

WORK SESSION AND EXECUTIVE SESSION – November 5, 2013

Maryland Theatre Sound System Dedication

The Mayor and City Council attended the dedication for the sound system at the Maryland Theatre at 3:30 p.m. The sound system project was jointly funded by the City of Hagerstown and Washington County.

EXECUTIVE SESSION – November 5, 2013

Councilmember L. C. Metzner 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)), to consider a matter that concerns the proposal for a business or industrial organization to locate, expand, or remain in the State, #4 (Section 10-508(a)) and an administrative function, #15 (Section 10-508(a)), at 4:15 p.m. in Room 407, 4<sup>th</sup> Floor, City Hall, Hagerstown, Maryland. Councilmember M. E. Brubaker seconded the motion.

Motion carried, 4-1 with Councilmember K. B. Aleshire voting no for Item #3.

The following people were in attendance: Mayor D. S. Gysberts, Councilmember K. B. Aleshire, Councilmember M. E. Brubaker, Councilmember L. C. Metzner, Councilmember D. F. Munson, Councilmember P. M. Nigh, City Administrator Bruce Zimmerman, City Attorney Mark Boyer, Karen Paulson, Director of Human Resources, Scott Nicewarner, Director of Technology and Support Services, Michelle Hepburn, Acting Finance Director, Chief Mark Holtzman, Rodney Tissue, City Engineer, John Lestitian, Director of Community and Economic Development, Michael Spiker, Director of Utilities, Jill Estavillo, Economic Development Manager, and Donna K. Spickler, City Clerk. The meeting was held to discuss collective bargaining, a business proposal and the ice rink management agreement. No formal action was taken at the meeting. On a motion duly made, seconded and passed, the meeting was adjourned at 5:55 p.m.

WORK SESSION – November 5, 2013

Mayor D. S. Gysberts called this Work Session of the Mayor and City Council to order at 6:03 p.m., Tuesday, November 5, 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 Mark Boyer, and City Clerk D. K. Spickler.

Street Closure Request for Krumpe's New Year's Eve Donut Drop

Karen Giffin, Community Affairs Director, Meslissa Fountain, What's NXT, and Pieter Bickford, WHAG news, were present to discuss a New Year's Eve event.

What's NXT is presenting the Krumpe's New Year's Eve Donut Drop on December 31, 2013 in the Public Square at 7:00 p.m. The event features free coffee, free hot chocolate, free popcorn and Krumpe's Donuts. Family festivities begin at 6:00 p.m. and the donut drop begins at 6:59 p.m. For added safety, the group is requesting to have the first block of South Potomac closed for the event from 5:30 p.m. to 7:30 p.m.

The street closure would be similar to the Wind Down Friday closures.

It was the general consensus to approve the street closure.

#### City Center Dollars Holiday Promotion

Andrew Sargent, Downtown Manager, discussed a holiday promotion that is happening in City Center.

For a second year, and building on the success of the City Center Dollar program, the Department of Community and Economic Development has again instituted a holiday shopping promotion to raise awareness of downtown businesses. During the months of November and December, if customers spend \$ 20 on City Center Dollars, they receive \$ 25 in vouchers. The extra \$ 5 is included in the DCED Budget under marketing and promotions.

This year, staff is marketing the City Center Dollars and the holiday promotions through the traditional channels but also in a few new ways, such as banners on the parking garage and railroad overpass on Burhans Boulevard, updating static window-clings for participating businesses, updating promotional flyers, advertising on Facebook and other popular social media outlets and updating the City Center Dollar's presence on the City's website.

City Center Dollars are gift certificates in \$ 5 increments that can be used in participating downtown businesses. They are treated like cash vouchers by the City Center businesses who then redeem them at the Department of Community and Economic Development offices for full face value. City Center Dollars are available for purchase through the Convention and Visitor Center Office on North Potomac Street. Currently, there are 29 downtown businesses that participate in the program and that number increases regularly as more businesses become aware of the benefits to participating.

Staff hopes that these efforts will raise awareness of all the unique shopping, dining and service opportunities here in City Center Hagerstown.

#### Hagerstown Suns – Municipal Stadium Improvements for the 2014 Season

Rodney Tissue, City Engineer, was present to discuss improvements at Municipal Stadium for the 2014 season. The lease signed by the City and the Hagerstown Suns in 2007 requires that the City commit up to \$ 35,000 of Capital Improvement Funds per fiscal year for upgrades to Municipal Stadium. The parties must negotiate in good faith to determine what upgrades shall be performed, but ultimately the City shall determine what annual upgrades can be completed.

In the last few years, improvements have been made to the electric system, clubhouse, backstop netting, a trail installed to the hospital parking lot, expanded the picnic area, added shade structures, and many other smaller projects. Staff has met with the Suns during the off season and they asked that City staff complete the following improvements:

1. Clean field lights
2. Replace plywood outfield fence
3. Add padding on posts
4. Miscellaneous items

The total estimated cost of these items is \$ 15,000. Funding for this request is from CIP C0040 Stadium Improvements.

Councilmember Aleshire stated he would not be supportive of spending \$ 168,000 for a team that will not be here after the next season.

Councilmember Metzner stated some people may ask why money would be put into improvements at the stadium when the Suns are leaving. He stated they, as a Council, have not given up on the idea of baseball in Hagerstown. There is not a viable opportunity right now.

Councilmember Munson does not want to have another empty facility.

It was the general consensus to endorse the plan of improvements to the Stadium and to authorize staff to complete the work prior to the season opener in April.

#### 2014 and 2015 Pavement Preservation Program

Rodney Tissue, City Engineer, was present to discuss the Pavement Preservation Program. The Council endorsed a draft 2014 street list in November 2012, and now the City must finalize the 2014 street list and begin to establish a list of streets for pavement preservation in 2015. This would allow utilities to budget for and install main replacements as necessary. In addition, property owners who receive curb and sidewalk notices will have approximately 12 months to complete the required work prior to the 2015 pavement preservation work.

Prior to 1995, selected streets were paved with asphalt based on the “worst-first” approach. Asphalt costs have risen from about \$ 30 per ton in 200, to \$ 75 per ton currently. The current budget for street paving is \$ 600,000 annually. State Highway User Revenue has been reduced to about \$ 350,000. In an effort to utilize the funding most effectively, staff completed a “pavement condition” survey, which is a comprehensive study of the condition of all the streets.

There are never enough resources to rebuild roadways and bridges. With constrained resources causing roadways to deteriorate to the point of no return, the City needs to get serious about preserving and maintaining this fundamental investment. Pavement preservation fills that gap. The essence of pavement preservation is the application of the right treatment, to the right pavement, at the right time. Research is now showing that the “worst first” approach is misplaced, actually causing the overall street system condition to worsen. Preservation is proactive, not reactive.

Developed by the United States Army Corps of Engineers, the Pavement Condition Index (PCI) is based on a survey of the number and types of distresses in a pavement. The result of the analysis is a numerical value between 0 and 100, with 100 representing the best possible condition (new pavement) and 0 representing the worst possible condition.

The City awarded a contract to complete the survey to Enterprise Information Solutions, Inc in late 2012. The survey was conducted in December, 2012. The survey showed that the City-wide PCI, with recent work, is 77.4. Over 70 is considered good.

Research indicates roads maintain a satisfactory rating more consistently when a pavement preservation approach is used for road maintenance.

Mr. Tissue mentioned that a sign inventory was recently completed as well. The inventory showed there are 8,482 signs in the City, with 6,807 being in good condition.

Councilmember Brubaker reported there is a committee reviewing the State Highway User Revenue and determining what policy for distribution would be beneficial to municipalities.

Councilmember Aleshire stated residents should be aware that keeping curbs clear of grass and debris is part of the pavement preservation process.

Councilmember Nigh expressed her concern that streets are paved and very soon they are patched because of work from gas companies and others. She wondered why the City, and not the company that did the work, is responsible for repairing the entire street when this occurs repeatedly.

Mr. Tissue stated the City Code states if the pavement is more than five years old it must be repaired responsibly. The Code does not require the street to be milled.

The estimated cost of the 2014 program is \$ 700,000 for all paving, milling, slurry seal, crack filling, and pavement markings. A very preliminary budget would be \$ 400,000 in fund balance (one time Highway User Revenue increase) and \$ 300,000 FY 15 Highway User Revenue.

It was the general consensus to approve the list of streets proposed for pavement preservation in 2014 and tentatively approve the list of streets for pavement preservation in 2015.

#### Crime Free Housing – Proposed Legislation and Changes to Relate Chapter 95 and 197

Bruce Zimmerman, City Administrator, Chief Mark Holtzman, John Lestitian, Director of Community and Economic Development, and City Attorney Mark Boyer, were present to discuss crime free housing.

Mr. Zimmerman pointed out that for the Mayor and Council, housing and quality of life are a high priority. The Mayor and Council adopted a resolution on October 22, 2013, which identified the City's vision and commitment to strengthening housing and neighborhoods.

In response to the resolution, staff has drafted a new Crime Free Housing ordinance intended to advance the safety and welfare of neighborhoods throughout Hagerstown. No fees are associated with the program that will be managed through a joint effort between the Police Department and the Department of Community and Economic Development.

Chief Holtzman stated Officer Gerard Kendle is the City's crime free officer. Through his work, several multi-family buildings are participating in the Crime Free initiative.

Chief Holtzman stated the program helps make neighborhoods safer by promoting safety with training for landlords and the management groups. Information regarding police calls can be shared timely with property managers so they can take immediate action. No neighborhood is exempt from crime. The rental to ownership ratio in Hagerstown is 60/40 (with rentals being 60). This is not the typical ratio. There are properties being rented out that the City is not aware of. Typically, there are more calls for police to rental properties than owner occupied properties. There are many quality of life issues associated with the rental ratio including public nuisances and disorderly conduct. Staff recommends implementing legislation to address the tenant issues City wide.

Mr. Lestitian stated if the City says education for landlords and crime free housing is important, it has to be implemented City wide, regardless of what type of rental the property is.

Mr. Zimmerman stated a City wide implementation sends a message to residents that all neighborhoods are important.

Chief Holtzman provided copies of a Crime Free Housing newsletter from the Village of Mount Prospect in Chicago. Since implementing a Crime Free Housing program, they have seen a reduction in crime. This program has improved neighborhoods. Reports also indicate gang activity has been reduced. Crime Free Housing legislation is not stand alone legislation by itself – it is connected with rental licensing.

The Crime Free Housing ordinance is modeled after the nationally recognized “Crime Free Program”. The tenants of the Crime Free Housing ordinance and subsequent changes to Chapter 95, Excessive Use of Police Services and Chapter 197 Rental Facilities include:

1. Crime Free Housing Operator’s License (for all residential rental units) No Fee
2. Crime Free Housing Seminar (completed by landlord or agent) No Fee
3. Written Lease Requirement beginning July 1, 2014 (for all residential rental units)
4. Crime Free Housing Provision (included in all residential rental leases)
5. Rental Facilities License must include a valid Crime Free Housing Operator’s License
6. Chronic Nuisance Property designation change for repeat violations at residential or commercial properties.

Mr. Lestitian indicated the Code Division would administer the licensing to streamline the process. Staff would provide the required seminar and training for property managers and owners. A rental license will not be issued if the training has not been completed by the manager or property owner.

Councilmember Munson stated a citizen contacted Mayor and Council members expressing her concern that these regulations would require the landlord to police their tenants.

Chief Holtzman stated the excessive calls ordinance has been in effect for many years. It has been used successfully in the past. This ordinance includes a provision that if there are repeated police calls to a property, the landlord must get involved. Warning letters are issued to the landlord advising them to eliminate the problem. This process has been

successful. If the landlord does not alleviate the problem, a fine is possible. No fines have been issued to date.

Mayor Gysberts stated landlords have an obligation to be concerned about the actions of their tenants.

Councilmember Munson clarified there is no additional cost associated with the Crime Free Housing requirements. Chief Holtzman stated that is correct. He asked if anyone besides the landlord can evict a tenant. Chief Holtzman stated the City will not be evicting anyone.

Councilmember Brubaker asked if the lease requires a provision that allows the landlord to evict the tenant. Mr. Boyer stated it is not required unless the property owner does not comply with the excessive calls ordinance. If the landlord uses the tool of the excessive calls law and is not able to evict the tenant, the police department will work with them. The property owner will be notified of calls for police at their properties.

Mayor Gysberts stated the City wants landlords and property owners to be partners with the City in making the City better. Property owners will benefit from the seminars the City is offering.

Councilmember Nigh asked if the owner, plus one property owners will be required to attend the seminars and be registered. Mr. Lestitian indicated they would be.

Chief Holtzman stated “out of town” owners will be permitted to send a property management group or manager to the seminar to meet the requirements.

Councilmember Munson asked what happens if the property owner does not complete the seminar. Mr. Lestitian stated a rental license would not be issued for the unit if the seminar has not been completed. He expects there will be some new property owners who are not aware of the regulations.

Councilmember Nigh stated the realtors could help notify potential owners of the regulations.

Councilmember Brubaker pointed out the number of qualifying calls is being reduced for both commercial and residential properties. He asked if the qualifying calls are for arrests or for convictions. Mr. Boyer stated the ordinance is designed to address the conduct of the tenants and visitors. The landlord has the opportunity to appeal a decision made regarding the ordinance.

Councilmember Aleshire asked if the Crime Free Housing includes places like the REACH shelter, where units are provided on a temporary basis. Mr. Boyer indicated he does not think REACH would be subject to the requirements since the tenants are not

paying. Councilmember Aleshire stated he would still want REACH to have to comply with the regulations.

Mr. Boyer stated the educational requirements and the lease requirements probably would not be applicable to this type of use. Mr. Lestitian stated there may be other regulations that would be more appropriate.

Councilmember Metzner asked for a report of the number of calls for service for these types of facilities.

Councilmember Aleshire stated he does not support including the owner plus one rental units in the program.

Mr. Lestitian indicated that 41% of the rental units in the City are single units.

Councilmember Aleshire asked what the purpose is of the biannual re-certification for owners of properties that do not have multiple calls for service. Mr. Lestitian stated it would be for the educational opportunity.

Mayor Gysberts stated he thinks it would be beneficial to include the plus one properties in the program.

Councilmember Aleshire noted the Hagerstown Housing Authority (HHA) is exempt. He asked if this is because they provide a similar program. Mr. Boyer clarified this is correct and the Federal government provides guidelines for the HHA.

Councilmember Aleshire asked if a license is denied, does that make the property uninhabitable. Mr. Boyer indicated the landlord has the opportunity to alleviate the situation before the license is revoked.

Councilmember Metzner stated there is a clause that allows the landlord to remove a tenant if the tenant commits a crime.

Councilmember Aleshire asked if a license is denied for a property management company at one address does that apply to other properties they manage. Mr. Lestitian stated it applies to the property management company. They would not be able to qualify for a license as the property manager for other properties.

A management company with multiple units will have to ensure all tenants comply or their license will be revoked. Mr. Boyer stated language could be included if the issues are alleviated.

Councilmember Aleshire asked if the definition of landlord and owner is the same. Mr. Boyer will revise the definition.

Mr. Lestitian stated the regular rental inspections are completed on the interior and exterior every four years. Councilmember Metzner wondered why the City would have to notify the landlord. Chief Holtzman stated it helps the landlord.

Councilmember Metzner is concerned there is a clause in the agreement that allows the City to enter the residence. He believes the landlords would have the power to protect their tenants from this kind of entry.

Councilmember Aleshire stated the City cannot pretend the neighborhood issues don't exist. This ordinance will help address some of the issues.

Councilmember Brubaker pointed out the Bradford Apartments welcome these type of programs. The Bradford is exceptionally well managed.

Mayor Gysberts suggested maintaining a chronic nuisance list that is provided to the public for their information.

Mr. Zimmerman indicated an updated draft of the ordinances will be provided for the Mayor and Council by November 19, 2013 for additional review. Feedback from the community is welcomed.

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

*Bruce Zimmerman, City Administrator*, reminded everyone that Monday, November 11, 2013 is a City holiday.

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

*Councilmember D. F. Munson* congratulated the Alsatia Club on the successful parade. He thanked the City employees who cleaned up after the parade.

*Councilmember K. B. Aleshire* received a proposal from one rental property owner for an incentive based program that he would like to discuss at some point. He attended the Greater Hagerstown Committee meeting on October 25, 2013.

*Councilmember M. E. Brubaker* and other officials attended the sound system dedication at the Maryland Theatre earlier today. There was an unfortunate incident over the weekend with plaster falling. The Theatre has been looking for capital investment. If everyone pitches in, the Theatre can be revitalized. He believes the Maryland Theatre may be eligible for some of the City's incentive programs.

*Councilmember L. C. Metzner* attended the sound system dedication at the Maryland Theatre. He stated the Theatre is a jewel for Hagerstown.

*Councilmember P. M. Nigh* stated the sound system at the Maryland Theatre is capable of hitting decibels that were not possible before. She received a request from a resident for help with a resident at a connecting property who smokes. All the remaining Utility Relief funding has been distributed. She would like to do another benefit.

*Mayor D. S. Gysberts* thanked the Alsatia Club for organizing the annual Alsatia Mummers parade. The first annual Howloween Dog Costume Parade was held on October 26, 2013. The Spooky Sprint was also held on October 26, 2013. The Gridiron Classic between North Hagerstown High School and South Hagerstown High School will be held on November 8, 2013 at North High. The Doleman Black Heritage Museum fundraiser will be held on November 8, 2013. Several events will be held on November 11, 2013 to honor all veterans.

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 8:04 p.m.

Respectfully submitted,

*Original signed by D. K. Spickler*

Donna K. Spickler  
City Clerk

Approved: December 17, 2013