

19<sup>TH</sup> SPECIAL SESSION – June 11, 2013

Mayor D. S. Gysberts called this 19<sup>th</sup> Special Session and Work Session of the Mayor and City Council to order at 4:05 p.m., Tuesday, June 11, 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 M. E. Brubaker and seconded by Councilmember D. F. Munson, the Mayor and City Council unanimously agreed by voice vote to meet in Special Session at 4:06 p.m.

**Introduction of an Ordinance: Amending City Code Section 238-15 To Provide for a Late Fee on Water and Sewer Department Bills**

**Action:** On a motion duly made by Councilmember K. B. Aleshire and seconded by Councilmember P. M. Nigh, the Mayor and City Council unanimously agreed by voice vote to introduce an ordinance which amends City Code Section 238-15 by the addition of subsection J to read as follows: A late payment charge of 10% will be calculated upon the total charges and applied to the Water and Wastewater Bill or any portion of the bill not paid by the current amount due date. Each subsequent Water and Wastewater Bill not paid in full will be subject to the aforementioned late payment charge on the unpaid balance.

**Introduction of an Ordinance: Transferring Property on Robinwood Drive to the Board of County Commissioners of Washington County**

**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 transfer property of the City of Hagerstown on Robinwood Drive for construction purposes related to the upcoming Robinwood Drive Project. The Washington County Board of Commissioners has requested the transfer of .0593 acres of land (2,584 square feet recorded in Plat Number 100-10-535) which is a portion of a parcel utilized as the Wastewater Division Pump Station 8. The request is for no monetary compensation.

**Approval of a Resolution: Authorizing Submission of an Application to the State of Maryland for \$ 150,000 and Authorizing the Transfer of \$ 75,000 from the Upper Floors Redevelopment Fund into the Hagerstown Revolving Loan Fund**

**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 approve a resolution authorizing the submission of an application to the State of Maryland for \$ 150,000 from the Maryland Economic Development Assistance Authority and Fund (MEDAAF) for the Hagerstown Revolving Loan Fund. The resolution further authorizes the transfer of \$ 75,000 from the City's Upper Floors Redevelopment Fund into the Hagerstown Revolving Loan Fund for the required match in connection with the receipt of the grant. The City operates this revolving loan fund to assist in the retention, expansion and recruitment of businesses within the corporate limits of the City.

The Special Session was closed at 4:09 p.m.

WORK SESSION – June 11, 2013

Preliminary Agenda Review

**Consent Agenda**

- A. Department of Parks and Engineering: Abatement of Debris and Abatement of Weeds and Brush – Earn Contractors, Inc. (Gaithersburg, MD) \$ 55,000 to \$ 60,000 annually
- B. Department of Utilities: Water Division: Flash Mixer at R. C. Willson Treatment Plant – Apparatus Repair and Engineering, Inc. (Hagerstown, MD) \$ 24,443.00

**Approval of Worker's Compensation Insurance for Fiscal 2014 and Brokerage Services**

Bruce Zimmerman, City Administrator, clarified this approval is for the premium with Injured Workers Insurance Fund and brokerage services with Keller Stonebreaker Insurance.

**Approval of a Resolution: Approval of FY 14 Community Development Block Grant Annual Action Plan**

Jonathan Kerns, Community Development Manager, reported HUD has provided confirmation that the City's award for FY 14 is \$ 660,490.00. This is \$ 66,000.00 more than anticipated, which must be allocated prior to approval of the Annual Action Plan that is scheduled for next week. Mr. Kerns recommended using this funding to attack vacant properties and nuisances by implementing a part time code inspector and adding funding to the home ownership program.

Paul Fulk, Inspections Manager, stated an additional inspector would allow the division to respond to complaints quickly. Total hours for this position would be 30 to 35 per week.

Mr. Kerns stated the homeownership program traditionally focused on upgrades. Revisions are being considered for the program with a focus on loft style apartments being offered for ownership.

Councilmember Brubaker asked if there is any indication of the award amount for 2015. Mr. Kerns stated there is not.

Councilmember Aleshire understands the use of new inspectors for the stabilization of individual properties in neighborhoods but doesn't understand how the loft style apartments would result in stabilization. He wondered if this is intended to be part of the residential component of INVEST Hagerstown. He thought that program was to engage the private sector.

Mr. Kerns stated the Single Family Home Ownership program purchases homes, rehabilitates them and then resells them. Councilmember Aleshire stated these are two completely separate issues. What is acquired in a vacated home will be vastly different, depending on its location.

Councilmember Aleshire stated it would not be cost effective for the private sector to aggressively work in the urban core to address the condition of residences. He stated the City should work with mortgage companies and real estate agencies to get foreclosed properties back on the tax rolls. Councilmember Metzner asked if this includes providing funding for liens and some minimal renovations. Councilmember Aleshire stated those expenses could fit in the program but he would rather not have the City put any funding toward the vacant homes.

It was pointed out the Housing Rehabilitation program is different than the program discussed here.

It was the general consensus of the Mayor and City Council to move forward with the allocation.

This completed the preliminary agenda review.

#### Proposed Changes to Bicycles or Play Vehicles Ordinance

Chief Mark Holtzman was present to discuss revisions to the City Code regarding bicycles and play vehicles. A proposed change to Section 57-2 and 57-3 to the City Code would allow for the discretion of enforcement to be applied pertaining to the use of the play vehicles (bicycles, skateboards, etc.) in the downtown. This is accomplished through the elimination of the prohibited riding area map and extending the requirement of riders to maintain "proper control" on the streets to all City owned parking lots and

Officers began noticing people riding bicycles and skateboards the wrong way on streets. They began to strictly enforce the ordinance. The manufacturer of the skateboard shop on Summit Avenue was surprised the ordinance was in place. He contacted at least one Councilmember about the ordinance. The ordinances were reviewed to determine if it can be enforced at the officer's discretion.

Chief Holtzman is proposing the same discretion be applied to all areas of the City. This would include sidewalks, parks, parking lots, and through crowds. Police officers on bicycles would be exempt from the ordinance.

Councilmember Brubaker asked what the fine for this ordinance will be. William Nairn, City Attorney, stated it is a fine and confiscation of the vehicle. Offenders will be able to appeal to District Court.

This ordinance does not regulate mopeds because they are motorized vehicles. Councilmember Aleshire stated he has seen mopeds parked on sidewalks. Chief Holtzman stated this could be addressed through the parking regulations.

Councilmember Brubaker stated he has seen bicyclists operating their bikes very recklessly.

Councilmember Nigh stated the bicycles and mopeds are out of control but there aren't enough police officers to cover all areas.

Councilmember Metzner stated the Bicycle Advisory Board is also looking for solutions to reckless riding. He suggested handing out free helmets to riders.

Introduction of a revised ordinance will be included on the agenda for June 18, 2013.

#### Memorandum of Understanding for Hagerstown Community College Police Academy

Chief Holtzman discussed a Memorandum of Understanding (MOU) with the Hagerstown Community College (HCC) regarding the police academy with the Mayor and City Council.

The Hagerstown Police Department has worked with HCC over the past few years to establish a police academy at the Community College following the closure of the City's Western Maryland Police Academy. Discussions with the college include a commitment of instructional support from City police officers, among other agencies, in exchange for reduced tuition. HPD will receive a credit of \$ 10 per hour for instructional time at the academy for a maximum of 1700 hours or \$ 17,000 per class. These funds will be retained by the college in a tuition reimbursement account used to offset the cost of City sponsored police recruits.

Councilmember Brubaker asked if this cost can be absorbed within the current budget. Chief Holtzman stated can be. All entry level police officers must complete this training to meet Maryland standards. After completing the academy, officers have four months of field training.

It was the general consensus to include approval of the MOU on the June 18, 2013 agenda.

### Firearms Ordinance

Chief Mark Holtzman and William Nairn, City Attorney, were present to discuss amendments to the City's Firearms Ordinance. The proposed changes to Section 173-11 of the City Code were made to remove language that is superseded by Maryland Law, to close a gap in the current weapons carrying section, and to provide an option to prohibit the carrying of firearms in certain places of "public assembly."

The language relating solely to the carrying of firearms (handgun, rifles, and shotguns) has been removed from this section since it is already covered under the Maryland Criminal code. Firearms, along with other weapons described in the code, are still prohibited from being discharged in the City limits.

Language has been added to require weapons that are being carried or transported in the City limits to be kept in an enclosed case. This will eliminate the open or concealed carrying of weapons on the street.

The prohibition of firearms in well marked places of "public assembly" allows Council the option of designating certain public meetings or similar events free from firearms.

Councilmember Brubaker stated it seems the reference to a place of "public assembly" is rather broad. Chief Holtzman indicated a definition of public assembly could be included in the ordinance.

Councilmember Metzner stated he thought the exemption was for regulated firearms. He asked where in State law it pre-empts the City to regulate firearms. Under this law, someone who shot an intruder in their home is guilty of a crime. He does not think the City should enact a blanket prohibition. This language makes it unlawful to possess a BB gun in your home unless it is closed and unloaded. He is concerned these amendments may prohibit certain firearms and make others legal. He supports the intent of the amendments but wants to be sure the language reflects what the Mayor and Council are trying to do.

Councilmember Aleshire asked if he parks at a neighbor's house and walks across the yard to his house, is it legal to openly carry a rifle.

Councilmember Brubaker asked for clear direction of which State statute applies to the City's Code.

Staff will include language to address the concerns raised and present a draft of the ordinance for the Mayor and Council's review.

Councilmember Munson stated he thinks there should be a public hearing regarding the amendments so the citizens have the opportunity to provide their opinions. He wondered why the City would want to make it illegal for a hunter to carry a rifle to the car.

Chief Holtzman suggested draft language that is more location specific, such as at schools.

Mayor Gysberts asked if these provisions apply to concealed permit holders. Chief Holtzman indicated they would not.

Councilmember Metzner stated he wants the ordinance to provide the Council the authority to prohibit firearms in specific places.

Councilmember Brubaker suggested defining an area, i. e. 50 feet or 100 feet from a special event.

The proposed amendments will be revised and discussed at a work session.

Mr. Nairn left the meeting at this time.

#### Community Development Block Grant Annual Action Plan

This item was discussed during the preliminary agenda review.

#### Invest Hagerstown First-Third Program

Andrew Sargent, Downtown Manager, and John Lestitian, Director of Community and Economic Development, were present to review the commercial portion of the INVEST Hagerstown First-Third Grant program.

The purpose of the program is to inspire and enable significant redevelopment both city-wide and in the urban core, reusing and repurposing existing vacant and under-utilized properties. The \$ 1.2 million funding will come from the General Fund reserve.

Councilmember Brubaker stated it is critical how property owners and developers react to this program.

Mr. Zimmerman indicated this is a private/public partnership with developers with the City providing matching grants. As staff learns from the program, they will provide updates to the Mayor and Council.

Mayor Gysberts stated there has been positive reception of the program within the development community so far.

Approval of this portion of the program is scheduled for June 18, 2013.

### Maryland Municipal League Double Taxation Proposal

Councilmember Brubaker discussed the Final Report of the MML Double Taxation Work Group. A sub-group of the MML Legislative Committee has been working on the issue commonly known to Maryland municipalities as double taxation.

The General Assembly has not made a significant change to the applicable legislation since 1998, nor has MML made it a major initiative. The Work Group reviewed various formulas and methods for offsets or rebates used by Counties/Municipalities around the State. They have come to the conclusion that the simplest and clearest language, mandating a County offset for services provided by municipalities, already existed in Section 307 which currently only applies to Anne Arundel (where it has worked very well for Annapolis) and Howard (no municipalities) counties. They consulted the office of the Attorney General of Maryland and received an opinion which the Work Group believes buttresses their view of its applicability, as well as supporting language changes they felt necessary to meet their intent. They are recommending repeal of the current “may/shall” and other legislative sections, which in the end still leave final funding/offset decision power in the hand of the Counties.

Councilmember Brubaker presented the final report. The first page contains a summary of the recommendation, the legislative section of substance is on page eight, and the legislative history and other relevant information begins on page nine.

Current plans are for the Work Group to present its recommendation on the first day of the MML summer convention, so delegates have a chance to discuss this issue during the week and if necessary discuss it in their jurisdictions before the MML fall conference. If a consensus emerges, the issue could be a/the major MML initiative in the upcoming General Assembly session.

To date, Councilmember Brubaker has not attempted to apply this approach to Washington County, which uses a unitary tax offset for all municipalities. Whether or not the Work Group’s proposal succeeds, he believes the City should re-examine the tax offset issue as it applies to Hagerstown. He proposes forming a City work group.

Mayor Gysberts asked how the value of services would be determined. Councilmember Brubaker indicated a comparison of budgeted amounts for duplicated services would be used. This would provide more latitude for the City.

Councilmember Brubaker reported the Legislative Committee was effective during the session. They took a position on 45 draft bills and met ten times. The Highway User Revenue (HUR) has been restored to municipalities at 50%. He cautioned this is not a permanent solution. A work group has been established to examine a bill permitting legal notices to be posted electronically, eliminating the requirement for paper notices.

Mr. Zimmerman pointed out the HUR is a significant revenue source for the City. The City previously received about \$ 2 million in HUR. That amount is now at \$ 328,000.00. This revenue source is shown as capital income rather than in the operating budget, which protects the City from the fluctuation in the amount.

Councilmember Munson stated this has been an issue for Hagerstown for many years.

Councilmember Brubaker stated MML support is still needed.

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

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

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

*Councilmember L. C. Metzner* stated the employee recognition breakfast today was very nice. There are more than 140 bicyclists registered for the criterium event on June 14, 2013. He encouraged everyone to attend this event.

*Councilmember M. E. Brubaker* congratulated employees who received service awards this morning. The bike race on June 14, 2013 is similar to the grand prix. He thanked Bob Gordon, Director of Hagerstown East Metropolitan Planning Organization, for his service to the area. Mr. Gordon is retiring.

*Councilmember K. B. Aleshire* attended the open house at the Antietam Fire Company on June 8, 2013. The event was very nice. He hopes this will add stabilization to the neighborhood. He noted the Council needs to make some type of decision on the Suns and move on. He has laid out his reasonable positions on the issue and he doesn't see it changing. In regard to budget discussions concerning employee compensation, he prefers that dispensing of public funds be discussed in open session. He hopes people have reviewed his list of potential changes to the budget to review over the next 4 to 6 months. This would be a good place to start working on the FY 2015 budget.

*Councilmember D. F. Munson* attended the employee award breakfast. He thanked all employees. The 99<sup>th</sup> season of the Municipal Band started on June 9, 2013. The new seats are comfortable and people like them.

*Councilmember P. M. Nigh* wondered how long the ladder truck would be out of service. The owner of a variety shop on Antietam Street has been blocking the sidewalk with merchandise. They also have tied bicycles to light poles. These issues need to be addressed. The Flag Day ceremony will be held in University Plaza on Friday, June 14, 2013 at 3:30 p.m.

*Mayor D. S. Gysberts* thanked all employees for their public service. The combined years of service by employees recognized this morning is more than 995 years. There is a new fitness trail at Meritus Health center. He thanked the Antietam Fire Company for hosting the open house last weekend. This is definitely an improvement in the neighborhood. He thanked the Maryland Delegation for helping make funding available for the project. Flying Pie restaurant is scheduled to open soon.

### EXECUTIVE SESSION – June 11, 2013

Councilmember D. F. Munson made a motion to meet in closed session to conduct collective bargaining negotiations or consider matters that relate to the negotiations, #9 (Section 10-508(a)) at 5:54 p.m. in the Council Chamber, 2<sup>nd</sup> Floor, City Hall, Hagerstown, Maryland. Councilmember M. E. Brubaker seconded the motion.

Mayor Gysberts stated he understands Councilmember Aleshire has concerns about meeting in closed sessions. However; in the ground rules for negotiations, it states the union and Mayor and Council shall meet, but public statements will be avoided until negotiations are complete.

Motion carried with Councilmember K. B. Aleshire voting No.

The following people were in attendance: Mayor D. S. Gysberts, Councilmember K. B. Aleshire, M. E. Brubaker, Councilmember L. C. Metzner, Councilmember D. F. Munson, Councilmember P. M. Nigh, City Administrator Bruce Zimmerman, Karen Paulson, Director of Human Resources, Scott Nicewarner, Director of Technology and Support Services, Michelle Burkner, Director of Finance, Michelle Hepburn, Budget Officer, John (Victor) Murray, Tom Bartles, K-9 Police Officer, Charlie Peck, City Light, George Kerns, Public Works, and Donna K. Spickler, City Clerk. The meeting was held to discuss union negotiations. No formal action was taken at the meeting. On a motion duly made, seconded and passed, the meeting was adjourned at 7:41 p.m.

Respectfully submitted,

Donna K. Spickler  
City Clerk

19<sup>H</sup> SPECIAL SESSION AND WORK SESSION  
2013  
MAYOR AND CITY COUNCIL  
Approved: July 23, 2013

JUNE 11,  
HAGERSTOWN, MARYLAND