

Mayor T. Martinez called this Work Session of the Mayor and City Council to order at 4:01 p.m., Tuesday, October 3, 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.

Proclamation: Character Counts! Week

Mayor Martinez read a proclamation naming October 15-21, 2023 as Character Counts! Week in Hagerstown, Maryland. Character Counts! is a framework of universal values that transcend cultural, religious, political, and socioeconomic values through the six pillars of character – Trustworthiness, Respect, Responsibility, Fairness, Caring and Citizenship.

Carolyn Brooks accepted the proclamation.

Proclamation: Domestic Violence Awareness Month

Mayor Martinez read a proclamation naming October 2023 as Domestic Violence Awareness Month in Hagerstown, Maryland. Domestic Awareness month is intended to draw attention to the fact that domestic violence is widespread and has public health implications for every community member.

Mark Pennington accepted the proclamation.

Proclamation: Fire Prevention Month

Mayor Martinez read a proclamation naming October 2023 as Fire Prevention Month in Hagerstown, Maryland. The 2023 Fire Prevention Week theme is “Cooking safety starts with YOU! Pay attention to fire prevention.”

Glenn “Dale” Fishack, Fire Marshall, and Adam Hopkins, Battalion Chief, accepted the proclamation on behalf of the Hagerstown Fire Department.

Community Coalition 2023 Lobbying Review

Paul Frey, President of Washington County Chamber of Commerce, and Jim Kercheval, President of Greater Hagerstown Committee, were present to review the 2023 outcomes for the Community Coalition’s agenda. The City of Hagerstown is a founding member of the Washington County Community Coalition. Since 2005, a number of dedicated community stakeholders have joined together to advance Washington County’s interests at the state level, including the CVB, the Washington County Free Library, Washington County Government, the City of Hagerstown, the Greater Hagerstown Committee, the Community Foundation, Hagerstown Community College, CHIEF, the Town of Williamsport, and the Chamber of Commerce.

The process to develop the coalition’s agenda begins with a series of meetings to

which the entire leadership of all of the Coalition partners are invited. The group begins in the summer with brainstorming sessions designed to identify issues or projects that are important to the community. Over the course of several meetings, the partners trim down the list and agree on a manageable set of items. The Coalition's partners research the agenda items, identify specific requests, and prepare white papers or fact sheets for the lobbyists to use as educational materials. Once the issues are chosen and the agenda is set, the Coalition works with a team of professional lobbyists led by John Favazza of Manis Canning & Associates. The lobbying team uses the consensus agenda to develop a coordinated plan of action.

Possible agenda items include widening of I-81, Hagerstown Field House, tax sale and vacant abandoned properties legislation, Springfield Manor, Doleman Black Heritage Museum, long term Water and Wastewater Infrastructure needs study, and the CVB's new visitors center.

Items from the 2023 Agenda that were successful include the following:

1. I-81 Widening project.
2. Rt. 11 Bridge Relocation/Replacement
3. Hagerstown Field House
4. Tax Sale and Vacant Abandoned Properties Legislation
5. Study to Assess Athletic Facilities at Hagerstown Community College
6. Public Safety Training Building: Apparatus operator and defensive driving track
7. Douglas G. Bast Museum of History Preservation Project

Several other projects that were not part of the Coalition's Agenda also received funding.

Mr. Frey and Mr. Kercheval asked the Mayor and City Council to review the draft list that has been emailed to members and prioritize their top issues. The annual Day in Annapolis will be held on Wednesday, January 31, 2024. This has been a popular event among legislators.

Mr. Frey thanked the City for its participation in the Coalition since it was started in 2005. The Coalition has been successful in helping secure funding for the following projects: widening of I-81, Pell Study of the bridge on Route 11 at Williamsport, and additional funding for the Hagerstown Field House. He thanked the Coalition Team and Senator Corderman and Delegate Grossman for their efforts. Part of the tax sale and abandoned property legislation was approved during the last session.

Mr. Kercheval thanked Eric Hastings, TV Production/Web Coordinator, for his work in designing the book every year. Capital Funding has been flowing for several years. There are budget shortfalls in next year's budget. They have been advised that one or two priority items per partner should be submitted during the next session.

The proposed 2024 Agenda includes the following:

1. I-81 – Phase 2 Construction and Phase 3 Design
2. I-170 at MD 65 Interchange
3. Hagerstown Field House

4. Tax Sale and Vacant Abandoned Properties legislation (one bill)
5. Springfield Manor
6. Doleman Black Heritage Museum
7. Long Term Water and Wastewater Infrastructure Needs Study
8. Public Safety Training Building: Phase 3
9. CVB's New Visitors Center (Antietam Paper Building)

Councilmember Bruchey asked why only a portion of the tax sale properties legislation was approved. Mr. Nicewarner indicated the legislators were not confident that people would not be displaced. The language in the proposed legislation will clarify only vacant buildings are being considered.

Councilmember Aleshire stated in recent years, the City has engaged the services of additional lobbying efforts, as did the County. Some people were concerned this fragmented the Coalition's efforts some. He wants to continue to have the lobbyists the City has hired to continue to represent the City's specific interests.

Mr. Kercheval noted the original idea was that it was better to have a unified effort so that multiple people were not approaching the legislators. It took time for people to be convinced that a lobbyist was really needed but it is working well. The partners always have the ability to advocate for other items that are not on the Coalition's agenda. This lobbyist is open to sharing information and all the partners need to be sharing the same information. Partners are free to engage who they want, but there is some talk of confusion from different information being provided to legislators. One of the most impactful activities is the Day in Annapolis, which shows the community is engaged and working together.

Mr. Frey stated the City of Hagerstown is invited to participate in the Coalition's lobbying efforts again this year, and he is asking the City to contribute \$ 5,000.00, as was done last year. It was the general consensus to continue participating in the Coalition as requested.

Invest Hagerstown (IH) and Partners in Economic Progress (PEP) Guidelines and Application Updates

Chris Siemerling, Economic Development Specialist, was present to review final revised guidelines and application forms for the Invest Hagerstown and PEP Program. This is a follow up to the July 18, 2023 Work Session at which policy changes were discussed of which nine of the ten would be implemented. The proposed requirement of a property Code Analysis and building permit for work in the entire building was removed from the amendments based on concerns expressed by the Mayor and City Council members during the July discussion.

Proposed Amendments include the following:

1. PEP: Clarification that PEP funding is utilized after any/all Local/State/Federal commercial rental assistance program and not just Project Restore cases.
 - a. Change of lease terms may be required for applicants utilizing these programs.

2. PEP: Proposed expansion of Commercial Tenant Rental Assistance PEP benefit to include storefronts for retail/restaurants.
3. PEP: Proposed increase of the total maximum Commercial Tenant Rental Assistance PEP benefit incentive from the existing \$ 24,000 to a maximum of \$ 30,000
4. PEP: Proposed addition of a time limit of five years for Commercial Tenant Rental Assistance PEP benefit and Permit Fee Waivers for tenant fit out after project completion.
 - a. Effective for new applications if approved by Mayor and Council.
 - b. Existing approved buildings that passed the 5-year timeline will receive a letter detailing eligibility status.
5. IH: Proposed requirements of walkthroughs of applicant properties with projects that are defined as “in Progress”, with no more than 15% of total work completed by cost, excluding contractor deposits, at time of application of the proposed scope of work they are applying for.
6. IH: Proposed change for Invest Hagerstown projects that are in-progress. The applicant will be required to demonstrate expenditures equal to the grant and required match to work that was completed within 30 days prior to date of approval and the required date of completion.
 - a. This would change from the current 90 days prior to date of approval.
7. IH City Center and PEP: Proposed requirements of providing “As-Built” Drawings upon project completion.
 - a. This will assist with the administration of PEP Benefits.
8. IH City Center and PEP: Classification of Core Systems to include:
 - a. All floors shall be flat and non-trip.
9. IH: Proposed requirement that if applicant is not the owner of the property, a lease is a required attachment. Applicants must then demonstrate they are responsible for the expenses of the scope of work proposed.

It was the general consensus to move forward with approving the proposed amendments as presented.

Councilmember Bruchey asked the status of the non-profit American Rescue Plan Act (ARPA) applications. Mr. Nicewarner stated more than 50 applications were received. The review team is in the process of reviewing each application and will bring recommendations to a November Work Session.

Building and Trade Codes Update

Paul Fulk, Neighborhood Services Manager, and Pamela Harris, Building Inspector III, were present to review the Building and Trade Codes update to include changes, amendments, and additions.

The State of Maryland finally adopted the 2021 International Codes on May 29, 2023. The City has 12 months to adopt the updated codes with any local amendments or the codes go into effect as adopted by the State of Maryland.

Staff has reviewed the 2021 International Codes, along with the building and trade contractor licensees, architects and engineers, and Washington County Permits and Inspections Division for adoption as the City of Hagerstown Building and Trade Codes. Staff are proposing that most of the original amendments to the Codes remain as previously adopted in 2017 with additional amendments to provide consistency throughout the individual building and trade codes.

New provisions: Noted changes to the 2021 International Codes:

1. Mass timber is now specifically defined as representative of both the large wood building elements historically recognized as Heavy Timber (now Type IV-HT) construction and the three new construction types of IV-A, IV-B, and IV-C, which are based on how much timber is exposed. New criteria and special inspections have been established, applicable only to mass timber construction of Types IV-A, IV-B and IV-C, that deal with conditions where fire-resistance is required.
2. Where no change in occupancy classification occurs, a change of occupancy now exists only in those buildings where 1) there is a change in a building's purpose or level of activity, 2) that functional change is such that the current IBC requires a greater degree of regulation than presently exists in the current building, and 3) the greater degree of regulation required by the current IBC occurs only in the areas of accessibility, structural strength, fire protection, means of egress, ventilation or sanitation. The intent is to limit the application of a change of occupancy where there is no change in classification to only those new uses that present a higher risk to the life safety or welfare of the occupants than was created by the previous use. This approach is also more business friendly.
3. The distilling or brewing of alcoholic beverages, as well as the storage of beer, distilled spirits, and wine, are now considered for hazard classification depending on the safeguards or protections provided for storage, the amount stored, type of container used for storage, and percentage of alcohol content. This change relaxes storage classification requirements.
4. Provisions have been provided to make electrical vehicle charging stations in public locations accessible to individuals with disabilities.
5. The plumbing code notes two approved methods of "trenchless" restoration for building sewer and building drain piping, fold and form pipe (FFP) and cured in place pipe (CIPP). Use of these options is now formally recognized in the code and no longer an alternative method, noting advances in materials and changes in the industry.
6. The use of intermodal shipping containers as buildings and structures is now specifically recognized in the building codes and criteria have been established to address the minimum safety requirements by reference to Section 3115 of the International Building Code (IBC). Additionally, ICC G5-2019 Guidelines for the Safe Use of ISO Shipping Containers Repurposed as Buildings and Building Components was recently published to assist building departments in their evaluation. This change will require the City to amend Chapter 184 – Portable Storage Containers.
7. Multiple classifications and modifications have been made to the regulation of plumbing facilities to address significant issues of gender and equality of access. As a rule, the distribution of male occupants and female occupants will be based on a 50/50 split. The resulting numbers for male and female occupants are then

used to establish the minimum number of fixtures required. A new allowance applies to those nonseparated (“by sex”) multiple-user facilities that serve all genders. A designer could choose to provide all the required plumbing fixtures in single-user toilet rooms.

8. The lack of a reliable and sufficient water supply has contributed to significant loss during construction site fires. The building code has historically mandated that an approved water supply, either temporary or permanent, be available prior to the arrival of any combustible materials on a building site. Provisions addressing the timing and availability of such water supply have been expanded and specific fire flow requirements have been established for buildings under construction.

Local amendments: The following are notable changes to the proposed amendments to the City Code:

1. Rearranged the building code amendments to provide for easier identification of amendments relating to the commercial (IBC), residential (IRC), and Swimming pools and spas (ISPSC) codes.
2. Amendment requirements of the exits on puzzle or escape rooms to coincide with the adopted fire prevention code as administered by the Fire Marshal’s office.
3. Modified heating appliance safety control requirements to the mechanical, plumbing, electrical, and fuel gas codes for the safe disconnection of fuel fired appliances in case of an emergency. All trade codes now match each other verbatim.
4. Adopted electrical administration sections to define more clearly the requirements for inspections, enforcement, notices and records, modifications, testing, alternative materials and design, permit application and issuance, and liability/legal defense. These additions provide the necessary protections for staff and clarification on the enforcement of provisions of the electrical code. These are protections and knowledge provided in all other building and trade codes.
5. Amendments to the property maintenance code to match the intent of safety provided in building or trade amendments and provide clear communication on subjective items.

Ms. Harris noted one of the most impactful amendments is language to address the use of shipping containers as buildings. The occupancy requirements will make it safer for people.

Councilmember Aleshire asked if shipping containers are now classified as buildings. Ms. Harris stated the proposed Building Code amendments allow them to be used as buildings.

Councilmember Bruchey asked if they can be used as tiny houses or stacked homes.

Councilmember Aleshire pointed out an example near the Valley Mall where there is a conglomeration of containers stacked in a uniform manner to look like a building, which it is not. Ms. Harris stated that use is for storage. The City’s Code would not allow them to be used for storage. The proposed amendments addresses them being used as residences.

Councilmember Aleshire asked how this would impact a residential district. Ms. Harris stated it would be considered a house. There would have to be plans and if they met the residential neighborhood requirements, it could be built. Mr. Fulk indicated the Code would allow this but there are container regulations that would have to be changed.

Councilmember Aleshire stated it seems odd that someone can turn a shed or rusty, old storage container into a home but having a camper/RV in the driveway is not permitted because it is an eyesore. Mr. Fulk stated Chapter 184 of the City Code would address the appearance requirements, etc. of the container.

Councilmember Aleshire stated the reality is Hagerstown is 60% rental vs. owner occupied. He anticipates cost efficiencies will cause an increase in interest in container homes. Having regulations in place is good but what happens when someone doesn't go through the process. These containers can't just be picked up or deconstructed. This needs to be kept in mind when discussing the conditions for placing these buildings in residential neighborhoods.

Councilmember Bruchey noted if they are allowed in the State Code, they have to be allowed in the City. However, the City can implement additional regulations.

Another significant amendment is the language for gender neutral bathrooms in the plumbing codes.

It was the general consensus to move forward with the proposed amendments. Introduction of the ordinances to update the Codes for the 2021 Code cycle will be included on the October 24, 2023 Regular Session agenda. Approval of the ordinances will be scheduled for November 21, 2023. The effective date of the new code adoption would be January 1, 2024. Code Administration will educate licensed contractors on these changes prior to the effective date.

Tax Sale Properties

Paul Fulk, Neighborhood Services Manager, and Pamela Harris, Building Inspector III, were present to discuss next steps for the tax delinquent properties withheld or not purchased at the Tax Sale held on June 6, 2023 by the Washington County Treasurer's Office.

Staff worked with the Washington County Treasurer's office to determine the outstanding taxes owed to Washington County and Maryland. Staff will be present at a future Board of County Commissioners meeting to request a waiver of the Washington County taxes owed. The City's request to the Commissioners will be \$ 142,064.77 for the 25 parcels identified for acquisition through the state law and City Code Chapter 224 as discussed on July 18, 2023. The City will waive the \$ 972,291.34 owed in City taxes and liens on the 25 parcels.

The waiver request of the County is to reduce the overall costs to the City of Hagerstown for acquiring the parcels identified. The taxes owed to the State of Maryland

cannot be waived. The next step would be either to prepare the properties for transfer or direct transfer to new taxpayers.

Many of the parcels include buildings that would be demolished.

Councilmember Bruchey stated this initiative will put the properties to good use again. Mr. Fulk pointed out the City would not have to continue to maintain these properties either.

If the County is not willing to waive the taxes, the City will have increased costs.

Councilmember Bruchey is looking forward to driving by 661/663 Pennsylvania Avenue and not seeing the dilapidated building. Councilmember Aleshire pointed out there are places like that all over Hagerstown. The taxes are only going to continue to accumulate while neighboring property values decrease. He does not think the State Assessment office assesses properties visually, which they should.

Pending legislation for the next General Assembly should help speed up the process, if approved.

Antietam Creek – Source Water Supply

Nancy Hausrath, Director of Utilities, and Tyler Puffenberger, Deputy Director of Water and Wastewater Operations, were present to review a request from the Maryland Department of Natural Resources (DNR) In March, 2023, the DNR approached the City seeking to gather information regarding the status or any future plans for Edgemont Reservoir. DNR inquired to see if there is a willingness on behalf of the City to see the Edgemont Dam removed; and if so, DNR Fisheries Service may be interested in partnering to help locate and secure funds toward that end for the benefit of brook trout in those and adjacent waters.

Staff provided the DNR with an overview of the work currently underway and the importance of having an alternate raw water source for the City's potable water system/customers.

Based on the discussion with the DNR, staff reached out to the Maryland Department of the Environment (MDE) in June 2023 to discuss the possibility of acquiring a source water appropriation permit for the Antietam Creek and the viability of constructing a 5 MGD potable water plant using the Antietam Creek as a source.

MDE is on-board with and has provided guidance to staff and the following would be required:

1. Evaluation of flow data for the Antietam between 1948 and 2023 to include drought year data and identification of existing intakes
2. Existing uses of the Antietam Creek (upstream and downstream)
3. Aquatic and recreation impacts
4. Total Maximum Daily Loads (TMDLs) for the Antietam Creek
5. Collection and evaluation of water quality data (IOCs, SOC, VOCs, PFAs, etc.)

6. Studies required include Water Supply, Intake Siting, Treatability, Wastewater Treatment Plant Impact, Water Distribution, Source Feasibility Study, etc.

Currently, the appropriation for Edgemont is 0.75MGD with a Max Month of 4.5MGD. Withdrawal at Edgemont is based on stream base flow. Conversations with MDE regarding the Antietam are for average day 5MGD (a Max Month has not been determined).

At this time, the preliminary work is encouraging – the Antietam Creek should provide a more reliable alternate source for the City of Hagerstown. The anticipated location for the intake is upstream of the wastewater treatment plant.

The location of the plant will be determined once the intake location is finalized. An evaluation of the water distribution system will be required to determine reconfiguration of the base zone and Zone 5 to help address pressure and volume concerns in this region. The reconfiguration of the water distribution system will also help address possible water quality requirements associated with the Disinfectant By-Product Rule (disinfectant residual).

Staff is requesting authorization to continue discussions with DNR for the removal of Edgemont and the required stream restoration on Warner Hollow and Raven Rock.

Staff is also requesting authorization to amend the existing contract with Hazen and Sawyer for the Edgemont Reservoir to complete the evaluation of Antietam Creek as a new raw water source.

Once proposals are received from Hazen and Sawyer and Black and Veatch, staff will prepare the consent agenda forms for Mayor and Council approval.

Ms. Hausrath stated this will also help with some of the issues in Zone 5 as it will essentially provide a viable supply that would supply that whole corridor. From her perspective, this is a win/win proposal. Mr. Puffenberger agrees. Staff has informed DNR that it would have to be as cost neutral as possible.

Councilmember Bruchey stated he would prefer constructing a new facility.

Councilmember Aleshire asked if they are envisioning a weir system. Ms. Hausrath stated it is a screen system from the bottom. There will not be a dam or an impound.

Councilmember Aleshire noted one of the advantages that will be lost is storage capacity because the system would be dependent on the surface supply.

Ms. Hausrath stated a new facility would allow the City to draw 5 MGD per day. Councilmember Aleshire noted this would be without a storage facility. Ms. Hausrath stated that is correct, but there is not a storage facility on the Potomac River either.

Councilmember Aleshire asked about water safety testing. Ms. Hausrath stated most analysis are ongoing with any water source. As part of the siting process, the treatment

ability of the water and water plant would be determined. When a plant is built, the analysis is done on the finished water.

Councilmember Aleshire asked if the Breichner Plant water source would be abandoned. Ms. Hausrath indicated it would as there is no alternative water source for the Breichner Plant.

Councilmember Aleshire asked if there would be comparable storage capacity with a facility on the Antietam Creek. He would anticipate a tower with at least some storage capacity. Mr. Hausrath stated the data has not been worked through yet. It is possible to have a tower in Zone 5 or in the East End.

Councilmember Aleshire thinks this is an interesting idea but he can't imagine 5 MGD coming out of the Antietam Creek. It does not make sense to him to not have at least a one-day storage capacity back up.

Ms. Hausrath stated the studies have not been completed. This idea is just in discussion with the MDE and the DNR. With the City's flow, it would not be possible to do a water draw.

Councilmember Aleshire asked the City would need to retain the property for a watershed if the Breichner Plan is decommissioned. Ms. Hausrath and Mr. Nicewarner indicated the City would not need to retain the property.

Ms. Hausrath stated staff conveyed to the DNR that the City wanted to have the high dam hazard designation removed.

It was the general consensus to continue discussions with DNR for the removal of Edgemont and the required stream restoration on Warner Hollow and Raven Rock. Staff is also authorized to amend the exiting contract with Hazen and Sawyer for the Edgemont Reservoir to complete the evaluation of the Antietam Creek as a new, raw water source. If the project moves forward, staff will request authorization to amend the contact with Black and Veatch to evaluate the wastewater impacts should a source water supply be sited on the Antietam (upstream of the wastewater outfall). Once proposals are received from Hazen and Sawyer and Black and Veatch, staff will prepare the consent agenda forms for Mayr and Council approval.

CITY ADMINISTRATOR'S COMMENTS

Scott Nicewarner, City Administrator, attends the Community Coalition meetings and he assured the Mayor and City Council nothing discussed is confidential. He shares what was discussed with the City's lobbyist, Rob Garagiola. Mr. Favazza and Mr. Garagiola have worked well together. He recommends keeping the City's lobbyist because the City's priorities may be different than the coalition's overall priorities.

He commended staff who are reviewing the 50 applications for the ARPA non-profit funding. In addition to using a scoring matrix, they are reviewing the applications for thoroughness and eligibility.

Walk Maryland Day will occur on October 4, 2023. Fiber Fest will be held on Saturday, October 7, 2023. Horizon Goodwill is presenting a free concert in Wheaton Park on Friday, October 6, 2023.

MAYOR AND COUNCIL COMMENTS

Councilmember S. McIntire had no additional comments.

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

Councilmember T. Burnett is looking forward to the concert in Wheaton Park. She is glad to see another concert location.

Councilmember K. B. Aleshire is concerned about the potential early voting sites. None of the proposed sites are in downtown Hagerstown like it was previously. There are a lot of people that will want to vote who won't be able to get to a voting site. It is odd there would not be an early voting location downtown where it would benefit a large number of voters.

Mayor T. A. Martinez congratulated Trayer Stoops, Scott Bare, Steve Mitchell, Dan Garnand, and Rick Conrad on their retirement from the Hagerstown Fire Department.

Mayor Martinez commended Delegate Lorig Charkoudian, Ph. D., Montgomery County District 20 for her run for re-entry that raises money for people who can't afford to come to Hagerstown to have mediation with their loved ones.

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 5:27 p.m.

Respectfully submitted,

Original signed by D. K. Spickler

Donna K. Spickler
City Clerk

Approved: November 21, 2023