

WORK SESSION AND 25TH REGULAR SESSION– September 24, 2013

WORK SESSION – September 24, 2013

Mayor D. S. Gysberts called this Work Session of the Mayor and City Council to order at 5:02 p.m., Tuesday, September 24, 2013 in the Council Chamber at City Hall. Present with the Mayor were Councilmembers K. B. Aleshire, M. E. Brubaker, L. C. Metzner, D. F. Munson, P. M. Nigh; City Administrator Bruce Zimmerman, and D. K. Spickler, City Clerk.

This work session was held to discuss the budget.

Stormwater Management Fee

A stormwater management fee was discussed. Mayor Gysberts stated in previous discussions, it was noted that an across the board fee would not be supported.

Councilmember Aleshire stated support for targeted areas was discussed. He can conclude there are cases where stormwater management is needed. Certain levels of development create a large amount of impervious space. He is concerned that the City would eventually have to take over maintenance of stormwater management ponds that are not functioning properly. Regulations will have to be established for the upkeep and maintenance of these facilities. The expenses should be covered by the parties using the stormwater management pond. All ponds should be maintained and improved in accordance with State of Maryland mandated regulations.

Rodney Tissue, City Engineer, stated there are 10 to 15 City maintained ponds within the City limits. The others are privately maintained. He asked if Councilmembers are thinking a special assessment for properties within the drainage area would be possible.

Councilmember Aleshire stated the impact and function of the pond as a regional stormwater management facility should be determined. He recalls asking staff to review some of the areas and address the regulatory requirements, with the intent to prioritize the areas by continued development.

Mr. Tissue stated a report will be presented to the Mayor and City Council on October 1, 2013.

Councilmember Aleshire hopes the report provides a cost estimate for the projects and a recommendation for completing them. Councilmember Brubaker anticipates the report will include potential revenue information. All projects, both profit and non-profit, should be included.

Mr. Tissue stated most stormwater management fees are established as an additional service. The State of Maryland will mandate that Phase II entities (which includes the City of Hagerstown) complete a stormwater assessment.

Councilmember Brubaker is concerned that the City of Hagerstown will be less competitive if a fee is implemented by the City but not by the County.

Councilmember Munson mentioned this is also referred to as the “rain tax”. As a local jurisdiction, the City is not required to impose the fee. Mr. Tissue stated that is correct. He pointed out that the City will be required to make improvements to the stormwater management systems.

Councilmember Metzner stated this is a good discussion but stormwater fees will not solve the deficit problem the City is facing.

There is a place holder of \$ 200,000 in the budget. The actual costs for the projects listed are in the hundreds of millions of dollars. Updated regulations from the State of Maryland are expected in October.

Mayor Gysberts stated he understands the stormwater management fee is long term.

Fire Service Tax

Chief Kyd Dieterich provided information about Frederick County, Maryland’s fire tax. Michelle Hepburn, Acting Director of Finance, stated Frederick established special tax districts to charge the fees.

Councilmember Aleshire stated urban areas in Frederick County pay less than other areas, even though the coverage areas are larger.

Chief Dieterich pointed out coverage would be consistent throughout the City.

Councilmember Aleshire stated he is not in favor of a fire tax because the City provides services above and beyond what other local jurisdictions do.

Councilmember Metzner stated it would make more sense if this was a County-wide fee.

Councilmember Munson wondered if the County would be willing to pay a fee for City fire companies to assist the struggling volunteer companies in the County.

It was the general consensus to not include a fire tax in the budget considerations.

Red Light Cameras

Chief Mark Holtzman was present to discuss red light cameras. The City of Frederick has a red light camera program. The program is cost neutral and generated just under \$ 200,000 in 2012.

Councilmember Metzner stated he is not in favor of red light cameras.

Councilmember Brubaker does not like the idea of red light cameras as a revenue item. He stated the speed cameras have slowed traffic in multiple locations.

Chief Holtzman reported the Frederick City Police Department noted a reduction in accidents of almost 60% when the cameras were installed. The cameras have made a significant impact on public safety.

Councilmember Brubaker expressed his concern that additional fees and costs in Hagerstown will cause people to look elsewhere to live and do business.

Councilmember Metzner expects there would be many complaints about red light cameras. The Board of Traffic and Parking have been reviewing this issue for several years. He would oppose locating a camera where there is not a problem with accidents. He does not support a red light camera program as a revenue stream. If there is an issue at an intersection, he would seriously consider a red light camera specifically at that location. He does not think motorists who don't make a complete stop before turning right on red should be cited.

Councilmember Aleshire stated red light camera technology may help with police officer presence in other locations by reducing the amount of time officers are needed at certain intersections.

Mayor Gysberts stated the review of the violations would be similar to the speed camera program. He assumed there would be a policy established for officer discretion for approving the violations.

Chief Holtzman stated a specific lane could be focused on. He will discuss this with other jurisdictions.

Councilmember Metzner stated location of the cameras is a key point for him. He wondered how many accidents have occurred at intersections where motorists have not made full stops.

Councilmember Brubaker wondered if accident reports include the cause of the accident. Chief Holtzman stated the department completed a study last year. Some suggestions to reduce accidents cannot be implemented because of State jurisdiction.

Chief Holtzman stated some of the most challenging intersections are not controlled by the City. Mayor Gysberts stated overlap of the pedestrian lights would help with safety.

Councilmember Munson would not support a red light camera at every intersection. The locations would have to be very specific and continually reviewed.

It was the general consensus to continue reviewing information about red light cameras.

Councilmember Munson pointed out that the reduction and near elimination of State funding of the Highway User Revenue has caused significant budget issues for Hagerstown. No tax increase was implemented to offset this reduction.

Councilmember Brubaker stated that about 30% of the Highway User Revenue was restored but it is a challenge for municipalities each year. Full restoration was not included in the recently enacted gas tax.

Mr. Zimmerman stated the Highway User Revenue is now included in the capital funding in the budget rather than in the operational funds. This revenue loss is part of what led to the reduction in staff two years ago.

Councilmember Brubaker noted that debt service expenditures may be lower than projected.

The next budget work session topics will include the Utility Dividend Transfers to the General Fund, Parking System User Fees and Utility Tax Rate. The Water/Wastewater Rate study will be discussed on October 15, 2013.

The Work Session was adjourned at 6:16 p.m.

25th REGULAR SESSION – September 24, 2013

Mayor D. S. Gysberts called this 25th Regular Session of the Mayor and City Council to order at 7:03 p.m., Tuesday, September 24, 2013 in the Council Chamber at City Hall. Present with the Mayor were Councilmembers K. B. Aleshire, M. E. Brubaker, L. C. Metzner, D. F. Munson, P. M. Nigh; City Administrator Bruce Zimmerman, City Attorney Mark Boyer and D. K. Spickler, City Clerk.

The invocation was offered by Councilmember Lewis C. Metzner. The pledge of allegiance was recited.

NEW BUSINESS

Adoption of Revised Rules of Procedure

Action Councilmember L. C. Metzner made a motion to adopt the established Rules of Procedure dated September 24, 2013. These Rules and Procedures shall apply to all meetings of the Mayor and City Council to be held by this administration and shall be in effect upon adoption of the Mayor and City Council. Councilmember M. E. Brubaker seconded the motion.

Discussion: The Mayor and Council Comments and City Administrator Comments sections will be moved to immediately follow Public Hearings in the meeting order.

Motion carried, 4-1 with Councilmember K. B. Aleshire voting No.

ANNOUNCEMENTS

Mayor Gysberts announced the Rules of Procedure for this meeting will be followed as adopted September 24, 2013. It was announced that the use of cell phones and electronic devices during meetings is restricted and that all correspondence for distribution to elected officials should be provided to the City Clerk and should include a copy for the City Clerk for inclusion in the official record.

The next scheduled meetings are: Work Sessions beginning at 4:00 p.m. on Tuesday, October 1, 2013, Tuesday, October 8, 2013, Tuesday, October 15, 2013 and the Regular Session on Tuesday, October 22, 2013 at 7:00 p.m. No meeting will be held on Tuesday, October 29, 2013.

GUESTS

Proclamation – Economic Development Week

Mayor Gysberts presented a proclamation to Jill Estavillo, Economic Development Manager, and Andrew Sargent, Downtown Manager, recognizing September 30, 2013 through October 4, 2013 as Economic Development Week.

CITIZEN COMMENTS

Nate Steuer, P. O. Box 1871, Hedgesville, West Virginia, is opposed to the proposed amendments to the noise ordinance. He stated the amendments are unconstitutional in regards to amplified free speech. The American Foundation for Freedom and Justice has submitted a correspondence to William Nairn, City Attorney, noting their concerns. He provided copies of the letter to the Mayor and City Council. He stated rights for amplified free speech must be protected. The proposed amendments do not allow for spontaneity of free speech since a permit is required five days in advance of the activity. He does not want this issue escalated into a legal matter. A precise measurement for sound is necessary. He stated the proposed amendments are providing an opportunity for further challenges.

Nancy McHenry, 7 E. Washington Street, Apt. 206, Hagerstown, Maryland, resides at the Alexander House. She is concerned there are not enough handicap parking spaces near the Alexander House. It is difficult to carry groceries into the building from distant parking spaces. Some residents have received parking tickets while unloading groceries. She asked the Mayor and Council to look into this issue.

Mayor Gysberts stated the potential purchaser of the Alexander House attended a recent Mayor and Council meeting. He asked if the residents had approached the owners about the parking. Ms. McHenry stated some had and they suggested contacting the Motor Vehicle Administration about a dedicated parking space.

Robert Stouffer, 1334 Woodland Way, Hagerstown, Maryland, is concerned that a large maple tree was taken down at the back of his property without notification to him or his wife. He doesn't think it was necessary to remove the tree. There were ruts left in his yard from the

work. Councilmember Nigh stated there was a similar situation on Maryland Avenue. Staff will look into this issue and contact Mr. Stouffer.

Dot Kline, 1036 Benjamin Place, Hagerstown, Maryland, is concerned about the new signs at City Park which indicate dogs are allowed in the park. She is concerned that people will not clean up after their dogs. She visits City Park often and wants to make sure everyone enjoys their time there.

Councilmember Metzner stated he has noticed there are more dogs in the park, rather than on the perimeter.

Mayor Gysberts stated the signs will be reviewed for clarity. Dogs are not allowed in City Park but are allowed around the perimeter.

Councilmember Munson stated Ms. Kline is the unsung hero of City Park. She was a big part of the Digby Building being removed and the space made into a parking lot.

Buddy King, 14 Holder Court, Boonsboro, Maryland, is opposed to the proposed revisions to the noise ordinance.

PUBLIC HEARING

Jonathan Kerns, Community Development Manager, stated after the close of each Community Development Block Grant program year, the City of Hagerstown must prepare the Consolidated Annual Performance and Evaluation Report (CAPER). The CAPER details how the City made use of Community Development Block Grant funds and other actions taken to benefit low and moderate income persons. Federal regulations require that the public be given an opportunity to review and comment on the report prior to its submission to the U. S. Department of Housing and Urban Development.

There was no testimony presented.

The record will remain open for 10 days for additional comments.

The public hearing was then closed.

CITY ADMINISTRATOR COMMENTS

Bruce Zimmerman, City Administrator, had no comments.

MAYOR AND COUNCIL COMMENTS

Councilmember P. M. Nigh stated the remembrance ceremony at Rose Hill cemetery on September 21, 2013 was very good. She thanked Steve Bockmiller, Zoning Administrator, and staff for putting it together. She would like more advertising of these events in the future. The recent firefighters medal award ceremony was amazing.

Councilmember D. F. Munson agreed the event at Rose Hill was well done. He also thanked Mr. Bockmiller.

Councilmember L. C. Metzner agreed.

Councilmember M. E. Brubaker thanked the members of the Church of Ladder Day Saints for cleaning up around the Hager House recently. He agreed with the comments about the Rose Hill cemetery event. He thanked Councilmember Aleshire and the Antietam Creek Watershed Alliance for their efforts to clean up the Antietam Creek.

Councilmember K. B. Aleshire attended a Washington County Coalition meeting last week. The State is discussing the expansion of the I-81 corridor, including widening the bridge across the Potomac River. This will have a positive impact on economic development in Washington County. He encouraged people to research the information about broadband service. He attended the Neighborhoods 1st picnic. The Antietam Creek Watershed Alliance clean up netted more than 100 tires and 1,000 pounds of metal. He attended a meeting of the downtown alliance last week and discussed the stadium. His previously stated top five goals are still a priority for him. He believes the Council is moving toward those goals.

Mayor D. S. Gysberts stated great things are happening in Hagerstown. The grand opening for Weyira Oil and Vinegar Tasting Gallery was held recently. He thanked the Antietam Creek Watershed Alliance for their efforts. The event at Rose Hill Cemetery was outstanding. The grave of Jacob Wheaton was rededicated. Mr. Wheaton was the first African American to vote in Maryland. A new memorial was unveiled for the Lion's Post, which was part of the grand army of the republic. The monuments honor civil war veterans who were African Americans. He thanked Steve Bockmiller and Karen Giffin, Community Affairs Manager, for organizing this event. He also attended the Neighborhoods 1st picnic. He met with seventh grade students at Northern Middle School. Lex Jolette, a blind Olympian, will be visiting 28 South tomorrow. Thunder in the Square will be held on Friday, September 27, 2013. The sound system at the Maryland Theatre is great. He is proposing a meeting with some members of the Board of Education to discuss the eventual reuse of the Winter Street school, the reuse of the Commonwealth Avenue facility, poverty levels and the Barbara Ingram School for the Arts and the Maryland Theatre.

MINUTES

On a motion duly made by Councilmember K. B. Aleshire and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to approve the minutes, as presented, for the Mayor and Council meetings held on August 13, 2013, August 20, 2013 and August 27, 2013.

CONSENT AGENDA

On a motion duly made by Councilmember D. F. Munson and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to approve the consent agenda as follows:

- A. Public Works: Bulk Road Salt Contract Extension – Cargill, Inc. – Current pricing \$ 67.52/ton
- B. Department of Utilities:
 - 1. Wastewater – Repair of Nitrate Recycle Pumps – Apparatus Repair & Engineering, Inc. (Hagerstown, MD) \$ 28,508.00
 - 2. Wastewater – VFD Purchase for In-Plant Pumps – Apparatus Repair & Engineering, Inc. (Hagerstown, MD) \$ 37,107.00
 - 3. Wastewater – ENR Filter Airlift – Parkson, Inc. (Fort Lauderdale, FL) \$ 45,380.00

UNFINISHED BUSINESS

A. Approval of an Ordinance: Hager’s Crossing PUD Amendment – West City Elementary School (ZM-2013-01)

Action: Councilmember M. E. Brubaker made a motion to approve an ordinance amending the Hager’s Crossing Planned Unit Development, including the condition endorsed by the Planning Commission, on property located at the northeast corner of Bartow Drive and Hager’s Crossing Drive. Councilmember D. F. Munson seconded the motion.

Discussion: Councilmember Nigh is not in favor of the closing of Winter Street Elementary School. She does not want to see another school taken out of the City.

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

B. Approval of an Ordinance: Amending the City Code, Chapter 140, Land Management Code

Action: On a motion duly made by Councilmember M. E. Brubaker and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to approve an ordinance to amend the Code of the City of Hagerstown, by deleting and repealing Chapter 140, Land Management Code, and replacing said chapter with a new Chapter 140, which incorporates by reference the text of the Chapter to be maintained as a separate document for the purpose of efficiency in the use of public resources.

C. Approval of an Ordinance: Amending the Land Management Code of the City of Hagerstown in Multiple Sections

Action: On a motion duly made by Councilmember M. E. Brubaker and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to approve an ordinance to amend the Land Management Code of the City of Hagerstown, previously incorporated by reference in Chapter 140 of the City Code. The amendments are being made in multiple sections to clarify

language and to add other substantial changes, such as those to car sales facilities, on-premise sign regulations and adding a Special Exception Use in the Industrial Restricted zoning district. A listing of the 24 amendments is incorporated into the Ordinance.

D. Approval of an Ordinance: Accepting Offer of Conveyance of Lands of Bowman Hollyhock, LLC

Action: On a motion duly made by Councilmember D. F. Munson and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to approve an ordinance authorizing the Acceptance of Conveyance of property known as lands of Bowman Hollyhock, LLC along the east side of Broadfording Road. The property will be conveyed to the City of Hagerstown by the adjoining land owner to allow the widening of Broadfording Road.

E. Approval of an Ordinance: Accepting Offer of Conveyance of Lands of 2003 Salem Avenue, LLC

Action: On a motion duly made by Councilmember K. B. Aleshire and seconded by Councilmember D. F. Munson, the Mayor and City Council unanimously agreed by voice vote to approve an ordinance authorizing the Acceptance of Conveyance of property known as lands of 2003 Salem Avenue, LLC along the east side of Broadfording Road. The property will be conveyed to the City of Hagerstown by the adjoining land owner to allow the widening of Broadfording Road.

F. Approval of an Ordinance: To Prohibit Smoking in Hagerstown Parks

Action: On a motion duly made by Councilmember P. M. Nigh and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to approve an ordinance to amend Section 173-30 of the Code of the City of Hagerstown to prohibit smoking in the parks and playgrounds.

G. Approval of an Ordinance: Acquisition of Permanent Drainage Easement – 626 and 638 Young Avenue

Action: On a motion duly made by Councilmember M. E. Brubaker and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to approve an ordinance to accept an offer of conveyance to the City of drainage easements from Rodney Turner and from Dean and Sharon Trovinger at 638 and 626 Young Avenue. These easements are being accepted so that the City may correct an existing drainage problem at this location.

H. Approval of an Ordinance: Authorizing a Three Month Extension to the Cable Television Franchise Agreement with Antietam Cable Television, Inc.

Action: On a motion duly made by Councilmember D. F. Munson and seconded by Councilmember K. B. Aleshire, the Mayor and City Council unanimously agreed by voice vote to approve an ordinance to authorize a three month extension of the Cable Television Franchise Agreement with Antietam Cable Television, Inc.

NEW BUSINESS

A. Introduction of an Ordinance: Repeal of Chapter 155, Noise, and Replacement with New Chapter 155

Action: On a motion duly made by Councilmember K. B. Aleshire and seconded by Councilmember M. E. Brubaker, the Mayor and City Council unanimously agreed by voice vote to introduce an ordinance to repeal Chapter 155, Noise, and replace it with a new Chapter 155, Noise Control. This change is proposed for the following reasons: 1) old Chapter 155 includes provisions which complicate enforcement of the ordinance; and 2) staff needs a better tool to protect the quality of life and public health, safety and welfare of the citizens of Hagerstown from excessive noise.

Councilmember L. C. Metzner made a motion to table the introduction of the Repeal of Chapter 155, Noise. Councilmember D. F. Munson seconded the motion.

Discussion: Councilmember Metzner stated he believes there are violations of the constitution with the ordinance. He would like to hear from Sheriff Doug Mullendore regarding the issues Funkstown has experienced with noise.

Councilmember Munson stated this ordinance responds to a need in Hagerstown and the Council needs to move forward soon.

Motion failed 3-2 with Councilmember K. B. Aleshire, Councilmember M. E. Brubaker and Councilmember P. M. Nigh voting No to table the introduction.

Discussion: Councilmember Brubaker stated this is an introduction and the ordinance could be amended prior to approval. He will not conclude it is unconstitutional without further review.

Motion to introduce the ordinance carried, 3-2 with Councilmember L. C. Metzner and Councilmember D. F. Munson voting No.

B. Introduction of an Ordinance: Transfer of Land Adjacent to 21-23 North Locust Street to CB Properties, LLC

Action: On a motion duly made by Councilmember K. B. Aleshire and seconded by Councilmember D. F. Munson, the Mayor and City Council unanimously agreed by voice vote to introduce an ordinance authorizing the transfer of land adjacent 21-23 North Locust Street. The property will be conveyed to CB Properties, LLC to be used by Burkett's Deli as an outdoor café.

C. Introduction of an Ordinance: Quit Claim 216 North Cleveland Avenue

Action: On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember M. E. Brubaker, the Mayor and City Council unanimously agreed by voice vote to introduce an ordinance to authorize the execution of a Quit Claim Deed for a strip of unimproved land at the rear of 517, 521, 523, and 525 Jefferson Street, as requested by Christ Lutheran Church. The strip of land is not needed for any public purpose.

D. Approval of a Resolution: Residential Lease Agreement for Property at 12727 Ritchie Road

Action: On a motion duly made by Councilmember M. E. Brubaker and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to approve a resolution authorizing the execution of a lease between the City of Hagerstown and Dwayne Miller, for the residence located at 12727 Ritchie Road, Smithsburg, Maryland.

E. Approval of Contract Extension: Third Extension Agreement between the City and Synagro-WWT, Incorporated

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 the Third Extension Agreement for Operations and Maintenance Services between the City of Hagerstown and Synagro-WWT, Incorporated. This agreement extends the existing operating terms of the Original Contract dated November 22, 1988 and the Extension Agreement dated June 29, 2006 for a term of 10 years.

F. Authorization to Accept a Grant from the Maryland Department of Business and Economic Development

Action: On a motion duly made by Councilmember M. E. Brubaker and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to authorize staff to accept a \$ 100,000 grant from the Maryland Department of Business and Economic Development for the purpose of hiring a consultant to conduct an economic analysis and prepare an implementation plan for Hagerstown's Sustainable Community Plan.

There being no further business to come before the Mayor and City Council, on a motion duly made, seconded and passed, the meeting was adjourned at 8:16 p.m.

Respectfully submitted,

Original signed by D. K. Spickler

Donna K. Spickler, City Clerk

Approved: October 22, 2013