

EXECUTIVE SESSION AND WORK SESSION – December 8, 2015

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Councilmember D. F. Munson made a motion to meet in closed session to consider a matter that concerns the proposal for a business or industrial organization to locate, expand, or remain in the State, #4 (Section 10-508(a)), and to conduct collective bargaining negotiations or consider matters that relate to the negotiations, #9 (Section 10-508(a)), on Tuesday, December 8, 2015 at 3:05 p.m. in Room 407, 4<sup>th</sup> floor, City Hall, Hagerstown, Maryland. Councilmember L. C. Metzner seconded the motion.

Motion passed, 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 Valerie Means, Karen Paulson, Director of Human Resources, Scott Nicewarner, Director of Information Technology and Support Services, and Rodney Tissue, City Engineer.

The meeting was held to discuss a business proposal for an existing business and various personnel issues. No formal action was taken at the meeting. On a motion duly made, seconded, and passed, the Executive Session was adjourned at 4:08 p.m.

WORK SESSION – December 8, 2015

Mayor D. S. Gysberts called this Work Session and Executive Session of the Mayor and City Council to order at 4:05 p.m., Tuesday, December 8, 2015, 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, and P. M. Nigh; City Administrator Valerie Means, and City Attorney Jennifer Keefer.

Preliminary Agenda Review

**Consent Agenda**

A. Parks and Engineering:

1. Golf Vehicles and Equipment – Jacobsen Mid-Atlantic (Jessup, MD)  
\$ 39,857.28

B. Police Department:

1. FY 16 Safe Streets Grant for Community Based Prosecutor and Contractual Overtime – Washington County Sheriff's Office (Hagerstown, MD)  
\$ 46,456.00

Councilmember Metzner asked if the prosecutor assigned for the City of Hagerstown cases works exclusively on Hagerstown cases.

Councilmember Munson asked if this is an increase from previous years.

C. Public Works:

1. Boiler Replacement – Emergency Purchase – Beaver Mechanical (Hagerstown, MD) \$ 42,200.00

The older of the two boilers at City Hall has failed completely and needs to be replaced as soon as possible. The funding for this unexpected expense and repair will be from the FY 16 Contingency (\$ 15,000 originally from Miscellaneous Agency contributions and the remaining balance from General Fund Contingency).

D. Utilities:

1. Water: Poly-Orthophosphate – Shannon Chemical Corporation (Exton, PA) \$ 56,640.00
2. Water: Replacement of Vehicle # 216 – McCafferty Ford (Mechanicsburg, PA) \$ 84,463.00
3. Water: Replacement of Vehicle # 217 – McCafferty Ford (Mechanicsburg, PA) \$ 48,159.00
4. Water: Joint Pipe for Main Replacement – McWane Ductile (Phillipsburg, NJ) \$ 38,850.00
5. Water: Water Meters – L/B Water Service (Chambersburg, PA) \$ 89,798.70
6. Wastewater: Liquid Oxygen- Air Products and Chemicals, Inc. (Allentown, PA) \$ 12,000.00

There were no questions about any New Business item. This completed the preliminary agenda review. All items are scheduled for approval on December 15, 2015, unless otherwise stated.

Mitsubishi Heavy Industries Energy Storage System Agreement

Michael Spiker, Director of Utilities, and Nathan Fridinger, Electric Operations Manager, reported HLD staff, Mark Boyer, City Attorney, FERC Legal Counsel Tom Rudebusch, and the MHI/Customized Energy Solution team have completed the Lease Agreement negotiations per the provisions contained within the January 27, 2015 Memorandum of Understanding (MOU) between the City, Customized Energy Solutions (CES) and Mitsubishi Heavy Industries (MHI).

The Hagerstown Light Department (HLD) has a long standing relationship dating back to 2002 with Customized Energy Solutions (CES) through the Public Power Coalition (PPC), as its liaison with all PJM activities. CES documents and reviews all

PJM related information that is crucial to the decision making process related to generation/transmission issues.

MHI is a major player in numerous worldwide industries employing 80,000 and receiving \$ 34 billion of global orders in FY14. HLD staff has spoken with MHI staff through conference calls and met on location with MHI Project Controller Ryosuke Sakai and members of their Energy Storage System (ESS) team.

The project will consist of utility scale Energy Storage Systems installed at the HLD owned Frederick Street Substation. The project will operate behind the meter as “demand response” resources participating in the PJM Regulation ancillary service market and provide PJM system grid reliability services, specifically voltage and frequency support. The project has been sized to ensure that they remain behind Hagerstown’s meters and do not inject into the Potomac Edison system.

The proposed 2MW ESS is composed of lithium ion batteries and is housed in a self-contained unit approximately 10’ x 40’. If market conditions are favorable, more than one unit could be installed, if mutually agreed upon.

The lease agreement project located at the Hagerstown Light Department’s Frederick Street Substation (2MW) is to be used solely for the purpose of the installation of Energy Storage Systems. The initial term of the agreement is 10 years and contains provisions for 2 five year extensions if mutually agreed upon. Frederick Street Substation shall receive \$ 1,000 per month. The HLD shall provide existing and available utilities to the Project Site in connection with MHI’s construction, start-up, maintenance, repair, replacement and operation of the Project, at exiting rates or actual cost, as appropriate.

The HLD will receive \$ 12,000 per year in lease agreements and revenue from the sale of electricity for ancillary requirements of the systems, and may supply other maintenance type services for the project during construction and operation. CES/MHI has verbally committed to the utilization of local contractors when applicable during the construction process.

Approval of the required agreements and the tax exemption will be scheduled for December 15, 2016.

#### Grant Approval and Recreation Programs Update

Amy Riley, Recreation Coordinator, reported the Parks & Recreation Division continues to create programs and initiatives to champion efforts in the development of a more active and healthier community. Staff is working to identify funding opportunities and community partnerships to advance these efforts.

Recreation is once again the recipient of a \$ 10,000 grant from The Washington County Health Department to be used in the promotion of healthy lifestyles and to help

expand the Healthiest Maryland initiative. Grant monies will be used to promote programs like the Hub City 100 Miler that increase physical activity, to create new signage within the parks to encourage walking and exercise, and to develop a spring/summer and a fall/winter Recreation Guide to promote the parks and fitness programs. Mayor and City Council approval of this grant agreement is being requested for the December 15, 2015 Regular Session.

Registration for the 3<sup>rd</sup> Annual Hub City 100 Miler is now open. 650 participants registered in 2014 and 800 in 2015 with the goal of activity equivalent to 1 mile a day for 100 days. Partnerships are being created with Meritus Health, Washington County Government and the Board of Education for their employees to take the challenge. Staff is also working with the City's Wellness Committee to include the program in employee wellness initiatives. Sponsors and prizes are being recruited and the program kicks-off on Thursday, January 7, 2016.

The golf course is scheduled to close on Sunday, December 13, 2015 for the season. The clubhouse will once again serve as an indoor recreation location during the months of December, January, and February. Drop-in Yoga classes will take place in the month of December on Mondays and Wednesdays. Yoga for Weight Loss, Fun Flow, and Partners Yoga will take place on various evenings in January and February.

Staff are seeking instructors in the community to help expand the recreation programming in 2016. With a focus on fitness and wellness, staff hopes to partner with instructors who are willing to teach in an indoor and/or an outdoor setting, i.e. the clubhouse, Fairgrounds Park recreation room (new) and at various park locations. Parks and Recreation staff will manage registration and promotions for all new classes.

#### Program Open Space Annual Program

Rodney Tissue, City Engineer, and Junior Mason, Parks Superintendent, presented staff's recommendation for the Program Open Space funds for FY 2017 and beyond.

The FY 2017 draft request includes the following:

1. Park Play Equipment – Total project cost \$ 40,000, with \$ 36,000 POS Funding
2. Train Amenities – City Park Train Museum – Total project cost \$ 10,000, with \$ 9,000 POS Funding
3. Spray Amenities and Climbing Wall – Potterfield Pool, Total project cost \$ 25,000 with \$ 22,500 POS Funding
4. Outdoor Exercise Equipment – Pangborn Park, Total project cost \$ 15,000, with \$ 13,500 POS Funding
5. Golf Cart Storage/Pavilion – The Greens at Hamilton Run, Total project cost \$ 30,000, with \$ 27,000 POS Funding

Mr. Tissue reported staff is gathering information for a “Sponsor a Bench” program for presentation to the Mayor and City Council in January. People would be able to make a donation toward a bench. This would allow more benches in parks.

Mayor Gysberts asked if the program could be expanded for sponsoring a bench in the downtown area. He has heard from citizens that benches would be a nice addition for those who are unable to walk long distances.

Councilmember Nigh reminded the group that benches had been in downtown but had to be removed because they were being misused.

Councilmember Brubaker asked what was awarded to the City of Hagerstown in FY16. Mr. Tissue stated it was approximately \$ 120,000.00. Councilmember Brubaker then asked what total was awarded in Washington County.

Councilmember Brubaker recommended using POS funding for the “big ticket” items in order to save City taxpayer dollars. He doesn’t think the golf cart pavilion is as important a project as the pool whitecoating project listed for FY17.

Councilmember Metzner agrees that the pavilion should be switched with the FY17 Whitecoat Pool project.

Councilmember Brubaker pointed out the City parks are regional amenities. He recommends using POS for part of the lake dredging costs.

#### Project Status Update of Phase I Trail: Antietam Street to Park Circle

Rodney Tissue, City Engineer, provided an update of Phase I of the Trail from Antietam Street to Park Circle. This is Catalyst Project #5: Linking Trail from A & E District to City Park. Mr. Tissue reported work includes trail design, development of plats and contracts for land acquisitions, designed lighting, security and other trail amenities. They have also begun work with the art consultant who met with stakeholders and interested parties. The consultants are developing a very exciting master plan of art and interactive attractions along the trail.

The design has been completed and staff feel they could advertise the contract in the next two weeks. Obtaining bids would allow staff to determine if the project is within the budget.

This project is complex, as it will require as many as 10 to 15 different actions by the City Council to move the project forward. At a Work Session in February, the following will be presented to the Mayor and City Council:

1. Construction contract bids for award

2. Purchase agreements – The City will save roughly 10% by buying direct from manufacturers, at least \$ 30,000. This includes items such as pavers, signs, trash cans, benches, dog stations, a shade structure, and crosswalk materials.
3. Approve contract with Hagerstown Police Department's vendor for security system
4. Authorize City Light to purchase and install lighting system
5. Review the master plan for art and authorize call for artists
6. Land agreements
7. Grant agreements
8. Final naming of the trail

Mr. Tissue has scheduled meetings with all the land holders again this week to finalize any last details and answer any concerns they may have. Ellsworth Electric has signed the agreement for their property. The attorneys for the owners of the Herald Mail property and Mark Boyer, City Attorney, are finalizing a donation agreement and the owners have verbally agreed to donate the land to the City. He will be meeting with the Hagerstown Housing Authority (HHA) this week to work out final details. The art consultant will be meeting with the HHA as well.

Mayor Gysberts asked if the HHA is still requesting a fence along the trail. Mr. Tissue stated other options to create a buffer are being discussed.

The art consultant will host a public meeting on January 11, 2016 at 6:00 p.m. at the downtown library. The goal of this meeting is to obtain public reaction to the ideas put forth for art along the trail. The art consultant is doing an exceptional job with coming up with ideas that will add character to the trail and add interactive attractions.

The current plan includes the following funds:

1. \$ 1,782,948 in bond funds per CIP account
2. \$ 280,000 in general fund transfers per CIP account
3. \$ 49,500 from Maryland Heritage Area Authority for signs
4. \$ 45,000 in Program Open Space grant funds
5. \$ 10,000 donation from the Hagerstown Housing Authority
6. Written commitment from the State Highway Administration (SHA) to upgrade the railroad crossings at Summit Avenue and Walnut Street. This will be fully funded by the SHA and completed in 2017. This will involve new lights and upgraded crossing surfaces.
7. Investigating possible sources of grants for public art and a meeting is scheduled with the Public Art Program Director from the Maryland State Arts Council.
8. Final naming of the trail

Mayor Gysberts stated this is turning out to be a high quality product.

Councilmember Brubaker asked how soon the trail would be completed after approval of the different aspects. Mr. Tissue stated it could be open later in the summer.

Councilmember Brubaker stated a strong marketing campaign will be essential for the success and use of the trail. Positive publicity is critical.

Local Conversion Overlay – Kreyn, 702 West Washington Street

Alex Rohrbaugh, AICP, Planner, stated a Public Hearing has been scheduled for the December 15, 2015 Regular Session of the Mayor and City Council for the proposed local conversion overlay rezoning of 702 West Washington Street. Following the hearing, staff request the Mayor and City Council keep the record open for 10 days and introduce the ordinance for rezoning during the December 15, 2015 Regular Session.

Adopted in 2010, the purpose of this Local Conversion Overlay District is to stimulate the adaptive reuse of existing, nonresidential and mixed-use structures embedded within densely developed residential districts and communities, to maintain and increase the City's assessable tax base, and to expand business and employment opportunities. The uses permitted in Local Conversion are similar to that of Commercial Local (CL) district, including, but not limited to, offices, restaurants under 3,000 square feet, retail stores, dry cleaners, artist live/work space, etc. Allowing such uses to fit into existing commercial and mixed use structures re-establishes the historically mixed use nature of the City's 19<sup>th</sup> and early 20<sup>th</sup> century residential communities.

The Local Conversion Overlay is also designed to be "quid pro quo" – in exchange for approval of non-residential activity in a residential zone, the property owner will enhance the property to be a good neighbor to the surrounding residential properties.

The property at 702 West Washington Street/5 Winter Street (corner of Washington and Winter Streets) currently contains two former storefronts and four residential units on the second floor. The property owner, Alex Kreyn (t/a Kreyn Technology Inc.), has filed for a rezoning for Local Conversion Overlay to retain the existing four apartment units, and reuse the commercial space for artist live/work space, ambulatory health care services, business offices, catering kitchen, restaurant, or retail/wholesale. Staff has been advised by the City Attorney that an applicant for local conversion rezoning can propose a select list of commercial uses for the space.

The Planning Commission held a Public Review meeting on October 28, 2015 on the proposal. At the meeting, the applicant indicated that he is most favorable to reusing the storefront for either an organic produce store (retail) or general convenience store (retail). If either were not viable, he indicated that his other top choices include a restaurant, artist live/work space, or an urgent care clinic. The Commission did not receive any public input at either the meeting or in the 10-day period following.

At its November 18, 2015 meeting, the Planning Commission recommended to the Mayor and City Council approval of the rezoning proposal, subject to two conditions:

1. Both storefronts shall be rehabilitated to reintroduce a storefront window display design; however, the storefront along West Washington Street will not be required to include a door.
2. No more than 50% of the area of the storefronts shall be used for window graphics.

Staff agrees with the Planning Commission's recommendation for approval of the rezoning with the two conditions noted.

Councilmember Aleshire asked why in-home health care, including clinics, is part of the list of possible uses. Mr. Rohrbaugh stated the owner included that use in his list of potential uses. It was noted that stating a specific use is not required for the Local Conversion application.

Councilmember Aleshire is concerned that an ambulatory health care service, or clinic, would be permitted in this building with four residential units on the upper floors. Mr. Rohrbaugh indicated the commercial use for this property's grandfather clause has expired. A commercial use would not be permitted in this location without Local Conversion zoning.

Councilmember Metzner recalled that two previous Local Conversion approvals were made for the specific previous use, both for use as restaurants.

Councilmember Brubaker agrees with limiting specific uses for properties; however, if an investor has an idea to make the building functional that is not the original use, options should be considered.

Councilmember Metzner is cautious about approving a Local Conversion request that would approve a commercial use in a predominantly residential area.

Mayor Gysberts pointed out the Local Conversion classification is an important economic development tool in that it gives the City of Hagerstown control over what the commercial use would be like.

Councilmember Aleshire wants the ability to attract investment while being able to protect the residents in the neighborhood.

Councilmember Munson would not support a health care facility as a possible use.

#### Trash Codes and Complaints about Trash Storage and Set Outs

Kathleen Maher, Director of Planning and Code Administration, Paul Fulk, Inspections Manager, and Rodney Tissue, City Engineer, were present to discuss trash codes and complaints about trash storage and set outs.

There are two chapters of the City Code that address trash storage between collection dates and the language between the two is conflicting.

Chapter 117, Recycling and Refuse Collection, Section 117-5c – Receptacle for collection and refuse storage states it shall be the duty of the residential property owners and their tenants to provide approved receptacles to contain all refuse generated from residences in accordance with the provisions herein. It shall further be the duty of the residential property owner(s) to provide receptacles to store recycling and refuse (until the appropriate set-out time for collection) that are not visible from the public right-of-way or street. Recyclable materials shall be placed in City-issued bins or other containers consistent with City Policy.

Chapter 64, Property Maintenance Code, Section 307, Rubbish and Garbage, Section 307.3.2 – Container Placement states every occupant of a structure shall not store residential garbage containers on public ways, with the exception of where permitted by the code official.

In recent years, the City has received periodic complaints from around the City and frequent complaints from the S. Prospect Street neighborhood regarding the “trash in view” issue. In these cases, property owners or tenants are storing trash containers on the front porch, in the front yard, or in other locations that are visible from the street. Staff receive few complains about storage of trash containers in public ways (e.g., on the sidewalk in areas where houses abut the sidewalk). In response to such complaints, staff investigate the situation and discuss the issue with the building occupant/property owner. If after this research, staff determines that there is no other reasonable option to the location within public view, then no violation is issued. There are many circumstances that can lead staff to reach these decisions:

1. The house does not have a side yard to allow access to the rear of the property or to allow storage in the side yard. In many cases, such houses do not even have a front yard.
2. The topography of the lot makes is difficult to access or create storage in the side or rear yard.
3. The building occupant is elderly or disabled and remote storage is not feasible.
4. The side yard and/or rear yard of the property fronts on another street.

There are many areas of the City where trash storage is routinely placed within public view. This phenomenon occurs with rental as well as owner-occupied properties.

On August 27, 2015, Engineering and DCED staff had a meeting with representatives of Neighborhoods First groups to discuss the issue of trash to learn their concerns and ideas about this issue. Five reps attended – two from S. Prospect Street, two from the North End, and one from the South End. The desire for out of public view was strong. Suggestions for improvements included storage in the rear yard, building a gate to hide

storage containers in the side yard, and use of smaller storage containers so they could be stored indoors.

Staff contacted 12 other communities in the region and around the state to learn how trash is dealt with in their communities. Of the eight reached, only two prohibit placement of trash containers in public view. Most prohibit location in the public right-of-way and two allow in public right-of-way provided the containers do not block a walking path.

Even though the City has the earliest set out time for collection of any jurisdiction surveyed, staff address many complaints about trash set out too early or on the wrong day. Frequent turnover of tenants in rental properties could contribute to this problem.

Periodically, staff receive complaints related to storage containers, or lack thereof. In addition to traditional trash cans and bins, Chapter 117 of the City Code allows “a secured, leak proof plastic bag” to serve as a trash container. Such containers are susceptible to damage and spillage between collection dates which adds to the unsightly view, odor, and litter problems. Staff have also observed or responded to complaints of loose trash set out for collection.

Occasional complaints are related to the volume of trash waiting for collection at multi-unit properties. This is a particular problem in neighborhoods where buildings are set close to one another and include large buildings divided into many apartments – such as S. Prospect Street. Large piles of trash bags or long rows of bags can lead to complaints about unsightliness or odor.

During the period January, 2014 to August, 2015, 234 notices were issued for set out on the wrong day or time, with 10 fines being issued. Fines for trash in public view were issued in 8 cases. Two fines were issued for use of the wrong type of container or no container.

Staff recommend the following actions for the Mayor and City Council’s consideration:

1. Public View Issue – Amend Chapter 117 to remove the public view prohibition and to replace it as follows: It shall further be the duty of the residential property owner(s) to provide receptacles to store recycling and refuse (until the appropriate set-out time for collection ) that are located in side or rear yards and not within the public right-of-way. If special circumstances exist that make compliance with this provision infeasible, Code staff may approve alternative locations. In addition, amend Chapter 64 to have similar language.
  - a. Adopt a new policy regarding acceptable “special circumstances” for #1 above that would permit location of trash containers in front yards, on front porches, or within the public right-of-way.

2. Public Education – Continue existing efforts on public education about trash requirements and consider additional efforts to help educate a transient population about these requirements. At present, engineering sends out flyers in City Light bills once per year on code requirements for trash and PCAD sends out neighborhood flyers when complaints increase. The Communications Manager is working on a “Welcome to the City” package which could include information on trash code requirements.
3. Container Issue – Consider amending Chapter 117 to remove the provision that allows use of plastic bags as storage containers for trash, require cans/bins to have secured lids, and prohibit placement of loose trash within the cans/bins. This change would require property owners to provide their building occupants with trash cans or bins for storage of trash and would require building occupants to place trash within plastic bags prior to placement within the can/bin. Pros of this idea are possible reduction in odor and litter from burst bags. One con is that cans/bins don’t go away when the trash is collected, as bags do.
4. Volume at High Unit Buildings – When the City gets a lot of complaints about high volumes of trash at apartment buildings, staff discuss the situation with the property owner and at times have allowed such properties to opt out of City Trash Collection to enable private trash hauling. The requirement for this opt-out is the storage of trash in a trash room or dumpster and the collection of trash directly from those locations. Staff would suggest continuing this practice.

Councilmember Aleshire asked if commercial entities who participate in the City’s trash service are subject to these regulations. He mentioned specifically a laundromat that has residences on the upper floors. The trash is not strictly residential.

Mr. Tissue stated some commercial uses are appropriate. However, this does not appear to be the case. He indicated these regulations would apply to a mixed-use property.

Councilmember Nigh does not want to see trash containers sitting in front of houses. Containers should be stored in the back of the property. She is concerned about people dumping trash on the streets as well.

Councilmember Aleshire stated it is not practical to implement uniform trash regulations, given the complexities of different neighborhoods. He pointed out the number of complaints during an 18 month period is relatively low for the nearly 1,000,000 pick ups.

Mayor Gysberts stated there may be more complaints, but some people view the incorrect set outs as accepted practices. Some people just accept it, while others are highly concerned about it.

Councilmember Aleshire pointed out the public would not view different residential areas the same way. A more densely populated neighborhood would have larger amounts of trash that would be set out. He distributed a memo to address trash issues that he views as he travels around Hagerstown several months ago. His recommendations include providing bins in the more urbanized areas of the City to provide uniformity, encouraging the higher volume apartment buildings to use a private hauler, and removing commercial customers in the urban core from the City's collection service. He also recommended prohibiting placing trash bags out for pickup in the urban core.

Councilmember Munson wants receptacles to be out of the public view whenever possible.

Councilmember Nigh thinks the blue recycling bins are an eyesore, but trash bags are a bigger eyesore.

Mr. Tissue stated some apartment building owners provide a trash room for the residents. Councilmember Aleshire suggested multiple adjacent property owners may wish to join together and have a private hauler pick up their trash.

Councilmember Brubaker wondered how removing the public view prohibition from Chapter 117 would address the issue of residents currently storing containers in view from the street. Ms. Maher stated this is an attempt to have the containers moved from front porches or front yards, unless there are special circumstances. These cases would be covered by a Mayor and City Council approved policy, not on a case by case basis. Mr. Fulk pointed out any receptacle that is visible from the street is currently in violation of this ordinance.

Councilmember Aleshire pointed out two trash cans are located in front of the library. It was noted public trash receptacles are not considered in violation of the ordinance.

Councilmember Aleshire stated "across the board" regulations won't be applicable to all residences because of the differences in housing stock. Ms. Maher stated staff realize this and are looking at developing a policy that lists specific circumstances, i.e. the only option for storing receptacles is in the front of the residence, for exceptions.

Councilmember Metzner suggested mandating trash cans, mandating that trash must be in bags in the cans, removing the blue containers in the downtown area, and changing the color of containers downtown. With limited resources, he would rather have Code Enforcement staff enforcing codes other than trash storage regulations. He understands some residents have a great interest in having regulations for setting out trash. Other residents have interest in other codes.

Mayor Gysberts asked if everyone agrees that bags should be prohibited.

Councilmember Brubaker stated bags should not be prohibited. Trash cans can create more mess if they are blown over and lying on the sidewalks. If trash is in a bag, it is picked up and gone.

Councilmember Metzner thinks bags should be required for trash in cans.

Councilmember Munson noted bags are easier to store than trash cans.

Councilmember Aleshire would rather see well kept trash bins in front of a residence versus a pile of trash bags.

Mayor Gysberts asked staff to consider the feedback presented and return with recommendations for amendments to current regulations at a future work session.

#### Neighborhood Protection – Code Enhancement Recommendations

Kathleen Maher, Director of Planning and Code Administration (PCAD), and Paul Fulk, Inspections Manager, were present to discuss recommended enhancements to Code Administration to provide better protection for the City's neighborhoods. These recommendations include code amendments for nuisance properties and property owners, an alternative plan for undertaking abatement of high weeds and rubbish, and funding for abatements related to repairs and demolition.

In order to improve the City's ability to address nuisance properties and property owners, staff are recommending two amendments to the City Code:

1. Demolition of Nuisance Properties – Adopt a new chapter of the City Code entitled “Nuisance and Abandoned Property Abatement” intended to improve the process for gaining authority to demolish properties in situations where the value of required improvements would far exceed the value of the property. The proposed amendment is modeled on the City of Cumberland's code. In the proposed process, the City would file a declaratory judgment action in Circuit Court which leads to declaration of the property as a nuisance and grants the City the authority to demolish the property. The cost of demolition would be added as a lien on the tax bill. A draft ordinance was presented for the Mayor and City Council's review.

Jennifer Keefer, City Attorney, stated this strategy provides due process to property owners and provides the City with a way to take action to remedy the situation without taking title of the property. The property owner would be responsible for the cost of demolishing the building.

2. Habitual Offenders – Amend Chapter 65, Habitual Offenders, to improve the City's ability to gain the attention of habitual offenders of the Codes and hopefully improve their property management practices. It is recommended to allow

offenses to come from additional chapters of the code (currently only the Property Maintenance Code applies) and to have payment of fines constitute a “strike” and not just a guilty-in-court determination. If a property owner reaches Habitual Offender status (three strikes in 24 months), violations become misdemeanor offenses and the offender has to appear in court when cited (rather than just pay the fine). Punishment is a fine up to \$ 1,000 or imprisonment not exceeding 90 days. A draft ordinance was presented for review.

Councilmember Munson thinks Chapter 65 should be more restrictive. He recommended the property owner be designated as a Habitual Offender after two strikes within 18 months, with a fine of up to \$ 2,500 but not less than \$ 1,000.

Ms. Maher pointed out the maximum fine allowed would have to meet State of Maryland regulations.

Councilmember Metzner supports the amendment; however, he pointed out financing demolition will be difficult.

The City currently has a contract with a private company to undertake abatements of high weeds and rubbish, as required to gain compliance with the property maintenance code. The City has a contract with a second company for snow abatement work. The response time, quality of work, and billing by the high weeds and rubbish contractor are frequently the cause of complaints by neighborhood residents, the property owners, and City staff. In the past, staff have had issues with abatements occurring 10-45 days after City direction to abate (the contract says 24 hours), work being unsatisfactory and needing a second trip by the contractor, bills being rather high for the work performed (although compliant with the contract), and bills being submitted weeks or months after the work was done and sometimes after the property has changed hands. Staff has not had any luck attracting bids from other contractors who might provide improved service on these issues of high weeds and rubbish abatement work.

Staff recommend moving the abatement of high weeds and rubbish to an in-house crew in Public Works starting in April, 2016. They recommend keeping abatement of snow with the second private contractor, since Public Works will be busy with snow removal in the tight timeframe when these issues arise. This change would improve response time on complaints regarding high weeds and rubbish, would give staff direct control over the quality of the work performed, and would improve the speed with which billing occurs. The cost of the work would be billed to the property owner, but in some cases would likely end up as a lien on the tax bill.

Currently, the PCAD budgets \$ 120,000/year for private contractors to abate high weeds, rubbish, and snow. The recommended in-house plan for high weeds and rubbish would require hiring one full-time maintenance worker in Public Works (annual outlay starting at \$ 33,173, including benefits), 1-3 seasonal workers in the spring and summer (annual outlay of approximately \$ 16,800-\$ 50,400) and purchasing one truck (initial

outlay of \$ 25,000). Public Works already has the necessary equipment to undertake the work.

Councilmember Brubaker asked if staff feel the abatements will stay within the \$ 120,000 budgeted amount. Ms. Maher indicated that will be the case, unless significant snow abatements are necessary.

Councilmember Aleshire asked if other fees are included in a bill to the property owner. Mr. Fulk indicated there are administrative fees included with the cost of the work. He stated the property owner would be able to complete the abatement at a much lower cost.

Councilmember Brubaker views the proposal as a cost neutral recommendation. He would like to explore the possibility of starting a revolving fund at some point.

Deteriorating or dilapidated structures are the frequent cause of complaints by property owners in neighborhoods. The City currently does not have funds budgeted to address abatement of required repairs or demolitions and so does not undertake this work unless there is a life safety threat. When faced with complaints that are not a threat to public safety, the City works to gain compliance through notices and fines. This process is not only time consuming (can involve court action) but it can be unsuccessful in gaining compliance if the owner only pays the fine. Recourse in these situations is to start the citation process all over again.

Staff recommend allocating funds to set up a new Abatements account to undertake repairs or demolitions on priority properties in the neighborhoods. In order to undertake the work, the City would need to go through the process to gain a court order. The cost of the work would be billed to the property owner, but in many cases would likely end up as a lien on the tax bill.

It is anticipated that by the end of this fiscal year, PCAD will have billed approximately \$ 50,000 on the vacant structures program which had not been anticipated in the FY 2016 budget. Staff recommend allocating those funds towards abatements for the balance of the fiscal year. The City's Community Development Manager believes \$ 50,000 of CDBG funds could be allocated in future budget years for this type of abatement work, although this is still being explored with HUD. For FY 2017, staff recommend allocating \$ 50,000 of CDBG funds, if permissible, and a matching amount of General Fund dollars for the new abatement account.

Mayor Gysberts asked if this abatement account relates to the receivership plan that has been discussed. Mr. Fulk indicated this account would be used strictly for abating court orders.

Mayor Gysberts stated there has been some preliminary discussion about the possibility of transferring ownership of properties that have not been sold at a tax sale to the local jurisdiction.

Councilmember Brubaker does not want to commit funds from a future budget for the abatement. He supports \$ 50,000 from the current budget. Ms. Means indicated staff could include future funding in the proposed budget that will be presented to the Mayor and City Council in March, 2016.

Councilmember Munson wants the abatement to begin as soon as possible and supports the funding plan.

Staff plan to return to the Mayor and City Council in January or February with a report on how non-traditional housing (e.g., homeless shelters, residential care facilities, etc.) in the city is currently handled in terms of inspections by the City, State or other regulatory agencies for compliance with life safety and property maintenance codes. If their research reveals situations where improvement would be advisable, the presentation will include recommendations on any code amendments that may be required.

Councilmember Aleshire stated he wants to be sure regulations are consistent for residential structures, whether they are non-traditional housing or traditional rental units. He also wants to ensure the consistency and quality of enforcement is the same for all units. It would be strange if codes were not applied to residences where some of the most vulnerable citizens live.

Ms. Maher pointed out that research shows there is not always oversight from the State of Maryland for agencies receiving assistance from the State.

Councilmember Munson thanked staff for these recommendations, which will address a significant problem in Hagerstown.

It was the general consensus of the Mayor and City Council to move forward with ordinances to make the amendments discussed during this meeting.

#### Discussion of Legislative Priorities

Mayor Gysberts stated the annual meeting with the Washington County Delegation will be held on Tuesday, December 15, 2015 from 1:30 p.m. to 2:15 p.m. at Hager Hall Convention and Event Center. The Hagerstown items on the Washington County Coalition agenda are: the Community Revitalization Improvement Zone (CRIZ) and the Highway User Revenue.

Councilmember Metzner stated the academic hub should also be part of the agenda. Mayor Gysberts stated he would be agreeable to discussing the hub during the full time allotted for the City of Hagerstown with the Delegation.

Councilmember Metzner stated these sessions don't usually change minds; however, the Mayor and City Council should take advantage of the opportunity to discuss issues with the Delegation. This will be the City's opportunity to get in front of the public and discuss the academic hub.

It was the general consensus that the academic hub should be the main topic of conversation.

Mayor Gysberts suggested another topic would be the clarification of the use of the hotel/motel tax so that if and when a stadium project is developed, the community can agree on the funding.

Mayor Gysberts visited with several high school groups today and the topic of an academic hub is extremely important to them. The students want to see Hagerstown grow and prosper. They don't understand the politics between the various entities but are excited about the project. He can't think of a better investment than in the future of students. People move here because they see a great school. Good schools increase property values, which increases the assessable base. He encouraged the students to stay involved in the community. He mentioned to Governor Hogan that the Mayor and City Council support this academic hub project in Hagerstown.

#### **CITY ADMINISTRATOR'S COMMENTS**

*Valerie Means, City Administrator* reminded residents the yard waste collection will end the last week of December. It will resume during the first week of March.

#### **MAYOR AND COUNCIL COMMENTS**

*Councilmember M. E. Brubaker* thanked everyone who helped make the City Park tree lighting event a success. He thanked Councilmember Nigh for preparing the food for the event. He attended a meeting with Governor Hogan earlier today.

*Councilmember D. F. Munson* attended the Feast at Yuletide last week. It was an enjoyable evening at the University System of Maryland at Hagerstown location. The event is a fundraiser for USMH's scholarship program. Over \$ 37,000 was raised during the event. USMH will be offering scholarship opportunities for the new Nurse Practitioner program. He thanked staff for replacing a damaged pole in the square quickly.

*Councilmember L. C. Metzner* read a poem about speaking for others. In light of recent comments by candidate Donald Trump, he noted people have to speak up for each other. Mr. Trump's comments against thousands of U. S. citizens because of their religion are wrong. Now is the time for people to speak out against these comments.

*Councilmember P. M. Nigh* thanked the We Care Neighborhoods 1<sup>st</sup> group for preparing and providing refreshments for the tree lighting. This group provided all the

food. She stated several people have been putting cars in their yards that are for sale. She asked staff to look into this.

*Mayor D. S. Gysberts* was pleased with how well the City Park tree lighting went. He received several compliments about the new location for the stage. He thanked the We Care Neighborhoods 1<sup>st</sup> group, the Washington County Museum of Fine Arts, and Columbia Bank for their support of the event. He attended the Feast at Yuletide event at USMH and the Washington County Arts Council showcase last week. He thanked Governor Hogan for visiting Western Maryland earlier today. It was announced at the annual Convention and Visitors Bureau meeting that hotel/motel tax revenue is at a record high. This is a good sign for the tourism economy. He agrees the hatred and fear mongering in national politics is deplorable. He thanked Dr. Sadiki, Islamic Society, for meeting with him and local law enforcement officials. The Islamic Society wants to be an integral part of the community. He encouraged everyone to say something if they see something happening. It is not fair to cast disparity against a whole group of people because of the actions of one.

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 6:42 p.m.

Respectfully submitted,

*Original signed by D. K. Spickler*

Donna K. Spickler  
City Clerk  
(From the Video)

Approved: January 26, 2016