

EXECUTIVE SESSION – October 1, 2019

On a motion duly made by Councilmember A. Heffernan and seconded by Councilmember E. Keller, the Mayor and City Council unanimously agreed by voice vote to meet in closed session to discuss public security, if the public body determines that public discussion would constitute a risk to the public or public security, including the development and implementation of emergency plans; #10 (ii), (Section 3-305(b)), and to comply with a specific constitutional, statutory, or judicially imposed requirement that prevents public disclosures about a particular proceeding or matter; #13 (Section 3-305(b)), on Tuesday, October 1, 2019 at 3:07 p.m. in Room 407, 4th floor, City Hall, Hagerstown, Maryland.

The following people were in attendance: Mayor R. E. Bruchey, II, Councilmember K. B. Aleshire, Councilmember A. Heffernan, Councilmember E. Keller, Councilmember S. McIntire, Councilmember L. C. Metzner, City Administrator Scott Nicewarner, City Attorney Jennifer Keefer, Kathleen Maher, Director of Planning and Code Administration, Paul Fulk, Neighborhood Services Manager, and Donna K. Spickler, City Clerk.

The meeting was held to discuss an emergency plan and to consult with staff. No formal action was taken at the meeting. On a motion duly made, seconded, and passed, the meeting was adjourned at 3:45 p.m.

84th SPECIAL SESSION AND WORK SESSION – October 1, 2019

Mayor R. E. Bruchey, II called this 84th Special Session and Work Session of the Mayor and City Council to order at 4:02 p.m., Tuesday, October 1, 2019 in the Council Chamber at City Hall. Present with the Mayor were Councilmembers K. B. Aleshire, A. Heffernan, E. Keller, S. McIntire, and L. C. Metzner, City Administrator Scott A. Nicewarner, City Attorney Jennifer Keefer, and City Clerk D. K. Spickler.

84th Special Session – October 1, 2019

On a motion duly made by Councilmember S. McIntire and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to meet in Special Session at 4:02 p.m.

Approval of a Memorandum of Understanding with Maryland Stadium Authority for Phase II Study

Action: Councilmember S. McIntire made a motion to approve a Memorandum of Understanding with the Maryland Stadium Authority to complete a Phase II study of the Baltimore Site for a new multi-use sports and events

facility. The facility would include MiLB and opportunities for other sports and entertainment options.

Funding for the study is a \$ 300,000 grant awarded to the City of Hagerstown by the General Assembly in Chapter 14 of the Acts of 2019.

Councilmember L. C. Metzner seconded the motion.

Discussion: Councilmember Keller will be voting no on this action because she promised herself she would not support or vote for anything that didn't seem right. Aside from the political pressure, this action does not feel right to her. She is concerned that requested information has not been provided.

Councilmember Aleshire clarified that State funding for this study is from one State department to another. It is not the City of Hagerstown moving this forward. In reality, without State funding, the Council would be saying no to this study. He stated the funding is not from the City, the City didn't ask for it and the Council didn't know about it until it was secured. He wants the other parties involved to be keenly aware that they need to be at the table. The County and the State must be involved. It is not the City Council moving this forward.

Mayor Bruchey noted the agreement states the City of Hagerstown will not provide any funding in excess of the \$ 300,000 State funding, unless agreed to in writing.

Councilmember Metzner urged the parties involved in the study to complete it as soon as possible. He asked that an estimated cost for a stadium/event center be provided prior to the election in November, 2020. He would like proponents and opponents to have the opportunity to provide current information prior to the election. The Mayor has indicated to him that funding is possible, without any funds from the City of Hagerstown.

Councilmember Heffernan has been reading comments on social media. He will vote yes for the study because another catalyst project downtown will be beneficial. If this study leads to a downtown entertainment center, he would support that.

Councilmember McIntire stated she is excited to see what can happen downtown.

Motion carried 3-2 with Councilmember Aleshire and Councilmember Keller voting No.

Approval of a U. S. Department of Justice Grant

Action: On a motion duly made by Councilmember E. Keller and seconded by Councilmember S. McIntire, the Mayor and City Council unanimously agreed by voice vote approve of a U. S. Department Justice Grant.

The Hagerstown Police Department received a U. S. Department of Justice grant in the amount of \$ 212,566.00 which will assist in the transition from the Unified Crime Report system to the National Incident Based Reporting System.

There are no matching funds required.

The Special Session was closed at 4:10 p.m.

Work Session – October 1, 2019

Proclamation: Pregnancy and Infant Loss Awareness Month

Mayor Bruchey presented a proclamation to Stephanie Nalley, Hope Through Birth, recognizing October, 2019 as Pregnancy and Infant Loss Awareness Month. Many citizens of Hagerstown have experienced the devastating loss of a baby, and Hope Through Birth serves as a resource for those in the community who may be seeking hope and healing after loss.

Proclamation: Walking School Bus Kick-off- October 2, 2019

Mayor Bruchey read a proclamation recognizing October 2, 2019 as Walking School Bus Kick-Off Day in Hagerstown, Maryland. The Walking School Bus provides a fun and engaging atmosphere for students to learn safe pedestrian behavior, become connected with other students and adults in their community, and arrive to school on time and ready to learn.

ALICE Report – Verbal Update

Guinn Rogers, President and Chief Executive Director of United Way of Washington County, was present to provide an update of the latest ALICE information.

ALICE, an acronym for Asset Limited, Income Constrained, Employed, is a new way of defining and understanding the struggles of households that earn above the Federal Poverty Level, but not enough to afford a bare-bones household budget.

For far too many families, the cost of living outpaces what they earn. These households struggle to manage even their most basic needs - housing, food, transportation, child care, health care, and necessary technology.

When funds run short, cash-strapped households are forced to make impossible choices, such as deciding between quality child-care or paying the rent, filling a prescription or fixing the car. These short-term decisions have long-term consequences not only for ALICE families, but for all of us.

Despite the critical nature of many jobs to keep local economies running – educating the youngest children, keeping ailing parents safe – these workers often struggle to keep their own households from financial ruin.

ALICE is your child care worker, the cashier at your supermarket, the gas attendant, the salesperson at your big box store, your waitress, a home health aide, and office clerk. ALICE cannot always pay the bills, has little or nothing in savings, and is forced to make tough choices. One unexpected car repair or medical bill can push these financially strapped families over the edge.

The future success of our communities is directly tied to the financial stability of these fragile ALICE households.

Mr. Rogers reported people in this group are not the same as the working poor. Many people are comfortable with how their families have lived for generations. United Way strives to help kids break the generational poverty issue. They work with organizations that are providing basic needs. They hope, that over time, these folks will gain some assets and be able to set aside money so their children won't be in the same situation. Hagerstown is doing better than it was two years ago. This shows the efforts of the United Way and other groups have made a difference. He stated he believes the City is doing better overall than the County.

Regulation of Temporary Signage

Kathleen Maher, Director of Planning and Code Administration, and Stephen Bockmiller, Development Planner/Zoning Administrator, were present to seek guidance from the Mayor and City Council on the topic of temporary signs.

A package of revisions to the sign provisions of the Zoning Ordinance was discussed in the 2018 annual package of Land Management Code amendments. Most concerns revolved around the issue of temporary signs. After hearing from interested parties, the section of proposals associated with signs were withdrawn for further exploration. The main concern was the treatment of political signage the same as all other temporary signage due to the Reed v. Town of Gilbert, Arizona case which was decided by the U. S. Supreme Court. While there are limited exceptions, regulation of temporary signs cannot include criteria based on content.

Staff have given this additional consideration and research, but find no way to regulate such things while carving out an exception for political or speech based content. Contrary to views stated in previous discussions, there is no Constitutional protection of unlimited signage on a property, as long as the regulations adopted are content-neutral. Per Gilbert,

regulations cannot – for the most part – take message into account. On-premises commercial messages and “off-premises” signs (billboards) are subject to regulation.

The regulation of temporary signage was proposed mostly due to aggressive usage of banners and temporary signage by businesses, mainly in the commercial districts. This creates a negative and blighting influence on the commercial areas.

The Planning Commission believes that, while this is an issue well within the purview of Zoning Ordinance regulation, ultimately, it will come down to a decision to be made by the Mayor and City Council, which will weigh non-regulatory implications in making its decision, and the Commission does not want to waste valuable time and resources going in a direction the Mayor and Council may later find objectionable.

The Commission and staff believe the following options are in play:

1. Move forward with the regulations as proposed. The relations for temporary signage will affect all signage in all districts, although differently depending on district. However, most all temporary signage with just about any message would have to comply with the requirements.
2. Do not regulate temporary signage. This would avoid the concerns associated with regulating such signage. However, the City would also have to tolerate properties engaging in the extreme use of temporary and poorly constructed signage – mostly for commercial purposes, and their negative visual impact on the community and the City’s commercial corridors.
3. Limit the regulation of temporary signs to commercial districts. Aggressive temporary signage has rarely been an issue in residential districts. By regulating the issue only in non-residential districts, most residents will not be so constrained regarding signs they post at their residences. However, the primary goal of improving the appearance and quality of commercial and industrial districts and corridors is achieved. The only place that there would be the perception of limiting speech is in the commercial and industrial areas. Such signs would still be permitted in these districts. Such signage would not be prohibited, but they would be subject to the same limitations on number, size, etc. as previously proposed for all signs in those districts regardless of message.

Ultimately, this is a judgment call on which issue is more important to the Planning Commission and the Mayor and City Council. Both the Planning Commission and the Mayor and City Council will need to determine where the priority lies. The Commission requests the guidance of the Mayor and City Council – which will make the final decision – before it expends thought and effort on the subject.

Ms. Maher stated the City exempted temporary signs such as real estate and campaign signs; however, new federal regulations prohibit treating signs differently based on content.

Councilmember Aleshire asked if Option 3 could be time oriented, for example for 60 days. Most commercial signs are rotated regularly.

Ms. Maher stated this would be nearly impossible to regulate.

Councilmember Aleshire stated he believes Option 3 keeps people honest. Places that are plastered above the square footage limit could be charged an amount for every time they change the sign.

Mr. Bockmiller stated staff receive the most complaints about specific businesses that receives large banners from distributors.

Councilmember Metzner asked if any Mayor and City Council members have received complaints about commercial signs in commercial districts. No one has. He recommends keeping the current regulations in place.

Ms. Maher asked if the Mayor and City Council feel there is a problem with temporary signs. All agreed temporary signs are not a problem.

Councilmember Metzner noted City Code prohibits going out of business sale signs for more than 60 days. There is a business on Pennsylvania Avenue that has had going out of business signs up for more than a year.

It was the general consensus of the Mayor and City Council to remove regulation of temporary signage from the Land Management Code.

Mayor and City Council Rules of Procedure Review

Mayor Bruchey reviewed section 6.4 of the Rules of Procedure pertaining to reading of protests. Reading of protests are permitted for matters over which the Council has control, when the item is under consideration by the Mayor and Council, if a majority of the Council present agrees to let them be heard. During recent Regular Sessions, topics of this nature have been presented to the Mayor and City Council during Citizen Comments; however, the topic is not under the Council's control. He noted since this section is already included in the Rules of Procedure, it should be reiterated to make it well known.

Councilmember Metzner pointed out this section also states protests can be heard for items under consideration. He wondered if someone wishing to speak during comments will say they aren't reading a protest. He feels the recent comments fall under Section 6.3, which pertains to personal and slanderous remarks. Under Frist Amendment rights, slanderous, inflammatory and incendiary comments are not permitted. The comments

MAYOR AND CITY COUNCIL

HAGERSTOWN, MARYLAND

regarding abortion are not accurate. There is no murder, by definition of the word, happening at the location that has been stated. The people working there are medical professionals and to publicly accuse them of murder is slanderous. He does think that everyone is entitled to their opinions and he can choose to not listen. He was prepared to leave the meeting last month, but when murder was mentioned immediately during comments, he called for adjournment of the meeting. When murder and announcement of the address of the facility is mentioned, the comments should be stopped. He recommended people making slanderous and inflammatory remarks be barred from future meetings, not just the remainder of that meeting, as indicated in Section 6.3. He doesn't think someone making these remarks should be able to continue repeating the remarks.

Councilmember Metzner suggested reviewing the section regarding the way large groups address the Mayor and City Council. The Rules of Procedure indicate two representatives are to be selected to speak from the group on the same topic. He is concerned others in this type of group may indicate they are not part of the group and have separate topics to discuss. He noted a variety of topics have been presented during Citizen Comments. For example, Lyndon LaRouche supporters and citizens concerned about placement of a pipeline under the Potomac River have been spoken during Citizen Comments. All groups have to be treated equally. He also recommended moving Citizen Comments, City Administrator Comments, and Mayor and City Council Comments to the end of the meeting.

Mayor Bruchey stated the current order was established to provide citizens the opportunity to speak before the Council votes on items on the agenda. He doesn't think that opportunity should be taken from citizens.

Councilmember Metzner supports two sets of Citizen Comments, one prior to the voting portion of the meeting and a set at the end for other concerns. Citizens should not be permitted to address or question the Council directly. All comments are to be addressed to the Mayor. Councilmembers could comment during Council Comments, if they choose to.

Councilmember Keller and Councilmember McIntire support two sets of Citizen Comments.

Councilmember Heffernan asked if there is a reason to hear comments from people who don't live within the City limits. Mayor Bruchey pointed out there are people who do business in Hagerstown that don't live within the City limits.

City Attorney Jennifer Keefer will research whether a permanent bar from meetings is possible.

Councilmember Aleshire asked if the subject matter could be barred, rather than the person. What would really be barred is repeating comments that don't fit within the established parameters. Ms. Keefer will review this as well.

Councilmember Metzner asked what the proper protocol is for someone who repeatedly does the same thing, meeting after meeting.

Mayor Bruchey asked the Council for their thoughts on keeping the Invocation in the meeting order. Councilmember Metzner will contact the local clergy group after the first of the year to schedule them to provide the invocation.

It was the general consensus to schedule approval of revised Rules of Procedure on October 15, 2019, which would become effective as of the October 22, 2019 Regular Session.

Ms. Keefer left the meeting.

Request for Support Resolution: Neighborhood Business Works Program

Jill Thompson, Director of Community and Economic Development, was present to review a request from the Maryland Department of Housing and Community Development (DHCD) for a support resolution for the Neighborhood Business Works Program.

Williams D. Carroll, III has applied to the Neighborhood Business Works Program for the purchase and predevelopment costs associated with the renovation of the Pythian Castle building located at 16-18 W. Franklin Street.

The proposal is to divide the project into two phases. The first phase will provide funding for the acquisition of 16-18 W. Franklin Street. It is anticipated that the first floor will be used to create a food/retail hall. At a later date, an elevator will be added to make the second and third floors functional. The anticipated use of the second floor will be an expansion of the food hall or remodeled to a restaurant. The third floor historic ballroom will also be remodeled for use as an event space.

Ms. Thompson stated there is no commitment required from the City, other than a resolution recognizing the project. The total amount of the project is \$ 575,000 for acquisition of the building. Mr. Carroll has secured \$ 350,000 from other State programs for the project. The current request is for \$ 250,000. There are some synergies with this project and the Junior Fire Company building on N. Potomac Avenue.

It was the general consensus to include approval of the resolution on the Special Session scheduled for October 15, 2019.

CITY ADMINISTRATOR'S COMMENTS

Scott A. Nicewarner, City Administrator, recognized the Hagerstown Fire Department for their outstanding work in getting a railroad tie fire under control in the area of Mitchell Avenue over the weekend. He believes their efforts saved the neighborhood

from any damage. He thanked Mark Haddock, Parks and Recreation Manager, and the Parks and Recreation staff for locating and fixing a leak in the upper City Park lake.

MAYOR AND COUNCIL COMMENTS

Councilmember S. McIntire had no additional comments.

Councilmember L. C. Metzner appreciated receiving a recent letter from a citizen thanking Mr. Haddock for his work. He thanked the Mayor for the opportunity to judge the cars in the Thunder in the Square events.

Councilmember A. Heffernan had no additional comments.

Councilmember K. B. Aleshire had no additional comments.

Councilmember E. Keller had no additional comments.

Mayor R. E. Bruchey, II attended the grand opening at Home2Suites earlier today. The 102 room hotel has been sold out several times already. This is a great asset for the Hagerstown community.

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 5:03 p.m.

Respectfully submitted,

Original signed by D. K. Spickler

Donna K. Spickler
City Clerk

Approved: November 26, 2019