

EXECUTIVE SESSION, BUDGET WORK SESSION AND 39TH REGULAR SESSION – APRIL 29, 2014

EXECUTIVE SESSION – April 29, 2014

Mayor D. S. Gysberts asked that an additional discussion item be added to the Executive Session to discuss the MELP property. 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 meet in closed session to consult with counsel to obtain legal advice, #7 (Section 10-508(a)) at 3:07 p.m. in Room 407, 4th Floor, City Hall, Hagerstown, Maryland. 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, John Lestitian, Director of Community and Economic Development, Kathleen Maher, Planning Director, City Attorney Mark Boyer, 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 and the MELP property. No formal action was taken at the meeting. On a motion duly made, seconded and passed, the meeting was adjourned at 4:31 p.m.

BUDGET WORK SESSION – April 29, 2014

Mayor D. S. Gysberts called the Budget Session of the Mayor and City Council to order at 4:39 p.m., Tuesday, April 29, 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 D. K. Spickler, City Clerk.

Bruce Zimmerman, City Administrator, and Michelle Hepburn, Director of Finance, were present to further review the proposed budget. Mr. Zimmerman stated it would be helpful to hear proposals from the Mayor and Council for the budget during this session. Staff would then be able to incorporate those proposals into the budget for further review. The major points of the General Fund have been reviewed during previous work sessions.

Councilmember Aleshire has met with Ms. Hepburn to discuss several sections of the budget. He has not reviewed either the General Fund or the CIP Fund. His review of the budget deals with two questions – what is the Mayor and Council going to do with the budget this year and how will they address the future years. He is not certain a double digit tax rate increase is an appropriate long term solution. The cost impact of future benefits is significant. Every dollar increase in wages equals a two dollar increase in benefits.

One idea to consider is a voluntary retirement program.

He believes the City will continue to absorb stormwater costs and grant funding is dwindling. He suggested discussing the synergies between City and County operations

and combining some of the services. Frederick City and County have used this approach. The Strategic Plan should be updated. The low cost of City utility services should be marketed to large users, with the help of the Economic Development Commission.

He is confident with his review of the budget and there are not unnecessary expenditures in the budget that can be reduced to lower the anticipated tax rate increase. Further review may yield a slightly reduced tax rate but that does not help long term. Reducing the increase by 3 cents will not help next year's budget.

He has looked at a long term approach for reviewing the budget. The projected costs for a new parking deck change from budget to budget. He stated the budget should dictate the size and location of the deck. Other capital project costs should be established in the same manner.

Councilmember Aleshire then discussed the fee schedule. He asked specifically what fees are charged for street cuts. Rodney Tissue, City Engineer, stated fees are typically \$ 300.00 to \$ 400.00.

Councilmember Aleshire noted there are four projects listed in the enterprise funds with a total of \$ 92,000.00. He wondered if the contractors reimburse the City for the utility work. Mr. Spiker stated requests for upgraded electrical services are funded through an electric agreement.

Councilmember Aleshire asked why the number of water customers is less than in previous years. Mr. Spiker stated customers are "lost" through bankruptcy or non-payment. If an account is classified as inactive and the meter is removed, it is not included in a customer count. Councilmember Aleshire asked if a service connection fee is charged when the meter is reinstalled. Mr. Spiker stated no tap fee is charged because a one-time connection fee has already been paid for the property.

Councilmember Aleshire noted there is \$ 300,000 in late fees. He expects that amount to decrease because of more aggressive collection practices.

He asked if a set number of parking permits is sold for the parking decks. Eric Deike, Director of Public Works, stated the deck passes are oversold because staff is aware of the use of the decks and are able to anticipate when the use will be higher. Councilmember Aleshire wondered if some permitted parking would be better served in a private parking lot. Mr. Deike stated surface lots parking bring in revenue for the City.

Councilmember Metzner stated the only way to make substantial changes to the City Administrator's proposed budget is for the Council to decide to take a different approach to the budget. The proposed 11 cent tax rate increase is less than the amount the rate decreased in 2010. Citizens are telling the Council it is time to pay public safety employees more. The frozen wage increases and furloughs cannot be continued. It is obvious to him that the lower pay scale for police officers has affected staffing levels. He stated this budget is almost bare bones and it is barely sustainable. He thanked staff

for their efforts to work within the budget. He suggested reviewing the agency contributions, even though the amount is a small portion of the overall budget.

Councilmember Brubaker has reviewed the budget while keeping in mind the out-years. The City is facing a sustainability issue. The cause is primarily the assessment decrease. He agrees that the City needs to at least keep tax revenues steady. He is concerned that surrounding areas in the County will become more attractive to investors than the City of Hagerstown. Fund balances have to stay strong and the reserves (rainy funds) have to stay strong. The proposed budget includes using \$ 800,000.00 of the fund balance to balance the budget with an 11 cent tax rate increase. He stated the City's rating agency may caution the City against doing this. He stated the City needs to enhance the CIP funding. To fully fund salaries and benefits, he suggested setting a higher goal for vacancy savings. The City Administrator will have to be asked to find ways to improve wages. The City has to be competitive. He hopes there will be some consideration through the legislature to change the way the double taxation/tax rebate is calculated. He has also discussed with the State the loss of significant funding for highway maintenance. One of the main goals for the City should be improving downtown.

Councilmember Munson stated there may be a few areas that can be modified, but that does not fix the long term budget issues.

Councilmember Nigh asked when the tax rate was last increased. Mr. Zimmerman stated it has been since 2005. Councilmember Nigh indicated the City needs to increase the tax rate.

Mr. Zimmerman stated the FY2013 Reserve is 21.6%. GFOA recommends a level of 16% in reserve. The City can't go any lower with its reserve balance. Rating agencies caution businesses against using reserve funds on an annual basis. Mr. Zimmerman is concerned the reserve funds will not be strengthened in the next several years.

Mr. Zimmerman pointed out there are strengths within the proposed budget. For the first time in several years, step increases are proposed for employees. This is crucial for sustainability of the City and for its employees. An 11 cent tax rate increase will help to strengthen the budget and build a stronger revenue stream for future years.

Mayor Gysberts stated there may be a few areas where expenses could be decreased but it would not be enough to fund future years.

Councilmember Brubaker pointed out projections for FY16 includes another 11 cent tax rate increase.

Councilmember Metzner stated the budget deals with basic services. He suggested reviewing the operations that are subsidized by the General Fund.

Councilmember M. E. Brubaker stated he was not proposing using reserve funds to cover wages and benefits.

Mayor Gysberts wondered how the City can improve property values.

Councilmember Metzner reminded everyone that the City government, and this administration, has a history of lowering taxes when possible.

The budget will be discussed at another work session on May 6, 2014.

The Budget Work Session was adjourned at 5:55 p.m.

39TH REGULAR SESSION – April 29, 2014

Mayor D. S. Gysberts called this 39th Session of the Mayor and City Council to order at 7:02 p.m., Tuesday, April 29, 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 D. K. Spickler, City Clerk.

The invocation was offered by Rabbi Ari Plost, B’Nai Abraham Synagogue. The Pledge of Allegiance was then recited.

Mayor Gysberts announced the Rules of Procedure for this meeting will be followed as adopted September 24, 2013. It was announced that the use of cell phones during meetings is restricted and that all correspondence for distribution to elected officials should be provided to the City Clerk and should include a copy for the City Clerk for inclusion in the official record.

The next scheduled meetings are: Work Sessions beginning at 4:00 p.m. on Tuesday, May 6, 2014, Tuesday, May 13, 2014, Tuesday, May 20, 2014, and the Regular Session on Tuesday, May 27, 2014 at 7:00 p.m. The Budget Hearing will be held on Tuesday, May 13, 2014 at 7:00 p.m.

PROCLAMATION

Mayor Gysberts read a proclamation recognizing Holocaust Remembrance Day (April 28, 2014) and Days of Remembrance (04-07-14 through 05/04/14). Rabbi Plost accepted the proclamation.

GUESTS

Mayor Gysberts announced that Hagerstown Detective Nick Varner has been named Top Cop for 2014 by the Maryland Municipal League Police Executives Association.

CITIZEN COMMENTS

Dr. Tara Sargent, Director of Leadership Washington County, and David Hanlin, Hagerstown Rotary Club Literacy Task Force, were present to discuss the 3rd Annual Literacy Summit being held on May 2, 2014 at Hagerstown Community College. The Summit will further the conversation and considerable collaboration that has already occurred to prepare children to enter kindergarten prepared to learn and reduce summer learning loss. There will be two keynote speakers and six breakout sessions.

Dwight Lewis and Luke Mason, unknown address, inquired about the City's plans for cable access for residents in the area. There have been government and education channels for about 10 years. Mr. Mason stated there are groups that have a vested interest in enhancing the quality of life in the community and enhancing community outreach activities.

Mayor Gysberts stated he is aware that Andy Smith, Brothers Who Dare to Care, is also interested in the public access channel. Franchise negotiations with Antietam Cable Television are almost complete. The franchise agreement includes three channels – one for government, one for education and one for public access. He suggested Mr. Lewis and Mr. Mason contact Karen Giffin, Community Affairs Manager, for more information.

Mr. Lewis stated, as an atheist, he was uncomfortable during the invocation.

Jamie Rowland, Change Health Services, 44 N. Potomac Street, Hagerstown, Maryland, provided additional information about mental health issues and services. She stated she understands the Mayor and Council will be voting on a referendum to impose a moratorium on new or expanded mental health services. Mayor Gysberts indicated the Council has determined they are not ready to vote on a moratorium at this time.

Ms. Rowland stated she wants to help change lives for people. She has shared with clients at Change Health Services and Soul Haven how their behavior is affecting the whole city. She stated there should be a significant police presence downtown. This would be mutually beneficial to the City, to Change Health Services and to clients. When their planned expansion and move to a new building is complete, the second floor will be a suite and could be used as a rest station for police officers. She stated there are legitimate concerns included in the memo about the services in Hagerstown. She suggested a dress code for the City prohibiting wearing pajama pants on the streets after 10:00 a.m.

Mayor Gysberts indicated the vote on the moratorium was removed from the agenda and the Council is encouraging staff to utilize the Land Management Code to achieve the goals of the City. He expects staff will be contacting Change Health Services.

Ms. Rowland stated the initial memo gives a sense that people with mental problems are causing all the problems. She suggested the \$ 70,000.00 spent on a study would have

been better used to get to know the neighborhood. Mayor Gysberts indicated the study was commissioned in order to gain the expertise of professional consultants in revitalizing downtowns.

CITY ADMINISTRATOR COMMENTS

Bruce Zimmerman, City Administrator, congratulated Detective Nick Varner for being chosen as Top Cop of 2014. He thanked the Mayor and Council for their continued work on the budget.

MAYOR AND COUNCIL COMMENTS

Councilmember P. M. Nigh stated it is wonderful to have freedom of speech and, as a politician, she wishes she was afforded that opportunity.

Councilmember D. F. Munson congratulated Brien Poffenberger, Chamber of Commerce, on his new position as the Director of the State of Maryland Chamber of Commerce.

Councilmember L. C. Metzner also congratulated Detective Varner. He thanked Rabbi Plost for leading the invocation this evening. He pointed out the prayer discussed total inclusion.

Councilmember M. E. Brubaker thanked students from St. Mary's and Bester Elementary School for helping plant trees in recognition of Arbor Day. He also thanked the students from North Hagerstown High School that delivered the address.

Councilmember K. B. Aleshire thanked everyone involved in the International Film Festival that is being held downtown this coming weekend. He congratulated Detective Varner. He noted Detective Varner also volunteers with children in the community.

Councilmember Munson attended the Labor Council's commemoration of injured workers and safety in the workplace.

Mayor Gysberts stated someone else wishes to make comments.

Akinyemi Jelenke, Deputy CEO and Head of Operations of Change Health Systems, stated their goal is to work with the City and to address the needs of the people in the community. CHS tries to determine what the residents of Hagerstown need. They think there needs to be a larger police presence. They are willing to offer one of their apartments for the police department to use. They are helping to fix this community. He hopes the City will not delay CHS's license and permit. He stated CHS meets the incentive requirements and he has provided documentation to support this.

Mayor D. S. Gysberts stated he was personally offended by testimony on April 22, 2014 that implied he would not want people to access mental health care, especially in

recognition of his profession. The issue has always been a land use issue. The permits should move through the process as all others do. He disagrees that CHS meets the eligibility requirements for the incentive programs offered by the City. The International Film Festival begins on May 1, 2014 and continues through May 3, 2014. The Hub Bub, a United Way event, is being held at the library on May 3, 2014.

MINUTES

On a motion duly made by Councilmember D. F. Munson and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to approve the minutes, as presented, for the Mayor and Council meetings held on March 4, 2014, March 11, 2014, March 18, 2014 and March 25, 2014.

CONSENT AGENDA

On a motion duly made by Councilmember L. C. Metzner and seconded by D. F. Munson, the Mayor and City Council unanimously agreed by voice vote to approve the consent agenda as follows:

A. Department of Community and Economic Development:

1. Community Affairs: Approval of Application Permit and Open Container Exemption for USMH Graduation – May 20, 2014
2. Application Permit for Blues Prelude – May 29, 2014, Maryland Theatre at University Plaza
3. Application Permit for Blues Fest – May 30, 2014 and May 31, 2014, Maryland Theatre at Central Parking Lot
4. Application Permit for Blues Club – May 30, 2014 and May 31, 2014 – M & T Bank at Central Parking Lot
5. Open Container Law Exemption and Application Permit for Maryland Theatre Wind Down – at Maryland Theatre – May 9, 2014, July 11, 2014, August 22, 2014 and September 26, 2014

B. Department of Utilities:

1. Wastewater: Manhole Risers – EJ (Finksburg, MD) \$ 11,937.81
2. Wastewater: SCADA Upgrades – Integrated Telecommunication System, Inc. (Rolling Meadows, IL) \$ 18,619.50

Discussion: Councilmember Aleshire asked if the areas fenced off for the Wind Down events will prohibit access to the sidewalks. John Lestitian, Director of Community and Economic Development, stated the fence will be there to designate where alcohol consumption is permitted. People will be able to use the sidewalks.

UNFINISHED BUSINESS

There was no unfinished business.

NEW BUSINESS

A. Introduction of an Ordinance: Repeal of Chapter 70, Cable Television and Open Video System

Action: On a motion duly made by Councilmember K. B. Aleshire and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to introduce an ordinance to repeal Chapter 70 of the City Code entitled Cable Television and Open Video Systems. Hereafter, Cable Television and Open Video Systems will be regulated through individual Franchise Agreements.

B. Approval of a Resolution: Lease Amendment for Municipal Stadium with Hagerstown Baseball, LLC

Action: Councilmember M. E. Brubaker made a motion to approve a resolution authorizing the execution of a third amendment to the lease for Municipal Stadium with the Hagerstown Baseball, LLC to extend the term of use for the 2015 and 2016 seasons; to provide for an annual rental payment; and to relieve the City from certain utility, maintenance and improvement obligations. Councilmember D. F. Munson seconded the motion.

Discussion: Councilmember Aleshire reiterated he is opposed to extending the lease for the 2016 season. Extending the lease precludes the City from using the stadium for other uses. Councilmember Nigh agreed.

Motion carried, 3-2 with Councilmember P. M. Nigh and Councilmember K. B. Aleshire voting No.

C. Approval of a Resolution: Residential Lease Agreement for 38 N. Potomac Street, Apt. #2

Action: On a motion duly made by Councilmember M. E. Brubaker and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to approve a resolution authorizing the execution of a residential lease agreement at the City of Hagerstown property located at 30 North Potomac Street in Hagerstown, Maryland. The Lease will be between the City of Hagerstown and Florencio Gonzalez and shall be in effect from June 1, 2014 to May 31, 2015.

D. Approval of a Resolution: Residential Lease Agreement for 38 N. Potomac Street, Apt. #3

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 execution of a residential lease agreement at the City of Hagerstown property located at 38 North Potomac Street in Hagerstown, Maryland. The Lease will be between the City of Hagerstown and Geneva Smith and shall be in effect from May 1, 2014 to April 30, 2015.

E. Approval of a Resolution: Residential Lease Agreement for 38 N. Potomac Street, Apt. #4

Action: On a motion duly made by Councilmember D. F. Munson and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to approve a resolution authorizing the execution of a residential lease agreement at the City of Hagerstown property located at 38 North Potomac Street in Hagerstown, Maryland. The Lease will be between the City of Hagerstown and Emily Jones and shall be in effect from June 1, 2014 to May 31, 2015.

Discussion: Councilmember Munson congratulated staff for securing four leases for these apartments. Having artists living downtown will be good promotion for the arts.

F. Approval of a Resolution: User Agreement with Washington County Seniors' Softball League, Inc.

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 execution of a User Agreement with the Washington County Senior Softball League, Inc. for the non-exclusive use of the City Park softball fields for the 2014 season.

G. Approval of a License Agreement: With Amanda Miller for "The Fishing Lesson" Sculpture at City Park

Action: On a motion duly made by Councilmember P. M. Nigh and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to approve a license agreement with Amanda Miller, who will author a children's book related to "The Fishing Lesson" sculpture in City Park. This Agreement set forth the rights and terms of the future use of the book.

H. Acceptance of Grant – Chesapeake & Atlantic Coastal Bays Capital Improvement Grant (Stormwater)

Action: On a motion duly made by Councilmember M. E. Brubaker and seconded by Councilmember L. C. Metzner, the Mayor and City Council

unanimously agreed by voice vote to accept a grant from the Chesapeake & Atlantic Coastal Bays Trust Fund for the design and construction of two stormwater management retrofit projects on City-owned property. The grant amount is \$ 500,000, and the City commits to matching the grant with \$ 100,000 in General Fund dollars from the Stormwater Implementation CIP.

I. Approval of Right of Entry Agreement with Environmental Protection Agency

Action: Councilmember P. M. Nigh made a motion to grant Right-of-Entry authorization to the Environmental Protection Agency and its contractors for the installation and monitoring of dye tracer detectors at various City-owned properties. These detectors will be used as part of the monitoring and remediation efforts at the former Central Chemical site on Mitchell Avenue. Councilmember L. C. Metzner seconded the motion.

Discussion: Councilmember Aleshire stated he thinks there has to be a better way to test the water pathways than what was presented.

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

J. Approval of Synagro Wastewater Treatment Plant Sludge Storage Tank and Sludge Thickening Project

Action: On a motion duly made by Councilmember K. B. Aleshire and seconded by Councilmember D. F. Munson, the Mayor and City Council unanimously agreed by voice vote to approve the funding of the Synagro Wastewater Treatment Plant Sludge Storage Tank and Sludge Thickening Project. Wastewater CIP 54-CO711 will be utilized to fund the total project amount of \$ 944,750. Additionally, the approval of this motion will serve as a Notice to Proceed to Synagro.

K. Approval of the Expansion of Police Housing Incentives

Action: On a motion duly made by Councilmember M. E. Brubaker and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to approve of the expansion of police housing incentives. This increase would be based on the corresponding DCED map, expanding the program to include police officer trainees, and would be in addition to any current programs offered by the City. This program will be funded through vacancy savings in the police department budget.

L. Approval of Memorandum of Understanding – Hagerstown Police Department and Citizens Assisting and Sheltering the Abused, Inc. (CASA)

Action: On a motion duly made by Councilmember K. B. Aleshire and seconded by Councilmember M. E. Brubaker, the Mayor and City Council unanimously agreed by voice vote to enter into a Memorandum of Understanding with CASA. The proposed MOU was recommended by the City Finance Director because the City is passing grant money through to CASA. The grant program associated with this MOU is from the Governor's Office of Crime Control and Prevention. In this particular grant, each applicant is eligible to receive two grant awards. CASA has already incurred expenses covered by the grant; however this MOU is needed in order to process their payments through the City's financial system.

M. Approval of Rain Insurance Policy for 2014 Western Maryland Blues Fest

Action: 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 approve the purchase of rain insurance policies for the 2014 Western Maryland Blues Fest at the following maximum amounts: a \$ 20,000 policy for Friday, May 30, 2014 from 3:00 p.m. to 8:00 p.m. and a \$ 60,000 policy for Saturday, May 31, 2014 from 10:00 a.m. to 6:00 p.m. The total cost for the insurance will be \$ 9,660. Funding would be from the Blues Fest Budget in the Public Functions Account. Five percent of the rain insurance proceeds would go to the Maryland Theatre for their risk of the beer and wine sales.

N. Approval of Updated Guidelines to the City Center Residency Initiative (CCRI) Program

Action: On a motion duly made by Councilmember M. E. Brubaker and seconded by Councilmember D. F. Munson, the Mayor and Council unanimously agreed by voice vote to approve the revised guidelines to the City Center Residency Initiative (CCRI) Program. The revised guidelines include:

1. Boundary edits for the existing CCRI area (homebuyers and renters) as depicted on the attached map – creation of a Priority Area for CCRI renters as depicted on the attached map.
2. Increasing the rental subsidy to \$ 300.00 per month for CCRI renters in the Priority Area.
3. Elimination of the two year residency requirement for CCRI renters and requiring a one year residency commitment for all CCRI renters.

Funding for the rental subsidy component edits will come from the General Fund reserve in the amount of \$ 50,000 as approved in the FY 14 budget. The updated guidelines will strengthen the existing program and offer more attractive incentives to encourage CCRI eligible applicants to live in the City Center.

Discussion: Councilmember Brubaker is concerned about reducing the required residency time; however, he wants the program to be successful

There being no further business to come before the Mayor and City Council, on a motion duly made, seconded and passed, the meeting was adjourned at 8:11 p.m.

Respectfully submitted,

Donna K. Spickler, City Clerk

Approved: May 27, 2014