

35TH SPECIAL SESSION, WORK SESSION AND EXECUTIVE SESSION – March 18, 2014

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Mayor D. S. Gysberts called this 35th Special Session, Work Session and Executive Session of the Mayor and City Council to order at 4:05 p.m., Tuesday, March 18, 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.

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

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

Action: On a motion duly made by Councilmember K. B. Aleshire and seconded by Councilmember P. M. Nigh, the Mayor and City Council unanimously agreed by voice vote to approve an ordinance to amend the Code of the City of Hagerstown, Chapter 95, Excessive Use of Police Services, to repeal and re-enact Chapter 95 Excessive Use of City Services. These amendments will:

1. Establish a definition for a chronic nuisance property
2. Amend the minimum number of police qualifying calls which must be met prior to becoming a chronic nuisance property
3. Establish the minimum number of certain code administration violations which must be met prior to becoming a chronic nuisance property
4. Establish an Administrative Hearing Officer to hear appeals

This ordinance applies to all properties throughout the City. Further, this ordinance supports the City of Hagerstown's Vision and Commitment to Housing and Neighborhoods, which is focused on protecting and enhancing the quality of life throughout the City.

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

Action: On a motion duly made by Councilmember M. E. Brubaker and seconded by Councilmember D. F. Munson, the Mayor and City Council unanimously agreed by voice vote to approve an ordinance to amend the Code of the City of Hagerstown, Chapter 197 thereof, Rental Facilities. These amendments will require that:

1. All residential landlords obtain certification as a residential operator
2. A FREE voluntary Crime Free Training Seminar be established which will be required under certain circumstances
3. All residential landlords utilize a written lease containing a Crime Free provision
4. A residential operator's certification may be lost for certain violations
5. Landlords shall take reasonable steps in response to HPD qualifying calls
6. All appeals shall be heard by an Administrative Hearing Officer

There are no additional City fees as a result of these amendments. This ordinance supports the City of Hagerstown's Vision and Commitment to Housing and Neighborhoods, which focuses on protecting and enhancing the quality of life throughout the City.

Discussion: Councilmember Munson stated these ordinances have been discussed for some time. The Mayor and Council attempted to address the concerns of all parties. This legislation is good for the City. These regulations will help fight crime in Hagerstown, without being overly burdensome to landlords.

Acquisition of 64 E. Franklin Street

Jonathan Kerns, Community Development Manager, stated the structure at 64 E. East Franklin Street is bank owned after recently going through the foreclosure process. The structure has been vacant since 2007. According to State records, the structure was originally built in 1885 and it contains three potentially livable stories totaling approximately 3,000 square feet. The property is currently not habitable.

Staff have negotiated a purchase price of \$ 30,000, which has been agreed upon by the seller. Community Development Block Grant (CDBG) Homeownership Program funds would be utilized for both acquisition and renovation. Sufficient programmed funds are available for the acquisition and renovation of this property.

Based upon current zoning regulations, the property can be rehabilitated as a single-family unit or two condominium units. Once acquired, staff will consult with a design professional to assist in determining the most appropriate number of units for the structure. Ultimately the renovations will create open, loft style layouts with upscale fixtures and finishes. Windows will be replaced with energy efficient, historically appropriate, wood replacement windows. All major systems will be replaced and central air conditioning will be included.

Although this project presents some unique challenges, successful revitalization of this structure for homeownership will be a positive step in enhancing one of the major

gateways to the downtown. This project reinforces the City's commitment to East Franklin Street and compliments the recently endorsed Franklin Street Gateway improvement efforts. The project is also in keeping with the Housing and Neighborhoods Vision established by the Mayor and City Council.

Introduction of an Ordinance: Acquisition of 64 E. Franklin Street for the CDBG Homeownership Program

Action: Councilmember D. F. Munson made a motion to introduce an ordinance to enter into a purchase agreement for acquisition of the property known as 64 East Franklin Street in Hagerstown, Maryland for the sum of \$ 30,000. The acquisition is authorized per Chapter 235, Urban Renewal, of the City Code. The property will be acquired through the Community Development Block Grant (CDBG) Homeownership Program. This program targets vacant and/or deteriorated properties for acquisition and renovation in order to provide Homeownership opportunities for CDBG eligible households. Funding for this acquisition is from Community Development Block Grant Funds. Terms of the acquisition are set forth in the Option/Purchase Agreement. Councilmember L. C. Metzner seconded the motion.

Discussion: Councilmember Aleshire asked how much may be needed for the renovation. Mr. Kerns indicated this cost is estimated at \$ 100,000 to \$ 120,000.

Councilmember Brubaker stated other options have been discussed, such as renovating to address the code issues and letting a new owner renovate the remainder as they see fit.

Councilmember Aleshire asked if the property is required to be owner-occupied if CDBG funds are used for the purchase. Mr. Kerns indicated CDBG rules do not require this; however, it has been the City's practice to require the property to be owner-occupied.

Councilmember Aleshire thought the City may abate the code violations but not take ownership of the property. He wondered if the City would abate all the vacant properties (10) on East Franklin Street and flip them for sale. When the City acquires the properties through CDBG, it limits a future owner to CDBG regulations.

Councilmember Brubaker asked if owner occupied could be a requirement. Mr. Kerns stated there has been a five year requirement in the past.

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

Introduction of an Ordinance: Authorizing 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 P. M. Nigh, the Mayor and City Council unanimously agreed by voice vote to introduce an ordinance to authorize a three month extension of the Cable Television Franchise Agreement with Antietam Cable Television, Inc.

Discussion: Councilmember Brubaker asked if there are additional fees for the extension. Mr. Zimmerman stated there are and the change order will be included in the consent agenda. He stated the funding source for the change order is the cable franchise fees.

Introduction of an Ordinance: Repeal of Adequate Public Facilities Ordinance

Action: On a motion duly made by Councilmember M. E. Brubaker and seconded by Councilmember D. F. Munson, the Mayor and City Council unanimously agreed by voice vote to introduce an ordinance to repeal Chapter 47, Adequate Public Facilities Ordinance (APFO), from the City Code. Given the significant changes in residential development growth volumes, the lowering of the County Excise Tax rates, annual waiver provisions, and the embedding of an alternative mitigation contribution fee in the County APFO since the City ordinance was adopted in 2006, the Mayor and City Council have determined that it is no longer in the best interests of the citizens of Hagerstown to continue with an APFO for schools at this time.

On a motion duly made, seconded and passed, the Special Session was closed at 4:27 p.m.

WORK SESSION – March 11, 2014

William Nairn, City Attorney, left the meeting.

Preliminary Agenda Review

Consent Agenda

- A. Department of Community and Economic Development:
 - 1. Community Affairs: Approval of Change Order for Cable Consultants
 - 2. Planning and Code Division: Purchase of Pick-Up Truck for Building Inspections – Hertrich Fleet Services (Milford, DE) \$ 19,742.00

- B. Department of Parks and Engineering:
 - 1. Engineering: Repair and Replacement of Guardrails at Five Bridges –

- Chesapeake Guardrails, div. of PDI-Sheetz Construction Corp. (Linthicum, MD) \$ 40,906.00
- 2. Engineering: City Park Walkway Improvements – Craig Paving, Inc. (Hagerstown, MD) Not to Exceed \$ 25,000.00
- 3. Engineering: Octagon Shelter for City Park – Metro Recreation (Jefferson, MD) \$ 32,000.00

- C. Police Department: Desktop Computers – Dell, Inc. (Round Rock, TX) \$ 14,500.00

- D. Department of Utilities:
 - 1. Light: Telecommunication System Upgrade – Glessner Protective Services (Hagerstown, MD) \$ 14,797.39
 - 2. Water: Willson Phase IV – Dirt Removal – Allan A. Myers, LP (Worcester, PA) \$ 15,153.00
 - 3. Wastewater: Pump Station 12 Interceptor Project Equipment Rental – JESCO, Inc. (Frederick, MD) \$ 27,462.50
 - 4. Wastewater: Pump Station 12 Interceptor Blasting Services – Elite Blasting, LLC (Fairplay, MD) \$ 28,870.69

There were no questions about the consent agenda.

Approval of AFSCME # 3373 Contract

The Mayor and Council have reached an agreement on a new contract with the American Federation of State, County and Municipal Employees, Local No. 3373. This collective bargaining agreement was ratified by the union's membership on Monday, March 10, 2014. The agreement is scheduled for Mayor and Council's formal approval during the Regular Session on March 25, 2014.

The term of the agreement will be April 1, 2014 through June 30, 2016. The agreement includes a 1% COLA retroactive to January 1, 2014, a \$ 1,000.00 one-time payment, changes to the 1st year salary wage scale, and advancement of a longevity step on July 1, 2014 and July 1, 2015. Other terms are outlined in a letter that is attached to the motion.

The projected cost of the contract wage enhancements for fiscal year 2013/14 is \$ 108,435. The projected impact to the General Fund in FY 15 is \$ 258,019 and \$ 411,360 in FY 16. Additionally, the City continues to absorb increases in workers' compensation, health insurance, and pension costs.

The contract term is April 1, 2014 through June 30, 2016. Members of Local 3373 will receive a 1.0% cost of living adjustment effective retroactively to January 1, 2014. Members will receive a one-time payment of \$ 1,000.00 gross, before any applicable taxes, to be received on April 11, 2014. This one-time payment is to address the fact that other union and non-union groups received higher cost of living adjustments that

members of Local 3373 did not receive. The 1st year salary on the wage scale will be enhanced incrementally to \$ 40,106.87 by January 1, 2015. On July 1, 2014, members of Local 3373 will advance to the longevity step on the wage scale that provides one enhancement (pay step) and, on July 1, 2015, will advance another step. There will be no other step enhancements and employees will be frozen at the step they received on July 1, 2015 for the remainder of the contract. Healthcare language has been changed in response to the Affordable Care Act.

Councilmember Munson noted that the Hagerstown Police Department offers a signing bonus and other incentives for eligible officers. Anyone interested in employment should contact the department.

Approval of Demolition of 10831 Water Works Road

Michael Spiker, Director of Utilities, reported the single story structure at 10831 Water Works Road was formerly rented as a residence and has been vacant for approximately four months. The monthly rent was \$ 580 per month which included water, wastewater and electric services. The onsite septic disposal system failed in 2011 and in order to continue to rent the property, a holding tank was installed on the property. In Calendar year 2013, \$ 1,200 was expended in disposal services for the holding tank contents.

Beginning in FY11 to present, the Division has spent \$ 16,504.70 on repairs to the structure, which is in excess of 60 years old. A portion of this amount was for lead paint abatement and the continuing issue with termite infestations. The exterior of the structure is an asbestos transite cement board shingle product that requires environmental precautions during any maintenance, painting, minor repair, etc.

Staff is requesting permission to demolish the structure based on the following factors:

1. The financial condition of the Water Division – the loss of rental revenue versus the continuing operational costs of the property would have a minimal effect on the financial wellbeing of the Division.
2. The overall condition of the structure – termite, lead paint, and asbestos issues.
3. The cost benefit of attempting to recoup the operational expenditures through future rent payments – average of \$ 392.00 per month in operational expenditures for the past 42 months paid by the Division.
4. The removal of a structure within the flood plain – the structure has flooded in the past.

If allowed to move forward and in order to secure the most cost effective bid in preparation of the Request for Proposals, staff will remove all three utilities and abate the asbestos from the structure. It was the general consensus to move forward with the demolition process.

This completed the preliminary agenda review.

Hagerstown Ice and Sports Complex Operating Agreement

Rodney Tissue, City Engineer, Paul Sweeney, and Pete Lowe were present to provide information regarding the Hagerstown Ice and Sports Complex. In December 2013, the Mayor and Council approved a Resolution authorizing an Operating Agreement with the Hagerstown Youth Hockey Association, Inc. (HYHA) for operation and management of the Hagerstown Ice & Sports Complex (HISC) through June 30, 2014. For the past several months, a new operating board comprised of all user groups has been organized and they have established their Articles of Incorporation and have passed By-Laws. The new operating board, called the Hagerstown Ice Amateur Athletic Association (HIAAA) is ready to take over operations of the Ice & Sports Complex, beginning Tuesday, April 1, 2014.

A group representing HIAAA and Mr. Tissue has met several times to review the proposed Operating Agreement. Some of the highlights of the Agreement are as follows:

1. Term is from April 1, 2014 through June 30, 2019.
2. HIAAA operates and maintains the HISC. The City is financially responsible for building and mechanical systems.
3. Future capital improvements to the building and ice making equipment are 75% the City's cost and 25% HIAA. Very little has been spent on the HISC over the last decade and improvements are needed.
4. Between April 1, 2014 and April 1, 2017, the HIAAA will be completing the locker room project and deferred maintenance improvements to the dasher boards, scoreboard, public address system, purchasing new rental skates, and completing other long-term maintenance. Progress on these improvements, which are solely funded by the HIAAA, shall be reported monthly to the City's point of contact and annually to the Mayor and Council. Rent will be charged at \$ 3,000 per month beginning April 1, 2017.
5. The City will continue to pay all utilities (about \$ 80,000 annually) but the HIAAA is charged with implementing energy cost saving measures.

Staff understands the HYHA will convey the balance of HISC's operating funds to the HIAAA. This will be approximately \$ 50,000 to \$ 60,000.

HIAAA has filed their articles of incorporation, approved by-laws and are filing for non-profit status.

Mr. Sweeney thanked the Mayor and Council for allowing this process to happen. The group, composed of members of all the user groups, is working well together. Their focus has been on returning the facility to the way it should be.

Mr. Lowe stated capital improvements are being planned, including replacement of the dasher boards. The estimate for the work is lower than previous stated. HIAAA will be providing 25% of the cost.

Mayor Gysberts thanked the Mediation Center for working with the groups and individuals to develop a mutual agreement.

Councilmember Brubaker asked if the capital improvement projects (CIP) are part of the agreement. Mr. Tissue stated they are not, but the inventory is.

Councilmember Aleshire asked if it is likely the tax exempt status will be granted. Mr. Sweeney indicated State regulations have recently changed and an answer is expected soon. Mr. Tissue stated the language in Item #9 could be revised if the status is not granted.

Councilmember Munson thanked everyone who made the new user group possible. He especially thanked Mr. Tissue for his efforts. He thinks a second sheet of ice will provide additional revenue by expanding the use of the rink.

Mr. Sweeney stated HIAAA wants to begin fundraising in order to fund its own operation. The public skate time is very popular. They will be looking at ways to increase the summer usage.

It was the general consensus of the Mayor and City Council to include the necessary resolutions to change the management to HIAAA on the March 25, 2014 agenda.

Police Athletic League (PAL) – License Agreement at Fairgrounds Park

Rodney Tissue, City Engineer, stated staff recently received a letter from Nick Varner of the Hagerstown Area Police Athletic League (HAPAL). The HAPAL, as identified in the request, would like to expand their program and use the area above their fitness area as an outdoor obstacle and exercise course. HAPAL would cover the insurance and the purpose of this would be to allow the youth in their program to have additional activities. Officer Varner was also present.

In addition, they have requested that the City convey to them the indoor skate park materials. Staff has a longer term goal of creating a skate park, but most likely the City would have to construct a concrete skate park. Therefore, staff find these items to be expendable and recommend that the Council convey the skate park items to the HAPAL.

It was the general consensus to approve the license agreement.

Economic Development Façade Program and Coach Lights Grant Program

John Lestitian, Director of Department of Community and Economic Development, was present to discuss and finalize two programmatic items that are part of the Franklin Street Gateway Enhancement Plan. As discussed with the Mayor and City Council during the March 4, 2014 work session there are two immediate action items:

1. Creation of a coach/carriage light grant program

2. Approval to use Economic Redevelopment funds for the existing façade program

In order to improve the lighting, appearance, and safety of the Franklin Street Gateway, the Coach, Carriage Light Grant Program concept was developed. The program will enhance individual façades and create a more welcoming environment with enhanced lighting at night. The improved lighting is an important aspect of the crime prevention through environmental design (CPTED) program.

This concept was endorsed by the Mayor and City Council during the aforementioned work session and the program framework is proposed as follows:

1. In order to be eligible, structure must be located in 000, 100, or 200 block of East Franklin Street.
2. Individual properties will be eligible for up to \$ 1,000 for installation of dusk to dawn carriage or coach style lights.
3. All work must be done by a licensed electrician.
4. No matching funds are required.
5. Program to be funded in the amount of \$ 30,000 from the FY14 approved Economic Redevelopment Fund budget.
6. Existing processes and applications will be utilized for the program.
7. Grant requests to be approved by staff.

The City's current Façade and Exterior Enhancement program is funded by State and Federal funds. Unfortunately, not all properties are eligible due to State and Federal requirements. There are currently multiple properties in the targeted area of East Franklin Street that need façade repairs that fall into the ineligible category for the program. The ineligible properties include strictly commercial buildings and buildings with liquor sales.

During the March 4, 2014 Work Session, the Mayor and City Council endorsed this concept to utilize \$ 30,000 of budgeted FY14 Economic Redevelopment Funds to assist these currently ineligible properties through the existing façade program. This will allow the existing façade program to capture the properties on East Franklin Street that are currently ineligible.

If approved, funding would be \$ 30,000 from the FY14 Economic Redevelopment Fund for the Coach/Carriage Light Grant Program. Alternative funding of the existing Façade and Exterior Enhancement Program for currently ineligible properties will be \$ 30,000 from the FY Economic Redevelopment Fund.

The implementation of this program assists with improving this important gateway and advances the City's Vision for Housing and Neighborhoods.

Mr. Lestitian announced that the Herald Mail Company is providing \$ 1,000 toward uniform "No Trespassing" signs.

Staff has been contacting property owners to provide information about this new initiative. Response has been positive.

Councilmember Metzner pointed out the funding is a modest amount for the potential improvements to the corridor.

Councilmember Aleshire stated a donation of public art was announced during the initial presentation. He understands the donor owns some of the properties on the street that are in need of improvements. The donor has to understand the donation is not in lieu of the other efforts being made to improve the appearance of the properties on E. Franklin Street. He should understand the goal is for a larger improvement. Mr. Lestitian stated clearly, there were no inducements or promises made to the donor for any leniency on his properties. Mayor Gysberts stated this owner has been working with City staff to make improvements at his properties. Mr. Lestitian stated everyone is invited to join the process to improve the gateway.

Councilmember Munson asked if cameras can be incorporated into the streetscape. Mr. Lestitian stated this will be discussed with the Police Chief.

It was the general consensus to include approval of these two programs on the March 25, 2014 agenda.

Update for Hagerstown A & E District

Hagerstown's Arts & Entertainment District was awarded this year's Outstanding Achievement Award by the Maryland State Arts Council. This award is only given to one district each year. Hagerstown was awarded this honor at the annual meeting of the Arts & Entertainment Districts.

Hagerstown received the award for their efforts as noted by the State as follows: "During 2013 Hagerstown A&E District saw a 'Perfect Storm!', with the Barbara Ingram School graduating its first class, the Washington County Arts Council committing to stay within the District, and the City of Hagerstown meeting its goal to create affordable artist housing and gallery space on North Potomac. Along with exemplary arts organizations and lively and unique arts festivals and events, Hagerstown A & E has arrived as a vibrant community for residents and an exciting destination for visitors and tourists."

Mary Anne Burke, Washington County Arts Council, Karen Giffin, Community Affairs Manager, and Andrew Sargent, Downtown Manager, were present. The Board hopes to host the annual meeting in 2015 in Hagerstown.

Mayor Gysberts thanked all the Board members who are volunteering to make the Arts and Entertainment District successful.

Councilmember Munson stated this award is significant.

Councilmember Brubaker pointed out there are many amenities for residents and visitors to enjoy.

Councilmember Nigh thanked Ms. Giffin for her participation on the Board.

CITY ADMINISTRATOR'S COMMENTS

Bruce Zimmerman, City Administrator, congratulated the Mayor and Council for the good State of the City presentation that was held this morning. Positive feedback has been received.

MAYOR AND COUNCIL COMMENTS

Councilmember P. M. Nigh is concerned about the number of mental health treatment facilities that are in Hagerstown, especially in the downtown. People standing in front of the facilities does not create a positive image. She asked about the status of the firefighters union negotiation. Mr. Zimmerman stated staff is following a process similar to that for the police officers. She asked that the Maryland Theatre market the shows more.

Councilmember L. C. Metzner agreed that rehabilitation centers are not creating a positive image for Hagerstown. Zoning regulations may be an appropriate way to limit the number of facilities in Hagerstown. He congratulated the Mayor and City staff for the State of the City presentation. He attended the tour of the Shenandoah Family Farms plant on Frederick Street.

Councilmember M. E. Brubaker reminded everyone the Metropolitan Planning Organization transportation hearing is being held on March 20, 2014.

Councilmember K. B. Aleshire assumes the request from the Hagerstown Suns will be discussed again by the Mayor and City Council. Mayor Gysberts stated it will be. He agreed with Councilmember Nigh and Councilmember Metzner regarding the mental health facilities. He has created five themes for the City, one of which is neighborhood stabilization. The crime free legislation will help; however, it does not adequately address non-profit housing. He respects that these facilities are necessary to address the needs of all segments of the population. The question arises of how many are too many in a specific neighborhood. He wondered what impact these facilities have on the neighborhood. There has to be a balance. Mayor Gysberts stated the Urban Partners group brought this issue up in discussions. Their thought is the City has to contact the funding partners of the facilities to discuss the impact.

Councilmember Aleshire mentioned the request from the fire fighters association for a proposed charter amendment regarding binding arbitration. This has to be discussed and it should be done in open session so citizens understand the change would allow an outside arbitrator (who has no interest in the City) to make a decision for arbitration. Mayor Gysberts pointed out the borough of Chambersburg, Pennsylvania had to increase

taxes to cover an arbitrator's decision. The fee was named after the arbitrator.

Councilmember D. F. Munson stated the presentation at the State of the City was very positive and well done. Many are taking an interest in downtown, including the County Commissioners and the Washington County Board of Education. The Barbara Ingram School for the Arts may be expanded. The Economic Development Commission has been bold about its declaration that it wants Hagerstown to succeed. He congratulated Shenandoah Family Farms on their opening of the plant on Frederick Street. He had a quart of Shenandoah Family Farms milk with him that he purchased at a local store. He encouraged people to purchase local products. This is a significant step in the process for revitalizing the community. City staff worked with many people to have an abandoned property used again, especially Jill Frick, Economic Development Manager.

Mayor Gysberts encouraged people to ask for the milk at their favorite grocery stores. Councilmember Metzner suggested the Mayor contact stores as well to encourage them to carry the dairy products processed in Hagerstown.

Mayor Gysberts thanked everyone who attended the State of the City. The video will be shown immediately following this meeting on Channel 25. The full presentation will be shown by the end of the week on Channel 25 and on YouTube.

EXECUTIVE SESSION – March 18, 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 of all members present to meet in closed session to discuss the appointment, employment, assignment, promotion, discipline, demotions, compensation, removal, resignation or performance evaluation of appointees, employees, or officials over whom it has jurisdiction, #1 (Section 10-508(a)) at 6:00 p.m. in the Council Chamber, 2nd Floor, City Hall, Hagerstown, Maryland. The following people were in attendance: Mayor D. S. Gysberts, Councilmember K. B. Aleshire, Councilmember M. E. Brubaker, Councilmember D. F. Munson, Councilmember P. M. Nigh, City Administrator Bruce Zimmerman, Rodney Tissue, City Engineer, and Donna K. Spickler, City Clerk. The meeting was held to discuss potential members of the Board of Traffic and Parking. No formal action was taken at the meeting. On a motion duly made, seconded and passed, the meeting was adjourned at 6:07 p.m.

Respectfully submitted,

Donna K. Spickler
City Clerk

Approved: April 29, 2014