



Mayor and City Council of Cumberland

Mayor Raymond M. Morriss
Councilman Seth D. Bernard
Councilman Richard J. "Rock" Cioni
Councilman Eugene T. Frazier
Councilwoman Laurie P. Marchini

City Administrator Jeffrey D. Rhodes
City Solicitor Michael S. Cohen
City Clerk Marjorie A. Woodring

MINUTES

M&CC Regular Meeting
City Council Chambers, City Hall, 57 N. Liberty St., Cumberland

DATE: June 01, 2021

I. OPEN SESSION – 6:15 p.m. – Convene in Open Session

II. Pledge of Allegiance

III. Roll Call

PRESENT:

Councilman Seth Bernard
Councilman Richard J. "Rock" Cioni
Councilman Eugene T. Frazier
Councilwoman Laurie P. Marchini
President Raymond M. Morriss

Also Present: Ken Tressler, Director of Administrative Services/Interim City Administrator;
Michael S. Cohen, City Solicitor; Marjorie A. Woodring, City Clerk

IV. Statement of Closed Meeting

1. Summary Statement of closed meeting held May 25, 2021

Mayor Morriss announced that a Closed Session had been held on May 25, 2021 at 5:27 p.m. and read into the record a summary of that session, which is attached hereto and made a part of these minutes as required under Section 3-306 (c) (2) of the General Provision Article of the Annotated Code of Maryland.

V. Proclamations

1. Proclaiming June 2021 as "Men's Health Month" in the City of Cumberland

Mayor Morriss read the Proclamation which will be emailed to Brittney Le at MHW@menshealthweek.org

VI. Approval of Minutes

Motion to approve the minutes was made by Councilman Bernard, seconded by Councilman Cioni, and was passed on a vote of 5-0.

1. Approval of the Work Session Minutes of April 20 and April 27, 2021

VII. Unfinished Business

(A) Ordinances

1. Ordinance No. 3886 (*2nd and 3rd readings*) - providing for the closure of a portion of a street known as Riverside Avenue, as requested by Northbranch Properties, LLC

Mr. Tressler reviewed the ordinance and advised that this is associated with the Grow West expansion that is currently underway.

SECOND READING: The ordinance was presented in title only for its second reading. On a **motion** made by Councilwoman Marchini, seconded by Councilman Bernard, the second reading was passed on a vote of 5-0.

Mayor Morriss opened the floor for comments.

J. Matthew Gilmore of Geppert, McMullen, Paye & Getty, Attorneys at Law, spoke on behalf of his client Breaking New Ground, LLC and DNA Landscaping and advised that he was here to urge the Mayor and Council to vote in opposition to the closure. He stated that he had submitted a letter to the City today outlining the basis for that request, and asked that the letter be accepted into the record. Mr. Gilmore made the following remarks:

- Mr. Getty stated that per the MD Local Government Article, nowhere does it give municipalities the authority to close roads that he could find; however, he said it was very clear that counties have that ability.
- If the authority is there, the closure of the road has to be for the benefit of the public use, but this closure is being closed for a private entity. Mr. Getty provided examples of rulings from the MD Court of Appeals to support his contention.
- City is being asked to close a road to benefit a cannabis growing/distribution company that is operating in violation of federal law.
- Mr. Getty questioned how the Mayor and Council could close a public road to benefit a private use that the Federal government/Congress has said has no public benefit.
- They will rely on what was submitted in the letter.

Mayor Morriss advised that the letter from Mr. Gilmore's client will be made part of the transcript of this public meeting. Mr. Cohen suggested also including into public record the picture of the map on the Council Chambers monitor which shows where the road is being closed. The Mayor agreed that the map was important and should be part of the record.

Mr. Doug Sampson, attorney for Northbranch, LLC (Grow West) agreed with Mr. Gilmore that the City is guided by the public benefit standard and determining whether or not the action being taken provides a public benefit. He then asked Brandon Butler to speak to the public benefits of this project and Mr. Butler noted the following:

- The expansion project will involve a \$20M investment on top of \$13M already invested by Grow West
- Putting workforce back to work – 100 people are already employed by Grow West; another 100 jobs are projected as this project comes online.
- Local labor and local contractors will be working around the clock to complete this project.
- Grow West has been a proven commodity when it comes to creating jobs since day one, and is a licensed grower and licensed dispensary through the MD Medical Marijuana Commission.
- There are countless stories of Grow West employees who have been able to become first-time homebuyers who now contribute to the City's tax base.
- Grow West is a leader in retirement benefits to their employees.
- Grow West is an investment in Cumberland's future.

Mr. Butler thanked the Mayor and Council for their continued partnership and said this is about good-paying jobs at a time when this community needs it the most.

Mr. Sampson then made the following remarks:

- Governor Larry Hogan is on the record as discussing the public benefits of medical cannabis and the availability of it as a public use.
- Grow West provides a public benefit just as hospitals and medical services provide a public benefit.
- The Court of Appeals holds that if closing a street is necessary for public improvement, the fact that the closed portion is thereafter devoted to a private use does not render that closing invalid.
- Grow West is putting in a new, improved wider access way for the use of all properties there.
- This is essentially a dead-end road, and the portion being closed only runs adjacent to properties owned by Grow West and the Allegany County Commissioners, who have consented to the closure.
- The closure does not affect the ingress or egress to any other property in this area, so there is no private detriment to any of these properties.
- Regarding the authority of the City to close a road, it is expressly laid out in the City of Cumberland Code, Sections 127, 127a, and 128, and the law has been on the record for 99 years.
- While MD State law may not specifically give municipalities that power, powers not reserved to the state are expressly reserved for local municipalities.
- If challenged, City laws are safe and will not be overturned on an appeal.
- Easement and access issues are all laid out in Exhibit D of the ordinance.
- Asked for the Mayor and Council to approve the ordinance.

County Commissioner Jake Shade spoke in support of the closure on behalf of the County Commissioners, and made the following remarks:

- This is the end of a dead-end street in a County business park in the city of Cumberland.
- The Allegany County Commissioners support the closure.
- The Grow West building was a vacant building for 15 years. Grow West didn't want government money, but put their own capital and their own time and energy into the project and although it was a risk, it paid off.
- Grow West continues to expand, and this road closure is something they need for this project to move forward.
- Grow West invested \$1.2M of their own money into excavation work for the plot in front of where the greenhouses will be going, due to debris from the old building being pushed down into the ground.
- It is a huge project that will help the local community as they continue to grow and expand.

Mayor Morriss stated that the City has taken this under serious consideration and said he believes that the closing of the road is for a public purpose, not simply for private use. He said when it comes to public welfare and public purpose, economic development is one of the most important things that local government does, and added that given Grow West's initial investment, it shows their belief in what we can do. He stated that the current 100 employees and the proposed 100 new jobs are critical for the success of the City and County, because these are good-paying jobs.

The Mayor stated that the Riverside Industrial Park is one of two industrial parks within the city limits and the City's comprehensive plan includes the development of manufacturing in the area and this is exactly what this road closure allows. He noted that medical marijuana is legal in the state of MD and added that the therapeutic effects of medical marijuana are widely acknowledged and providing citizens ready access to medical marijuana serves the public interest.

THIRD READING: With no further comments, the ordinance was presented in title only for its third reading, and was passed on a vote of 5-0.

2. **Ordinance No. 3887** (*2nd and 3rd readings*) - providing for the City Tax Levy for FY22. Real Estate tax rate to remain at \$1.0595 per \$100 of assessed value. Personal Property tax rate to remain at \$2.648 per \$100 of assessed value.

Mr. Gandolfi stated that the assessable base represents a 2.15% reduction over the prior year, and in addition to these revenues, there is \$7.1M from other revenues, as well as \$8.9M from financing sources.

SECOND READING: The ordinance was presented in title only for its second reading. On a **motion** made by Councilman Frazier, seconded by Councilman Cioni, the second reading was passed on a vote of 5-0.

Mayor Morriss called for questions or comments. Being none, the ordinance moved to its third reading.

THIRD READING: The ordinance was presented in title only for its third reading, and was passed on a vote of 5-0.

3. **Ordinance No. 3888** (*2nd and 3rd readings*) - providing for the annual expenditure appropriation for the FY22 General Fund.

Mr. Gandolfi advised that this budget includes all regular operations as well as a new ambulance and new ladder truck, new police patrol vehicles, etc. He also mentioned transfers out, which include DDC support, special projects, street improvements, and capital projects. Mr. Gandolfi also mentioned the current year debt-refunding, and added that ARPA funding is included in this budget.

SECOND READING: The ordinance was presented in title only for its second reading. On a **motion** made by Councilman Frazier, seconded by Councilwoman Marchini, the second reading was passed on a vote of 5-0.

Mayor Morriss called for questions or comments. Being none, the ordinance moved to its third reading.

THIRD READING: The ordinance was presented in title only for its third reading, and was passed on a vote of 5-0.

4. **Ordinance No. 3889** (*2nd and 3rd readings*) - providing for the annual expenditure appropriation for the FY22 Water Fund.

Mr. Gandolfi advised that in addition to regular operations, this budget includes the Decatur Street Waterline Replacement Project and several other projects as well.

SECOND READING: The ordinance was presented in title only for its second reading. On a **motion** made by Councilman Cioni, seconded by Councilwoman Marchini, the second reading was passed on a vote of 5-0.

Mayor Morriss called for questions or comments. Being none, the ordinance moved to its third reading.

THIRD READING: The ordinance was presented in title only for its third reading, and was passed on a vote of 5-0.

5. **Ordinance No. 3890** (*2nd and 3rd readings*) - providing for the annual expenditure appropriation for the FY22 Sewer Fund.

Mr. Gandolfi advised that this budget provides for regular operations, but also includes the Mill Race 70" Pipeline Project, additional work on the Evitts Creek CSO Project, etc.

SECOND READING: The ordinance was presented in title only for its second reading. On a **motion** made by Councilman Bernard, seconded by Councilman Cioni, the second reading was passed on a vote of 5-0.

Mayor Morriss called for questions or comments. Being none, the ordinance moved to its third reading.

THIRD READING: The ordinance was presented in title only for its third reading, and was passed on a vote of 5-0.

6. **Ordinance No. 3891** (*2nd and 3rd readings*) - providing for the annual expenditure appropriations for the FY22 Special Purpose Funds.

Mr. Gandolfi advised that some of the special projects funded by this budget include the Carver Center, Jane Frazier playground, ACM volleyball courts, and advised that capital projects under this budget include the Baltimore Street Access Project, the Baltimore Street Bridge, etc., as well as the Municipal Parking Authority.

SECOND READING: The ordinance was presented in title only for its second reading. On a **motion** made by Councilman Frazier, seconded by Councilwoman Marchini, the second reading was passed on a vote of 5-0.

Mayor Morriss called for questions or comments. Being none, the ordinance moved to its third reading.

THIRD READING: The ordinance was presented in title only for its third reading, and was passed on a vote of 5-0.

Mayor Morriss said it was something to be noted that all the fees and rates remain the same, with no increases for City residents.

VIII. New Business

(A) Resolutions

1. **Resolution R2021-04** - approving the submission of applications to the Maryland Department of Housing and Community Development's Community Legacy program for the consideration of awarding funding to the four projects that have been recommended by Cumberland's Sustainable Community's Workgroup.

Mr. Tressler provided background on the resolution as well as PowerPoint slides, and added that these two resolutions (Community Legacy and Strategic Demolition), are required in order for the City to fill out and submit the applications. He noted that Kathy McKenney was instrumental in going out and soliciting requests for this funding. He added that the City is submitting four projects for Community Legacy funding with a total of \$351K, and he reviewed those projects.

READING: The resolution was submitted in title only. **Motion** to accept the resolution was made by Councilman Cioni, seconded by Councilman Bernard, and was passed on a vote of 5-0

1. **Resolution R2021-05** - approving the submission of an application to the Maryland Department of Housing and Community Development's Strategic Demolition Program for the consideration of awarding funding for the Cumberland Main Street Connections project that has been recommended by Cumberland's Sustainable Community's Workgroup .

Mr. Tressler reviewed the projects for DHCD's Strategic Demolition program, and advised that this is not actually demolition, and added that they just got approved today for sprinkler tap work on Baltimore Street.

READING: The resolution was submitted in title only. **Motion** to accept the resolution was made by Councilman Frazier, seconded by Councilwoman Marchini, and was passed on a vote of 5-0

(B) Orders (Consent Agenda)

Mr. Tressler provided background on all Consent Agenda items, and Mayor Morriss called for questions or comments. Motion to approve all items was made by Councilman Frazier, seconded by Councilman Cioni, and was passed on a vote of 5-0.

Order 26,801 - authorizing execution of a Concession License Agreement with Joyce Wormack granting the right to exclusively operate the Concession Area at Constitution Park for the term June 1, 2021, through September 30, 2021, for the fee of \$900.

Mr. Tressler advised that this will be Ms. Wormack's third year operating the Concession Area at Constitution Park

Order 26,802 - authorizing execution of an Outdoor Dining Lease Agreement with Ristorante Ottaviani, LLC and Uncle Jack's Pizzeria & Pub detailing terms for the use of the public right-of-way adjoining each establishment for a one (1) year term effective June 1, 2021 through May 31, 2022.

Order 26,803 - authorizing the Chief of Police to execute a Memorandum of Understanding (MOU) by and between the Allegany County Sexual Assault Response Team (SART) and all SART partner agencies to establish the terms and conditions under which the SART will meet and function to collaboratively make system-wide improvements in response to sexual violence; said MOU to be for a term not longer than three (3) years from the effective date of the MOU.

Chief Ternent advised that this MOU renewal is an operational agreement, not financial, and allows the sharing of information with partnering SART agencies, as well as crisis resources centers and specialized sexual assault nurses at the hospital.

Order 26,804 - accepting the bid of Michael's Janitorial, Inc. to provide custodial services for City Hall, Public Safety Building, Municipal Services Center, and emergency clean-up services for the period July 1, 2021 - June 30, 2022, with the option to extend for two years by mutual consent. Basic service - \$7,745.60 per month; COVID cleaning service - \$440.00 per month; emergency on-site cleanup - \$60.00; emergency call-out cleanup - \$100.00.

Mr. Tressler advised that this was a public solicitation, with Michael's Janitorial being the only bid received, and noted that they have been providing janitorial services for the last three years.

Order 26,805 - authorizing the City Administrator to execute all Seasonal Employment Agreements for the 2021 spring/summer season; given that said agreements shall not exceed six (6) months from the date of execution.

Order 26,806 - authorizing the City Administrator to execute all FY22 Employment Agreement for part-time employees of the City.

Order 26,807 - approving the award of funding from the Central Business District Facade Improvement Program to: 36 North Centre Street - \$10,000.00, 105 South Centre Street - \$3,750.00, 129 Baltimore Street - \$2,450.00, and 138 Baltimore Street - \$4,776.15, each of which represents a City project match of 25%.

Mr. Tressler provided background on how this program works and advised that these business improvements use the balance of the funds that were initially for residential improvements; however, only one residential applicant was approved.

Order 26,808 - declaring three (3) vehicles as surplus, and authorizing them for trade-in: 2004 Chrysler Concord VIN No. 2C3HD36M34H635884, 2007 Dodge Durango VIN No. 1D8HB38P57F537505, 2008 Dodge Durango VIN No. 1D8HB38N08F129090.

Order 26,890 - appointing Ken Tressler, Director of Administrative Services, as Interim City Administrator effective June 1, 2021.

Order 26,810 - authorizing acceptance of American Rescue Plan Act (ARPA) funding in the total amount of \$19,595,850 and authorizing the City Comptroller, Mayor and City Administrator to execute documentation necessary for the receipt and disbursement of these funds.

Mr. Tressler stated that they are still combing through the requirements and regulations to determine what these funds can be used for, and said they will be getting a report to M&CC soon to begin the process of identifying projects.

Order 26,811 - approving Minor Amendment #1 05132021 to the 2021 Community Development Block Grant Program which increases the 2021 Constitution Park Improvements Splashpad Project by \$11,750, making the project total \$87,750.

IX. Public Comments

All public comments are limited to 5 minutes per person

Paula Reeves, 2 Howard Street, Apt. 2E (Footer Building), advised that she has been living at this address since July 2020 and discussed problems and concerns she had, including false advertising as luxury living, noise, cleaning issues, parking issues, garbage issues from an adjoining business, faulty thermostat, alarm system issues, communication problems with the property owner.

Mayor Morriss thanked Ms. Reeves for voicing her concerns, and advised that staff will talk with Code Enforcement and looking into the issues. Ms. Reeves said she has purchased a house in the city and has sent all images and video recordings of her issues to the City of Cumberland Facebook Messenger account.

X. Adjournment

With no further business at hand, the meeting adjourned at 7:20 p.m.

Minutes approved on July 20, 2021

Raymond M. Morriss, Mayor

ATTEST: Marjorie A. Woodring, City Clerk