

WORK SESSION AND EXECUTIVE SESSION – August 20, 2013

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Mayor D. S. Gysberts called this Work Session and Executive Session of the Mayor and City Council to order at 4:05 p.m., Tuesday, August 20, 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 John Urner, and City Clerk D. K. Spickler.

Preliminary Agenda Review

**Consent Agenda**

A. Police Department:

1. Annual Cell Service for Street Crime Cameras – Verizon Wireless (Laurel, MD) \$ 36,001.00
2. Uniforms for Hagerstown Citizens on Patrol – Various Vendors - \$ 1,313.83
3. Ballistic Vests – Atlantic Tactical (New Cumberland, PA) \$ 17,625.60

B. Department of Community and Economic Development: Trick or Treat Date for 2013 and 2014

C. Technology and Support Services: Renewal of ESRI GIS Enterprise License Agreement – ESRI (Redlands, CA) \$ 35,000.00

**Approval of a Resolution: Approving Addendum to Memorandum of Understanding (MOU) for Born Learning Trails in City Parks**

The proposed addendum extends the term of the MOU for an additional four years for the Born Learning Trails in Staley Park, Pangborn Park and Wheaton Park.

**Approval of a Resolution: First Amendment to Memorandum of Understanding (MOU) for School Resource Officer**

Chief Mark Holtzman presented an amendment to the MOU for School Resource Officers within the City of Hagerstown to the Mayor and Council for their review. The amendment changes only the terms and not the amount of the funding reimbursement to the City for the five school resource officers. The substantive changes allow for the flexibility to bill for overtime in the event any of the full-time positions are not filled. The total amount remains the same at \$ 187,500.00.

**Approval of a Resolution: Lease Agreement for 53 West Washington Street – Nathan and Alison Buchman**

Andrew Sargent, Downtown Manager, presented the Mayor and Council with a proposed lease for the retail storefront of 53 West Washington Street. When the City purchased the property in April of this year, it inherited the Potomac Bead Company owned by Nathan and Alison Buchman as a tenant. The Potomac Bead Company is an important downtown retail destination, attracting customers day and night for different services and events.

Working from the original lease between the tenant and the previous property owner, the City Attorney's office has created a lease. The highlights include:

1. Premises: The space rented by Potomac Bead is the retail storefront, portions of the common courtyard plus two parking spaces in the rear.
2. Term: One year, renewable by agreement of both parties. The City agrees not to refuse to renew the lease for three years.
3. Rent: \$ 1,800 per month.
4. Utilities: Electric is in the tenant's name. Gas is provided by the landlord and charged on a pro-rated basis to tenant. Water and sewer is provided by the landlord.
5. Security Deposit: A \$ 1,800 security deposit is required and was transferred at settlement from the previous owner.

**Approval of a Resolution: Road Transfer Agreement – Haven Road and Outer Drive**

Rodney Tissue, City Engineer, was present to discuss Haven Road and Outer Drive. About 1100 feet of Haven Road and 250 feet of Outer Drive are maintained by the County. This section of Haven Road was in very poor condition.

In June, staff received a request from County staff to transfer these two sections of road to the City for maintenance. From a practical standpoint, this makes sense due to the remote nature of these roads from the rest of the County's road network. The County staff agreed to pave the subject portion of Haven Road and recently completed that work. All City departments indicated the transfer is acceptable to their operations.

The roads do not meet current City standards. The streets do not have curb, street trees, street lights, and the width is less than standard. However, the "New Haven" annexation approval in 2005 requires development of this recently annexed land to install curb, sidewalk and street trees on Haven Road. Staff will likely require the same treatment to Outer Drive as well.

Mr. Tissue provided the Mayor and Council a draft resolution and Road Transfer Agreement with Washington County to transfer the subject street sections for maintenance by the City. If approved by Mayor and Council, City staff will add this to the "gas tax" mileage that is claimed from the State each year.

**Approval of a License Agreement: B & J Auctions, Inc. (Four States Livestock Sales)**

Jim Bender, Assistant City Engineer, stated the owners of Four States' Livestock Sales have requested permission to construct a roof/enclosure at their existing drive-thru loading chute along Oak Street. A portion of the structure would encroach on the right-of-way of Oak Street on the west side of their building. To permit this encroachment, the Council would have to execute a License Agreement for this proposed work. The Applicant would also have to obtain a variance from the Board of Zoning Appeals (BZA) to encroach on the front yard setback along Oak Street.

The Applicant is requesting permission to install this structure in order to provide protection from the elements for people loading/unloading livestock at the loading chute, and to better contain or corral the livestock during this process.

Staff routed this request to various City departments for their review and comment. Aside from the Planning Division's requirement for a BZA variance, there were no objections to the request. The License Agreement includes clauses that will require the Applicant to remove the structure, upon request, if it is found to interfere with future City operations along Oak Street. Based upon staff's review of the request, the responses from the various City departments, and the limited impact that the proposed encroachment would have on the right-of-way, staff recommend contingent approval of the proposed License Agreement, subject to the issuance of the BZA variance.

It was the general consensus to include approval of the license agreement on the August 27, 2013 Regular Session agenda.

**Acquisition of Permanent Drainage Easement – 626 and 638 Young Avenue**

Jim Bender, Assistant City Engineer, stated Dean and Sharon Trovinger, the owners of 626 Young Avenue, contacted staff to complain about water ponding in the roadway in front of their house. Investigation at the site revealed that the road bed itself is lower than the adjoining lawns at this area, causing water to backup on the roadway until it reaches a depth high enough to spill out over the lawns. There are no curbs along Young Avenue, no drainage pipes or catch basins to collect/convey stormwater, and no drainage easements or channels to take this water away from the roadway. In addition to the inconvenience to the property owners caused by this condition, the pavement on Young Avenue is beginning to fail due to prolonged saturation from the ponded water. The City's Department of Public Works can correct the drainage issue by re-grading portions of the lawn areas and creating a drainage channel that will carry stormwater away from the roadway; however, the City would have to obtain drainage easements from two property owners to accomplish the work.

This neighborhood was annexed into the City in the 1960's and Young Avenue and the adjoining lots were developed over the following 10 to 20 years. While it does not

meet current standards for street construction, the City has maintained the street for decades.

It was the general consensus to move forward with the drainage easement.

### **Naming “Artist Alley”**

Jim Bender, Assistant City Engineer, reported staff received a request from the Washington County Arts Council to name the two strips of land that form a walkway to the A & E Deck between 28 South Potomac Street and 32-36 South Potomac Street (Walker House and home to the Arts Council) as “Artist Alley”. The adjoining property owners have both consented in writing. This is not a public alley in that the City only controls half of it. Also, no vehicles can enter it. For these reasons, staff would suggest a “non-typical” street name sign, something more artistic and different from the standard street name sign. The request was circulated to all departments and no concerns were noted.

It was the general consensus to include renaming this alley on the August 27, 2013 agenda.

### **Acceptance of Broadfording Road Land and Rename to Garland Groh Boulevard**

Rodney Tissue, City Engineer, was present to discuss Broadfording Road. For at least five years, staff have worked with local developers to improve the referenced section of Broadfording Road and allow development to occur adjacent to it. Various milestones already accomplished include the following:

1. September 28, 2010 – Mayor and Council approval of a road transfer agreement, effectively taking maintenance responsibilities from the State Highway Administration (SHA) to the City.
2. June 19, 2012 – Mayor and Council approval of a Memorandum of Understanding with local developers.
3. June 19, 2012 – Mayor and Council approval of construction contact with Craig Paving.

Staff is currently finalizing the contract with Craig Paving (since the bids are now over two years old) and obtaining the State Highway Access Permit to widen Broadfording road at Rt. 58.

Three items for Council consideration are:

1. Ordinance accepting offer of conveyance of land: This would accept an offer of a portion of “Bowman Hollyhock LLC” and “Salem Avenue LLC” (Fulton) properties (east side of Broadfording Road). In effect, this widens the public right-of-way of Broadfording Road and provides a 12.5’ wide sidewalk and utility easement to facilitate the widening of the road.

2. Resolution accepting temporary construction easements: This action accepts temporary easements from the Billman's and Boward's and on the west side of Broadfording Road and allows for the widening to be constructed. In exchange, the project will relocate driveways and do landscaping on their properties adjacent the road.
3. Resolution changing name: Current Garland Groh Boulevard ends at Hollyhock Road, where it becomes Broadfording Road. Staff propose changing the name of 0.28 miles of the road between Hollyhock Road and MD Rt. 58 to "Garland Groh Boulevard". This impacts the Billmans and Bowards and staff will assist them with a change of address similar to how these were handled in the past.

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

### **Approval of Hagerstown Suns Rescheduled Fireworks Show**

Rodney Tissue, City Engineer, reported that based upon the lease amendment, the owners of the Hagerstown Suns requests that the Council approve September 6, 2013 for a fireworks show with a waiver of the noise ordinance for the event. This show would be a rescheduling of the show that was rained out on May 9, 2013. It was the general consensus of the Mayor and City Council to approve this show.

### **After School Program – Robert W. Johnson Community Center**

Chief Holtzman stated the Robert W. Johnson Community Center, Inc. provides a variety of constructive after school programs to area youth. Karen Cook, Executive Director, has submitted a request for funding for the program during the 2013-2014 school year at a cost of \$ 18,020.00. This program was originally funded under the CSafe grant but, in recent years, has been funded through the City's general fund.

Approval of the after school program will be included on the August 27, 2013 agenda.

### **Approval of City Funding for Children's Village - \$ 2,000**

Children's Village submitted a proposed funding request in the amount of \$ 2,000. Chief Holtzman stated he believes the services and opportunities provided at the Children's Village play a vital role in improving the education and safety levels of the community. Supporting this endeavor through speed camera revenue fits the intent of the program to improve public safety.

The funding will be formally approved at the August 27, 2013 meeting.

**Approval of Renewal of Agreement with Hagerstown Police Department and the Drug Enforcement Administration**

Chief Holtzman presented a copy of the latest agreement between the Hagerstown City Police Department and the U.S. Drug Enforcement Administration (DEA) to the Mayor and City Council for their review. The agreement begins on September 30, 2013 and ends on September 29, 2014.

There are no substantive changes to the current agreement. This agreement renews HPD's commitment to provide two officers and one Sergeant to the Hagerstown DEA office to work specifically on narcotics investigations in the Hagerstown and surrounding areas. In return, the DEA provides reimbursement for overtime costs associated with drug investigations up to \$ 17,202.25 per officer to the City of Hagerstown. This continued participation between HPD and the DEA is vital to the department's ongoing mission of disrupting illegal drug trafficking and reducing violent crime in the community.

The agreement will be scheduled for approval on August 27, 2013.

**Approval of Contract for Repairs to University District Parking Deck – Eastern Waterproofing & Restoration Co., Inc. (Jessup, MD) \$ 279,614.00**

Eric Deike, Director of Public Works, stated bids were received for multiple repairs to the University District Parking Deck. Staff is recommending accepting the bid submitted by Eastern Waterproofing & Restoration Co., Inc. of Jessup, Maryland in the amount of \$ 279,614. The project is a unit price project consisting of 19 separate line items that will affect the final cost. Funding for this project is bond financing and funds from the Parking System.

Staff is recommending authorization be given by the Mayor and Council to spend up to \$ 325,000 to cover the project costs. The Mayor and Council agreed to award the contract to Eastern Waterproofing and Restoration Co., Inc.

**Approval of Contract for Street Patching – Huntzberry Brothers, Inc. (Smithsburg, MD) \$ 256,261.00**

Michael Spiker, Director of Utilities, presented information for the annual patching contract for street patching and repair associated with Water Distribution and Wastewater Collections maintenance and new service work. The Fiscal Year 2014 contract amount is \$ 260,382, with Huntzberry Brothers, Inc. This contract amount is an estimate, with the actual cost based upon the actual work performed for street patching and repairs associated with the operations of the Water Division and Wastewater Division.

Approval of the contract will be scheduled for August 27, 2013.

**Approval of Purchase: Water Meters – L/B Water Service, Inc. (Chambersburg, PA) \$ 1,144,658.44**

Michael Spiker, Director of Utilities, requested Mayor and Council consideration of the expenditure of \$ 1,144,658.44 of Water Division Inventory funds for the purchase of radio read meters for the residential meter replacement program. The purchase will be funded through the Water Division CIP C0653, where \$ 1,205,600 is in the approved FY14 budget for the meter replacement/upgrade program.

The purchase will be scheduled for approval on August 27, 2013.

This completed the preliminary agenda review.

Zumba Fest on September 13, 2013

Karen Giffin, Community Affairs Manager, Paul Deputy, The Gourmet Goat, Robin Roberson, Executive Director of the Community Free Clinic, Inc. and Keely Neubauer, Economic Development Assistant, were present to discuss a request from the Community Free Clinic for the use of the Elizabeth Hager Center Lot an City stage for a Zumba Fitness Party on September 13, 2013 from 5:30 p.m. to 7:30 p.m.

The concept of this event came from the popular spring Zumba program in University Plaza. The instructors are donating their time, and the Downtown Alliance is coordinating with the Community Free Clinic. This event would bring individuals to City Center and would be a great fitness event.

The cost of City Services for the stage, posting of the lot and fencing would come from the City's Public Functions Budget Miscellaneous Downtown Events Line. The Community Free Clinic will have volunteers operating the event, and they would provide the City with a certificate of insurance.

Ms. Giffin stated the organizers will be partnering with restaurants to provide discounts to participants.

It was the general consensus to approve the use of the parking lot.

Cities Combating Hunger through Afterschool and Summer Meal Program (CHAMPS) Grant Partnership with Community Action Council

Michelle Hepburn, Acting Finance Director, Rana Rose, Accounting Manager, Dave Jordan, Executive Director of Community Action Council, and Diana Fulchiron, Community Action Council, reported the City of Hagerstown has been selected by the National League of Cities (NLC) to participate in the CHAMPS initiative. As part of this initiative, the City will receive a grant in the amount of \$ 45,000. The City is partnering with the Washington County Community Action Council (CAC) to provide the

afterschool and summer meal programs for the community. This joint effort will enable the City to help combat childhood hunger in the area.

Mr. Jordan stated the City was chosen from entries received from around the country. CAC operated a “Meal Machine” program during the summer. They served meals to an average of 700 to 800 children each week. This may have been the only meal some of the children had each day. There is potential to expand the Meal Machine by purchasing a vehicle.

Mayor Gysberts pointed out this service to the community is a good partnership between organizations. He stated the grant award is exceptional, especially since the City is not a member of NLC at this time. He thanked the NLC, staff and CAC for their efforts.

#### City of Hagerstown General Fund Contributions to Other Agencies

Bruce Zimmerman, City Administrator, stated during the course of the Mayor and Council’s budget discussions this past spring, interest was expressed in reviewing the City’s policies and procedures for allocating General Fund financial support for local community agencies.

A listing identifying the distribution of these funds to various local community based organizations and programs can be found in the FY 13/14 budget book, Section 3, page 55. The total of the City’s General Fund allocation is \$ 273,490, which includes the addition of the \$ 3,000 in funding the Mayor and Council approved for the Western Maryland Food Bank on May 21, 2013.

Most of the organizations on the list have received annual City funding support for a long time and have grown to rely on the City’s contribution as an important part of their budget and operations.

Michelle Hepburn, Acting Finance Director, reported agencies are sent letters each November asking them to provide information about their budget. Criteria for consideration in the budget includes the significant value to City functions, a reasonable contribution to the social makeup of Hagerstown and the ability to enlist financial support from other sources. They are all required to submit budget and financial reports and a copy of their most recent audit.

There were no new revenue streams and no new programs for inclusion in the FY 14 budget. The amounts were the same as they had been for the previous year for the funded agencies.

Organizations that wish to be considered for funding should present information at the annual public hearing.

Councilmember Aleshire stated he has identified approximately 650 non-profit organizations. He believes a significant number of those would have the ability to meet the general criteria outlined in the policy. He wondered which agencies provide similar services and which may be providing a service the City would otherwise provide.

Councilmember Brubaker stated the Council could say only the agencies that provide core services or only provide satellite activities will be funded. However, each person would have a different definition of a core service or satellite activity. The agencies on the list provide a core service and he would not want to drop them.

Councilmember Brubaker asked how long the current process has been used. Mr. Zimmerman stated this process has been in place at least since 1994.

Councilmember Metzner stated he thinks the following agencies should always be funded: Washington County Museum of Fine Arts, Washington County Free Library, and the Hagerstown Municipal Band. He thinks the process used for consideration is sufficient and lengthy discussions are not necessary.

Councilmember Munson agreed.

Councilmember Nigh asked how many agencies apply for funding with the Community Development Block Grant program. Mr. Lestitian indicated there are 15 to 20.

Mayor Gysberts summarized the discussion by noting there is no real urgency to change the process. A cap is set for agency funding and the requests are considered with that cap in mind.

#### Board of Public Safety

The Board of Public Safety was repealed by ordinance in October, 2011. In 2010, the Mayor and Council began a review of the City Code language for all the boards and reviewed the stated purpose of the boards. The Board of Public Safety was repealed following Mayor and Council discussions with staff, both in executive session and in public session regarding the Board of Public Safety.

Chief Kyd Dieterich and Chief Mark Holtzman were present. Chief Holtzman stated the review in 2010 showed the productivity and momentum of the group had dwindled. There are other avenues to engage the community, such as strong sector management programs which continue to grow and Neighborhoods 1<sup>st</sup>. The Board of Public Safety operated as an advisory board, which is not permitted by State law for police agencies. HPD monitors calls for general information, status and outcome. Sector management programs include patrol checks and tracking. HPD and the Fire Department work closely together to respond to neighborhood issues and concerns. They are currently meeting the day to day needs of the community.

Mayor Gysberts stated interaction with the Neighborhoods 1<sup>st</sup> groups is a direct connection with residents to provide updates and discuss issues. He does not think there is a need for the Board of Public Safety.

Councilmember Nigh had served on the Board of Public Safety. She said there were no guidelines for the board but it was a good board. If there were issues, they were discussed as a group to determine solutions. She stated if there was a problem that couldn't get around the City Administrator this type of board may be a solution.

Chief Holtzman speculated Councilmember Nigh envisioned the board would be a support for the police and fire departments.

Councilmember Nigh stated the Board of Public Safety supported the police department when they appeared before the Liquor Board.

Councilmember Metzner stated the Board had been active but lost momentum with the passing of some members. He suggested using the Neighborhoods 1<sup>st</sup> groups for community input and support.

#### "Smoke Free" Designation in Hagerstown Parks

Rodney Tissue, City Engineer, was present to follow-up on a recent request by the Mayor and Council for information related to making all or portions of the City's parks smoke free. A draft ordinance was presented for the Mayor and Council's consideration.

The philosophy behind this ordinance includes:

1. This Ordinance addresses concerns regarding reduced tobacco use in the community and is consistent with efforts to encourage healthy and smoke free lifestyles for City residents.
2. The Department of Parks and Engineering has a responsibility to protect the health and safety of the community's children and adults while they use the City's recreation facilities, and adopting the Smoke Free policy is part of this responsibility.
3. Secondhand smoke is harmful in both indoor and outdoor settings. Exposure to secondhand smoke is the third leading cause of preventable death in America. Secondhand smoke levels in outdoor public places can reach levels as high as those found in indoor facilities where smoking is permitted.
4. Almost 90% of adult smokers began to use tobacco at or before age 18.
5. Smoke Free policies are public park policies similar to those prohibiting alcohol use or littering in public parks and recreational facilities.

None of the parks are currently smoke-free, except for University Plaza. Play apparatus have the attached sign that states "No Smoking" around the play equipment.

All the parks in their entirety could be designated as smoke free. Another option is to designate certain areas of parks as smoke free based on this or similar criteria:

1. A person may not smoke (1) in a restroom, at a spectator or concession area, pavilion, or playground in any City park; or (2) within 100 yards of an organized activity at a City park.
2. Organized activity means an event that has a defined time for starting and ending and is in a designated or permitted area of a City park. "Organized activity" includes athletic events, concerts, and special events. "Park" includes recreational facility.

If areas listed above are selected to be smoke free, then in some like Bloom, Oswald, and Rotary Park, smoking would be permitted as the designated uses are not present.

Enforcement will be as follows:

1. Parks staff shall post appropriate signage.
2. Recreation and Parks staff shall notify community organizations and distribute brochures to park users.
3. Parks staff shall monitor compliance.
4. For any person who violates the smoke-free rule, staff shall request that the person cease the use of tobacco and give a verbal warning. If the person refuses to cease, staff authorized by the City may request that the person leave the park. Fines would be issued with repeat offenses.

Councilmember Nigh stated if this is passed for parks, employees should not be permitted to smoke in the parks either.

Mr. Tissue pointed out there are two options. Smoking could be completely banned or allowed in designated areas.

Councilmember Brubaker wondered if a designated smoking area would be easier to enforce and sign. Mr. Tissue stated a designated area would be easy to identify at Fairgrounds Park but not at City Park.

Councilmember Nigh and Councilmember Munson support designation of smoke free parks.

Councilmember Aleshire stated he anticipates there will be opposition to prohibiting smoking at the golf course or the stadium.

Currently smoking is permitted in the beer garden at Municipal Stadium.

It was the general consensus of the Mayor and City Council to move forward with an ordinance to make City parks smoke free. Designated smoking areas will be noted at Municipal Stadium and the Greens at Hamilton Run Golf Course.

MELP Project Update

Mayor Gysberts stated the MELP property was discussed last week in executive session. The Council (unanimously) is ready for this project to move forward. There is an offer on the table to the current owners from the City. Negotiations between the City and private contractors have not been successful. The Mayor and Council agreed that the time has come to do something about the MELP property.

Michael Spiker, Director of Utilities, reported negotiations have been ongoing for more than 2 years. The previous administration committed up to \$ 1 million to assist with the demolition of the building. John Urner, City Attorney, had indicated to Mr. Spiker that a vote from the Council at the next regular session to move forward with the eminent domain process would not end the possibility of negotiations with the owner. Mr. Spiker stated the owners were asked to respond to the most recent offer by August 27, 2013.

Councilmember Brubaker thinks the Council needs to be careful and protect the City's interest in this process and limit additional liabilities. The time has come to add leverage to the negotiations. The costs could easily escalate as the process continues.

Councilmember Metzner stated citizens sent a clear message that they want the MELP building removed. One reason the building is still standing is that the City does not own the property or building. He stated this is a case where eminent domain acquisition is appropriate. The City cannot commit significant funding for the demolition without being in control of the property. He commended staff for their diligence.

Councilmember Munson reminded citizens that the City does not own the property and the private owner has to make the decision to allow someone to tear down the building. The current owner could stop the condemnation process and secure a demolition permit and start removing the building.

Councilmember Aleshire stated the potential for responsibility is unknown. It is clear the City does not own the property, structure or facility. The City built the plant and operated it for decades. He believes the originator will have some liability for correcting the environment surrounding the facility. The right thing to do is remove the building and clean up the property.

Councilmember Nigh stated it is time to move forward with the acquisition and demolition.

Councilmember Brubaker pointed out the potential cost is \$ 1,350,000 beyond the value of the salvageable material. This amount only takes care of demolition. It does not include restoration or the potential environmental liability. These costs could be in excess of \$ 1,000,000. The City has a moral responsibility to remedy this situation. He believes it will cost \$ 2,000,000 to \$ 3,000,000 to remove the substation that is located on the property.

Mr. Urner discussed the process for eminent domain proceedings. He stated a suit is filed against the property owner. The jurisdiction must satisfy in court they have a public purpose for the action. The property is assessed by both parties. The preliminary process could take up to a year. A trial will then be held and the court or a jury will determine the value of the property and award ownership to the jurisdiction.

Councilmember Brubaker asked for a cost estimate associated with the court proceedings. Mr. Urner stated he would not want to speculate costs, either for the City or the current owner.

Mayor Gysberts stated the cost is a concern for him; however, this issue has reached a point where it is time to move forward. Demolition of the MELP building would satisfy a major goal for this administration.

Mr. Zimmerman clarified that proceeding with filing suit does not preclude negotiations for a sale between the defendant and the City.

Mr. Urner stated this is correct. Many cases are settled prior to the trial. Proceeding with eminent domain will be the only way to be sure the City acquires the property. This will not be a suit that involved demolition of the building; it will be a suit to ensure the City owns the property.

An executive session had been scheduled following this work session. It was determined that the executive session was not needed because there has been no progress with the negotiations for ownership of the MELP property.

Introduction of an ordinance to begin the eminent domain process for the MELP property will be scheduled for the August 27, 2013 Regular Session.

#### Request for Hagerstown Neighborhood Development Partnership (HNDP) Report

Mayor Gysberts stated he has been reviewing the partnerships the City has and their effectiveness. The Hagerstown Neighborhood Development Partnership (HNDP) is of particular interest to him. It has been nearly 10 years since the HNDP was created by the City. Since that time, the City has provided significant support of the agency, both through annual funding and through free office space in the Roslyn Building. He believes it would be appropriate for the Mayor and Council to request that the HNDP prepare a report on the results of its operations over the past 10 years for presentation later this calendar year. The report should focus on the agency's accomplishments in addressing the City's purpose and goals for establishing HNDP.

The City of Hagerstown created the Community Development Corporation now known as Hagerstown Neighborhood Development Partnership (HNDP) in 2003. Previously, the City had established the Home Store as an organization to promote home ownership in Hagerstown. The operations of the Home Store were subsequently merged into HNDP.

In the November 2003 presentation to Mayor and Council, which led to the creation of HNDC, the mission statement for the Community Development Corporation was identified as follows: *“To increase the volume of housing, retail, and commercial development in the core downtown marketplaces of Hagerstown by minimizing risk while maximizing returns for those who invest in the Hagerstown marketplace.”* The presentation emphasized the goal of the community development corporation would be *“bricks and mortars not studies or reports.”*

Clearly, HNDC was established by the City for the purpose of assisting Hagerstown in the redevelopment of residential and commercial property in the core of the City. This revitalization effort remains a critical goal of the City and Mayor Gysberts thinks it will be beneficial for the Mayor and Council to meet with HNDC and receive their report on their efforts to assist the City over the past 10 years.

### Stadium Discussion

Mayor Gysberts reported there is a great deal of misinformation about the stadium and what the Mayor and Council are or are not doing for downtown. He addressed the following issues:

1. Sora Development proposal – During the April 23, 2013 Work Session, the Mayor and Council received an unsolicited proposal from Sora Development to develop a plan. The estimated cost for the plan was \$ 1 million. The City currently works from a number of plans for downtown, which reduces the need for the Sora Development proposal. By the City’s Ethics Code, the Mayor and Council cannot delegate these type of duties to another party. The Mayor and Council have decided to continue the project based approach for downtown. Since this administration took office, they have focused on revitalization of downtown. He is confident they are moving forward. Projects within the existing plans are encouraged. In his opinion, there is nothing that prevented this private corporation from carrying out projects in Hagerstown on their own.
2. This Council has the shared vision of revitalizing downtown. From the beginning of this term, all five Councilmembers have stated they support keeping baseball in Hagerstown. It has been the general consensus that a stadium project would be a catalyst for revitalization, regardless of the location. He is personally committed to securing a deal to keep baseball in Hagerstown. A stadium will be a major investment, with public and private funding. It will spur employment and business locations. This is an important project in a sustainable area. This should be a project that unites the community, not divides it. He is committed to making it succeed. Despite what is written, about action or inaction; staff continues to put their heart into efforts to revitalize downtown. A stadium would be a multi-use facility. This is the Mayor and Council’s leadership moment as a body to take bold action and change the game for downtown revitalization.

Two questions yet to be answered are location and funding. He supports a three point funding plan – 1/3 private funding, 1/3 public funding, and 1/3 State funding. Bruce Quinn, Majority Owner of the Hagerstown Suns, has increased his offer for up front

funding to \$ 6 million. This leaves a gap in the financing. He hopes a strong appeal to the private sector will help close the gap. He is willing to consider any creative idea to make it happen. This project will require support from the entire community.

Councilmember Brubaker has been involved in stadium discussions for the last year and a half. He supports a Hagerstown community stadium that would be multi-purpose to serve Hagerstown, Washington County and the Tri-state area. It should be built and scheduled for a wide variety of attractions. In addition to baseball games, there should be activities for families and other events. Activities need to be enticing enough to become a regional draw. A multi-use facility needs to be located downtown, which should help renew private investment in downtown. The downtown location has an added value that he does not think the East end location does. He has continually said the project must be financially feasible. He anticipates the cost will be roughly \$ 30 million and the cost would be the same in different locations, unless the scope changes significantly. He stated the capital costs could be \$ 11 million to \$ 12 million. The State has indicated there could be \$ 10 million in funding for the stadium. The State wants to see significant private investment in the project as well. A modern facility with skilled marketing could create excitement and many opportunities. Comptroller Franchot supported the Ravens stadium and people were initially upset. That has changed. There are many obstacles, but they are not insurmountable. If the community works together, it can be done.

Mayor Gysberts stated the Mayor and Council have not sat idle during their first eight months in office. They have all received feedback from citizens and reviewed the information. The neighborhoods have to be engaged.

Councilmember Metzner stated he agrees with Councilmember Brubaker's points. He also wants the citizens to know this discussion is not a reaction to the potential deal with the Hagerstown Suns in Fredericksburg, Virginia or in Winchester, Virginia. The reason there is not a stadium in either of those cities, or in Hagerstown, is the \$ 30 million to \$ 40 million anticipated investment. It is not an easy process to consider this type of investment. He anticipates there will be a five year lease between the Suns and Hagerstown at Municipal Stadium. There continues to be the desire to keep the Suns in Hagerstown. This administration raised the question about the proposed location. There are a number of reasons to locate the stadium downtown. A major roadblock for sites other than the downtown site is funding. The County Commissioners and the State of Maryland have indicated they will assist in the funding for the downtown site. Councilmember Metzner anticipates that assistance will not be provided for any other site. The only viable site, outside of Municipal Stadium, is the downtown site. He noted the Suns have indicated they would not play at Municipal Stadium. It has been difficult to generate interest from private investors when they don't know what the Mayor and Council are going to do. He stated they need to announce there is a site and it is the downtown site. This Council should be doing what Fredericksburg officials are doing and that is meeting with Bruce Quinn, majority owner of the Suns. There has to be some type of commitment from the Suns to Hagerstown. He mentioned that Fredericksburg and Winchester are not courting the Hagerstown Suns. The Suns are courting them. He suggested meeting with Mr. Quinn in executive session as soon as possible. He would

then hope an announcement would be made by Mr. Quinn that staying in Hagerstown is as viable an option as moving to Fredericksburg. He wondered what Mr. Quinn will do if there is no lease with Hagerstown when Fredericksburg decides not to move forward. If the Suns are not in Hagerstown, the City should be seeking requests for proposals for a lease for Municipal Stadium for the 2015 season. He stated this should not happen until a concentrated effort is made with the Hagerstown Suns.

Councilmember Munson stated this is a moment of change in Hagerstown. He has devoted a lot of thought to this issue. Sometimes a project needs a transfusion and he is making a commitment, on a short term basis, to give this project the needed transfusion. During the campaign, he told a lot of people he would not vote for a stadium downtown. This was easy for him to say since he was not a member of the Mayor and Council and did not have information on the history and previous discussions. He would prefer the former hospital site for a stadium but the funding plan is not strong for that site. When someone is part of the government and has to make decisions, they should be good decisions that are meaningful for the community. It looks very different when that person is on the inside of the government than when they are on the outside looking in. There is no question that each person of this Mayor and Council has contributed in some way to help develop downtown Hagerstown. Since this body has been in office, members have had the opportunity to attend 22 grand openings. These businesses didn't just happen, they opened because this Council established policies that allowed them to open. When he took office, he thought if the Board of Education Central Office was downtown it wouldn't matter where the stadium was. There would be people in restaurants and shops and people would want to come downtown. Through no fault of the City elected officials or staff, the relocation didn't happen in downtown. The next endeavor was a proposal from Sora Development. Those involved put in a lot of hard work trying to help the Mayor and Council develop this community. The Mayor's summary of the proposal was accurate. At some point, Sora's efforts ceased. He does not see anything happening in downtown. There is no large company or manufacturer looking to locate downtown. There are a number of new restaurants. He is concerned they won't survive without people in the streets. He has made many calls and spent significant time asking people to help downtown. He has come to realize that nothing will bring people downtown like a stadium will. A new stadium and multiple use facility will cause development and create interest in downtown. It will take time for downtown to survive, even with a fast timeframe. If the downtown dies, the surrounding communities will die as well. He is willing to support a downtown stadium and to offer the support to Bruce Quinn. He will also support borrowing the money needed for the project. He will spend time in Annapolis and lobby the legislature for the \$ 10 million needed from the State of Maryland. He will also lobby the County Commissioners for their financial support. He wants to provide something positive for the community. His change in support gives the community the opportunity to move ahead. He mentioned the City's forefathers made difficult decisions as well, i.e. building of City Park, MELP and Burhans Boulevard. Hagerstown has always been a progressive City in many respects and citizens have always tried to move forward. He doesn't know what can be done downtown if a stadium isn't built. This is a last hope and he is going to be a part of

it. He may lose an election because he is trying to do the right thing. He is prepared to do the right thing for Hagerstown.

Mayor Gysberts stated a conference call is scheduled for Monday, August 26, 2013 with Bruce Quinn. An executive session may be scheduled for late afternoon on September 6, 2013. He appreciated Councilmember Munson's comments. This is not an issue that should be politicized. It is time to lead Hagerstown or get out of the way. It is time to do something bold. He stated all members of the Mayor and Council take downtown seriously. He spoke to a resident in the 100 block of Summit Avenue who is anxious to have something change there. He wants to make sure citizens are engaged at all points in the process and have ownership of the process. Citizen feedback will be taken under consideration.

Councilmember Munson met someone who traveled from Annapolis, Maryland to attend a game over the weekend. He believes this team will have the ability to draw more people to a new stadium.

Councilmember Aleshire stated if he didn't know better, he would say that speech was well scripted. He is responsible to the citizens and that includes investigating as much information as possible and allowing that to guide him to a decision. He did not come in to office or get elected on the notion he would or would not support a stadium. He didn't make promises regarding the stadium and he feels free to make a decision from the information. It is apparent that accessibility to a downtown site is a major consideration. There would be unknown additional costs incurred to remove the contaminated soil and ground water on the site. He has heard that estimates for removing the contaminates would be from \$ 500,000 to \$ 750,000. There would be clear costs differences between the downtown site, the former hospital site and the Option B site at Municipal Stadium. The Summit Avenue location has existing structures. An east end site would have fewer structures and the MELP property could be part of the vacant land. There would be 19 acres at the east end site, 8 acres at the downtown site and 7.5 acres at the former hospital site. The east end site is 2.5 times larger and access would be easier for patrons. Parking could be provided for 1,200 vehicles. He believes the access, parking, topography, geography and size are all better at the east end site. He wondered if people in Hagerstown will attend games. The attendance in Frederick is better and he wondered if that is partially because of the family activities they have, such as a carousel. The east end site would provide ample room for family activities. If the goal is to keep baseball in Hagerstown, the east end site is the best location in his opinion. If the goal is economic development, he does not think spending \$ 30 million in one block is right. He stated the City will take on \$ 40 million in debt. Councilmember Metzner and Councilmember Brubaker stated it has not been in the proposal for the City to cover \$ 40 million.

Councilmember Aleshire stated the County Commissioners will not commit the funding until after the next election. He has heard the State of Maryland will not commit funding to the City. The City is facing a \$ 3 million budget deficit in the next two years. The public should not be told the project is cost neutral. He has said he would

compromise on the site if it made sense. He does not think combining everything at a single location should occur.

Councilmember Nigh stated if people love baseball, they will go to a stadium, wherever it is located. She stated she has heard the former Mayor has said there will be a downtown stadium. She thinks a stadium downtown is a mistake. It will not put foot traffic in downtown. People will come to the game and leave after the game. They will spend their money at the stadium and won't need to go anywhere else to get anything. Fredericksburg, Virginia will have to tell the truth to their citizens. There is a new stadium in York, Pennsylvania and one shop owner said people go to the game and then go home. They don't visit the shops. She does not like dealing with Mr. Quinn.

Mayor Gysberts addressed several points that Councilmember Nigh mentioned. He has had no contact with the former Mayor regarding the stadium or any other issue. The City Ethics Commission has determined that a former elected official or employee cannot participate in negotiations for something they were involved with while in office or employed. One of the cities that has a new stadium was hoping to make an emotional connection with residents and fans. He wondered why that is not happening in Hagerstown. The last two years have been spent discussing how bad Municipal Stadium is. He thinks some people may attend games just to see how bad the stadium is. The Mayor and Council don't have all the answers.

He has heard a majority of this Council say they are in favor of the downtown site. He did not take a position on the location during the campaign either. The next steps should be:

1. Efforts to raise 1/3 of the funding to cover the private investment
2. Finalize an agreement with the ownership of the Suns to stay in Hagerstown
3. Property acquisition
4. Continuous efforts to keep the community engaged

He stated resident and community feedback is important and will be an important part of the process as the City moves forward.

Councilmember Nigh asked how North High raised enough money to pay for the new stadium at the school. She hopes the funding is provided. She is concerned if the team does not survive, the taxpayers would be expected to pay for the stadium.

Mayor Gysberts stated he appreciated the comments and feedback from the Councilmembers. He appreciates Councilmember Aleshire's willingness to go with the majority of the Council. This is the City's opportunity to say to the community and the world this Council is taking bold action and seeking out as many people as possible to raise the needed funds. Time will be scheduled during a work session for additional discussion of the stadium. An executive session will most likely be held with Mr. Quinn on September 6, 2013.

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

*Bruce Zimmerman, City Administrator*, stated this has not been an easy issue for the Mayor and City Council. He has known they were not ignoring the issue and that they each had to sort through the information and develop their opinions. The responsibilities of elected officials are to be stewards of the City residents and the public funds. From staff's standpoint, everyone realized it would take time for the Mayor and Council members to review the information. He understands and respects the different opinions. On behalf of staff, he noted this was a good meeting and the decisions provide direction and a course for staff to work on.

### **MAYOR AND COUNCIL COMMENTS**

*Councilmember P. M. Nigh* expressed condolences to the family of John Ryder, retired police officer who passed away on August 15, 2013.

*Councilmember L. C. Metzner* expressed condolences to Mr. Ryder's family also.

*Councilmember M. E. Brubaker* stated the City Market celebrated its 230<sup>th</sup> anniversary on Saturday, August 17 2013.

*Councilmember K. B. Aleshire* had created a list of his strategic priorities in May. One of his priorities was demolition of the MELP building. His list also included a time frame for negotiations with the Hagerstown Suns. It now appears the Council has made a decision to allocate significant funds for a stadium. He stated a long range budget plan is needed. City taxpayers will most likely be facing a tax rate increase in the coming years. Every increase in expenditures impacts future budgets. The Mayor and Council need to start focusing on stopping the deterioration of neighborhoods. They need to focus on how to save the good and not on how to fix the bad issues in neighborhoods. A candid assessment of the condition of buildings in each block should be completed. He stated his vision for a new stadium was on the alternative site at Municipal Stadium, with access to both side of the property. The creek could be opened and the 10 acres behind the creek could be opened for a possible site for a convention center. He never had a vision of not doing anything or of not supporting a stadium. The funds expended on a downtown stadium could be expended on other efforts to assist downtown. This Council is governed by majority decisions. He will not tolerate any instances in lack of integrity in sharing information with each other. When one members asks who has been meeting and deliberating, they owe it to each other to be honest about those deliberations.

*Councilmember D. F. Munson* also expressed condolences to the family of John Ryder. Hagerstown was recently judged as the 74<sup>th</sup> best baseball market in the United States. He does not want to lose that tradition. There is a lot of greatness in this community because of baseball. Jim Palmer was at Municipal Stadium and more than 10,000 people attended the game. This rare opportunity to keep baseball in Hagerstown will be short lived. He stated the funding for the stadium at North Hagerstown High School was provided by the General Assembly through a statewide bond bill.

*Mayor D. S. Gysberts* noted there is significant interest in the stadium at the State level from the Governor, Lt. Governor and the Comptroller. This is a project the entire community can rally around and hopefully garner support from the community. He celebrates the fact that the City Market has survived for 230 years. He will be working with former Councilmember Ashley Haywood to enhance a community gardening program. He stated school is starting tomorrow and he urged everyone to be careful. He has visited a neighborhood in the West End to look at blighted properties. He encouraged citizens to contact the Mayor and Council to point out challenged areas. Augustoberfest will be held on August 24, 2013 and August 25, 2013. There is a lot of life in downtown Hagerstown. It is not dying on the vine. With the opening of the new coffee shop, there will be 19 restaurants that are located two blocks from public square. This is a sure sign of hope. He hopes everyone rediscovers Downtown Hagerstown.

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 6:44 p.m.

Respectfully submitted,

*Original signed by D. K. Spickler*

Donna K. Spickler  
City Clerk

Approved: September 24, 2013