

EXECUTIVE SESSION, WORK SESSION, AND SPECIAL SESSION (76TH VOTING SESSION) – September 19, 2023

EXECUTIVE SESSION – September 19, 2023

Mayor Martinez called the Executive Session to order at 3:02 p.m.

On a motion duly made by Councilmember T. Burnett 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 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 3-305(b)), and to consider a matter that concerns the proposal for a business proposal or industrial organization to locate, expand, or remain in the State; (#4) (Section 3-305(b)), on Tuesday, September 19, 2023 at 3:02 p.m. in the Council Chamber, 2nd floor, City Hall, Hagerstown, Maryland.

Participating with Mayor Martinez were Councilmembers R. E. Bruchey, II, T. Burnett, S. McIntire, and M. J. Schindler, City Administrator Scott Nicewarner, Jill Thompsen, Director of Community and Economic Development, Kathleen Maher, Director of Planning and Code Administration, Eric Deike, Director of Public Works, Margi Joe, Community Development Manager, Rachel Paul, Planning and Outreach Coordinator, Doug Reaser, Business Development Specialist, Christopher Siemerling, Economic Development Specialist, and City Clerk Donna K. Spickler. Councilmember K. B. Aleshire was not present.

The meeting was held to discuss membership of the Hagerstown Youth Council and the Board of Traffic and Parking, and to review a business proposal. No formal action was taken at the meeting. On a motion duly made, seconded, and passed, the meeting was adjourned at 3:23 p.m.

WORK SESSION AND SPECIAL SESSION (76TH VOTING SESSION) – September 19, 2023

Mayor T. Martinez called this Work Session and Special Session (76th voting session) of the Mayor and City Council to order at 4:02 p.m., Tuesday, September 19, 2023, in the Council Chamber at City Hall. Participating with the Mayor were Councilmembers R. E. Bruchey, II, T. Burnett, S. McIntire, and M. J. Schindler, City Administrator Scott A. Nicewarner, Jason Morton, City Attorney, and City Clerk D. K. Spickler. Councilmember K. B. Aleshire was not present.

Proclamation: International Gang Awareness Week

Mayor Martinez read a proclamation naming September 17 – 23, 2023 as International Gang Awareness Week in Hagerstown, Maryland. The proclamation encourages all people to oppose the proliferation of gangs and gang violence in the community.

Danielle Staley, Maryland Criminal Intelligence Network Coordinator, accepted the proclamation.

Ethics Commission Mandatory and Proposed Amendments to Ethics Code

Joseph Jefferson, Ethics Commission Chairman, Stacey Michael, Ethics Commission member, and Jason Morton, City Attorney, were present to review proposed amendments to the City's Ethic Code.

Mr. Jefferson stated the proposed changes to the existing Code are made in an effort to encourage citizens to come forth with ethical concerns they might have while protecting their identity during the process. There are also proposed amendments in an effort to protect the respondent from any frivolous complaint that may arise. The changes are proposed in an effort to be more consistent with the State of Maryland.

Mr. Morton stated the City's Ethics Commission (Commission) has convened several times in consultation with the City Attorney to discuss revisions to the Hagerstown Code of Ethics which are mandated by a State law, which was passed in 2021. The State law requires that these mandatory revisions be adopted by the City, and the State Ethics Commission is aware that the City is in the process of drafting revisions to its Code to comply with the 2021 law.

The State Ethics Commission sent a letter to the City on August 26, 2022, outlining the mandatory revision. A copy of that letter and the mandatory revisions is included in the meeting material.

The Commission determined that rather than revising the existing Code, it would be simpler to adopt the State's Model Code, which already includes the mandatory revisions. The proposed Code was presented to the Mayor and City Council with the meeting material. The mandatory revisions appear in highlight. Note also that the Model Code includes definitions which are not in the current version of the Code. Those definitions should prove helpful for those who are subject to the Code and who are tasked with enforcing/interpreting the Code.

The proposed code version retains the section providing (in some instances) for independent legal counsel to the Ethics Commission for proceedings which come before it. In addition, the new Code permits the Ethics Commission to adopt its own Rules of Procedure for proceedings (i.e., complaints as to violations of the Code and requests for advisory opinions). Up until now, the Commission had not adopted its own Rules of Procedure, and that has been problematic when complaints or requests for advisory opinions have come before the Commission. The Commission intends to adopt Rules of Procedure which will provide for confidentiality of complaints and advisory opinions, subject to certain exceptions which are consistent with the State's Rules of Procedure. The State does not mandate that the City adopt a certain form of Rules of Procedure; nor does it mandate review of the Commission's Rules of Procedure.

If the Mayor and City Council approve this version of the Code, then the Commission will forward it to the State Ethics Commission for review. If it approves, then this version will be introduced and then voted on, as any other City ordinance.

It was the general consensus to move forward with submitting the proposed amendments to the State Ethics Commission for review. Mr. Morton will submit the proposed amendments.

Mr. Morton reminded the group the Ethics Commission is one member short. The vacancy will be filled from a recommendation from the Mayor.

Preliminary Agenda Review

Mayor Martinez announced that Citizen Comments for the September 19, 2023 Regular Session will be welcome either in person or by submitting comments by email to councilcomments@hagerstownmd.org by 5:00 p.m. that day. If by email, the submitter's name, address, and a summary of the comments will be announced during the Citizen Comments portion of the meeting. The email will not be read in its entirety, but it will be included in the public record for the meeting and may be viewed by the public at any time.

Consent Agenda

A. Community Engagement:

1. Open Container Exemption and Street Closure – Downtown Fall Folk Festival – October 14, 2023
2. Barbara Ingram School for the Arts (BISFA) Lamp Post Sponsorship Program

B. Police Department:

1. 2023 Ford Explorer – Keystone Ford (Chambersburg, PA) \$ 43,200.00
2. 2022 Ford F-150 Police Responder – Hagerstown Ford (Hagerstown, MD) \$ 45,319.00
3. Various Uniform Shirts – Howard Uniform Company (Baltimore, MD) \$ 16,554.86

C. Public Works:

1. HVAC Replacement for Police Athletic League Tenant Space – M. S. Johnston (Hagerstown, MD) \$ 11,350.00
2. 2024 Ford F550 Dump Truck with Salt Spreader and Plow for Parks – Keystone Ford (Chambersburg, PA) \$ 123,529.00
3. Hagerstown Ice Amateur Athletic Association (HIAAA) Ice Making Equipment Repair Reimbursement - HIAAA (Hagerstown, MD) \$ 11,925.00
4. 2024 Ford F550 Dump Truck with Salt Spreader and Plow for Public Works – Keystone Ford (Chambersburg, PA) \$ 123,529.00
5. 2024 Ford F750 Dump Truck with Salt Spreader and Plow for Public Works – Keystone Ford (Chambersburg, PA) \$ 191,756.00

D. Utilities:

1. Light – FY23 Consulting Services – Blanket Contract – GDS Associates, Inc. (Marietta, GA) \$ 10,253.75

Councilmember Bruchey stated he is in favor of the items on the Consent Agenda but he will be abstaining from the vote due to the purchase of a vehicle from Hagerstown Ford.

There were no other questions or comments.

This completed the Preliminary Agenda Review. There were no additional questions about any items. All items, unless noted, are scheduled for approval on September 26, 2023.

Brighton Manor Stormwater Management Pond

Jim Bender, City Engineer, was present to discuss the Brighton Manor stormwater management pond.

The Brighton Manor development on Kasinof Drive was constructed in phases in the 1990's. The development has a stormwater management pond that receives runoff from the development and retains that water before it is discharged into the right-of-way of the adjacent Norfolk Southern railroad line. The development is unusual, in that the stormwater pond is not on its own separate parcel, but is actually part of a single residential building lot. The pond has had a history of sinkholes, and the property owner has requested City assistance in addressing them. The purpose of this discussion is to provide background information on the situation so that the Council can decide whether or not the City should provide assistance.

In virtually all other residential developments, the stormwater pond is on its own separate parcel, and maintenance responsibilities for the pond are placed on the Homeowners Association. In the case of Brighton Manor, there is no Homeowners Association; the developer decided to make the pond part of one of the residential lots along Kasinof Avenue. This resulted in the creation of an arrowhead-shaped lot that is much larger than the surrounding residential lots.

The final plat that was recorded for this section of the development included a listing of maintenance responsibilities of the pond. The property owner is responsible for routine maintenance of the pond, including mowing, litter and debris removal, and weed control. The City is responsible for non-routine maintenance items, including repair of eroded areas, structural repairs to the pond's drainage outlet, and sediment removal. While sinkhole remediation is not specifically noted as a maintenance item, staff feels that this is an issue that is beyond the ability of a single property owner to deal with. The sinkholes are both a safety issue and a potential environmental concern, as they allow pollutants in runoff to be deposited into the groundwater. Also, Brighton Manor adjoins

the Central Chemical site, and raising groundwater levels in that area may cause more issues with the contamination at that Superfund site.

If the Council authorizes moving forward to address this issue, staff will hire consultants to study the existing situation and develop plans to remediate the sinkholes.

The consultant would also look for opportunities to retrofit the pond with water quality control features, which would earn the City credits against its NPDES MS4 stormwater permit. Staff would then solicit bids from contractors to complete the work, and would manage the construction contract. The most likely funding source for this work would be the City's Stormwater Protection Fund.

Staff would also meet with the City Attorney to determine whether the existing maintenance agreement and notes for the pond give the City the right to perform work on private property. It is possible that a separate agreement will be required to protect the interests of both parties.

It was the general consensus to move forward with staff's recommendation to engage a consultant to develop a solution to the sinkhole problem, and solicit bids from contractors to complete the work. Staff will also work with the City Attorney to develop an agreement between the City and the property owner to permit this work to be performed on private property.

Mr. Bender announced William Killinger has been named as the person to take over the duties of the Assistant City Engineer. Mr. Killinger is a long-time City employee and has been the engineering design supervisor for some time. Mr. Killinger was present at the meeting.

Project Update and Deadlines: 49 & 37 Jonathan Street – City Sprouts, LLC

Christopher Siemerling, Economic Development Specialist, was present to provide a status update on the Invest Hagerstown redevelopment project located at 49 & 37 Jonathan Street. The City approved an Invest Hagerstown City Center Grant of up to \$ 230,000 for the renovation of the property to 8 residential apartments and 1-2 first-floor commercial spaces.

The original application was approved on May 25, 2021, with a projected completion date of September 30, 2021. Two extensions were granted, making the new completion date May 1, 2023. In April, 2023, the Planning and Code Administration Department issued a stop work order due to missing permits. The stop work order was lifted in July, 2023. The owner has requested a third extension for a project completion date of November 30, 2023.

The Review Committee is seeking the Mayor and City Council's decision on the approval of the third and final extension requires of November 30, 2023, after which the Review Committee would recommend forfeiture.

It was the general consensus to grant the request for an additional extension to November 30, 2023. If the work is not completed, the forfeiture process would begin. Formal approval will be included on the September 26, 2023 Regular Session agenda.

BuroBox: 60 W. Washington Street

Jill Thompson, Director of Community and Economic Development (DCED), was present to review a recommended approach to the use of the former BuroBox space at 60 W. Washington Street.

In April, the Mayor and City Council passed a motion to end operation of the BuroBox at the end of June. The recommendation was to use the space only for City use from that point. The conference room would no longer be rented out. There was also an open Request for Proposals (RFP) to solicit private operation for the space. Staff has not seen a proposal to recommend to the Mayor and City Council.

Ms. Thompson stated staff is now recommending the RFP be removed from the website and to use the space exclusively for City functions – such as the Hagerstown Youth Council meeting space, and support of the Main Street and Arts and Entertainment District programs. At some point, the City may wish to explore the University System of Maryland’s interest in the use of some of the area for classroom space.

Mayor Martinez asked if Fresh Academicz will continue to use the space for the Hip Hop classes. Ms. Thompson indicated staff are satisfied with the current lease that allows them to use that space.

Councilmember McIntire pointed out one of the challenges for business owners is finding meeting space. She asked if the space could be offered for rent to businesses. Ms. Thompson stated DCED staff are very busy and managing a more productive rental space would be a better use of staff time. Other areas are available to rent downtown. One space is at the library.

Ms. Thompson provided a review of the investor roundtable held earlier this week. In partnership with the Greater Hagerstown Committee, Chamber of Commerce, DCED, Community Engagement, and the Convention and Visitors Bureau, an investor roundtable was held. Downtown Baseball presented information about their downtown investment with the stadium. The Flying Boxcars also presented information. John Wack, Eastern Sports Management, reviewed the Hagerstown Field House project.

More than 50 investors attended the roundtable. Ms. Thompson stated she truly believes investment breeds more investment. The roundtable was a great opportunity for potential investors to learn more about Hagerstown.

Mr. Nicewarner appreciated the assurance that the Maryland Stadium Authority is committed to relocating portions of the Cultural Trail that have been removed for the stadium construction.

Opening Legislative Priorities Discussion for Maryland General Assembly 2024

Scott Nicewarner, City Administrator, discussed the City's Legislative Priorities for the 2024 Maryland General Assembly.

The planning season for the 2024 Maryland General Assembly session is in full gear and this initial discussion is a month earlier than usual to accommodate what is shaping up to be a very busy session. The Council has already heard from the City's lobbyist, Rob Garagiola, Compass Government Relations Partner Group, on his thoughts related to the upcoming session. The Greater Hagerstown Community Coalition is scheduled to meet with the Mayor and City Council on October 3, 2023 to discuss being a participant in that lobbying effort again and the initial outlook of priorities the group is looking to take to the Washington County Delegation in preparation for the pre-Legislative Meetings in late October.

Even though it is speculated this will be a lean year for capital projects, the City will be applying for additional funding of \$ 4 million for the field house. The tax sale proposal that did not move beyond committee last session will be presented again. The bill did not proceed because of the concern of legislators that the buildings were occupied. It will be stated and confirmed that the proposal is for vacant buildings only.

Mr. Nicewarner thinks a bill for capital funding for the relocation of the fire department to 441 S. Potomac Street is viable. The City historically submits one or two bond bills while other municipalities submit 10 to 20 bills during one session.

Potential legislation includes the following:

1. Certification and registration of sober houses – there is no requirement to be certified as a care facility.
2. Property management company registration and certification – proposal to require a licensed real estate broker to be on staff.
3. There is concern that Covid relief funds have been depleted and there will be a rash of evictions. Housing stock is not where it needs to be and may cause an increase in homelessness. A cap on rental increases is being reviewed.
4. Public identification of principals of LLC organizations – people need to be able to find the names of the members of the LLC.
5. Hagerstown has submitted a legislative action to the Maryland Municipal League to remove the express approval of zoning for annexations. If the respective County does not provide express approval of potential zoning that is substantially different than the current zoning, the property owner has to wait five years before receiving the new zoning. Kathleen Maher, Director of Planning and Code Administration, indicated the proposed legislation does not eliminate the

component of matching zone but uses the Comprehensive Growth Plan as the basis for the zoning.

6. The MML Legislative Committee is recommending legislation that makes all Maryland counties “shall” counties which would require the County to discuss the tax differential calculations with each municipality on an annual basis. There are 93 municipalities statewide that have no say in what is included in the differential consideration.
7. The MML Legislative Committee is also recommending alternative revenue sources for municipalities, so they don’t have to rely primarily on property taxes and fees. There was discussion within the committee to create a legislative task force to develop a strategy on how to address these two recommendations. This will be a strategic initiative. Municipalities need the ability to annex property, have fair tax differentials, and utilize additional revenue sources.
8. Establishment of Tourism Zones in which local government would provide incentives to businesses in the designated areas.
9. Legislation to allow local municipalities to appoint their own police accountability local review board. During the last session, the legislators indicated they did not want any cannabis or police legislation presented during the 2024 session.

The new family medical leave requirements need to be watched. This legislation puts the responsibility on employers to implement the funding.

Water management restrictions are likely to be presented. Eliminating the ability to terminate accounts for non-payment would cripple municipal water suppliers. There was discussion on how to limit emissions. There will be significant revenue from the sale of cannabis with municipalities only receiving a pittance of the revenue.

Mr. Nicewarner asked the Mayor and City Council to provide their legislative priorities to him over the next few weeks. A follow up discussion will be held in October.

Special Session (76th voting session) – September 19, 2023

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 to meet in Special session at 4:51 p.m.

Introduction of an Ordinance: Increasing the Number of Members of the Hagerstown Youth Council and Establishing a Partner Group

Action: On a motion duly made by Councilmember S. McIntire and seconded by Councilmember T. Burnett, the Mayor and City Council unanimously agreed by voice vote of all members present to introduce an ordinance increasing the number of members of the Hagerstown Youth Council from no more than 11 to no more than 19, and establishing a Partner Group to mentor the Hagerstown Youth Council.

Introduction of an Ordinance: Conveyance of City Property and Granting a Temporary Construction Easement to eh Board of County Commissioners – Crystal Falls Drive

Action: On a motion duly made by Councilmember S. McIntire and seconded by Councilmember M. Schindler, the Mayor and City Council unanimously agreed by voice vote of all members present to introduce an ordinance approving the conveyance of a portion of City Property on Crystal Falls Drive, consisting of 785+/- square feet, to the Board of County Commissioners in accordance with the Property Acquisition Agreement. The Agreement also includes granting a temporary construction easement.

The conveyance of this property is part of Washington County’s bridge replacement project on Crystal Falls Dive over Beaver Creek.

The Special Session was closed at 4:52 p.m.

CITY ADMINISTRATOR’S COMMENTS

Scott Nicewarner, City Administrator, announced coming events include the Farmer’s Market, HEAL Color Splash, Central Lot Pop Ups, Washington Goes Purple Recovery Walk, and Porch Fest. During Porch Fest there will be musicians on 30 porches in the neighborhood. He thanked Brittany Arizmendi, Community Engagement Officer, for all her work in increasing the number of events in Hagerstown. The first Fall Folk Fest is coming in October.

MAYOR AND COUNCIL COMMENTS

Councilmember M. J. Schindler hopes everyone participates in these events.

Councilmember T. Burnett had no additional comments.

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

Councilmember S. McIntire agreed that Ms. Arizmendi has done a great job. The way she posts the downtown events and highlights businesses on social media is great. She thanked the person responsible for translating the Hispanic Festival into Spanish.

EXECUTIVE SESSION, WORK SESSION, AND SPECIAL SESSION (76TH VOTING SESSION)
SEPTEMBER 19, 2023
MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND

Mayor T. Martinez congratulated Amanda Boyle and Devin Ortiz who were sworn in as police officers earlier today. She urged everyone to be patient with all the roadwork going on. Construction takes time and the result will be good. Every Wednesday, she does a radio talk on 103.7.

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 4:57 p.m.

Respectfully submitted,

Original signed by D. K. Spickler

Donna K. Spickler
City Clerk

Approved: October 24, 2023