

EXECUTIVE SESSION AND WORK SESSION – September 22, 2015

EXECUTIVE SESSION - September 22, 2015

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 by all members present at the time of the vote to meet in closed session to consult with counsel to obtain legal advice, #7 (Section 10-508(a)), and 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)), on Tuesday, September 22, 2015 at 3:04 p.m. in Room 407, 4th floor, City Hall, Hagerstown, Maryland. 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, City Attorney Mark Boyer, Paul Rose (Miles and Stockbridge Attorneys), Michael Spiker, Director of Utilities, Kathleen Maher, Planning Director, Scott Nicewarner, Interim Director of Department of Community and Economic Development, Michelle Hepburn, Director of Finance, Stephen Bockmiller, Zoning Administrator/Development Planner, Andrew Sargent, Downtown Manager, and D. K. Spickler, City Clerk. Councilmember Aleshire and Councilmember Metzner arrived after the start of the Executive Session. The meeting was held to discuss the status of the MELP property, proposed Land Management Code amendments, and a business proposal. No formal action was taken at the meeting. On a motion duly made, seconded, and passed, the executive session was adjourned at 4:30 p.m.

WORK SESSION – September 22, 2015

Mayor D. S. Gysberts called this Work Session and Executive Session of the Mayor and Council to order at 4:35 p.m., Tuesday, September 22, 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, City Attorney Mark Boyer, and D. K. Spickler, City Clerk.

Proclamation: Cultural Exchange with Xinjin County, China

Mayor Gysberts read a proclamation recognizing a cultural exchange between Hagerstown, Maryland and Xinjin County, China.

Preliminary Agenda Review

Barbara Ingram School for the Arts (BISFA) Lamp Post Project

The Barbara Ingram School for the Arts (BISFA) is requesting to partner with the City in the decorating of lamp posts in the City Center area for the holiday season. The Foundation seeks sponsors for each lamp post for a donation of \$ 100.00 to \$ 400.00.

City staff will decorate the lamp post with greens, lights and a personalized banner from the sponsor. The Foundation will give \$ 1,000 back to the City from this initiative for needed supplies and labor.

This would be the fifth year the City would be partnering with the BISFA Foundation in the festive decorating of the City Center lamp posts.

It was the general consensus to include approval of the project on the September 29, 2015 agenda.

There were no questions regarding the remainder of the Consent Agenda.

Approval of a License Agreement Transfer: Shenandoah Family Farms, LLC

In December 2013, the owners of Shenandoah Family Farms requested permission to install fencing and gates across the right-of-way of Kenly Avenue adjacent to the former Good Humor-Breyers facility on Frederick Street. The Council granted a License Agreement to allow the installation of the fence and gates. As stated in Section 9.3 of the Agreement, the license will terminate if the property is conveyed to another party (i.e. the Agreement does not run with the land). Pinnacle Foods Groups, LLC recently purchased the property, and would like to assume the role of Licensee under the same terms and conditions.

It was the general consensus of the Mayor and City Council to approve transfer of the License Agreement to Pinnacle Foods Group, LLC.

Approval of Extension of Contract with MHA Audio – Blues Fest Sound System

Staff is requesting Mayor and Council consideration and approval of a one-year extension to the existing contact with MHA Audio to provide sound and staging services for the 2016 Blues Fest. This extension continues with the same terms and pricing of the original contract. Staff is asking for this extension due to the timing of transitions in Community Affairs not providing for the timing of rebidding and securing services for this important part of the event. The City Attorney is reviewing the contract.

It was the general consensus to approve the extension of the contract.

This completed the preliminary agenda review.

Maryland Theatre Funding Request

Jessica Green, Maryland Theatre Executive Director, and Ron Bowers, Maryland Theatre Board of Directors member, were present to provide an update of the facility upgrades and to make a funding request to the Mayor and City Council.

Ms. Green stated the seating replacement project was mostly completed in February, 2015. There were a few items left open until August and those items have been completed.

Future projects include backstage upgrades and front and back expansions. In 2015, the Maryland Theatre was awarded a \$ 175,000.00 Bond Bill for Phase 2 of the work. A request was made to the County Commissioners for the required match for the bond bill.

Ms. Green reported \$ 23,361.90 was required for concrete floor overages from the Seating Project in order to conclude Phase 1. The floor was in much worse shape than anyone could have anticipated. This amount is the only overage for the Seating Project. The Mayor and Council previously approved a \$ 100,000.00 match for the project. At that time, Theatre representatives were asked to follow-up on the overall costs at the completion of the project.

Ms. Green noted that a loan, in the amount of \$ 14,913.49, was needed for an emergency fix in 2013 for Air Conditioning. The compressor was removed and replaced with rooftop units in the Winter of 2015. They are requesting forgiveness of the loan from the City of Hagerstown.

Councilmember Munson asked if the loan is current. Ms. Green indicated it is, and the monthly payment is less than \$ 300.00.

Councilmember Brubaker asked staff if funding is available for either request. Michelle Hepburn, Director of Finance, reminded the Mayor and City Council there is \$ 15,000.00 contingency in Agency Contributions. The loan funds are in the business revolving fund.

Mayor Gysberts stated fund balance may also be available.

Councilmember Brubaker stated this request could be reviewed during the 2016-17 budget discussions. He asked if the Maryland Theatre could manage with their current income and expenses until July, 2016. Ms. Green indicated they could, if required. He would like to commit funding to help the Theatre, but is concerned the City may face its own crisis in the near future.

Councilmember Metzner also would like to assist the Theatre. He wants to move away from mid-budget requests (except for emergencies). Fund balance is an easy revenue source but it can be dangerous to repeatedly use it. He supports forgiving the loan since a funding source was identified for the \$ 14,913.19. He does not support granting the \$ 23,000.00 request without an identified funding source.

Ms. Green stated the bill for the seating project overage has been paid. Theatre board members also would like to be in a position where they didn't have to ask the City and the County to help fund emergency expenses.

Mayor Gysberts clarified the consensus of the Council is to consider the request for \$ 23,000.00 during the next budget cycle and to forgive the loan through the Business Redevelopment Fund.

HEAL Community Resolution Progress Report

Junior Mason, Parks and Recreation Manager, and Amy Riley, Recreation Promotion and Services Coordinator, were present to recap recent accomplishments and exciting programs planned for the fall and winter.

The Mayor and City Council adopted a HEAL resolution in 2014, which calls for the City to develop a more physically fit and active community. Ms. Riley provided copies of the first ever Parks & Recreation guide that showcases the amenities the parks and recreational facilities have to offer. The guide highlights the new programs and events coming up this fall and winter. The Department's goal is to continue to build recreational programs and publish this guide twice per year. The program was funded by a grant from the Washington County Health Department. Mayor Gysberts noted that Earl Stoner, Health Department Director, was also present.

With the assistance of the new, full-time Recreation Assistant and the implementation of the Active Network, nearly 40 programs are managed through Active. The total program enrollment in the network is 1,654. In addition to these programs, staff have and will be conducting events at the recreational facilities and at various locations in the parks. Highlighted events include the Railroad Heritage Days, Outdoor Movies at City Park and Potterfield Pool, Fall Fest at City Park, Golf Tournaments (City Championship, Par Fore Pink), Fall Fest and the annual Dog Costume Parade. The Parks and Recreation Division continues to manage seasonal staff to operate the facilities and help coordinate activities like Hager House and Railroad Museum group tours, Tommy 202 Tractor Train Rides, golf leagues and tournaments, and programs like camp swims at the pool.

Plans for the golf course include expansion of advertising efforts, building leagues through partnerships in the community, expanding golf specials, and continue publishing a bi-monthly newsletter sent to golfers.

The Hager House and Train Museum activities have been expanded to include new programs like the American Doll House Tours, Easter Egg Hunt, and Ride-Along weekends with Tommy 202. These programs continually attract new visitors. Future plans include promoting the Railroad Museum as a birthday party site (including the new Tommy 202 ride), building a new pavilion at the Railroad Museum to host birthday parties and compliment special events, and continuing to enhance the Museum displays. New display cases have been installed at the Hager House and the artifacts are changed to compliment programs. At the Train Museum, staff will be working toward painting the cabooses, Engine 202, and the museum building. There is a possibility that a dining cart may be added for future programs.

The Potterfield Pool hours will be extended to include evening public swims. Additions to the amenities at the pool include an aqua camp, water aerobics program, basketball hoops, volleyball, and shuffleboard. Swim lessons will be promoted through additional advertising.

The Golf Course clubhouse will continue to be utilized during the winter months to conduct fitness programs. Other Recreation Programs include partnering with instructors in the community to increase programming and offering new fitness programs in the new indoor recreation room at Fairgrounds Park.

Mayor Gysberts thanked everyone who made the recent Fall Fest a great event. He stated City Park is the unofficial second Arts and Entertainment Center.

Miss Maryland – Assignment of Agreement to Community Foundation of Carroll County

Scott Nicewarner, Interim Director of the Department of Community and Economic Development, was present to discuss assignment of the agreement with the Miss Maryland Scholarship Organization.

The Miss Maryland Pageant is an annual event held at the Maryland Theatre each June. The City rents the Maryland Theatre, and subleases the venue to the Miss Maryland Scholarship Organization. The agreement is valid through 2016, or next June's pageant. It was found, during an audit performed on the agreement in August, that the legal entity to which the City was subleasing the venue (Miss Maryland Scholarship Organization), no longer exists as a standalone entity and therefore cannot enter into a legal transaction with the City for this event. This assignment transfers the responsibility of the agreement to the Community Foundation of Carroll County. This organization is now the legal authority for the Miss Maryland Scholarship Pageant.

It was the general consensus to approve the assignment of the agreement as presented.

City Attorney Mark Boyer then left the meeting.

First-Third Grant Program Update

Scott Nicewarner, Interim Director of the Department of Community and Economic Development, and Andrew Sargent, Downtown Manager, were present to update the Mayor and Council on the First-Third Grant Program.

The First-Third Grant Program was approved by the Mayor and City Council in June, 2013, and the original funding of \$ 1,200,000.00 came from General Fund Reserves. The three goals of this program are to:

1. Inspire and enable significant redevelopment, both city-wide and in the urban core, reusing and repurposing existing vacant and under-utilized

- properties, in which there are market conditions and/or significant barriers to development or redevelopment.
2. Create the opportunity for new jobs throughout the City of Hagerstown and Washington County.
 3. Increase the value of Hagerstown's commercial and mixed use properties.

There are two levels of the First-Third Grant Program:

1. The City-Center Program focuses on the downtown CC-MU Zoning district with Mayor and Council-approved grants between \$ 150,000.00 and \$ 250,000.00 as one-third the total renovation costs.
2. The City-wide Program is available anywhere within the City's corporate limits with staff committee-approved grants from \$ 25,000.00 up to \$ 50,000.00 as one-third of total renovation costs.

Since the program's approval, there have been eleven projects approved for funding, including the decision to reserve funding for Catalyst Project #1, the Office Building in the Central Lot. There have been five applications that did not meet the program requirements and were not approved. There has also been one approved project that never started construction and those funds were put back into the program and have been used for other projects.

Of the projects that have been approved, the City has invested or has committed to investing \$ 1,200,000.00, leveraging a developer investment match of \$ 2,268,543.00 for a total First-Third Project value of \$ 3,215,620.00. Thus far, it is estimated that the projects have enabled the creation of 80 new jobs.

Staff continues to receive interest in the First-Third Grant Program, including a recent application for the grant in conjunction with a Competitive Negotiated Sales application for City-owned property.

The program is currently out of funds. Staff is looking for direction from the Mayor and Council to fund or end the program.

Ms. Means stated considering the use of fund balance to provide additional funding would be an appropriate discussion.

Mr. Nicewarner stated staff believe funding of \$ 750,000.00 would be a feasible amount to provide for grants. The program could be further enhanced by considering non-financial incentives such as tax credits, permit streamlining, and permit fee waivers. He is anticipating these changes would make this effective incentive plan more sustainable.

Mayor Gysberts hopes the City would be approved for a State bond bill that would allow additional incentives to be included. The downtown area could be established as a Community Revitalization and Investment Zone (CRIZ). With the CRIZ, taxes for any

new development that brings business to the State would go back into the financing for the area.

Councilmember Brubaker would be interested in feedback from potential recipients.

Councilmember Munson stated people like the program. The incentive needs to be easy to apply for, without additional red tape.

Ms. Means stated the success of the program is a guide for how to administer it in the future.

There are two projects currently in the process. It was agreed to have staff review the applications as usual, with presentation to the Mayor and City Council for other consideration.

Pen-Mar Regional Association of Realtors Service Request

Scott Nicewarner, Interim Director of Department of Community and Economic Development, stated that Pen-Mar Regional Association (PMRAR) of REALTORS, is requesting an exception to the September 22, 2009 Amended City of Hagerstown Water and Wastewater Policy, for new construction of their building on Breeze Hill Drive. The City has denied the service request because the site is outside the Medium Growth Range Area (MRGA). They have requested consideration under exception #6.

Kathleen Maher, Planning Director, and Nancy Allen, Pen-Mar Regional Association of REALTORS, and Bill Bowen, Pen-Mar Regional Association of REALTORS.

Ms. Maher stated the City received a plat from the County in 2013 for this site. City utilities signed off on the plat indicating water service would be provided to the site. City service is not available in this area (near the airport); however, the plat indicates the service will be provided. In December, 2014 the City received a site plan from the County for this project. The commitment to provide water service is made at the site plan phase, not at the plat stage. The City denied water service for the location because it is outside the MRGA. The Water and Wastewater Policy establishes several possible exceptions to the Policy. PMRAR is requesting service based on one of these exceptions. They have completed the required elements of filing for the exception.

Ms. Allen stated as Realtors, this will be an opportunity for them to bring more economic development to the area. In 2014, they were responsible of more than half a billion dollars of real estate transactions in the area.

PMRAR currently owns Lot 4, Breeze Hill Drive, which is located in the Airport Business Park. PMRAR seeks the exception to allow connection to the public water supply that currently exists. They support the position that the economic project of the PMRAR building will be a “vital economic development project that is located in a

targeted area for industrial and/or non-retail commercial development. Due to the physical constraints of their current facility, PMRAR is not able to hold general membership meetings, continuing education, MRIS training, and trade shows for their members. The currently facility is located on Cameo Drive, Hagerstown, Maryland, and has limited parking with no room for expansion.

PMRAR represents over 800 members including 650 REALTOR members serving Maryland, Pennsylvania and West Virginia. REALTOR members were involved in the sale of 1,537 homes sold in 2014 in Washington County and 1400 homes in Franklin County. The sales volume of homes for 2014 in Washington County was over \$ 271,000,000.00 and over \$ 233,000,000.00 in Franklin County, Pennsylvania.

The estimated cost of the projected new building is \$ 650,000.00 and will be approximately 6000 square feet in size. The new building will have approximately five full time employees and will be the location for events held by PMRAR for activities such as General Membership meetings, REACH classes, continuing education classes, MRIS training, committee meetings, and the annual trade show. They anticipate the activity level to increase as membership continues to increase with added REALTOR members. During 2014, there were a total of 2,675 people involved in their activities. Their existence is predicated upon providing education opportunities to their members.

Councilmember Aleshire asked if PMRAR would be required to sign a pre-annexation agreement. Ms. Maher indicated if approved, they would be.

Councilmember Munson stated Mr. Bowen and his family have been involved in economic development in Hagerstown for many years.

Mayor Gysberts thinks this is a good idea. He believes other businesses will be seeking service from the City as development occurs. He would recommend considering expanding the MRGA to the north to serve this area, rather than south to a second Walmart near I-70. The City has overextended service for many years and that has caused a limit on new areas that can be served.

Councilmember Brubaker pointed out this particular area is a special area. He thinks this request should be granted. The issue of water service locations should be addressed through the Comprehensive Plan Review.

Councilmember Aleshire does not think the economic development exception is the appropriate consideration.

Councilmember Brubaker stated the Airport Business Park should be considered in the Comprehensive Plan Update.

Councilmember Munson asked that PMRAR promote downtown to people visiting their new building.

It was the general consensus to include approval of the request from PMRAR on the September 29, 2015 agenda.

Central Chemical Update

Kathleen Maher, Planning Director, welcomed Robert Wallace, U.S. Environmental Protection Agency (EPA), Region III, Dr. Malcom Field, Brett Broderson, HGL, Bill Murray, EPA, and Jack Harp, Washington County Health Department, to the meeting to provide an update on the environmental investigation and remediation design planning related to the clean-up of the Central Chemical Superfund site on Mitchell Avenue.

Mr. Wallace stated sixteen companies have reached a \$ 14.3 million settlement with the U.S. Environmental Protection Agency and the State of Maryland to stabilize and cap waste and contaminated soil at the Central Chemical Superfund site. The companies have also agreed to reimburse \$ 945,000.00 for past costs, and to reimburse for future costs associated with oversight of the cleanup.

The 19.02 acre site contains a number of contaminants that the EPA is monitoring. The peak operational period was in 1963. In 2005, the building was demolished. There was a waste lagoon at the site that has been filled in. An RCRA cover has been placed over the lagoon. The EPA continually monitors contaminated soils on-site. Institutional controls include restricting use of the land, preventing damage to caps and ground water extraction/treatment systems.

Future uses may include an office building. It is not likely anything will be built on the filled in lagoon. However, the former lagoon is safe to walk on.

Councilmember Brubaker would like to have Mr. Wallace work with staff to work the future use into the strategy for the property.

The building is owned by Central Chemical.

Groundwater from this site flows in all directions, which is not typical. Contamination has been found at 600 feet at some sites. Sink holes exist at the site, making pathways for the groundwater. There is evidence of tracer dye at waterways at parks approximately 100 days after the dye is introduced.

Councilmember Metzner left the meeting.

Mayor Gysberts inquired about possible remedies for groundwater contamination. Mr. Wallace indicated options are limited for these chemicals, i.e. pump and treat or containment. Mayor Gysberts wondered if higher concentrations of chemicals were in the groundwater during the peak operation. He asked if there is a way to determine how many people may have developed cancer from contamination at this site. Mr. Wallace

stated that is not likely because the chemicals are significantly diluted as they travel away from the site.

Councilmember Nigh remembers people playing on the fields who later developed rare cancers while they were in their 30's.

Mayor Gysberts clarified there is no way of knowing if these cancers were caused by chemicals at this particular site.

Councilmember Brubaker pointed out none of the chemicals affect the public water supply for customers of Hagerstown. There is no immediate danger about continuing daily life in Hagerstown.

The site will continue to be monitored by the EPA.

CITY ADMINISTRATOR'S COMMENTS

Valerie Means, City Administrator had no additional comments.

MAYOR AND COUNCIL COMMENTS

Councilmember D. F. Munson attended the MSO concert on Sunday. The show featured music by the Beatles and was excellent.

Councilmember K. B. Aleshire asked if the proclamation for the Chinese visitors addresses a sister city affiliation. Mayor Gysberts stated it does not and he would discuss any possible affiliation with the Council.

Councilmember M. E. Brubaker had no additional comments.

Councilmember P. M. Nigh had no additional comments.

Mayor D. S. Gysberts also attended the excellent MSO concert. He attended a recent town hall meeting to discuss the increasing heroine issue in the community. He toured the Wells House and invited the Board to attend a Mayor and Council meeting. He stated it is an honor and a privilege to serve the citizens of Hagerstown.

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 6:47 p.m.

Respectfully submitted,

Donna K. Spickler
City Clerk

Approved: October 20, 2015