

14<sup>TH</sup> SPECIAL SESSION AND WORK SESSION – April 16, 2013

The Mayor and Council toured the Maryland Theatre, 21 S. Potomac Street, Hagerstown, Maryland at 3:00 p.m.

Prior to the start of the Mayor and Council meeting, Sara (Kat) Lynn and Shane Bock, Barbara Ingram School for the Arts, Literary Arts Department, recited their original poems in recognition of National Jazz and Poetry Month. Ms. Lynn read a poem titled “New Leaves” and Mr. Bock recited his poem “Choices.”

14<sup>TH</sup> SPECIAL SESSION – April 16, 2013

Mayor D. S. Gysberts called this 14<sup>th</sup> Special Session and Work Session of the Mayor and City Council to order at 4:06 p.m., Tuesday, April 16, 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 and P. M. Nigh; City Administrator Bruce Zimmerman, City Attorney William Nairn, and City Clerk D. K. Spickler.

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 of all members present to meet in Special Session at 4:11 p.m.

**Approval of an Agreement: Limited Right of Refusal with Potomac Bead Company, 49-53 W. Washington Street**

**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 approve an agreement between the City of Hagerstown and the Potomac Bead Company, LLC and Nathan and Allison Buchman. This Agreement grants limited First Refusal Options as outlined in the agreement for a portion of the property the City is intending to purchase at 43-53 West Washington Street, Hagerstown. This Agreement is offered in return for their waiving an existing Option they have with the current owner who is selling the property to the City.

**Discussion:** Councilmember Aleshire clarified that the Buchman’s have the ability to match the offer for purchase, as listed in Item 3 of the agreement. He thinks this line should make it clear this is a possibility, if the offer is acceptable to the City. Councilmember Metzner stated this point is clarified elsewhere in the agreement

On a motion duly made, seconded and passed, the Special Session was closed at 4:14 p.m.

Preliminary Agenda Review

**Consent Agenda**

- A. Department of Parks and Engineering:
  - 1. Demolish and Dispose of Vacant Motel at 12 N. Prospect Street – Milton Stamper Builders (Hagerstown, MD) \$ 72,517.00
  - 2. Permanent Seating at City Park Bandshell – Playground Specialists (Emmitsburg, MD) \$ 37,199.23
  
- B. Department of Utilities:
  - 1. Contractor Services for 2013 EMPOWER Clean Energy Communities Grant – To Be Determined
  - 2. Replacement of Equipment for Lateral Camera, Unit # 563 – Rausch Electronics USA (Chambersburg, PA) \$ 75,596.00
  - 3. Magnafloc Polymer – George S. Coyne Chemical Co., Inc. (Croydon, PA) \$ 54,900.00
  - 4. Meter Reading Vehicle Transceiver Unit – LB Water Service, Inc. (Chambersburg, PA) \$ 21,372.80
  - 5. Annual Renewal of SCADA Software Support – ABB, Inc. (Wickliffe, OH) \$ 29,928.00
  
- C. Finance: Audit of Fiscal Years ending June 30, 2013 and June 30, 2014 – S B & Company, LLC (Hunt Valley, MD) \$ 75,090.00
  
- D. Department of Community and Economic Development:
  - 1. Application Permit for Blues Prelude – May 30, 2013, Maryland Theatre at University Plaza
  - 2. Application Permit for Blues Fest – May 31, 2013 and June 1, 2013, Maryland Theatre at Central Parking Lot
  - 3. Application Permit for Blues Fest – May 30, 2013 and June 1, 2013 – M & T Bank at VIP Area

Councilmember Aleshire requested the Permanent Seating at the City Park Bandshell be placed under New Business instead of on the Consent Agenda.

Mayor Gysberts stated a Work Session is scheduled for April 23, 2013 at 3:00 p.m. The Sora Report and Ripken Report will be discussed. Time is included on the schedule for public comments regarding the reports. The Regular Session will follow the Work Session and will begin at 7:30 p.m.

There were no questions regarding the preliminary agenda.

Rodney Tissue, City Engineer, provided additional information from the discussion of a Dog Park from April 2, 2013. In the event the Council decides to move forward with the Task Force recommendation and create the off-leash area in Fairgrounds Park, staff will endeavor to relocate the sand volleyball and basketball courts.

Mr. Tissue provided maps showing all the sites considered by the Task Force. He also contacted the CSX Property Manager regarding land behind the former R. D. McKee building on West Antietam Street. He has not received a reply to the idea of leasing the land to the City.

Councilmember Nigh requested the contact information for CSX. She intends to contact them.

Councilmember Brubaker favors a site that does not directly impact a residential neighborhood. For a site at Hager Park, he wondered if the area between the originally proposed site and Memorial Boulevard could be used. This would almost double the size of the proposal made several years ago. The objections to the site can be overcome. Alternative sites could be found for the community garden and the informal little league practice field. He mentioned many people walk their dogs in the area considered at City Park. These two sites, Hager Park and City Park, would have the least impact on residential areas. Parking would be closer to the dog park at either of these sites than at Fairgrounds Park. He does not think the fence at Fairgrounds Park will be tolerated by the neighbors. The Task Force did good work in reviewing the sites, but he thinks the cost at Fairgrounds is higher than at the other sites and it is not in a central location.

Councilmember Nigh stated the site at Fairgrounds Park has always had been used by children who can't afford to join the organized sports teams. She stated the area needs to be 2.5 times the size of the area proposed. This site is too small. She wondered where the funding would come from to construct the park. Top officials at CSX need to be contacted. She stated she will contact them. She wondered why people have not approached the County for a dog park. The only site she would support is at City Park.

Councilmember Metzner stated he will support the site that a majority is in favor of.

Councilmember Munson thinks every dog and every dog owner should have their day. He has talked to residents in the area proposed. He prefers the Hager Park site but will support Fairgrounds Park. However, provisions need to be made to ensure the neighbors are as comfortable as possible. If the park is open until 10:00 p.m. lights will be necessary. The lighting should not disturb the neighborhood. He is concerned a commitment has been made by the dog park task force. No City money should be expended until all funding is in place (this would include the fundraising the task force is completing. Security cameras should be installed at the dog park. Neighborhoods have to be protected from noise and odor. He will support the Fairgrounds Park site because it will be less costly and less intrusive.

Councilmember Aleshire is concerned about potential flooding at the City Park site and he doesn't think the cost estimate is high enough. The Hager Park site is part of the recently completed Ripken Design stadium site analysis. He does not feel strongly in favor of or against a dog park. He agrees lighting would be an issue to consider. He also wants the private funding to be secured prior to the City spending any money on the park. He does not think cameras are necessary. The closing time for the park should give some deference to the properties the park would impact. He supports the Fairgrounds Park site.

Councilmember Munson would accept a closing time that is best for the community. He stated cameras are needed for the park in order to review problems, if needed.

Councilmember Aleshire stated he opposes the additional cost of cameras. If they are installed privately he would support them. Mr. Tissue indicated cameras would be part of the \$ 20,000. He believes staff could locate someone in the community who would install them.

Councilmember Munson stated a dog park may help prevent vandalism.

It was the general consensus to locate a dog park at Fairgrounds Park. Lights and cameras will be installed at the park. A fundraising campaign will be started for the private donation portion of the costs. The basketball court will be relocated to another area in Fairgrounds Park.

Mayor Gysberts stated he thinks it will be difficult to have different closing times for the Dog Park and Fairgrounds Park.

Councilmember Metzner stated he was surprised to learn the parks are open until 10:00 p.m. The closing time should be discussed.

Funding for the dog park is \$ 40,000 in excise tax revenue and \$ 20,000 fundraising. The park guards will be monitoring and assisting with the clean up efforts at the park.

Approval of the dog park will be included on the April 23, 2013 agenda.

#### License Agreement – 21-23 N. Locust Street (Burkett's Deli)

Rodney Tissue, City Engineer, stated the owner of Burkett's Deli, Charles Burkett, submitted a request to the Mayor and City Council to construct an outdoor seating area in a portion of Alley 4-18 on the north side of his building. Because this seating area would be constructed in a public right-of-way, and could have some potential impact on traffic flow in this area, the City Council would have to approve this request. Staff has reviewed this request, and identified two options for the Council to consider if they wish to grant the requests: (1) execute a License Agreement with Mr. Burkett that would allow construction of the outdoor seating area while maintaining the City's control of the alley right-of-way; or (2) convey or quit claim this portion of the alley- right-of-way to Mr. Burkett while retaining easements for existing utility lines and storm drainage facilities.

Charles Burkett, CB Properties, 11-37 and 339 N. Locust Street, was present to make a formal request for permission to place an outdoor seating area at his business. He stated the alley beside the building is obsolete, as it is a one way alley out to the rest of the old alleyway across the street. He is anticipating that the outdoor seating project could cost up to \$ 30,000.00. He hopes expanding his business in this way will provide a reason for visitors to expand their boundaries when visiting downtown.

This section of Alley 4-18 is adjacent to the main driveway entrance from Locust Street into the City's Central Parking Lot. When the Central Lot was designed in 1996, the plans originally called for the elimination of this portion of Alley 4-18. However, before construction was completed, the plans were changed at the request of residents east of Locust Street to preserve Alley 4-18 so that larger vehicles would have a "straight shot" through this alley into Alley 4-19 on the east side of Locust Street. The majority of automobile traffic uses the Central Lot's driveway entrance instead of Alley 4-18. There are several underground utility lines in this section of Alley 4-18, along with a large brick arch drain that is part of the City's stormwater drainage system.

Mr. Burkett stated he would prefer to have this portion of the alley conveyed to him. He is hesitant to invest a significant amount of money in this project if he may be required to move in the future.

Councilmember Brubaker asked Mr. Burkett if the property is transferred to him would he be satisfied with the necessary clauses for access to the utility lines. Mr. Burkett indicated he would be.

Councilmember Metzner stated the Board of Traffic and Parking reviewed this request. There was no significant opposition presented for the request. The Board did not want to delay the project and agreed to recommend approval of the request.

There is no inside access planned for the outdoor dining area. Customers would complete their purchases and walk to the rear of the building to the dining area.

Councilmember Nigh is concerned where trucks will be parked. Mr. Burkett stated his cleaning business trucks are parked on the street.

Mayor Gysberts is in favor of conveying the alley to Mr. Burkett. Mr. Burkett stated he would like a license agreement, with a term of at least three years. He would like the city to help remove the curb cut.

Councilmember Brubaker recommended approving a temporary license agreement and completing the necessary actions for transferring the alley to Mr. Burkett.

Councilmember Munson noted Mr. Burkett has made improvements to the façade of the deli recently.

Mr. Burkett indicated this plan is agreeable to him.

It was the general consensus to include approval of a license agreement with CB Properties, LLC on the April 23, 2013 agenda, and at a future date to approve a quit claim for the property. Staff was asked to identify a funding source for assistance with the sidewalk work that is necessary.

Department of Community and Economic Development Loan Portfolio Overview and Update

John Lestitian, Director of Community and Economic Development, Stacey Pierre-Louis, Business/Community Development Finance Specialist, and Jonathan Kerns, Community Development Manager, were present to discuss the existing loan programs offered by the City.

There are four programs: Business Revolving Loans, Community Development Block Grant, Minority & Women-Owned Business and Maryland Housing Rehabilitation Program.

The Business Revolving Loan Fund is for sole proprietorships, partnerships, limited liability companies, or corporations. It is funded by a grant from the Maryland Department of Business and Economic Development program income and periodic transfers from other city funds. This fund assists in recruitment, retention and expansion of businesses with the City. Eligible costs include land improvements, commercial property purchase or renovation, machinery and equipment, infrastructure improvements, or working capital.

CDBG loans are for rehabilitation of Single Family and Multi-family Homes, Commercial Properties, and non-profits. This is funded by a portion of the annual CDBG Entitlement. Thirty of the 58 CDBG loans are currently deferred.

The Minority and Women-Owned Business fund is for businesses at least 51% owned by minorities or women. It is funded by a grant from the Small Business Administration. Loans are up to \$ 7,500, administered by the City.

The Maryland Housing Rehabilitation Program (MHRP) is for low-to-moderate income residents in need of home repairs to bring property up to code, eliminate safety/health hazards, improve accessibility, or complete weatherization and energy conservation improvements. It is funded by the Maryland Department of Housing and Community Development.

There is \$ 1.9 million in active loans. Of that amount, \$ 326,000 is in a delinquent status. Of these delinquent accounts, two are more than 40 months past due. Spirit of the Lotus is 51 months past due and it is unlikely the past due amount will be collected. VJS is 40 months past due.

An account is considered inactive if the company filed for bankruptcy or closed. Staff reviews these accounts on a routine basis and attempts to recover the loan if

circumstances change for the personal guarantee listed. If the personal guarantee is known to have assets, staff consults with the City Attorney to attempt to recover funds.

Mr. Kerns noted that a review is completed to compare the anticipated resources necessary to collect an outstanding loan.

Mr. Lestitian indicated staff is developing strategies on how to proceed with delinquent loans, which may involve legal action. These strategies will be discussed with the Mayor and Council at a future meeting.

Councilmember Aleshire stated the revolving loan funds are intended to create different types of opportunities for investment. He wondered if there is a way to timely collect on the six to eight accounts that are delinquent.

Mayor Gysberts wondered if there are better criteria for making the loans that would prevent delinquent situations. Mr. Lestitian stated the City loans are typically a last resort and high risk in nature. He stated although there will always be risks with these loans, staff is diligent with collection efforts.

Mr. Zimmerman stated the preliminary agenda includes two business loans/grants. El Paso Restaurant has submitted an application for a Loan-to-Grant business assistance packet for relocating the restaurant to 12 East Washington Street. Jose Gomez, owner, is undertaking structural and aesthetic renovations to the interior of the building, as well as repairing major sections for the commercial kitchen area, refinishing the floors and painting throughout the interior. A license agreement is also included for use of a City refuse corral at the rear of 14 N. Potomac Street.

Staff will be seeking approval of a new incentive program called Spring Sprout Grants. This will be a competitive micro-grant program. This grant program will be used to increase business efficiency and give businesses a competitive advantage. Examples of eligible uses are to purchase new computer software or hardware, new office machines or training to learn new software or marketing strategies. Examples of ineligible uses of this grant money include operating expenses, utility bill payments or loan payments. The grant maximum will be \$ 500 per business.

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

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

#### **MAYOR AND COUNCIL COMMENTS**

*Councilmember M. E. Brubaker* had no additional comments.

*Councilmember P. M. Nigh* attended the opening night of the Film Festival.

*Councilmember K. B. Aleshire* stated the Ripken Design study of alternate stadium sites is now available. He and his wife attended the Film Festival opening also. He is frustrated about the delinquent utility bills and will be offering an approach for collecting the bills. Outstanding debt totals more than \$ 5 million. He will not support a budget that increases the water and sewer rates on the paying customer base.

*Councilmember M. E. Brubaker* had no additional comments.

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

*Councilmember D. F. Munson* agreed that additional revenue will help the City. He offered support for the people affected by the bombing in Boston yesterday.

*Mayor D. S. Gysberts* 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 5:54 p.m.

Respectfully submitted,

Donna K. Spickler  
City Clerk

Approved: May 21, 2013