

84TH REGULAR SESSION – February 23, 2016

Mayor D. S. Gysberts called this 84th Session of the Mayor and City Council to order at 7:07 p.m., Tuesday, February 23, 2016, 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 Valerie Means, City Attorney Mark Boyer, and Donna K. Spickler, City Clerk.

The invocation was offered by Councilmember M. E. Brubaker. 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 at 4:00 p.m. on Tuesday, March 1, 2016, Tuesday, March 8, 2016, and Tuesday, March 15, 2016, and the Regular Session at 7:00 p.m. on Tuesday, March 29, 2016. The State of the City will be held on Tuesday, March 1, 2016 at 7:00 a.m. at Hager Hall and at 6:30 p.m. at the Washington County Free Library. There will be no meeting on Tuesday, March 29, 2016.

GUESTS

Hagerstown Gridiron Championship MVP

The Hagerstown Gridiron Challenge MVP Presentation was made. North Hagerstown High School MVP Ben Stottlemeyer received a scholarship check from the Hagerstown Kiwanis Club, which was presented by William Breichner. South Hagerstown High School MVP Toby Peer II received a scholarship check from CNB Bank.

Proclamation: Black History Month

Mayor Gysberts read a proclamation recognizing February, 2016 as Black History Month. The theme for Black History month in 2016 is “Hallowed Grounds: Sites of African American Memories”. Proclamations were presented to Reggie Turner, President of the Board of Directors of the Doleman Black Heritage Museum, Mr. and Mrs. Mosby, owners of Mosby’s grocery store that was located on Jonathan Street, Guy Djoken, UNESCO for Peace, and Reverend Joe Chandler.

APPOINTMENTS

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 re-appoint William Breichner and Joseph Marschner to the Board of Traffic and

Parking. Mr. Breichner's term will expire on January 31, 2020. Mr. Marschner's term will expire on March 24, 2020.

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 re-appoint Travis Poole to the Board of Zoning Appeals. Mr. Poole's term will expire on April 30, 2019.

On a motion duly made by Councilmember D. F. Munson and Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to appoint Ed Joynes to the Bicycle Advisory Committee. Mr. Joynes' term will expire on March 1, 2018.

CITIZEN COMMENTS

Margaret Yaukey, 16 E. Salisbury Street, Williamsport, Maryland, was present to offer her support of the A & E Trail. As an artist, she finds downtown inspiring and believes the trail is what Hagerstown needs. She views this as the beginning of rebirth for Hagerstown. She and other artists have discussed an art center.

Kevin Spielman, 11 W. Baltimore Street, Hagerstown, Maryland, stated the wall of the lake at City Park should be repaired when the lake is dredged. He asked for an update on the work on Southern Boulevard.

Mayor Gysberts reported the wall repair will be part of the project at City Park. Since Southern Boulevard is a County project, questions should be directed to the County. He believes construction has started.

Nancy Allen, 924 Oak Hill Avenue, Hagerstown, Maryland, urged the Council to table further discussion on the proposed amendments to Chapter 187, Nuisance Abatements. Something has to be done about vacant buildings. In 2012, Senate Bill 98 was submitted which would require foreclosures to be finalized before the property could be recorded for sale. All liens, including taxes and utilities, had to be settled before the foreclosure was finalized. The bill was not passed. She believes the bill should be reintroduced. Many times owners of foreclosed properties are not aware of notices that have been placed on the property. Owners who maintain their properties while they are vacant and available for sale should not be penalized for having a vacant residence. She would like to know the costs associated with filing liens.

Jason Physioc, no address known, agreed with Ms. Allen.

CITY ADMINISTRATOR COMMENTS

Valerie Means, City Administrator, reminded residents that yard waste pick up will resume the first week of March.

MAYOR AND COUNCIL COMMENTS

Councilmember P. M. Nigh asked that the local television station be notified when trash will be delayed so they can make announcements as well.

Councilmember D. F. Munson noted that, in order to make the Hagerstown Cultural Trail possible, a number of organizations were willing to contribute land and easements. He thanked them for their actions. He serves on the board of the Hagerstown Housing Authority and there were many discussions between the City of Hagerstown and the HHA regarding how the trail might cross HHA land. The HHA board is enthusiastic about the project and has contributed \$ 10,000.00 toward the project. He thanked the HHA for their generosity.

Councilmember L. C. Metzner had no additional comments.

Councilmember M. E. Brubaker had no additional comments.

Councilmember K. B. Aleshire noted the water break on Virginia Avenue reinforces his belief that various points of entrance on the water system are good. When there is a major break, service can be diverted while the repair is made. He recalls Senate Bill 98, which would help with knowing who to contact about vacant properties. However, the reality is the average foreclosure in Maryland takes more than 500 days to complete. Many buildings would be well worth the cost to demolish. He expects the government will continue to have to step in and remove these buildings.

Councilmember Metzner pointed out the City is in the process of testing a resident 311 notification system.

Mayor D. S. Gysberts thanked people in the audience who are present to support the Hagerstown Cultural Trail. He thinks the trail, which connects two great assets, will encourage investors and attract many visitors to Hagerstown. He thanked all the partners who have pledged monetary support. He believes sponsorships of public art will increase as people visit the trail. A hearing loop system is now being used in the Council Chamber that will enhance the sound for attendees.

MINUTES

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 approve the minutes, as presented, for the Mayor and Council meetings held on January 5, 2016, January 12, 2016, January 19, 2016, and January 26, 2016.

CONSENT AGENDA

On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember D. F. Munson, the Consent Agenda was approved as follows:

- A. Community and Economic Development:
 - 1. Street Closures for Events in 2016
 - 2. Open Containers Law Exemption and Application Permits:
 - a. Blues Prelude – June 2, 2016, Maryland Theatre at University Plaza
 - b. Blues Fest – June 3 and 4, 2016, Maryland Theatre at Central Parking Lot
 - c. Blues Club – June 3 and 4, 2016, M & T Bank at Central Parking Lot
 - d. Maryland Theatre Wind Downs – at Maryland Theatre – May 20, 2016, June 10, 2016, July 15, 2016, August 12, 2016, September 30, 2016, and October 21, 2016
 - e. St. Patrick’s Day Run Fest After Party – March 12, 2016, Community Free Clinic at University Plaza
 - f. Augustoberfest – August 27 and 28, 2016 – Augustoberfest Charitable Foundation, Inc. at Central Parking Lot and Surrounding Area
 - g. University System of Maryland at Hagerstown Graduation Celebration – May 24, 2016 at University Plaza
 - 3. Trick or Treat Date – Monday, October 31, 2016
- B. Parks and Engineering:
 - 1. Engineering: Handicap Ramps at Walnut Street and Antietam Street – Odd Jobs Contractors (Keedysville, MD) Not to Exceed \$ 39,000.00
 - 2. Engineering: Signal Upgrade at Walnut Street and Antietam Street – Valentine Electric, Inc. (Hagerstown, MD) \$ 44,635.00
 - 3. Parks: Mowing for Golf Course for 2016 Season (4th year of 5 year contract) - JR Services (Smithsburg, MD) \$ 16,500.00
 - 4. Parks: Mowing for Various Parks for 2016 Season (4th year of 5 year contract) - JR Services (Smithsburg, MD) \$ 71,504.52

UNFINISHED BUSINESS

A. Approval of an Ordinance: Acceptance of Easement – Beazer Homes Corp.

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 an ordinance and to adopt a Deed and Declaration of Easement from Beazer Homes Corp. that grants the City the right, but not the obligation, to enter an easement area at Collegiate Acres for inspection or maintenance activities.

B. Approval of an Ordinance: Adding Chapter 187 to the City Code, Nuisance and Abandoned Property Abatement

Action: On a motion duly made by Councilmember M. E. Brubaker and seconded by Councilmember D. F. Munson, the Mayor and City Council unanimously agreed by voice vote to approve an ordinance to add Chapter 187, Nuisance and Abandoned Property Abatement, to the Code of the City of Hagerstown. This chapter provides definitions for nuisance and abandoned properties and sets up procedures of the City of Hagerstown to follow in the effort to rehabilitate or eliminate nuisance properties and abandoned properties within the city. This amendment is intended to provide additional protections for the neighborhoods from blight and nuisance conditions.

Discussion: Councilmember Brubaker appreciates citizens speaking during Citizen Comments. He clarified that these amendments have been discussed many times during recent work sessions.

C. Approval of an Ordinance: Amending Chapter 65 of the City Code, Property Maintenance Habitual Offender

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 an ordinance to amend Chapter 65, Property Maintenance Habitual Offender, of the Code of the City of Hagerstown. This chapter will be renamed Habitual Offender and will be amended to apply to not only Chapter 64, Property Maintenance Code, but also Chapter 140, Land Management Code, Chapter 185, Nuisance Abatement, Chapter 197, Rental Facilities, Chapter 232, Vacant Non-Residential Structures, and Chapter 233, Vacant Residential Structures. In addition, a definition of “Premises” will be added to the chapter. These amendments are intended to provide additional protections for the neighborhoods from nuisance actions and conditions.

NEW BUSINESS

A. Introduction of an Ordinance: Relinquishing Rights to Alley Parallel to East Franklin Street and Liberty Street

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 making a determination that certain property is no longer needed for a public purpose and authorizing conveyance of a portion of the property to the adjoining property owners Robert F. Knode and Patsy J. Knode.

B. Introduction of an Ordinance: Execution of a Deed of Easement and Maintenance Agreement with the Housing Authority of Hagerstown, Maryland (Hagerstown Cultural Trail)

Action: Councilmember D. F. Munson made a motion to introduce an ordinance authorizing the execution of a Deed of Easement and Maintenance Agreement between the City of Hagerstown and the Housing Authority of the City of Hagerstown, Maryland for the use of a portion of the Housing Authority property in connection with the construction and maintenance of the Hagerstown Cultural Trail.

Councilmember M. E. Brubaker seconded the motion.

Discussion: Councilmember Nigh stated she will be voting against all actions for the trail. She stated she is looking at the future of public safety needs and does not approve funding for other projects.

Councilmember Metzner pointed out this is a vision for the City. It is a 20 year plan. He asked if not now, when? There will always be difficult times and hopefully good times. This is an investment in Hagerstown, not just an expense. It is an investment in the quality of life for Hagerstown residents and visitors. If this project is not approved, all momentum and excitement will be lost.

Councilmember Munson agreed the trail is an important statement for Hagerstown. This trail will provide an opportunity to increase the tax base significantly when houses are built along the trail. The City Center Community Plan, if completed, will create 1,000 jobs and will help the community support itself. This trail has the potential to attract thousands of visitors.

Councilmember Brubaker and the Council have heard this money could be used for other purposes. This is bond funded money that will be paid back over 15 years. Bond funding cannot be used for wages or operating costs.

Motion carried 4-1 with Councilmember P. M. Nigh voting No.

C. Introduction of an Ordinance: Execution of a Deed of Easement and Maintenance Agreement with BMB Associates, Inc. (Hagerstown Cultural Trail)

Action: Councilmember L. C. Metzner made a motion to introduce an ordinance authorizing the execution of a Deed of Easement and Maintenance Agreement between the City of Hagerstown and BMB Associates, Inc. for use of a portion of its property in connection with the construction and maintenance of the Hagerstown Cultural Trail. Councilmember M. E. Brubaker seconded the motion.

Motion carried 4-1 with Councilmember P. M. Nigh voting No.

D. Introduction of an Ordinance: Acceptance of Quit Claim Deed from Antietam Paper Building, LLC (Hagerstown Cultural Trail)

Action: Councilmember M. E. Brubaker made a motion to introduce an ordinance authorizing the acceptance of a Quit Claim Deed from Antietam Paper Building, LLC for 0.05 acres of land for use in the construction and maintenance of the Hagerstown Cultural Trail. Councilmember D. F. Munson seconded the motion.

Discussion: Councilmember Munson has been encouraging staff and others to do something about Antietam Street and unfortunately very little has been accomplished. When the trail is open, the City will have to act to improve Antietam Street. He anticipates investors will join the efforts and help improve Hagerstown.

Mayor Gysberts stated the City will lead by example. City leaders have to show they are willing to invest in Hagerstown.

Councilmember Metzner complimented staff on their diligence with working to obtain the land actions that were needed.

Motion carried 4-1 with Councilmember P. M. Nigh voting No.

E. Introduction of an Ordinance: Execution of a Donation Agreement with Herald-Mail Company (Hagerstown Cultural Trail)

Action: Councilmember M. E. Brubaker made a motion to introduce an ordinance authorizing the execution of a Donation Agreement between the City of Hagerstown and the Herald-Mail Company and the acceptance of the donation of .764 acres of land from the Herald-Mail Company for use in the construction and maintenance of the Hagerstown Cultural Trail. Councilmember L. C. Metzner seconded the motion.

Motion carried 4-1 with Councilmember P. M. Nigh voting No.

F. Approval of Phase I of Hagerstown Cultural Trail

Action: Councilmember L. C. Metzner made a motion to approve the following items related to this project:

1. Approval of the construction contract and the direct purchases of construction materials from vendors as listed on the purchase/contract information form in the amount of \$ 1,452,579.01;
2. Approval of up to \$ 190,000.00 for City Light to purchase light

- poles, hand boxes, and other related equipment (per the City's Purchasing Policy) as well as staff time to install the items;
3. Approval of the purchase of up to \$ 9,500.00 for benches and trash cans, \$ 20,000.00 allowance for CSX fees to improve the railroad crossing, and \$ 28,369.00 in contingency funds;
 4. Approval of the Public Art Master Plan for the project and the approval of up to \$ 450,000.00 for the initial phase of art work to be procured per the "professional services" section of the City's Purchasing Policy

Funding for the project includes: April 2015 bond proceeds, excise tax paid by developers, Maryland Heritage Area Authority grant, proceeds from the sale of land, a contribution by the Hagerstown Housing Authority, and a Program Open Space grant. Councilmember M. E. Brubaker seconded the motion.

Discussion: It was noted that a large portion of the construction and purchase of materials costs will be spent locally.

Councilmember Aleshire stated his theme for the resurrection of downtown has been arts and education. This project fits with his original intent. The City should focus on the theme and complete the infrastructure. When this happens, private investors feel more confident and are willing to invest. This is a much broader improvement than the proposed stadium project was. It accentuates that other parties are joining in the efforts to improve downtown.

Motion carried 4-1 with Councilmember P. M. Nigh voting No.

G. Acceptance of a Grant Agreement from the Maryland Heritage Area Authority (MHAA) – Signage for the Hagerstown Cultural Trail

Action: Councilmember L. C. Metzner made a motion to approve a grant agreement from the Maryland Heritage Area Authority that will be used for signage on the Hagerstown Cultural Trail. The grant amount is \$ 49,500.00 and will be matched with \$ 49,500.00 of the installation of the trail. Councilmember K. B. Aleshire seconded the motion.

Discussion: Councilmember Munson noted this action completes the package of ordinances and actions that will create the trail in the community. Several owners have donated land for the project and others have provided easements for their properties. Two grants have been secured as well. This is a great leap forward; comparable to the leap Hagerstown's forefathers took with construction the light plant. The light plant resulted in low electric rates for Hagerstown customers. Other leaps of faith include approving the construction of the museum, which is the

envy of other communities in the State, and constructing City Park, which has been noted as one of the most beautiful parks in the nation. He believes the trail will be just as successful.

Motion carried 4-1 with Councilmember P. M. Nigh voting No.

H. Approval of a Resolution: Accepting the 4th Amendment to the Lease with Hagerstown Baseball, LLC

Action: Councilmember D. F. Munson made a motion to approve a resolution to amend the lease for Municipal Stadium with Hagerstown Baseball, LLC to extend the term for the 2017 and 2018 baseball seasons, to clarify maintenance obligations, and to provide for immediate improvements and future upgrades to Municipal Stadium during the additional extended term. Councilmember L. C. Metzner seconded the motion.

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

I. Approval of a Resolution: Petitioning Reinstatement of State Shared Revenues

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 to be sent to the State Administration, and Maryland General Assembly petitioning the reinstatement of state shared revenues diverted from municipalities to fund operations of the state and request that the State provide more diverse revenue raising authority to municipalities. The City of Hagerstown has lost 82% of the State Shared Highway User Revenue, or approximately \$ 1.55 million. It is critical that these funds be restored.

Discussion: Councilmember Brubaker stated this resolution is intended to reinforce ongoing efforts in the General Assembly for new legislation stating that Highway User Funds are restored and guaranteed in a set manner for future funding.

Mayor Gysberts thanked Councilmember Brubaker for representing the City of Hagerstown on the MML Legislative Committee.

J. Approval of Amendment to Contract with Allen A. Myers, LP for Construction Improvements at the R. C. Willson Water Plant - \$ 212,134.00

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 approve the final project close-out Change Order per Maryland Department of the Environment and City

purchasing requirements in the amount of \$ 212,134.00. The funding source will be the contingent MDE loan funds previously approved by the Mayor and City Council.

Discussion: Councilmember Aleshire pointed out that the Water and Wastewater Systems are Enterprise Funds and will continually be in need of improvements. New regulatory mandates, aging equipment, and technology changes are required to be addressed. He was surprised by the recent newspaper article suggesting impending doom from the discussion of issues at the Edgemont Reservoir. A social media post implied the City's water was unsafe. He thanked staff for their persistence in meeting established guidelines.

Mayor Gysberts stated over the last 3 years, this Council has approved many actions to improve the facilities as required, for more than \$ 10 million. Staff has assured him the water is safe and the postings on social media sites were misleading.

K. Approval of Atlas Copco Compressors LLC Maintenance Agreement – \$ 417,208.45

Action: On a motion duly made by Councilmember M. E. Brubaker and seconded by Councilmember D. F. Munson, the Mayor and City Council unanimously agreed by voice vote to approve a five year expenditure of \$ 417,208.45 over the five year term of the maintenance agreement contract extension with Atlas Copco Compressors LLC.

L. Approval of the Synagro Wastewater Treatment Plant Sludge Thickening Project and Dryer Rebuild Project - \$ 1,000,000.00

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 approve the funding of the Synagro Wastewater Treatment Plant Phase 1B Sludge Thickening and Phase 2 Dryer Rebuild Projects. Wastewater CIP 54-CO711 will be utilized to fund the amount of \$ 1,000,000.00 for the remainder of Fiscal Year 16 and the first half of Fiscal Year 17. Additionally, the approval of this motion will serve as a Notice to Proceed to Synagro.

M. Approval of Memorial Tree and Bench Program

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 program to allow citizens to memorialize a significant person or life event with the purchase of a tree or bench. The trees and benches will be installed by Parks Division

staff within the parks of the City. The motion further authorizes staff to develop the program as detailed in the brochure presented with the motion.

N. Approval of Inductees to the Hagerstown Circle of Achievement at Memorial Park and Approval of a Date for the Induction Ceremony

Action: On a motion duly made by Councilmember K. B. Aleshire and seconded by Councilmember P. M. Nigh, the Mayor and City Council unanimously agreed by voice vote to accept the recommendation of the Circle of Achievement Inductee Review Committee, and pursuant to compliance with criteria for candidacy established by the Mayor and Council, to induct the following peoples into the Class of 2016 of the Hagerstown Circle of Achievement at Memorial Park:

John Vincent Jamison, Sr. and Jr. (one entry);
Maurice Edward Frock

The motion also establishes the date for the induction ceremony to be Saturday, May 21, 2016.

Discussion: Councilmember Metzner noted the Jamison's have asked to include another family member with the entry.

O. Approval of FY 17 Health Care Program

Action: On a motion duly made by Councilmember M. E. Brubaker and seconded by Councilmember D. F. Munson, the Mayor and City Council unanimously agreed by voice vote to authorize staff to proceed with the recommended changes to the health care program for FY 17 as discussed during the February 16, 2016 work session. The proposed changes to the program are recommended by the City's Health Care Committee and have been approved by 3 of the 5 employee groups per union contract language. While the City's contribution to the health care plan is increasing for FY17, these changes are projected to reduce the increase by approximately \$ 288,000.00.

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 8:30 p.m.

Respectfully submitted,

Original signed by D. K. Spickler

Donna K. Spickler
City Clerk

Approved: March 22, 2016