

64TH SPECIAL SESSION, WORK SESSION AND EXECUTIVE SESSION – February 12, 2019

EXECUTIVE SESSION – February 12, 2019

On a motion duly made by Councilmember E. Keller and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote of all members present to meet in closed session to consult with counsel to obtain legal advice, #7 (Section 3-305(b)), on Tuesday, February 12, 2019 at 3:02 p.m. in Room 407, 4th floor, City Hall, Hagerstown, Maryland.

The following people were in attendance: Mayor R. E. Bruchey, II, Councilmember K. B. Aleshire, Councilmember E. Keller, Councilmember L. C. Metzner, Interim City Administrator Michael Spiker, City Attorney Jennifer Keefer, Kathleen Maher, Director of Planning and Code Administration, Jill Thompson, Director of Community and Economic Development, Eric Deike, Director of Public Works, Paul Fulk, Neighborhood Services Manager, Stephen Bockmiller, Zoning Administrator/Planner, and Donna K. Spickler, City Clerk. Councilmember A. Heffernan and Councilmember S. McIntire were not present.

The meeting was held to discuss negotiations for a settlement and pending litigation. No formal action was taken at the meeting. On a motion duly made, seconded, and passed, the meeting was adjourned at 3:59 p.m.

64TH SPECIAL SESSION AND WORK SESSION – February 12, 2019

Mayor R. E. Bruchey, II called this 64th Special Session and Work Session of the Mayor and City Council to order at 4:08 p.m., Tuesday, February 12, 2019 in the Council Chamber at City Hall. Present with the Mayor were Councilmembers K. B. Aleshire, E. Keller, and L. C. Metzner, Interim City Administrator Michael Spiker, City Attorney Jennifer Keefer, and City Clerk D. K. Spickler. Councilmembers A. Heffernan and S. McIntire were not present.

64th Special Session – February 12, 2019

On a motion duly made by Councilmember E. Keller and second by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote of all members present to meet in Special Session at 4:09 p.m.

Approval of Amendments to FY19 New Community Development Block Grant Annual Action Plan

Action: On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember E. Keller, the Mayor and City Council unanimously agreed by voice vote of all members present to amend the FY19 Community Development Block Grant Annual Action Plan in order to

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allocate unanticipated CDBG program income and available funding from capital projects completed under budget. \$ 70,000 of CDBG funding will be allocated for design and reconstruction of the Medal of Honor Triangle and \$ 70,000 of CDBG funding will be allocated for ADA bleacher system improvements at multiple City Park facilities. Details of the CDBG amendments are attached to the motion.

Approval of Potterfield Pool Upgrades

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 by all members present to approve of a contract with JLN Construction Services, LLC as part of the Potterfield Pool Upgrades for the application of epoxy floor coating in the locker rooms, showers and restrooms in the amount of \$ 31,520.00. The funding is from Community Development Block Grant.

The Special Session was closed at 4:11 p.m.

Work Session – February 12, 2019

Proposed Revision of Chapter 189, Public Utility Licenses, of the City Code

Jennifer Keefer, City Attorney, was present to discuss a revision of Chapter 189, Public Utility Licenses, of the City Code. During the past several years, this requirement has been challenged by several of the companies it applies to because of other governmental licensing requirements. Very few have continued to obtain the license. However, the City's utilities paid the license fee annually through FY15.

Ms. Keefer and Donna Spickler, City Clerk, have discussed the requirement and its validity given that higher governmental oversight has been implemented for many of the utility and communications companies. Ms. Keefer provided an opinion recommending that the Mayor and City Council take the necessary action to repeal Chapter 189 based on State preemption, Fee vs. Tax, Federal preemption, and Laches defense. An alternative would be to overhaul the program to exclude State- and/or Federally-licensed businesses, and to revise the fee to reflect services actually provided by the City (such as administrative fees for processing the license).

Councilmember Aleshire asked if licensing for transportation, contract work, construction work, etc. would be affected if the provision is repealed. Ms. Keefer indicated repealing Chapter 189 would only affect these regulated utilities.

Councilmember Aleshire would like to have a discussion about the City's ability to set a public utility tax rate.

It was the general consensus to move forward with repealing Chapter 189. Introduction of an ordinance to amend Chapter 189 will be included on the February 26, 2019 Regular Session agenda.

Hagerstown Police Department Cell Tower User Agreement with T-Mobile Tower

Scott Nicewarner, Director of Technology, Communications, and Support Services, was present to discuss a cell tower use agreement with T-Mobile at the Hagerstown Police Department headquarters.

Staff have been working with representatives of T-Mobile USA, Inc. to draft an agreement for T-Mobile's use of space on the existing cell tower at HPD on N. Burhans Boulevard to place cellular equipment in an effort to enhance their coverage in the area. The draft agreement was included in the packet for the Mayor and City Council's review. Key points of this agreement are:

1. Five year initial term, with automatic renewals of up to four additional terms of five years each.
2. Rent during the initial 5-year term of \$ 2,700 per month, with an initial payment of \$ 1,000 to begin placement of the equipment.
3. Rent during the initial term will be adjusted annually on the anniversary of the commencement date by three percent (3%).
4. T-Mobile is responsible for all personal property taxes on the equipment placed on the tower. The City will pay the portion of real property taxes consistent with other cell tower agreements currently in force. This amount of real property taxes is approximately \$ 3,500 per year.

Currently there is one other cell company (US Cellular) with equipment located on the tower. HPD technical staff are working with T-Mobile to finalize technical specifications and that work should conclude shortly. The City also has two other cell towers on City-owned property, including Fairgrounds Park, and off S. Burhans Boulevard near Sherman Avenue. There is also a Shentel tower on property owned by Wastewater off of Frederick Street and a water tower at the Mack Truck Tank utilized through an agreement with Hardy Communications (a US Cellular WV company).

It was the general consensus to include approval of this agreement on the February 26, 2019 Regular Session agenda.

Memorial Park Circle of Achievement Recommendations, Class of 2019

Stephen Bockmiller, Development Review Planner/Zoning Administrator, was present to review the recommendations for the Memorial Park Circle of Achievement.

The City dedicated Memorial Park in 2015. One component of this park is the Circle of Achievement – an outdoor hall of accomplishment of Hagerstown residents. High standards were adopted by the Mayor and Council and an initial database of 45 potential honorees was compiled by the Memorial Park Circle of Achievement Inductee Review

Committee. In 2015, in order to create a starting critical mass of honorees, the Mayor and Council adopted an initial class of 12 inductees. Initially, the first class was intended to include eight inductees. The Committee offered 10 recommendations for the first class for consideration. The Mayor and Council adopted all ten and added two more from the database. The park dedication and first induction ceremony was held on May 16, 2015. Descendants of 10 of the 12 honorees were present and they came from literally all over the country to participate. Two new honorees were inducted each year in 2016, 2017, and 2018. There are now 18 honorees in place.

The database of potential honorees can be updated at any time by the Committee when persons meeting the established criteria are identified. Suggestions from all parties are welcome. Three potential nominees were identified over the last 12 months. The Memorial Park Circle of Achievement Inductee Review Committee confirmed their eligibility by adding them to the database when it met on February 1, 2019. The database consists of 43 potential honorees (in addition to the 18 already inducted).

The City Engineer advises that there is money in the budget for two plaques this year.

After reviewing the potential candidates available on the current database of persons qualified for consideration, the Committee recommends that the Mayor and Council consider selecting from the following persons for inclusion in the class of 2019 (listed alphabetically):

1. George Leonard Fisher – Fisher compiled an extraordinary military record of service across more than five decades and four major war periods. He is one of only a very small handful of known military personnel in America that served in a uniformed capacity both during the Civil War and World War I. Fisher lived on South Potomac Street and on George Street from the 1880s to the early 1920s.
2. Florence Wall MacMichael McCoy – McCoy enjoyed a long career as an actress on stage, screen and television – but mostly television. Her list of credits include many television programs from the 1950s to the 1970s, appearing in Mr. Ed, the Andy Griffith Show, My Three Sons, The Donna Reed Show and others. MacMichael was born in Hagerstown and grew up at 494 North Potomac Street.
3. Robert G. Sachs – Sachs was a University of Chicago theoretical physicist who helped create the Argonne National Laboratory and served as its director from 1973 to 1979. During the late 1950s and early 1960s, Sachs became well-known in the physics community for his classification scheme for newly discovered subatomic particles, for his theories regarding the imbalance between matter and antimatter in the universe, and other related asymmetries in laws of fundamental particle interactions. Sachs was born in Hagerstown and lived at 815 Mulberry Avenue in youth.
4. Ann Carroll “Nancy” Fitzhugh Smith – Smith was a member of the Fitzhugh family, who were among the group of Hagerstown residents who moved to New York with Nathaniel Rochester. She married abolitionist Gerrit Smith, who was one of John Brown’s Secret Six financiers. She and her husband were very active in the abolitionist and suffrage movements for decades and their home was a

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station on the Underground Railroad. Nany Smith lived in Hagerstown from birth to the time the family moved to New York with the Rochesters in 1810 when she was five years old.

In order to maintain the exclusivity of the honor and not exhaust the pool of candidates too quickly, the committee recommended in 2016 that the Mayor and Council adopt two new honorees each year. The City Council concurred with that recommendation at that time and it has not deviated since.

The years 2019-2020 will be the centennial of the introduction and ratification of the 19th Amendment and the first national election in which women could vote nationwide. Given this anniversary, Ann Carroll Fitzhugh Smith was included among the Committee's four recommendations this year.

The Committee's recommendations are non-binding on the Mayor and Council. The elected body can select any person meeting the adopted criteria, as confirmed by the Committee and included in the database.

The Mayor and Council adopted the Saturday of the weekend preceding Memorial Day weekend as the date for the ceremony. In 2019, that date is May 18.

Councilmember Aleshire stated he considers what the individual accomplished, not necessarily the family unit.

After some discussion, and in recognition of ratification of the 19th Amendment, it was the general consensus to induct Florence McCoy and Ann Fitzhugh Smith into the Circle of Achievement on May 18, 2019.

Formal action will be included on the February 26, 2019 Regular Session agenda.

CITY ADMINISTRATOR'S COMMENTS

Michael Spiker, Interim City Administrator, reported a ribbon cutting will be held on February 13, 2019 welcoming Unlocking Resilience and Keep Exploring Yourself (22 N. Mulberry Street, Suite 120) to Hagerstown. He thanked the Public Works department for their work in the recent extended snow storm.

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Councilmember L. C. Metzner noted trash collection is delayed one day due to the snow storm.

Councilmember K. B. Aleshire had no additional comments.

Councilmember E. Keller had no additional comments.

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Mayor R. E. Bruchey, II had no additional comments.

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 4:25 p.m.

Respectfully submitted,

Original signed by D. K. Spickler

Donna K. Spickler
City Clerk

Approved: March 26, 2019