

WORK SESSION AND EXECUTIVE SESSION – March 4, 2014

EXECUTIVE SESSION – March 4, 2014

Councilmember D. F. Munson 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)), and to consult with counsel to obtain legal advice, #7, (Section 10-508(a)) at 3:00 p.m. in Room 407, 4<sup>th</sup> Floor, City Hall, Hagerstown, Maryland. Councilmember L. C. Metzner seconded the motion.

Motion carried, 3-2 with Councilmember K. B. Aleshire and Councilmember P. M. Nigh voting No for the reason to obtain legal advice.

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, Michelle Hepburn, Director of Finance, Karen Paulson, Director of Human Resources, Scott Nicewarner, Director of Technology and Support Services, Rodney Tissue, City Engineer, Carroll Braun, AFSCME Representative, Officer Tom Bartles, Detective Tammy Jurado, Officer Jesse Duffey, Michael Spiker, Director of Utilities, City Attorney Mark Boyer and Donna K. Spickler, City Clerk.

The meeting was held to discuss various personnel issues, AFSCME # 3373 union contract negotiations, the MELP property status, and a request from the Hagerstown Suns to extend the current lease. No formal action was taken at the meeting. On a motion duly made, seconded and passed, the meeting was adjourned at 4:40 p.m.

WORK SESSION – March 4, 2014

Mayor D. S. Gysberts called this Work Session of the Mayor and City Council to order at 4:46 p.m., Tuesday, March 4, 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 and P. M. Nigh; City Administrator Bruce Zimmerman, City Attorney William Nairn, and City Clerk D. K. Spickler.

Hagerstown Suns: Proposed Third Amendment to Lease at Municipal Stadium

Rodney Tissue, City Engineer, stated this discussion is a follow-up to the discussion at the February 11, 2014 executive session. Based on the feedback from the majority of the Council, the City wants a lease amendment that yields no costs to the City to operate the stadium if the Suns continue to play there in 2015 and 2016. Based on this, the City Attorney revised the draft third amendment to the lease. Some of the highlights of the changes from the current lease include:

1. No City obligation to pay utilities
2. No City obligation for capital improvements or assistance with funding field maintenance equipment

3. All facility maintenance obligations shall be the Suns, NOT the City of Hagerstown. Suns to pay rent of \$ 25,000 per year for the 2015 and 2016 seasons. The Suns will make one non-refundable payment of \$ 50,000 in March, 2015.
4. 90-day termination clause valid with the mutual consent of both parties
5. Suns will not interfere with the City recruiting a replacement team

In effect, the amendment puts the complete financial burden of operating the stadium on the Suns. This is an annual savings to the City of approximately \$ 70,000 in operating costs and an additional \$ 35,000 per year in capital improvements.

In a non-ordinary event like a flood of the stadium and clubhouse, the City has no obligation to restore the facility. Getting the facility back in working order would be up to the Suns. Staff recommends that the City maintain the property insurance on the facility.

A new issue to the discussion is the request from the Suns to name the field (not the stadium). This has been added to the amendment as Section #5. In this draft, 100% of the proceeds go to the Suns to assist them with facility maintenance.

Councilmember Metzner asked if the current amendment is the City's or the Suns'. Mr. Tissue indicated it is a City document. This amendment transfers much of the costs to the Suns. The City would maintain property insurance and minimal building maintenance.

Councilmember Brubaker asked where signs would be placed if the naming rights are approved. Mr. Tissue stated signs would likely be placed inside the stadium, perhaps on the grandstand. Councilmember Brubaker stated it is confusing the Suns are asking for naming rights for the field when they are leaving Hagerstown. Mr. Tissue stated the naming rights would be a way for them to recoup some of the additional costs if the amendment is approved. Councilmember Brubaker thinks naming rights for three seasons would be interfering in the City's recruitment of a replacement team.

Mayor Gysberts pointed out that no other team can play in Municipal Stadium until the Suns have vacated the facility. This is according to minor league baseball regulations.

Councilmember Munson stated naming rights of the field is a good tool for attracting a new team. This is an opportunity that has not been utilized.

Councilmember Aleshire stated he does not think the agreement should specifically prohibit interference with an affiliated team. He suggested removing the word affiliated.

Councilmember Aleshire asked if the Suns would retain the rights to rent out the stadium to other users. He pointed out they could be charging for the use. He is opposed to extending an agreement through the 2016 season.

Mr. Tissue pointed out the second amendment to the lease agreement added the 90 termination (from either party) language.

Councilmember Aleshire supports including the 90 day termination clause for the 2015 season.

Councilmember Brubaker stated if this lease applies to the 2014 season, it needs to be made clear that since the City is paying for the insurance, the Suns will be responsible for the deductible if there is a claim. He recommended funding minor maintenance (approximately \$ 15,000) at the stadium. He is concerned about allowing naming rights for the field because the Suns are leaving. He feels the City is being generous in considering the request from the Suns to extend the lease for the 2015 and 2016 season.

Councilmember Metzner stated he thought the extension request was for the 2014 season, not 2015. It was clarified that the request from the Suns is to extend the current lease for the 2015 and 2016 seasons. A lease extension for the 2014 season was approved in November, 2012. Councilmember Metzner stated it seems there is not an urgent need to discuss lease extensions for the 2015 and 2016 season. He would support changing the lease for 2014 if the proposal for 2015 was applied.

There was not support for the proposal made by the Suns for the 2015 and 2016 season.

Councilmember Brubaker and Councilmember Metzner support a proposal to the Suns to revise the lease for the 2014 season in which the City would provide minor maintenance at the stadium and collect rent for 2014 at the proposed \$ 25,000 per year proposed by the Suns for 2015 and 2016.

This proposal will be presented to the Suns.

Mr. Tissue asked what happens if the team does not wish to renegotiate the lease amendment for the 2014 season.

Councilmember Metzner finds it offensive that the Suns, in effect, are asking the City to pay them to play in Hagerstown. If they don't want to renegotiate the 2014 season, he stated he recommends the Council discuss their proposal for the 2015 and 2016 seasons at a later date. He asked if the Suns are asking for permission for naming rights for this season.

Councilmember Munson pointed out many baseball fans appreciate the fact that the Suns will be here for at least one more season.

Councilmember Metzner pointed out there are many benefits to the Suns, most of which are indirect funding.

Tony Dahbura, Hagerstown Suns part-owner, stated the Suns and Hagerstown are partners, not enemies. They have to have a secure place to play in 2015. They will probably only be in Hagerstown for one year but the rent proposed is paid in 2015, for both 2015 and 2016, regardless if they play at Municipal Stadium in 2016 or not.

Councilmember Nigh asked if a lease extension will allow the Suns to hold other activities at the stadium if they are not playing there. Mr. Dahbura stated the proposed extension does not include language permitting this. Renegotiating the extension for the 2014 season is not acceptable. The budget has been set and the season is ready to start.

It was the general consensus to discuss naming rights at a later date, unless the Suns are willing to discuss the terms of the 2014 season extension.

### MindMixer Online Community Engagement Platform

Sarah Nelson, Planning & Outreach Coordinator, and Erin Wolfe, Communications Manager, were present to discuss a strategy for online community engagement.

The Mayor and Council have an established priority to increase the organization's efforts to expand community engagement. One strategy of achieving this important goal is developing platforms of communication that invite participation in new and creative ways. Staff are rolling out a project to enhance and put ideas to work. Branded locally as "engageHagerstown," this site is facilitated by MindMixer, an online tool that leverages the Internet and social media to connect organizations with community members who might not otherwise interact with government.

This is a modern and convenient way to engage people in positive and productive public discourse with the City and one another. The site will host a series of conversations that invite people to share ideas and stories, which will enable staff to incorporate feedback into planning and community-building activities. With "engageHagerstown," users can contribute their thoughts from Smartphones, tablets or desktop computers on their own schedule, providing the opportunity to engage a broader audience and generate a broader range of ideas, solutions and participation. The site allows staff to collect demographic information so the City may better target outreach to underrepresented groups.

Everyone will be encouraged to sign up to participate with their Facebook, LinkedIn, or Google Plus account, so posts are not made anonymously. Users earn points for contributing and supporting ideas and inviting friends to the site. Points can be redeemed for various rewards that highlight local places and create relational experiences.

Staff are currently in the design phase of implementing the site and plan to launch it community-wide on Tuesday, March 18, 2014.

Councilmember Munson is concerned people will be able to respond to the questions anonymously. Ms. Wolfe indicated participants will be required to login, which decreases the chance for anonymity.

Councilmember Munson asked if there are additional staff requirements for this initiative. Ms. Wolfe and Ms. Nelson will be reviewing the posts and responding to them.

Councilmember Aleshire asked what costs are associated with MindMixer. The cost is \$ 7,200 for a three year period. Councilmember Aleshire asked who determines what is posted, what is discussed and what users are denied access. He is concerned about freedom of speech violations. Ms. Wolfe and Ms. Nelson stated other municipalities using MindMixer expect users to follow a Code of Conduct created by the host.

Councilmember Aleshire wondered what liabilities might exist with this program. He does not want social media and virtual capabilities to replace the traditional means of communication. Many citizens don't typically participate in social media.

Mayor Gysberts stated citizens will be able to contact City representatives as they do now. Citizen comments are welcomed.

Councilmember Munson asked if mass, automated posts can be filtered out.

Ms. Nelson indicated the ultimate goal is to provide a way for people to provide healthy interaction. MindMixer will serve as an agent in letting the City know what people are thinking. Mr. Lestitian stated the purpose is to engage the community in positive conversation. Staff would have the capability to remove responses that were not appropriate.

Councilmember Nigh is concerned this will be used in a negative way.

Mayor Gysberts is confident staff members know how to use this initiative to engage citizens. These are not nefarious attempts to stifle any comments.

Councilmember Brubaker thinks this will appeal to youth and the City needs that engagement. There are legitimate concerns to be addressed, including who will be posing the posted questions.

Councilmember Metzner has viewed the City's Facebook page and has not seen negative comments. The City should move forward with this initiative and look to the future.

#### 2005 APFO/Excise Tax Agreement – Continuation of Discussion

Kathleen Maher, Planning Director, stated at a November, 2013 Work Session, the Mayor and City Council expressed some concern about continuing with the 2005

agreement given the reduced revenue potential for the City which has resulted from County rate reductions to the excise tax since 2005. The City Council requested that the Mayor and staff meet with their County counterparts to discuss this issue and determine whether any other revenue sharing opportunities exist to offset the excise tax reductions and help justify the City's continued application of an Adequate Public Facilities Ordinance (APFO) for schools in the development review process. City Attorney William Nairn was also present.

On February 22, 2014, the Mayor, City Administrator, Director of the Department of Community and Economic Development, and the Planning Director met with Commissioner Baker and County Administrator Murray. The County indicated that if growth climbed again, they might raise the excise tax rate again to a level higher than the current \$1.00/sq.ft. – perhaps to \$3.00/sq.ft. A discussion followed on the potential for a Tax Increment Finance (TIF) district being established in the downtown to help fund catalyst projects and the possibility that the County might participate in such a TIF. Apart from those two possibilities, the County indicated they were not aware of any other revenue sharing opportunities between the City and the County.

As outlined in the November 14, 2013 memo, times have changed since the APFO/Excise Tax Agreement was adopted in 2005. Potential City revenues from the excise tax have been greatly reduced as a result of County rate reductions in recent years. Residential growth levels in the city in the post-boom era have lagged well behind growth in the unincorporated areas of the County. Given that 87% of the schools serving the City also serve large areas outside the City, a large portion of growth from new development affecting City schools comes from development outside the City.

As the Mayor and Council and staff attempt to improve the fiscal health of Hagerstown, they must consider whether policies adopted during the growth boom that were designed to control growth and support infrastructure upgrade needs are still relevant in an era where the City struggles to attract economic growth and forge a sustainable path for the future. An APFO is a growth control measure and the City's residential growth volumes in recent years have not been at a level to overwhelm public infrastructure and thus justify subjecting new development to a growth control device such as an APFO.

The City needs measures that would make the City tracts of land and annexation opportunities more competitive for the residential and commercial market in the county. The resulting development would increase the City's tax base and help to make the City more fiscally sustainable. Repeal of the City's APFO for schools would make raw tracts of land in the City and annexable tracts of land on the borders more competitive for economic development.

Councilmember Brubaker asked if municipalities implement impact fees. Ms. Maher stated they can.

Councilmember Aleshire agreed with the staff's recommendation. He pointed out the County has waived excise taxes over the last few years. An APFO includes more than schools. He is concerned about the growth that occurs outside municipalities.

Councilmember Brubaker also agrees with the staff recommendation. He is concerned the City will miss out when growth increases.

Councilmember Munson stated the purpose of the APFO was to control growth. Circumstances have changed. He expects growth will start again.

Mayor Gysberts stated the opportunity to capture growth is in the downtown by appealing to young couples.

It was the general consensus of the Council to discontinue the City's APFO agreement and repeal the ordinance.

#### Moving Forward on Franklin – East Franklin Street Gateway Improvements

John Lestitian, Director of Department of Community and Economic Development, Jonathan Kerns, Community Development Manager, Andrew Sargent, Downtown Manager, Erin Wolfe, Communications Manager and Sarah Nelson, Planning and Outreach Coordinator, were present to present a plan for gateway improvements along the East Franklin Street corridor. Gateways generally set the tone for what may lie ahead, much like the entrance to a home often predicts the conditions of the interior. The current conditions along this corridor lead to negative impressions that are a barrier to the overall efforts to improve Hagerstown. While the façades for the majority of the structures along Franklin Street are code-compliant, there are many significant improvements which can be made. The recommendations in this plan are consistent with the City's established vision for Housing and Neighborhoods.

The area included in this action plan is East Franklin Street from Cannon Avenue to North Potomac Street. The concept includes future expansion of these efforts onto West Franklin Street. Staff have toured the area, spoke with residents and business owners, received input from the Faith Community Workgroup and conducted analysis of relevant data.

The vision for East Franklin Street is as a vibrant and welcoming gateway to the urban core that is clean, inviting and well-maintained. This area should be a source of pride to both residents and businesses in the neighborhood and community members who support the downtown. In order to achieve this vision, staff believe it is necessary that the city complete public improvements, that private-public partnerships be formed, that engagement activities increase and that programming be concentrated to support these efforts.

The average tenancy for residences on Franklin Street is 8 months. Using this information, staff discussed ways to improve the appearance and create pride in the area.

This is an area of people and businesses without hope. The Mayor and Council approved \$ 100,000 in the current fiscal year budget for neighborhood improvement projects.

The Department of Community and Economic Development (DCED) is going to adopt Franklin Street. Some ideas include new gateway signs, public art and landscape improvements. Banners may be placed on Franklin Street that reflects the City's values.

Two new grant programs are being considered and developed. One is to assist property owners to install carriage type lights and the other is to improve the building façades. Some improvements may be sidewalk cellar door replacement, tree boxes, window treatments, code violation abatements and uniform No Trespassing signs.

This will be a comprehensive outreach program, beginning with property owners and providing education on applicable codes. Staff will then reach out to business owners.

Along with Neighborhoods 1<sup>st</sup> groups, DCED staff will begin to adopt and improve the blocks on E. Franklin Street, by cleaning up and interacting with the people in the neighborhoods. It is hoped this will create long term and sustainable partnerships.

Mr. Sargent announced that Vincent Groh is providing \$ 15,000 for public art in this area.

Staff is asking for approval to move forward with this vision and to develop the two grant programs.

Councilmember Munson stated this is a good program. If it works, it will be an enhancement for the City. He asked why the blocks west of Potomac Street are not included. Mr. Lestitian stated this initiative can be replicated in other areas and will be expanded. The resources available will create a serious change in the targeted blocks.

Councilmember Aleshire stated this plan fits an equation he uses. In any given block, there are generally one or two anchors that people gravitate to. About 20% is junk and 50% is in transition. The conditions described are the image that people have of the area. He recommends a more substantial entrance sign. He also suggested replacing the no trespassing signs and adding planters in FY 14, rather than FY 15.

Councilmember Munson asked if there are plans for additional parking for the residents. Mr. Kerns stated parking will be discussed with the residents.

Councilmember Brubaker cautioned about having too many gaps in the streetscape. He commended staff for their efforts. They have presented a number of initiatives, despite the economic hardships. He stated downtown is experiencing a crisis.

It was the general consensus to move forward with the Franklin Street project. Mayor Gysberts commended staff for their effort and enthusiasm.

Review of Chapter 95, Excessive Use of Police Services and Chapter 197, Rental Facilities

Mayor Gysberts reviewed the discussions of the last four months for revisions to Chapter 95 and Chapter 197 of the City Code. The majority of the Council supports including code violations as potentially qualifying calls. Properties with more than three qualifying calls for service may be designated as a chronic nuisance property. The names of the property owners will not be included on an annually published list. The Council supports making the City driven training session/seminar a mandatory requirement if there has been one felony call or more than one qualifying call at a property. It is hoped that all landlords will attend the seminars and take advantage of the information provided regarding their rights and responsibilities. The seminars can be tailored to meet the needs of different groups.

The Rental Licensing regulations have been in place for more than 10 years. Revisions are needed to Chapter 197 in order to include the operator's certification. An operator must attend the seminar or sign a statement indicating they understand their rights and responsibilities. If the property is later designated as a chronic nuisance, the certificate may be revoked. This may occur after a property is deemed a chronic nuisance and no reasonable steps have been taken to correct the issues. The certificate is tied to the person, not the property. The definition of the steps will include working with the Hagerstown Police Department to proactively and progressively address qualifying calls as stated in Chapter 197.

The threshold for qualifying calls for apartment complexes has been discussed. There may be support for establishing the number of qualifying calls at 8 for buildings with less than 50 units and 12 for buildings with more than 50 units.

The appeal process was also discussed. The Mayor and Council will appoint a volunteer to serve as the Administrative Hearing Officer who will consider appeals. This will not be a staff position.

Mayor Gysberts proposed holding a Special Session on March 18, 2014 to consider the adoption of the ordinances for Chapter 95 and Chapter 197 of the City Code.

Councilmember Metzner stated it seems appropriate that three qualifying calls to a unit in a multi-unit complex should be the threshold. Councilmember Brubaker mentioned that some apartment buildings will never reach that threshold. There could be many that have only one call, but the problems still exist.

Mayor Gysberts reiterated that the certification will not be revoked if the operator is actively working to address the problem that triggered the qualifying call.

Councilmember Aleshire asked if operators with multiple locations under their certificate will lose the certificate for all their properties if one unit/location reaches the maximum number of qualifying calls. Mr. Lestitian stated the operator would lose the

certification and a new operator would have to be designated.

Councilmember Metzner is concerned that someone who goes through the appeals process will continue to act as an operator. He recommends making this a misdemeanor, with substantial fines.

A red-lined version of the proposed ordinances will be provided by the March 11, 2014 meeting.

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

*Bruce Zimmerman, City Administrator*, mentioned the trash and refuse pick up is being delayed one day this week due to inclement weather.

### **MAYOR AND COUNCIL COMMENTS**

*Councilmember L. C. Metzner* wondered if the Suns request should be discussed further next week.

*Councilmember P. M. Nigh* is glad the Crime Free Housing legislation is moving forward. This legislation is needed. Many people are throwing snow in the streets, which they should not do.

*Councilmember D. F. Munson* thanked City employees for their work during the most recent snow storm.

*Councilmember K. B. Aleshire* appreciates that the lease extension with the Suns was discussed in open session. This allows the Council to communicate more directly with the affected parties. He was unable to attend the lunch meeting at the Library today due to other commitments. The Urban Partners community meeting last week was well attended. It is good the citizens have the opportunity to be engaged in the process.

*Councilmember M. E. Brubaker* thanked Urban Partners, staff and the citizens who attended the meeting last week. He thanked City employees who are involved with clearing snow.

*Mayor D. S. Gysberts* attended the annual Chamber of Commerce Business Awards dinner. He congratulated Hagerstown Magazine on their 10<sup>th</sup> anniversary. He thanked the editors for presenting the community in a positive light. He thanked staff and Urban Partners for their efforts with the meeting last week. He thought the format worked very well. Citizens can provide their ideas at the City's website (Downtown Ideas). The schedule for presentation of the information is as follows: April 8, 2014 – discussion of catalyst projects and June 17, 2014 – final report. The Constant Yield Tax Rate information provided from the State of Maryland indicates the City would have to raise tax rates by 7 cents in order to receive the same income from property taxes as last year. If the tax base is increased, the rate won't need to be raised as much.

WORK SESSION AND EXECUTIVE SESSION  
2014  
MAYOR AND CITY COUNCIL

MARCH 4,  
HAGERSTOWN, MARYLAND

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 7:04 p.m.

Respectfully submitted,

Donna K. Spickler  
City Clerk

Approved: April 29, 2014