

WORK SESSION – August 13, 2013

Mayor D. S. Gysberts called this Work Session of the Mayor and City Council to order at 4:08 p.m., Tuesday, August 13, 2013, in the Council Chamber at City Hall. Present with the Mayor were Councilmembers K. B. Aleshire, M. E. Brubaker, L. C. Metzner, D. F. Munson and P. M. Nigh; City Administrator Bruce Zimmerman, City Attorney Mark Boyer, and City Clerk D. K. Spickler.

Business Incubator Update

Andrew Sargent, Downtown Manager, and Dr. Martha Mattare, Frostburg State University, were present to provide an update on the progress of the business incubator, known as the Entrepreneurial Collider or eCollider which is being formed at 60 West Washington Street.

Staff have established collaborative partnerships with local stakeholders who will use the facility, including Frostburg State University, SCORE, SBTDC, USMH and the Chamber of Commerce. It is envisioned that local businesses will be able to use the resources offered by the eCollider. Staff have assembled an eCollider Steering Committee of local stakeholders and partners to assist with the design of the final build out and subsequent programming and staffing.

From the original USDA Rural Business Enterprise Grant, the City has \$ 100,000 remaining in the equipment and furnishing budget and \$ 73,000 remaining in the construction budget. Robert Goldsack Hospitality Architects has been procured to design the eCollider and the first draft of the design was presented to the Mayor and Council.

The draft of the facility shows one office incubator space and one retail incubator space. The facility will include a resource library where businesses can obtain assistance from the partners on various aspects of starting or growing a business. They will also be able to utilize a printer/scanner. There will be restrooms, a reception area and a conference room for small meetings. The middle of the space will contain the Accelerator Room, which can be set up in various configurations to hold seminars, meetings, workshops and other events. The eCollider will be technologically advanced with wireless internet available to participants, computer stations for business resource research and LCD smart-screens for presentations. Through environmental design, collaboration between participants will be encouraged.

Programming for the facility will be determined by the Steering Committee but there are already several options. Dr. Mattare has offered to teach her FSU Entrepreneurial Certificate Program in the eCollider and her students would staff and manage the facility through internships. SBTDC and SCORE envision using the facility for seminars, meetings with clients and distributing resources to the businesses in need of assistance. Other downtown businesses will use the facility for networking events or staff training. The goal is to stay flexible and be available for downtown businesses.

Dr. Mattare indicated there will be a good synergy between the University, the entrepreneurship program and the incubator. Students tour downtown and develop business plans with ideas for businesses. There have been some exciting, interesting, and non-traditional ideas presented. Many students envision starting their own business as a way of making a living.

Mayor Gysberts stated he expects the students would present visions with a more creative plan and view.

Mr. Sargent pointed out Lori Spessard, Hagerstown Community College, was also present. She is encouraged with this program and is confident it will help downtown and the business community.

Councilmember Munson stated this is an exciting venture. He asked what the fees will be for the use of the space.

Mr. Sargent stated the eCollider can be made fairly cutting edge and up-to-date. The steering committee is discussing user fees, if any, and limitations. He anticipates it will take 10 weeks to complete the build-out. The committee will be working on the programming while the RFP process is being completed. An opening date has not been estimated at this time.

Councilmember Brubaker asked if there are enough students to cover the hours of operation. Mr. Sargent indicated Dr. Mattare may also have an office there. The details of the covered hours and access to the facility are being discussed.

Councilmember Brubaker clarified that the City is not planning to staff the eCollider.

Mayor Gysberts thanked everyone involved in this exciting program. It is good to have this facility located downtown.

Mr. Sargent stated details will be presented to the Mayor and City Council as they become available.

The liquor license seating requirement reduction was then discussed.

Liquor License Seating Requirement Reduction

John Lestitian, Director of Community and Economic Development, and Andrew Sargent, Downtown Manager, was present to discuss a recommendation to reduce the seating requirement for liquor license approval.

While performing recruitment and retention work and speaking with downtown businesses, staff have found that one of the barriers to continued restaurant growth is a current liquor license requirement. In order to obtain a Pouring License, the type of license you would need to serve beer, wine and liquor at your restaurant, you need to be

able to seat 75 patrons safely within the fire marshal's guidelines. In some buildings, this requirement eliminates the possibility of a restaurant. In other existing restaurants, this means the use of the space is limited to simply providing seats to meet the requirement, eliminating the possibility of adding other amenities to the business.

Regionally, the requirements vary. Franklin County PA (through the Pennsylvania Liquor Control Board) has a 30 seat requirement and Frederick County has a 50 seat requirement. Staff thinks that 50 is a number that will allow more specialty, responsible eating establishments to locate and expand, particularly in Downtown Hagerstown.

Staff has discussed this potential reduction in the seating requirement with Police Chief Holtzman, Fire Chief Dieterich and Fire Marshal DeHaven and they report no detrimental effect with this proposed seating requirement reduction.

Staff met with Bob Everhart, the Chair of the Liquor Board and it was decided that the next steps were to present to the Mayor and Council and then create a formal request of the Board of License Commissioners (Liquor Board).

Mr. Lestitian stated lowering the seating requirement for a liquor license would provide a variety of dining options with adult beverages for diners, especially those that have not decided where to eat before visiting downtown.

Mayor Gysberts stated he does not think it would be detrimental to lower the number of required seats.

Councilmember Munson stated the number was set at 75 when the State of Maryland controlled liquor licenses. State officials were trying to avoid having a beer joint on every corner. If he supports this request, he would want assurances that this would not be the case.

Mr. Lestitian indicated the change would only apply to restaurants.

Councilmember Munson asked if the changes are fair to the establishments that meet the 75 seat requirement. Mr. Lestitian thinks a number of those restaurants may remove seats to create more space. This change would create additional opportunities for restaurants downtown.

Councilmember Munson supports a minimum seating requirement of 50, with a food requirement.

Councilmember Aleshire supports a seating minimum of 30. The responsibility for maintaining the establishment is with the property owner.

Councilmember Brubaker will support 50.

Councilmember Nigh expressed her concern that the change is proposed city-wide. She thought it was specifically for the A & E District.

It was the general consensus to request the Liquor Board to consider changing the seating requirement for liquor licenses for restaurants to 50 or less.

Role of Hagerstown Redevelopment Authority (HRA) and Changes to the Code

John Lestitian, Director of Community and Economic Development, and Randall Catlett, Chairperson of HRA, were present to discuss the proposed changes to Chapter 10, Article XIII of the City Code. Jonathan Kerns, Community Development Manager, was also present.

The HRA and staff believe that the current code does not accurately define and portray HRA's role. As previously discussed with the Mayor and City Council, the HRA was created in 1985. Its creation was the result of combining two previous authorities, the Neighborhood Redevelopment Authority and the Revolving Loan Authority. The code which establishes the HRA has three specific powers and duties listed in § 10-63 and reads in part:

- A. It shall be the duty of the Authority to establish, regulate, and maintain a redevelopment program for the purpose of regulating, controlling and administering a building rehabilitation loan program and a building demolition loan program...
- B. The Authority shall have all the powers and duties granted to it pursuant to the laws and acts of the United States of America and regulations applicable thereto, including but not limited to the regulations pertaining to and governing the United States Department of Housing and Urban Development's Community Development Block Grant Program.
- C. It shall be the duty of the Authority to promulgate rules, regulations and guidelines for the proper administration of said programs.

Four points are being proposed to provide clarity in reference to Section A above:

- 1. In practice, the Mayor and City Council have reserved to themselves the establishment of loan programs and have approved the guidelines developed by the HRA.
- 2. Staff have continuously provided the administration of the loan programs.
- 3. In practice, the HRA has reviewed loan applications and made written determinations for approvals, denials, reconsiderations, modifications and related loan work.
- 4. In practice, the HRA's loan review responsibilities have expanded over the years and currently the HRA provides determinations on the following established loan programs:
 - i. Business Revolving Loans

- ii. Community Development Block Grant Loans (residential, commercial, and public facility)
 - iii. Women and Minority Owned Business Loans
 - iv. Future loan programs
5. The current Section B above is being deleted in its entirety as this language is hollow. The United States of America and specifically the Housing and Urban Development's Community Development Block Grant Program does not grant powers and duties to the HRA. It is likely that this section of the code is a holdover from when the City was not an entitlement community. HUD regulations do require that entitlement communities annually designate, via the Annual Action Plan, a responsible entity for the administration of the Community Development Block Grant Program. The Mayor and City Council have historically designated a City department to carry out this function.
6. The third power and duty in the current code is that the HRA promulgate rules, regulations and guidelines for the proper administration of said programs (the original two loan programs). In practice, the HRA develops guidelines for the various loan programs and this will remain.
7. The final proposed edit is to change the name of the HRA to the Hagerstown Loan Review Authority (HLRA).

Specifically in reference to the public comments made at the July, 2013 Regular Session, the proposed changes do not limit citizen input, engagement or participation. To the contrary, the proposed changes codify that the HRA has authority over ALL of the City's loan programs where the original language limits the HRA to two loan programs. The City has and will continue to expand its citizen engagement and participation. One recent example was the creation of a citizen group to make recommendations on the programming of Community Development Block Grant funds for the Public Service category.

Lastly, out of an abundance of caution, staff reviewed the minutes of the HRA from 1985 (the year the HRA was established), spoke with Lauren Bayer (a 30 year City employee), former Director of the Community Development Department and met with Alfred Martin (a 30 year City employee) and former Chair of the Neighborhood Redevelopment Authority and the former City Finance Director. The minutes from 1985 indicate the HRA worked on loan programs, with an occasional grant. Both Mr. Bayer and Mr. Martin stated that the HRA's sole focus were the City's Loan Programs.

Mr. Lestitian stated from the staff's perspective, there is no need to amend the ordinance that was introduced on July 23, 2013.

Mayor Gysberts stated he understands the HRA has not reviewed redevelopment projects. Mr. Catlett indicated there have been no redevelopment activities during his membership on the board.

Councilmember Nigh is concerned there have not been adequate records kept for the HRA activities.

Councilmember Aleshire clarified that HUD regulations have been followed, but not necessarily by the HRA. Mr. Lestitian indicated this is correct.

Mayor Gysberts stated a well defined name will help clarify the role of the HRA.

Approval of the ordinance will be scheduled for August 27, 2013.

MD State Retiree – Option for 401 (a)

Karen Paulson, Director of Human Resources, was present to discuss a 401 (a) deferred compensation plan for employees ineligible to participate in the MD State Retirement System due to their retiree status with the retirement agency.

The City of Hagerstown is one of many participating employers in the Maryland State Retirement System. Currently when an employee retires from any participating employer, they are ineligible to re-enroll in the pension system if they take a position with another participating employer.

There are many instances where individuals are able to retire and still have a desire to continue employment with another employer. However, if they choose to work for a participating employer, they are not eligible to re-enroll in the pension system. As a result, they are receiving a total compensation packet of less value. In addition, the inability to work towards additional retirement puts the City of Hagerstown at a competitive disadvantage to attracting these types of candidates.

There are currently two regular full time employees who meet this description. The City currently offers a deferred compensation plan to all full time regular employees through Great West. After some discussion with Great West, it was determined that a 401(a) plan option would allow the City to make matching contributions similar to a 401(k). Great West has indicated they would offer this service free of any service fees to the City. The City however, would need to establish the criteria for the plan to include determining options such as vesting and matching limits.

It was the general consensus of the Mayor and City Council to pursue this option. A draft of the option will be drafted for review.

Hager's Crossing PUD Amendment Discussion – West City Elementary School

Alex Rohrbaugh, Planner, stated the purpose of this discussion is to review public input received during the June 18, 2013 Public Hearing for the proposed Hager's Crossing PUD Amendment and determine action on the rezoning request.

At the Public Hearing, Assistant County Attorney Kirk Downey and Dave Trostle of Frederick Seibert & Associates, Inc. explained the applicant's request for a PUD amendment is based on the fact that a school was never included in the original Hager's Crossing PUD. One resident from the Hager's Crossing development spoke in favor of the amendment. No one spoke in opposition to the amendment. During the 10 day post-hearing period, Staff received e-mails from three more Hager's Crossing residents, each in favor of the amendment. During the Planning Commission's Hearing in May, testimony was presented in favor of the amendment from 10 Hager's Crossing residents and the original PUD developer.

At their June 12, 2013 meeting, the Planning Commission recommended approval of the PUD amendment with the condition that the school be oriented towards Hager's Crossing Drive and be close enough to the street to provide for a more traditional neighborhood design. Staff feels that the "Concept Alternative" drawing provided in the packet generally satisfies that requirement. The "Concept Alternative" is not a site plan, which means there is room for change between the concept and what will actually be built. Staff believes that the recommended site plan condition still gives the applicant flexibility in site design so as not to be locked in with one particular concept.

It was the general consensus of the Mayor and City Council to move forward with the PUD designation. Introduction of the ordinance will be included on the August 27, 2013 Regular Session agenda.

Land Management Code Revision – Phase III

Kathleen Maher, Planning Director, and Stephen Bockmiller, Development Review Planner/Zoning Administrator, were present to provide an opportunity for additional discussion of the proposed Land Management Code Revisions. Since the public hearing on July 23, 2013, one correspondence has been submitted.

That letter was from Ms. Jessie Unger, who owns property on Dual Highway, north of the McDonalds and east of the liquor store. Ms. Unger's property would be affected by the car lot standards provision. If adopted, she would be permitted to use the property for car sales. Currently, it cannot because of its small size and no valid nonconforming car sales use applying. By lifting the 40,000 square foot minimum use area requirement, she will have the potential to use the property for that use. Should she or a tenant desire to do so, the design and site plan standards in the proposal would apply.

At the hearing, Jill Estavillo, Economic Development Manager, submitted a text amendment request to allow general retail as a Special Exception use in the Industrial Restricted zoning districts, subject to two conditions. Ms. Maher indicated Planning staff has no issue with including the Economic Development Manager's request.

In regard to the car sales standards, Ms. Maher indicated staff would work with the owners if there is a hardship type of issue.

Councilmember Aleshire asked if any of these amendments change the context for current uses, specifically for Hub Scrap's operations. Mr. Bockmiller indicated the requirements for recycling facilities had been amended previously.

Councilmember Aleshire inquired about the outcome of the Board of Zoning Appeals hearing held for Hub Scrap.

Councilmember Brubaker stated the Planning Commission and staff spent a great deal of time working through these amendments. He thanked all for their efforts.

Councilmember Munson stated he thinks the car dealers' concerns have been addressed.

Introduction of the ordinance to amend the Land Management Code will be included on the August 27, 2013 agenda.

Economic Assessment of Hagerstown's Sustainable Community Plan

Kathleen Maher, Planning Director, and Jill Estavillo, Economic Development Manager, were present to discuss a grant opportunity and staff's recommendation to use the funds to undertake an economic assessment of Hagerstown's most recent downtown plan, the 2012 Sustainable Community Plan, and to engage the public in a process to build community support for this plan and a number of identified catalyst projects to spark revitalization of Hagerstown's City Center.

Staff is seeking authorization to accept a non-matching \$ 100,000 grant from the Maryland Department of Business and Economic Development for a downtown planning project and for staff to advertise a Request for Proposals for an economic assessment of Hagerstown's Sustainable Community Plan.

The State of Maryland has earmarked \$ 100,000 in the Maryland Department of Business and Economic Development's budget for a Hagerstown downtown planning project. Because the City already has a downtown plan resulting from 20 years of successive downtown planning endeavors, staff decided that the best use of the downtown planning funds would be to examine the economic feasibility of the goals and strategies recommended in the downtown plan and to work to gain community support of the City's plan of action to revitalize Hagerstown's City Center. Staff conferred with DBED staff and were advised that it would be an acceptable use of these funds to undertake an Economic Assessment of Hagerstown's 2012 Sustainable Community Plan, the latest culmination of the City's vision for the downtown.

The 2012 Sustainable Community Plan carried forward the goals and strategies recommended in the Downtown Element of the 2008 Comprehensive Plan and then further refined the recommended strategies with input of a community stakeholders group. While the City has routinely undertaken community and economic development projects and initiatives intended to implement the downtown plan (e.g., support for new

and expanded cultural and educational anchors, parking and streetscape improvement projects, blight eradication projects, incentive programs for private investors, etc.), it is apparent that the City needs to raise community awareness and support of the downtown vision and plan as well as investor confidence in the strategies recommended to implement the vision.

Staff intends to seek bids from qualified consultants to undertake a project to prepare an economic assessment of Hagerstown's 2012 Sustainable Community Plan and to engage the public in a process to build community support for this plan and a number of identified catalyst projects to spark revitalization of Hagerstown's City Center. The budget is the \$ 100,000 DBED grant and the anticipated completion date is by the end of April, 2014.

Councilmember Aleshire wondered if the grant could be returned. He does not think there should be a fourth group commissioned to do essentially the same thing that other groups have done. Another plan is not needed.

Mayor Gysberts indicated the goal of using the \$ 100,000 is to gain community understanding of what plans are in place and to provide input on what the economy in Hagerstown can bear. There is a plan, but the implementation process is not clear. He expects feedback on what the projects will be. The product is the economic assessment and then the community input and support of the plan. He does not think the grant should be given back. He understands there are duplicate organizations pretending to have the same mission. The City should be the center of the circle for all the different organizations. This plan will be more of an action plan.

Councilmember Metzner stated the hotel/motel tax revenue was to fund a new stadium. He stated he has heard that the State funding for a stadium will not be considered without a plan. The Mayor and Council have not discussed the biggest single investment in Hagerstown in 30 years since April. That investment is a new stadium. This is a \$ 30 million investment. The Mayor and Council need to decide if they are going to move forward with a stadium and if this \$ 100,000 grant could be used to complete a plan for submittal to the State.

Mayor Gysberts stated this proposal does not exclude discussion of a stadium.

Councilmember Metzner stated this is not a minor decision and he wants to discuss it at a Work Session. There have been no recent public discussions about the location.

Mayor Gysberts indicated he has been working on information for a stadium. There is no new information to be presented. Until private funding and financing is secured, the City can't do the project.

Councilmember Metzner wondered how private funding can be secured without a plan. A lease proposal has not been discussed. To his knowledge, the last discussion was

in April when the information about alternative locations was presented. He has no idea what is happening with the Suns. He supports obtaining proposals from other teams.

Councilmember Brubaker stated this would be a sustainable plan that should be outward focused.

Mayor Gysberts stated the report would include the market analysis.

Councilmember Brubaker stated they have all been through discussions with the multiple plans. He hopes new directions can be found. He commends the groups in town that are trying to find the solutions. He hopes this grant from DBED will help the City reach some entrepreneurs and look at good sound investments from reputable firms that will spur investment.

Mayor Gysberts expects a stadium to be located somewhere within the sustainable community area. He also expects there will be a decision within six months, either on a location or that the Suns ownership has decided to move the team. He understands Councilmember Metzner's frustration. He wants to complete a deal with the Suns as soon as possible. Until there is private sector contributions for financing, a stadium project cannot happen.

Councilmember Munson stated that the Economic Development Commission (EDC) needs to be involved in this plan to the extent possible. The EDC has shown interest in downtown. EDC can also be a source for finding resources.

Councilmember Aleshire does not think a plan should be developed without discussing a stadium soon. The stadium issue has to be resolved. The project relies heavily on private investment. A stadium discussion should be placed on an agenda. At least two Councilmembers are requesting this be placed on an agenda. The Council receives information and the public is left wondering what is happening. He does not know how a community plan can be developed without addressing the stadium issue.

Councilmember Brubaker stated there are issues to be addressed, whether or not the stadium issue is resolved. This plan would have to be used and not just placed on a shelf.

Mayor Gysberts stated feedback from stakeholders, including the EDC, will be accepted regarding the Sustainable Community Plan.

MML Legislative Request (LAR) – Double Taxation

At the June 11, 2013 Mayor and Council meeting, Councilmember Brubaker briefed the Mayor and Council on the recommendation contained in the MML Double Taxation Work Group Report 2013. He is requesting that the Council endorse the submission of a 2014 Legislative Request (LAR) endorsing the work group report as a priority for

legislative action. The MML Legislative Committee will be considering LAR's and other anticipated legislative issues at work sessions beginning later in the month of August.

The substance and rationale of this matter are reiterated in correspondence included in the packet material that was previously presented to the Mayor and Council. He stressed that, at a very minimum, this change, using language already in the State code for Anne Arundel and Howard Counties, would for the first time give municipalities across the State a legal backbone to negotiate property tax/service issues with the counties and, just as important, to enforce such agreements through future years and administrations. Any savings achieved cannot be determined precisely ahead of time, but under the current proposal would go directly to the taxpayer, perhaps leaving room for municipalities to better afford services. It is possible that some communities may propose language allowing rebates from counties to municipalities as well.

This does not mean that double taxation must be the sole Statewide priority, but only a few are usually selected and MML traditionally does not endorse individual community initiatives. If the Legislative Committee endorses the Work Group recommendation, it will be considered for approval at the Fall MML Conference in October. Regardless of the MML outcome, Councilmember Brubaker once again proposed a work group to explore the tax/service issues as they apply to Hagerstown.

It was the general consensus to endorse submission of a 2014 LAR endorsing the work group as a priority.

Councilmember Metzner thanked Councilmember Brubaker for his efforts with the Legislative Committee of the MML.

CITY ADMINISTRATOR'S COMMENTS

Bruce Zimmerman, City Administrator had no additional comments.

MAYOR AND COUNCIL COMMENTS

Councilmember D. F. Munson has attended the Municipal Band concerts in City Park. Attendance is increasing. People seem to like the new seats that were installed this year.

Councilmember K. B. Aleshire stated a letter was sent from the Economic Development Commission supporting the Hagerstown Suns and a new stadium. He was not opposed to the correspondence but he is concerned that a draft of the letter was not sent to the Mayor and Council for review prior to it being sent. The EDC members stated the letter was sent to the City and the City was represented at the executive committee meetings. He stated he received a copy of the letter an hour prior to it being released, which did not provide an opportunity to comment on the content. He stated if the intent

was exclusion of the Mayor and Council it was obviously misplaced. He would like this body to discuss a stadium.

Councilmember M. E. Brubaker thanked Chief Mark Holtzman for his professional presentation to the Chamber of Commerce and other attendees. Chief Holtzman displayed a chart showing there are other places in Maryland where violent crime is higher than it is in Hagerstown. He thanked Comptroller Peter Franchot for visiting Hagerstown last week. The acting director of the I-81 Coalition is planning meetings of all the representatives.

Councilmember L. C. Metzner commended staff for their efforts in dealing with a street tree problem in his neighborhood.

Councilmember P. M. Nigh reported National Night Out was a success. She asked that the stadium discussion be held soon.

Mayor D. S. Gysberts thanked Officer Gerard Kendle for organizing the National Night Out event.

EXECUTIVE SESSION – August 13, 2013

Councilmember D. F. Munson made a motion 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)), and to consult with counsel to obtain legal advice, #7 (Section 10-508(a)), at 5:59 p.m. in the Council Chamber, 2nd Floor, City Hall, Hagerstown, Maryland. Councilmember M. E. Brubaker seconded the motion.

Discussion: Councilmember Metzner stated he is not sure why the second item should be discussed in executive session. If the discussion is about eminent domain in general he thinks the citizens should hear the general information. He will be voting for eminent domain acquisition of the MELP property and for demolition of the building.

Councilmember Brubaker stated it would appropriate to be briefed on the general facts for eminent domain proceedings but discussing amounts in open session would decrease the possibility for negotiation with the property owner.

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

The following people were in attendance: Mayor D. S. Gysberts, Councilmember K. B. Aleshire, Councilmember M. E. Brubaker, Councilmember L. C. Metzner, Councilmember D. F. Munson, Councilmember P. M. Nigh, City Administrator Bruce Zimmerman, City Attorney John Urner, Michael Spiker, Director of Utilities, John Lestitian, Director of Community and Economic Development, and Donna K. Spickler, City Clerk. The meeting was held to discuss appointments to the Economic

Development Commission and eminent domain proceedings for the MELP property.
No formal action was taken at the meeting. On a motion duly made, seconded and
passed, the meeting was adjourned at 7:07 p.m.

Respectfully submitted,

Original signed by D. K. Spickler

Donna K. Spickler
City Clerk

Approved: September 24, 2013