

10TH SPECIAL SESSION, WORK SESSION AND EXECUTIVE SESSION – March 12, 2013

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Mayor D. S. Gysberts called this 10th Special Session, Work Session and Executive Session of the Mayor and City Council to order at 4:06 p.m., Tuesday, March 12, 2013, in the Council Chamber at City Hall. Present with the Mayor were Councilmembers K. B. Aleshire, M. E. Brubaker, D. F. Munson and P. M. Nigh; City Administrator Bruce Zimmerman, John Urner, City Attorney, and City Clerk D. K. Spickler. Councilmember L. C. Metzner was not present.

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 of all members present to meet in Special Session at 4:06 p.m.

Introduction of an Ordinance: City of Hagerstown FY 2012-2013 General Obligation Bonds

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 of all members present 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 \$ 4,275,000. 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:

General Fund	\$ 1,024,427
Parking Fund	100,000
Water Fund	1,905,000
Wastewater Fund	1,125,000
Costs of Issuances	<u>120,573</u>
Total	\$ 4,275,000

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 specified in the ordinance.

**Introduction of an Ordinance: Acquisition of 43-53 W. Washington Street
Pursuant to Chapter 235 of the City Code**

John Lestitian, Director of Community and Economic Development, stated language is included in the contract to satisfy HUD Regulations. The environmental review will not be completed by the time the ordinance is effective, but it will be within the 45 days stipulated in the contract. Staff is negotiating an agreement with the current tenants of the building. This agreement will be presented for the Mayor and City Council's review at a later date.

Action: On a motion duly made by Councilmember D. F. Munson and seconded by Councilmember P. M. Nigh, the Mayor and City Council unanimously agreed by voice vote of all members present to introduce an ordinance authorizing the purchase of property located at 43-53 West Washington Street for the sum of \$ 320,000. The Ordinance stipulates four (4) findings. The findings are that: 1) the property has deteriorated to such an extent so as to constitute a serious and growing menace to public health, safety and welfare, 2) the structure is likely to continue to deteriorate unless corrected, 3) the continued deterioration will contribute to the blighting or deterioration of the area surrounding the structure and 4) the owner has failed to correct the deterioration.

The Option/Purchase Agreement is to be in accordance with all terms and conditions outlined in the Purchase Agreement. Funding for this acquisition is from the Community Development Block Grant Funds and Community Legacy Funds.

Discussion: Councilmember Munson complimented staff for obtaining a good price for this property.

Councilmember Brubaker stated this action is evidence the Mayor and Council have been taking action consistently.

On a motion duly made, seconded and passed, the Special Session was closed at 4:15 p.m.

Mayor Gysberts welcomed Cole Trippett, Boy Scout Troop 4, to the Mayor and Council meeting.

WORK SESSION – March 12, 2013

Request from Perini Landmark Development Corporation

Peter Perini, Landmark Development Corporation, stated his company has been pursuing a new office building for the Board of Education, with a focus on downtown. He requested that the Mayor and City Council approve a letter pledging to work closely

with him in this endeavor.

Mr. Perini made a presentation to the Board of Education in open session on March 5, 2013. The presentation provided a basic overview about being downtown. He wants to assist the Board in making the best choice of location.

Councilmember Aleshire stated the letter presented by Mr. Perini contains similar language to the agreement discussed last week with Bruce Poole and Dane Bauer. He is concerned that agreements like this show preferential treatment by the Mayor and Council. He stated he does not agree with Mr. Perini's concept.

Mr. Perini indicated the concept he presented to the Board of Education was to make a statement and let people know there is excitement and things are happening in downtown Hagerstown. There has to be a project that is desirable to the Board of Education over any other option and he is trying to convey that message. It is not his intent to bind the Mayor and Council to anything.

Mayor Gysberts believes Mr. Perini is asking for the City's support to continue offering the incentives that have been previously offered if his company is selected as the contractor.

Councilmember Brubaker stated consideration of this request raises the question of whether or not to establish a policy for this type of request, since two have been reviewed in the last week.

John Urner, City Attorney, stated he has not reviewed the request in depth, but he doesn't think either this letter, or the one approved with Bruce Poole and Dane Bauer, obligates the Mayor and City Council to any agreements with either group.

Councilmember Munson asked if Mr. Perini had made any efforts to cooperate with the Sora group. Mr. Perini stated the Board of Education offices downtown is an important project for the City Center. He has offered to work together with Mr. Poole and Mr. Bauer. They refused a confidentiality agreement.

Councilmember Aleshire noted Mr. Poole and Mr. Bauer added language to the agreement with the Mayor and City Council (approved on March 8, 2013) before signing and returning it. Mr. Urner indicated that language is not binding to the City, as it was added after the Mayor and Council signed the agreement.

Mayor Gysberts stated he understands Mr. Perini is asking for approval of this letter to present to the Board of Education indicating the City's endorsement of his efforts to relocate the BOE offices downtown.

Mr. Perini suggested the Mayor and City Council continue strong efforts to reach out to the BOE. He encouraged the City to start plans for a parking deck. Mayor Gysberts stated meetings have been held to discuss a new parking deck and the associated costs.

It was the general consensus of the Mayor and City Council to provide the requested letter to Mr. Perini. Mayor Gysberts will sign the letter on behalf of the Mayor and City Council.

Land Management Code – Car Lots

Kathleen Maher, Planning Director, and Stephen Bockmiller, Development Review Planner/Zoning Administrator, were present to provide information regarding amendments made in 2012 to the Zoning Ordinance.

In 2012, the City adopted a new Zoning Ordinance that capitalized on existing strengths, expanded permitted uses in many districts, loosened some restrictions and simplified the review processes while still protecting the quality of life for Hagerstown residents. There were literally hundreds of changes that were proposed and adopted. Every zoning district's regulations were adjusted to one degree or another. Every property in the City, to some extent, was affected by the changes.

All State and local requirements for public notice for the changes to the Land Management Code were met in the review and approval of the overhauled ordinance. In fact, public interest was so low after following notice requirements; staff worked with the City's public information staff to create outreach opportunities to spread the word about the pending package of amendments. All legal requirements for public notice of the changes were exceeded by the City in this process. Due to resource constraints, staff did not mail a notice to every property owner in the City.

The Staff and Planning Commission reviewed the existing ordinance in the context of revitalizing downtown, promoting the improvement and redevelopment of the commercial corridors and the protection of the quality of life of residents and their residential communities.

When reviewing the uses permitted in the CG Zoning District, the issue of car sales lots was raised due to observations of the locations, functions and conditions of existing facilities in the region, both inside and outside the City. These included:

1. Tendency to seek and reuse small properties
2. Former transient customer parking becomes storage of inventory
3. Some operators squeeze as much inventory onto a property as possible
4. Traffic hazards created by cars and trucks parked to the edge of the sidewalk
5. Inventory often is parked in the street right of way and at the sidewalk
6. Most of the smaller properties in the CG Zoning District are located next to or within eyesight of residential areas.
7. Properties poorly suited for car sales use due to size, location and surroundings
8. Located on major entry corridors

After October 26, 2012, any new car sales facility (new or used vehicles) that is located in the CG Zoning District must occupy an area of at least 40,000 square feet. Any existing facility less than that is a “nonconforming use.” Two or more smaller properties could be used for a single car sales use, as long as the use area across the properties meets the minimum requirement. The 40,000 square foot figure was used as it seemed to offer sufficient space to maintain sufficient inventory, a sales building, area for support activities such as preparing vehicles for display, provide for customer parking and safe on-site traffic circulation, and keep vehicles a reasonable distance from property lines and public ways.

Any car sales facility on area less than 40,000 square feet in the CG Zoning District that was operating on October 25, 2012 when the change went into effect are “grandfathered.” None of these businesses will be required to change their operation in any way. If they close, they may reopen within a period of two years. This period was extended from the formerly required one year with the recent changes in the Ordinance.

Mr. Bockmiller stated staff has discussed these regulations with Bill Furenstein, who owns Salem Avenue auto and spoke to the Mayor and City Council during Citizen Comments on February 26, 2013. If the Mayor and City Council wish to remove the new 40,000 square foot minimum lot size for car sales operations, staff would recommend that certain site improvements be required for new operations that would be reviewed by the Planning Commission on a site plan process. The Planning Commission would review each project on a case-by-case basis and they have the ability to waive certain standards if unique site constraints warrant or alternate designs are proposed that meet the intent of the Ordinance. Any revisions would be discussed with existing car dealers for input.

It was the general consensus to consider revising the Zoning Ordinance language and to have staff continue discussing the revisions with the existing car dealers. Language will be presented to the Mayor and City Council for their review.

12305 Delwood Avenue Annexation Discussion

Kathleen Maher, Planning Director, and Alex Rohrbaugh, Planner, were present to provide information for the annexation of 12305 Delwood Avenue.

Mr. Rohrbaugh stated the property is located in the Cedar Lawn Subdivision. A public hearing was held on February 26, 2013 and no further comments were presented after the hearing.

At the hearing, the applicant’s attorney provided testimony. He believes that the annexation should be denied on the presumption that 1) the property does not touch Corporate Boundary because the deed describes the property only going to the western edge of the Alley; and 2) that annexation should not occur with only one property on Delwood Avenue when the remainder is in the County.

John Urner, City Attorney, stated the legal argument that the property is not contiguous is not accurate. The property does run to the City boundary, which includes the alley.

In regards to the attorney's second point, staff does not believe that this annexation will in any way adversely impact the City or its operation, and the City has several examples of single properties in County neighborhoods that were annexed in the past.

A couple who has interest in purchasing the property on Delwood Avenue spoke at the hearing and asked that the property not be annexed so that it would not be subject to City property taxes.

Annexation of this property will be included on the March 26, 2013 Regular Session agenda.

Appalachian Regional Commission Funding Request for FY 14

Alex Rohrbaugh, Planner, stated the Tri-County Council of Western Maryland is entertaining funding requests to the Appalachian Regional Commission for FY 2014. The deadline for submittal of Preliminary Project Descriptions to Washington County is April 1, 2013. The County Commissioners will prioritize all requests submitted in the county and will forward the requests with their recommendation to the Tri-County Council for review and action. This year the matching requirement is up to 50 %. Federal funds cannot be used to match the ARC request and the maximum funding amount per request is \$ 500,000. Projects must meet one or more ARC program goals and State objectives.

Staff recommend that the City submit the following two projects for consideration for ARC funding in FY 2014:

1. Design and Engineering of third parking deck downtown
\$ 700,000 (Local match \$ 350,000)
2. City of Hagerstown Broadband Expansion Strategic Plan
\$ 50,000 (Local match \$ 25,000)

It was the general consensus to submit these projects to the ARC.

Code Administration – Mayor and Council Priorities

John Lestitian, Director of Community and Economic Development, and Kathleen Maher, Planning Director, were present to discuss Code Administration. Mr. Zimmerman stated several Mayor and Council members identified code enforcement priorities during a meeting prior to their taking office in November, 2012. Staff has provided an overview of the current codes and programs. They are also looking for a sense of where the Mayor and Council priorities are.

Code Administration programs and strategies change from time to time based on the economic climate, conditions in the community, available resources and the City's priorities. The constant in the City's programs is a focus to create a healthy, safe and vibrant built environment. This focus is in line with the Department of Community and Economic Development's mission which is to advance the economy, image and quality of life in Hagerstown and further the City's mission to provide a proud and prosperous community. Staff work diligently at balancing the needs of the community with the desires of property owners, as they strive to provide a speedy and efficient service to developers, property owners, and tenants.

Building and Trade Codes: The State undertakes a code adoption process every three years. The basis for the Maryland Building Performance Standards and related codes are the International Codes. City and County governments are then required to adopt the State standards along with any desired local amendments. The State restricts to some measure, the scope of local amendments.

City staff partner with the County in coordinating comprehensive reviews of the adopted State codes to determine what if any local amendments are appropriate and to attempt local consistency where possible on such amendments. As part of the review, local architects, engineers, electricians, plumbers and fire officials provide insight into proposed codes.

Property Maintenance Code: The City's Property maintenance Code is based on the International Property Maintenance code as amended. Over the course of the last decade local plumbers, electricians, fire officials and landlords have assisted in the code review process. This code applies to all properties throughout the City. It is important to note that this code is used as the primary basis for conducting inspections as part of the rental licensing program, vacant structure program and proactive inspections throughout the City. In 2010, staff were instructed to limit the application of certain code sections in the rental licensing inspections.

Nuisance Abatement Program: This ordinance allows for the timely clean-up of nuisance conditions (high weeds, trash, debris, eviction items, etc). This tool, while not as well known, is extremely effective in protecting neighborhoods from blighting conditions.

Rental Licensing Program: This program was first adopted by the City in 2002 and requires certain rental units to be registered and periodically inspected. License renewal is annually. The program's goal is to ensure health, safety, and habitability, but it is equally important to note the other goals are to ensure neighborhood vitality; by preventing deterioration of rental facilities, by supporting property values, and by encouraging responsible management. In this license year 8,561 units in 3,112 facilities are registered.

Vacant Residential/Commercial Program: In an effort to address the blighting influence of vacant building on neighborhoods, two related programs were implemented

in 2006. The vacant residential program requires buildings which have been vacant for 12 or more months to be registered with the City and inspections conducted. After hearing from realtors and property owners attempting to sell their properties, a trigger mechanism for required entry in the program was developed. Staff use a complaint or observed violation plus the required length of vacancy as a trigger into the program.

The second program is the vacant commercial program. Similar to the residential program this registration and inspection program was designed to address the blighting influence of vacant buildings in the core of the City. This ordinance requires properties with certain storefront vacancies and/or certain percentages of upper floor vacancies to be registered and inspected. As with the residential market in 2006, the economy has impacted the ability of building owners to fill the vacancies. A policy was then developed to waive the fees for the program in certain cases. While this provided some relief, enforcement for non-registration proved difficult. Staff believe that this program needs re-tooled.

Mayor Gysberts asked what definition is used in the Land Management Code for owner. Mr. Lestitian stated owner is defined as someone who holds an interest in the property. This definition includes foreclosure companies and banks.

Mayor Gysberts mentioned 21 W. Antietam Street is a problem for that neighborhood. He wondered if the City could do something about the highly visible blighted buildings.

Mr. Lestitian stated staff is hopeful when dealing with foreclosed properties that the bank or holder will be a good community partner. A question often rises at court hearings if the City is prepared and able to make an abatement of the violation. Many times, this is not fiscally possible.

Mayor Gysberts asked what process is available to bring properties into compliance. Mr. Lestitian stated the bottom line is economics. He suggested a program similar to one in Baltimore.

Councilmember Munson asked how many buildings are vacant.

Councilmember Aleshire stated the rental registration program is a good program. He doesn't think the economic decline should change how vacant and blighted properties are remedied. Mr. Lestitian stated the number of inspectors has been reduced to three due to the economic situation.

Councilmember Nigh stated there should be more inspectors. She received calls about windows everyday.

Mayor Gysberts stated the City has done a good job working with owners who are willing to maintain their property.

Councilmember Aleshire stated it is important to keep structures sound. The condition of the property to the rear of the new library that was purchased by the County is unacceptable.

Staff will draft revitalization guidelines for the Mayor and Council's review.

Mr. Zimmerman stated the discussion about a balanced approach is helpful. The City's definition of reasonableness agrees with the neighborhood. When codes are adopted, in order to provide consistency with enforcement, staff has to be free to administer the codes.

Mr. Lestitian stated Code Enforcement wants to assist the neighborhoods by matching laws that help them the most.

CITY ADMINISTRATOR'S COMMENTS

Bruce Zimmerman, City Administrator, reminded everyone that yard waste pick up resumes this week.

MAYOR AND COUNCIL COMMENTS

Councilmember M. E. Brubaker had no additional comments.

Councilmember K. B. Aleshire attended the HARC (Hagerstown Area Religious Coalition) meeting earlier today. Churches have a lot to offer for downtown. He toured the Community Free Clinic. He thinks the Mayor and Council should do what they can to get the clinic affiliated with Meritus Health.

Councilmember D. F. Munson stated the Massey Building to the rear of the library is ugly. The City should vigorously pursue the County to have it removed.

Councilmember P. M. Nigh stated she likes the historical nature of buildings. She would have to carefully consider approving removal of any building. She is thankful that the Fairgrounds Entrance building and the Alms House are still standing. Many visitors mention the beautiful architecture of the City's buildings.

Mayor D. S. Gysberts praised the efforts of the HARC. Churches are major stakeholders in a community. The Free Clinic does amazing work with limited resources. He reminded everyone the Run for Your Luck 5K will be held on Saturday, March 16, 2013 in downtown Hagerstown. This is a fundraiser for the clinic.

EXECUTIVE SESSION – March 12, 2013

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 of all members present to meet in closed session to discuss the appointment, employment, assignment, promotion, discipline, demotions, compensation, removal, resignation or performance evaluation of appointees, employees, or officials over whom it has jurisdiction, #1 (Section 10-508(a)) at 6:11 p.m. in the Council Chamber, 2nd Floor, City Hall, Hagerstown, Maryland. The following people were in attendance: Mayor D. S. Gysberts, Councilmember K. B. Aleshire, M. E. Brubaker, Councilmember D. F. Munson, Councilmember P. M. Nigh, City Administrator Bruce Zimmerman, John Lestitian, Director of Community and Economic Development, Sarah Johnson, Planning and Outreach Coordinator, Jonathan Kerns, Community Development Manager, and Donna K. Spickler, City Clerk. The meeting was held to discuss potential members of the Community Development Block Grant Public Service Review Committee. No formal action was taken at the meeting. On a motion duly made, seconded and passed, the meeting was adjourned at 6:30 p.m.

Respectfully submitted,

Donna K. Spickler
City Clerk

Approved: April 23, 2013