

49<sup>TH</sup> SPECIAL SESSION, WORK SESSION AND EXECUTIVE SESSION –  
September 9, 2014

EXECUTIVE SESSION – September 9, 2014

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

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

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, John Lestitian, Director of Department of Community and Economic Development, City Attorney Mark Boyer, Michael Spiker, Director of Utilities, Michelle Hepburn, Director of Finance, Rodney Tissue, City Engineer, Michelle Hepburn, Director of Finance, Karen Paulson, Director of Human Resources, and Donna K. Spickler, City Clerk. The meeting was held to discuss with legal counsel a release and settlement agreement for the MELP property and the lawsuit filed on August 19, 2014 by IAFF 1605, AFSCME 3373 and Mitchell Gearhart against the Mayor and City Council. No formal action was taken at the meeting. On a motion duly made, seconded and passed, the executive session was adjourned at 4:02 p.m.

49<sup>TH</sup> SPECIAL SESSION AND WORK SESSION – September 9, 2014

Mayor D. S. Gysberts called this Work Session and Executive Session of the Mayor and City Council to order at 4:12 p.m., Tuesday, September 9, 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; John Lestitian, Director of Department of Community and Economic Development, and City Clerk D. K. Spickler. City Administrator Bruce Zimmerman was not present.

Mayor Gysberts announced the City is very close to completing an agreement for the demolition of the MELP plant. The Work Session scheduled for September 23, 2014 will include a discussion about the MELP property.

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 at 4:13 p.m.

Based on the direction received from the Mayor and City Council, staff prepared the Vacant Residential and the Vacant Non-residential Structure ordinances with the amendments to reflect the priorities of the Mayor and City Council to focus on blighted properties and to provide timely support to the neighborhoods.

One concern has not been included in the amendments. This concern deals with making clear that owners of record who are actively subject to a foreclosure filing not be issued fines. Upon further study and discussion with legal counsel, staff recommend that a policy be adopted to address this situation. Adding such an amendment to the ordinances would leave open the possibility of fines being issued in such circumstance in the enforcement of other ordinances. Staff are drafting a policy which will address this concern more broadly in terms of code enforcement as it relates to owners and foreclosure filings.

**Introduction of an Ordinance: Catalyst Project #8 – Amending Chapter 232, Vacant Commercial (Non-Residential) Structures, to Provide the Necessary Support to City Neighborhoods**

**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 amend the Code of the City of Hagerstown, Chapter 232, Vacant Commercial Structures. Specifically the amendments will:

1. Apply the ordinance throughout the City.
2. Amend the license fee charging a higher amount on blighted vacant structures.
3. Implement a registration and inspection schedule which establishes the first priority of blighted vacant structures.
4. Require a certificate of property insurance.
5. Establish certain Crime Prevention Through Environmental Design (CPTED) standards.

These amendments are consistent with the City’s Vision and Commitment for Housing and Neighborhoods and the Community’s City Center Plan.

**Introduction of an Ordinance: Catalyst Project #8 – Amending Chapter 233, Vacant Residential Structures, to Provide the Necessary Support to City Neighborhoods**

**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 amend the Code of the City of Hagerstown, Chapter 233, Vacant Residential Structures. Specifically the amendments will:

1. Amend the license fee to charge a higher amount for blighted vacant structures.
2. Implement a registration and inspection schedule which establishes blighted vacant structures as the first priority.
3. Require a Certificate of Property Insurance.
4. Establish Certain Crime Prevention Through Environmental Design (CPTED) standards.

These amendments are consistent with the City's Vision and Commitment for Housing and Neighborhoods and the Community's City Center Plan.

Discussion: Councilmember Munson mentioned several houses have been condemned since he has been a member of the Council. He asked how this legislation will affect the status of these houses. John Lestitian, Director of Department of Community and Economic Development, stated condemned properties will be immediately registered as vacant, which triggers an exterior and interior inspection.

Councilmember Aleshire is concerned with the vagueness of certain CPTED requirements. For example, there is a requirement to secure doors. If a door is not secured by a dead bolt lock, who determines if the building is properly secured. Paul Fulk, Inspection Manager, stated the inspector would determine if the door was secured appropriately. The door could be screwed shut or boarded over and it may comply with the regulations.

There is flexibility in the regulations to allow for appropriate ways to secure historic buildings.

Councilmember Aleshire expressed his concern that shrubbery must be trimmed to a certain height. Some residences have ornamental trees that create privacy for the occupants. Kathleen Maher, Planning Director, stated the height requirements are included to ensure that neighbors and police have an unobstructed view of the vacant property to ensure vandalism has not occurred. She noted each case will be reviewed individually.

Mayor Gysberts stated another question that was raised is if home owners already going through a foreclosure process would be faced with additional costs, such as fines for violations. He suggested further discussion of the potential code violations for these properties.

Mr. Lestitian stated that provision is not included in the ordinances. Staff is drafting a policy that would meet the will of the elected body to not issue fines to the owner of record but the financial institution of a foreclosed property.

Councilmember Brubaker asked if this is possible. Mr. Lestitian indicated fines have been issued to financial institutions and they have responded.

Councilmember Aleshire asked how an interior inspection will be conducted. Ms. Maher indicated interior inspections will occur immediately with a blighted property. Interior inspections would occur after a non-blighted property is vacant for a period of one year. The

person listed as the contact on the registration would be contacted to gain access.

Mayor Gysberts pointed out these ordinances will help inspectors determine unsafe conditions in vacant homes.

Councilmember Metzner is concerned about the length of time it takes for the financial institution to be listed as the owner of a property. Someone who abandoned the property will not be inclined to maintain the property, even though they may still be listed as the owner.

Councilmember Aleshire pointed out the City can abate the condition and put a lien on the property for the costs of the abatement.

Councilmember Aleshire stated he has suggested waiving a utility tap fee to reinstate a utility service on foreclosure properties if the financial institution registers as the owner in a timely manner. This could be motivation for banks to register as the owner sooner.

Councilmember Metzner suggested information about the foreclosure process would be helpful.

Mayor Gysberts stated additional discussion time will be included for the September 23, 2014 Work Session.

The Special Session was closed at 4:44 p.m.

Mayor Gysberts noted that Delegate John Donoghue was present at the meeting.

#### Proclamation – Forget-Me-Not Veterans Program

Mayor Gysberts read a proclamation recognizing September, 2014 as Forget Me Not Month. The Forget Me Not program is a campaign of the Disabled American Veterans encouraging people to remember veterans.

Commander Doug Flanigan accepted the proclamation.

#### Check Presentation for Bear Sculpture – From the Washington County Museum of Fine Arts

Rebecca Massie Lane, Executive Director, Judy Wheeler, Al Martin, Marjorie Hobb, and Pam Goucker, of the Washington County Museum of Fine Arts and the Board of Trustees, presented a check to the City of Hagerstown for \$ 2,500.00 for the Fishing Lesson sculpture in City Park. The Museum sold raffle tickets for the artist's clay model of the sculpture as a fundraiser.

Ms. Massie Lane thanked the Mayor and City Council for the City's continued support of the museum.

The sculpture will be unveiled on September 20, 2014 during the City Park Fall Fest. Other activities include the 275<sup>th</sup> anniversary commemoration of the Jonathan Hager House and the 75<sup>th</sup> anniversary of the Valley Art Association.

#### Electronics Equipment Recycling Event

Rodney Tissue, City Engineer, Pat Harady and Phil Murray, Waste Management, were present to discuss electronic recycling. The City's solid waste program currently does not include an option for people to dispose of obsolete electronic and used electronic equipment. Washington County residents currently can take electronic recyclables to the Forty West Landfill. The minimum cost for the first 380 pounds of electronics is \$ 10.00. There are additional fees applied after the first 380 pounds.

The most frequent request made to enhance the City's program is to include electronics recycling. Early this year, the City was awarded a \$ 15,000 grant through the State Recycling Trust Fund to hold an electronic recycling event where computers, video display devices, and other electronic goods can be recycled, saving valuable landfill capacity, and protecting the public health and environment from the potential effects of metals and chemicals that may leak from electronics.

Staff is planning an electronic recycling event that is free to City residents to drop off qualifying items. The event is proposed for Saturday, November 15, 2014 from 10:00 a.m. to 2:00 p.m., rain or shine, at the Municipal Stadium parking lot.

Two tractor-trailers will be parked in the lot and electronics will be received until the trailers are full or the four hour period is complete. The list of acceptable materials generally includes all types of electronic equipment. Items such as large appliances, dehumidifiers, or other items of that nature are not accepted. Hazardous materials are not accepted. The cost of the program will be \$ 15,560 paid to Waste Management, with transportation of the materials, labor, forklifts, pallets, etc. included in the price. City staff will request proof of City of Hagerstown residency. Funding will be the grant plus operating budget funds from solid waste to cover the balance of costs.

Mr. Murray indicated Waste Management has held similar events nationwide. He stated many continuous programs have been established following this type of event.

Councilmember Brubaker asked how the event will be promoted. Mr. Tissue stated flyers will be included in utility bills. The flyer will also include detailed information on acceptable materials.

Councilmember Aleshire asked if there is a limit to the amount of material a resident can bring. Mr. Tissue and Mr. Murray indicated there is not, as long as it is acceptable material.

Councilmember Brubaker asked if the hours could be expanded. He also asked if Waste Management could work with volunteers for this event. Mr. Murray stated the hours can be expanded, if that is the desire of the Mayor and City Council. Waste Management prefers to do the manual work with their staff rather than volunteers so there are no injury issues. Volunteers could be used to help direct traffic.

Councilmember Metzner wondered if 10:00 a.m. to 4:00 p.m. would be better hours. Mr. Tissue stated the collection could be expanded to a six hour range.

Councilmember Munson asked if this event could be held annually. Mr. Tissue stated the event could be incorporated into the budget if the grant is not awarded.

It was the general consensus to approve the electronic recycling event for November 15, 2014.

#### Deferred Compensation Plans Update – 457(b) and 401(a)

Michelle Hepburn, Director of Finance, and Karen Paulson, Director of Human Resources, were present to discuss the City's Deferred Compensation Plans.

In August, 2013, the Mayor and Council approved staff moving forward with drafting and implementing a new benefit for certain full-time employees who are not eligible to participate in the Maryland State Retirement System plan due to their retiree status.

The Deferred Compensation Committee has worked with the deferred compensation vendor, Great West throughout the past year on creating and adding a 401(a) plan to the Deferred Compensation package. The highlights of the recommended 401(a) plan are:

1. Employees that are not eligible to participate in the MD State Retirement System due to their retiree status will have the option to contribute to a deferred compensation pension plan.
2. The 401(a) plan would not have a "vesting" time limit or period.
3. The City of Hagerstown will contribute and/or match an employee's contribution up to a maximum 3% of annual base salary.
4. The 401(a) plan will offer the same investment options as the 457(b) plan.

In order to add this new feature and benefit, the Committee has worked extensively with Great West to incorporate an investment policy that meets industry standards and ensures that the City and Committee meet its fiduciary responsibility. At the same time as adding the new 401(a) plan, the City will have the opportunity to provide modern enhancements to the current 457(b) plan as stated below:

1. There remains no cost to the City to offer employees the existing and the optional 457(b) plan.
2. Employees that currently participate and contribute to the 457(b) will have significantly reduced administrative fees.

3. The City will be able to offer more modern features and options in the 457(b) like target funds and streamlined discounted investment options.

The committee and staff are excited to provide additional benefits to employees while at the same time provide enhancements to the existing plan. Staff anticipates that all the enhancements will be available to eligible employees by the end of 2014.

It was the general consensus to add a 401(a) plan to the City's pension options.

#### Curfew Ordinance and Enforcement Strategy

Chief Mark Holtzman was present to discuss the existing curfew ordinance. The ordinance requires juveniles under the age of 16 to be home by 11:00 p.m. on weeknights and by midnight on weekends. It includes a provision for parent responsibility and there are penalties associated with violations of the ordinance.

Chief Holtzman pointed out most juvenile arrests are made after midnight. The curfew ordinance is needed and provides an additional reason to approach a suspicious individual.

Chief Holtzman stated other jurisdictions have curfews for individuals age 17 and below.

Mayor Gysberts stated the curfew ordinance should remain in place. He stated an ordinance does not replace good parenting.

Chief Holtzman indicated the issues raised by Mr. Heitt at the August 26, 2014 Mayor and Council meeting were discussed with him and report information was provided to him.

Police officers typically take curfew violators home, if they have time. Chief Holtzman indicated it would take a significant amount of an officer's time to have parents or guardians pick up the juveniles at the police station.

Mayor Gysberts suggested implementing a fine for offenders.

Councilmember Nigh suggested reviewing the recently adopted strict curfew ordinance in Baltimore, Maryland. She stated 11:00 p.m. is too late for a child to be out on a school night. Mayor Gysberts pointed out Baltimore is doing a lot more than passing an ordinance imposing a curfew, they are also building curfew centers.

Councilmember Metzner stated dealing with the judicial system is also a challenge. There needs to be a concentrated effort to reduce juvenile delinquency by reaching out to people who have contact with kids.

Councilmember Brubaker agrees the 11:00 p.m. time is too late.

Chief Holtzman agrees that a good parenting model is advantageous. He suggested watching how the curfew laws in Baltimore progress.

Councilmember Metzner stated the City's ordinance should address the times when most calls are received by the police.

Chief Holtzman stated other jurisdictions use "under the age of 17" as the threshold for their curfews. He stated discussions are being held with the Department of Social Services about repeat offenders.

It was the general consensus to amend the curfew ordinance.

#### Downtown Quality of Life Issues

Chief Mark Holtzman was present to discuss downtown quality of life issues, in response to citizen concerns recently raised regarding excessive noise from vehicles downtown. State of Maryland statutes authorize a motor vehicle violation for noise from a car that is able to be heard from 50 feet away. He stated officers will be more closely monitoring noise levels.

Mayor Gysberts asked if any municipality has regulations against people wearing their pants extremely low or not wearing a shirt. Chief Holtzman is not aware of any.

Councilmember Metzner thanked Chief Holtzman for the increased police presence in the downtown during the last six months.

Councilmember Brubaker stated police visibility is a key in deterring crime.

#### Memorandum of Understanding with the DEA

This item was removed from the agenda.

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

*John Lestitian, Director of the Department of Community and Economic Development*, had no additional comments.

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

*Councilmember L. C. Metzner* anticipates that police officers will be wearing cameras within the next ten years. In Hagerstown, this would be for the safety of the officer. He suggested looking for grants that may be available for the purchase of cameras. He would be interested in hearing the police perspective on this topic.

*Councilmember P. M. Nigh* thanked the Hagerstown Police Department and the Code Compliance Office for their work to address a bad problem on Hamilton Boulevard. She hopes it will be resolved.

*Councilmember D. F. Munson* thanked both groups as well.

*Councilmember K. B. Aleshire* previously provided the Mayor and Council and staff with an existing ordinance to address the issue of unattended donation containers. The number of containers in Hagerstown has increased and there is accumulated trash at many of them. He mentioned the annual open house at Woodmont Lodge (near Hancock, Maryland) will be on Sunday, September 14, 2014.

Councilmember Aleshire stated there should be standards for utilities that work within the City's right of way for street patching. He stated residents need to receive correct information during an incident like the shooting that occurred on Hager Street. With social media contacts, residents will be receiving information from multiple sources, which may not be accurate. He mentioned issues at the South End Shopping center are having a negative impact on the neighborhood. Visitors to City Park should be aware that feeding bread to the ducks and geese causes problems. He appreciates the efforts the City makes to maintain the tot lots. The lack of civility from people around these areas tends to keep families away from the playgrounds.

*Councilmember M. E. Brubaker* attended a downtown revitalization workshop in Frederick, Maryland. One of the moderators was Parris Glendening. He pointed out Hagerstown is doing a lot of the things discussed, but the economic climate and demographics are different in Hagerstown.

*Mayor D. S. Gysberts* congratulated the Hagerstown Suns, who won the second half of the season. He hopes baseball will continue in Hagerstown. This is a great opportunity to make it happen and the existing stadium should be used. He attended the ribbon cutting ceremony at the recently constructed Bester Elementary School. Students and teachers are proud of the building. He presented a proclamation during the Emergency Preparedness event at City Park earlier today. Many activities are planned for this weekend including the Zumba Fest, Color Splash 5K, Porch Fest, Art in the Park and the Hispanic Festival.

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 6:09 p.m.

Respectfully submitted,

Donna K. Spickler  
City Clerk

Approved: October 28, 2014