

WORK SESSION

FEBRUARY 4, 2014

MAYOR AND CITY COUNCIL

HAGERSTOWN, MARYLAND

SCORE Anniversary at Oak Hill Interior Design

Members of the Mayor and City Council attended a 30th anniversary recognition of SCORE that was held at 3:30 p.m. at Oak Hill Interior Design, 114 N. Potomac Street, Hagerstown, Maryland.

WORK SESSION – February 4, 2014

Mayor D. S. Gysberts called this Work Session of the Mayor and City Council to order at 4:15 p.m., Tuesday, February 4, 2014, 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, and City Clerk D. K. Spickler. Councilmember M. E. Brubaker was not present.

Proclamation – Neighborhoods 1st Month

Mayor Gysberts read a proclamation recognizing February as Neighborhoods 1st Month. The proclamation was given to representatives of the City's Neighborhoods 1st groups.

Planning and Code Administration Division's 2013 Building and Neighborhood Protection and Enhancement Report

Kathleen Maher, Planning Director, was present to discuss the 2013 Building and Neighborhood Protection and Enhancement Report. This report was created for the Planning Commission to outline the Planning and Code Administration Division's building-related and neighborhood protection and enhancement activities in 2013.

Site plans were approved for 31,881 square feet of commercial and institutional development projects and 272 multi-family units. The total estimated construction value is \$ 43.23 million. Additional site plans were approved for various parking lot improvement projects and other minor activities. Concept plans were approved for 109,322 square feet of commercial development on Broadfording Road for land annexed into the City in 2007.

The City issued 497 building permits in 2013 with a total estimated construction investment of \$ 28.2 million. The City issued 1,940 trades permits.

The building and trades inspectors conducted 6,699 inspections for buildings and trades permits in 2013 – every category was up from the prior year's activity levels. Complex, multi-year projects requiring the time and expertise of the City's inspection team in 2013 included the new library and the new Bester Elementary School.

2013 saw the continuation of construction activity for retail and restaurant fit-outs, renovations, and new construction at shopping centers around the City. Office park construction activities continued in 2013 as well.

The City issued a total of 78 permits in 2013 for 143 new dwelling units. All active residential developments are on land annexed into the City within the last 15 years.

Downtown renovation projects continued at two PEP-partner projects at the Wareham Building and Mulberry Lofts, wrapped up at the PEP-partner project at 140 S. Potomac Street and continued at the City project at 36-40 N. Potomac Street. As phase one of the City project to prepare 170 W. Washington Street for re-sale began, the motel wing on the rear of the building was demolished.

8,752 dwelling units in 3,134 properties were registered in the Rental Licensing Program for 2013. This is the highest number in the 10 year history of the program.

As part of the neighborhood protection efforts, the property maintenance and licensing inspectors handled a large number of complaints and licensing inspections, as well as doing a proactive review of the neighborhoods. As a result, 2,224 safety violations, 3,495 neighborhood vitality violations, 588 quality of life violations, and 1,668 preventive maintenance violations were noted. 547 abatement cases were processed to correct violations. As part of an abatement case, the City had the fire- and water-damaged top floor of 19-23 W. Antietam Street demolished.

As part of the City's efforts to protect the neighborhoods from inappropriate uses of property that jeopardize the quality of life for residents, the zoning administrator responded to a number of complaints of zoning violations that ran the gamut from home businesses in excess of those permitted by law, to keeping of livestock, to running illegal auto repair businesses, to untagged vehicles, to Historic District Commission violations.

Staff continued to analyze the City's various codes to ensure they have the best tools in place to protect and enhance the quality of life in the neighborhoods and the safety of the citizens. In 2013, staff prepared updates to the City Code for noise control, portable storage containers, dumpsters, and smoke detectors.

In the on-going efforts to make the Land Management Code the best tool to guide the enhancement of the city's image, facilitate economic development, and protect the quality of life in the neighborhoods, staff prepared amendments in 2013 that created more comprehensive standards for commercial signs, revised standards for automobile sales facilities, created standards for temporary outdoor sales facilities, allowed a certain amount of retail in industrial districts in certain circumstances, allowed home work stations anywhere residential uses are permitted, created stronger controls over storage of inoperable vehicles, and simplified the site plan process for small projects.

Councilmember Aleshire asked how many owner occupied violations were issued. The total will be provided. Ms. Maher stated people can now reports suspected violations on-line.

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Mayor Gysberts asked how often the Comprehensive Plan is updated. Ms. Maher stated every 10 years. Staff is working on an internal update at this time.

Councilmember Aleshire asked why the City is not considered a PFA, under the sustainable community's terminology. Ms. Maher stated the City is not eligible because there is one agriculture transitional zone.

Mayor Gysberts noted that several staff members were in attendance. Councilmember Munson thanked the Planning and Code Administration staff for their efforts.

Mr. Zimmerman stated the information is important to both residents and City staff as efforts are made to improve neighborhoods.

Hagerstown Suns 2014 Fireworks Schedule

Rodney Tissue, City Engineer, reported the Suns would like to discuss their proposed fireworks shows for the upcoming season and get a final decision on the schedule. Weekday (other than Friday) fireworks shows are not allowed by the lease but the Council can waive that for the Cinco de Mayo (May 5th) event if they wish.

It was noted the start time for the game could be earlier so the fireworks would not be started after 9:30 p.m.

It was the general consensus to include approval of the requested fireworks dates, which includes May 5, 2014, on the agenda for February 25, 2014.

Hagerstown Suns Lease Extension

Rodney Tissue, City Engineer, stated staff received a request from the Hagerstown Suns for a third amendment to the current lease. The Suns' request extends their lease at Municipal Stadium for the 2015 and 2016 baseball seasons. Some of the changes from the current lease offered by the Suns include:

1. No City obligation to pay electric (a savings of approximately \$ 28,000 annually)
2. No City obligation for capital improvements (a savings of \$ 35,000 annually)
3. Suns to pay rent of \$ 25,000 per year for the 2015 and 2016 seasons. The City will retain the entire \$ 25,000 rent regardless of the timeframe that the team utilizes the stadium in that year.

The Suns' proposal removes the City's option to terminate the tenancy for its convenience. Staff does not recommend accepting that portion of the proposal. However, staff understands that Minor League Baseball requires that the Suns know if they can be at Municipal Stadium for a full season. Staff suggests continuing the language in the approved second amendment that allows either party to terminate upon ninety days notice to the other.

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Mr. Tissue presented a third draft amendment as prepared by the City Attorney for the Mayor and Council's review and discussion. Based on the more favorable lease terms in the request from the Suns, and since there are no other firm proposals to-date, staff would suggest an extension for at least the 2015 season.

Tony Dahbura, Part owner of the Hagerstown Suns, Chris Easom, General Manager, and Robert Bruchey, II, Assistant General Manager, were also present.

Mr. Dahbura stated the Suns organization is prepared to pay \$ 50,000 up front for each of the two seasons, whether or not the stadium is used either year. They are required to have a secure facility. He cannot speculate on whether the new facility will be ready in time for the 2015 season. If the Suns were in a secure location, they would release the stadium for use by other groups. No other affiliated minor league team can come to Hagerstown until the Suns relinquish their franchise rights.

Councilmember Metzner thinks any discussion about extending the lease and the terms of the lease should be discussed in Executive Session with the City Attorney. He wants to make sure there is no additional liability incurred for the stadium if the lease is extended. He does not want to find out the City committed itself to maintenance costs and additional liability. For example, he does not want the City to be held responsible for repairs if another light pole falls or for some other catastrophic event.

Mr. Dahbura stated it would make sense to define the liabilities.

Councilmember Aleshire is opposed to having this discussion in a closed session. The discussion should be held publicly. He does agree that the request should be discussed with the City Attorney.

Mayor Gysberts asked what the purpose of the 90 day termination clause is. He pointed out the City will maintain the stadium even if there is no tenant.

Councilmember Metzner stated again that he wants to make sure the City is not committed to spending extra money at the stadium. If the stadium is not used and sits vacant, it could be a problem. He wondered if the City should ask for a clause in the agreement that states the Suns won't stand in the way of, or delay, another team locating in Hagerstown.

Councilmember Munson agreed that an extension should be discussed in executive session. He asked what progress has been made on a new stadium in Fredericksburg, Virginia. Mr. Dahbura stated he does not know, he is focusing on Hagerstown.

Mr. Tissue announced that because of the impending winter weather, there will be no trash collection on February 5, 2014. Collections should be caught up by Saturday, February 8, 2014.

Housing and Neighborhood Legislation

John Lestitian, Director of Department of Community and Economic Development, and Chief Mark Holtzman, were present to follow up on the discussion regarding housing and neighborhoods legislation from January 28, 2014.

The following were reviewed:

1. Background information and the types of Code Administration violations which are currently included in Chapter 95 and which are proposed to count towards a Chronic Nuisance Property designation.
2. Key decision points and related options/outcomes:
 - a. Decision Point #1 – Does the Mayor and Council want a property owner whose property has been designated as a Chronic Nuisance Property due to Code Administration Notices of Violation to lose his/her Residential Operator Certification?
 - b. Decision Point #2 – Which properties do the Mayor and Council wish to be included on an annually published list of Chronic Nuisance Properties?
 - c. Decision Point #3 – Does the Mayor and Council wish to include properties with repeated Code Administration Notices of Violation as Chronic Nuisance Properties?

Mr. Lestitian stated the Code Compliance office works in conjunction with the Police Department to address the issues in a neighborhood. The Mayor and Council from the start of this administration provided a clear direction that they wanted to improve the neighborhoods.

If there is a code violation, the property owner is notified and provided time to correct the violation. If the issue is not corrected, fines are issued after the fifth notice. If the violation is corrected, there is no harm to the property owner, but there is harm to the neighborhood. The neighbors have been exposed to the conditions that prompted the notice. These could be weed violations, garbage and rubbish violations or sanitation violations.

Mayor Gysberts asked if the notices are mostly to the same property owners. Mr. Lestitian stated fourth violations (for neighborhood vitality) were issued to 53 of the 14,000 properties in the City. Approximately 1/3 of the 53 are foreclosed properties.

Councilmember Metzner believes one of the biggest problems right now is bank owned foreclosures. Mr. Lestitian stated some progress has been made in that some banks have hired companies to maintain the foreclosed properties.

Chief Holtzman stated Code Compliance staff participates in a Comstat meeting every two weeks to discuss these neighborhood issues with police officers. A combined effort

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is made to remedy the situations at the properties.

Mr. Zimmerman pointed out the complaints could come from inspector observation, from a City elected official, or from a neighbor.

Mr. Lestitian discussed the first decision point – asking if the Mayor and Council want property owners to lose their certification as a residential operator for properties designated as Chronic Nuisance Properties. The loss of certification could be tied to Hagerstown Police Department qualifying calls only.

Mayor Gysberts asked if the property owner would lose the certification if multiple properties are designated as chronic nuisances. Mr. Lestitian stated the qualifying calls are property specific; however, the certification is ownership wide.

Councilmember Aleshire stated he supports restricting the loss of the certification to only Chronic Nuisances established by HPD. His intent is to diminish criminal activity in the community.

Councilmember Metzner agreed with this option.

Councilmember Nigh and Councilmember Munson support language that allows for the loss of the certification for all chronic nuisances (including code violations).

Councilmember Munson stated there are trash problems in the community that no one should have to put up with.

Councilmember Nigh thinks owner occupied violations should be issued as well.

This decision point will be discussed with Councilmember Brubaker during the next Work Session.

The next decision point is whether or not code violation nuisances will be published annually.

Mayor Gysberts stated Chapter 95 applies to all properties, whether owner occupied or rental units.

A property is designated as a chronic nuisance if there are three separate, distinct violations in a twelve month period at a property.

Mayor Gysberts stated a published list will make the public aware of the violations. It doesn't make an impact if the list isn't published.

Councilmember Aleshire stated it is obvious to him that some of the landlords don't

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care about the City. His intent for neighborhood legislation was to focus on crime in the community. A published list would help tenants screen potential rental properties. He does not think the list should include code related violations.

Mr. Lestitian clarified that Chapter 95 covers all properties, not just rental properties.

Councilmember Metzner stated property that has been foreclosed would not list a new owner until the final transaction is complete. The bank/holder would not be listed as an owner.

It was the general consensus to not include property designated as a Code Administration Chronic Nuisance Property in an annually published list.

The last decision point is whether or not the Mayor and Council wish to include properties with repeated code Administration Notices of Violation as Chronic Nuisance Properties.

Councilmember Metzner asked if violations with three repeat calls are considered chronic nuisances. Mr. Lestitian stated if these violations are not considered chronic nuisances there would be no fines, the names of the owners would not be published, and there would be no effect on the certification.

Councilmember Nigh stated she understands the residences with piles of trash are the ones most often reported to the police.

It was the general consensus of the Mayor and City Council to include properties with repeated Code Administration Violations as Chronic Nuisance Properties in Chapter 95.

Mr. Lestitian clarified that Code Administration violations will be included in Chapter 95; however, violations of this nature will not be included on the published list of Chronic Nuisance Properties. The status of Chronic Nuisance in Chapter 197 for Code violations will not be grounds for the loss of an operator's certification.

The Hagerstown Police Department will notify a property owner when a qualifying call occurs at their property. Properties deemed a chronic nuisance property shall have that designation for one year from the date of notice. Councilmember Metzner reiterated that property means dwelling units.

Chief Holtzman discussed the definition of reasonable steps in Chapter 197. Reasonable steps are measures instituted and/or supported by the owner to proactively and progressively respond to Chronic Nuisance Designations. Examples would include a notice to the tenant telling them to stop the activity or a no trespass notice to a visitor to the property if that visitor is causing calls.

The training seminar that is included in the requirements is anticipated to be approximately four hours in length.

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Councilmember Metzner asked that it be clear that loud noise complaints (listed under Disturbance in Chapter 95) must be verified and witnessed by the police officer.

Mr. Zimmerman summarized the consensus on the decision points as follows

1. Decision Point # 1 – The decision will be made when Councilmember Brubaker is present because the “vote” is 2 to 2.
2. Decision Point # 2 – Majority Support option B (Code Administration Chronic Nuisance Property will not be annually published on a list).
3. Decision Point #3 – Majority support option A (Mayor and Council choose to define a property which has repeated Code Administration Notices of Violation as a Chronic Nuisance Property).

Councilmember Munson hopes these decisions make progress with improving neighborhoods in the City. He mentioned he receives many calls about issues on Oak Hill Avenue.

Mr. Lestitian stated these ordinances will not eliminate the issues in some neighborhoods but it will be a good tool to help address those issues. This is a tool to hold owners responsible for some of the nuisances. People are being asked to be active in the management of their properties. From a staff perspective, these ordinances are balanced.

Mr. Zimmerman stated these ordinances will have a greater impact on crime issues than code issues. Early in 2012, this Mayor and Council body made it clear that code enforcement and neighborhood improvements were priorities for them.

Councilmember Metzner asked if it would be helpful to discuss a minimal fine with the first notice. Mr. Lestitian stated there is a fine and administrative fee for violations that have to be abated by the City. Currently, Code Administration staff work with owners for voluntary compliance.

Councilmember Metzner stated he believes this administration is willing to discuss additional options to improve neighborhoods.

Councilmember Aleshire suggested allowing holders of foreclosed properties to terminate the water service if they don't want the responsibility of a water bill. The new owner could reinstate the service, for a fee.

Councilmember Aleshire noted the ordinance states the training requirement will be provided by the City staff. He suggested allowing credit for a seminar through another qualified training program. Councilmember Metzner agreed this could be an option.

Councilmember Metzner asked if these regulations apply to Section 8 housing. Chief Holtzman indicated Section 8 housing is not exempt from the regulations. He stated if all landlords were willing to implement the standards used by the Hagerstown Housing

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Authority (HHA) for Section 8 housing, these ordinances would not be needed. Mr. Lestitian stated the HHA has a good operation for their public housing facilities. The scope of inspections for non-Section 8 housing is different.

The decisions made by the Mayor and Council during this meeting will be incorporated into the ordinances and discussed again at next week's Work Session.

CITY ADMINISTRATOR'S COMMENTS

Bruce Zimmerman, City Administrator, had no additional comments.

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Councilmember D. F. Munson thanked the City employees for their work during more winter weather.

Councilmember K. B. Aleshire also thanked the City employees as they remove snow and repair water line breaks. He attended the State of the County this morning. He participated in the Community Coalition's day in Annapolis last week. The City has not been included in a discussion of blighted property legislation. He spoke to several legislators during the day.

Councilmember L. C. Metzner stated City employees have done a superb job with snow removal and dealing with the winter weather. He thanked Public Works for taking care of the alleys near the Court House. He would like to discuss a proposal from Kirk Cushwa that the City of Hagerstown be responsible for removing snow and ice from sidewalks in the downtown area.

Councilmember P. M. Nigh stated she is concerned that heroin use in the community is increasing. Frederick has reported a large increase as well.

Councilmember Metzner stated there is an average of one heroin overdoses per week in Washington County. The Washington County Health Department has been awarded a grant to provide the drug Narcan to heroin addicts. This drug can stop the effects of an overdose. He urged people to contact the Health Department for help.

Mayor D. S. Gysberts thanked staff for their hard work during the winter weather and with the housing and neighborhood legislation. He attended the Community Coalition Day in Annapolis last week. It is an honor and privilege to represent Hagerstown at events and activities. He will be attending two other events in Annapolis this week. He congratulated SCORE on their anniversary. He thanked Lt. Governor Brown for recognizing The Plum restaurant.

Councilmember Aleshire mentioned he received an email asking that the City adopt an English language only ordinance.

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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 6:29 p.m.

Respectfully submitted,

Original signed by D. K. Spickler

Donna K. Spickler
City Clerk

Approved: March 25, 2014