

34TH SPECIAL SESSION, WORK SESSION AND EXECUTIVE SESSION – March 11, 2014

EXECUTIVE SESSION – March 11, 2014

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 meet in closed session before a contract is awarded or bids are opened, to discuss a matter directly related to a negotiation strategy or the content of a bid or proposal, if public discussion or disclosure would adversely impact the ability of the public body to participate in the competitive bidding or proposal process, #14, (Section 10-508(a)) at 3:02 p.m. in Room 407, 4th Floor, City Hall, Hagerstown, Maryland. It is noted that Councilmember Nigh was not present for the vote but arrived shortly thereafter.

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 Giffin, Community Affairs Manager, Scott Nicewarner, Director of Technology and Support Services, Tom Robinson, President of CBG Communications, Inc. (by telephone), Bob Duchon, Vice President – River Oaks Communications Corporation (by telephone), and Donna K. Spickler, City Clerk. The meeting was held to discuss franchise agreement negotiations and strategies. No formal action was taken at the meeting. On a motion duly made, seconded and passed, the meeting was adjourned at 4:04 p.m.

34th SPECIAL SESSION – March 11, 2014

Mayor D. S. Gysberts called this 34th Special Session, Work Session and Executive Session of the Mayor and City Council to order at 4:16 p.m., Tuesday, March 11, 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 Mark Boyer and City Clerk D. K. Spickler.

On a motion duly made by Councilmember D. F. Munson and seconded by Councilmember P. M. Nigh, the Mayor and City Council unanimously agreed by voice vote to meet in Special Session.

Approval of a Resolution: Memorandum of Understanding between Hagerstown Police Department and the Department of Social Services, Division of Adult Protective Services

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 approve a resolution authorizing the

Hagerstown Police Department to enter into an agreement with the Washington County Department of Social Services. This agreement establishes certain investigative responsibilities between the Hagerstown Police Department and the Department of Social Services Division of Adult Protective Services as it relates to reported crimes against vulnerable adults. No additional costs are associated with this agreement.

Approval of a Resolution: Residential Lease Agreement for 38 N. Potomac Street, Apt. #1

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 a resolution authorizing the execution of a residential Lease Agreement at the City of Hagerstown property located at 38 North Potomac Street, Hagerstown, Maryland. The Lease will be between the City of Hagerstown and Charlotte Whalley and shall be in effect from April 1, 2014 to March 31, 2015.

Discussion: Councilmember Aleshire asked why the City is paying the water and wastewater service. Andrew Sargent, Downtown Manager, stated there is one service connection for the whole building. Councilmember Aleshire asked for clarification of the tenant's liable responsibility as outlined in Item 14. Mr. Sargent will provide this.

Mayor Gysberts thanked staff for their work on this project.

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

WORK SESSION – March 11, 2014

Mayor Gysberts announced the agenda order will be changed so that Councilmember Aleshire is able to be present for the discussion of Chapter 95 and Chapter 197.

Washington County Free Library Funding Request

Kathleen O'Connell, Assistant Director, and Pat Wishard, Communications Director, Washington County Free Library, were present to discuss activities at the library. Mary Baykan, Director, was in Annapolis and unable to attend the Mayor and Council meeting.

The Fletcher Library opened on October 5, 2013, with more than 2,000 people attending the opening ceremony. Four hours later, more than 5,000 individuals had visited the library. From October 5, 2013 until December 31, 2013, there were more than 183,000 visitors. The group study rooms have been reserved 399 times.

By any measure the new library is the major success story for Hagerstown bringing citizens of all ages and incomes to downtown. Library staff would like to build on that

success. It is apparent that the library can play a pivotal role in downtown revitalization by holding the types of programs that will attract a broad spectrum of citizens. Recognized authors and speakers, and community topical forums would be the goal with many programs planned in conjunction with Hagerstown events like the Blues Fest.

Ms. Baykan had submitted a letter to the City requesting that the City allocate \$ 30,000 in additional funding each year for the next three years to help to expand programming at the library.

The Library publishes a bi-monthly newsletter listing programs, classes, events, and more. A book fest is being planned. Many people visit restaurants downtown when they attend events at the library.

Councilmember Metzner mentioned that the Bicycle Advisory Committee, in connection with Bicycle Month, is hoping to show a bicycle movie at the library.

Councilmember Brubaker asked if the rate of visitors is remaining steady. It is anticipated that as many as 600,000 visits will be made to the library by October, 2014. Attendance at the branches is increasing as well.

Councilmember Brubaker clarified that parking at the library is still free for the first two hours.

Councilmember Munson asked if there has been any discussion about how to encourage people to visit the restaurants and shops downtown while they are at the library. Library staff is able to make recommendations if asked. A tour of downtown may be helpful for library staff. A sign directing people downtown on the doors at Potomac Street may help as well. Pamphlets about the City's amenities will be made available to visitors.

It was the general consensus of the Mayor and City Council to support the library as much as possible.

Wheaton Park Summer Camp Funding Request and Summer Play Camps

Junior Mason, Parks Superintendent, was present to discuss the summer play camps. For at least the past 20 years, the City has hired local agencies to provide recreation services for children in the community by providing summer play camps.

Karen Cook, Executive Director of the Robert W. Johnson Community Center, submitted a request for additional funding in order to offer the camp to more children. They currently serve 50 children and are hoping to increase the number to 80.

The Hagerstown YMCA, Robert W. Johnson Community Center, and Girls, Inc. have all expressed an interest in again operating the 8-week summer play camps in the City's parks.

The Hagerstown YMCA operates camps at two parks, Hellane Park and Pangborn Park. Each of these camps serves 60 children per day. The Robert W. Johnson Community Center operates a camp at Wheaton Park. Girls, Inc. serves 80-100 girls each day during the summer camp at their building.

The total amount requested is \$ 6,439 more than last year. Additional Community Development Block Grant funds are also allocated to provide food to the Community Action Council (\$5,775) to provide lunches at several locations including some of the camps. Funding for the camps is provided in the operating budget of the Recreation Division of the Department of Parks and Engineering. Second only to the Ice Rink utilities, this is a significant part of the Recreation budget and this program represents about 30% of all recreation dollars spent in the City.

Mayor Gysberts personally thinks any investment for children is positive for the community. He thanked the groups for their efforts.

Councilmember Munson suggested including drug abuse awareness discussions during the camps.

Mr. Zimmerman noted the FY 14 budget includes funding at the proposed rates from last winter. The requested increase from the Robert W. Johnson Community Center will be needed prior to the start of the FY 15 budget.

It was the general consensus of the Mayor and City Council to approve the requested funding increase. Staff will determine a funding source for the additional \$ 6,400.00.

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

Mayor Gysberts reviewed the changes from the discussion held on March 4, 2014.

The title of Chapter 95 is to be changed to Excessive Use of City Services. Appeals will be heard by an appointed Administrative Hearing Officer. The definition of a chronic nuisance was clarified.

The number of qualifying calls required to be classified as a nuisance property was reduced. A minimum number of qualifying calls was established. If a property owner reaches the chronic nuisance status, there will be fees/fines issued.

Councilmember Munson stated some landlords are concerned some calls will not be “real” calls. He stated the police will use their discretion in determining which calls are valid.

Mayor Gysberts pointed out Chapter 197, Rental Facilities, has been in place for 11 years. For properties that are not classified as Chronic Nuisance properties, the certification may be issued (without the required training session) if the owner or

designated agent manager provides a written acknowledgment of the obligations and responsibilities of Chapter 95 and Chapter 197.

Councilmember Brubaker wants to be sure public, informational meetings are offered by staff when the regulations become effective. Mayor Gysberts indicated staff will work with realtors, landlords and others about the regulations.

Mayor Gysberts stated an operator will only lose the certification if reasonable steps to address the problem are not taken. Reasonable steps include working with the Hagerstown Police Department to alleviate the problem. A notice will be issued to the agent indicating a nuisance call was handled. A notice to attend the training session is sent after the second qualifying call is established.

Councilmember Brubaker suggested notifying owners of any police calls to the property. Chief Holtzman stated this can be done through an opt-in email program

The training sessions will be provided free of charge by the Hagerstown Police Department. The training is optional, unless more than one qualifying call is determined.

The regulations require written leases. A written lease protects tenants and protects landlords.

Mr. Zimmerman stated a certification will not be revoked if the owner/agent is addressing the qualifying calls to alleviate the problem.

Mayor Gysberts stated these two ordinances are good pieces of legislation and will improve the quality of life for citizens.

Councilmember Aleshire clarified that the chronic nuisance designation includes code related violations as well as crime related violations. John Lestitian, Director of Department of Community and Economic Development, stated only crime related violations are considered to revoke a certification. A listing of the properties, by owner and/or management company, designated as nuisance properties will be published, based on crime related calls only.

Councilmember Aleshire asked why one call was chosen as the minimum for mandatory attendance at the training session. This will target the problem tenant. The larger properties are allowed more qualifying calls. Councilmember Aleshire asked if this means Washington Garden Apartments are allowed 14 calls before reaching chronic nuisance status.

Councilmember Aleshire asked what steps are taken after the mandatory training session if there are more qualifying calls. Chief Holtzman indicated after the 4th call, the certification would be revoked.

Councilmember Aleshire stated he understands many landlords do not want leases because it is easier to remove a tenant without one. The regulations do not require a specific term for the leases. It was pointed out State law requires leases for buildings with more than 5 units.

Councilmember Aleshire expressed concern with the language in the Crime Free provision that discusses an affiliation with someone who engages in criminal activity or commits a disturbance. He stated the tenant may be an acquaintance of that person. After some discussion, it was agreed to revise the language to clarify that the tenant has to knowingly allow criminal activity to take place at the residence to be a breach of the lease.

Disturbances should be defined to include any criminal conduct as defined by certain activities.

Councilmember Metzner stated that a domestic assault should also be considered as a breach of the lease agreement.

Councilmember Aleshire asked who revokes the certification. Mr. Lestitian stated the City revokes the certification. An appeal can be made to the Hearing Administrative Officer and ultimately to District Court. There is an automatic stay of the certification while under appeal, unless there is a life threatening issue.

Councilmember Aleshire clarified there is no cost to the participant for the training sessions, even in its mandatory state.

Councilmember Aleshire asked if these regulations apply to temporary facilities. Mr. Lestitian indicated treatment facilities are not governed by the Rental Facilities ordinance. However, temporary housing is governed. This will be discussed at a later date. A possible amendment to be considered is to define halfway housing as a rental facility rather than a treatment facility.

Councilmember Aleshire asked if the Administrative Hearing Officer will be unaffiliated with the City. Mr. Lestitian stated it would be a staff recommendation for a retired attorney or retired judge.

Mayor Gysberts stated he is proud of the Council and staff for the continued discussion of this issue.

Councilmember Metzner suggested adding language for the multi-unit housing structure that indicates a minimum of 3 or more calls to a single unit would qualify as a chronic nuisance property.

Mr. Zimmerman clarified that Section 95-2 language would be revised to indicate the minimum number of calls for each of the multi-unit and apartment listing would be three, or two if at least one is a felony.

Councilmember Munson asked if the names of the owners will be published. Mr. Zimmerman clarified that the names of the properties on the Chronic Nuisance (for qualifying police calls) list will be published annually. If the owner is working to address the issue, the certification would still be valid. However, the property will appear on the list. Councilmember Munson expressed concern that a disgruntled tenant or neighbor may continually call the police in an attempt to get the property on the list.

Mayor Gysberts stated the ultimate goal of this legislation is to protect neighborhoods, landlords and tenants.

Chief Holtzman stated the officers are aware this could occur. He stated they will be reporting any activity like this to the Mayor and Council.

Mr. Zimmerman summarized revisions will be made to the definition of chronic nuisances and the number of calls per unit in a multi-unit facility.

Approval of the ordinances will be included on the March 18, 2014 agenda.

Councilmember Munson stated the heroine problem in Hagerstown needs to be addressed. There were 30 deaths in the last several months in the community.

Mayor Gysberts reminded everyone the State of the City will be held on Tuesday, March 18, 2014 at 7:15 a.m. at Hager Hall, Dual Highway, Hagerstown, Maryland.

City Attorney Mark Boyer left the meeting.

Councilmember Aleshire left the meeting.

Recommendations for FY 15 Worker's Compensation Program

Karen Paulson, Director of Human Resources, Kevin DeHaven, Safety & Liability Insurance Coordinator, and John Schnebly and John Latimer, Keller-Stonebraker Insurance, were present to discuss the City's Workers' Compensation Insurance policy, which is scheduled for renewal effective July 1, 2014. The current year's premium for workers' compensation insurance is \$ 955,622. Preliminary estimates received from Chesapeake Insurance indicate a projected premium expense of \$ 1,490,000 for FY15. There is a growing concern that Chesapeake will continue to significantly raise the City's premium rates in the upcoming years, primarily based on losses arising from presumptive claims. Presumptions in workers' compensation laws are not new. However, over the years, these laws have become more expansive. In today's increasingly litigious society, employers face growing liabilities.

In an effort to address these concerns, the City's workers' compensation broker, Keller-Stonebraker Insurance, recently approached The Hartford to explore an alternate funding model to see if it would be a viable option for the City. The funding model since

1999 has been a guaranteed cost premium model. Staff met with The Harford and worked with Keller-Stonebraker to secure a proposal for a large deductible model.

Mr. Schnebly stated the rules for the insurance industry have changed. The presumption law shifts the responsibility for future diseases to the employer. The City's loss rate has risen, which also increased the premium. The increase in the premium rate is not a reflection of inadequate safety measures or employee performance, it is a reflection of the nature of the City's business, i.e. dangerous jobs such as public safety. Experience reports show employees are doing a good job.

Ms. Paulson presented three recommended program actions. Per the language in the workers' compensation broker services RFP conducted last spring, staff recommends allowing Keller-Stonebraker Insurance an opportunity to negotiate a renewal of their contract for workers' compensation brokerage services. A renewal would allow staff to take the time necessary to explore insurance options. The current contract price is \$ 35,000 per year.

Staff recommends a review of the possibility of moving to a self-insured model of funding. This is the one funding option the City has yet to explore. As it is unknown at this time if this will be viable option, staff proposes the use of an objective third party to conduct an analysis to determine if a conversion to a self-funded model is of benefit to the City.

Staff recommends CBIZ Benefits & Insurance Services conduct a program analysis. The scope of an analysis would include outlining the process and estimated costs associated with becoming a Self-Insured Employer in the State of Maryland, review of the City's prior Guaranteed Cost insurance coverage and losses, and compare to a Self-Insured program and compare the projected future costs of Guaranteed Cost insurance with the estimated costs of a Self-Insurance program.

It was the general consensus of the Mayor and City Council to accept the three recommended actions.

Mr. Schnebly indicated MML and MAACO are bringing this issue to the attention of legislators. Many jurisdictions in the State are experiencing the drastic increase in premiums.

Code Enforcement Priorities

This agenda item is being moved to March 18, 2014.

Appalachian Regional Commission Funding Request for FY 2015

Alex Rohrbaugh, Planner, was present to discuss a staff recommendation for a FY 2015 project funding request for the City of Hagerstown to the Appalachian Regional Commission (ARC) and authorization to submit request for review by the County

Commissioners.

The Tri-County Council of Western Maryland is seeking local project funding requests to the ARC for FY 2015. The deadline for submittal of Preliminary Project Descriptions to Washington County is April 4, 2014. The County Commissioners will prioritize all requests submitted in the county and will forward the request with their recommendation to the Tri-County Council for review and action. This year the matching requirement is up to 50/50. Projects must meet one or more ARC program goals and State objectives.

Staff recommends that the City submit two projects for consideration for ARC funding in FY 2015:

1. Wireless Internet Access in City Parks – Project Cost \$ 30,000, ARC Request \$ 15,000, Local match from City and private funding. The project will provide free wireless Internet access to City Park, Fairgrounds Park, and Pangborn Park for all park visitors.
2. Wastewater Collection System Rehabilitation (Inflow & Infiltration) – Project Cost \$ 900,000, ARC Request of \$ 350,000, City match of \$ 550,000. This is a multi-phase project to correct inflow and infiltration (I&I) from entering the City of Hagerstown’s Wastewater Collection System. As a result of these I&I correction activities, the City will gain additional capacity at the wastewater plant which in turn will allow the City to accommodate new growth and economic development opportunities within the community.

It was the general consensus of the Mayor and City Council to include approval of the application on the March 25, 2014 agenda.

CITY ADMINISTRATOR’S COMMENTS

Bruce Zimmerman, City Administrator, had no additional comments.

MAYOR AND COUNCIL COMMENTS

Councilmember M. E. Brubaker had no additional comments.

Councilmember D. F. Munson had no additional comments.

Councilmember P. M. Nigh reminded everyone that the Run for Your Luck 5K is being held on Saturday, March 15, 2014. She asked what is being planned to begin a search for a City Administrator.

Mayor Gysberts stated he has been working with Karen Paulson, Director of Human Resources, to develop a timeline. An executive session is planned for April to discuss this. It will be important to seriously consider hiring a “head hunter” to assist in the

search.

Councilmember Nigh stated she understands the methadone clinic on Day Road will be moving into a location in the County. She stated she feels it was unfair of a judge to criticize the drug task force recently in the newspaper.

Councilmember Munson stated the drug task force does an outstanding job.

Councilmember L. C. Metzner stated the judge was not criticizing the police but the minister. The judge's specific point was that what is being done to fight drugs is not working and something else should be tried. He was criticizing the system for continuing to do the same thing over and over expecting different results.

Mayor D. S. Gysberts mentioned the State of the City is being held on March 18, 2014 and the Run for Your Luck 5k is being held on March 15, 2014. The bicycle Ride with the Mayor will be held on May 10, 2014.

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 6:40 p.m.

Respectfully submitted,

Donna K. Spickler
City Clerk

Approved: April 29, 2014