

EXECUTIVE SESSION – August 28, 2012

On a motion duly made by Councilmember W. M. Breichner and seconded by Councilmember F. W. Easton, the Mayor and City Council unanimously agreed by voice vote to meet in closed session to consider a matter that concerns the proposal for a business or industrial organization to locate, expand, or remain in the State, (Section 10-508(a) #4) and to consult with counsel to obtain legal advice, (Section 10-508(a) #7) at 5:04 p.m. in Room 407, 4<sup>th</sup> Floor, City Hall, Hagerstown, Maryland. The following people were in attendance: Mayor R. E. Bruchey, II, Councilmember W. M. Breichner, Councilmember M. E. Brubaker, Councilmember F. W. Easton, Councilmember A. C. Haywood, Councilmember L. C. Metzner, City Administrator Bruce Zimmerman, City Attorney John Urner, Jill Estavillo, Economic Development Manager, Michelle Burkner, Director of Finance, Rodney Tissue, City Engineer, John Lestitian, Director of Department of Community and Economic Development, Greg Snook, CHIEF, and D. K. Spickler, City Clerk. The meeting was held to discuss a substantial private investment in the downtown area and a lease agreement. No formal action was taken at the meeting. On a motion duly made, seconded and passed, the meeting was adjourned at 6:20 p.m.

78<sup>th</sup> REGULAR SESSION – August 28, 2012

**Mayor R. E. Bruchey, II called this 78<sup>th</sup> Regular Session of the Mayor and City Council to order at 7:08 p.m., Tuesday, August 28, 2012, in the Council Chamber at City Hall. Present with the Mayor were Councilmembers W. M. Breichner, M. E. Brubaker, F. W. Easton, A. C. Haywood, L. C. Metzner; City Administrator Bruce Zimmerman, City Attorney Mark Boyer and D. K. Spickler, City Clerk.**

The invocation was offered by Councilmember Martin E. Brubaker.

Mayor Bruchey announced the Rules of Procedure for this meeting will be followed as adopted June 23, 2009. It was announced that the use of cell phones and electronic devices 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 beginning at 4:00 p.m. on Tuesday, September 4, 2012, September 11, 2012 and September 18, 2012, and the Regular Session on Tuesday, September 25, 2012 at 7:00 p.m.

APPOINTMENTS

On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember F. W. Easton, the Mayor and City Council unanimously agreed by voice vote to appoint Frank Linn to the Board of Traffic and Parking. Mr. Linn's term will expire on October 1, 2016.

GUESTS/AWARDS

Highlight Hagerstown Awards

Highlight Hagerstown Awards were presented as follows:

Residential Category:

1. Andrew & Ashley Eshleman, 1042 The Terrace
2. Michael & Carol McNamee, 725 Sunset Avenue
3. Larry Crawford, 728 West Washington Street

Non-Residential Category:

1. Discovery Station of Hagerstown, 100 Summit Avenue

Adopt-a-Planter Category

1. Frederick Seibert & Associates, Inc., 128 South Potomac Street
2. Oak Hill Interior Design, LLC, 114 North Potomac Street
3. RBC Wealth Management, 111 South Potomac Street

Proclamation for Police Chief Arthur Smith's Retirement

Mayor Bruchey presented a certificate of appreciation to Chief Arthur Smith, who will be retiring after more than 12 years on September 4, 2012.

**CITIZEN COMMENTS**

Julie Rivet, 141 Summit Avenue, Hagerstown, Maryland, stated she has the support of 910 people who signed letters in opposition to the stadium being located at the Summit Avenue/Baltimore Street site. She presented a large bag of letters to the Mayor and City Council. She urged the Mayor and City Council to save Municipal Stadium. Saving the stadium will bring real economic development to Hagerstown. She stated the City owns 130 acres at the existing location. The cost to renovate the stadium will be half the amount to build a new stadium. The City can't afford to be wasteful. The Mayor and City Council can't ignore the wishes of Hagerstown. If the project continues to move forward, they will gather more signatures.

Harold Wills, 149 Summit Avenue, Hagerstown, Maryland, has lived at 149 Summit Avenue for 67 years, which is directly across from the proposed site for a new stadium. He believes Hagerstown is a crime ridden, filthy, disgusting place and nothing has been done to change that. He stated he, and others, will fight to keep the stadium from being located at the proposed site.

Thomas Donlon, 242 Summit Avenue, Hagerstown, Maryland, has studied the Rich and Associates, Inc. Parking Management Plan. He stated it does not mention the stadium. He thinks construction of a stadium will lead to less parking than is now available, even with a parking deck, because of the number of lost spaces. He urged the City to keep the parking situation in mind when reviewing the proposals.

Janet Bartels, 139 S. Mulberry Street, Hagerstown, Maryland, stated she signed the petition against the new stadium and to preserving Municipal Stadium. She thinks a dog

park at Hager Park is a bad idea. She has been seeking gardening opportunities and knows that the Community Garden at Hager Park needed another partner. The Boys and Girls Club would be interested in helping with the Community Garden. She checked on the garden in June and found it needed attention. By July, the garden was gone. Locating a dog park near a children's play area is not a good idea. If there is a children's gardening project in the vicinity, it would be even worse. Hager Park is a family park and it is too remote to depend on self clean-up. She urged the City to find a more suitable site for a dog park.

Joe Lane, 9030 Hippan Hill Road, Smithsburg, Maryland, is against the stadium project. He is surprised the City is considering spending so much money when renovation could be completed for much less. Minor League Baseball could be provided for much less. Hagerstown has baseball history and it fits with the history brand. The City missed the opportunity to fix the drainage situation and they are way behind on the Chesapeake Bay cleanup. A multi-use facility is not needed because the City has Fairgrounds Park. He stated City residents are being set up to pay for a new stadium for the next 20 years. He suggested keeping the money and waiting for a really good deal. The City is going to spend the next generation's money on this stadium.

Mayor Bruchey asked that Mr. Lane explain later how the City is behind with the Bay cleanup.

Ruth Knepper, 45 W. Baltimore Street, Hagerstown, Maryland, thanked the Mayor for replying to her letter. The residents at the C. W. Brooks building are waiting for a meeting with the City. Mayor Bruchey stated a meeting will be scheduled when all the information is available. He stated the only amount the City has spent is \$ 8,300.00 for an environmental study. Nothing has been purchased, no lease has been signed, and no bonds have been issued.

Barbara Hovermill, 16286 Spielman Road, Williamsport, Maryland, is a former City resident and is a taxpayer. She is concerned about the way the stadium project is progressing. The people should have been asked if they wanted a new stadium before anything else was done. She believes the City Charter requires the question to be asked when this amount of money is being considered. Mayor Bruchey stated the Charter does not state this. Ms. Hovermill stated the City needs to continue with economic development downtown. She stated the concerns of the people are not being heard. She believes the people impacted most have been forgotten. Economic development is possible if the stadium remains in its current location. She stated there is enough land for this and other land could be acquired.

Penny Nigh, 634 N. Mulberry Street, Hagerstown, Maryland, stated the cost for the new stadium is \$ 30 million and keeps going up. It seems that a public hearing on the stadium has been put to the side. She asked what would be the point of having a public information meeting. People don't want a new stadium. She stated some property owners will make a lot of money from the sale of land in the proposed area. She wondered if eminent domain would be a better way to acquire the properties.

Ms. Nigh stated there is not enough room at Hager Park for a dog park. American

Little League uses the park regularly. She suggested that an area near the proposed Memorial Park would be a better location.

Ms. Hovermill mentioned that the Fundamental Baptist Church is supporting the efforts of the citizens against the stadium.

## **PUBLIC HEARING**

### **Consolidated Annual Performance and Evaluation Report (CAPER)**

Jonathan Kerns, Community Development Manager, stated the City of Hagerstown is required to file an annual report detailing how the City made use of Community Development Block Grant funds during the past fiscal year and other actions taken to benefit low and moderate income persons. Federal regulations require that the public be afforded an opportunity to review and comment on the report prior to its submission to the U.S. Department of Housing and Urban Development. The CAPER has been available for review in print and on-line since August 22, 2012.

The budget for the program during the period from July 1, 2011 through June 30, 2012 was \$ 1,406,402 which included a CDBG entitlement grant of \$ 839,204, anticipated program income of \$ 237,500, and planned carryover from the prior year of \$ 329,698. Expenditures for the period totaled \$ 1,009,625. Excluding general administration and planning, the amount expended on projects was \$ 807,625, of which \$ 567,311 or 70.24% went to activities directly benefitting low and moderate income persons. This is the first of the three year certification period, at the end of which at least 70% of the amount expended on projects must benefit low and moderate income persons.

The hearing was then closed at 8:02 p.m. The record will be held open for 10 days for additional comment.

## **MINUTES**

On a motion duly made by Councilmember F. W. Easton and seconded by Councilmember A. C. Haywood, the Mayor and City Council unanimously agreed by voice vote to approve the minutes, as presented for the Mayor and Council meetings held on July 10, 2012, July 17, 2012, July 24, 2012 and July 31, 2012.

## **CONSENT AGENDA**

On a motion duly made by Councilmember A. C. Haywood and seconded by Councilmember F. W. Easton, the Mayor and City Council unanimously agreed by voice vote to approve the Consent Agenda as follows:

- A. Department of Utilities:
  - 1. Water:
    - a. 2012 Ford Super Duty Truck to Replace Unit 206 – Hagerstown Ford (Hagerstown, MD) \$ 69,357.00

- b. 2012 Ford Super Duty Truck to Replace Unit 216 – Hagerstown Ford (Hagerstown, MD) \$ 69,357.00
  - c. Increase Remote Input/Output Panel for SCADA – ABB, Inc. (Wickliffe, OH) \$ 20,134.00
  2. Wastewater: Grinder Pumps – Fluid Solutions (Westminster, MD) \$ 69,984.00
- B. Department of Community and Economic Development:
1. Thunder in the Square Street Closure – September 28, 2012
  2. 250<sup>th</sup> Anniversary Street Fest Street Closure – September 29, 2012
  3. Street Lamp Holiday Program – Barbara Ingram School for the Arts Foundation
- C. Department of Parks and Engineering:
1. 2012 Chevy Silverado for Parks and Recreation to Replace Unit 371 – Criswell Auto Fleet Sales (Gaithersburg, MD) \$ 28,550.02
  2. 2012 Chevy Silverado for Golf Course to Replace Unit 330 – Criswell Auto Fleet Sales (Gaithersburg, MD) \$ 28,550.02
- D. Hagerstown Police Department: Laptops for Police Patrol Cars – Brekford (Hanover, MD) \$ 27,330.00
- E. Public Works: Excavation Work for Memorial Boulevard Underdrain – C. William Hetzer, Inc. (Hagerstown, MD) \$ 29,183.69

## **UNFINISHED BUSINESS**

### **A. Approval of an Ordinance: East First Street Rezoning, Case No. ZM-2012-01**

**Action:** On a motion duly made by Councilmember M. E. Brubaker and seconded by Councilmember W. M. Breichner, the Mayor and City Council unanimously agreed by voice vote to adopt an ordinance for zoning reclassification and zoning map amendment for Kline Associated Roofing Contractors and Hagerstown Block Company property at 350 East First Street, 448 East First Street, and 860 Oak Street from Residential (R1) to Industrial General (IG), and for Hagerstown Block Company and Lycher Inc. property at 645 East First Street and 701 East First Street from Residential (R1) to Professional Office Mixed (POM). The Mayor and City Council's Findings of Fact and Statement of Reasons for this rezoning are part of the ordinance.

### **B. Approval of an Ordinance: Determining Property No Longer Needed for Public Purpose and Authorizing Transfer of the Same – Property Generally Known as Unilever Wastewater Pretreatment Plant**

**Action:** On a motion duly made by Councilmember A. C. Haywood and seconded by Councilmember W. M. Breichner, the Mayor and City Council unanimously agreed by voice vote to approve an ordinance making a

determination that 1.4 acres on the north side of Kenly Avenue in Hagerstown, Maryland, known generally as the Unilever Wastewater Pretreatment Plant, is no longer needed for a public purpose. It is in the best interest of the City to transfer the property to Unilever Manufacturing (US), Inc. who currently uses the wastewater pretreatment plant for their adjoining facility.

**C. Approval of an Ordinance: Amending the City Code, Chapter 64, Building Construction, Article I, Building Standards, Including Sprinkler Requirements**

Councilmember Brubaker stated he reviewed the proposed motion and it does not accurately reflect the exceptions the Mayor and City Council discussed. He presented a revised motion.

**Action:** On a motion duly made by Councilmember M. E. Brubaker and seconded by Councilmember W. M. Breichner, the Mayor and City Council unanimously agreed by voice vote to adopt an ordinance to amend the Building Code for residential sprinklers to provide for certain exceptions, including 1) single-family detached dwellings, 2) additions or alterations to existing buildings not already provided with sprinklers, 3) property not connected to an electrical utility, and 4) single- and two-family dwellings served by an existing water line that is less than one inch in nominal size and was installed prior to March 1, 2011 and is fully operational. This amendment will become effective for building permit applications received on or after September 28, 2012.

**NEW BUSINESS**

**A. Introduction of an Ordinance: City of Hagerstown General Obligation Bonds**

**Action:** Councilmember M. E. Brubaker made a motion to introduce an enabling ordinance authorizing the City of Hagerstown to issue and sell, upon its full faith and credit, general obligation bonds in one or more series in an aggregate principal amount not to exceed \$ 9.21 million. Proceeds from the sale of the bonds will be used for the public purposes described in detail in the ordinance together with related expenses and costs of issuance. Proceeds allocated by fund are as follows:

General Fund	\$ 5,397,000
Parking Fund	\$ 100,000
Water Fund	\$ 2,245,000
Wastewater Fund	\$ 1,345,000
Costs of Issuance	<u>\$ 123,000</u>
Total	\$ 9,210,000

That portion of principal, interest, and costs of issuance allocated to projects associated with the Parking Fund, Water Fund and Wastewater Fund shall be payable from revenues accounted for in those respective funds. Staff is hereby directed to proceed in working with the City's

Financial Advisor and Bond Counsel to determine the best financing options for the City, and to develop the necessary detailed resolutions and other documents required to prepare for the sale of the bonds as directed by this ordinance. Final details regarding the amount, timing, method of sale or sales, and other sale details will be outlined in a detailed resolution to be presented to this body for approval at a future date prior to the issuance of the bonds as specified in the ordinance. Councilmember W. M. Breichner seconded the motion.

Discussion: Councilmember Easton stated he will be abstaining from the vote because he does not feel he has enough information to move forward. Mayor Bruchey stated the bond issue will be discussed again before approval of the ordinance.

Motion carried, 4-1 with Councilmember F. W. Easton abstaining.

**B. Introduction of an Ordinance: Amending the City Code, Chapter 140, Land Management Code, Comprehensive Update**

**Action:** Councilmember M. E. Brubaker made a motion to introduce an ordinance to amend the Code of the City of Hagerstown, by deleting and repealing Chapter 140, Land Management Code, and replacing said chapter with a new Chapter 140, Land Management Code, which comprehensively updates the code. Councilmember L. C. Metzner seconded the motion.

Discussion: Councilmember Haywood indicated she will be voting against this ordinance because she does not feel there is enough emphasis on protection of residents.

Motion carried, 4-1 with Councilmember A. C. Haywood voting No.

**C. Introduction of an Ordinance: Amending the City Code, Chapter 38, City of Hagerstown Police and Fire Employees' Retirement Plan**

**Action:** On a motion duly made by Councilmember A. C. Haywood and seconded by Councilmember F. W. Easton, the Mayor and City Council unanimously agreed by voice vote to introduce an ordinance to amend the City of Hagerstown Police & Fire Employees' Retirement Plan in order to reflect changes in the laws of the United States governing retirement plans and update section 38-19. This amendment addresses credit for pre-employment military service.

**D. Approval of a Resolution: Mutual Aid Agreement between Hagerstown Police Department, Washington County Sheriff's Office and Frederick City Police**

**Action:** On a motion duly made by Councilmember F. W. Easton and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously

agreed by voice vote to approve a resolution authorizing a Memorandum of Understanding (MOU) between the City of Hagerstown, the Frederick City Police Department and the Washington County Sheriff's Office.

This MOU formalizes and memorializes the mutual rights and obligations with respect to the mutual aid relationship and other related issues. The agreement will remain in effect until it is cancelled by any of the parties.

**E. Approval of a Resolution: Acceptance of Offer of Dedication – Bartow Drive at Roundabout Intersection with Hagers Crossing Drive**

**Action:** On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember A. C. Haywood, the Mayor and City Council unanimously agreed by voice vote to approve a resolution to accept the offer of dedication of 0.14 acres on the north side of the roundabout at the intersection of Bartow Drive and Hagers Crossing Drive. The City shall commence maintenance of this area effective immediately.

**F. Approval of a Resolution: Lease with General Services Administration for 14 N. Potomac Street, Suite 200B**

**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 a resolution to authorize the execution and delivery of a lease between the City of Hagerstown and the United States General Services Administration (GSA) for office space located at 14 North Potomac Street, Suite 200B, Room S9. The office space will continue to be occupied by SCORE.

**G. Approval of a Resolution: Amended Lease Agreement with Hagerstown Neighborhood Development Partnership for 21-23 East Franklin Street**

**Action:** On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember F. W. Easton, the Mayor and City Council unanimously agreed by voice vote to approve a resolution approving a lease extension to an existing lease for Hagerstown Neighborhood Development Partnership, Inc. The term of the lease is year-to-year. The lease is amended to allow for a six (6) month notice of intent to terminate the lease agreement. All other conditions of the lease remain in effect.

**H. Approval of a Resolution: Lease Agreement with the University System of Maryland – Hagerstown (USMH), 60 W. Washington Street**

**Action:** On a motion duly made by Councilmember A. C. Haywood and seconded by Councilmember W. M. Breichner, the Mayor and City Council unanimously agreed by voice vote to approve a resolution authorizing a lease agreement between the City of Hagerstown and the University System of Maryland – Hagerstown for the commercial office and

classroom space located at 60 West Washington Street, Hagerstown, MD. The Lease Agreement shall be in effect from July 1, 2012 to June 30, 2017 with a rent commencement date upon completed construction of the premises. The annual rent during this period shall be \$ 30,240.00. The lease includes two five year options for renewals, with corresponding rent increases.

**I. Approval of Change Order for 60 W. Washington Street Renovation Contract – Build Out of Rear Anchor Tenant Space**

**Action:** On a motion duly made by Councilmember A. C. Haywood and seconded by Councilmember F. W. Easton, the Mayor and City Council unanimously agreed by voice vote to approve a change order for the 60 West Washington Street Renovation Contract to complete the build out of the rear anchor tenant space which will be occupied by the University System of Maryland at Hagerstown (USMH). The original lump sum construction contract with Milton Stamper Builders for Bid No. 1517.12 will increase in value by \$ 99,563.00. The work completed per the change order is funded by Community Development Block Grant funds. USMH has agreed to a cost sharing plan through an increase in rent.

**J. Approval of a Resolution: Easement with American Legion for Mills Park Trail**

**Action:** On a motion duly made by Councilmember M. E. Brubaker and seconded by Councilmember F. W. Easton, the Mayor and City Council unanimously agreed by voice vote to approve a resolution authorizing the execution of an agreement and related documents for the construction of Phase II of the Mills Park Trail. This agreement with the American Legion establishes certain easements and transfers real property as detailed on resubdivision plat 74-645-01, 02, and 03.

**K. Approval of Grant Acceptance: Accepting \$ 1.5 Million of MDE Grant Funding for the R. C. Willson Phase IV Project**

**Action:** On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember A. C. Haywood, the Mayor and City Council unanimously agreed by voice vote to approve the acceptance of \$ 1.5 million of MDE grant funding which will be utilized by the R. C. Willson Phase IV Project for the Disinfectant By-Product Rule 2 (DBPR2) Compliance Regulation.

**L. Approval of Hagerstown Suns Non-Game Event**

**Action:** On a motion duly made by Councilmember A. C. Haywood and seconded by Councilmember F. W. Easton, the Mayor and City Council unanimously agreed by voice vote to approve a non-baseball event on Sunday, September 23, 2012 that the Suns have named “The Hagerstown

Suns First Annual Tailgate Picnic Party.” The Mayor and Council’s approval will exempt this event from the City of Hagerstown’s Noise Ordinance under section 155-3 of the City Code.

**M. Approval of South Prospect Streetscape Project Contract**

**Action:** On a motion duly made by Councilmember M. E. Brubaker and seconded by Councilmember F. W. Easton, the Mayor and City Council unanimously agreed by voice vote to approve Contract No. 12-12-SW-08 with Concrete Central, LLC for the replacement of 15 trees, resetting certain brick sidewalks damaged by street trees, construction of tree pits, and installation of new trees and tree boxes in the amount of \$ 235,000.00. This project supports the Neighborhood 1<sup>st</sup> group’s goals and initiatives. The City will also repair substandard sidewalks and curbs that are the responsibility of the adjoining property owners and bill the owners for the work. Funding for this project is from prior bond proceeds.

Discussion: Councilmember Haywood thanked the Wheelers (members of the Neighborhoods 1<sup>st</sup> Group) for their efforts with this project.

**N. Approval of Police Hiring and Retention Incentives**

**Action:** On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember A. C. Haywood, the Mayor and City Council unanimously agreed by voice vote to approve the following Police Officer recruitment and retention incentives to include: expansion of the current \$ 5,000 hiring incentive to new hires under the COPS grant, employee referral bonus increased to \$ 1,500, a housing allowance of \$ 100 per month for sworn police officers who reside within city limits, and a bilingual bonus of \$ 1,000 payable in one installment at date of hire.

**O. Approval of Partners in Economic Progress (PEP) Program Amendments**

**Action:** On a motion duly made by Councilmember A. C. Haywood and seconded by Councilmember F. W. Easton, the Mayor and City Council unanimously agreed by voice vote to approve the following amendments to the Partners in Economic Progress (PEP) Program:

1. Modification of the list of eligible businesses that may take advantage of the Upper Floor Commercial Space Rent Relief Grant.
2. Provide 505 matching grants to reduce annual rent payments on the first floor, non-storefront commercial spaces in PEP approved buildings.
3. Provide staff option to work with tenants on distribution of grant relief from two years to three years using the following ratio: 1<sup>st</sup> year – 50% of monthly rent, 2<sup>nd</sup> year – 35% of monthly rent and 3<sup>rd</sup> year – 15% of monthly rent

**P. Approval to Submit Proposed Septic Tier Designations for Review by the**

**State of Maryland**

**Action:** On a motion duly made by Councilmember M. E. Brubaker and seconded by Councilmember W. M. Breichner, the Mayor and City Council unanimously agreed by voice vote to submit the proposed septic tier designation for Hagerstown and the Medium Range Growth area for review by the State of Maryland. The proposed tier designations are identified on a map included with the motion.

**CITY ADMINISTRATOR'S COMMENTS**

*Bruce Zimmerman, City Administrator*, had no additional comments.

**MAYOR AND COUNCIL COMMENTS**

*Councilmember L. C. Metzner* congratulated Lt. Lawrence Angle for his recent promotion to Captain.

*Councilmember A. C. Haywood* thanked people who attended the meeting to voice their opinions on the stadium and a dog park. She encouraged people to stay for the whole meeting in order to have the benefit of hearing responses to their comments from the Mayor and City Council.

*Councilmember F. W. Easton* thanked staff and volunteers for the success of Augustoberfest. He especially thanked Eric Deike, Director of Public Works.

*Councilmember M. E. Brubaker* stated staff released information about the nature of the proposed stadium. Everyone is trying to find solutions and answers to develop a specific proposal. The Mayor and City Council are also anxious to provide information but are not able to at this point. They will continue to make the best decisions for the City and its citizens. He thanked staff for their hard work with Augustoberfest.

*Councilmember W. M. Breichner* had no additional comments.

*Mayor R. E. Bruchey, II* thanked everyone who attended Augustoberfest.

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 8:20 p.m.

Respectfully submitted,

Donna K. Spickler, City Clerk

Approved: September 25, 2012