

Mayor D. S. Gysberts called this Work Session of the Mayor and City Council to order at 4:04 p.m., Tuesday, August 23, 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.

Proclamation: Forget Me Not Month- Disabled American Veterans Chapter 14

Mayor Gysberts read a proclamation naming September 2016 as Forget-Me-Not month in Hagerstown, Maryland. The Disabled American Veterans Organization holds a Forget-Me-Not Drive where all proceeds raised are given to those disabled veterans and their families who are in need. The proclamation was accepted by Gordon Fairman, Commander, and J. R. Arnold, Senior Vice Commander, Disabled American Veterans.

Preliminary Agenda Review

**Consent Agenda**

A. Community and Economic Development:

1. Approval of Street Closure: Fireball Run – September 27, 2016
2. Open Container Law Exemption – Application/Permit – Maryland Symphony Orchestra Classics and Crabs – September 17, 2016
3. Open Container Law Exemption – Application/Permit – Police Athletic League Country Music Festival – Fairgrounds Park – September 24, 2016

B. Finance:

1. Audit of FY16 Basic Financial Statements and Single Audit in FY17 – Contract Extension – S B & Company, LLC (Hunt Valley, MD)  
\$ 38,500.00

C. Information Technology:

1. Hosting and Software Support Agreement for Intellitime – Intellitime Systems Corporation (Santa Ana, CA) \$ 53,692.98
2. ESRI GIS Maintenance Agreement Renewal – ESRI (Redlands, CA)  
\$ 35,000.00

D. Police Department:

1. Annual Software Maintenance for Police Mobile and RMS – Keystone Public Safety, Inc. (Maple Shade, NJ) \$ 78,761.00
2. Second Chance Summit Vests – Atlantic Tactical (New Cumberland, PA) \$ 36,172.96

E. Public Works:

1. Landscape Bed and Ground Maintenance of Various Locations – The Groundskeeper, Inc. (Hagerstown, MD) \$ 25,100.00

F. Utilities:

1. Water: Traveling Screen Repair – Underwater Services Corp. (Wyoming, PA) \$ 31,864.52
2. Wastewater: CCTV Purchase and Repair (Vehicle #563) – Rausch USA (Chambersburg, PA) \$ 18,596.00
3. Wastewater: Grinder Pump – Fluid Solutions, Inc. (Westminster, MD) \$ 57,200.00

There were no questions about any items on the consent agenda.

**Introduction of an Ordinance: Quit Claim for Alley 1-006 Adjacent 400 Key Circle**

Rodney Tissue, City Engineer, stated staff received a letter from the owners of the properties at 374 Daycotah Avenue and 400/410 Key Circle requesting that the City quit claim a portion of an unimproved alley right-of-way adjacent these properties.

The alley right-of-way in question is unimproved, but has been used as a vehicular driveway that serves 374 Daycotah Avenue and 400 Key Circle. If the quit claim request is approved, the adjoining properties have all agreed to allow the owner at 400 Key Circle to obtain title to the property.

The City's Planning Commission also considered this request at their meeting on August 10, 2016. The Commission recommended conditioning the quit claim on the owner of 400 dedicating on a plat access easements for 374 and 410.

In accordance with policy, staff routed this request to the various agencies and City departments for review and comment. No objections were raised to the proposed quit claim.

Councilmember Brubaker stated this request creates concern for access to neighboring properties. He wondered what happens if the owners of 400 don't comply with the condition recommended by the Planning Commission. Mr. Tissue indicated the property would remain as it currently is. This is not City property and the quit claim would confirm the City does not have an interest in the property.

Councilmember Aleshire inquired why the rest of the alley isn't being quit claimed. Mr. Tissue indicated it could be, but the adjacent property owners have not requested it.

It was the general consensus to include introduction of the ordinance to quit claim the requested property on the agenda for August 30, 2016.

**Approval of User Agreement with Cumberland Valley Yacht Club – City Park**

Rodney Tissue, City Engineer, presented a finalized User Agreement with the Cumberland Valley Model Yacht Club at City Park. He thanked Dr. Whatney for his assistance in reviewing the document.

The agreement specifically defines the type of vessels permitted on the lake. Any complaints during an event should be addressed to the Park Guard.

It was the general consensus to include approval of the agreement on the August 30, 2016 agenda.

**Approval of Memorandum of Understanding for Marsh Run Multi-Use Trail Project Grant**

Mr. Tissue reported the City has received a \$ 200,000 grant from the Maryland Department of Transportation (MDOT) for the final design of the Marsh Run Trail. This is the first grant from the State's Transportation Alternatives Program" (TAP) for non-vehicular improvements such as trails. The grant has a financial match and the City obtained \$ 50,000 in Maryland Bikeways funds, so the design is 100% grant funded.

The grant will be used for the final design of a trail from Park Circle (where it meets the proposed Hagerstown Cultural Trail) to Potomac Street. This would be the missing portion of an overall trail from City Park to Municipal Stadium. Obviously, the major obstacle is the CSX rail spur. The work plan contemplates close coordination with the railroad to provide a tunnel under the rail line.

Earlier Maryland Bikeways Grants paid for the preliminary design and helped obtain CSX buy-in. This grant will pay for the final design, including the tunnel under the railroad. When the plans are complete, staff will apply for TAP funds for the future construction.

**Approval of Contract for Planning, Evaluation and Design Services for Repairs to the Edgemont Reservoir – Hazen and Sawyer Environmental Engineers and Scientists (Baltimore, MD) \$ 469,226.00**

Michael Spiker, Director of Utilities, and Nancy Hausrath, Water Operations Manager, were present to discuss the Hazen and Sawyer Engineering Services Proposal for the Edgemont Reservoir Improvements.

Ongoing inspections (beginning in 2006) of the reservoir have revealed areas of concern near the left abutment of the downstream toe to include a wet area, missing and exposed toe-drain pipe, and tree root intrusions into the earthen embankment. As a result of the 2006 findings, the City contracted with Triad Engineering in 2007 to perform a

geophysical investigation to determine the source and extent of the spillway channel seepage.

As a result of the 2007 study and as required by Maryland Department of the Environment – Dam Safety Division (MDE-DS) and to control the seepage traveling beneath the dam and possibly through the lower portion of the dam, the City contracted with Triad Engineering to prepare plans and specifications to construct a subsurface interceptor drain and remove root intrusions – this work was completed in 2009/2010 in an effort to ensure stability of the structure.

In December 2013, a new seep formed at the toe of the earthen embankment near the left downstream abutment. The flow from this seep is directly related and proportional to the pool elevation in the reservoir and as such, the reservoir has been maintained a minimum of six feet below the emergency spillway elevation. Based on the 2015 annual inspection performed by MDE, it was determined that the current condition of the dam is considered unacceptable due to ongoing seepage problems at the right abutment and under the spillway.

Utility staff members have continued to work with MDE-DS on the best approach to address the deficiencies in accordance with the direction provided by the Mayor and Council. To this end, a schedule was developed and presented MDE-DS for review and approval. The schedule shows construction being completed by June, 2018. MDE-DS has suggested this schedule is too ambitious and will likely be modified to add 6 months to one year to create an engineering team with the technical background and expertise to finalize the on-going evaluations and complete the planning, permitting, and design phase for repairs to the Edgemont Reservoir.

The proposal from the Hazen/Triad Engineering team meets all the requirements identified by MDE-DS as well as other agencies having jurisdiction.

Councilmember Brubaker stated he doesn't think the majority of the Council has agreed to this plan. Mr. Spiker indicated staff followed the direction from the Council and moved forward with seeking proposals from engineering firms.

Councilmember Brubaker stated he feels a second opinion should be obtained.

Councilmember Aleshire stated a second opinion was considered, which was shutting down the reservoir. He stated upgrading the Breichner plant and the reservoir maintains the consistent allocation for the water system.

Ms. Hausrath indicated the plant typically operates at 3 million gallons per day. If more capacity is needed throughout the system, special permission to use the Breichner plant could be requested from the MDE.

Mr. Spiker indicated upgrading the Breichner plant would take a load off the R. C. Willson plant and create the capacity for growth. He stated a report can be made of the progress at any time during the project.

If the proposal is accepted, a draft contract will be presented to the Mayor and City Council for review prior to finalizing the acceptance.

There were no additional comments or questions regarding the items of the Preliminary Agenda. All items are scheduled for approval on August 30, 2016, unless otherwise noted.

#### Alternate Method of Paying Parking Meters Using Pay-By-Credit

Eric Deike, Director of Public Works, was present to discuss working with Parkmobile to provide an alternate method of paying for metered parking using pay-by-cell. For a minimum amount of cost, parking customers in the downtown can pay for metered parking on the street and in the parking lots using a credit card.

It is the intent of the staff within the Parking System to continuously examine the parking operations and find ways to improve upon it. They strive to find new and better ways to serve the customers. Requests have been made to find a way to pay for metered parking with credit cards. Cards are convenient and used more than ever as society slowly moves away from cash. The following proposal is an alternate method of meeting customer expectations with minimal costs.

The existing parking meters in Hagerstown, whether on the street or in parking lots, will only accept cash (coins) as payment for parking. No meters have been modified to accept credit cards nor are there any pay kiosks for programs such as pay-and-display. New meter heads and pay kiosks can be cost prohibitive with the current parking rates of \$0.50/hour at most locations (Antietam Street lot is the exception at \$1.00/hour). Meter heads that accept credit cards can cost \$ 450 to \$ 500 each plus monthly maintenance and service fees.

There is an alternate method of paying for metered parking that will cost the Parking System an estimated \$ 5,000.00. The cost is for signs and a onetime setup charge. Through this program drivers can pay for parking using a phone app on their smart phones or via a landline. Time on the parking meter can be extended should the driver be running late to return to their vehicle. The City collects their normal fee for the meter and the pay-by-cell vendor charges a nominal fee of \$0.35 per transaction for the service, paid by the user.

Staff would like to partner with Parkmobile, one of the premier pay-by-cell companies in the industry. The City of Frederick, Maryland currently uses Parkmobile for the parking meter program as does Washington, D.C.

There are no current plans to raise the parking meter fees at this time. Meter fees were last adjusted in 2012 when the meter rates were raised to \$0.50 per hour from \$0.25 per hour. The Antietam Street Parking Lot near the District Court remained at \$1.00 per hour.

There is an initial \$ 250 setup fee. The remaining costs are for signs along the streets and in the parking lots. Each sign will cost \$ 20 if purchased through Parkmobile. A rough estimate of the number of signs needed is 150 to 200 signs.

Implementation of this program would take 3 to 4 months. Time is needed to determine the parking zones, sign designs, implementation strategies and marketing plan. Signs would be installed and a social media campaign would be implemented shortly before the launch of the service.

This alternate system provides a convenient and secure method of payment for parking in the downtown on the street or in the parking lots. It allows customers to utilize credit cards in lieu of cash. The program can be modified to meet the future needs of the parking system including rate changes. This all can be done for a minimum amount of expense.

Councilmember Metzner believes people will use this system.

It was the general consensus to move forward with this alternate parking payment plan. It will take several months to complete a legal review of the contracts.

#### City Funding Support for Police Athletic League Country Music Festival

Rodney Tissue, City Engineer, Lauren Metz, Community Events Coordinator, and Nick Varner, PAL, were present to discuss City funding support for the Police Athletic League Country Music Festival.

At the June 7, 2016 Mayor and Council session, members of the Police Athletic League (PAL) requested that the City provide financial assistance for the 2016 Country Music Festival to be held in Fairgrounds Park. Prior to this presentation, staff received no indication that this event would occur again this year and as a result, no funds were designated in the FY2017 budget for this event. During this presentation, Mayor and Council indicated that the City could provide financial support pending a better financial breakdown for specific city services requested.

PAL is requesting financial assistance by the City to cover the following approximate costs:

1. Park Rental Fee: \$ 1,000.00 per 6 hours (must be coordinated with the seven user groups)
2. Parks Services (tents, fencing, trash, set-up and tear down): \$ 2,500.00

The total of the request is \$ 6,500.00.

To provide financial support of this event, staff recommend a \$ 1,000.00 cash sponsorship to offset the cost of the park rental to be paid from the DCED line item Miscellaneous Downtown Events. The remaining \$ 5,500.00 will be provided as an in-kind sponsorship from Police and Parks and Recreation budgets (\$ 3,000.00 from the Police Department and \$ 2,500.00 from the Parks and Recreation Department). With the in-kind sponsorship from the Parks and Recreation, department staff request that PAL minimize the amount of man-hours requested to limit the overall impact to the Parks and Recreation budget. If the event continues in 2017, staff would recommend that PAL budget to cover the cost of the staff assistance.

At the June 7, 2016 meeting, PAL also requested assistance in approving an open containers law exemption permit for this event. This application will be presented by staff as part of the consent agenda during the Regular Session on August 30, 2016.

Mr. Varner stated this year's event will be smaller than the first event. PAL hopes to grow to the level they attempted to start with in 2015.

It was the general consensus to grant the request for City support for the Country Music Festival and move forward with the approval.

#### Proposal to Close McPherson Street (Between Franklin and Washington Streets)

Rodney Tissue, City Engineer, and Chief Victor Brito were present to discuss a proposal to close McPherson Street.

Chief Brito stated the Hagerstown Police Department is concerned for the safety of pedestrians and private vehicles traversing the main parking area designated for police vehicles of the Hagerstown Police Department (HPD). The area is currently a City street which precludes closing the parking lot at this time. Civilians routinely traverse the HPD parking lot, greatly increasing the risk of being struck by a police vehicle that may be exiting and/or entering the parking area during an emergency response.

To address the safety concerns, an initial recommendation is to close the portion of McPherson Street between Franklin and Washington Streets to traffic. This could be started with signage of "No Thru Traffic" and "Police Vehicles Only".

In accordance with policy, staff routed this request to the various agencies and City departments for review and comment. No objections were raised to the proposed quit claim; however, public sanitary sewer, storm drain and electric facilities all are located in this corridor and access to these facilities must be provided to the respective department for maintenance or in an emergency.

The Board of Traffic and Parking approved the closure at their July meeting. The City's Planning Commission also considered this request at their meeting on August 10, 2016. The Commission had no concerns about this request.

An issue to consider is that the City does not have title to the street, but merely enjoys a dedication of the property for use as a public street. The property was dedicated to the City by a deed from Western Maryland Railway Co. (WMRR) in 1912 "for the property maintenance of a public street and highway of the said town of Hagerstown."

Because the deed of dedication of this property was for a limited purpose, title to the property remains vested in the WMRR, or its successor, subject to the right of the City to use it for the dedicated purpose. Closing the street to the public could be deemed a diversion from the dedicated purpose of the property. That said, due to the timing, staff feels they should move forward with HPD's closure request and then make an attempt to track down the successors of this 1912 dedication, if possible.

Mark Boyer, City Attorney, stated the safety aspect of the request makes it important to address Chief Brito's concerns immediately. He noted that the easement has already been encroached on with the location of the impoundment lot and some of the outbuildings.

Chief Brito pointed out customer service at police headquarters will not be affected by the street closure.

It was the general consensus to move forward with the process of closing this section of McPherson Street and to contact the successors of the dedication from WMRR.

Mr. Boyer then left the meeting.

#### Update of Excessive Use of City Services Program

Kathleen Maher, Director of Planning and Code Administration, Chief Victor Brito, Officer Gerard Kendle, and Paul Fulk, CC Inspector Technology Specialist, were present to provide an update on the Excessive Use of City Services Program, also known as "Crime Free Housing" and "Chronic Nuisance Properties." A prior update was provided by the Hagerstown Police Department on their application of the program on June 2, 2015. This is the first joint update by the Code Administration Department and the Police Department.

The City's Excessive Use of City Services Program became effective on April 18, 2014 with the intent to advance the safety and welfare of neighborhoods throughout Hagerstown by educating landlords on tenant screening and leases and by holding all property owners accountable when chronic nuisance situations occur at their properties. The goal is not to be punitive to property owners but to encourage actions that result in

lower calls for service and prevent nuisance situations from occurring and perpetuating in the neighborhoods.

The 2014 amendment process repealed Chapter 95, Excessive Use of Police Services, and replaced it with Chapter 95, Excessive Use of City Services, and amended Chapter 197, Rental Facilities. Chapter 95 applies to all properties throughout the City.

Officer Kendle reported that a multi-step process is used to determine if a call qualifies as a disturbance or as a violation of a property maintenance standard. Based on the number of qualified events, notices are issued to the property owner. Since the implementation of the amendments in 2014, an average of 7% of calls are qualified. Of those calls, more than half are determined as qualified by the Crime Prevention Officer. A majority of the properties receiving notices of the nuisance are rental properties.

HPD sponsors a voluntary Crime Free Housing Seminar for landlords or their designated agents. Once an owner, landlord, or designated agent has received a notice of more than one HPD qualifying call or one HPD qualifying call which constitutes a felony under Maryland Law, the Rental Facility license is subject to and contingent upon the successful completion of the Crime Free Housing Seminar. Since 2014, 46 owners, landlords, or designated agents have been required to attend the mandatory training.

Chronic Nuisance Properties have been assessed fees 36 times since 2014. The total fees are in excess of \$ 10,000.00.

Mr. Fulk then discussed the qualifying Property Maintenance standards. If three notices of violation are issued within a 12-month period for a violation from specific property maintenance standards, the property is classified as a Chronic Nuisance Property. Since the implementation of the amendments in 2014, an average of 19% of properties were classified as being Excessive Use properties. Of those, the majority of properties receiving Notices of Nuisance are vacant.

There have been 49 properties identified as Chronic Nuisance properties since 2014. Fees have been assessed 29 times since 2014, with fees totaling \$ 3,900.00.

Staff's determination from the data and their experience administering the program and working in the neighborhoods is that the program is having a positive impact and is helping to reduce chronic nuisance situations in the City.

Councilmember Nigh stated the City of Martinsburg recently passed a similar ordinance that includes immediate eviction of a tenant if the call is related to gang activity. A copy of this law will be obtained.

Councilmember Nigh noted she receives a number of complaints about weeds in sidewalks and tree pits. Something needs to be done to clean up the weeds.

Councilmember Munson noted City staff has been maintaining the berm across from North Hagerstown High School. He wondered if there is a way to make the owners take on this responsibility. Mr. Fulk informed the group that Public Works employees have been doing the work. Staff continues work to resolve this situation.

Councilmember Munson mentioned the vacant building next to the Woodpoint Grill on Salem Avenue is getting worse everyday. Mr. Fulk noted representatives of the property were inquiring about permit requirements for that property.

Mayor Gysberts stated it is obvious the program is working but it shouldn't be taken for granted. There are people who think there are too many inspectors and the City is being heavy handed with violations. The work the inspectors and police officers do improves the neighborhoods. He welcomes suggestions to make the neighborhoods stronger.

#### Inspections of Non-Profit Housing

Kathleen Maher, Director of Planning and Code Administration, and Paul Fulk, CC Inspector Technology Specialist, were present to provide a report of staff's research into what types of inspections are in place for the non-profit housing units managed in the city for special needs populations. Concerns had been expressed in the past by Councilmember Aleshire as to whether sheltered housing was subject to the same or similar inspection standards as rental housing to ensure the safety of the residents.

Chapter 197 of the City Code outlines the licensing and inspection requirements for the City's Rental Facilities Program. This code was adopted by the Mayor and City Council in 2003 for the purpose of protecting and promoting the public health, safety and welfare of the citizens of Hagerstown, establishing rights and obligations of the landlords and tenants in the rental of dwelling units, and encouraging the landlords and tenants to maintain and improve the quality of rental housing within the community. An additional purpose is promoting and assuring the safety, health and habitability in the housing conditions in rental facilities in the City, preventing deterioration of rental facilities in the City, supporting property values, and encouraging responsible management and use of rental facilities through licensing and inspection.

Chapter 197 requires any structure containing one or more dwelling units to be licensed with the City and subject to periodic inspections for compliance with the City's Property Maintenance Code. Rooming houses are considered rental facilities under this code. Exceptions are provided to owner-occupied structures containing no more than one rental unit ("owner plus one") and to rental facilities owned and operated by the Hagerstown Housing Authority.

Chapter 197 excludes traditional hotels, motels, bed-and-breakfasts, nursing homes and hospitals from the definition of "rental facility." The first three are "rented" on a

very transient basis by travelers through the community, and any hotel or motel operating under the flag of a national chain would be subject to the operational and maintenance standards to remain under that flag. The last two are subject to oversight by the State of Maryland.

Planning and Code Administration staff have excluded homeless shelters due to their hotel-like transiency and assumption of oversight by the State of Maryland or other authority, residential treatment facilities due to on-site care and oversight by others, ARC of Washington County houses due to in-home nursing care and other oversight, and assisted living facilities due to nursing care and other oversight.

The Hagerstown Rescue Mission has a shelter for transient men, with a 30 consecutive nights maximum stay. Kitchen spaces of these facilities are inspected by the Washington County Health Department. Two of the three programs conducted by the Wells House are not in the Rental Licensing Program.

Councilmember Aleshire did not realize the Rescue Mission had a long term care/stay program. He wondered if properties rented by the Wells House for clients would be included in the Rental License program. Ms. Maher indicated the treatment programs are falling out of the City's inspection program because of stringent State inspections.

Mayor Gysberts wondered if the inspection reports from the State of Maryland would be considered public information and therefore available for review.

Councilmember Aleshire noted that the Hagerstown Housing Authority was specifically exempted from the Rental Licensing inspection because their inspection process is as stringent or more stringent than the City's process. This was clarified with specific language in the ordinance. In his opinion, any other properties exempted from the City inspection should be specifically noted for the same reason in the regulations. He is concerned that many of these properties are more densely populated than originally thought. He recommended confirming that these properties are inspected by other parties and determining the intensity of the inspections. If the standards are less than those in the Rental Licensing program, they should be subject to the City regulations.

Councilmember Nigh wants to know what inspections are being completed. If the City provides public safety services, the inspection records should be provided to the City.

Ms. Maher indicated staff could develop a list of organizations that may be exempt from the City's inspection program, which would include inspections that are completed by the organization. Councilmember Brubaker noted data about the number of public safety calls at the locations would also be helpful.

After staff determines what inspections are completed, further review with the Mayor and City Council will be scheduled.

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

*Valerie Means, City Administrator* reminded everyone that Augustoberfest is being held Saturday, August 27, 2016 and Sunday, August 28, 2016.

### **MAYOR AND COUNCIL COMMENTS**

*Councilmember M. E. Brubaker* talked about a recent Herald Mail editorial that stated the City of Hagerstown should take the lead on a stadium project. He indicated members of the previous Mayor and Council supported the downtown stadium but it was not a popular location. The one-third of the funding from the private sector never materialized. In other places, like Aberdeen and Salisbury, there was significant private investment, sponsorship, and support for new stadiums. Hagerstown has the lowest attendance rate in the league. Just dusting off the stadium isn't going to improve investment. He has not seen the funding sources locally to sustain a major financial effort.

*Councilmember K. B. Aleshire* asked someone to check on the parking situation with U-Haul trailers on South Potomac Street. He thanked City of Hagerstown police officers for their efforts to convey the safe way to play the Pokémon Go game.

*Councilmember D. F. Munson* had no additional comments.

*Councilmember P. M. Nigh* stated people continue to criticize the police department for not having officers in the neighborhoods. She noted that a large number of officers have left during the last four years. She urged anyone who sees something happening to report it immediately. Trash continues to be a problem. Some privacy fences in alleys are hindering sight distances for vehicles. This should be looked at. She noted there are regulations for dog breeders in Washington County. Several citizens contacted her about the equipment that has been at the former hospital site. She noted repairs are being made to the retaining wall.

*Councilmember L. C. Metzner* had no additional comments.

*Mayor D. S. Gysberts* thanked the Oak Hill Neighborhoods 1<sup>st</sup> groups for hosting an ice cream social. He congratulated the Bester Community for a successful Community of Hope event. The ARC on Florida Avenue recently opened a fitness trail. He congratulated Washington Square United Methodist Church on their 100<sup>th</sup> anniversary. Mr. Charles "Mac" McLean recently celebrated his 100<sup>th</sup> birthday.

WORK SESSION  
2016  
MAYOR AND CITY COUNCIL

AUGUST 23,  
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 6:17 p.m.

Respectfully submitted,

*Original signed by D. K. Spickler*

Donna K. Spickler  
City Clerk

Approved: September 27, 2016