

EXECUTIVE SESSION AND 33RD REGULAR SESSION – February 25, 2014

EXECUTIVE SESSION - February 25, 2014

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 the acquisition of real property for a public purpose and matters directly related thereto, #3, (Section 10-508(a)), and to consult with counsel to obtain legal advice, #7, (Section 10-508(a)) at 5:04 p.m. in Room 407, 4th 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 (to consult with counsel).

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, Michelle Hepburn, Acting Finance Director, Scott Nicewarner, Director of Information Technology and Support Services, John Lestitian, Director of Community and Economic Development, Jonathan Kerns, Community Development Manager, Rodney Tissue, City Engineer, Michael Spiker, Director of Utilities, Steven O'Farrell, William J. Bowen, Inc. (Appraisers), and Donna K. Spickler, City Clerk. The meeting was held to discuss AFSCME # 3373 union contract negotiations, acquisition of two properties and the MELP property. No formal action was taken at the meeting. On a motion duly made, seconded and passed, the meeting was adjourned at 6:35 p.m.

33rd REGULAR SESSION – February 25, 2014

Mayor D. S. Gysberts called this 33rd Regular Session of the Mayor and City Council to order at 7:10 p.m., Tuesday, February 25, 2014 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 Martin E. Brubaker. The pledge of allegiance was recited.

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, March 4, 2014, Tuesday, March 11, 2014, Tuesday, March 18, 2014, and the Regular Session on Tuesday, March, 2014 at 7:00 p.m. The State of the City will be held on Tuesday, March 18, 2014 at 7:30 a.m.

Mayor Gysberts announced that, based on feedback from last week and questions that Councilmembers have regarding the proposed revisions to Chapter 95 and Chapter 197 of the City Code, approval of these ordinances is being postponed until a Special Session on Tuesday, March 11, 2014. This will provide time to address the questions.

Mayor Gysberts encouraged people to attend a Public Input Meeting with Urban Partners at the Library on Thursday, February 27, 2014 at 6:30 p.m. This input meeting will provide an opportunity for people to voice their thoughts and ideas for Hagerstown's downtown.

APPOINTMENT

Michelle Hepburn has been appointed as Director of Finance. Mayor Gysberts administered the Oath of Office to Ms. Hepburn.

GUESTS

Proclamation – Recognition of Black History Month

Mayor Gysberts read a proclamation recognizing February as Black History Month. Reggie Turner, President of the Doleman Black Heritage Museum, accepted the proclamation.

CITIZEN COMMENTS

Timothy Lewis, 681 Westwood Street, Hagerstown, Maryland, stated his neighbor plows snow against Mr. Lewis' property. The City's Public Works Department had to remove this snow. He wondered if there were City Code regulations prohibiting this. Mayor Gysberts suggested Mr. Lewis discuss this question with the staff members that were in attendance.

Danny Richards, 900 W. Washington Street, Hagerstown, Maryland, has two rental units in Hagerstown. He is concerned that businesses will be subject to the Excessive Use of Police Services ordinance in the future. He owns the City Wash Tub at 145 W. Church Street. When the REACH shelter closes for the day, people look for another place to stay. This happens at the City Wash Tub. He has experienced vandalism and theft at the business. Mayor Gysberts stated a letter from Mr. Richards was forwarded to Chief Holtzman. Chief Holtzman has a meeting scheduled with the REACH shelter. Mayor Gysberts stated the regulations in Chapter 95 and Chapter 197 do not apply to businesses.

Allen Johnson, P. O. Box 459, Maugansville, Maryland, is president of the Landlords Association. He thanked the Mayor, Councilmember Brubaker, Bruce Zimmerman, John Lestitian, and Chief Holtzman for meeting with their group last week. When the Rental Licensing Regulations were implemented, the Landlord Association helped improve the program

through meetings with Code Compliance. He hopes the same will occur with Chapter 95 and Chapter 197. He thanked the Mayor and Council for postponing the decision. Mayor Gysberts stated the Mayor and Council have been listening to the landlords throughout the discussions and have made changes to the proposed ordinances. There are questions about specific text that will be addressed prior to approval of the ordinances.

Nancy Allen, 924 Oak Hill Avenue, Hagerstown, Maryland, thanked the group of elected officials, staff and landlord association members for meeting last week. This was a good opportunity to present ideas and work on solutions to the problems facing City neighborhoods.

Mary Haines, 27 Laurel Street, Hagerstown, Maryland, thanked Code Compliance staff and the Fire Marshall for helping a landlord evict a problem tenant. She stated something should be done about the appearance of the Hamilton Hotel, with the falling paper in the windows. The County Administration Building should be cleaned.

Donna Mentzer, 443 Clarendon, Hagerstown, Maryland, is concerned about her neighborhood, where she has lived for 33 years. There are fewer owner-occupied homes in the neighborhood. The police are called to respond to fights in the rental homes repeatedly. When there is a call like this, she thinks landlords should be notified. Properties are not being inspected before a new tenant moves in. Families and neighborhoods need to be protected.

Todd Grimes, 405 S. Conococheague Street, Williamsport, Maryland, is President of IAFF # 1605. He spoke on behalf of all four City bargaining units. The groups are requesting that the City Charter be amended to recognize the four unions so there will be binding arbitration. They are requesting a ballot question be placed on the ballot in November, 2014. Mayor Gysberts asked that the request be submitted in writing.

Janet Bartels, 139 S. Mulberry Street, Hagerstown, Maryland, is concerned about the urban core revitalization process. She has been active in her Neighborhoods 1st group since it began. She will attend the public input session with Urban Partners. She also attended the Neighborhoods 1st Focus Group session. She wondered if census information is being considered during this process. She stated there can't be a vibrant downtown without a vibrant vision for the downtown neighborhoods, where everyone has a chance for a decent life. Tenants and their living conditions have to be taken into consideration. The residents need jobs and education. Groups should work together to figure out how to address the quality of life for the downtown residents.

James Devine, P. O. Box 2217, Hagerstown, Maryland, stated homeless people are pushed out in the cold when shelters close and have no place to go. Shelters should be told they can't let the people who make trouble in the facility. He asked the Mayor and Council to support an increase in the minimum wage. The crime free housing legislation should be expanded to businesses and city-wide. He wondered if fingerprinting is being done when there are burglaries. He is concerned members of a committee are selected without Council input. He suggested charging a lower rate for parking at the decks than the \$ 1.00 the library will be charging. He believes there should be more speed cameras, including mobile units.

Winslow Wheeler, 213 S. Prospect Street, Hagerstown, Maryland, is concerned about the four slum lord dwellings on either side of his home. The problems in neighborhoods are not leaky faucets. The problems include prostitution, drug use and sales, and fights. These are serious things that some landlords don't want to take care of. The four residences around him are just under the radar for being classified as a nuisance property. He is concerned that standards will be lowered like they were several years ago for code violations. He stated it is time to get serious about this legislation.

Mayor Gysberts pointed out action on the legislation is being postponed in order to be able to provide clarification of questions of some Councilmembers, not because of a meeting held last week. He knows there is support from Councilmembers to take action to improve neighborhoods. This legislation will benefit tenants and landlords. He encouraged people to come to the meeting next week and share their opinions. The Mayor and Council will consider all points of view.

Penny Nigh, 634 N. Mulberry Street, Hagerstown, Maryland, spoke on behalf of Neighborhoods 1st. She did not realize the crime free housing was being postponed until this meeting started. She wondered which Councilmember requested this action. Councilmember Metzner stated he still had questions about the text. She read a letter from July Wheeler (Neighborhoods 1st) supporting the legislation. There should be input from Neighborhoods 1st considered during the future discussions.

Eugene Anderson, Mt. Airy, Maryland, owns four rental properties in Hagerstown. He renovated all four properties. He does take responsibility for his rental properties. There are issues landlords are attempting to address. He works with his tenants to keep them off the streets and living in reasonable, decent housing.

CITY ADMINISTRATOR COMMENTS

Bruce Zimmerman, City Administrator, reminded residents the yard waste pickup resumes March 2, 2014. The North Stars Hockey team, will be competing in the State championship this weekend. He congratulated Ms. Hepburn on her appointment as Director of Finance.

MAYOR AND CITY COUNCIL COMMENTS

Councilmember K. B. Aleshire is concerned about the number of contacts that are made by property owners who have problems with the users of the cold weather shelters. He suggested reconsidering City funding support if the issues continue. His goal for the legislation in Chapter 95 and Chapter 197 is to reach a balance to address the issues in the specific cases and allow staff to focus on the issues. He suggested an additional ballot question be added – making sure citizens understand that binding arbitration means a firm decision. Binding arbitration takes the budget out of the elected officials' control. He stated last week was difficult for him as he felt like he was playing catch up instead of being involved in the issues that were being discussed. He mentioned he and other Councilmembers were not aware that the State of the City was planned for March 4, 2014. The State of the City has been scheduled for March 18, 2014. Only a few members of the Council were aware there was a meeting held with the Landlord

Association. He thought HNBP was being asked to attend a Council meeting. He was not aware the Urban Partners public meeting was scheduled for Thursday, February 27, 2014. There has not been an opinion submitted regarding the appointment of the project committee. He understands some members are not participating now.

Councilmember M. E. Brubaker attended the Maryland Symphony concert recently. He thanked everyone who is participating in the partnership. The State of Maryland has introduced a Bond Bill for the Maryland Theatre. He stated the article about the library charging for parking was not accurate. The first two hours are free at the library. There was a meeting with the landlords that was a dialogue with the group, nothing more. He thinks the Council is close to completing the legislation. He is considering supporting mandatory training. This would ensure that all landlords are aware of the regulations. He asked Councilmembers to let staff know what their questions are.

Councilmember L. C. Metzner had no additional comments.

Councilmember D. F. Munson agreed with Councilmember Brubaker.

Councilmember P. M. Nigh asked for details of the parking area planned at the dog park. Mr. Tissue stated six spaces are planned on the right side. She is concerned the last administration weakened the housing and building codes.

Mayor D. S. Gysberts stated the City sent out a press release announcing the members of the Project Committee for the Urban Partners study. The group had held one meeting before the Mayor and Council meeting in which a Councilmember questioned who the members were and how the process was handled. After the Mayor and Council meeting, three of the members decided not to participate. The group was revised and work continues. All stakeholder feedback is welcomed. He will be providing updates the Council. Plans include presentation for the project list on April 8, 2014. A final report is planned for June 17, 2014. He is doing his best to uphold the oath of office, execute the oath and be as transparent as possible. He is excited about the public input meeting being held on Thursday.

MINUTES

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 minutes, as presented, for the Mayor and Council meetings held on January 7, 2014, January 14, 2014 and January 28, 2014.

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. Department of Community and Economic Development:

1. Various Street Closures for Events in 2014
 2. Open Containers Law Exemption – Western Maryland BluesFest (May 29, May 30, and May 31, 2014) and Augustoberfest (August 23 and August 24, 2014)
 3. Approval of Funding for Utility Relief Benefit
- B. Department of Parks and Engineering:
1. Parks – Fairway Mower – Finch Services, Inc. (Westminster, MD) \$ 38,925.00
 2. Parks – Mowing Contract for Various Parks – J R Services (Smithsburg, MD) \$ 61,004.62
 3. Parks – Mowing Contract for Greens at Hamilton Run – J R Services (Smithsburg, MD) \$ 16,500.00
- C. Police Department:
1. Police Patrol Rifles – Lawmen Supply Company (Lanham, MD) \$ 17,634.56
 2. Trimble GPS Units – Brekford (Hanover, MD) \$ 24,220.00
- D. Department of Utilities:
1. Wastewater: Backhoe/Loader – Jesco, Inc. (Frederick, MD) \$ 79,685.88
 2. Water: Emergency Purchase – Valve Replacement – HD Supply (Martinsburg, WV) \$ 26,261.96

UNFINISHED BUSINESS

A. Approval of an Ordinance: To Increase Water Rates

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 increase the unit cost of water rates by 2% per year for Inside City customers and 2% per year for customers outside of the City over the next five fiscal years. These rate increases are necessary to meet the revenue requirements of the Water Fund in order to keep the fund self supporting as determined by the recently completed cost of service study prepared for the City by the Municipal Financial Services Group.

The detailed individual rate changes in the volume charges and fixed charges by meter size are indicated, by fiscal year, in the body of the ordinance. The increased rates shall be effective for all bills rendered on or after July 1, 2014 and for all bills rendered on or after July 1st of each of the subsequent four fiscal years.

B. Approval of an Ordinance: To Increase Sewer Rates

Action: 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 an ordinance to increase the unit cost of sewer rates at the following amounts for Inside City customers; FY 15 at 12%, FY 16 at 4%, FY

17 at 4%, FY 18 at 2% and FY 19 at 2%. The unit cost of sewer rates for customers outside of the City are as follows; FY 15 at 12%, FY 16 at 4%, FY 17 at 4%, FY 18 at 2% and FY 19 at 2%. These rate increases are necessary to meet the revenue requirements of the Wastewater Fund in order to keep the fund self supporting as determined by the recently completed cost of service study prepared for the City by the Municipal Financial Services Group.

The detailed individual rate changes in the volume charges and fixed charges by meter size are indicated, by fiscal year, in the body of the ordinance. The increased rates shall be effective for all bills rendered on or after July 1, 2014 and for all bills rendered on or after July 1st of the subsequent four fiscal years.

Discussion: Councilmember Brubaker pointed out the combined rates will still be lower than those in neighboring/comparable jurisdictions, even with the rate increase.

C. Approval of an Ordinance: Revisions to Chapter 95, Excessive Use of Police Services

D. Approval of an Ordinance: Revisions to Chapter 197, Rental Licensing

Both these items have been postponed for approval until March 11, 2014.

NEW BUSINESS

A. Approval of a Resolution: Sale, Issuance and Delivery of the City's Public Improvement Bond of 2014, a General Obligation Bond

Action: Councilmember L. C. Metzner made a motion to approve a resolution providing for the sale, issuance and delivery to PNC Bank, National Association ("PNC") of the City's Public Improvements Bond of 2014 (the "Bond") in the principal amount of \$1,735,000 or such lesser principal amount as shall be required to cover costs of issuance payable from the Bond. Councilmember D. F. Munson seconded the motion.

Motion carried 4-0, with Councilmember K. B. Aleshire abstaining from the vote.

The resolution provides that the Bond shall mature 15 years from the date of its issuance, shall bear interest at the rate of 2.50% per annum, and shall be subject to prepayment in whole or in part on any scheduled semi-annual interest payment date at a prepayment price of 100% of the principal amount being prepaid plus accrued interest. The resolution pledges the City's full faith and credit and unlimited taxing power to payment of the Bond and provides that allocable portions of debt service on the Bond shall be payable in the first instance from the Parking Fund and the Wastewater Fund. The resolution also designates the Bond as a "qualified tax-exempt obligation" for purposes of Section 265(b)(3) of the

Internal Revenue Code of 1986, as amended, contains representations and covenants relating to the tax-exempt status of the Bond, and fixes or provides for other details relating to the Bond. Closing on the Bond shall take place no later than March 14, 2014 unless otherwise agreed to by PNC.

B. Approval of a Resolution: Authorizing an ATM & Processing Agreement with World ATM to Provide ATM Machines in the City Farmers Market and the Public Parking Decks

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 a resolution authorizing the City to enter into a contract with World ATM to provide ATM Machines in the City Farmers Market, the University District Parking Deck and the Arts and Entertainment District Parking Deck.

C. Approval of Substructure Rehabilitation of Three Bridges on Burhans Boulevard

Action: 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 a contract with Olympus Painting, Inc. in the amount of \$ 1,312,672. The Mayor and Council further authorized staff to enter into an Inspection Services Agreement with the Maryland State Highway Administration and enter into an Agreement with Norfolk Southern Railroad to reimburse Norfolk Southern for their flagman on the project. All of the above is funded by 80% Federal Aid and 20% by the City as outlined on the "Contract Information" form.

D. Approval of Hagerstown Suns Fireworks Schedule 2014

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 ten fireworks shows for the Hagerstown Suns baseball games during the 2014 season and that the Mayor and Council's approval will exempt these ten shows from the City of Hagerstown's Noise Ordinance under Section 155-3 of the City Code. The Monday, May 5, 2014 game shall start no later than 6:35 p.m.

E. Approval of Health Care Changes for FY 15

Action: 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 for staff to proceed with the recommended changes to the health care program as discussed during the February 11, 2014 work session. The proposed changes to the program are recommended by the City's Health Care Committee and approval of this motion will allow staff to begin the process of

implementing the changes and communicating with participants.

Discussion: Councilmember Brubaker thanked the committee for their work. He pointed out insurance amounts have not changed for employees, even though premium costs are increasing.

F. Approval of Contract Revision for Consultant Services: Economic Analysis and Implementation Plan for Hagerstown's Sustainable Community Plan

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 revising the contract for Urban Partners to provide an additional \$ 6,500 that will allow for additional community engagement activities. The possibility of an expansion of the scope of services was acknowledged in the motion to award the contract to Urban Partners on December 3, 2013, provided the total project cost did not exceed the grant award amount of \$ 100,000. With this change, the contract award to urban Partners would increase from \$ 79,910 to \$ 86,410. The Maryland Department of Business & Economic Development, the grantor, has indicated that this contract revision is acceptable.

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 8:46 p.m.

Respectfully submitted,

Original signed by D. K. Spickler

Donna K. Spickler, City Clerk

Approved: March 25, 2014