

64TH SPECIAL SESSION, WORK SESSION, AND EXECUTIVE SESSION –
March 24, 2015

EXECUTIVE SESSION – March 24, 2015

On a motion duly made by Councilmember D. F. Munson and seconded by Councilmember M. E. Brubaker, the Mayor and City Council unanimously agreed by voice vote of all members present to meet in closed session to discuss the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation or performance evaluation of appointees, employees, or officials over whom it has jurisdiction, #1, (Section 10-508(a)), and to consult with counsel to obtain legal advice, #7, (Section 10-508(a)), at 3:05 p.m. on Tuesday, March 24, 2015 in Room 407, 4th Floor, City Hall, Hagerstown, Maryland.

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, Heidi Voorhees, GovHR, USA, and Donna K. Spickler, City Clerk. The meeting was held to discuss recruitment of a City Administrator. The other topics listed on the published agenda were not discussed during this executive session. No formal action was taken at the meeting. On a motion duly made, seconded and passed, the executive session was adjourned at 4:59 p.m.

64TH SPECIAL SESSION AND WORK SESSION – March 24, 2015

Mayor D. S. Gysberts called this 64th Special Session, Work Session, and Executive Session to order at 5:06 p.m., Tuesday, March 24, 2015, in the Council Chamber at City Hall of the Mayor and City Council. 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.

64TH Special Session – March 24, 2015

On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember M. E. Brubaker, the Mayor and City Council unanimously agreed by voice vote to meet in Special Session at 5:07 p.m.

Approval of an Ordinance: Authorizing the Purchase, Rehabilitation and Sale of Property Located at 261 South Prospect Street for the City's Homeownership Program- Community's City Center Plan Catalytic Project #8

Action: On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember D. F. Munson, the Mayor and City Council unanimously agreed by voice vote to approve an ordinance authorizing the

purchase of property located at 261 South Prospect Street for the City's Homeownership Program. The acquisition of 261 South Propsect Street is consistent with the Community's City Center Plan Catalytic Project #8, the City's Housing and Neighborhoods Vision, and the 2015 Goals and Priorities established by the Mayor and City Council. The proposed purchase price is \$ 76,000 and would be funded with Community Deveopment Block Grant funds.

Approval of an Ordinance: Approval of Development and Rental Guarantee Agreement for Student Housing Project for Catalyst Project #3

Action: On a motion duly made by Councilmember M. E. Brubaker and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to approve an ordinance, as amended, to enter into a Development and Rental Guarantee Agreement with Blackwell2, LLC for a Student Housing Project at 100 N. Potomac Street. This is the first model student housing project under Catalyst Project #3 – USMH Expansion Support.

Discussion: Jill Frick, Economic Development Manager, noted Mark Halsey, Director, Jamie Buschon, and Amy Harmon from USMH were present. USMH has been in partnership with the City throughout this project process.

The Development and Rental Guarantee Agreement is being structured to allow for a possible August 15, 2015 move-in date. If the State of Maryland guidelines call for construction which conflicts with the plans in the proposal, then they will first attempt to modify the development plan and/or find alternative financing in order to achieve occupancy on or before January 1, 2016. The rental guarantee will go into effect on Janaury 1, 2016. If units are not ready by January 1, 2016, the developer will provide occupancy for students who would have committed to occupy the unit. The developer/partner will inform each tenant of available parking spaces within a two-block radius from the Student Housing Unit and facilitate the purchase of a parking permit, for use by the tenant. The term of the Rent Guaranty portion of the agreement will be effective either August 15, 2015 to July 31, 2020 or Janaury 1, 2016 to December 31, 2020, depending on occupancy.

Kathleen Maher, Planning Director, stated a portion of the funding for the project is with Community Legacy funds. The Maryland Historical Trust (MHT) reviews projects that utilize these funds. This building is listed as a hotel in the 1870's and the MHT would limit the amount of renovation that could take place in this historical building.

Councilmember Metzner stated the MHT would be forcing the City to maintain substandard housing by not allowing renovation to occur. The property is in poor condition and this project would be an improvement.

Mayor Gysberts stated he and the Council want to do what it takes to move this project forward. Reprogramming the Community Legacy funding may be necessary.

Approval of First Third Grant Application for 4 East Franklin Street, Blackwell2, LLC

Action: On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember M. E. Brubaker, the Mayor and City Council unanimously agreed by voice vote to approve the First-Third Grant application for the renovation project at 4 East Franklin Street. The total project cost is \$ 720,303. The First-Third Grant requested amount is \$ 240,077. This grant application and related development plan meets the City's Vision for Redevelopment of the City Center as established by the City Center Plan, specifically Catalyst Project #3 – Student Housing, and is in compliance with the program guidelines.

Staff are authorized to issue a Letter of Commitment in the amount of \$ 240,077. No funds will be dispersed until staff have verified that all work in the development plan is completed to the City's satisfaction, and that a full account detailing the total project cost expenditure requirements has been reviewed. Funding for this grant will come from the General Fund Reserve.

Approval of a Memorandum of Understanding: Hagerstown Police Department and Washington County Free Library

Action: On a motion duly made by Councilmember D. F. Munson and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to enter into a Memorandum of Understanding (MOU) with the Washington County Free Library (Library).

This MOU will provide a full-time sworn police officer to be assigned to the Library to promote a safe environment and to improve relationships between law enforcement officers and the users of the Library. The officer will also serve to support other downtown public safety needs in the area of the library to further improve the police presence in the Arts and Entertainment District. The Library agrees to reimburse the City \$ 40,000 annually for the police officer services. The remaining salary costs for the position shall be added to the police budget. This position

will increase the staffing levels of the police department from 107 to 108 sworn police officers.

The Special Session was adjourned at 5:22 p.m.

Councilmember Metzner noted there were guests at this meeting to hear the discussion about the Massey Property. He asked that this agenda item be discussed prior to the preliminary agenda.

Massey Property Project Implementation Discussion of Next Steps

The Mayor and City Council continued their discussion of the Massey Property.

Two contracts of sale were prepared by City Attorney Mark Boyer, reflecting the Mayor and Council's plans to take ownership of the property from Washington County. Mr. Boyer has begun to research the property to confirm there are no deed restrictions pertaining to the property.

Other items to consider include:

1. The City's partnership with the Congregation B-Nai Abraham on the development of the park.
2. The scheduling of an input meeting with area residents through the Neighborhoods First Program.
3. The development of a project budget, City funding, or other sources.
4. The development of the City's Request for Proposals on the Massey Showroom Building.
5. The City's schedule for contracting the demolition of the two structures.

Mr. Boyer stated the two contracts are for the two individual lots, Lot 2 and Lot 1. He is also reviewing what funds the County used to acquire the lots to determine if there are restrictions on the reuse of the property. The contracts include a 60 day feasibility period to conduct verifications and studies.

Rodney Tissue, City Engineer, noted the alley at the east edge of the property is not a City maintained alley.

Mayor Gysberts stated the contracts will be submitted to the County Commissioners after the Council's review and recommendations for amendments.

Councilmember Brubaker reminded the group that Greg Murray, County Administrator, stated there were no restrictions on the use of the property.

Councilmember Aleshire asked what time frame would be feasible for the demolition of the buildings. Mr. Tissue stated there needs to be a determination if there is asbestos present in the buildings. After that determination, the demolition contract would be

drafted. As soon as the property exchanges ownership, the demolition could occur quickly.

Councilmember Metzner hopes the buildings could be demolished by the end of the summer.

Mayor Gysberts stated community engagement is an important part of this project. There is obviously interest from the Synagogue. Funding for the demolition of the buildings is a concern.

Councilmember Metzner assumes the Council is interested in a community park being located on Lot 2. Mr. Zimmerman stated it would be helpful to know what vision the Mayor and Council has for that park. It would help in developing the bid documents so the gradation issues could be addressed.

Councilmember Aleshire stated he envisions some sort of green space near the library. Mayor Gysberts asked if that means a park without play equipment. Councilmember Aleshire stated the community should have input on that aspect of the green space.

Councilmember Brubaker would like to have seen more green space between these lots and the library.

Councilmember Aleshire likes the idea of a walking trail from 43/53 W. Washington Street to this site.

Councilmember Metzner stated the Synagogue clearly has an idea that a park should be one of inclusion and be for the community, not a park for the Synagogue.

Councilmember Aleshire does not want a green space to be a parking lot. He would like to see Lot 1 be used for economic development. He hopes interested parties would have the opportunity to see the extent of potential uses for the property.

Councilmember Munson agrees with Councilmember Metzner.

Mayor Gysberts stated the City will ask potential developers to make sure their project in line with the Mayor and Council's vision.

Mr. Zimmerman stated staff would draft an RFP and bring it to the Mayor and Council for their review. Mr. Tissue stated a limitation is going to be parking. There may be 20 spaces available.

Councilmember Aleshire would not want to be limited to specific uses based on the parking spaces available.

Mr. Zimmerman inquired if it makes sense to start holding community meetings. Councilmember Metzner stated community meetings could be held at the Synagogue.

Mr. Zimmerman summarized next steps as follows:

1. Review the contracts with the County
2. Develop a demolition contract
3. Develop an RFP for the sale of Lot 1
4. Discuss funding during budget sessions

Mr. Boyer then left the meeting.

Preliminary Agenda Review

Consent Agenda

A. Department of Community and Economic Development

1. Street Closures for Two Additional Runs
2. Consultant Services for Public Access Channel – CBG Communications
\$ 4,800.00

B. Parks and Engineering:

1. Engineering: Surveying Robotic Instrument – Caron East, Inc. (Cumberland, MD) \$ 25,000.00

C. Hagerstown Police Department

1. Approval of CrimeNet Software – C.I. Technologies (Jacksonville, FL)
\$ 19,800.00

There were no questions about the consent agenda.

Approval of Resolutions for Summer Camps – YMCA, Girls, Inc. and Robert W. Johnson Center

Rodney Tissue, City Engineer, discussed the summer camps that have been held for at least the past 20 years. The City has hired local agencies to provide recreation services for children in the community by providing summer play camps. The total amount requested is the same as last year. Additional Community Block Grant funds are also allocated to provide food to the Community Action Council to provide lunches at several locations including some of the camps.

This completed the preliminary agenda review.

Broadband Proposals and Next Steps

Scott Nicewarner, Director of Information Technology and Support Services, was present to discuss the responses to the HagerstownFAST Broadband RFI and to seek positive consensus on inclusion with the Next Century Cities initiative through the affirmation of the group's principles.

Mr. Nicewarner stated there were 8 responses to the RFI. The next steps include discussing the proposals with the submitters. There are two fiber providers within the City at this time – Antietam Cable and Windstar. Topics of discussion would include a management partnership for managing the broadband in the City Center. The managing group would market to a certain area and build the network to that area. This would be more appealing to investors because they would know there would be less cost for infrastructure. An RFP will be developed later this year.

Mr. Nicewarner has been in touch with Next Century Cities, a group that is interested in expanding broadband as an economic development tool. The City needs to remain competitive with the surrounding areas with broadband service. There is no cost to join and membership will provide a vast resource to the City for providing high speed broadband. The Next Century Cities group supports community leaders across the country as they seek to ensure that all have access to fast, affordable, and reliable Internet

Next Century Cities believes that there is no single pathway to a smart, effective approach to next-generation broadband. What matters is meaningful choice, dedicated leadership, and smart collaboration. Participating leaders and communities are committed to the following principles:

1. High-Speed Internet is necessary infrastructure
2. The Internet is nonpartisan
3. Communities must enjoy self-determination
4. High-speed Internet is a community-wide endeavor
5. Meaningful competition drives progress
6. Collaboration benefits all

Mr. Zimmerman stated it will be important to have guidance for moving forward with broadband services in the City.

Councilmember Munson feels this particular effort has the potential to bring many jobs to Hagerstown.

Councilmember Brubaker stated providing broadband capabilities will keep the City competitive. He asked how Hagerstown compares with other communities. Mr. Nicewarner indicated Hagerstown is an underserved technology area. It is difficult to attract a high tech company to the area if there is not the capability to provide the required giga byte needs.

Councilmember Brubaker thinks the broadband needs to be in place before the Central Lot office proposal is complete.

It was the general consensus to join Next Century Cities and agree with the principles as stated. Formal approval will be included on the agenda for the March 31, 2015 Regular Session.

Update on Planning Commission Recommended Land Management Code Amendments

Kathleen Maher, Planning Director, and Stephen Bockmiller, Zoning Administrator, were present to discuss a package of Land Management Code Amendments recommended by the Planning Commission for the Mayor and City Council's consideration. They also discussed several provisions not accepted by the majority of the Commission for inclusion in their recommended draft.

The Hagerstown Planning Commission spent the past nine months reviewing and finalizing a package of amendments, divided into three sections. A summary of the amendments follows.

Revision to HDC's Hardship Provisions

1. Provide guidance to the Historic District Commission on "Public Benefit" Hardship applications when reviewing demolition requests.
2. Create flexibility in the process for review of "major economic development opportunities" downtown involving new construction while protecting historic resources from proposals that are not implemented.
3. Expand Hardship provision for "denial not being in the best interest of a majority of the persons in the community" to address "major economic development opportunities", or due to other reasons.
4. Clarify what "a major improvement program which will be of substantial benefit to the city" means.
5. Major Economic Development Opportunity – a proposal for new construction in the Downtown Historic District that involves demolition of a contributing resource to accommodate development that is a significant traffic generator.
6. Remove orders for demolition by the Chief Code Official due to safety hazards from the hardship process – abatement of the safety hazard would be out of the HDC's realm; however, treatment after demolition would still come under the HDC review

These amendments will assist the HDC to become a more constructive driver for redevelopment downtown rather than a hindrance.

Graphics (Signs) Amendments

Revisions are motivated by complaints over certain types of Graphics being used, observations that some of the graphics provisions are too constraining in some situations, desire to make graphics provisions easier to understand, and the desire to

provide consistency between parts of the City Code addressing signs and graphics.

Amendments include:

1. Temporary signs – added detailed provisions on the type of temporary graphics permitted, prohibited everything else, providing 180 days to remove any existing prohibited signs
2. Window graphics in historic districts – design and placement subject to review of the HDC
3. Allows sandwich board signs for street level businesses under certain conditions
4. Exempts window graphics, wall-mounted directory graphics and theater marquee signs from sign area maximums under certain conditions
5. Commercial building-mounted signs - provides increased flexibility for size and number of signs based on building and site configurations and on zoning district
6. Institutional Freestanding Signs – allows larger size for buildings with large setback in residential districts
7. Non-conforming Freestanding Signs – added process for graduate progress to conformity for non-conforming multi-tenant freestanding graphics

Miscellaneous Amendments

The intent of these amendments is to provide more clarity on administration, more flexibility for desirable uses, and protections of the quality of life in the neighborhoods and commercial districts.

Amendments include:

1. Require City residency for 5 of the 7 members of the HDC
2. Bailbonds and Probation and Parole Offices – removed as permitted uses in CC-MU
3. Hookah Lounges, Vapor Lounges, and Tobacco Shops – added as permitted use in CC-MU, CG, and CR, with a 500 foot separation requirement between the uses
4. Check Cashing Services – added to CG and CR; not permitted in CC-MU
5. Professional and workmanlike construction – require all things constructed to be done in a professional and workmanlike manner; including prohibition of tarps as building materials
6. Dumpster enclosures – require for any new dumpster added to existing development – if substantially visible from public street
7. Expansion of non-conforming use – clarifies what is included in 35% maximum size limitation calculations for expansion of a non-conforming use
8. Prohibit the Board of Zoning Appeals from approving certain uses for changes to non-conforming uses, including adult entertainment businesses, bonding, probation and parole offices, drinking place, homeless shelter, hookah or vapor lounge, kennel, sale of fireworks, tattoo parlor, massage parlor, steam bath or sauna, and traditional housing for persons being treated with substance abuse issues
9. Open space for multi-family development – require minimum open space formula for new multi-family development site plans, as is required for subdivisions

10. Sidewalks – require sidewalks on public streets in site plan review process, and in subdivision review process
11. Fences between residences and non-residential uses – allow residential properties to construct 8-10 ft fence on boundaries abutting non-residential districts
12. Artist live-work space –added as permissible use in IR and I-MU in older buildings; and adjusted the definition to remove APFO restrictions
13. Light Manufacturing – allow by right in CC-MU, if 25,000 sf or less; allow as a special exception in CC-MU, POM, I-MU, if over 25,000 sf allow by right in IR and IR, if over 25,000 sf
14. Retail bakeries and retail confectionaries – added to Retail and Wholesale Trade use category
15. Brewpubs – added to Drinking Places use category
16. Multi-family dwellings constructed for that purpose prior to October 1, 1956 – allow as permitted use in R-MOD and R-MED
17. Updated Forest Conservation Ordinance to match changes to State law, including return of exemption for impervious areas

The following miscellaneous items were requested through public input

18. Retail/Wholesale trade – allow in IG as a special exception use (as it is allowed in IR), it does not exceed 25% provision for retail and wholesale trade on the site
19. Pawn shops – allow in IR and IG as a special exception, if it does not exceed 25% provision for retail, wholesale trade and pawn shops on site, and if 500 foot separation from any other pawn shop
20. Specialty trade contractors – allow indoor storage in CG district; allow with outdoor storage in I-MU, IR, and IG
21. Sunset period for PUD's – expand from 2 years to 3 years; suspend clock until appeals resolved

The following are provisions not recommended by the Planning Commission

1. Storefront Protection Zone – to require store fronts in portion of CC-MU to be occupied by high pedestrian traffic uses and to require lower pedestrian traffic uses to locate on upper floors or other non-storefront spaces.

This proposal had been presented to the Mayor and City Council last year as a staff proposal of the Planning Commission's consideration. This proposal received opposition by three members of the public during the Commission's public review process. While all felt the goal behind this proposal was good, the majority of the Commission did not agree with making it a regulatory requirement, but rather felt the goal should be pursued through incentives.

2. Window graphics – to include in maximum square footage requirements
3. Dumpster enclosures – to require for all dumpsters added to existing development
4. Hookah lounges – to prohibit in CC-MU zoning district
5. BZA written decisions – to have staff and/or the City Attorney prepare written decisions for BZA review, revision and approval

Despite the fact the majority of communities surveyed in Maryland handle BZA written decisions in this manner, the Planning Commission, the Board of Zoning Appeals and the City Attorney were not in favor of this provision. Councilmember Brubaker thinks this amendment should be approved. The opinions should be done professionally.

Councilmember Brubaker stated he supports the concept of a Storefront Protection Zone. Members of the Planning Commission are concerned this zone would be disruptive to certain types of development.

Mayor Gysberts pointed out the zone is indicative of the vision for downtown – creating pedestrian traffic.

Councilmember Aleshire isn't sure the language is quite right for the zone.

Mr. Zimmerman stated these amendments are an important opportunity for the Mayor and Council to address their goals.

Mayor Gysberts suggested discussing the amendments again in early April. A public hearing will be scheduled at a later date.

Councilmember Aleshire noted that he does not think a “Major Economic Development Opportunity” has to be tied to the purpose of being a pedestrian traffic generator. He is not in favor of expanding the PUD sunset period. He is only in favor of two non-voting members of the HDC if they have a connection to the City. The amendments should include something about hookah lounges. He would also like to explore smoking in establishments in general.

Councilmember Aleshire noted there seems to be an increase in the number of boarding houses in the City. Mr. Bockmiller stated these residences are not permitted. If staff receives information about possible locations, they can check the property.

Ms. Maher stated Councilmember Aleshire comments will be included in the next memo for the amendments.

Appalachian Regional Commission Funding Requests for FY 2016

Alex Rohrbaugh, Planner, was present to discuss staff's recommendation for FY 2016 project funding requires for the City of Hagerstown to the Appalachian Regional Commission.

The Tri-County Council of Western Maryland is seeking local project funding requests to the Appalachian Regional Commission for FY 2016. The deadline for submittal of Preliminary Project descriptions to Washington County is April 2, 2015.

The County Commissioners will prioritize all requests submitted in the county and will forward the requests with their recommendation to the Tri-County Council for review and action. This year the matching requirement is up to 50/50. Federal funds cannot be used to match the ARC request and the maximum funding amount per request is \$ 500,000. Projects must meet one or more ARC program goals and State objectives.

Staff recommends that the City rank and submit the following four projects for consideration for ARC funding in FY 2016:

1. HagerstownFAST High-Speed Broadband Initiative – \$ 40,000, ARC Request of \$ 20,000 and Local Match of \$ 20,000
2. Wastewater Collection System Rehabilitation (Inflow and Infiltration) - \$ 400,000, ARC Request of \$ 200,000 and Local Match of \$ 200,000
3. Downtown Building Renovation for Student Housing - \$ 1,200,000, ARC Request of \$ 300,000, and Local Match of \$ 250,000 (City), \$ 500,000 (Private) and \$ 150,000 (Other)
4. City Center Business Attraction and Retail and Restaurant Incentive Program - \$ 100,000, ARC Request of \$ 50,000 and Local Match of \$ 50,000

It was the general consensus to submit an application for one project – the Downtown Building Renovation for Student Housing. This is the top priority project.

Proposed City Code Provision Regarding Quorums for Boards

Kathleen Maher, Planning Director, reported the Planning Commission has requested that the Mayor and Council consider amending Chapter 10, Administration of Government, Part 2, Boards, Commissions and Authorities, of the City Code to review the quorum definition for meetings. The request is to change the quorum definition from “two-thirds majority” to simply “majority”. This would match the current quorum definition for Mayor and City Council meetings in the Charter and would match the Planning Commission’s bylaws.

Two-thirds majority for quorum is a difficult standard for volunteer boards and commissions. It would require five of the seven board members for quorum for Planning Commission and Historic District Commission meetings, instead of four, and would require four of the five board members for quorum for Board of Zoning Appeals meetings, instead of three. Cancellation of meetings due to a lack of quorum causes delays for applicants and generates dissatisfaction with the City’s services.

It was the general consensus to move forward with amending the definition of quorum for Boards and Commissions.

CITY ADMINISTRATOR’S COMMENTS

Bruce Zimmerman, City Administrator, had no additional comments.

MAYOR AND COUNCIL COMMENTS

Councilmember L. C. Metzner had no additional comments.

Councilmember P. M. Nigh mentioned two locations of appliances set out for pickup.

Councilmember M. E. Brubaker provided a status report of the MML legislative priorities. He thinks there is a good chance the Highway User Revenue will be restored to municipalities. Legislation to change master plans in detail has passed both the Senate and the House. Amendments to the Financial Disclosure reports received an unfavorable committee report. Legislation increasing the requirements for jurisdictions to satisfy Public Information Act requests has been scaled back from the first proposal. A referendum limit is also being considered by the Legislature.

Councilmember K. B. Aleshire has received good feedback on the downtown student housing project. He thinks a discussion should be scheduled with the State Planning Office and Governor's Office regarding the Mayor and Council's vision for downtown and the City and how regulations for the use of State funding impedes some much needed projects. He urged people to report suspicious activity to the police. It is better to be preventative rather than reactive.

Councilmember D. F. Munson thanked Councilmember Brubaker for his report of the session in Annapolis.

Mayor D. S. Gysberts thanked the Council for a good discussion this afternoon as they move forward with the process of finding a new City Administrator. The International Film Festival will open on Thursday, March 26, 2015 in Hagerstown. The Humane Society's grand opening of the adoption center and spaying clinic will be held on March 28, 2015. The ARC will be recognized with a "Get out and walk" event.

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 7:11 p.m.

Respectfully submitted,

Original signed by D. K. Spickler

Donna K. Spickler
City Clerk

Approved: May 26, 2015