

31<sup>ST</sup> SPECIAL SESSION, WORK SESSION AND EXECUTIVE SESSION – December 10, 2013

EXECUTIVE SESSION – December 10, 2013

A motion was made to meet in closed session to consider the acquisition of real property for a public purpose and matters directly related thereto, #3 (Section 10-508(a)) and to conduct collective bargaining negotiations or consider matters that relate to the negotiations, #9 (Section 10-508(a)), at 3:05 p.m. in Room 407, 4<sup>th</sup> Floor, City Hall, Hagerstown, Maryland.

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

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, John Lestitian, Director of Community and Economic Development, Andrew Sargent, Downtown Manager, Karen Paulson, Director of Human Resources, and Scott Nicewarner, Director of Technology and Support Services. The meeting was held to discuss acquisition of a downtown property and contract negotiations. No formal action was taken at the meeting. On a motion duly made, seconded and passed, the meeting was adjourned at 4:02 p.m.

31<sup>st</sup> SPECIAL SESSION – December 10, 2013

Mayor D. S. Gysberts called this 31<sup>st</sup> Special Session, Work Session and Executive Session of the Mayor and City Council to order at 4:10 p.m., Tuesday, December 10, 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, and City Attorney William Nairn. City Clerk D. K. Spickler was not present.

Mayor Gysberts announced the agenda for this meeting has been amended due to inclement weather. Discussions which included guests from out of the area are being moved to January, 2014.

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 meet in Special Session.

**Introduction of an Ordinance: Authorizing an Additional Three Month Extension to the Cable Television Franchise Agreement with Antietam Cable Television, Inc.**

**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 an additional three month extension of the Cable Television Franchise

Agreement with Antietam Cable Television, Inc.

On a motion duly made, seconded and passed, the Special Session was closed.

WORK SESSION – December 10, 2013

Storybook Holiday 2013

Karen Giffin, Community Affairs Manager, was present to discuss the Storybook Holiday 2013, which will be held on December 14, 2013. This is a free holiday event with entertainment and activities presented by Frostburg Student Educator Association (FSEA). Activities include storytelling, holiday cookie decorating, plays, crafts and caroling. The activities will be held at various locations such as the Washington County Free Library, the City Farmers' Market, University Plaza and Walker Academy-Children's Theater.

Ms. Giffin mentioned this is another partnership between the City of Hagerstown and a non-profit group.

Proposed Utility Relief Concert 2014

Karen Giffin, Community Affairs Manager, was present to discuss a proposed Utility Relief Concert. She stated Councilmember Nigh suggested holding a Utility Relief Concert in March, 2014. The City has had three previous concerts of this type in the past. The concerts were put together by staff and partners because of concern with some resident's inability to keep up with mounting heating expenses. There has been a need for this assistance in the past. Additionally, the city partnered with a nonprofit to distribute the funds.

The goal of the concert was for individuals to enjoy a concert with local talent while funds were raised to help those in need with utility bills. These funds went to different utility providers and in the last disbursement of \$ 11,369.62 approximately 68% of these funds were paid for outstanding bills to City utilities. The City donated seed money of \$ 2,500 in order to start the process for the concert. City staff and community partners served on the committee.

It was the general consensus to support a Utility Relief Concert in 2014 and to provide \$ 2,500 in seed money, form a committee, provide staff time, enter into a partnership with a non-profit and provide assistance with promotion of the event.

Preliminary Agenda Review

**Consent Agenda**

A. Department of Utilities:

1. HVAC Upgrade at wastewater Treatment Plant Barn – ASN General Contracting (Upper Marlboro, MD) \$ 49,775.00

**Introduction of an Ordinance: Crime Free Housing**

**Introduction of an Ordinance: Revisions to Chapter 95 – Excessive Use of Police Services**

**Introduction of an Ordinance: Revisions to Chapter 197 – Rental Facilities**

Mayor Gysberts indicated the three ordinances associated with the Crime Free Housing initiative will be removed from the December 17, 2013 agenda and discussed at a later date.

**Approval of a Resolution: Hagerstown Ice and Sports Complex Operating Agreement**

Councilmember M. E. Brubaker asked that it be clear in the motion approving the resolution that there will be no lapse between the agreements with HYHA and the newly formed Operating Board.

Mayor Gysberts stated that approval of union contracts with AFSCME 3373 for three months and with IAFF 1605 for six months will be added to the agenda for December 17, 2013.

This completed the preliminary agenda review.

Stage 2 Disinfectant By-Product Rule/Willson Phase 4/Public Outreach

Michael Spiker, Director of Utilities, and Nancy Hausrath, Water Operations Manager were present to discuss the Stage 2 Disinfectant By-Product Rule (DBPR). Utilities Department Staff, Jeremy Hise, PE, Hazen & Sawyer, and numerous staff members at the Maryland Department of the Environment have been working together since 2006 on the DBPR regulatory requirement. The City contracted with Hazen and Sawyer in October, 2011 to complete the Design and Bidding Phase Services for the R. C. Willson Phase IV A Project, required to meet the regulatory requirement. Discussions regarding the financial issues, operational changes, regulatory process, etc. were held with the previous and present Mayor and Councils on multiple occasions. A Consent Agreement was completed with MDE on March 19, 2013 and approval of the \$ 11,100,000 construction contract occurred on March 26, 2013.

The March 26, 2013 Consent Agreement between the City and MDE provides a timeline that must be adhered to in order to ensure compliance with the Stage 2 DBPR while constructing major improvements at the R. C. Willson Water Treatment Plant. Staff requested that the MDE Safe Drinking Water Act Implementation Division allow for a 24 month extension for compliance, as designated by the USEPA in the Stage 2 DBP Rule. The City advertised the planned extension request in the local newspaper in December 2012 to allow for public comment and no comments were received during the meeting at City Hall.

It is the City's obligation to all stakeholders to update everyone on the project and to conduct Public Outreach discussions. Hazen and Sawyer will assist the City with the

requirements of compliance for the MDE Public Outreach component of the Consent Agreement. This specifically applies to a change in the secondary treatment process. Additionally, MDE requires the retention of Hazen and Sawyer to assist with this project for critical phase submittal review and to conduct a follow-up study mirroring the initial study that was completed in October, 2011.

Staff discussed the City's approach with MDE prior to any future informational meetings regarding the proposed Public Outreach with the Mayor and Council, Consecutive Systems, WASHO Health Department, etc. The Phase IV A Improvements are currently under construction and the utility is working toward a staged construction approach.

After the initial Mayor and Council meeting, staff will meet with Williamsport, Smithsburg, Funkstown, WASHCO Health Department, etc. as a precursor to any changes that may be required to the water treatment process. The City has met all Consent Agreement provisions to date and the following timelines are in place to ensure compliance with the Consent Agreement:

1. During the period of May 1, 2014 and August 30, 2014, implement the public information program for Phase B
2. August 31, 2014, analyze DBPR data from chemical improvements (Phase 4A) and report results to MDE
3. September 30, 2014, begin construction of Phase 4B, if DBPR test results show that Phase 4A has not been successful in reducing disinfectant byproducts and disinfectants, including TTHM levels
4. October 1, 2014, begin increased Stage 2 DBPR monitoring
5. October 31, 2014, complete construction of Phase 4B if DBPR test results show that Phase 4A has not been successful in reducing disinfectant byproducts and disinfectants, including TTHM levels

Councilmember Metzner mentioned that a group in Vermont had opposed this process.

Councilmember Brubaker suggested being clear and open about the process and providing examples of where it is working will be helpful.

Mr. Spiker stated they feel this process will provide the consumer with a better product.

#### Proposed Abandonment of Rail Line by CSX Transportation

Rodney Tissue, City Engineer, stated for several years, staff has been in contact with CSX regarding the unused railroad "spur" line that begins at the former First Urban Fiber Plant, crosses Eastern Boulevard, Frederick Street, Wilson Boulevard, and other streets until it intersects with an active rail line near the South Pointe development. This spur line was formerly a rail line that continued north in what is now Eastern Boulevard. Jill Estavillo, Economic Development Manager, was also present.

Staff inquired whether or not the six crossings of various City streets could be removed, as they are often in poor condition and school buses continue to stop at these

crossings even though there has been no active rail service on the lines for well over a decade. This line was upgraded in the mid-1990's as part of the First Urban Fiber development, but has not been active since.

Staff recently became aware that on November 25, 2013, attorneys for CSX filed an Abandonment Filing with the Surface Transportation Board. With this filing, CSX is planning to abandon the rail corridor. The City has 30 days to consider what they would like to see happen with this former rail corridor.

The following two options were then presented:

1. Option 1 – Do nothing – the City can simply work with CSX to remove the various crossings of the public streets. Depending on how the land was originally acquired by the railroad, the railroad corridor would likely revert back to the adjacent land owners when the abandonment is consummated, and as a result the rail corridor will be forever eliminated. CSX would remove the track and ties and the City could salvage the crossing gates and lights.
2. Option 2 – Railbanking for future trail development – Railbanking is a method where lines proposed for abandonment can be preserved for future rail use through interim conversion to a trail. There is a 30-day time period from the date of abandonment filing to file for railbanking. The City would have to file a Railbanking Request to the Surface Transportation Board (STB) and also a complimentary Public Use Condition letter to request the railbanking. Filing these letters does not commit the City to acquire the corridor or obligate the City in any way, rather it gives the City time to develop a Rail Trail proposal and undertake negotiations with the Railroad for acquisition. There is no fee for governments to file these requests.

After review by the STB, if CSX agrees to negotiate, the City would have to purchase the land from CSX. This process could take years to conclude. With railbanking, the City is not required to develop a recreational trail, although it is assumed this would occur. The railbanking laws do not require the trails to be developed. Railbanking prevents the corridor from reverting to the adjoining property owners.

While trails in the City parks have been very successful, and there is a growing use of the bicycle facilities, one factor that has to be considered is the quality of this corridor if it was converted to a recreational trail. The many industrial uses adjoining the trail; the numerous streets that have to be crossed in a short distance; possible impact on adjoining land owners, and the fact that it would currently dead-end at the southern end really marginalize the quality of any trail.

There is a possibility that the rail could cross the railroad to Rt. 65 with the cooperation of property owners and the railroad.

Mr. Tissue pointed out that elimination of six public street crossings have value in that the only way to create new at-grade rail crossings is to eliminate three for every new one

created. This potentially could provide the City with bargaining power for a crossing of the southern end to South High, one adjacent to Memorial Boulevard near Memorial Park that would allow a trail to City Park, or at some future development.

Mayor Gysberts asked how the loss of the rail will affect economic development. Ms. Estavillo pointed out there is a limited inventory of property in the City that has rail access.

Councilmember Brubaker stated the City could oppose the abandonment. Mr. Tissue stated he is not sure that is an option.

Councilmember Metzner stated railbanking would not commit the City to anything and the process could take years. If the rail is abandoned, he is not sure it could be reinstated.

Councilmember Brubaker stated railbanking seems like a viable option, since it does not commit the City to anything.

Councilmember Munson pointed out another factor is that if these six crossovers are closed, it provides the opportunity for future options of opening others. Mayor Gysberts wondered if this would be the case, whether or not there was a railbanking request.

Councilmember Aleshire questioned who is responsible for maintenance of the property once the line is abandoned. Mr. Tissue stated CSX will remove the rail and ties and maintenance becomes the responsibility of the adjacent property owners if it is not railbanked. Mr. Tissue pointed out the condition of the rail is poor and would have to be replaced before anyone could use it.

Councilmember Aleshire stated he has no interest in proceeding with railbanking without a plan for the trail.

It was the general consensus of the Mayor and City Council to proceed with the railbanking request. Additional information will be requested from CSX.

Mr. Tissue then discussed the weekly refuse collection. Because of the winter weather, the contractor suspended collections this afternoon. Collection will resume tomorrow, but there may be delays. Collections will be back on schedule by Thursday. Yard waste collection will continue for two more weeks. The Department of Public Works will begin Christmas tree pickups on January 6, 2014.

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

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

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

*Councilmember D. F. Munson* thanked everyone who helped to keep the City safe during the recent bad weather. The MSO performance on Saturday, December 14, 2013 was excellent. He is sorry that Tom Riford, CVB Executive Director, is leaving for another position.

*Councilmember K. B. Aleshire* thanked everyone who helped make the tree lighting event a success. He stated Tom Riford's enthusiasm will be missed. There should be significant discussion on how to deal with the anticipated deficit in the City's budget.

*Councilmember M. E. Brubaker* stated the holiday events have been very nice. He thanked everyone involved with the planning and execution of the events. The MSO concert was excellent. Everyone at this table is concerned with the coming budget. The Mayor and Council members are trying to continue moving the City forward while managing the budget.

*Councilmember L. C. Metzner* expressed condolences to the family of Ricky Delauter, retired Water Department employee, who passed away recently. He thanked the people involved with all the holiday events.

*Councilmember P. M. Nigh* thanked the volunteers for all their help with the holiday events. She is concerned about the poor paving repair jobs completed by Columbia Gas on Mulberry Street and other streets.

*Mayor D. S. Gysberts* thanked everyone for their work on the many exciting holiday events.

There being no further business to come before the Mayor and City Council, on a motion duly made, seconded and passed, the meeting was adjourned at 5:10 p.m.

Respectfully submitted,

*Original signed by D. K. Spickler*

Donna K. Spickler (from the video)  
City Clerk

Approved: January 28, 2014