

WORK SESSION AND EXECUTIVE SESSION – April 1, 2014

EXECUTIVE SESSION – April 1, 2014

Councilmember D. F. Munson made a motion to meet in closed session to consult with counsel to obtain legal advice, #7, (Section 10-508(a)), to conduct collective bargaining negotiations or consider matters that relate to the negotiations, #9, (Section 10-508(a)), and to discuss the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation or performance evaluation of appointees, employees, or officials over whom it has jurisdiction, #1, (Section 10-508(a)) at 3:11 p.m. in Room 407, 4<sup>th</sup> Floor, City Hall, Hagerstown, Maryland. Councilmember M. E. Brubaker seconded the motion.

Motion carried, 4-1 with Councilmember K. B. Aleshire voting No. He is opposed to a closed meeting to discuss land uses.

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, John Lestitian, Director of Department of Community and Economic Development, Kathleen Maher, Planning Director, Stephen Bockmiller, Zoning Administrator, Alex Rohrbaugh, Planner, Chief Mark Holtzman, Chief Kyd Dieterich, Officer Tom Kelley, Karen Paulson, Director of Human Resources, Michelle Hepburn, Director of Finance, Scott Nicewarner, Director of IT and Support Services, and Donna K. Spickler, City Clerk. The meeting was held to discuss legal advice on how to address a land use issue that threatens the economic viability of Hagerstown, contract negotiations with IAFF 1605, and recruitment for a City Administrator. No formal action was taken at the meeting. On a motion duly made, seconded and passed, the meeting was adjourned at 4:13 p.m.

WORK SESSION – April 1, 2014

Mayor D. S. Gysberts called this Work Session and Executive Session of the Mayor and City Council to order at 4:31 p.m., Tuesday, April 1, 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, and City Clerk D. K. Spickler.

Proclamation – Child Abuse Awareness Month

Mayor Gysberts read a proclamation recognizing April, 2014 as Child Abuse Awareness Month. Dee Myers, Maryland State Department of Education Office of Child Care, and Mooch Mutchler, Department of Human Resources Washington County, accepted the proclamation. Earlier today, a blue pinwheel garden was created at Memorial Park and blue ribbons were tied on parking meters and trees in the City Center to raise awareness of Child Abuse.

Proclamation – National Service Recognition Day

Mayor Gysberts read a proclamation recognizing April 1, 2014 as National Service Recognition Day. Judy Wheeler, Neighborhoods 1<sup>st</sup>, accepted the proclamation.

Right-of-Entry Agreement for the Environmental Protection Agency – (Central Chemical Groundwater Monitoring

Jim Bender, Assistant City Engineer, was present to discuss a right-of-entry agreement. As part of the ongoing remediation program at the former Central Chemical site on Mitchell Avenue, the Environmental Protection Agency (EPA) continues to monitor groundwater patterns in and near the site. This monitoring helps to determine the likelihood that any of the pesticide residue from the Central Chemical site has entered the groundwater, and to give some indication of the direction that residue may have traveled away from the site. Staff recently received a request from Robert Wallace, EPA's Remedial Project Manager of the Central Chemical project, to install monitoring devices at groundwater springs and surface water streams on various City-owned properties.

EPA and their consultants would like to install detectors at the City Park lake, the Hager House, Staley Park, and (possibly) at locations along Hamilton Run and the Antietam Creek. EPA plans to leave the detectors in-place from April 2014 to November 2015.

The Right-of-Entry authorization would grant EPA staff (or their contractors) access to these sites to install the detectors. During the monitoring period, they will periodically visit the monitoring locations and download data from the detectors.

The City Attorney reviewed the request. He noted that an agreement with the City would only apply to City-owned properties. The EPA would be responsible for obtaining authorizations from private property owners.

As part of the City's ongoing support to the remediation efforts at the Central Chemical Site, staff recommends approval of the Right-of-Entry authorization to EPA.

Councilmember Brubaker thought the site was reasonably clean. He asked if there are additional concerns. Mr. Bender stated the EPA is comfortable with the soil and the site. They are uncertain of the groundwater flow and want to determine the flow.

Councilmember Aleshire asked what assurances have been provided to indicate the EPA is only interested in the underground water flow, rather than surface water. Mr. Bender stated something in the deeper samples triggered a review of the water flow.

Councilmember Aleshire wants assurances that any dyed water that enters a homeowner's basement will be tested.

It was the general consensus of the Mayor and City Council to have a representative from the EPA attend a Work Session meeting to answer questions and concerns about this request.

Hagerstown Suns: Proposed Third Amendment to Lease at Municipal Stadium

It was noted that April 3, 2014 is Opening Day for the 2014 Season.

Rodney Tissue, City Engineer, was present to follow-up on discussions regarding the Suns request for a lease extension through the 2016 season. Staff continues to develop a lease amendment that minimizes the costs to the City to operate the stadium if the Suns continue to play there in 2015 and 2016. The City Attorney revised the draft third amendment to the current lease and it was presented for the Mayor and City Council's review. Some highlights of the changes from the current lease include:

1. All facility maintenance obligations shall be the Suns. The City will continue to have about \$ 10,000 in costs at the facility for things such as mowing outside the stadium, pest control, insurance, etc. If a non-ordinary occurrence like a flood occurs, the Suns will cover the City's insurance deductible (\$ 10,000).
2. Suns shall pay rent of \$ 25,000 per year for the 2015 and 2016 season. The Suns will make one nonrefundable payment at the end of 2014, in the amount of \$ 50,000.
3. No City obligation to pay utilities.
4. No City obligation for capital improvements or assist with funding field maintenance equipment.
5. Suns will not interfere with the City recruiting a replacement team.
6. 90-day termination clause valid with the mutual consent of both parties.

In effect, the amendment puts the financial burden of operating the stadium on the Suns. This is an annual savings to the City of about \$ 60,000 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 the financial responsibility of the Suns. The City will maintain its property insurance on the facility.

Regarding the issue to name the field (not the stadium), the Suns feel the current lease allows them to name the field similar to how they have named other areas inside the stadium.

Mr. Tissue provided a spreadsheet showing the estimated expenses of \$ 57,252 for 2014. If the lease is extended with the proposed terms, the estimated expenses for 2015 and 2016 are \$ 6,200.

Councilmember Brubaker stated he thinks rent of \$ 70,000 for the two additional seasons is a reasonable amount for the Suns to secure the stadium. Councilmember Munson agreed.

Councilmember Metzner stated the Suns had requested the 90 day termination clause, not the City. If they don't accept the lease with \$ 70,000 rent, then the City should notify the Suns the lease expires in 90 days. He stated this would not be saying the Suns have to leave. They would be playing without a lease.

Councilmember Brubaker pointed out there is no tax impact with the revised lease agreement.

Councilmember Metzner has no concerns about the naming rights of the field.

Councilmember Aleshire is opposed to extending the lease for the 2016 season. He expects the Suns will leave Hagerstown after the 2015 season. If they want further extensions at that time, they are welcome to request the same. He thinks the lease should only be through 2015 and should include a 90 day termination clause.

It was the general consensus to approve the proposed lease extension for the 2015 and 2016 season, with rent of \$ 70,000 and a 90 day termination clause.

#### Presentation of FY15 Proposed Budget

Bruce Zimmerman, City Administrator, and Michelle Hepburn, Director of Finance, presented the proposed FY 2015 Budget to the Mayor and City Council. Members of the Mayor and City Council had received copies of the proposed budget on March 31, 2014. The proposed budget was placed on the City's website earlier today. Hard copies are available from the Finance Department or from the City Clerk's office.

The proposed budget reflects the work of staff and meetings with the Mayor and Council over the past several months as they have wrestled with the challenges resulting from the recent Triennial Reassessment of Real Estate Values, the increasing costs of employee wages and benefits, and the ongoing impact of the economic recession on Hagerstown. In many ways, this is a very difficult budget reflecting serious concerns over the current and future sustainability of the operations and services resulting from the ongoing lack of financial resources that has negatively impacted the City since FY10.

Among the more difficult aspects of this budget proposal are the inclusion of an 11 cent increase in Hagerstown's property tax rate, the first rate increase since FY05, the use of \$ 588,500 in Fund Balance from the General Fund to offset the lack of operating revenue to pay for vehicle purchases and capital expenditures next year, and the continued revenue shortfall as reflected in the staffing levels and operating accounts throughout the General Fund. This lack of revenue is constraining City operations and the ability to meet the demands of servicing the community and supporting employees. The present financial condition draws into question the City's ability to undertake

community based projects of interest to the Mayor and Council and whether Hagerstown can ultimately compete with other communities for private sector investment, job creation, and residents. All of this is an indication that the City's current financial condition is not sustainable and threatens the operations and the future vitality of Hagerstown.

This becomes a budget of tough choices. In prior years, a significant number of staff positions have been eliminated from the budget while freezing funding for other positions. There are 25 unfunded positions which remain in this proposed budget. Employees have foregone both pay step increases and cost of living pay adjustments for four years along with unpaid furlough and work stop days. To ask departments to undertake further staffing reductions, more years of frozen pay steps with no COLA's, additional deferrals of equipment purchases, and operating account reductions will further weaken operations. Mr. Zimmerman stated he does not see these choices as continuing viable options.

Until now, the property tax has not been raised, despite the General Fund budget suffering major losses of revenue from the State and County in addition to much lower property tax funding for the past five fiscal years. To strengthen finances to better support operations, services, and employees, staff is recommending the proposed 11 cent tax increase. This will provide much needed resources to sustain the City as a municipal government and most directly meet the City's needs both now and into the future. The City needs to keep a strong focus on the future year projections and this approach helps do that. If the proposed tax increase is removed or significantly lowered, with the expectation to maintain the same level of services with lower revenue, operations will weaken further.

There are other options available the Mayor and Council may wish to consider. One is the elimination of certain City services, programming, and facilities. A second option is the shifting of current City services to other service providers. They can also consider reductions in benefits for future hires as a third option that will lessen financial demands over the long term. During the past five years, the City has not relied on the first two of these options to offset the loss of General Fund revenue. Some adjustments in employee benefits have been made.

The current financial condition and the proposed tax rate increase will not come as a surprise to the Mayor and Council. On February 18, 2014, staff provided them with a copy of the State of Maryland's 2014 Constant Yield Tax Rate Certification for Hagerstown indicating that the net assessable real property base for the City had declined 7.8% based on the most recent triennial reassessment. This percentage decline was extremely close to the 8% drop staff had included in the FY15 Projections presented to the Mayor and Council in April, 2013. These projections had shown the significant shortfall in the General Fund Budget.

More time has been devoted in Mayor and Council meetings to discussions of the financial condition and budget related issues over the past year than any time in recent

Facing difficult financial constraints is not new to the City. After adopting the FY10 budget, General Fund revenue was lost as the State eliminated Highway User and Police Protection revenue for Maryland municipalities. At one point, the City had lost \$ 4.2 million in State and County revenue after Washington County eliminated tax rebate payments to Hagerstown and other towns in the County in FY11. The City experienced an 11.2% decline in the assessable base in FY12 creating a sizeable loss of property tax revenue. In the current FY14 budget, the total General Fund revenues of \$ 37,889,584 are \$ 2,871,463 below the approved FY10 Budget total of \$ 40,761,047, which was subsequently revised that year to \$ 38,324,192 to reflect the State revenue reductions in late Summer 2009.

In April, 2012, the City began to implement the Safe Speed for Students Speed Camera Program which did add revenue to the General Fund. Staff recognized \$ 1,560,000 in revenue (less estimate for uncollectible amounts) from this program in FY13. The net revenue remaining after program costs are deducted from the above amount was used to strengthen the public safety staffing and operations.

The City has not chosen to reduce or eliminate service levels or facility operations to any extent. Much of the expenditure reductions have fallen on employees because of the use of position eliminations, pay freezes, unpaid furloughs, and benefit reductions. On the plus side for employees, the City has not followed the course utilized by so many employers which is to reduce funding for health insurance and pension benefits. Employees have also not been asked to pay a higher share of these costs in order to lower the City's expenditures. The City has been absorbing the cost increases it experienced in the health insurance and pension programs.

The local economy for Hagerstown and Washington County has not recovered from the recession. Hagerstown has experienced a 7.8% decline in the assessed value of real estate as reported in the February 2014 Constant Yield Notice issued by the State. In December 2012, the Triennial Reassessment for Funkstown, Boonsboro, and Smithsburg reflected an average decrease of 105% in residential values and an average increase of 8.5% in commercial values.

According to a March 1, 2014 article from the Herald Mail Media, the jobless rate for Washington County improved in 2013, with the County finishing the year with an unemployment rate of 7.4%. However, the local news source's coverage also includes several major local employers' plans to reduce staffing levels. These local employers (City, Meritus Health, Manitowoc, PetSmart, Johnson Controls, and Rustoleum) are all eliminating or relocating jobs. Hagerstown's unemployment rate finished the year at 8.6% after averaging 9.4% for 2013 according to Herald Mail Media.

On the plus side, Hagerstown's population increased to 40,393 residents based on the 2012 American Community Survey (ACS) of the U.S. Census, a nice increase from the 2000 census population of 36,687. Other 2012 ACS census information indicates that

Hagerstown had a total of 18,304 housing units, of which 16,293 were occupied, resulting in a vacant housing rate of 11%, which was higher than the County rate of 7.3% and the State rate of 9.9%. Hagerstown's Median Household Income was \$ 36,897 according to the 2012 ACS census with 24.2% of the population living in poverty. According to City data, 15% of the occupied housing units in 2012 were subsidized for low-income housing.

In terms of 2013 building activity, during the year the City issued 497 building permits with total estimated construction of \$ 28.2 million. Site plans were approved for 31,881 square feet of commercial and institutional development projects and 272 multi-family units. The total estimated construction value was \$43.23 million. In 2013, 78 permits were issued for 143 dwelling units.

The FY15 Proposed Budget continues to support the Vision and Mission Statements adopted by the Mayor and Council on October 22, 2013:

Vision: A diverse, business-friendly, and sustainable community with clean, safe, and strong neighborhoods.

Mission: Providing the most efficient and highest-quality services as the municipal location of choice for all customers.

The FY15 budget includes \$ 1,500,000 in General Fund supported bond financing to support downtown revitalization projects that may result from the City's work with Urban Partners to identify and implement catalyst projects in the downtown. This funding will provide Mayor and Council financial resources to move forward in the coming fiscal year with the implementation of one or more catalyst projects based on future deliberations and possible decisions made after receiving the report from Urban Partners.

Funding support for the Maryland Theatre of \$ 260,000 is included in the proposed budget.

The FY15 Budget includes \$ 250,000 in CIP funding for the purchase of six new patrol vehicles. This purchase is funded through the appropriation of General Fund Balance due to the lack of current revenue sources on next year's operating budget. There is funding included in the FY 15 and FY 16 budgets to fund the purchase of two replacement ladder trucks for the Fire Department. Funding for three Public Works vehicles and other equipment is included in the FY15 proposed budget.

Funding in the amount of \$ 1,776,149 over the next two budget years is included for the Broadfording Road Reconstruction and Widening project. To promote economic development on the adjacent commercial property the City has undertaken this project. Funding from the County and developers of the adjacent property has provided the funding for these road improvements. The Memorandum of Understanding involving the City, County, and private property owners and developers for the project was approved

by the Mayor and Council in June, 2012, along with the construction contract.

To address Environmental Protection Agency and Maryland Department of the Environment mandates to reduce pollutants discharged into State waterways and the Chesapeake Bay, the City has established CIP 45-C0637. In FY15 the City is anticipating using \$ 200,000 in General Fund supported bond financing and \$ 500,000 grant funding to begin implementing Best Management Practices to improve storm water quality. These Federal and State storm water mandates will pose a major financial challenge to the City, as previously presented to the Mayor and Council in October, 2013.

During 2013, the Mayor and Council approved moving forward with eminent domain of the MELP property should the City and property owner be unable to successfully negotiate the acquisition of the property by the City.

The proposed 11 cent tax rate increase will generate \$ 2,574,000 in General Fund Revenue. Each one cent of increase in the rate yields \$ 234,000 in additional revenue. While this will provide critical revenue to support current and future operations, the City will continue to operate with tight revenues until it begins to see growth in the real estate values and a stronger local economy.

Any rate increase does not come without an impact on taxpayers. For a homeowner with a residence valued at \$ 150,000, an \$0.11 cent increase will add an average range of \$ 64 - \$ 165 to the 2014 property tax payment compared to the 2013 payment depending on the change in assessed value received in December 2013.

The increase in revenue will offset the \$ 1,100,00 loss in property tax revenue resulting from the decline in property values reported by the State. In addition, the City is expected to experience an 8% increase in the health insurance program for retirees and employees in the coming fiscal year, adding \$ 313,000 to the General Fund expenditures over FY2013/14 budget. Likewise, staff learned in early March that the Workers Compensation costs will increase by a projected \$ 400,000 next year and that financial support of the Police and Fire Pension will experience an increase of \$ 51,000 over FY 2013/14 estimated actuals. It is important to note that after the previously mentioned four years in which employees received no COLA or pay step increases, employee compensation has begun to be increased in the current and coming fiscal year in an effort to get back on track with an appropriate annual adjustment in pay to acknowledge their accomplishments and the value they bring to the community. Employee pay is projected to increase \$ 651,019 over FY2013/14 budget in the General Fund next year.

Councilmember Metzner stated Agency Contributions should be reviewed carefully to determine if funding should continue for several of the agencies.

Discussion about the proposed budget will begin next week. The five-year projections and personnel expenses will be the topics.

Mayor Gysberts thanked Mr. Zimmerman and Ms. Hepburn for their work on this year's budget.

### Code Administration – Mayor and City Council Priorities

Code Administration is an important topic and tool in the efforts to promote and protect the City's neighborhoods and to advance the economy, image and quality of life in Hagerstown. The Mayor and City Council have expressed a desire to speak about their priorities on this topic.

Mayor Gysberts stated the previous administration had directed Code Enforcement staff to be less strict with non-life safety code violations.

Councilmember Aleshire stated it would be helpful for him to have information about inspections of vacant structures and those with one floor occupied. He asked if commercial structures are inspected. There should not be different inspections and expectations for private properties vs. City owned properties. Because mitigation takes a significant amount of time, it may be more efficient and effective for the City to use an outside contractor for mitigation of a violation. He is concerned with the amount of time it may take a property owner to mitigate the violation. He believes each day the violation exists is a new violation. He stated the condition of many alleys needs to be addressed.

Councilmember Munson stated some of the "rules" that were relaxed in the past are now having a negative impact on the quality of life for some residents. He agreed that alleys need to be cleaned up. He wondered why some residents have to deal with issues like not having doors on cabinets or holes in the walls.

John Lestitian, Director of the Department of Community and Economic Development, stated the inspection process had not changed. However, interior inspections were limited several years ago and are no longer in the scope of the inspections.

Councilmember Metzner stated a majority of the prior administration felt notices should focus on safety issues. The Mayor and City Council and staff have to find a balance. There was not a change in the statute but enforcement levels changed.

Councilmember Aleshire suggested providing information to residents through the Neighborhoods 1<sup>st</sup> groups.

Councilmember Metzner agreed that government should be held accountable to the same regulations. Buildings owned by the County near the Synagogue on East Baltimore Street continue to deteriorate. He doubts that money is budgeted for removing this situation. He wants to ask the County directly if they have any money to address these two buildings on Antietam Street. If they do not, he thinks the City will eventually have to mitigate the problem.

Councilmember Brubaker asked if there are specific issues that staff wishes to discuss. Mayor Gysberts indicated this issue came up during the crime free housing discussions and it is being discussed at his request.

Councilmember Munson stated he recently talked to Mr. Lestitian about a problem a resident was having. The Code Enforcement staff discussed the problem with this person and figured out what was causing the problem.

Councilmember Metzner hopes Code Enforcement staff use common sense in dealing with violations. Because the staff is limited, the Mayor and Council need to let them know that the limited resources available need to be used for the betterment of the entire community. Mr. Lestitian suggested having staff attend a work session to discuss code issues.

Councilmember Nigh stated it is difficult to fix the overall problems. Properties in foreclosure are creating problems.

Councilmember Aleshire stated the residents in the neighborhoods are the ones who know where the issues are.

Mayor Gysberts stated more discussions about code violations will be scheduled.

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

*Bruce Zimmerman, City Administrator*, stated the street sweeper will be starting again this week.

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

*Councilmember M. E. Brubaker* attended the Neighborhoods 1<sup>st</sup> dinner last week.

*Councilmember K. B. Aleshire* stated a group is collecting signatures on a petition regarding binding arbitration. Citizens need to understand clearly what they are being asked to sign. He was asked to sign the petition and the detail he was provided was not the same as what was on the petition. Binding arbitration in the City Charter would remove the vested power citizens have in their elected representatives (who have the responsibility for funding) and place it in the hands of an unaffiliated person. He would not want his Charter government to operate this way. The person collecting signatures said the City had broken a contract with the fire fighters and was planning to lay off half of them. This was not a citizen lobbying another citizen for the betterment of the community. This was a paid signature collector.

*Councilmember D. F. Munson* attended the Billy Joel and Elton John tribute concert at the Maryland Theatre last week. It was a good show.

WORK SESSION AND EXECUTIVE SESSION  
2014

APRIL 1,

MAYOR AND CITY COUNCIL

HAGERSTOWN, MARYLAND

*Councilmember P. M. Nigh* extended condolences to the family of retired employee Carol Croager, who passed away recently. Ms. Croager was an administrative assistant in the Fire Department. Utility service terminations started today. More than 100 accounts were disconnected, with an average of \$ 800.00 in arrears.

*Councilmember L. C. Metzner* agreed that the Neighborhoods 1<sup>st</sup> dinner was a good event. He appreciates that so many citizens are vested in Hagerstown.

*Mayor D. S. Gysberts* stated a draft report will be provided by Urban Partners on April 8, 2014. There will be no Mayor and Council meeting on Tuesday, April 15, 2014.

Councilmember Munson thanked the City Light Department employees for their efforts to ensure customers had service during a recent Potomac Edison outage.

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 6:59 p.m.

Respectfully submitted,

Donna K. Spickler  
City Clerk

Approved: May 27, 2014