

WORK SESSION - June 16, 2015

Mayor D. S. Gysberts called this Work Session of the Mayor and Council to order at 4:04 p.m., Tuesday, June 16, 2015, in the Council Chamber at City Hall. Present with the Mayor were Councilmembers K. B. Aleshire, M. E. Brubaker, D. F. Munson, and P. M. Nigh; City Administrator Valerie Means, Mark Boyer, City Attorney, and City Clerk D. K. Spickler. Councilmember L. C. Metzner was not in attendance.

Oath of Office to Valerie Means, City Administrator

Mayor Gysberts administered the Oath of Office to Valerie Means, City Administrator. Ms. Means began her term as City Administrator on June 15, 2015.

Proclamation: Recognition of Juneteenth

Mayor Gysberts presented a proclamation recognizing Juneteenth to Andy Smith, Brothers United Who Dare to Care. Juneteenth, also known as Freedom Day or Emancipation Day, is an annual holiday celebrated on June 19th in the United States to commemorate the ending of slavery.

Preliminary Agenda Review

Public Hearing – Land Management Code Amendments

Kathleen Maher, Planning Director, stated the six foot fence exemption was discussed by the Planning Commission, and they were not in favor of a blanket exemption for six foot fences. The Planning Commission and Planning Staff suggest removing the fence exemption from this set of amendments and include it in a future package of amendments.

Consent Agenda

- A. Department of Parks and Engineering:
 - 1. Electric Service Upgrade of Former Fairgrounds Park Grandstand Building – Beacon Electric (Clear Spring, MD) \$ 44,650.00
 - 2. Construction of Recreation Space in Grandstand Building in Fairgrounds Park – Work to be completed in-house - \$ 77,350.00

- B. Department of Utilities:
 - 1. Water – Magnafloc Polymer – George S. Coyne Chemical Co., inc. (Droydon, PA) \$ 46,980.00

There were no questions regarding the consent agenda.

Introduction of an Ordinance: Amending the City Code by Repealing Chapter 183, Nuisance – Unattended Donation Containers

New regulations for Unattended Containers are being considered by the Mayor and City Council due to a notice that the recent regulations may violate the constitutional right to free speech. Mark Boyer, City Attorney, pointed out there will be an enforcement question beginning July 1, 2015 if the recently adopted regulations are not repealed. If the regulations are not repealed, a formal statement should be issued notifying the public that despite the effective date, the regulations will not be enforced.

Councilmember Aleshire stated it appears removing the boxes does not remove the accumulation of items on the parking lot around the donation boxes. He is not willing to repeal the ordinance until new regulations are reviewed. He stated staff should be directed to address the mess around the donation boxes beginning on July 1, 2015. It is the property owner's responsibility to keep their property maintained.

Mr. Boyer indicated that staff have been addressing the trash, rubbish, and debris accumulation around the donation boxes and may continue to do so.

Councilmember Munson is concerned staff have other duties and may not be able to devote a great deal of time to addressing the trash accumulation. He is not in favor of repealing the ordinance.

Mayor Gysberts wants the regulations to be as restrictive as possible. He wants proof the groups are non-profit organizations. He suggested a "three strikes and you're out" policy for the donation boxes.

Councilmember Aleshire stated it is clear the City's regulations are not enforceable as they currently exist.

Councilmember Munson wondered if the boxes could be subject to zoning regulations. He agrees with Mayor Gysberts that the regulations need to be very restrictive. The minimum cost for placing a donation box within the City limits should be \$ 500.00.

Mayor Gysberts stated the boxes are a chronic nuisance. He made the statement that the ban will not be enforced on July 1, 2015. The regulations will be discussed during the July 21, 2015 Work Session.

Councilmember Brubaker stated it will be important to aggressively enforce the regulations when they are established.

Councilmember Munson requested a report of how many times Code staff have dealt with the mess around donation boxes.

Approval of a Resolution: Acceptance of a Site Agreement Between the City of Hagerstown and Shentel

Michael Spiker, Director of Utilities, presented a proposed lease agreement based on Work Session discussion on April 21, 2015. The provisions within the Site Agreement include \$ 1,000 ground rent per month, a 3% annual escalator on the ground rent due at the commencement date anniversary, and a 15% revenue share fee for each sublease of collocation that occurs on the site. The agreement is in line with other Shentel site agreements with the City and contains an initial five year term and seven subsequent terms.

Councilmember Brubaker asked if this ground rent is similar to others. Mr. Spiker indicated it is typical to this area.

It was the general consensus to include approval of the agreement on the June 23, 2015 agenda.

Approval of Contract: 2015 Pavement Preservation Program – Craig Paving, Inc. (Hagerstown, MD) Not to Exceed \$ 1,005,000

Rodney Tissue, City Engineer, provided a list of the streets to be paved under this contract.

Councilmember Brubaker wondered why the Central Parking Lot is on the list for paving since there may be an office building construction project in that area. Mr. Tissue stated the footprint for the building is to the alley. The paving plan is for outside that area. Councilmember Brubaker is concerned there will be heavy equipment traveling across the parking lot during construction. He wondered if there was another parking area that could be paved instead. Mr. Tissue stated there is.

Approval of Safe Routes to Schools Memorandum of Understanding for Acceptance of a Grant of \$ 375,000

Mr. Tissue stated the City has been awarded a grant of \$ 375,000 for reconstruction of traffic signals at Frederick Street/Mill Street and Salem Avenue/Nottingham Road. The agreement will be scheduled for approval on June 23, 2015.

Approval of a Contract: Roof Replacement at Hagerstown Light Department – Hite Roofing (Cumberland, MD) \$ 389,000

Mr. Spiker stated Hite Roofing of Cumberland, Maryland submitted a low bid for the HLD Replacement. They will perform a complete roof replacement with a 30 year full system warranty at the HLD facility at 425 East Baltimore Street. The expenditure of \$ 389,000 of Fiscal Year 2015 Bond Funds has been accounted for in the CIP budget.

Councilmember Brubaker requested that the source of funds be added to the approval form. It needs to be formally specified that the debt service will be paid from the Light Fund.

Michelle Hepburn, Director of Finance, stated the funding is from the current bond and the cash has already been provided to the City. Staff have documented the funding source for the debt service on other documents and will add it to the consent form.

This completed the preliminary agenda review.

Mr. Boyer left the meeting.

General Fund Agency Contributions for FY16

Michelle Hepburn, Director of Finance, was present to discuss the General Fund Agency Contributions in the FY 2015/16 budget.

There is a total of \$ 205,000 included in the General Fund in the approved FY 2015/16 budget. Of this total \$ 205,000 for agency contribution funding, there is \$ 15,000 reflected as "Unspecified Agency Contributions". Prior to the distribution of any funding or agency correspondence, Mayor and Council direction is needed on agency allocations.

Most organizations were left flat from the allocations from last year. The amount allocated to the Home Store was reduced.

Mayor Gysberts stated he thought Councilmember Metzner mentioned moving funding from Community Rescue Service to help fund other agencies, such as the Food Bank.

Councilmember Aleshire does not support providing funding to the Food Bank. Councilmember Munson does support providing funding to the Food Bank.

Councilmember Nigh stated funding for CRS should remain as it is.

Councilmember Brubaker stated he thought Councilmember Metzner had other ideas as well.

Ms. Hepburn stated all the applicants met the deadline. Some provided additional information with their application. If the Mayor and City Council wait until July to make decisions regarding funding for the agencies, it could be detrimental to their operations. She has not provided commitments to the agencies. She asked if the Mayor and Council agree to provide funding for the seven core agencies as discussed previously. This amount will be \$ 190,000. It was the general consensus to provide funding as stated.

The remaining \$ 15,000 was then discussed. The City received funding requests in the amount of \$ 83,000.

Councilmember Brubaker suggested keeping the \$ 15,000 and use it to fund things that may come up throughout the year. Ms. Hepburn stated the original contingency was \$ 5,000. The original intent of the policy was to limit the number of requests received throughout the year.

Ms. Means inquired if any of the agencies are also receiving Community Development Block Grant funds.

Ms. Hepburn indicated two requests, one from the library and one from the BMX, were considered for funding. The BMX funding is a matching amount and this may be funded in the FY 2014/15 budget. The funding for the public art at the library is being included in the Public Art CIP. Both these requests would be removed from the FY 2105/16 request list.

Councilmember Aleshire suggested donating \$ 1,000 to the 10 requesting agencies and keeping the remaining \$ 5,000 as contingency. There will not be consensus for the funding. He noted there are 650 other organizations that could be on this list.

Councilmember Munson is concerned there are four organizations that bring people downtown that aren't being funded. These organizations should be recognized for their contributions to the City.

Councilmember Brubaker suggested providing \$ 3,500 to the Washington County Arts Council, the Washington County Historical Society and the Discovery Station.

Mayor Gysberts offered the following suggestion: \$ 2,000 to the Arts Council, Discovery Station, and the Historical Society and \$ 1,000 to Children's Village.

The discussion concluded with a consensus of not allocating the \$ 15,000 at this time. Councilmember Nigh, Councilmember Brubaker and Mayor Gysberts agreed to this decision. Councilmember Aleshire and Councilmember Munson did not agree.

Tree Trimming

Kathleen Maher, Planning Director, and Paul Fulk, Inspections Manager, were present to provide information about tree trimming in the City of Hagerstown.

In response to recent public comment regarding tree trimming requirements for private trees overhanging the public right-of-way, staff met to discuss options to provide alternative remedies to this situation.

Below are the options explored and the reasons staff found them not to be feasible:

1. Code amendment to lower the clearance height for tree limbs from 15 feet to 10 feet over parking lanes. This will not work, because the street sweeper is higher than 10 feet and it needs to get up against the curb. In addition, fire trucks, delivery trucks, moving vans, oil trucks, etc. need to get as close to the curb as possible.
2. Code amendment to require front yard trees within a certain distance of the public right-of-way be selected from the City's approved street tree list since they may grow to interfere with the public right-of-way. This requirement is not feasible because the species on the City's list are not necessarily ones that someone would want to plant as a specimen tree in their front yard. It would also be very difficult to enforce.
3. Change in City policy that would have the City contracting out services to trim privately-owned trees that overhang the public right-of-way. The cost to the City to contract out tree trimming services for private trees overhanging the public right-of-way would be cost prohibitive. There are 14,000 parcels in the City and if only 15% needed tree trimming, the cost to the City would be over \$ 500,000, based on recent contract costs incurred by the Hagerstown Light Department.

For these reasons, staff recommend maintenance of the status quo. The City maintains trees between the curb and sidewalk and within the sidewalk. The homeowner maintains the trees on their side of the sidewalk. The City code provides for clearance over the sidewalk is 7 feet (street sign clearance) and 15 feet over the street (traffic signal/sign/bridge clearance).

Mr. Fulk indicated inspectors identified trees that were in need of trimming and 1,100 notices were sent out. There are now 100 properties that are in violation.

Councilmember Aleshire asked if citizens are responsible to trim all their trees. He does not want citizens in the travel lanes trimming trees. He does not think Ms. Maher indicated the homeowner is responsible for maintaining private trees. Street trees are maintained by the City of Hagerstown.

Mayor Gysberts asked why 15 feet is the requirement. Mr. Fulk stated staff is researching this. The regulations in the 1980's were 15 feet.

Mayor Gysberts pointed out there is nice growth and it would be good to preserve the trees. It appears the general consensus is to not make changes to the regulations at this time. The Mayor and City Council are trying to take care of things, not picking on people with big trees.

City Center Retail and Restaurant Incentive

Jill Frick, Economic Development Manager, and Andrew Sargent, Downtown Manager, were present to discuss revisions to the Retail and Restaurant Incentive Program. The feedback received at the June 2, 2015 meeting has been incorporated into the guidelines.

The following revisions are included:

1. Three grant amounts of \$ 2,000, \$ 3,000 and \$ 4,000, based on cost and scope of work proposed and influenced by square feet leased. The square foot sliding scale was deleted but amount of square feet leased will be reviewed.
2. Minimum of 750 square feet must be leased. Cooperative facilities can make a single application as a group to meet this minimum requirement.
3. The application will ask for an explanation of total startup costs – improvements vs. operational expenses. At least 75% of the grant must be used for renovations to the space, such as painting or electrical upgrades. At most, 25% of the grant may be used for working capital, such as marketing or purchasing business equipment.

The program guidelines that remained unchanged are as follows:

1. That greater than half of all income comes from retail or restaurant sales.
2. A minimum one-year lease in the Main Street Area showing that the business is paying market-rate rent for space that is able to be occupied.
3. Building must be in good standing with the State and the City.
4. Receipts showing that the grant was used according to the application.
5. Applicants must be new businesses moving into the Main Street Area.
6. Applicants may not include bail bond businesses, store front churches, hookah shops, tattoo businesses, adult bookstores or other adult businesses, gambling businesses or the like.

Funding for this program will continue to come from the existing Economic Incentive line in the FY 2016 budget. Currently, there are sufficient funds to dedicate up to \$ 12,000 through June of 2016.

Councilmember Aleshire would support a smaller minimum square footage requirement if the business is viable.

Councilmember Brubaker stated the attractiveness to the streetscape is equally important.

Councilmember Aleshire would specify the use must be for-profit. He also would replace the word “may” with “shall” in the regulations.

Approval of the program will be included on the June 23, 2015 agenda.

Catalyst Project #7 – Farmers Market

Karen Giffin, Community Affairs Manager, Gaela Shoop, Market and Event Assistant, and Jill Frick, Economic Development Manager, were present to discuss Catalyst Project #7, Expansion of the City Market.

Catalyst Project #7 of the Community’s City Center Plan targets expansion of the hours and operations of the City Farmer’s Market as a means of filling a gap in the specialty food stores retail market and providing groceries and locally grown produce for downtown residents and restaurants. The 2014 Downtown Hagerstown Market Analysis identified that specialty food stores in the Hagerstown area retail market are only capturing 35% of the \$20 million in demand Countywide for such specialty items. This gap in supply could support 15,000 sf to 20,000 sf of new specialty food stores in the downtown, including expanded activity at the City Farmers Market, and could provide the basis for specialty foods district capturing significant portion of the \$ 13 million in unmet demand Countywide for specialty food items.

To implement this initiative, the Community City Center plan calls for the City to consider the current operational model and consider placing the market under private management with the goal of expanding the hours of operation of the market, increase the number of vendors at the market, and rebrand the market to capture a portion of the estimated \$ 13 million in unmet demand for specialty foods in the retail market region.

The City will review and consider making necessary capital improvements to support the expansion through planning discussions with the selected operator. In order to do this item, City staff would like to seek qualified persons/firms for the operation, management and marketing of the City Farmers’ Market for a minimum three year period through a Request For Proposals. The proposal is included in the packet material. Staff developed the RFP in consultation with Urban Partners.

City Staff would first like to schedule a public input session to gather feedback on the Community City Center Plan’s outline for the City Farmers Market and discuss items on the Request for Proposal. Staff would like this input session to happen first and then the Request for Proposal would be finalized with items from the input session.

Mayor Gysberts encourages this process. He knows it will be a difficult conversation and there will be vendors that are not able to participate through the week. The City market is highly underutilized.

Ms. Giffin stated it may be possible to have a mix of vendors, selling at different times during the week.

Councilmember Brubaker asked if the target is 35-40 hours minimum per week. Ms. Giffin indicated the RFP states 35-40 hours.

Councilmember Brubaker thinks the market should be one of the anchors for the park trail.

Mayor Gysberts stated he understands some community garden participants are selling their produce at the market. He is looking to put the farmer back in the Farmers Market.

Ms. Frick stated this also ties in with the student housing market and the City's attempts to making downtown active 24 hours per day.

The public meeting will be scheduled, perhaps at the Market.

Councilmember Aleshire stated everyone has to be open to a new structure for the market and have the fortitude to carry out the new structure. The continual piece meal process is not working.

The RFP will be posted and the public input session will be scheduled.

CITY ADMINISTRATOR'S COMMENTS

Valerie Means, City Administrator, is happy to be with the City of Hagerstown. She believes the work session schedule is helpful.

MAYOR AND COUNCIL COMMENTS

Councilmember M. E. Brubaker is glad people are visiting the pool and parks around Hagerstown.

Councilmember K. B. Aleshire helped with the MiHi Fishing Frenzy. It was good to see people enjoying the amenities of the City.

Councilmember D. F. Munson attended the opening concert of the Hagerstown Municipal Band's 101st year on Sunday. He doesn't think there are adequate words to thank retired City Administrator Bruce Zimmerman for his contributions during his 21 years with the City. He helped keep the City running through difficult times. Everyone

is looking forward to continued progress and looking forward to working with Valerie Means as the City Administrator.

Councilmember P. M. Nigh stated the Utility Relief Fair was held last week and all the funds were disbursed. She is hopeful a concert will be held again this year. She asked if any progress has been made with the use of the old Sheetz store on North Potomac Street. Mayor Gysberts indicated staff is continuing to follow up with the owners.

Mayor D. G. Gysberts thanked Ms. Giffin for organizing the Flag Day ceremony. He also thanked Councilmember Aleshire for helping with the MiHi event. He toured the Pittsburgh Aeronautics facility. The Tour of Washington County bicycle race will be held Friday, June 19, 2015 in downtown Hagerstown. Shakespeare in the Park opens this weekend. The 100th anniversary gala of the Maryland Theatre is being held on June 20, 2015.

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 5:57 p.m.

Respectfully submitted,

Original signed by D. K. Spickler

Donna K. Spickler
City Clerk

Approved: July 28, 2015