

108TH REGULAR SESSION AND EXECUTIVE SESSION – August 25, 2020

EXECUTIVE SESSION – August 25, 2020

On a motion duly made by Councilmember A. Heffernan and seconded by Councilmember S. McIntire, the Mayor and City Council unanimously agreed by voice vote of all members present to meet in closed session to consult with counsel to obtain legal advice, #7 (Section 3-305(b)), on Tuesday, August 25, 2020 at 6:02 in the Council Chamber, 2nd floor, City Hall, Hagerstown, Maryland.

The following people were in attendance: Mayor R. E. Bruchey, II, Councilmember K. B. Aleshire, Councilmember A. Heffernan, Councilmember L. C. Metzner, Councilmember S. McIntire, City Administrator Scott Nicewarner, City Attorney Jennifer Keefer, Kathleen Maher, Director of Planning and Code Administration, Paul Fulk, Neighborhood Services Manager, Emily McFarland, Neighborhood Services Program Coordinator and Donna K. Spickler, City Clerk. Councilmember E. Keller was not present.

The meeting was held to discuss pending litigation with the City Attorney. No formal action was taken at the meeting. On a motion duly made, seconded, and passed, the meeting was adjourned at 6:20 p.m.

108th Regular Session – August 25, 2020

Mayor R. E. Bruchey, II called this 108th Regular Session of the Mayor and City Council to order at 7:01 p.m., Tuesday, August 25, 2020, in the Council Chamber at City Hall. Participating with the Mayor were Councilmembers K. B. Aleshire, A. Heffernan, E. Keller, L. C. Metzner, and S. McIntire, City Administrator Scott A. Nicewarner, City Attorney Jason Morton, and City Clerk D. K. Spickler.

The invocation was offered by Mayor R. E. Bruchey, II. The Pledge of Allegiance was recited and led by Mayor R. E. Bruchey, II.

Mayor Bruchey announced the Rules of Procedure for this meeting will be followed as effective January 21, 2020. It was announced that the use of cell phones during meetings is restricted and that all correspondence for distribution to elected officials should be provided to the City Clerk and should include a copy for the City Clerk for inclusion in the official record.

The next scheduled meetings are: Work Sessions beginning at 4:00 p.m. on Tuesday, September 1, 2020, Tuesday, September 15, 2020, and Tuesday, September 22, 2020, and the Regular Session on Tuesday, September 29, 2020 at 7:00 p.m. No meeting is scheduled for Tuesday, September 8, 2020.

APPOINTMENTS

On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember S. McIntire, the Mayor and City Council unanimously agreed by voice vote of all members present to make the following appointments:

Hagerstown Housing Authority
Carolyn Brooks, Term to Expire August 30, 2025

Historic District Commission
Leslie Allen, Term to Expire August 27, 2023

Public Art Commission – Term: September 1, 2020 to August 30, 2022
Alexis Broder
Mary Anne Burke
Sarah Hall
Alizah Lathrop
Cassandra Thompson
Aaron Peteranecz

Skate Park Task Force – Term: As needed to complete the study
Cynthia Burton
Eric Jones
Joshua Kebe
Ryan McAllister
Stephen McDaniel
Martin Price
Philip Scolaro
Caleb Shank

CITIZEN COMMENTS

Citizen Comments were accepted email at councilcomments@hagerstownmd.org prior to 5:00 p.m. on Tuesday, August 25, 2020. Citizen Comments were also accepted during the meeting.

Donna Spickler, City Clerk, reported one Citizen Comment was submitted by the deadline. Mark Czajka, Director of MD Volt, Inc., submitted comments regarding fees for vehicle charging stations in Hagerstown. MD Volt suggests charging by kWh and not by time.

A copy of the email is made a part of this record.

No other Citizen Comments were presented.

PUBLIC HEARINGS

Annexation Case No. A-2020-03: Cole Road Properties

Megan Flick, Planner, and Kathleen Maher, Director of Planning and Code Administration, were present to conduct the public hearing.

The City of Hagerstown is initiating annexation Case No. A-2020-03 by activating pre-annexation agreement Case No. WS-2004-03. The property owners signed the pre-annexation agreement, which states that the City has the right to annex when the property becomes contiguous to the corporate boundary, in exchange for water service.

The properties proposed for annexation consist of properties fronting Cole Road including: Kohl's; Bob's Discount Furniture; the Christmas Tree Shop, DSW, Ross, the old US Cellular and remaining vacant storefront in that strip totaling approximately 34.31 acres. Currently, the properties are zoned BG (Business General) in the County.

The properties zoned BG in the County are proposed to be zoned CR (Commercial Regional) in the City. The zoning classifications are consistent with one another. Furthermore, the property is designated as Commercial General on the City's Future Land Use Map which is also consistent with the proposed zoning.

The proposed annexation was introduced on April 28, 2020. The Annexation Plan was also adopted at that time. An amended Annexation Plan with corrected addresses was adopted on July 28, 2020. As required by State Law, there were four published notices advertising the Hearing and the Annexation Plan was provided to the appropriate County, Regional, and State Planning Agencies at least 30 days prior to the Public Hearing.

The Maryland Department of Planning provided the standard feedback, including the consensus that the proposed City zoning designation is consistent with the current County zoning designation.

After the Public Hearing, the Mayor and Council may pass or reject the annexation resolution. If the resolution is approved the annexation becomes effective in 45 days.

Ms. Flick entered the following into the record:
Exhibit 1 – Certificate of Advertisement
Exhibit 2 – Planning File by Reference

There was no testimony presented, either in favor of or against the annexation.

This portion of the hearing was closed at 7:14 p.m. The record will remain open for 10 days for additional comments.

Councilmember Keller arrived at the meeting.

Landmark Overlay District at Saylor House

Megan Flick, Planner, was present to conduct the public hearing on the proposed Landmark Overlay District at the City-owned Saylor House in Kiwanis Park.

The City of Hagerstown has applied for a Landmark Overlay District at the Saylor House, The Saylor House is the small stone house in Kiwanis Park that was built between 1790 and 1810. It was documented in the Maryland Inventory of Historic Places in 1975. In 2015, the Washington County Historical Trust began to work with the City to stabilize and partially renovate the Saylor House.

The intent is to preserve the Saylor House as an important historic landmark in Hagerstown. This designation is necessary to qualify the building for certain grant funding and relaxation of floodplain regulations. Detailed history of the Saylor House was provided with the memo, along with the official letter of request signed by the City Administrator and additional background materials.

The Historic District Commission (HDC) made a recommendation to the Planning Commission (PC) to approve this application for a Landmark Overlay District. HDC members were in favor of protecting the building through a landmark designation. They observed that the house is in good shape considering its age and that it would be an appropriate addition to the City's historic inventory. PC members agreed with the HDC's sentiments.

The PC held a public hearing and welcomed public input. At the public hearing, two emails in support of the Landmark Overlay were entered into the record. In addition, Martin Brubaker spoke on behalf of the Washington County Historical Trust in support of the Landmark Overlay. He mentioned the benefits the rezoning would provide for rehabilitation of the Saylor House. Ann Aldrich submitted a letter of support within the 10 day public input period. Copies of the correspondence was included with the packet material. The PC has forwarded a recommendation to the Mayor and Council supporting approval of the Landmark Overlay.

Ms. Flick entered the following Exhibits:
Exhibit 1 – Certificate of Publication
Exhibit 2 – Planning File by reference

Ms. Flick addressed the question regarding the ability to remove the overlay raised by Councilmember Aleshire during the discussion on August 18, 2020. She clarified the Mayor and City Council have the authority to remove the overlay at any time and the process would be similar to adding the overlay, only in reverse.

The following testimony was presented:

Ann Aldrich, 13302 Unger Road, Hagerstown, Maryland, reported the Historical Society is making progress in restoring the property. They started building the porch this month. She thanked the Mayor and City Council and City staff who have assisted them in this process. The Landmark Overlay will be an asset when applying for grants and

will provide local control of the use of the property. The Overlay will exempt the historic building from the 100 year flood plain restrictions.

Martin Brubaker, 10925 Hartle Drive, Hagerstown, Maryland, stated the Overlay designation will permit the Historical Society to move forward in applying for grants and seeking donations. He presented a letter for the record from Rorke Eicholz, President of the Washington County Historical Trust noting the overlay is critical to their ongoing efforts to provide for long-term preservation of this notable structure.

There was no further testimony presented.

This portion of the hearing was closed at 7:19 p.m. The record will remain open for 10 days for public input. Following the input time, the Mayor and Council may vote to amend the zoning map to add the Landmark Overlay District.

MINUTES

On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember E. Keller, the minutes from July 7, 2020, July 14, 2020, July 21, 2020, and July 28, 2020 were unanimously approved as presented.

CONSENT AGENDA

On a motion duly made by Councilmember E. Keller and seconded by Councilmember L. C. Metzner, the Consent Agenda was approved as follows:

- A. Department of Community and Economic Development:
 - 1. Open Container Exemption – Imagine Hagerstown – September 26, 2020

- B. Department of Information Technology - Support Services:
 - 1. ESRI GIS Maintenance Agreement Renewal – ESRI (Redlands, CA)
\$ 38,500.00

- C. Department of Parks and Engineering:
 - 1. Traffic Signal Upgrade at Potomac and Howard – Concrete Central, LLC (Hagerstown, MD) \$ 340,819.50
 - 2. Handicap Accessible Ramp Contract – Concrete Central, LLC (Hagerstown, MD) NTE \$ 120,000.00

- D. Police Department:
 - 1. 25 Cameras for Downtown System Expansion – HCGI (Columbia, MD)
\$ 33,700.00
 - 2. 90 Cameras for Downtown System Expansion- Skyline Technology Solutions, LLC (Glen Burnie, MD) \$ 81,492.30
 - 3. Annual Software Maintenance Agreement for the HPD Police Mobile – Keystone Public Safety, Inc. (Maple Shade, NJ) \$ 98,575.00

E. Public Works:

1. Replacement of Video Security Systems A&E and UD Parking Decks – Spicher’s Appliances and Security (Hagerstown, MD) \$ 117,000.00

F. Utilities:

1. Light – Engineering Analysis Software Support – Milsoft Utility Solutions (Abilene, TX) \$ 10,700.00
2. Light – Substation Class Switch Parts – S & C Electric (Annapolis, MD) \$ 10,557.00
3. Wastewater – Grinder Pump Replacement – Fluid Solutions, Inc. (Westminster, MD) \$ 27,647.15
4. Wastewater – Repair of HVAC System for Office Inside Pelletizer – Synagro – WWT, Inc. (Baltimore, MD) \$ 5,060.00

UNFINISHED BUSINESS

A. Approval of an Ordinance: Authorizing the Acceptance of Property Located At 216 South Prospect Street

Action: On a motion duly made by Councilmember A. Heffernan and seconded by Councilmember S. McIntire, the Mayor and City Council unanimously agreed by voice vote to approve an ordinance authorizing the acceptance of property located at 216 South Prospect with the goal of demolishing the property as determined to be the best path forward for the surrounding community. The property had significant damage due to a fire and rehabilitation of the property far exceeds the value of the property.

B. Approval of an Ordinance: Local Conversion District Overlay, 202 Howard Street – ZM-2020-01

Action: Councilmember K. B. Aleshire made a motion to approve an ordinance for a Local Conversion District Overlay, including the parking conditions endorsed by the Planning Commission, on property located at 202 Howard Street. Councilmember A. Heffernan seconded the motion.

Motion carried 4-0, with Councilmember S. McIntire abstaining from the vote.

C. Approval of an Ordinance: Deed of Easement from 114 East Magnolia Avenue

Action: On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember E. Keller, the Mayor and City Council unanimously agreed by voice vote to approve an ordinance authorizing the City to enter into a Deed of Easement for the future re-construction of a retaining wall for Alley 5-62 adjacent to 114 East Magnolia Avenue.

D. Approval of an Ordinance: Deed of Easement from 118 East Magnolia Avenue

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 to approve an ordinance authorizing the City to enter into a Deed of Easement for the future re-construction of a retaining wall for Alley 5-62 adjacent to 118 East Magnolia Avenue.

E. Approval of an Annexation Resolution: Annexation Case No. A-2020-04: Valley Mall Road Properties

Action: Councilmember A. Heffernan made a motion to approve an annexation resolution for Annexation Case No. A-2020-04 known as “Pre-Annexation Agreement Case No. WS-2005-20 Valley Mall Road Properties: Marriott Spring Hill Suites; Marriott Courtyard; and Restaurant.” The portion of property to be annexed is approximately 4.88 acres in size and is intended to be added and made part of the adjacent municipal lands. Councilmember E. Keller seconded the motion.

Motion carried 4-1, with Councilmember S. McIntire voting No.

F. Approval of an Annexation Resolution: Annexation Case No. A-2020-05: Thomas Bennett Hunter; and Other Lands

Action: On a motion duly made by Councilmember K. B. Aleshire and seconded by Councilmember E. Keller, the Mayor and City Council unanimously agreed by voice vote to approve an annexation resolution for Annexation Case No. A-2020-05 known as “Pre-Annexation Agreement Case No. WS-2015-07 Thomas Bennett Hunter; and Other Lands.” The portion of property to be annexed is approximately 21.15 acres in size and is intended to be added to and made part of the adjacent municipal lands.

Discussion: Councilmember Aleshire stated he doesn’t agree with the decision regarding tax phase-in for these two properties, however, he recognizes that annexation is one of the best tools to increase the tax base and provide fiscal stability.

NEW BUSINESS

A. Introduction of an Ordinance: Amending Sections of Chapter 238, Water, of the City Code

Action: On a motion duly made by Councilmember S. McIntire and seconded by Councilmember E. Keller, the Mayor and City Council unanimously agreed by voice vote to introduce an ordinance to increase the charges for certain water application fees and service charges, to establish certain sewer application fees and connection charges, to effect various changes

with respect to Rendering and Payment of Bills; to establish the Reasonable Fee for Meter Tests; to revise Penalties for Violations and Penalties of Section 238; to establish certain Plan review and Inspection Fees; and to establish certain Miscellaneous Fees. These charge increases are necessary to meet the revenue requirements of the Water Fund in order to keep the fund self-supporting.

The detailed application fees and connection charge changes and other changes are indicated in the body of the ordinance. The increased rates and newly-established rates shall be effective for all charges incurred on or after November 1, 2020.

B. Introduction of an Ordinance: Amending Sections of Chapter 240, Water Pollution Control, of the City Code

Action: On a motion duly made by Councilmember S. McIntire and seconded by Councilmember E. Keller, the Mayor and City Council unanimously agreed by voice vote to introduce an ordinance to increase the charges for certain sewer application fees and connection charges and to establish certain sewer application fees and connection charges. These charge increases are necessary to meet the revenue requirements of the Sewer Fund in order to keep the fund self-supporting. The cross-reference to Section 238-15 is to make provisions relating to sewer bills easier to locate.

The detailed application fees and connection charge changes are indicated in the body of the ordinance. The increased rates and newly-established rates shall be effective for all charges incurred on or after November 1, 2020.

C. Approval of a Resolution: Electric Vehicle Charging Services Agreement with Electric Vehicle Institute, Inc.

Action: On a motion duly made by Councilmember E. Keller and seconded by Councilmember A. Heffernan, the Mayor and City Council unanimously agreed by voice vote to approve a resolution to enter into an Electric Vehicle Charging Services Agreement with the Electric Vehicle Institute, Inc. whereas drivers of electric vehicles will be charged for the electricity used to charge their vehicles when using the electric vehicle charging stations located in the Central Parking Lot at 14 North Potomac Street, Hagerstown, Maryland. The agreement is attached with the resolution.

D. Approval of an Exemption from City Code Chapter 155, Noise – Bester Community of Hope Event

Action: On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember S. McIntire, the Mayor and City Council unanimously agreed by voice vote to approve an exemption from the City Code,

Chapter 155, Noise. This exemption is being granted in accordance with Section 155-6, Variances, to Bester Community of Hope for a fireworks display during the 5th Annual South Side Community Block Party on Saturday, September 19, 2020 from 9:00 p.m. to 9:30 p.m. (rain date is Sunday, September 20, 2020). The fireworks display will be held at Municipal Stadium.

E. Approval of Request for Proposals (RFP) for Developer/Partner for Catalyst Project #3 – Student Housing

Action: On a motion duly made by Councilmember A. Heffernan and seconded by Councilmember S. McIntire, the Mayor and City Council unanimously agreed by voice vote to authorize staff in partnership and in agreement with USMH to finalize any changes to the Priority Area identified on the USMH Student Housing Project Area Map and then to post the attached Request for Proposals (RFP) for a developer/partner for the third, pilot student housing project as part of Catalyst Project #3 – University System of Maryland at Hagerstown (USMH) Expansion Support.

F. Approval of Amendments to the City’s Water and Wastewater Policy

Action: On a motion duly made by Councilmember S. McIntire and seconded by Councilmember E. Keller, the Mayor and City Council unanimously agreed by voice vote to approve an amended City of Hagerstown Water and Wastewater Policy. The amendment modifies the policy by creating a preamble which explains the City’s overall requirement for annexation as a condition of City water and wastewater requests outside the corporate boundaries and provides a definition for new or expanded service. The amended policy was attached with the motion.

G. Approval of Improvements of Wesel Boulevard:

1. **Reconstruction of Wesel Boulevard – C. William Hetzer, Inc.**
(Hagerstown, MD) \$ 5,202,323.65
2. **Installation of Video Detection Cameras at Traffic Signals 9 Econolite**
(Glen Burnie, MD) \$ 72,955.20
3. **Engineering Design of Road Reconstruction Plans – Frederick, Seibert & Associates (Hagerstown, MD) \$ 125,050.00**
4. **Geotechnical Inspection and Testing Services – Triad Engineering, Inc.**
(Hagerstown, MD) NTE \$ 39,194.16
5. **Hagerstown Light Department – Lighting and Electrical Installation**
\$ 30,000.00

Action: On a motion duly made by Councilmember K. B. Aleshire and seconded by Councilmember A. Heffernan, the Mayor and City Council unanimously agreed by voice vote to approve the construction contract and the direct purchases of construction materials from vendors as listed on the purchase/contract information form.

Funding for the project is as presented in the March 27, 2020 agreement between the City and the developer NP Hagerstown Industrial, LLC and also the April 1, 2020 Agreement between the City and the Washington County Board of County Commissioners. The City's share of funding, estimated not to exceed \$ 1,500,000 is as follows:

1. \$ 350,000 in FY21 State Highway User Revenue
2. \$ 800,000 in General Fund Balance Reserve (transferred from FY20)
3. \$ 359,000 in FY21 State Aid funds

Discussion: Councilmember Aleshire thanked the developer for investing in Hagerstown. There is already a physical improvement in that area. He also thanked the Washington County Commissioners for expeditiously making a decision for the improvement of the infrastructure which will provide a significant return on the investment.

H. Approval of Sale of Pumper: 2008 KME Pumper

Action: On a motion duly made by Councilmember A. Heffernan and seconded by Councilmember S. McIntire, the Mayor and City Council unanimously agreed by voice vote to approve the sale of a 2008 KME Pumper, also known as Engine 4, to the Upper Pottsgrove Township Fire Company, Pottsgrove, PA for the sum of \$ 77,500.00. The pumper and some equipment are sold as-is, where-is. This amount exceeds the projected market value of a pumper of this age and condition. Two companies expressed interest in the pumper but made no offers in the six weeks the pumper has been for sale. There is a broker fee of 5% for listing and marketing the pumper; \$ 3,875.00. Hagerstown Fire Department staff agree that this is the best possible offer.

CITY ADMINISTRATOR COMMENTS

Scott Nicewarner, City Administrator, reminded everyone that the next Imagine Hagerstown event will be held on Friday, August 28, 2020. Scheduled performers include XACE and Josh Morningstar. The City Park summer concert series continue on Saturday, August 29, 2020. He thanked people attending events for following social distancing and face coverings guidelines. Potterfield Pool will be closed from August 31, 2020 through September 4, 2020. It will be open Labor Day weekend. After that, it will be closed for the season. Dining in the street will occur again on Sunday, August 30, 2020 from 11:30 a.m. to 3:00 p.m. He thanked patrons for visiting downtown restaurants during this time.

MAYOR AND CITY COUNCIL COMMENTS

Councilmember S. McIntire is pleased people are visiting restaurants. She noted she has seen new people during the street closures. She stated Washington County schools are back in session on August 31, 2020 with distance learning. She finds it remarkable

that County Commissioner Cort Meinelschmidt's daughter is protesting this and will be taking a stand in front of the school on September 3, 2020.

Councilmember L. C. Metzner had no additional comments.

Councilmember E. Keller reminded everyone that Washington Goes Purple will have a kick off event on August 27, 2020 at City Park. The guest speaker is former NBA player Chris Herren, who has a powerful story. All families are welcome and everyone will be safe. Face coverings and social distancing will be required. Hand sanitizer will be available. She thanked Public Works and the Hagerstown Fire Department for helping to wrap the poles with purple lights in downtown. She attended a grand opening of Phoenix Recovery's first recovery high school in Frederick, Maryland earlier today. She urged anyone needing help with an addiction to seek help.

Councilmember A. Heffernan had no additional comments.

Councilmember K. B. Aleshire had no additional comments.

Mayor R. E. Bruchey, II had no additional comments.

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 7:40 p.m.

Respectfully submitted,

Original signed by D. K. Spickler

Donna K. Spickler
City Clerk

Approved: September 29, 2020

Donna Spickler

From: Mark Czajka <mark@mdvolt.org>
Sent: Tuesday, August 25, 2020 9:06 AM
To: Council Comments
Subject: Electric Vehicle Charging Services Agreement with Electric Vehicle Institute, Inc.

ATTENTION! This message originated from an **external source**. Please use proper judgment and caution when opening **attachments, clicking links, or responding** to this email. Any claims of being a City official or employee **should be verified** and not assumed to be true. Please contact the IT department if you have any questions or concerns about this email or its contents.

Thank you for supporting the electric car community with Fast charging stations!

I was made aware yesterday of the resolution to charge a fee for the stations in Hagerstown that are now free. The proposed fee being a \$2.50 connection fee plus \$0.20 per minute for DC Fast Chargers downtown.

One of the biggest concerns the EV community has is that charging stations are up and reliable. If these fees would help keep these stations operational 24/7, with repairs in a very timely manner, fees are warranted.

We suggest you charge by kWh and not by time. California, for example, is banning the practice of time-based billing and the units being supported by the Maryland PSC are all using cost per kWh.

Keep in mind though, when you charge a fee, you might be charging more for electric than gas, and is that really the goal here? Fueling up an EV at \$0.25-0.30/kWh is roughly equivalent to buying the same range as a typical hybrid would get at \$3.00 per gallon.

So, yes, this is a convenience, but people who live in condos and apartments who need to use your stations to charge their car might be paying more for electricity than gas. If they live in an apartment, can they afford to pay more?

Mark Czajka
Director
MD Volt Inc.
www.mdvolt.org