

EXECUTIVE SESSION AND WORK SESSION – October 10, 2023

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Mayor Martinez called the Executive Session to order at 3:33 p.m.

On a motion duly made by Councilmember R. E. Bruchey, II and seconded by Councilmember M. J. Schindler, the Mayor and City Council unanimously agreed by voice vote to meet in closed session to discuss, before a contract is awarded or bids are opened, a matter directly related to a negotiation strategy or the contents of a bid or proposal, if public discussion or disclosure would adversely impact the ability of the public body to participate in the competitive bidding or proposal process; (#14) (Section 3-305(b)), on Tuesday, October 10, 2023 at 3:33 p.m. in the Council Chamber, 2nd floor, City Hall, Hagerstown, Maryland.

Participating with Mayor Martinez were Councilmembers K. B. Aleshire, R. E. Bruchey, II, T. Burnett, S. McIntire, and M. J. Schindler, City Administrator Scott Nicewarner, Jill Thompsen, Director of Department of Community and Engagement, Margi Joe, Community Development Manager, Amanda Gregg, Finance Specialist, Rachel Paul, Planning and Outreach Coordinator, and City Clerk Donna K. Spickler.

The meeting was held to discuss a purchase offer for City owned property. On a motion duly made, seconded, and passed, the meeting was adjourned at 3:37 p.m.

WORK SESSION – October 10, 2023

Mayor T. Martinez called this Work Session of the Mayor and City Council to order at 4:00 p.m., Tuesday, October 10, 2023, in the Council Chamber at City Hall.

Participating with the Mayor were Councilmembers K. B. Aleshire, 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.

Heart of the Civil War Heritage Area Funding Request

Elizabeth Shatto, Executive Director of Heart of the Civil War Heritage Area (HCWHA), was present to provide an update of the HCWHA's projects and to request financial support of \$ 7,500.00 from the City. Rachel Nichols, Washington County Heritage Area Assistant, Gary Candelaria, Catherine Neigi, and Dan Spedden, Executive Director of the Convention and Visitors Bureau, were also present.

From FY2007 to FY2023, the HCWHA has provided grant funds to projects or entities in Hagerstown in excess of \$ 1 million. Hagerstown is the largest recipient of grants awarded. The economic impact of the grants is \$ 450.2 million, with 6,376 jobs supported and sustained. State and local tax revenue of \$ 60.3 million has been realized.

Grants have been awarded to projects at the Hager House Visitor Center, Saylor House, Washington County Museum of Fine Arts, Clara Barton Memorial, and the House on Jonathan Street Documentary.

The HCWHA covers Carol, Federick, and Washington Counties. They work with the tourism directors in each county and provide technical assistance with a wide range of advice, expertise, and tool kits.

It was the general consensus to provide the requested funding of \$ 7,500.

Post-Public Hearing Discussion: A-2023-03 – 13 and 17 Western Maryland Parkway

Joanna Wu, Planner, was present to review input from the public hearing for the 13 and 17 Western Maryland Parkway annexation.

The two office buildings at 13 and 17 Western Maryland Parkway are subject to annexation under the terms and conditions of the pre-annexation agreement signed in 2005 (WS-2005-01). The properties became contiguous to the City through the annexation of 2 Western Maryland Parkway, which became effective July 1, 2023. The Mayor and City Council introduced the annexation resolution and approved the annexation plan for 13 and 17 Western Maryland Parkway at the regular meeting on July 25, 2023. As required by state law, there were two published notices advertising the public hearing. The annexation plan was provided to the county, regional, and state planning agencies at least 30 days prior to the hearing. The State acknowledged that the requested zoning of I-MU does not substantially differ from the current ORT zoning; therefore, express approval of the zoning by the County is not required. The public hearing was held on September 26, 2023.

The record was left open for 10 days after the hearing. In that time frame, staff received no comments. No comments were presented at the hearing.

It was the general consensus of the Mayor and City Council to include approval of the annexation resolution on the October 24, 2023 Regular Session agenda. If the resolution is approved, the annexation becomes effective in 45 days, on December 8, 2023.

Post-Public Hearing Discussion: ZT-2021-01 – 4 Cypress Street

Joanna Wu, Planner, was present to review public input from the hearing for the Local Conversion District Overlay Amendment at 4 Cypress Street.

The property at 4 Cypress Street was approved as a Local Conversion District Overlay on May 24, 2022. The property was an existing mixed-use building on the corner of Cypress Street and Potomac Avenue with office space and one dwelling unit. The prior application allowed the applicant to add a parking lot, retain one dwelling unit, and expand the permitted commercial uses for the office space.

The applicant is seeking to amend the application by constructing a 304 square foot addition to the front of the building. The addition would enclose the existing staircase, add hallway space, and a patient restroom. They would also amend the overlay by altering the use of the second floor to be used for administrative purposes and storage, rather than an apartment. All the requirements for a Local Conversion District would still be met with the proposed change.

At the Planning Commission Public Review Meeting, the Littles, 8 Cypress Street indicated they were not opposed to the overlay amendment, but they expressed concerns about the current parking issue in the neighboring alleyway behind 6 Cypress Street. They also want to see landscaping maintenance performed regularly at 6 Cypress Street.

The record was left open for 10 days after the Mayor and City Council hearing. Staff received no input during this time and no comments were presented at the hearing.

It was the general consensus to move forward with a vote on the amendment on October 24, 2023. The rezoning would then be approved on November 21, 2023.

ZT-2023-02 Land Management Code Text Amendments

Kathleen Maher, Director of Planning and Code Administration, and Stephen Bockmiller, Development Review Planner/Zoning Administrator, were present to follow up on input received after the September 26, 2023 public hearing for the 2023 Land Management Code Text Amendments.

No public comment was received at the public hearing and no additional input from the public has been received.

This package of amendments contains 11 proposals to address issues or deficiencies in the Land Management Code. Staff received input from the public, and the potential developer of a property requesting an amendment to specific text in the Code to make the regulations regarding mixed use development more consistent with those found in other jurisdictions.

The proposed amendments are as follows:

1. 2023-05 – Open space requirements in Residential Zoning Districts and N-MU Housing Mix Percentages

A developer is exploring the creation of a mixed-use development on a large, N-MU (Neighborhood Mixed-Use) zoned “greenfield tract”. In doing their site assessment, they concluded that the recently adopted housing type mix requirements are inconsistent with most other jurisdictions. Also, in reviewing this issue, staff determined that the open space requirements are below reasonable expectations, and although the City encourages mixed-use new development, the existing standards (as far as they relate to the development and use of open space) are perhaps somewhat too accommodating. These proposed revisions address

these concerns and improves the resulting open space in an N-MU development and other subdivisions in residential zoning districts.

This proposed amendment is currently based on density, and no one ever reaches that threshold.

Councilmember Aleshire stated moving in this direction is good. He has a concern about pools and clubhouses in those instances where these amenities are privatized and does not become part of the usable open space. Ms. Maher stated the City can't force a private park to become a public park. Mr. Bockmiller stated if a park/open space is open to the general public it should be paid for by the general public, not a small corporation. He pointed out the proposed amendment language stipulates the open space can be either private or public.

2. 2023-06 – Clarification of Exemption to Nonconformity for Certain Dwellings
Earlier this year, an appellant attempted to use a provision regarding exemption to nonconforming use expiration for dwellings built as duplexes or townhouses made nonconforming by lot area and width requirements to void a determination that a house with a later-retrofitted second unit is an expired nonconformity and cannot be re-established. Had this been successful, it would have opened a large hole in the regulation of nonconforming multiple dwelling units on undersized lots. This amendment clarifies that the buildings must have been originally constructed as duplexes or townhouses and does not apply to later conversions that added units to existing buildings. The City Attorney and staff both felt that the language should be tightened so that this provision cannot be misinterpreted in the future.
3. 2023-07 – Minor Adjustments to the Motor Vehicle Sales Facility Design Standards
The proposed amendment clarifies when this standard applies, including when additional uses are added to a site that has an existing vehicle sales facility.
4. 2023-08 – Minor Adjustments to the Use of Vending machines and ATMs as a Principal Permitted Use
This proposal closes a loophole in the Ordinance that currently does not prohibit the installation of vending and ATM machines in front of dwellings and institutional uses in the mixed-use zoning districts. Currently, vending machines as a principal use are permitted only in commercial and mixed-use districts. They are not permitted in the residential districts. But there is nothing that prohibits them in the mixed-use districts on a property used for dwelling or institutional purposes which are not generally commercial in nature. This closes that loophole.
5. 2023-09 – Parking Requirements for New Assembly Uses in Existing Buildings
When there is no approved site plan on record, and a property is proposed to change from one use permitted by right to another, the Planning Office has a long history of not evaluating the proposed permitted use for compliance with current parking requirements. This proposal adds requirements that when six certain assembly-type uses are proposed in certain districts, they must comply with

ordinance requirements. This language is built into the description of the use, meaning that variance relief will not be available in these cases. It does not apply to the CC-MU district.

6. 2023-10 – Revisions to Article 4, Section M (Nonconforming Uses) and Section U (Board of Zoning Appeals) Including Procedures and Review Standards
Historically, the zoning ordinance has always had wording that blurs the difference between a special exception and a change of a nonconforming use. This change removes that confusion and clearly addresses these actions separately. Also, this change consolidates redundant language and removes wording regarding notice that exceeds State law requirements. With these changes, special exceptions, changes of nonconforming uses and enlargement of nonconforming uses each have their own separate criteria that tracks the way they have historically been addressed, but in a clearer manner.
7. 2023-11 – Codify Parking Requirements for Child Day Care Centers
Child day care centers are occasionally new-construction, subject to site plans. The ordinance does not currently enumerate parking requirements for this use, requiring staff to make a determination based on guidance from the ITE Parking manual. This proposal codifies a uniform requirement for a standard use, eliminating use of the back-up source.
8. 2023-12 – Create Ability to Maintain a Pre-Approved Inventory of Street Names
This proposal creates the authorization for staff to explore the creation of pre-approved street names, which removes a complexity from the subdivision plan review process. The review process for developers proposing new street names involves multiple offices, including the County, and takes time. If some names are pre-approved and reserved, it would simplify the process. It does not prohibit them from continuing to propose their own if they choose. It allows the City to select themes through which to create categories of names, so street names within new subdivisions are coordinated on a theme.
9. 2023-13 – Exempt Mostly Decorative Banners from Sign Regulations
Some locations, mostly institutional uses on larger tracts, utilize decorative banners for beautification. This proposal removes these from sign requirements provided they are not used for obvious signage.

Councilmember Aleshire asked for clarification that this does not allow decorative banners to be placed in the public right of way. Ms. Maher and Mr. Bockmiller stated language can be added to confirm banners of this nature are not permitted in the public right of ways.

10. 2023-14 – Permit CL District Uses in Commercial Spaces in Existing Mixed-Use Buildings in the RO District by Special Exception
This proposal would permit CL district commercial uses in existing buildings that are built as mixed-use buildings in the RO District. This allows for a wider array

of potential commercial uses that could potentially occupy storefronts in mixed-use buildings to serve the neighborhood.

11. 2023-15 – Correction of an Overlooked Remnant of Past Amendments

The term “preliminary plan” is no longer used in the LMC, having been replaced with “development plan”. This proposal removes one last reference found in the text.

It was the general consensus to move forward with approving the proposed amendments. Introduction of the ordinance will be scheduled for October 24, 2023 and approval of the ordinance will be scheduled for November 21, 2023.

Restoration of Deputy Fire Chief Position

Steve Lohr, Fire Chief, was present to update a request to restore the Deputy Fire Chief position that was budget lapsed in 2010. This action has the support of the City Administrator and Finance Director.

The Hagerstown Fire Department requests that the Mayor and Council restore a Deputy Fire Chief (DFC) position at the time a replacement Fire Chief is appointed in the second quarter of FY23. The draft job description was modified to include both internal and external applicants.

The purpose of the Deputy Fire Chief position is to serve as a second in command for the HFD and to restore additional on-call availability of senior command staff for the fire department. Day-to-day, this position will provide the needed capacity to manage the human resources, training, and program performance of the major work areas within the HFD. These are operations, the fire marshal’s office, community risk reduction, safety, public relations, labor relations, fleet and facilities maintenance, and of course performance measurement and back-up to the Fire Chief with inside and outside demands related to community needs and governance. These growing duties simply cannot be maintained with a single, exempt full-time position. The Deputy Fire Chief would be specifically responsible for developing and implementing policies, procedures, codes, regulations, and other rules necessary for the efficient and effective operation and administration of the department.

The Deputy Fire Chief will restore a structured continuity of operations for the HFD on a daily basis, with a defined second in command position to assist the Fire Chief. Currently, the Battalion Chiefs share these responsibilities collaterally on a 24/48 shiftwork schedule. This is unsustainable. While some co-lateral duties will still be necessary, it provides necessary capacity and leadership continuity whenever the Chief is unavailable. Additionally, this is a 40 hour/week position that will have the skills and capacity to function as the shift commander to reduce overtime. The Deputy Fire Chief will have shared supervisory and oversight responsibility for all elements of the HFD along with the Executive Administrative Services Coordinator, fire marshal and other command staff to properly realign workload of these positions that they inherited when

the Deputy Fire Chief and the Community Risk Reduction positions were budget lapsed in 2010.

While the HFD has many additional staffing needs, the current highest priority is the restoration of a Deputy Fire Chief. As stated, this position will enhance continuity of operations and allow the HFD to effectively meet the growing workload of a robust municipal fire department.

Chief Lohr noted that it is appropriate for the new Fire Chief to be the one to appoint a deputy. Funding will be added to the Fire Department budget for FY24 to cover filling the position through June 30. Funding will be restored in future budgets.

It was the general consensus to approve reinstating the Deputy Fire Chief Position as presented.

City's Legislative Priorities for 2024 Maryland General Assembly

Scott Nicewarner, City Administrator, opened the discussion of legislative priorities to present to the City's lobbyists, the Washington County Delegation to the Maryland General Assembly, as well as to other stakeholders, decision-makers and influencers in Annapolis.

On September 19, 2023, staff discussed suggestions to aid in formulating the priorities for legislative action in the 2024 Maryland General Assembly.

Two priorities from previous sessions of the Assembly to return to Annapolis and supported by staff are:

1. Fieldhouse Funding (\$ 4 million)
2. Tax Sale – Unpaid Abatements and Liens for Vacant Properties

Subject areas for potential legislation include the following:

1. Capital Funding for HFD headquarters site at 441 S. Potomac Street.
2. Relocation/Expansion of Community Gardens
3. Required certification and registration of Sober Houses in Maryland
4. Required certification and registration of Property Management companies in Maryland
5. Public identification of principals in LLC filings for Business Licenses
6. Change in annexation rules regarding mixed zoning designations
7. Making Washington County a “shall” county related to tax differential communications

The Maryland Municipal League (MML) will be looking for support from the City on its strategic initiatives to be presented to the general membership on October 16, 2023. These priorities are:

1. Establishment of Tourism Zones
2. Civilianize the review and citing of speed camera violations
3. Establishment of a task force to study revenue enhancements for municipalities

The listing will be forward to the City's lobbyist, the Community coalition, and the Washington County Delegation for their input during the Pre-Legislative Session meeting with City elected officials the first week of November, Many, if not all, of the suggested initiatives may end up as separate legislation submitted by other delegations. If so, and it is one the Mayor and City Council wish to pursue, the City can either ask for local delegation sponsorship or if not received, offer letters of support to the committee reviewing the proposed legislation.

Councilmember Schindler strongly supports requiring regulation for sober houses.

Mr. Nicewarner anticipates legislation will be presented to create some process for rent stabilization to limit how much rent can be raised within a specified time period. Several Maryland jurisdictions have this in place currently. Councilmember Burnett supports this initiative. It is not fair that rent increases, but the quality of the residence does not.

Mr. Nicewarner will be discussing the City's priorities with the MML Legislative Committee next week.

Trick or Treat

Scott Nicewarner, City Administration, requested the Mayor and City Council continue the date and responsibilities of Trick-or-Treat in the City of Hagerstown as has been in place for the past four years.

The statement follows:

“It is suggested that families Trick-or-Treat this year on Monday, October 31 from 6:00 p .m. to 8:00 p.m. in order to give friends, motorists and police an idea when to expect pedestrians and visitors at their door. Participation and scheduling is entirely up to each family Since Trick-or-Treat will not be scheduled by the City, the City would not re-schedule or suggest a “rain date” in the event of inclement weather. Moreover, it is perfectly acceptable for folks to opt-out and not participate. We ask that each family determine what is best for them.”

This statement places the desire to participate, or not to participate, in this activity on October 31st entirely with the family. The understanding is the City departments will be more aware that the date/time may be used for neighborhood participation in Trick-or-Treat in the City. However, whether it rains, snows, slets, or hails, the City will not be responsible for cancellation or rescheduling of the event.

The Mayor and City Council agreed to issue this statement again this year.

CITY ADMINISTRATOR'S COMMENTS

Scott Nicewarner, City Administrator, noted stream restoration work will begin soon at the Greens at Hamilton Run. The golf course will be closed from November, 2023 to March, 2024 while the work is being done. A topping off ceremony was held at the new stadium earlier today.

Due to work on the new parking deck, Antietam Street will be closed between Summit Avenue and Potomac Street for several months beginning on November 8, 2023.

Eight bids were received for the construction of the Hagerstown Field House. Two bidders were selected by the review team for further discussions. The bids will be reviewed with the Mayor and City Council on October 17, 2023.

There are 12 Hagerstown Police Department candidates enrolled in the next police academy. This is the largest number for Hagerstown in some time. If they all complete the academy, the department will only be 3 officers short of the established staffing levels. Creating 4 part time positions within the police department to act as community ambassadors will be discussed during next week's work session.

The Maryland Municipal League (MML) Fall Conference is being held in College Park from October 15-17, 2023.

The BMX National Event brought a lot of people to Hagerstown last weekend. Events coming up this week include Ghost Tours at the Hager House, Downtown Folk Festival, and the Walk for Freedom.

MAYOR AND COUNCIL COMMENTS

Councilmember S. McIntire reported Cumberland officials visited Hagerstown's Skate Park last week. The Herald-Mail newspaper did a nice article on what is happening in Hagerstown.

She stated a constituent contacted her and asked if the clock tower on City Hall could be lit in solidarity and support of Israel. As the tower is currently lit in pink for Breast Cancer Awareness Month, she asked if an alternative could be lights at City Park.

Councilmember M. J. Schindler apologized for missing last week's meeting. He hopes the State Board of Elections declines the recommendation to remove the Washington County Free Library as an early voting site.

Councilmember K. B. Aleshire had no additional comments.

Councilmember T. Burnett thanked Horizon Goodwill for hosting a concert at Wheaton Park recently. It was nice to see a stage at the park. A stage will be a permanent part of Wheaton Park soon.

She also submitted a letter to the State Board of Elections asking them to decline the request to remove the library as an early voting site.

Councilmember R. E. Bruchey, II thanked each Mayor and City Council member for serving the citizens of Hagerstown in this capacity. It has been his honor to serve with them. He announced this will be his last meeting and he is resigning effective immediately after this meeting. He is pursuing a great opportunity for him and his family. He appreciates being able to work with this group. Great things are happening, with more to come. He has faith in everyone to keep the momentum going.

Mayor T. Martinez had no additional comments and announced the meeting would end with Councilmember Bruchey's announcement.

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 5:01 p.m.

Respectfully submitted,

Original signed by D. K. Spickler

Donna K. Spickler
City Clerk

Approved: November 21, 2023