

29TH REGULAR SESSION AND EXECUTIVE SESSION
2013
MAYOR AND CITY COUNCIL
MARYLAND

NOVEMBER 26,
HAGERSTOWN,

EXECUTIVE SESSION AND 29TH REGULAR SESSION – November 26, 2013

EXECUTIVE SESSION – November 26, 2013

Councilmember D. F. Munson made a motion to meet in closed session to conduct collective bargaining negotiations or consider matters that relate to the negotiations, #9 (Section 10-508(a)), at 5:03 p.m. in Room 407, 4th Floor, City Hall, Hagerstown, Maryland. Councilmember L. C. Metzner seconded the motion.

Motion carried, 4-1 with Councilmember K. B. Aleshire voting no.

The following people were in attendance: Mayor D. S. Gysberts, Councilmember K. B. Aleshire, Councilmember M. E. Brubaker, Councilmember L. C. Metzner, Councilmember D. F. Munson, Councilmember P. M. Nigh, City Administrator Bruce Zimmerman, Karen Paulson, Director of Human Resources, Scott Nicewarner, Director of Information and Support Services, John (Victor) Murray, Todd Grimes, Tom Bartles, Carroll Braun, and Donna K. Spickler, City Clerk. The meeting was held to discuss collective bargaining updates. No formal action was taken at the meeting. On a motion duly made, seconded and passed, the meeting was adjourned at 6:58 p.m.

29th REGULAR SESSION – November 26, 2013

Mayor D. S. Gysberts called this 29th Regular Session of the Mayor and City Council to order at 7:11 p.m., Tuesday, November 26, 2013 in the Council Chamber at City Hall. Present with the Mayor were Councilmembers K. B. Aleshire, M. E. Brubaker, L. C. Metzner, D. F. Munson, P. M. Nigh; City Administrator Bruce Zimmerman, City Attorney William Nairn and D. K. Spickler, City Clerk.

Mayor Gysberts mentioned that it has been one year since this administration took office. It is an honor and privilege to serve the City of Hagerstown.

The invocation was offered by Councilmember Penny M. Nigh. The pledge of allegiance was recited.

ANNOUNCEMENTS

Mayor Gysberts announced the Rules of Procedure for this meeting will be followed as adopted September 24, 2013. It was announced that the use of cell phones and electronic devices during meetings is restricted and that all correspondence for distribution to elected officials should be provided to the City Clerk and should include a copy for the City Clerk for inclusion in the official record.

The next scheduled meetings are: Work Session beginning at 2:00 p.m. at Hagerstown Community College (HCC) and 4:00 p.m. at City Hall on Tuesday, December 3, 2013, a Work Session beginning at 4:00 p.m. on Tuesday, December 10, 2013 and the Regular Session on

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Tuesday, December 17, 2013 at 7:00 p.m.
GUESTS

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Proclamation – Small Business Saturday

Mayor Gysberts read a proclamation noting Saturday, November 30, 2013 as Small Business Saturday in Hagerstown. Small Business Saturday is a nationwide initiative to encourage shoppers to visit small businesses during the holiday shopping season. The proclamation was accepted by Pietro Priola, Greens and Grains, on behalf of business owners in Hagerstown.

Hagerstown Gridiron Championship Classic MVP

The Hagerstown Gridiron Challenge MVP Presentation was made. North Hagerstown High School MVP Austin Stone was presented a scholarship check from the Hagerstown Kiwanis Club by William Breichner. South Hagerstown High School MVP Isiaha Smith was presented a scholarship check from the Bulldog Federal Credit Union.

Mayor Gysberts welcomed Boy Scouts Zachary Stanfield, Bret Neal and Bodey Kaufman to the meeting.

CITIZEN COMMENTS

Dot Kline, 1036 Benjamin Place, Hagerstown, Maryland, stated she is returning to the Mayor and Council because she has not seen a change in the issues at City Park that she previously discussed. She now intends to write a letter to the editor. While walking in the park recently, she was almost hit by a bicyclist. Adults are taking dogs into the playground areas and not cleaning up after them. She stated downtown looks bad. There is paper covering windows of several buildings and others are in disrepair. She suggested forming a committee of citizens to provide ideas for downtown. Mayor Gysberts mentioned the Downtown Alliance is a committee of citizens and business owners who promote downtown. Ms. Kline asked for the names of the members.

Pietro Priola, 227 S. Prospect Street, Hagerstown, Maryland, owns Greens and Grains at 2 W. Washington Street. He would like to obtain a liquor license and needs additional seating to qualify for the license. The outdoor tents he requested would not be permanent and would not provide the required seating. He understands the seating requirement may be lowered soon. The tents would only be in place until the seating requirement is reduced. The restaurant's limited seating will be challenging during the winter.

Nancy Allen, 924 Oak Hill Avenue, Hagerstown, Maryland, represents the Pen Mar Association of Realtors. She read a letter in opposition of the proposed crime free housing regulations. The realtors believes other actions could be taken before a City wide ordinance is implemented. She asked the Mayor and Council to consider the unintended consequences that could arise from the proposed ordinance. The regulations may be an infringement of property rights. She commended the Mayor and Council for being proactive in dealing with crime but she

questioned the legality of the ordinances. She is concerned a limit will be placed on the number of rental licenses the City issues. Mayor Gysberts stated a limit on rental licenses is not included in the ordinances.

PUBLIC HEARING

Community Development Block Grant Needs Hearing

Jonathan Kerns, Community Development Manager, stated the Community Development Block Grant (CDBG) program regulations require an annual public hearing to obtain the view and comments of individuals and organizations concerning the City's housing and community development needs. All views, comments and project recommendations are taken into consideration when establishing the City's CDBG Annual Action Plan for the upcoming fiscal year.

The purpose of this hearing is to obtain testimony from individuals and organizations regarding community needs.

The following testimony was presented:

Robin Roberson, Community Free Clinic, 249 Mill Street, Hagerstown, Maryland, thanked the Mayor and Council for the City's continued support of the clinic. The clinic has experienced a change in the number of patients with the implementation of the federal Affordable Care Act. There are increasing numbers of people without health insurance. The City's support through the CDBG program is vital to the clinic's lab services.

Doug Wright, Holly Place, 268 South Potomac Street, Hagerstown, Maryland, thanked the Mayor and Council for the City's past support of Holly Place. Residents of Holly Place have low incomes and they need assisted living. There are 15 beds available and they are always full. The waiting list for residency is extensive. The City's support helps provide a place for these people to live.

Vicki Bender, Hagerstown Neighborhood Development Partnership (HNDP) and The Home Store, 21 E. Franklin Street, Hagerstown, Maryland, thanked the Mayor and Council for the City's past support. Since 2009, HNDP through the Hagerstown Home Store has served 52 clients with CDBG down payment assistance that has been matched by the State of Maryland with \$ 168,000. HNDP is a qualified Community Partner with the State of Maryland and by using HNDP as the administrator of CDBG funds for down payment assistance, Hagerstown home buyers receive additional funds. The City should enhance CDBG performance measures by providing Fair Housing Counseling funding to HNDP via a block grant. This would allow the City to report the number of individuals served by HNDP in the City's annual report to HUD.

CITY ADMINISTRATOR COMMENTS

City Administrator Bruce Zimmerman wished everyone a Happy Thanksgiving. He reminded residents that recycling and refuse collections will be delayed one day because of the holiday.

MAYOR AND CITY COUNCIL COMMENTS

Councilmember P. M. Nigh wished everyone a Happy Thanksgiving.

Councilmember D. F. Munson wished everyone a Happy Thanksgiving.

Councilmember L. C. Metzner wished everyone a Happy Thanksgiving and Happy Hanukah.

Councilmember M. E. Brubaker attended the Board and Commission luncheon on Friday, November 22, 2013. He thanked all the volunteers who serve on the boards. Many of the volunteers serve on City boards and are active with other organizations as well. The Washington County Maryland Municipal League chapter met on November 25, 2013. State Highway User Revenues and a study of duplicate services for counties and municipalities were discussed. He wished everyone a Happy Thanksgiving.

Councilmember K. B. Aleshire also attended the MML meeting and Boards and Commission luncheon. All Mayor and Council members were in attendance at the Boards and Commission luncheon, which indicates the appreciation to the board members for their hard work. He attended the HNNDP meeting. He reiterated HNNDP no longer has a director and he is not certain what direction the group will take. He is not certain there is a defined role and purpose of HNNDP. The value of the HNNDP structure needs to be discussed soon. He understands staff is working with HNNDP staff to establish guidelines. He recognizes there is value, in some capacity, for HNNDP. However, meeting month after month without purpose is not productive. Union negotiations are continuing. It has been reported the Mayor and Council are the direct negotiators, which is not accurate. He has voted no to executive sessions because citizens should have access to the discussions. He received an email about a neighborhood improvement zone that would impact downtown. It appears that someone outside this body is proposing legislation that impacts the City. He wants to continue budget discussions. The Council will be better positioned to discuss the proposed budget when it is submitted because of the preliminary discussions. He understands the Alexander House went to settlement. He is frustrated with how this process has been proceeding. He received a correspondence from an independent baseball team. He stated the citizens have made it known they do not want a stadium at a downtown site. He is concerned a new team will expect a new stadium within two years. He would like to see new and different ideas for uses and improvements of the Municipal Stadium property.

Mayor D. S. Gysberts shared Thanksgiving wishes. He thanked all board members for their service. He reiterated the collective bargaining negotiating team remains intact. He met with the executive committee of the HNNDP. Joe Marschner, Chairman, indicated he wants to schedule a meeting in January. Mayor Gysberts stated he has not seen the correspondence to Councilmember Aleshire from the independent baseball team. Teams are seeking out the City.

MINUTES

On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember D. F. Munson, the Mayor and City Council unanimously agreed by voice vote to approve the minutes, as presented, for the Mayor and Council meetings held on September 17, 2013, October 1, 2013, October 8, 2013, October 15, 2013 and October 22, 2013.

CONSENT AGENDA

On a motion duly made by Councilmember D. F. Munson and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to approve the consent agenda as follows:

- A. Fire Department: Battalion Vehicle – Criswell Auto Com. (Gaithersburg, MD)
\$ 33,921.00

- B. Department of Community and Economic Development:
 - 1. Western Maryland Blues Fest Budget – 2014

- C. Police:
 - 1. Predictive Policing Software – PredPol (Santa Cruz, CA) \$ 18,000.00

- D. Department of Parks and Engineering:
 - 1. Approval of Pavement Preservation List for 2014 and 2015

UNFINISHED BUSINESS

A. Approval of an Ordinance: Amendment to Property Maintenance Code for Smoke Detectors

Action: On a motion duly made by Councilmember M. E. Brubaker and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to approve an ordinance to amend the Code of the City of Hagerstown, Chapter 64, Article III, Property Maintenance, to update the Smoke Alarm requirements to be compliant with State law. These updates will establish standards for power source in one- and two-family dwellings and a construction date for required interconnection. This amendment will improve the safety of residents and first responders.

B. Approval of a Resolution: Main Street Designation

Action: On a motion duly made by Councilmember K. B. Aleshire and seconded by Councilmember D. F. Munson, the Mayor and City Council unanimously agreed by voice vote to approve an ordinance to replace Chapter 176, Peddlers and Transient Dealers, of the City Code with a new Chapter 176 to be titled Vendors, Peddlers and Transient Dealers. The new chapter establishes the requirements and procedures for the issuance of licenses, establishes fees, and provides for

denial or revocation of licenses and penalties for violation of the chapter.

NEW BUSINESS

A. Approval of a Resolution: University System of Maryland at Hagerstown – Police Services Memorandum of Understanding for University Plaza

Action: On a motion duly made by Councilmember D. F. Munson and seconded by Councilmember M. E. Brubaker, the Mayor and City Council unanimously agreed by voice vote to approve a resolution to enter into a Memorandum of Understanding with the University System of Maryland at Hagerstown which sets forth certain police services the Hagerstown Police Department will provide at the University System of Maryland Hagerstown Education Center. The term of this agreement shall run through June 30, 2016.

B. Approval of a Resolution: Main Street Designation

Action: On a motion duly made by Councilmember M. E. Brubaker and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to approve authorizing the City of Hagerstown to apply for a Main Street Maryland designation from the Department of Housing and Community Development of the State of Maryland and to support the administration of the program in downtown Hagerstown.

C. Approval of Legal Services Contract Extension

Action: On a motion duly made by Councilmember M. E. Brubaker and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to approve a retainer agreement with the law firm of Nairn & Boyer to serve as general legal counsel for the City of Hagerstown for the calendar year January 1, 2014 through December 31, 2014.

D. Approval of Bulk Diesel Fuel Purchase – Cato, Inc. (Salisbury, MD) \$ 313,110.00

Action: On a motion duly made by Councilmember K. B. Aleshire and seconded by Councilmember M. E. Brubaker, the Mayor and City Council unanimously agreed by voice vote to approve the bulk diesel fuel purchase for City operations from Cato, Inc. The bid price is \$ 3.1311 per gallon. The estimated annual cost of diesel fuel is \$ 313,110 based on an estimated annual use of 100,000 gallons. The contract was competitively bid by the Washington County Purchasing Department to obtain a better bulk rate for Washington County, the Board of Education and the City of Hagerstown.

E. Approval of Bulk Gasoline Purchase – Petroleum Traders (Fort Wayne, IN) \$ 315,997.00

Action: On a motion duly made by Councilmember K. B. Aleshire and seconded by Councilmember M. E. Brubaker, the Mayor and City Council unanimously agreed by voice vote to approve the bulk gasoline purchase for City operations from Petroleum Traders Corporation. The bid price is \$ 2,7478 per gallon. The estimated annual cost of gasoline is \$ 315,997 based on an estimated annual use of 115,000 gallons. The contract was competitively bid by the Washington County Purchasing Department to obtain a better bulk rate for Washington County, the Board of Education and the City of Hagerstown.

F. Approval of Water and Wastewater Chemical Purchases (Various Vendors) Water \$ 577,451.00, Wastewater \$ 250,095.00

Action: On a motion duly made by Councilmember K. B. Aleshire and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to approve the expenditure of \$ 250,095.00 of Wastewater Division funds and the expenditure of \$ 577,451.00 of Water Division funds for the purchase of bulk chemicals. The purchases will occur in the second half of Fiscal Year 14 and the first half of Fiscal Year 15. The chemicals, which are used in the treatment processes employed by the Divisions, were bid through the City/County joint bidding process utilizing County Bid PUR-1235.

G. Approval of Funding for City Park Sculpture

Action: On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember D. F. Munson, the Mayor and City Council unanimously agreed by voice vote to approve of a life sized black bear sculpture called “The Fishing Lesson” to be located along the shore of the City Park lake. City funding for the project shall be \$ 5,000 toward the \$ 22,000 sculpture and an additional \$ 2,000 toward initial printing of the associated children’s book. Funding shall be from the CIP contingency. The Mayor and City Council further authorized staff to assist with fundraising to cover the balance of the sculpture costs and to utilize staff time and operating funds to install the sculpture.

H. Acceptance of Maryland Bikeways Grant

Action: On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember M. E. Brubaker, the Mayor and City Council unanimously agreed

by voice vote to authorize the City to enter into an Agreement with the Maryland Department of Transportation to receive a grant in the amount of \$ 70,000 for continuing bicycling-related improvements in the City. This approval is conditioned on the approval of the agreement by the City Attorney.

Discussion: Councilmember Metzner congratulated staff and the Bicycle Advisory Committee for their success with this endeavor.

I. Approval of Application for FY 2015 Program Open Space (POS) Projects

Action: On a motion duly made by Councilmember M. E. Brubaker and seconded by Councilmember D. F. Munson, the Mayor and City Council unanimously agreed by voice vote to approve of an application to Washington County requesting FY 2015 Program Open Space funding for improvements to the City's recreational facilities (by priority) as follows:

1. Kiwanis Park Creek Access and Paths (Floodplain work) - \$ 90,000
2. City Park Benches and Picnic Tables - \$ 27,000
3. Staley Park Pavilion - \$ 22,500
4. Community Garden (location to be determined) - \$ 27,000

The Mayor and City Council further moved to reallocate FY 2014 Funds toward the City Park Bandshell for additional fixed seating (22,500) and the Fairgrounds Park outdoor exercise equipment (\$ 22,500) so work on both these projects can occur in 2014. Councilmember D. F. Munson seconded the motion.

Discussion: Councilmember Aleshire stated he does not support a community garden because these gardens have not been proven to be successful. Councilmember Nigh stated people didn't seem to be interested in the previous community garden.

Motion carried, 4-1 with Councilmember K. B. Aleshire voting No.

J. Approval of License Agreement: Greens and Grains, Public Square

Action: Councilmember L. C. Metzner made a motion to table discussion of a license agreement with Greens and Grains. Councilmember K. B. Aleshire seconded the motion.

Discussion: Councilmember Metzner stated this request needs to be discussed further in an executive session. He understands the adjacent business is opposed to the placement of tents in front of their business. Councilmember Aleshire stated he is opposed to the concept but is willing to discuss it again. Councilmember Munson is opposed to tabling the approval. He does not think tents will affect the adjacent business. Councilmember Metzner and Councilmember Brubaker stated the Mayor and Council needs to discuss the

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timing of changes in the liquor license regulations for the upcoming Legislative session with the Washington County Delegation.

Motion to table carried, 4-1 with Councilmember D. F. Munson voting No.

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 8:22 p.m.

Respectfully submitted,

Original signed by D. K. Spickler

Donna K. Spickler, City Clerk

Approved: January 28, 2014