

EXECUTIVE SESSION AND WORK SESSION – February 14, 2023

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Mayor Martinez called the Executive Session to order at 3:03 p.m.

On a motion duly made by Councilmember R. E. Bruchey, II and seconded by Councilmember S. McIntire, the Mayor and City Council unanimously agreed by voice vote of all members present at the time of the vote to meet in closed session to consult with counsel to obtain legal advice; (#7), to consult with staff, consultants, or other individuals about pending or potential litigation; (#8); and to consider a matter that concerns the proposal for a business or industrial organization to locate, expand, or remain in the State; (#4) (Section 3-305(b)), on Tuesday, February 14, 2023 at 3:03 p.m. p.m. in the Council Chamber, 2nd floor, City Hall, Hagerstown, Maryland. Councilmember K. B. Aleshire was not present for the vote.

The following people were in attendance: Mayor T. Martinez, Councilmember K. B. Aleshire, Councilmember R. E. Bruchey, II, Councilmember T. Burnett, Councilmember S. McIntire, City Administrator Scott Nicewarner, Jason Morton, City Attorney, Ann Rotz, City Attorney, Michelle Hepburn, Chief Financial Officer, Bruce Poole, Attorney, Kevin DeHaven, Safety and Loss Control Coordinator, Jill Thompson, Director of Community and Economic Development, Nancy Hausrath, Director of Utilities, Doug Reaser, Business Development Specialist, Stephen Bockmiller, Planner and Zoning Administrator, and City Clerk D. K. Spickler.

The meeting was held to consult with an attorney, to discuss pending litigation, and an update on a business proposal. No formal action was taken at the meeting. On a motion duly made, seconded, and passed, the meeting was adjourned at 4:00 p.m.

WORK SESSION – February 14, 2023

Mayor T. Martinez called this Work Session of the Mayor and City Council to order at 4:06 p.m., Tuesday, February 14, 2023 in the Council Chamber at City Hall. Participating with the Mayor were Councilmembers K. B. Aleshire, R. E. Bruchey, II, T. Burnett, and S. McIntire, City Administrator Scott A. Nicewarner, and City Clerk D. K. Spickler.

2022 Comprehensive Rezoning

Kathleen Maher, Director of Planning and Code Administration, was present to follow-up on the public hearing on the 2022 Comprehensive Rezoning. Affected properties have been kept in the loop throughout the process. No one from the public spoke at the hearing and staff has received no input since the hearing on January 31, 2023.

The Planning Commission forwarded the recommended 2022 Comprehensive Rezoning to the Mayor and City Council on December 14, 2022. No one participated in the Commission's public review meeting on November 9, 2022, and so the drafted Comprehensive Rezoning was forwarded as is.

This comprehensive rezoning is intended to clean-up eight areas that should have been rezoned to INST in the 2020 comprehensive rezoning, to add two other areas that have been rezoned to INST in the 2020 comprehensive rezoning, and to add two other areas that have arisen as planned INST uses. Those properties include the following:

1. Jonathon Hager Elementary School
2. Potomac Heights Elementary School
3. Kiwanis Park (along Antietam Creek within the Light Business Park)
4. Oswald Park (along Prospect Avenue)
5. Rotary Club of Longmeadow Park (on Northern Avenue)
6. Terrapin Park (in Collegiate Acres)
7. Wheaton Park (in Jonathan Street neighborhood)
8. Woodland Way Park (in North End)
9. Future home of Doleman Black Heritage Museum (465 Pennsylvania Avenue)
10. Future home of expansion of Washington County Museum of Fine Arts (321 Highland Avenue/111 Key Street)

Exhibits showing the before and after zoning of the affected properties, as well as a draft update to the zoning map showing the areas proposed for rezoning were included in the meeting material.

It was the general consensus to move forward with the recommendation. Introduction of an ordinance for the rezoning will be included on the February 28, 2023 Regular Session agenda.

ZT-2022-01 – Annual Land Management Code Update Package

Stephen Bockmiller, Development Review Planner and Zoning Administrator, was present to follow up on the public hearing on the 2022 Land Management Code amendments that occurred on January 31, 2023.

Alyse Cohen appeared at the hearing in support of the provision to add sports book wagering to the use chart in Article 4 (Zoning) Section Z.2 (Land Use Chart) that will accommodate a business she is looking to open at property she owns in the CR (Commercial Regional) Zoning District.

In the 10-day open record period, the City received one piece of communication on this matter. Hank Brown, representing Blackthorn Capital Partners LP (the party

redeveloping the Updegraff building next to Hatter's Plaza) submitted a letter on February 7, 2023. In it, he recommends a minor adjustment to proposal number 2022-12. This proposal is regarding strengthening development expectations in the N-MU (Neighborhood – Mixed Use) Zoning District.

Mr. Brown suggests that new subsection j, pertaining to densities, be adjusted to state that this provision applies when the property is at least 5 acres in size. His letter was attached for more explanation and the exact wording.

The Planning Commission discussed this input at its meeting on February 8, 2023. Both staff and the Planning Commission endorse this adjustment. To require a development to incorporate a mixture of housing types on properties less than 5 acres in size would be impractical and create unnecessary design difficulties for a developer. This proposal was designed with larger tracts in mind, and consideration was not given to the potential for redevelopment of existing small N-MU zoned sites, or the potential that other properties that are more modest in size may be rezoned to N-MU at some point in the future. His suggestion is logical and should be incorporated in the version introduced for adoption. The other items in this proposal regarding development layout should be sufficient to protect the intent of the ordinance on properties under five acres in area.

Staff notes that the date of January 1, 2023 was used in the proposal for subsection j and should be adjusted to reflect the effective date of the amendment, so it does not appear to be the adoption of a retro-active law. Use of January 1 was intended as a placeholder during the review process.

Councilmember Aleshire stated he does not support moving forward with the regulations for motor home and rv storage language. He believes residents should be able to store things of this nature on their property at their discretion.

Councilmember Bruchey asked why the requirement would be for a motor home to be stored on a pad. Mr. Bockmiller indicated the language is in response to someone who wanted to widen their driveway to make the entire front yard as a storage area. This would be disruptive and detrimental to the neighborhood.

Councilmember Aleshire noted it is difficult to get to the back yards of many houses. He has a driveway that holds 12 vehicles but this new regulation would require him to add another parking space.

Councilmember Bruchey asked if there is a possibility for a special exception process.

Councilmember McIntire asked if a rv parked in the back would have the same detrimental effect for a potential buyer. She stated it would not make a difference for her if she was the buyer.

Councilmember Aleshire stated it would be more palatable for him if the back yard can easily be accessed. Apparatus of this type isn't practical for traveling alleys. He suggested considering a setback requirement.

Mr. Bockmiller stated it may mean some properties are just not appropriate for storing these types of vehicles. This would be a policy question for the Mayor and City Council to consider.

Councilmember Bruchey suggested removing this proposed amendment regarding recreation vehicles from the list and review it at a later date.

It was the general consensus to move forward with the introduction of an ordinance to implement the changes on February 28, 2023.

"Hub City Garage" Parking Deck Bids

Rodney Tissue, City Engineer, and Eric Deike, Director of Public Works, were present to provide an update on the parking deck bids.

Five bids were received and Callas Contractors, Hagerstown, Maryland, was the low bidder at \$ 11,630,000 for a five story structure. The budget for the deck is \$ 10,000,000.

When the deck was discussed with the Mayor and City council in September, an alternative of a four story structure was considered. The bids included a request for an alternative quote for the four story deck. Callas Contractors indicated the alternative cost would be a reduction of \$ 1,600,000. Staff is meeting with Callas later this week to discuss reducing other costs.

The deck, as bid, includes brick facing. One option may be to use the impression of brick rather than actual bricks. Some of the aesthetic components could be removed to lower the cost. Another option could be to find additional revenue sources.

Councilmember Aleshire asked how many spaces would be lost by removing one story. Mr. Tissue stated a five story deck would have 397 spaces and a four story deck would have 315 spaces. If the stadium is 80% full, 1,500 space will be needed. The deck represents 20% to 25% of the spaces needed for the stadium. He feels comfortable with the number of spaces in four levels meeting the needs of the stadium.

Mr. Deike stated there are 440 spaces in 5 levels in the University Deck and 185 spaces in 4 levels in the Arts and Entertainment Deck. He noted the construction cost for the new deck is based on an estimate of \$ 29,000.00 per space. By adding a floor, the estimated cost rises to \$ 32,000.00 per space.

Councilmember Bruchey would like to keep the deck at five floors.

Michelle Hepburn, Chief Financial Officer, reminded the group that the annual debt service for a 25 year bond for \$ 10,000,000 at a 4.25% interest rate would be \$ 83,000.00. The City would be upside down for 10 years. The City can't subsidize the deck like it can with the golf course. Unless the City can find an outside funding partner, she can't recommend construction of a five level deck.

Councilmember Aleshire asked what the optimum funding level is. Ms. Hepburn stated \$ 10,000,000 has been the estimated amount, which included acquisition costs. The actual amount is currently \$ 500,000 more than anticipated.

Councilmember Aleshire asked about the necessity of the stair tower. Mr. Tissue indicated the whole stair tower would be totally visible. Mr. Deike stated there are two towers, including one in the back with an elevator.

Councilmember Bruchey would like to find a way to fund a five story deck. He asked if a 30 year bond would be a possibility.

Ms. Hepburn stated staff will review all possibilities, including costs for fewer aesthetic features.

Councilmember Bruchey pointed out Washington County government has no dog in this project – not the stadium, plaza, or deck. He suggested asking the County to assist with the funding in the spirit of cooperation. The County will also benefit from the project.

Mr. Tissue noted the deck will take a year to build. Antietam Street will be closed during that time.

Councilmember Bruchey stated the deck should be completed in time for the stadium opening in April, 2024.

Councilmember Aleshire asked if there is a possibility of overlapping construction activity for the deck and the stadium. Mr. Tissue reached out to Turner Construction (construction company for the stadium) to submit a bid for the deck but they did not.

Councilmember Aleshire asked if the cost for the deck includes the City's utilities. Mr. Tissue stated it does and also includes stormwater costs. An office, a bathroom, and plans for a future bathroom are also included.

Mr. Deike noted all four sides of the deck structure will be visible. Councilmember Aleshire stated it would be nice if the upper floors looked different than the ground floor, for example a transition from brick to concrete as the finish.

Councilmember Aleshire asked if commercial offices could be included for additional revenue. Mr. Tissue stated the head room would have to be increased to accommodate office space.

Staff will review pricing options and provide additional information during next week's Work Session.

Request for Proposals (RFP) – Grant Management Portal and Customer Relationship Management (CRM) Database

Christopher Siemerling, Economic Development Specialist, was present to review a draft Request for Proposals (RFP) for a Vendor/Software Partner to modernize the Department of Community and Economic Development's (DCED) Customer

Relationship Management (CRM) system, and establish a portal for applicants to submit their digital grant applications versus traditional paper and PDF applications.

The ideal candidate will not only replace the Department's current technology, but will also provide a holistic, transformative solution to help the City of Hagerstown provide world-class management service with developers and businesses. DCED sees the new CRM database and Grants Management Portal solution as the platform for this vision.

FY23 Budget funds would be used to purchase the software, with annual costs included in future budget years.

Staff was directed to move forward with the RFP.

Legislative Update

Scott Nicewarner, City Administrator, provided an update of the 2023 Legislative Session so far.

The overall legislative bill count as of February 13, 2023 is 2,655. In previous sessions, 50 to 75 bills were submitted per week.

Legislation of Interest to Hagerstown includes the following:

1. SB533 – Washington County – Admissions and Amusement Tax – Repeal. This bill would repeal the authority of Washington County and municipalities in Washington County to impose an admissions and amusement tax. Hagerstown accounts for 95% or more of the A&A tax collected in the county. A&A tax

currently accounts for \$ 300,000/year of revenue to the general fund. Forecasted revenue when MUSEC is completed would be approximately \$ 450,000.

Senator Corderman requested a Letter of Support from the City of Hagerstown. The County Commissioners are not supporting this bill and are opposing it. They want the flexibility themselves to apply or to not apply the tax.

The Mayor and City Council consensus is also to not provide a letter of support.

2. SB518 – Tax Sales Revisions. This bill requests a certificate of sale be assigned to a municipality of a property in foreclosure under certain circumstances.

This bill would help the City fight properties that go to tax sale and become zombie properties. It sets a time frame for when the City could take ownership of the property. This is in line with what Hagerstown and Cumberland have been trying to accomplish with the properties continually in the tax sale process. It would also allow the City to hold a delinquent property that was slated for demolition. This bill will help the City address blight significantly.

Mr. Nicewarner could be in Annapolis next week to testify in support of this bill. The consensus was to have Mr. Nicewarner testify.

3. SB563 – Property Maintenance and Nuisance Condition Violation Judgments and Foreclosure Proceedings. This bill will allow the City to submit properties for tax sale that have the City as a first lien on the real property. Mr. Nicewarner will also testify in support of this bill next week.
4. HB667 – Criminal Law – Overdosing in Public – Prohibition. This bill would prohibit a person from overdosing in certain public places and authorize a court to refer a person who overdoses in public to drug court or substance treatment in lieu of other penalties.

This would be extremely difficult to enforce. Elected officials realize something needs to be done but this may not be the way to go about it.

Councilmember McIntire wondered what the definition of overdose in this bill is. She understands there is an issue. Different things are being done in Maryland and in the County. The Health Department is distributing Narcan and providing safe injection sites. A demand for treatment is needed rather than additional law enforcement. She believes there is a better way to address this issue.

Councilmember Bruchey stated if someone passes out on the sidewalk, either from drugs or alcohol, there should be consequences.

Councilmember McIntire stated a definition of overdose is a requirement. On-demand treatment has to be provided.

Councilmember Aleshire stated language regarding the definitions of a public space and public nuisance don't seem to match. He asked what would make the determination that the person has overdosed. The police officer isn't going to remand that person to treatment. Officers will have to make more court appearances and it would be up to the judge to decide the next steps. He doesn't think the legal system will change their course and make people go to treatment.

Councilmember Bruchey will testify in favor of this bill.

5. HB928 – Moto Vehicles – Off-the-Road Motorcycles – Local Regulation and Enforcement. This bill would authorize a municipality to regulate the operation of and register off-the-road motorcycles. No hearing date is set.

Councilmember Bruchey left the meeting.

6. SB427 – Correctional Services – Inmate Release. This bill would require the Division of Corrections to transport a certain inmate from a certain correctional facility to a certain county after the inmate is released from a State correctional facility. Councilmember Bruchey has long supported this. A Letter of Support will be provided for this bill.
7. SB229 – Vehicle Laws – Noise Abatement Monitoring Systems – Authorization, Use and Penalties. This bill would authorize a local government to use noise abatement monitoring systems, if authorized by local law. The Mayor and City Council took no position on this bill.
8. HB518 – Police Accountability Boards and Administrative Charging Committees – Municipal Corporations. This bill is in the MML Priority Legislation list. It will authorize a municipal corporation in the State to create its own Board.

There are several Water/Wastewater/Stormwater bills on both the House and Senate side that MML is watching mainly as a result of the debacle at the Back Bay Treatment Plant in Baltimore City.

A bill was introduced this week that would limit a water provider from cutting off service due to unpaid bills for those seniors under 50% Average Median Income in the community as well as those with a documented health condition. The utility also cannot deny service to any customer with an unpaid bill at a previous address. This is a significant issue for water providers.

Councilmember Aleshire stated it would be more credible if the bill stated water and sewer systems need to be under the Public Service Commission's regulations.

Several task forces are being proposed, including one on Police Officer Retention and Recruitment, Fire Personnel Retention and Recruitment, and other Public Safety reviews.

A bill has been presented for the expansion of workers compensation coverage related to employer responsibility. Acceleration of phase-in to statewide \$ 15 minimum wage to 7/1/25 has also been introduced.

Updates will continue throughout the session.

Council Vacancy Process

Donna K. Spickler, City Clerk, provided information about filling Councilmember vacancies. The process is established by the Mayor and City Council. During previous vacancies, applications from interested citizens were accepted, interviews were conducted during a Work Session, and an appointment was made after further review.

The following schedule was established:

1. Applicants must submit their completed application to the City Clerk's office by 4:30 p.m. on Wednesday, March 1, 2023.
2. The names of applicants and their completed application will be made public via media venues following the March 1, 2023 deadline.
3. An Executive Session will be held on Tuesday, March 7, 2023. During that meeting, the Mayor and Council will review all applications and select individuals for an interview.
4. The Mayor and Council will interview qualified applicants during the March 14, 2023 Work Session (open to the public).
5. The Mayor and Council may conduct a second interview of selected qualified applicants to be interviewed or to review interviewed applicants in Executive Session (closed to the public) on Tuesday, March 21, 2023.
6. The Mayor and Council will appoint the new Councilmember at the Regular Session on Tuesday, March 28, 2023.

All applicants must meet the qualifications for Councilmember established in the City Code.

CITY ADMINISTRATOR'S COMMENTS

Scott A. Nicewarner, City Administrator, noted Monday, February 20, 2023 is a City Holiday. Trash service will remain on the normal schedule.

MAYOR AND COUNCIL COMMENTS

Councilmember S. McIntire had no additional comments.

Councilmember T. Burnett had no additional comments.

Councilmember K. B. Aleshire reiterated his concerns for the conditions that were found at the APM hotel recently. There is now another hotel in this condition. He thinks there is something more the City can do. These conditions are unsafe and the City is the only entity that is absorbing false claims for the conditions that the City is trying to eliminate.

Mayor T. Martinez thanked Delegate Brooke Grossman for welcoming her and her daughter to the House Floor today.

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 5:17 p.m.

Respectfully submitted,

Original signed by D. K. Spickler

Donna K. Spickler
City Clerk

Approved: March 28, 2023