown Business Recruitment and Retention Manager, and Kathleen Maher, Planning Director, were present to discuss recommendations for PEP Program Amendments.

The goal of the Partners in Economic Progress Incentive Program (PEP) is to spark private sector investment that will contribute to the revitalizing of the City Center. In working toward this goal, the City must be in a position to offer progressive and dynamic action for the needs of the community on its path to revitalization.

Through preliminary discussions with private sector property and business owners in the City Center, staff has been working toward the development of supplemental incentives to better achieve the goals put forth by the PEP program efforts.

Staff has developed the following amendments to the PEP Program:

1. Change to Incentive #6 – Upper Floor Commercial Space Rent Relief
2. Modify the list of eligible business that may take advantage of the Upper Floor Commercial Space Rent Relief Grant
3. Provide 50% matching grants to reduce annual rent payments on first floor, non-storefront commercial spaces in PEP approved buildings.
4. Provide staff the option to work with tenants on distribution of grant relief

from two years to three years. The proposed change would extend the life of the grant for three years, on a declining basis.

Staff anticipates that within the current budget, a total of nine more businesses each year may be assisted through the incentive program, with an expected funding requirement of approximately \$ 54,000.00. There is currently \$ 53,884.55 remaining in the PEP budget.

The proposed revisions will broaden the base of eligible businesses.

Councilmember Brubaker stated many developers and businesses are not aware of this program. Ms. Blake indicated staff has been working with the Chamber of Commerce to get the information out.

It was the general consensus of the Mayor and City Council to include approval of the amendments on the August 28, 2012 agenda.

#### Tier Designations for the Septic Bill

Kathleen Maher, Planning Director, and Alex Rohrbaugh, Planner, were present to discuss tier designations for the Septic Bill. This year, the Maryland Legislature adopted Senate Bill 236, the Sustainable Growth and Agricultural Preservation Act of 2012 (the Septic bill). The intent of the bill is to minimize adverse impacts from new development on the water quality of Maryland's rivers, streams, and estuaries and to preserve valuable farms and forest lands throughout the State. This bill affects residential development by identifying where new subdivisions must occur on public sewer, where they may occur on septic, and where certain subdivisions are prohibited on septic. According to the bill, if jurisdictions do not adopt tiers they will not be permitted to approve major subdivisions.

In order to be in compliance, the following tiers must be designated as appropriate on all lands in jurisdictions, which will then restrict how residential development can occur in those areas:

1. Tier 1 – All areas currently served by public sewer and mapped for growth
2. Tier 2 – Areas planned for growth and planned to be served by public sewer
3. Tier 3 – Areas not planned for sewer service and not dominated by farm and forest land
4. Tier 4 – Areas planned for preservation and conservation and dominated by farm and forest land

Local jurisdictions would administratively adopt tiers by October 1, 2012 and forward tier designations to the Maryland Department of Planning for comment. At the next Comprehensive Plan adoption or amendment process, the tier designations must be incorporated into the plan.

Tier designations are another Smart Growth endeavor by the State that should not have an adverse impact on municipalities like Hagerstown that are Priority Funding

Areas and only approve development on public water and sewer.

Staff have been meeting with County Planning Staff and City Utilities Staff to determine an appropriate course of action for tier designations in the Hagerstown Urban Growth Area. The following is the plan:

1. Staff have agreed that the City's tier designations will be limited to the Medium Range Growth Area, since this is the intended limits of the City's growth and service area.
2. The County will have sole responsibility for tier designations outside the MRGA.
3. All land within Hagerstown will be designated as Tier 1.
4. The City and the County staff have coordinated the following policy for tier designations outside the City in the MRGA:  
Tier 1 – all exiting and underway development on public sewer  
Tier 2 – all vacant land and all existing development on septic

It was the general consensus to approve the Tier Designations as presented.

#### 2012 Comprehensive Land Management Code Revision

Kathleen Maher, Planning Director, was present to discuss proposed amendments to the Land Management Code. This is a continuing discussion from August 7, 2012.

Ms. Maher pointed out eliminating permission for outdoor storage yards may have unintended consequences by making many existing businesses non-conforming uses. The following four possible amendments were present for consideration:

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.

Councilmember Haywood supports these staff recommendations. She expressed concern about the time for enforcement of non-compliance zoning issue that was discussed during the public hearing on July 24, 2012 and during the work session on August 7, 2012.

Councilmember Brubaker supports the proposed language as presented by staff. He stated the noise and nuisance ordinances should be reviewed as well, which are both separate ordinances and could not be included in the Land Management Code.

Councilmember Metzner agreed with the proposed amendments in order to avoid unintended consequences in response to a one-time issue. The definition of junk yard should be clear and should be different from an operation that processes salvage material delivered to the site.

The Mayor and City Council supported Staff's recommended language for dog grooming uses and the definition of long-term use for storage trailers. The definitions for junk yards and outdoor storage uses will be reviewed during the August 21, 2012 Work Session.

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

*Bruce Zimmerman, City Administrator*, stated Craig Paving will begin pavement preservation work this week in various locations.

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

*Councilmember M. E. Brubaker* toured the Herald Mail building last week with the County Commissioners and the Economic Development Commission. The Herald Mail is in the process of remodeling.

*Councilmember W. M. Breichner* recommended that Frank Linn be reappointed to the Board of Traffic and Parking. This will be discussed in a future executive session.

*Councilmember L. C. Metzner* attended the second annual Krumpke's 5K last week. The rain did not deter the participants. This year's event was even bigger than last year. He suggested that demolition permits include requirements for clean up after the building is demolished.

*Councilmember A. C. Haywood* announced she submitted the required number of signatures to the Election Board and is officially a candidate for Council.

*Councilmember F. W. Easton* apologized for being absent from last week's meeting.

*Mayor R. E. Bruchey, II*, thanked staff for their hard work and due diligence in developing a comprehensive lease with the Suns that protects all parties. He is hopeful good announcements are coming soon.

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 6:07 p.m.

Respectfully submitted,

Donna K. Spickler, City Clerk

Approved: September 25, 2012