

**104<sup>th</sup> REGULAR SESSION – October 25, 2016**

**Mayor D. S. Gysberts called this 104<sup>th</sup> Session of the Mayor and City Council to order at 7:04 p.m. Tuesday, October 25, 2016, 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 City Clerk D. K. Spickler.**

The invocation was offered by Councilmember D. F. Munson. The Pledge of Allegiance was then recited.

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 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 Sessions at 4:00 p.m. on Tuesday, November 1, 2016, and Tuesday, November 15, 2016, and the Regular Session at 7:00 p.m. on Tuesday, November 22, 2016. There is no meeting scheduled for Tuesday, November 8, 2016. The Oath of Office will be administered to the new administration on Monday, November 28, 2016 (time to be determined). The first Work Session of the newly elected Mayor and City Council will be held on Tuesday, November 29, 2016 at 4:00 p.m.

Councilmember Munson's prayer included thanks to Councilmember Brubaker for his dedication to the citizens of Hagerstown.

Mayor Gysberts recognized the service Councilmember Brubaker provided to the City of Hagerstown. He first served on the Planning Commission. He has represented the City of Hagerstown well. He has served on committees with the Maryland Municipal League and the Hagerstown-Eastern Panhandle Metropolitan Planning Organization (HEMPO), most recently as Chairman.

Bob Thomas, Franklin County (Pa.) Commissioner, and Matt Mullenax, HEMPO Chairman, presented a certificate to Councilmember Brubaker for his service to the HEMPO. In the 10 years he has served on the HEMPO, he only missed one meeting. He leaves a legacy that includes the work on the I-81 widening project to improve motorist safety. The project will also create sustainability for Maryland businesses. HEMPO partnered last week with the Maryland Department of Transportation and the State Highway Administration to support this as a fast track project. Commissioner Thomas pointed out Councilmember Brubaker is also well respected in Pennsylvania. The traits of Character Counts! are evident in Councilmember Brubaker.

Mayor Gysberts presented a plaque to Councilmember Brubaker recognizing his exemplary service to the citizens of the City of Hagerstown.

Councilmember Brubaker stated he was fortunate to work with good mentors when he was young. As he matured, he tried to be the same type of mentor to others. He thanked his wife, Pam, and his peers for supporting him as Councilmember.

## **GUESTS**

### **Proclamation: Red Ribbon Week**

Mayor Gysberts read a proclamation October 23-31, 2016 as Red Ribbon Week. The Red Ribbon Campaign encourages a drug-free lifestyle and involvement in drug prevention and reduction efforts. Young Marine Jack Necessary, Shenandoah Valley Young Marines, accepted the proclamation. Corporal Seth Bowers was also present.

## **CITIZEN COMMENTS**

Donald Barnhart, 20021 Jefferson Boulevard, Hagerstown, Maryland, owns a business at 34 E. Washington Street in Hagerstown. The business is Duck's and he typically hangs merchandise from the awning. The jerseys do not interfere with the walkway at the store. If the new Sidewalk Standards are approved, he will not be able to hang the jerseys from the awning. He stated it is important to have the merchandise displayed to attract customers. If he is not able to hang the merchandise outside, he will have to close the business. Mr. Barnhart shared photos of his business and merchandise with the Mayor and City Council.

Councilmember Metzner thanked Mr. Barnhart for letting the Mayor and City Council know how he thinks the regulations will affect his business.

Mayor Gysberts recommended that Mr. Barnhart also discuss his concerns with Kathleen Maher, Director of Planning and Code Administration. He appreciates Mr. Barnhart's efforts to comply with what the City is trying to do.

Paul Corderman, 1312 Hamilton Boulevard, Hagerstown, Maryland, is concerned about the Hopewell Manor request for an exception to the Water and Wastewater Policy. He asked who will complete the infrastructure, who is responsible for maintenance of the lines and equipment, and what role Washington County has in the utility service since the project is outside the City limits. He asked if the development will be annexed into the City limits. He believes the expansion of affordable housing is challenging.

Mayor Gysberts informed the group that the developer will be responsible for completing the infrastructure. Maintenance of the main service line will be the responsibility of the City of Hagerstown. This development is currently served by the City of Hagerstown Water Department, with multiple meters. Maintenance in the future will be less because there will be one main meter. As with any request for water and wastewater service outside the City limits, a pre-annexation agreement is required. Washington County's involvement and support of exception requests is standard procedure with the Water and Wastewater Policy.

Councilmember Aleshire stated he will be voting against the request for the exception because he does not agree with adding the exception, especially for the proposed use.

Councilmember Brubaker stated affordable housing projects should be spread throughout the County. There is a high concentration of affordable housing within the City limits. The City cannot continue to bear the challenges of affordable housing. This project will meet the objective of the Mayor and Council to locate affordable housing throughout Washington County.

Mayor Gysberts does not think there is too much affordable housing in the region. However, there is too much concentrated in the core of Hagerstown. There will be limited areas for consideration of additional affordable housing construction.

Mr. Corderman stated he does not agree with the affordable housing stance.

Christa Barnhart, 20021 Jefferson Boulevard, Hagerstown, Maryland, agrees with Donald Barnhart (her husband), about how not being able to display merchandise outside the shop will hurt the business.

Bob Nemes, 47 E .Washington Street, Hagerstown, Maryland, owns the Washington Street Pawn Brokers. His business has done well for the last 13 years. When they put items on the sidewalk, it draws customers into the store. The display of merchandise generates customer calls. They place items in the bump out where it doesn't block the sidewalk.

### **CITY ADMINISTRATOR COMMENTS**

*Valerie Means, City Administrator*, had no additional comments.

### **MAYOR AND COUNCIL COMMENTS**

*Mayor D. S. Gysberts* congratulated Mark Boyer, City Attorney, for his recent appointment as a Circuit Court judge. He thanked him for his service to the City of Hagerstown and wished him well.

*Councilmember P. M. Nigh* noted there have been several sheds broken into in the west end. She encouraged residents to contact the police department if they see something happening.

*Councilmember D. F. Munson* congratulated Mr. Boyer. He expects him to be one of the finest judges in Washington County. He attended the HEMPO meeting last week, carrying Councilmember Brubaker's proxy vote. For him, the most important item on the agenda was the widening of I-81. Serious and significant decisions were made which will allow the process to be started for Phase I and Phase II of the project. Phase III is still being considered. Many people have worked hard for 3 years to see this project started.

*Councilmember L. C. Metzner* also congratulated Mr. Boyer. When Councilmember Aleshire was elected as a County Commissioner in 2006, he recommended Martin Brubaker as a person to consider for his vacant Council seat. Councilmember Aleshire was right in recommending Councilmember Brubaker. Councilmember Brubaker has been a gem on the City Council for Hagerstown. He has been diligent in serving the citizens well on local boards as well as State boards. He worked hard to address the issue of double taxation and the loss of Highway User Funds. Councilmember Metzner thanked Councilmember Brubaker for his dedication and service.

*Councilmember M. E. Brubaker* thanked everyone for their kind words. It has been his pleasure to serve as Councilmember and to serve the citizens of Hagerstown. He congratulated Mr. Boyer on his appointment. He thanked Councilmember Munson for attending the last HEMPO meeting.

*Councilmember K. B. Aleshire* stated 10 years ago, when he was elected as a County Commissioner, he wanted someone to fill the vacant Council seat who was technically sound and non-confrontational. He immediately thought of Martin Brubaker, who had been serving on the City's Planning Commission for several years. Councilmember Brubaker has been a dedicated Councilmember. Councilmember Aleshire was unable to attend the candidate forum sponsored by the Herald Mail. He stated the people who serve as Mayor and Council members are not great, exceptional people, they are just regular citizens. They don't get involved in large political issues. Someone made a comment at the forum that this administration is being unfair to public safety personnel and unfairly paying code enforcement employees. When this administration took office, one of the first actions they took was to reverse the tax reduction and ended the hiring freeze. They were fully aware of what employees had been through during the previous 4 years.

*Mayor D. S. Gysberts* stated in recognition of Community Development Week in Maryland, people from all over the State visited the BuroBox yesterday. The parent company of Holcim Cement is investing \$ 96 million in the plant. The annual Mummer's Parade will be held on October 29, 2016. Trick or Treat is being held on Monday, October 31, 2016.

## **MINUTES**

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 minutes, as presented, for the Mayor and Council meetings held on September 13, 2016, September 20, 2016, and September 27, 2016.

## **CONSENT AGENDA**

On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember M. E. Brubaker, the Consent Agenda was approved as follows:

- A. Community and Economic Development:
  - 1. Western Maryland Blues Fest Budget – 2017
  
- B. Police:
  - 1. Community Based Prosecutor Reimbursement to Washington County Sheriff's Office - \$ 33,423.00
  - 2. Crime Camera – Skyline Technology Solutions (Glen Burnie, MD) \$ 15,023.19
  
- C. Utilities:
  - 1. Water: Renewal of SCADA Contract – ABB, Inc. (Wickliffe, OH) \$ 59,940.00
  - 2. Wastewater: Replacement of Ultra Violet Bulbs – SUEZ Treatment Solutions, Inc. (Leonia, NJ) \$ 42,048.10

Councilmember Munson pointed out the purchase of the additional camera will help reduce crime in the City of Hagerstown.

### **UNFINISHED BUSINESS**

#### **A. Approval of an Ordinance: Land Management Code Amendments – 2016 Annual Review and Update**

**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 Chapter 140, Land Management Code of the City Code. These amendments repeal the existing Land Management Code which is included by reference in Chapter 140, and replace it in total with a revised Land Management Code (identified as Version 3.0). A copy of the entire Land Management Code, Version 3.0 is appended to the ordinance.

#### **B. Approval of an Ordinance: Amendments to Chapter 232, Vacant Non-Residential Structures**

**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 an ordinance to amend the Code of the City of Hagerstown, Chapter 232, Vacant Non-Residential Structures. Specifically the amendments will:

- 1. Add a definition for “Active Work”.
- 2. Amend the definition of “Vacant Non-Residential Structure” to provide two additional exemptions to the program/
- 3. Amend the Application/License Fee to provide further incentive for owners to get their properties out of the licensing program.

4. Amend the Inspections section to provide a re-inspection fee if inspectors are called out for an inspection and the violation is not yet corrected.

These amendments are consistent with the City's Vision and Commitment for Housing and Neighborhoods and the Community's City Center Plan.

Mayor Gysberts noted a correction has been made to the introduced ordinance to insert language that was inadvertently left out that had been intended for adoption. The phrase "of a non-blighted structure" has been added as intended to new "iv" in the definitions of "vacant non-residential structure" and "vacant residential structure".

### **C. Approval of an Ordinance: Amendments to Chapter 233, Vacant Residential Structures**

- 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 an ordinance to amend the Code of the City of Hagerstown, Chapter 233, Vacant Residential Structures. Specifically the amendments will:
1. Add a definition for "Active Work".
  2. Amend the definition of "Vacant Residential Structure" to provide two additional exemptions to the program.
  3. Amend the Application/License Fee to provide further incentive for owners to get their properties out of the licensing program.
  4. Amend the Inspections section to provide a re-inspection fee if inspectors are called out for an inspection and the violation is not yet corrected.

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### **NEW BUSINESS**

#### **A. Introduction of an Ordinance: Easement for Photo Mural with Chic's Seafood**

- Action:** Councilmember M. E. Brubaker made a motion to introduce an ordinance authorizing the execution of an Easement Agreement to permit the City of

Hagerstown to create and maintain photo murals in connection with the Hagerstown Cultural Trail along the Lee Street side of the property at 300 Summit Avenue. Councilmember L. C. Metzner seconded the motion.

Discussion: Councilmember Aleshire reiterated that he likes this idea. He does not like the idea of people putting people's faces on the wall since it would make it appear as a memorial.

Councilmember Metzner agreed. He thinks landscape photos would be appropriate.

Councilmember Brubaker likes the idea as well and believes it will make the trail even more inviting.

Mayor Gysberts thanked the owner of Chic's Seafood for agreeing to allow this amenity.

Motion carried, 4-1 with Councilmember P. M. Nigh voting No.

**B. Approval of a Resolution: Agreement for Public Artwork with Hense, LLC**

**Action:** Councilmember K. B. Aleshire made a motion to approve a resolution authorizing an agreement for public artwork between the City of Hagerstown and Hense, LLC for the mural at 67 West Baltimore Street. Funding for the project is taken from the project art budget approved in February 2016. Councilmember D. F. Munson seconded the motion.

Discussion: Mayor Gysberts noted the funding source for the artwork is bond financing and not from General Fund revenue.

Motion carried 4-1 with Councilmember P. M. Nigh voting No.

**C. Approval of a Resolution: Approving the BuroBox Membership Agreements**

**Action:** On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember P. M. Nigh, the Mayor and City Council unanimously agreed by voice vote to approve a resolution authorizing the package of resolutions and documents that support the BuroBox Membership Agreements. The package includes a license agreement for basic members and a lease agreement to be used for each of the two BuroBox offices. Basic membership license agreements will be administered by Department of Community and Economic Development staff. BuroBox office lease agreements will be approved individually by the Mayor and City Council. The BuroBox is an entrepreneurship resource center operated by the City at 60 W. Washington Street.

**D. Approval of Funding for Municipal Stadium Improvements for the 2017 Season**

**Action:** On a motion duly made by Councilmember D. F. Munson and seconded by Councilmember P. M. Nigh, the Mayor and City Council unanimously agreed by voice vote to approve of \$ 38,333.00 for improvements at Municipal Stadium as follows:

1. Public restroom improvements - \$ 13,900.00
2. Upgrade all light fixtures (except field lights) to LED – \$ 20,833.00
3. Additional exterior lights at clubhouse - \$ 1,500.00
4. Furnish padding behind home plate - \$ 2,100.00

Staff is further authorized to complete the work prior to the start of the 2017 Hagerstown Suns Baseball season. This work is consistent with the terms of the lease and amendments. Funding for the project is from rent paid by the Suns and Parks Division operating funds.

**E. Approval of Agreement with Maryland Department of Health for a Recreation Grant**

**Action:** On a motion duly made by Councilmember P. M. Nigh and seconded by Councilmember D. F. Munson, the Mayor and City Council unanimously agreed by voice vote to authorize the City to enter into a grant agreement with the Maryland Department of Health and Mental Hygiene. The grant is \$ 5,000 and has no cash match. By accepting this grant, the City will expand the Recreation Division's health and fitness programs and publish a Program Guide.

**F. Approval of Economic Analysis and Implementation Plan for Hagerstown Sustainable Community Plan (Urban Partners Project) – Budget Transfer**

**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 authorize a budget transfer of \$ 25,000.00 from the General Fund to the Grant Fund for the "Economic Analysis and Implementation Plan for Hagerstown Sustainable Community Plan Project, which was completed in FY2015. The budget transfer will:

1. Cover the City's expenses associated with the final bill on Urban Partners' contract and for rehiring Urban Partners to preside over additional community meetings to report on the Community's City Center Plan and to provide guidance on development of RFP/RFQ's for Catalyst Project #1, #3, and #7, totaling \$ 19,570.00 and
2. Cover the City's expenses for printing of the Community's

City Center Plan and associated supporting documents, totaling  
\$ 5,430.00

**G. Approval City Center Holiday Parking Program**

**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 the City Center holiday parking program that allows for free parking after 4:00 p.m. weekdays and all day Saturday and Sunday in the University District Parking Deck and Arts and Entertainment District Parking Deck beginning Monday, November 28, 2016 through Monday, January 2, 2017. Normal parking operations will resume on Tuesday, January 3, 2017.

Parking in the city center, central business district street and lot meters will continue to be free after 5:00 p.m. and all day Saturday and Sunday as it is normally throughout the year.

**H. Approval of Purchase of Bulk Diesel Fuel – IPC (USA), Inc. – Columbia, MD  
\$ 179,811.00 (\$ 1.4508 per gallon)**

**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 IPC, Inc. The bid price is \$ 1.4508 per gallon. The estimated annual cost of diesel fuel is \$ 179,811.00 based on an estimated annual use of 100,000 gallons. The contract was competitively bid by the Washington County Government to obtain a better bulk rate for Washington County Government, the Board of Education, and the City of Hagerstown.

**I. Approval of Purchase of Bulk Gasoline – PAPCO, Inc. (Aston, PA)  
\$ 240,355.00 (\$ 1.4277 per gallon)**

**Action:** 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 of the bulk gasoline purchase for City operations from PAPCO, Inc. The bid price is \$ 1.4277 per gallon. The estimated annual cost of gasoline is \$ 240,355.00 based on an estimated annual use of 136,000 gallons. The contract was competitively bid by the Washington County Government to obtain a better bulk rate for Washington County Government, the Board of Education, and the City of Hagerstown.

**J. Approval of Contract: Utilities Patching Contract – Huntzberry Brothers, Inc. (Smithsburg, MD) \$ 282,950.00 for Each Fiscal Year (FY 17, FY 18, and FY 19)**

**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 the Fiscal Year 2017 Street Patching Contract in the amount of \$ 282,950.00 with Huntzberry Brothers, Inc. This contract amount is an estimate, with the actual cost based upon the actual work performed for street patching and repairs associated with the operations of the Water Division and Wastewater Division. The initial contract awarded was on August 25, 2015 and is in effect through June 30, 2017. Per the Contract Documents, this Contract may be extended for two additional one year contract periods under mutually agreeable terms (FY18 and FY19). FY18 and FY19 Contract amount is \$ 282,950.00 for each fiscal year. Approval of this contract authorizes Utilities Department staff to exercise the renewal options. Adequate budgetary funds are in place for the work identified under this contract.

**K. Approval Contract: Inflow and Infiltration Citywide Project – Mr. Rehab, Inc. (Mechanicsburg, PA) \$ 612,244.00**

**Action:** On a motion duly made by Councilmember K. B. Aleshire and seconded by Councilmember P. M. Nigh, the Mayor and City Council unanimously agreed by voice vote to approve the contract with Mr. Rehab, Inc. of Mechanicsburg, PA for the Wastewater Division Inflow and Infiltration Citywide Project in the amount of \$ 612,244.00. Account number 54-85001-5881-C0800 will be utilized for the disbursement of \$ 300,000.00 of MDE Grant Funding and \$ 312,244.00 of Wastewater Division funds.

**L. Approval of Amendments to Standards and Conditions for Sidewalk Business License for Temporary Use of Public Right-of-Way for Display of Merchandise**

**Action:** On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember D. F. Munson, this action was tabled for further discussion at a Work Session.

**M. Approval of Agreement with Middle Atlantic – Great Lakes Organized Crime Law Enforcement Network (MAGLOCLN) Agreement**

**Action:** On a motion duly made by Councilmember D. F. Munson and seconded by Councilmember P. M. Nigh, the Mayor and City Council unanimously agreed by voice vote to approve a memorandum of understanding with MAGLOCLN. This agreement and membership provides access to

intelligence services and if necessary, the loan of specialized equipment for investigative purposes.

**N. Approval of Hopewell Manor Request for Water Under the City's Water and Wastewater Policy**

**Action:** Councilmember M. E. Brubaker made a motion to approve the request from Hopewell Manor for water for expansion of their development on Hopewell Road south of I-70. Approval is granted for this property outside the City's Medium Range Growth Area under Exception #8 of the City Water and Wastewater Policy. The Hopewell Manor expansion will create 60 additional units of affordable housing that will be restricted to households earning up to 80% of the Area Median Income. This affordable housing development is located within proximity of the Hopewell Valley economic development target area. Letters in support of this request have been received from the City's Director of Utilities and the City's Community and Economic Development Department. Letters of support from the County Commissioners and the County Administrator were submitted prior to the Mayor and City Council vote on this request. The approval requires a pre-annexation agreement with the City of Hagerstown. Councilmember D. F. Munson seconded the motion.

Discussion: Councilmember Munson pointed out the County Commissioners and the County Administrator have noted their support of the project. Kathleen Maher, Director of Planning and Code Administration, noted correspondence has not been received but staff has been advised this was approved the by Commissioners during their meeting today.

Councilmember Munson stated this project is in the County, which means the County is going to be responsible for this affordable housing development. The City can no longer afford to have all the work force housing within the City limits because it is having a negative impact on the tax base. The County is doing their share and picking up their responsibility. He believes this project is an indication of the good relationship that this administration has established with the County Commissioners. At a previous meeting, this administration denied an affordable housing project near Burhans Boulevard.

Councilmember Aleshire stated he will be voting no on this action because he does not believe Exception 8 is practical for City utilities. He doesn't support the applicant's argument that a mistake was made in the original zoning for the property.

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

104<sup>TH</sup> REGULAR SESSION  
2016 MAYOR AND CITY COUNCIL

OCTOBER 25,  
HAGERSTOWN, MARYLAND

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 8:25 p.m.

Respectfully submitted,

Donna K. Spickler  
City Clerk

Approved: November 22, 2016