

10th REGULAR SESSION, WORK SESSION, AND EXECUTIVE SESSION – March 28, 2017

WORK SESSION – March 28, 2017

Mayor R. E. Bruchey, II called this Work Session and Executive Session of the Mayor and City Council to order at 5:01 p.m. on Tuesday, March 28, 2017, in the Council Chamber at City Hall. Present with the Mayor were Councilmember K. B. Aleshire, P. D. Corderman, E. Keller, L. C. Metzner, and D. F. Munson, City Administrator Valerie Means, Tom Lynch and Paul Rose, Miles and Stockbridge, and City Clerk D. K. Spickler.

EXECUTIVE SESSION – March 28, 2017

Councilmember D. F. Munson made a motion to meet in closed session to consult with counsel to obtain legal advice, #7, (Section 3-305(b)), on Tuesday, March 28, 2017 at 5:02 p.m. in the Council Chamber, 2nd floor, City Hall, Hagerstown, Maryland. Councilmember L. C. Metzner seconded the motion.

Discussion: Councilmember Metzner stated the portion of the discussion that is appropriate for closed session is the consultant with the attorneys, as it relates to what the City's position may or may not be for conditions of a payment in lieu of taxes (PILOT) agreement. The actual percentage rate should not be discussed in closed session. He seconded the motion to meet in closed session to discuss negotiation strategies with the attorney, but not for the ultimate amount of a PILOT.

Councilmember Aleshire stated the public should be aware the intended closed session discussion is the exact topic that was discussed in open session by the other party last week. He does not think there is a valid reason to meet in closed session.

Councilmember Metzner stated the distinction between the two discussions is that the open session discussion was at the request of the other party. This discussion will be with the City's attorneys.

Motion carried 3-2 with Councilmember K. B. Aleshire and Councilmember P. D. Corderman voting No.

The following people were in attendance: Mayor R. E. Bruchey, II, Councilmember K. B. Aleshire, Councilmember P. D. Corderman, Councilmember Emily Keller, Councilmember L. C. Metzner, Councilmember D. F. Munson, City Administrator Valerie Means, Attorney Tom Lynch, Miles and Stockbridge, Attorney Paul Rose, Miles and Stockbridge, Michelle Hepburn, Director of Finance, Scott Nicewarner, Director of Technology and Support Services, and D. K. Spickler, City Clerk.

The meeting was held to consult with legal counsel about a pending agreement. No formal action was taken at the meeting. On a motion duly made, seconded, and passed, the Executive Session was adjourned at 5:28 p.m. The discussion immediately continued in open session.

WORK SESSION – March 28, 2017

Mayor R. E. Bruchey reconvened the Work Session at 5:29 p.m.

PILOT Agreement with the Bethel Corporation

Mayor Bruchey asked what occurs if a PILOT agreement is not reached and this project does not move forward.

Paul Rose, Miles and Stockbridge, stated there is a subsidy that ends on June 30, 2017. If they are unable to convert to the Rental Assistance Demonstration (RAD) program, there will be no rent subsidy. The current owner could then raise the rent to recoup the loss of the subsidy. Current residents may not be able to afford the increased rent. It is unknown if people would rent the existing units, in their current condition, at a higher rate.

Councilmember Aleshire noted there are examples of improvement and decline in every neighborhood of the City. He noted during the Work Session last week, it was stated the current owner will retain a fraction of their ownership. The draft agreement states they will retain 50% ownership. He questioned the difference. Mr. Rose stated it is a limited partnership, with general partners. The bank is a limited partner.

Mr. Lynch stated the City could request copies of the applications for sales and tax credits for intended improvements. This would provide information about the improvements so tenants can live better, at the same rate.

Councilmember Aleshire questioned specific items of the draft agreement. He noted the income level of tenants is not stated.

Mayor Bruchey asked if the City collects the PILOT and then pays a portion to Washington County. Michelle Hepburn, Director of Finance, indicated payment of the County's portion is paid directly to them from Bethel Gardens.

Mr. Lynch stated he believes the entire federal subsidy is to be used for updating the units. He believes the ultimate goal would be to have separate, similar agreements with the City, County, and State. Preliminary discussions included a \$ 20,000 minimum payment to the City of Hagerstown.

Councilmember Aleshire stated there is a re-evaluation included every five years. Bethel's attorney stated this was to occur in order to adjust the rate if the cost for public safety services change. He is concerned the rate can change just one time, even if the cost for public safety calls increase. He noted the number of calls currently far exceeds the PILOT amount.

Ms. Means indicated the City would have the option to review the services every five years, not necessarily to increase but to make an adjustment.

Councilmember Aleshire stated the State tax rate statement seems like a very limited scope.

Mayor Bruchey stated the owners should be responsible for all utilities, whether the unit is vacant or not. Mr. Lynch indicated the gas service has been removed from the draft agreement because it was a point of contention.

Councilmember Corderman stated the potential future of Bethel Gardens if the PILOT agreement is 15% rather than 10% is concerning. He pointed out there may be another developer interested in the project if The Bethel Corporation cannot make it work. Mr. Rose noted that probably would not happen before June.

Councilmember Corderman stated the decision should be based on what is best financially for the City of Hagerstown. There is a significant budget deficit and agreements like this don't help the situation. He does not think the draft agreement is a good deal for the City.

Councilmember Metzner stated the units need to be refurbished. He is not going to be the person who makes a decision that causes people to be displaced. The only way this type of property is going to be rehabilitated is in this manner.

Councilmember Aleshire stated the City cannot continue to absorb losses year after year.

Councilmember Metzner pointed out the agreement exists and if this administration says no to a new agreement, the existing agreement will continue. Folks will continue to live in their current conditions.

Councilmember Aleshire and Councilmember Corderman stated they are not convinced the owner will walk away from the project if the PILOT is set at 15%, rather than 10%.

Councilmember Munson stated he will support what the majority of the Council supports. He does not wish to see Jonathan Street revert to a slum area, like it was in the 1970's.

Councilmember Metzner stated he thinks by not agreeing to a 10% PILOT, the apartments will be a slum with more calls for service.

Councilmember Keller does not want to lose the \$ 15 million investment over a difference between 10% and 15%. She is also concerned that people could lose their homes if the agreement is not accepted.

Mayor Bruchey stated it appears the direction of the Council is to move forward with the agreement, using the 10% amount.

Mr. Rose asked if the response to the opposing counsel is the 10% is acceptable but there are other negotiation points.

Councilmember Corderman stated the City has no leverage for other negotiations. Councilmember Metzner stated he believes that is what happens when strategies are discussed in open session.

A draft agreement, based on this discussion, and using 10%, will be provided to the Mayor and City Council for their review. Items to be clarified include: 5 year review process, audit timing will be changed from 90 days to 120 days, the vacancy rate, term of 40 or 50 years, and participation in the crime free housing program.

City Comprehensive Plan Update

The City Comprehensive Plan Update was postponed due to timing issues.

There being no further business for the Work Session, on a motion duly made, seconded, and passed, the meeting was adjourned at 6:38 p.m.

10th REGULAR SESSION – March 28, 2017

Mayor R. E. Bruchey, II called this 10th Session of the Mayor and City Council to order at 7:05 p.m. Tuesday, March 28, 2017, in the Council Chamber at City Hall. Present with the Mayor were Councilmembers K. B. Aleshire, P. D. Corderman, E. Keller, L. C. Metzner, and D. F. Munson, City Administrator Valerie Means, City Attorney Jason Morton, and City Clerk D. K. Spickler.

The invocation was offered by Councilmember E. Keller. The Pledge of Allegiance was then recited.

Mayor Bruchey announced the Rules of Procedure for this meeting will be followed as adopted December 20, 2016. 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, April 4, 2017, Tuesday, April 11, 2017, and Tuesday, April 18, 2017, and the Regular Session on Tuesday, April 25, 2017 at 7:00 p.m.

GUESTS

Proclamation: Maryland International Film Festival

Mayor R. E. Bruchey, II read a Special Recognition certificate highlighting and welcoming the 2017 Maryland International Film Festival to Hagerstown from March 31, 2017 through April 2, 2017. Tom Riford, President of the Maryland International Film Festival, accepted the certificate.

CITIZEN COMMENTS

Marvin Lohr, 1135 Sunnyside Drive, Hagerstown, Maryland, offered some ideas to increase interest in downtown. He mentioned robotic clubs and classes could draw attention. He suggested using smaller trash trucks so trash can be picked up in the alleys. He believes pick up three times each week would improve the appearance of downtown. Other suggestions include: citizens weeding flower beds in traffic islands, creating a jingle reminding people to pick up their trash, and trash cans with attached lids. Downtown needs a separate theme from arts and entertainment.

PUBLIC HEARING

Annexation – 2009 Salem Avenue North LLC (Fulton), Salem Avenue

A Public Hearing was held to receive testimony regarding Case A-2017-01, Annexation – 2009 Salem Avenue North, LLC (Fulton), Salem Avenue.

Alex Rohrbaugh, Planner, stated the proposed annexation was introduced on January 31, 2017. The Annexation Plan was also adopted at that time.

The Fulton family has assembled some properties on the north side of Salem Avenue in anticipation of future redevelopment for commercial clients as yet unknown. Annexation is proposed at this time to get the tract ready for redevelopment, so the 4 to 6 month time delay associated with the annexation process will not be an impediment to securing future commercial prospects.

Currently, the properties are zoned HI (Highway Interchange) in the County and contains commercial building on four acres, three small houses, and a small commercial building. Public water and wastewater are not currently on Salem Avenue in this area. As redevelopment plans materialize, in addition to extension of utility lines, the Fultons anticipate a plan that sees a roadway/driveway connection to Terps Boulevard and extension of Garland Groh Boulevard into this area to serve commercial development between Terps Boulevard and I-81.

The total area of annexation is approximately 5.75 acres. The property is owned HI (Highway Interchange) in the County, and, if annexed, the property would be zoned CG (Commercial General). The zoning classifications are consistent with one another; therefore, no express approval of a zoning change is required from the County Commissioners. The Future Land Use Plan in the City's 2008 Comprehensive Plan identifies this area as Medium-Density Residential and Industrial. The forthcoming Comprehensive Plan update, *visionHagerstown 2035*, has preliminarily identified the Salem Avenue corridor north of I-81, including the area of annexation, as Commercial General.

As required by State Law, there were two published notices advertising the annexation hearing at no less than weekly intervals. The Annexation Plan was provided to the appropriate County, Regional, and State Planning agencies, at least 30 days prior to the Public Hearing. After the Public Hearing, the Mayor and Council may pass or reject the

annexation resolution. If the resolution is passed, the annexation becomes effective in forty-five days.

Mr. Rohrbaugh entered the following as Exhibits:

Exhibit A – Certificate of Publication

Exhibit B – Planning file by reference

The following testimony was presented:

Jason Divelbiss, Divelbiss and Wilkinson, Attorneys, 14234 Pennsylvania Avenue, spoke on behalf of the petitioner. This annexation request has been considered by the petitioner for many years. It is not complicated, however, time has not been a factor.

There was no further testimony.

The record will be held open for 10 days for additional comments.

The hearing was then closed.

CITY ADMINISTRATOR COMMENTS

Valerie Means, City Administrator, had no additional comments.

MAYOR AND COUNCIL COMMENTS

Councilmember K. B. Aleshire stated if House Bill 453 passes, the ability for municipalities to place a lien on a property for non-payment of a water/wastewater bill will be eliminated. House Bill 172 could be beneficial for Hagerstown. This bill requires multi-family residences to be required to provide housing for subsidized housing.

Councilmember P. D. Corderman thanked Mr. Lohr for his recommendations. He asked that ample time be allotted for discussion of trash and trash removal. He noted Councilmember Aleshire provided a report of his findings that can be followed to address the problem. He thanked Police Chief Victor Brito and the Hagerstown Police Department for the downtown foot patrols and for the work police officers do. He wondered how the gigabit service is being marketed. This amenity will help attract businesses and residents to Hagerstown. There is a large workforce that travels out of Hagerstown each day. He would like to find a way to bring jobs to Hagerstown.

Councilmember E. Keller agrees that the gigabit service is a great amenity. She met recently with two middle school classes. Students at Northern Middle School would like to participate in painting the underpasses with a Character Counts! theme. She is collecting information about skate parks. She thanked Mr. Lohr for his comments. She suggested looking into a Citizen of the Month award for residents who make a difference in Hagerstown.

Councilmember L. C. Metzner had no additional comments.

Councilmember D. F. Munson had no additional comments.

Mayor R. E. Bruchey, II stated the trash issues will be discussed during an April Work Session. He has discussed marketing of the gigabit service with Scott Nicewarner, Director of Technology and Support Services. Information may be distributed in the Harrisburg, Pennsylvania, and Roanoke, Virginia areas.

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 February 7, 2017, February 14, 2017, February 21, 2017, and February 28, 2017.

CONSENT AGENDA

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

- A. Parks and Engineering:
 - 1. Climbing Wall for Potterfield Pool – Pyramide USA, Inc. (Frederick, MD) \$ 11,793.00

- B. Police:
 - 1. Barrier Arms at Hagerstown Police Department Headquarters – Long Fence Company, Inc. (Ijamsville, MD) \$ 40,670.00
 - 2. Concrete Planters at Hagerstown Police Department Headquarters – Petersen Manufacturing Col, Inc. (Denison, IO) \$ 6,005.68

- C. Utilities:
 - 1. Wastewater: Oxygen Generation Skid Rehab – Yeager Supply, Inc. (Reading, PA) \$ 19,726.40
 - 2. Wastewater: Grinder Pump Assemblies – Fluid Solutions, Inc. (Westminster, MD) \$ 16,940.00

UNFINISHED BUSINESS

A. Approval of an Ordinance: Authorizing the Purchase of Property Located at 11850 Indian Lane, Hagerstown, Maryland

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 an ordinance authorizing the purchase of property located at 11850 Indian Lane, Hagerstown, Maryland. The acquisition of 11850 Indian Lane is consistent with the Mayor and City Council's goals for long-term investments to benefit the citizens of Hagerstown.

The purchase price of \$ 465,000.00 would be funded from the General Fund reserves.

NEW BUSINESS

A., B., and C., Approval of Resolutions: 2017 Summer Play Camp Operations

Action: On a motion duly made by Councilmember P. D. Corderman and seconded by Councilmember D. F. Munson, the Mayor and City Council unanimously agreed by voice vote to approve resolutions to authorize the execution of contracts with the Robert W. Johnson Community Center, Inc., Hagerstown YMCA, and Girls, Inc. of Washington County to operate summer play camps for the 2017 season from June 19th through August 11th. Each camp will serve approximately 60-80 youths per day. Funding is from the Parks and Recreation operating budget.

D. Approval of a Resolution: Lease Agreement with The Mulch Man at 931 Eldridge Drive

Action: On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember E. Keller, the Mayor and City Council unanimously agreed by voice vote to approve a resolution authorizing the execution of a Lease Agreement with a business known as The Mulch Man for a portion of City of Hagerstown property located at 931 Eldridge Drive in Hagerstown, MD. The Lease will be between the City of Hagerstown and The Mulch Man, LLC and shall be in effect from April 1, 2017 to March 30, 2020.

E. Approval of a Resolution: Residential Lease Agreement for 36-40 North Potomac Street, Apt. 1

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 a resolution authorizing the execution of a residential lease agreement at the City of Hagerstown property located at 38 North Potomac Street in Hagerstown, MD. The lease will be between the City of Hagerstown and Sumner Crenshaw and shall be in effect from April 1, 2017 to March 31, 2018.

F. Approval of a Resolution: Residential License Agreement for 36-40 N. Potomac Street, Apt. 4

Action: 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 a resolution authorizing the execution of a residential license agreement at the City of Hagerstown property located at 38 North Potomac Street in Hagerstown, MD. The license will be between the City of Hagerstown and Alex Brewer and shall

be in effect from April 1, 2017 to May 31, 2017, while Mr. Brewer completes the Mural of Unusual Size along the Hagerstown Cultural Trail.

G. Approval of a Resolution: Renewal of a Memorandum of Understanding between the Hagerstown Police Department and the Department of Social Services, Division of Adult Protective Services (APS)

Action: On a motion duly made by Councilmember D. F. Munson and seconded by Councilmember K. B. Aleshire, the Mayor and City Council unanimously agreed by voice vote to approve a resolution authorizing the Hagerstown Police Department to renew an agreement with the Washington County Department of Social Services. This agreement establishes certain investigative responsibilities between the Hagerstown Police Department and the Department of Social Services division of Adult Protective Services as it relates to reported crimes against vulnerable adults. No additional costs are associated with this agreement.

H. Approval of Contract: Marsh Run and City Park Lake Walls Maintenance and Repairs – GRC General Contractor, Inc. (Zullinger, PA) \$ 315,000.00

Action: 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 a contract with GRC General Contractor, Inc. of Zullinger, PA in the amount of \$ 315,000.00 for the Marsh Run and City Park Lake walls Maintenance and Repair.

Discussion: Councilmember Corderman stated this funding is from the 2017 bond issue, which was approved by the previous administration. Ms. Means clarified funding for the project is from the bond issue the current administration approved recently.

I. Approval of Amendments to FY16 and FY17 Community Development Block Grant (CDBG) Annual Action Plans

Action: Councilmember K. B. Aleshire made a motion to amend the FY16 and FY17 Community Development Block Grant (CDBG) Annual Action Plans in order to allocate unanticipated CDBG program income and to edit the national objective for two activities. These amendments are required by CDBG citizen participation regulations and details of the amendments are included with the motion. Councilmember L. C. Metzner seconded the motion.

Discussion: Councilmember Corderman stated the \$ 80,000 repayment should be put back into the program rather than used for other projects.

Motion carried 4-1 with Councilmember P. D. Corderman voting No.

J. Authorization to Renew the City's Sustainable Community Area designation

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 authorize City staff to submit an application to the Maryland Department of Housing and Community Development to renew the City's Sustainable Community Area designation and to update the City's Sustainable Community Plan.

K. Approval of 2017 Western Maryland Blues Festival Rain Insurance – Weather Insurance Agency \$ 9,991.00

Action: 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 purchase of rain insurance policies for the 2017 Western Maryland Blues Festival at the following maximum amounts: a \$ 20,000.00 policy for Friday, June 2, 2017 from 4:00 p.m. to 9:00 p.m. and a \$ 60,000.00 policy for Saturday, June 3, 2017 from 10:00 a.m. to 6:00 p.m. The total cost for the insurance will be \$ 9,991.00. 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.

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 7:50 p.m.

Respectfully submitted,

Original signed by D. K. Spickler

Donna K. Spickler
City Clerk

Approved: April 25, 2017