

17TH REGULAR SESSION

MAY 21, 2013

MAYOR AND CITY COUNCIL

HAGERSTOWN, MARYLAND

17th REGULAR SESSION – May 21, 2013

Mayor D. S. Gysberts called this 17th Regular Session of the Mayor and City Council to order at 7:05 p.m., Tuesday, May 21, 2013 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, P. M. Nigh; City Administrator Bruce Zimmerman, City Attorney William Nairn, and D. K. Spickler, City Clerk.

The invocation was offered by Councilmember Penny M. Nigh. The pledge of allegiance was recited.

ANNOUNCEMENTS

Mayor Gysberts announced the Rules of Procedure for this meeting will be followed as adopted December 18, 2012. 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, June 4, 2013, Tuesday, June 11, 2013 and the Regular Session on Tuesday, June 18, 2013 at 7:00 p.m.

GUESTS

If I Were Mayor Contest Finalists

The Mayor and Council welcomed Emma Hackman and Kayla Richards, students at Pangborn Elementary School, to the meeting. Miss Hackman and Miss Richards were recognized as finalists in the annual “IF I Were Mayor” statewide contest sponsored by the Maryland Municipal League. Both young ladies assisted in opening the meeting.

Preservation Awards

Mayor Gysberts, Stephen Bockmiller, Zoning Administrator, and Vickie Hrabal, Chairwoman of the Historic District Commission, presented the following awards in recognition of Historic Preservation Month:

1. Rose Hill Cemetery of Hagerstown, Roger Finn, President
William Divelbiss, Exec. VP, Terri Fleetwood, project graphic artist
...for the sponsorship and work on the Hagerstown Civil War Walking
Tour Map
2. First Hose Company of Hagerstown, Inc. and Callas Construction
...for the front façade rehabilitation of the First Hose Company building.
3. City of Hagerstown, Jonathan Kerns, Project Manager

..for the rehabilitation of the former McKee Hardware building, 36-40
North Potomac Street

4. David Lyles, Jeff Warren and Michael and Shelby McGinley
...for the rehabilitation of 140 South Potomac Street

CITIZEN COMMENTS

Chip Cook, 8536 Country Home Lane, Boonsboro, Maryland, is president of the Central Maryland AFLCIO, and a member of the local AFSCME union. The labor contracts have been difficult and he understands the Mayor and Council are still struggling to do the right thing by employees, taxpayers and stakeholders. Employees have experienced economic struggles as well, such as eliminated positions, furlough days and frozen steps on the pay scale. Entry level employees are below standard wages. Employees are paying an additional 2% toward pension costs. The Healthcare Committee has been able to make recommendations which have kept costs steady. He urged the Mayor and Council to consider restoring something to employees.

Jerry Cump, 11802 Pheasant Trail, Hagerstown, Maryland, wants to help reduce the litter problem in Hagerstown. He has found that cigarette butts are a problem, especially at the entrance to apartment buildings. They are difficult to pick up and pile up at corners and at the curb. He suggested running the street sweeper more often in the problem areas. A smaller sweeper may be more effective in these areas. He suggested asking landlords to place cigarette containers at the entrance to their buildings. He has created a sign reading "Hagerstown is not an ashtray" and wants to place more around the city. People should respect where they live and not throw trash on the streets.

MINUTES

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 the minutes, as presented, for the Mayor and Council meetings held on April 2, 2013, April 9, 2013, April 16, 2013 and April 23, 2013.

CONSENT AGENDA

On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember M. E. Brubaker, the Mayor and City Council unanimously agreed by voice vote to approve the Consent Agenda as follows:

- A. Department of Parks and Engineering:
 1. Installation of Sidewalks and Alley Modifications for the Handicapped – Arthur Construction Co., Inc. (Dulles, VA) Not to Exceed \$ 50,000.00
 2. Curb and Sidewalk Replacement Program Change Order – Huntzberry Brothers, Inc. (Smithsburg, MD) Not to Exceed \$ 25,000.00
- B. Department of Utilities:
 1. Brush Chipper – Vermeer Mid Atlantic, Inc. (Annapolis Junction, MD) \$ 37,297.00

2. Electric: Transformers – WESCO Distribution Inc. (Richmond, VA)
\$ 33,023.54
 3. Water Meter Transceiver Units – L/B Water Service, Inc. (Chambersburg, PA) \$ 83,211.00
- C. Department of Community and Economic Development:
1. Open Container Law Exemption and Application Permit for Maryland Theatre Wind Down – at Maryland Theatre various dates from June 14, 2013 through September 27, 2013
 2. Open Container Law Exemption and Application Permit for Humane Society Howl to the Moon at University Plaza on June 22, 2013
- D. Fire Department – Parts for Truck 4 Repair – American Fire Services (Dickson City, PA) \$ 10,493.44

UNFINISHED BUSINESS

A. Approval of an Ordinance: Tax Rates Beginning July 1, 2013

Action: On a motion duly made by Councilmember M. E. Brubaker and seconded Councilmember D. F. Munson, the Mayor and City Council unanimously agreed by voice vote to approve an ordinance, as introduced May 14, 2013, to establish the City's tax rate for the levy year July 1, 2013 through June 30, 2014 on the basis of \$ 0.788 per \$ 100 of assessed value of all real property and \$ 1.97 per \$ 100 of assessed value of all business personal property within the City of Hagerstown. These rates are the same as the current year.

Discussion: Councilmember Metzner will be voting in favor of the tax rate; however, he would rather have a lower tax rate. This is not possible and more revenue is needed to provide something for employees. There used to be someone walking around sweeping in the downtown area which helped with the amount of litter. There is not enough in the budget to have this service provided. Taxpayers realized a significant tax decrease three years ago. He does not think the current tax rate is sustainable. If an increase is implemented, he would prefer incremental increases.

B. Approval of an Ordinance: Approval of 2013/2014 Budget

Action: Councilmember L. C. Metzner made a motion to approve an ordinance, as introduced May 14, 2013, and subsequently revised to adopt the budget for fiscal year July 1, 2013 through June 30, 2014 in the total amount of \$ 133,145,831. Councilmember D. F. Munson seconded the motion.

Councilmember M. E. Brubaker made a motion to amend the budget motion to include \$ 3,000 from Unspecified Agency Contributions to the Western Maryland Food Bank. This is not intended to change the overall budget amount. Councilmember D. F. Munson seconded the amended motion. Councilmember L. C. Metzner accepted the amendment.

Discussion: Councilmember Aleshire is not in favor of the amendment. It appears the Council is picking and choosing which organization to provide funding to before all the choices are known. He addressed his recommendations for changes in expenses and revenues. The easy answer is to increase revenue is to raise taxes. To fund what the long term budget projections show would require a significant tax increase. The vote being taken during this meeting is only for the FY 2013-2014 budget, not the projections for future years. He stated the City cannot increase borrowing and be sustainable. The costs for pensions cannot continue to be absorbed, which are estimated at 7%. There can't be inclusive pay-go increases without seriously considering other alternatives. He provided a listing of multiple recommendations which he indicated could be phased-in over several years. He would consider any of these recommendations before considering a tax increase. There are seven items on his list and three of those have been discussed, including a late fee on delinquent utility accounts and the disposal of City buildings. The other items cover a range of suggestions. He suggested reviewing the budget and suggestions during the next several months. He would like to include \$ 500,000 in the budget to re-instate steps for employees, but it will have to be completed over time.

Mayor Gysberts stated the budget strategy Councilmember Aleshire handed out is for FY 2014-2015. The other items on the list have not been nixed. He appreciates the long term strategy for future consideration.

Councilmember Brubaker stated it is not easy to decide to increase taxes. He stated the City is facing difficult projections in future years. This budget does not raise taxes, or require things that raise taxes during the next two years. The City faces the potential loss of tax revenue. Funding may have to be included for employee compensation the Council committed the City to. No commitments should be made until the triennial assessment is completed in December, 2013. There is a line item for the stadium but no funding is noted. The Council faces some difficult decisions. He believes many proposals will be made for the budget during the next five or six months, such as raising fees and changing revenue estimates. Councilmember Aleshire's recommendations will be considered throughout the review.

Councilmember Metzner stated raising taxes is the easy thing to do. If taxes are not raised and new fees are established, it is really another way of raising taxes. He believes taxpayers would prefer a tax increase rather than additional fees.

Councilmember Munson stated under the best circumstances budgets are not easy. The budget reflects the economic times we are in. He believes this budget is the best it can be, under the circumstances.

Councilmember Nigh stated if citizens want public safety, amenities and a clean and safe City, raising taxes will not be a big issue. There is a major problem in police, fire and public works with the number of vacancies. She wondered why there is such a large amount in the contingency fund and if it was necessary to carry this amount. She will not vote in favor of the budget because it is unfair to employees. The City may have to raise taxes in the future. She believes there are funds in the budget that can be tapped for extra funding.

Mayor Gysberts stated the idea there is money hiding in the budget is a myth. He thinks employees realize this and have been willing to work with the administration. If there is money, he thinks the Mayor and Council's intent is to compensate employees so they stay with the City.

Councilmember Aleshire stated, of the 16 items he presented, three are service specific. He does not want to wait to see what the future holds. He is not in favor of spending down reserves. This practice is not sustainable.

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

NEW BUSINESS

A. Introduction of an Ordinance: Amendment #8 to Police and Fire Retirement Plan – Civil Marriage Protection Act

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 introduce an ordinance to amend the City of Hagerstown Police & Fire Employees' Retirement plan in order to reflect changes in Maryland's Civil Marriage Protection Act. This amendment addresses death benefits, rollovers, beneficiaries and Qualified Domestic Relations Orders.

B. Introduction of an Ordinance: Revision of Chapter 117, Recycling and Refuse Collection – Definition of Dumpster

Action: On a motion duly made by Councilmember D. F. Munson and seconded by Councilmember M. E. Brubaker, the Mayor and City Council unanimously agreed by voice vote to introduce an ordinance to revise Chapter 117, Recycling and Refuse Collection, to amend the definition of "dumpster" to include roll-off trash containers and to prohibit dumpsters on residential properties except under certain circumstances enumerated in the ordinance. This change is proposed because staff need better tools to protect the quality of life in the residential neighborhoods.

C. Introduction of an Ordinance: Repeal Chapter 184, Property maintenance, and Replacement with New Chapter 184, Portable Storage Containers

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 introduce an ordinance to repeal Chapter 184, Property Maintenance, and replace it with a new Chapter 184, Portable storage Containers. This change is proposed for the following reasons: 1) old Chapter 184 includes sections covered in other chapters of the City Code; 2) the language pertaining to portable storage containers needs clarification; and 3) staff need better tools to protect the quality of life in the residential neighborhoods and to clarify circumstances under which such containers are permitted in commercial and industrial areas.

D. Introduction of an Ordinance: Amendment Chapter 60-3, Parking Enforcement of the City Code

Action: On a motion duly made by Councilmember M. E. Brubaker and seconded by Councilmember P. M. Nigh, the Mayor and City Council unanimously agreed by voice vote to introduce an ordinance to amend Section 60-3, Parking Enforcement, of the City Code to allow auxiliary police and duly authorized individuals to enforce parking provisions under Article 5 of Chapter 60 of the City Code.

E. Introduction of an Ordinance: Amending Chapter 60-28, Towing and Impounding of Vehicles Illegally Parked

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 introduce an ordinance to amend Section 60-28, Towing and Impounding of Vehicles Illegally Parked, of the City Code to permit authorized individuals to impound vehicles illegally parked.

F. Introduction of an Ordinance: Amending Chapter 60-9, Immobilizing and/or Impounding of Vehicles for Unsatisfied Summonses or Citations

Action: On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember M. E. Brubaker, the Mayor and City Council unanimously agreed by voice vote to introduce an ordinance to amend Section 60-9, Immobilizing and/or Impounding of Vehicles for Unsatisfied Summonses or Citations, of the City Code to permit authorized individuals in the Department of Public Works to boot or impound vehicles illegally parked and to act as hearing officers under Section 60-9

Items G through M were approved with one motion, covering all eight residential leases as listed.

G. Approval of a Resolution: Residential Lease Agreement for Property at 23510 Warner Hollow Road

H. Approval of a Resolution: Residential Lease Agreement for Property at 10831 Water Works Road

I. Approval of a Resolution: Residential Lease Agreement for Property Located at 12140 Crystal Falls Road

J. Approval of a Resolution: Residential Lease Agreement for Property at 280 Mill Street

K. Approval of a Resolution: Residential Lease Agreement for Property at 728 Frederick Street

L. Approval of a Resolution: Residential Lease Agreement for Property at 570 Jefferson Street

M. Approval of a Resolution: Residential Lease Agreement for Property at 124 Charles Street

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 a resolution to authorize the execution and delivery of leases between the City of Hagerstown and:

- A. John Rinehart and Michelle Rinehart for the residence located at 23510 Warner Hollow Road, Smithsburg, Maryland.
- C. Ricky L. DeLauter for the residence located at 10831 Water Works Road, Williamsport, Maryland.
- D. Charles Henson and Laurie Henson for the residence located at 12140 Crystal Falls Road, Smithsburg, Maryland.
- E. Eric Hastings for the residence located at 280 Mill Street, Hagerstown, Maryland.
- F. Lewie Thomas, III for the residence located at 728 Frederick Street, Hagerstown, Maryland.
- G. Gerald Bernhisel for the residence located at 570 Jefferson Street, Hagerstown, Maryland.
- H. Timothy Shafer and Tina Shafer for the residence located at 124 Charles Street, Hagerstown, Maryland.

N. Approval of a Resolution: Commercial Lease Agreement for 40 N. Potomac Street – Thai Zap

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 authorizing a Lease Agreement between the City of Hagerstown and Thaitan Group, Inc. dba Thai Zap for the commercial space located at 40 North Potomac Street, Hagerstown, Maryland. The Lease Agreement shall be in effect from August 1, 2013 to July 31, 2018, with an additional 5 year option period and provisions for prior access to complete tenant fit-out work.

Discussion: Andrew Sargent, Downtown Manager, stated this will be the only Thai dedicated restaurant in Washington County. Councilmember Munson commended the owners of this restaurant for seeking out Hagerstown. Councilmember Metzner stated this family appears to be well established. Downtown is rapidly becoming an international food place.

O Approval of a License Agreement for Gentry Family Realty LC (Memorial Blvd. Right-of-Way at GTS Welco)

Action: Councilmember L. C. Metzner made a motion to execute a License Agreement between the City of Hagerstown and Gentry Family Realty LP for the installation of a fence, pavement, and a storm drainage pipe in the right-of-way of Memorial Boulevard. Final execution of this Agreement is contingent upon approval of a Site Development Plan by the City's Planning Commission. Councilmember D. F. Munson seconded the motion.

Motion carried 4-1, with Councilmember M. E. Brubaker abstaining because he is the ex-officio member of the Planning Commission.

P. Approval of Change Order for R. C. Willson Water Treatment Plant Phase IV Improvements – Hazen and Sawyer (Baltimore, MD) \$ 121,415.00

Action: On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember M. E. Brubaker, the Mayor and City Council unanimously agreed by voice vote to approve the Hazen & Sawyer Construction Management Critical Phase Review and interim Study Construction Improvements Change Order for the R. C. Willson Phase IV Disinfectant By-Product Rule 2 Project at the R. C. Willson Water Treatment Plant in the amount of \$ 121,415.00.

Q. Approval of Take Home Vehicles for Hagerstown Police Department General Detectives

Action: On a motion duly made by Councilmember P. M. Nigh and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to authorize the Hagerstown Police Department to

extend the City's take home vehicle program to the six general detectives working in the Criminal Investigations Division. These general detectives handle all major crimes and are called in several times per week to conduct investigations. The take home car program will reduce their response times by allowing the detectives to drive directly to the crime scene. No additional vehicles will need to be purchased as a result of adding these six cars to the take home program.

R. Approval of Safe Streets Grant Application

Action: On a motion duly made by Councilmember P. M. Nigh and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to authorize the Hagerstown Police Department to apply to the Governor's Office of Crime Control and Prevention for a Maryland Safe Streets Grant. The application will include a request for \$ 213,619.00 in funding, which includes the addition of a new full time coordinator position. No local matching funds or position retention requirements are stipulated in the application.

S. Approval of COPS Hiring Grant Application

Action: On a motion duly made by Councilmember P. M. Nigh and seconded by D. F. Munson, the Mayor and City Council unanimously agreed by voice vote to authorize the Hagerstown Police Department to apply for two additional police officer positions under the 2013 Community Oriented Policing Services Hiring Program. This program covers up to 75% of the cost for sworn police officers for three years, with a one year retention requirement. In 2012, the Hagerstown Police Department was awarded a grant under this program to fund five unfunded police officer positions. The 2013 application will be for funding to restore the two remaining unfunded positions. If awarded, annual costs to the City would be approximately \$ 25,000.00 per officer in local matching funds.

T. Approval of Video Surveillance Integration System – Skyline Technology Solutions (Eldersburg, MD) \$ 112,678.46 and Dell (Round Rock, TX) \$ 49,364.66

Action: On a motion duly made by Councilmember M. E. Brubaker and seconded by Councilmember L. C. Metzner, the Mayor and Council unanimously agreed by voice vote to approve two purchases through the Federal COPS Technology Grant to install a video surveillance integration system. Two purchases will be required to implement this system. One is the purchase of servers and work stations from Dell Computers of Round Rock, Texas in the amount of \$ 49,364.66. The second is the purchase of a central server and monitoring system from Skyline Technology Solutions, located in Eldersburg, Maryland, in the amount of \$ 112,678.46.

U. Approval of Administration of Stop Loss Insurance for Medical Coverage for FY 2013-14

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 Highmark to administer the stop loss insurance for the medical plan for FY 2013-14. The City has had the stop loss insurance with Highmark for 5 years, building a favorable renewal history for the City.

Discussion: Councilmember Aleshire asked if there has been a 14% increase in premium each of the five years. Mr. Zimmerman stated he does not think it is a cumulative amount. It is for one year.

CITY ADMINISTRATOR COMMENTS

Bruce Zimmerman, City Administrator, thanked the Mayor and Council for their work on the budget. This year's budget was difficult and is a work in progress. He also thanked Michelle Burkner, Director of Finance, and Michelle Hepburn, Budget Officer, for their efforts.

MAYOR AND COUNCIL COMMENTS

Councilmember K. B. Aleshire has heard from homeowners who are finding it difficult to locate smaller contractors within the City because of license requirements. Another homeowner raised a concern about required permits. He stated it would be beneficial to review these two situations. Frederick reviewed their code in order to become more business friendly. There are trailers known as "sea containers" located near the Valley Mall. He noted Washington County zoning laws address this type of container. This location is not within the City of Hagerstown limits. He attended the Washington County Municipal League dinner meeting at the Suns Stadium. It was discouraging that attendance at the game was low. He asked for an update of the extension of Haven Road. He intends to respond to an email regarding the extension. He received a complaint about odor at the new Auto Zone. Staff has confirmed there is an odor. The Maryland Department of the Environment is aware of this complaint. He does not support a sign (created by Mr. Cump) that has cigarette butts being thrown at Little Heiskel.

Councilmember M. E. Brubaker can appreciate Mr. Cook's concerns. The Mayor and Council members are concerned as well. Employees need to realize compensation will have to be adjusted against taxes, restructuring and other factors, unless there is a boom in the economy. The Mayor and Council voted for what was affordable this year. He would like to have been able to increase compensation for employees at the lower end of the pay scale. Increasing compensation means cutting expenses severely. An alternative is to raise taxes; but the City has one of the highest tax rates in Maryland. Higher tax rates will cause investors to look elsewhere. He appreciates the hard work of employees and values the suggestions that have been made. He encouraged people to visit The Greens at Hamilton Run. Rates are low and City residents receive a discount.

Councilmember L. C. Metzner received a letter about trees on Oak Hill Avenue. He assumed other Councilmembers did as well. He thinks most street trees do not comply with the requirements. He hopes common sense will be used in this situation. If the requirements are not flexible enough, staff should discuss it with the Mayor and Council. He mentioned Councilmember Brubaker was presented a certificate from MML for his participation with League committees this year. He announced the City is making plans to sponsor a Korean War veteran's trip to visit the memorial in Washington, D. C. This ill most likely happen in the Spring of 2014. He hopes to have a similar trip for Vietnam War veterans.

Councilmember D. F. Munson encouraged everyone to attend Blues Fest, which is being held May 30, 2013 through June 2, 2013. He thinks the City has some of the most dedicated employees that he has seen. Employees have had to deal with reduced resources, yet the City has moved forward. He is optimistic that pay steps will be reinstated prior to 2017.

Councilmember P. M. Nigh likes the sign Mr. Cump created and thanked him for his efforts. She asked if ownership of condemned buildings reverts to the City after a certain length of time. Mr. Nairn indicated it does not.

Councilmember Nigh asked how long fire trucks have been repaired at the Central Maintenance Garage. Mr. Zimmerman indicated this has occurred during the last two years and has worked very well. She wondered if two trucks should be purchased at the same time so that a truck is available while one is being serviced. She wants an email from American Little League to be addressed. Mr. Zimmerman indicated nothing has changed with the Little League field.

Mayor D. S. Gysberts participated in the Ride of Silence, along with 60 other riders. Ride with the Mayor was held on May 18, 2013. The Taste of the Arts event was very good. Neighborhoods First held Day of Hope at Wheaton Park. Students from the University System of Maryland – Hagerstown graduated on May 20, 2013. The Tristate Multicultural Festival will be held at City Park on Sunday, May 26, 2013. Services honoring veterans will be held at the Court House on Sunday, May 26, 2013 at 2:00 p.m. and at the Medal of Honor Triangle on Sunday, May 26, 2013 at 6:00 p.m. He thanked the Council for their work on the budget and their dedication to the City.

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 8:47 p.m.

Respectfully submitted,

Donna K. Spickler, City Clerk

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HAGERSTOWN, MARYLAND