

12th REGULAR SESSION – March 26, 2013

Mayor D. S. Gysberts called this 12th Regular Session of the Mayor and City Council to order at 7:07 p.m., Tuesday, March 26, 2013 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, P. M. Nigh; City Administrator Bruce Zimmerman, City Attorney Mark Boyer and D. K. Spickler, City Clerk.

The invocation was offered by Councilmember Lewis C. Metzner. The pledge of allegiance was recited.

ANNOUNCEMENTS

Mayor Gysberts announced the Rules of Procedure for this meeting will be followed as adopted December 18, 2012. It was announced that the use of cell phones and electronic devices 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 2, 2013, Tuesday, April 9, 2013, Tuesday, April 16, 2013, and the Regular Session on Tuesday, April 23, 2013 at 7:00 p.m.

APPOINTMENTS

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 appointment the following people to the Community Development Block Grant Public Service Review Committee, with the terms to expire March 26, 2014:

Howard Bowers
Cynthia Brown
Cullen Coleman

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 appoint Cullen Coleman to the Planning Commission. The term will expire May 30, 2014.

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 appoint William M. Breichner to the City Ethics Commission. The term will expire September 1, 2016.

CITIZEN COMMENTS

Mary Haines, 27 Laurel Street, Hagerstown, Maryland, urged people to clean up after their dogs. Being a responsible pet owner is good for the community.

Betty Willson, 350 N. Cannon Avenue, Hagerstown, Maryland, does not think a dog park should be located at Reed Park. Reed Park is part of Fairgrounds Park. This is a residential neighborhood and the adjacent park has been an integral part of the neighborhood. The park is frequently used for basketball and football games. A dog park in this location would take away an integral part of this neighborhood.

Peter Perini, Perini Landmark Development, 19610 Cresap Drive, Hagerstown Maryland, stated his company is making a proposal to the Board of Education to relocate the central offices downtown. The Superintendent provided the results of a task force study of the former Allegheny Power site to the Board during their meeting today. He believes there is still an opportunity for the City to make a proposal to the Board of Education for a downtown location. The Board will make a decision on the purchase of the Allegheny property within 7 days. He recommended the Mayor and Council make a formal presentation to the Board. The City has a unique opportunity to acquire properties for this project that the private sector does not. He urged the Mayor and Council to make the best possible proposal to the Board of Education so they have no choice but to relocate downtown.

Mayor Gysberts stated all Councilmembers have signed a letter reiterating the offer to the Board of Education to consider downtown for the central offices. He thinks it would be best if the Board of Education exercised the option to review the Allegheny location for an additional 30 days. He would welcome a dialog with the Board of Education.

Ron Pitts, ESGR, and AJ Nicolosi, presented a certificate recognizing the City of Hagerstown's Statement of Support of the National Guard employees.

MINUTES

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 approve the minutes, as presented, for the Mayor and Council meetings held on January 29, 2013, February 5, 2013, February 12, 2013 and February 26, 2013.

CONSENT AGENDA

On a motion duly made by Councilmember P. M. Nigh and seconded by Councilmember M. E. Brubaker, the Mayor and City Council unanimously agreed by voice vote to approve the Consent Agenda as follows:

A. Department of Parks and Engineering:

1. Construction of Bike Path and Bike Lanes at Park Circle – Henson & Son, Hagerstown, MD) \$ 79,786.50

B. Department of Utilities:

1. ENR Sand Filter Cleaning Contract – Filter One USA, LLC (Deerfield Beach, FL) \$ 90,598.00

2. UV Disinfection O & M Contract – Ozonia North America, LLC (Leonia, NJ) \$ 33,034.00
3. Pump Station Upgrades – Shafer, Troxell & Howe, Inc. (Frederick, MD) \$ 16,950.00
4. Water Inventory – HD Supply (Martinsburg, WV) \$ 93,912.36
5. Water and Wastewater – Update Cost of Service Study – Municipal & Financial Services Group (Annapolis, MD) \$ 17,200.00

UNFINISHED BUSINESS

A. Approval of an Ordinance: Amend Land Management Code Definition of Minor Subdivision – Case No. ZT-2012-03

Action: On a motion duly made by Councilmember M. E. Brubaker and seconded by Councilmember P. M. Nigh, the Mayor and City Council unanimously agreed by voice vote to approve an ordinance amending Chapter 140, Land Management Code, of the City Code, to revise the definition of a Minor Subdivision to 7 or fewer residential lots.

B. Approval of an Ordinance: Amend Adequate Public Facilities Ordinance definition of Minor Subdivision – Case No. ZT-2012-03

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 amending Chapter 47, Adequate Public Facilities, of the City Code, to revise the definition of a Minor Subdivision to 7 or fewer units.

C. Approval of an Ordinance: City of Hagerstown FY 2012-2013 General Obligation Bonds

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 enabling ordinance as introduced authorizing the City of Hagerstown to issue and sell, upon its full faith and credit, general obligation bonds in one or more series in an aggregate principal amount not to exceed \$ 4,275,000. Proceeds from the sale of the bonds will be used for the public purposes described in detail in the ordinance together with related expenses and costs of issuance.

Staff is hereby directed to proceed in working with the City's Financial Advisor and Bond Counsel to determine the best financing options for the City and with developing the necessary detailed resolutions and other documents to prepare for the sale of the bonds as directed by this ordinance. Final details regarding the amount, timing, method of sale or sales and other particulars will be spelled out in a detailed resolution to be presented to this body for approval at a future date prior to the issuance of

the bonds as specified in the ordinance.

D. Approval of an Annexation Resolution: 12305 Delwood Avenue Annexation, Case No. A-2012-01

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 Annexation Resolution for property located at 12305 Delwood Avenue. The property to be annexed is approximately 0.29 acres in size and is intended to be added to and made part of the adjacent municipal lands.

NEW BUSINESS

A. Approval of a Resolution: Intent to Accept Open Space in Collegiate Acres

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 indicating the City's intention to accept the two-acre "open space" as a public park when it is satisfactorily completed by Beazer Homes Corporation. Further actions by the Mayor and Council will be required to transfer the land to the City. Requested by Beazer Homes, this Resolution only expresses the City's intention, with conditions.

B. Approval of a Resolution: Pool Operation and Management Agreement with the YMCA for the 2013 Pool Season

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 an agreement with the YMCA of Hagerstown, Maryland, Inc. for operation and management of Potterfield Pool for the 2013 Pool Season.

C. Approval of R. C. Willson Phase IV Water Treatment Plant Improvements Construction Contract – Allan A. Myers, LP (Worcester, PA) \$ 11,110,000.00

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 Allan A. Myers, LP Construction Services Contract for the Phase IV Disinfectant By-Product Rule 2 Project for Construction Improvements at the R. C. Willson Water Treatment Plant in the amount of \$ 11,110,000.00.

D. Approval of R. C. Willson Phase IV Construction Management Services – Gannett Fleming (Camp Hill, PA) \$ 588,400.00

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 the Construction Management Engineering Services Contract for the Phase IV Disinfectant By-Product Rule 2 Project for Construction Improvements at the R. C. Willson Water Treatment Plant in the amount of \$ 588,400.00.

E. Approval of MDE Consent Agreement – Stage 2 Disinfectant By-Product Rule – Construction Compliance Extension

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 the Consent Agreement between the City of Hagerstown and the Maryland Department of the Environment Water Management Administration. The Agreement will satisfy the Staff request of the MDE Safe Drinking Water Act Implementation Division to allow for a 24 month extension for compliance with the Stage 2 Disinfectant By-Product Rule.

F. Approval of Purchase of Water Division Vehicle # 207 – Five Star International, LLC (Harrisburg, PA) \$ 147,141.00

Action: On a motion duly made by Councilmember P. M. Nigh and seconded by Councilmember D. F. Munson, the Mayor and City Council unanimously agreed by voice vote to approve the purchase of Water Division Vehicle 207 in the amount of \$ 147,141.00 through COSTARS, which is the Commonwealth of Pennsylvania Cooperative Purchasing Program administered by the Department of General Services.

G. Approval of an Agreement: Utilities Department Demand response Program Services with EnerNOC, Inc. for \$ 216,000.00

Action: 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 approve the Demand Response Sales and Services Agreement between the City of Hagerstown and EnerNOC, Inc. The term of the agreement is five years with expected capacity payment earnings for the Water Division totaling \$ 216,000.00.

H. Approval of Purchase of Two Public Works Vehicles, # 23 and # 24 – McCafferty Ford (Mechanicsburg, PA) \$ 274,248.00 (\$ 137,124.00 each)

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 purchase of Public Works Vehicle No. 23 in the amount of \$ 137,124.00 for Fiscal Year 13

and to approve the purchase of Vehicle No. 24 in the amount of \$ 137,124.00 for Fiscal Year 14. Both vehicles will be purchased through the Commonwealth of Pennsylvania Cooperative Purchasing Program known as COSTARS and is administered by their Department of General Services.

I. Approval of FY 13 Employee Compensation

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 payment of \$ 1,000 to be made to each full time regular employee and \$ 200 to each part-time regular employee with the following conditions:

1. The employee was hired prior to 12/01/2012, and
2. The payment amount is based on the employee's status as of 12/01/2012 as of 12/01/2012 (FT Regular or PT Regular), and
3. The employee is actively employed on 06/02/2013

The payment will be distributed to qualified employees on Friday, June 7, 2013. Funding for this payment will come from unreserved fund balance for General Fund and Special Revenue Fund employees and from unrestricted net assets for Enterprise Fund employees.

Discussion: Councilmember Aleshire stated he doesn't generally support the approach to provide a specific amount of funding. A better approach is a level of wage adjustment that is secured and dependable.

Councilmember Munson thanked City employees for their dedication and patience.

Councilmember Brubaker thanked employees for the sacrifices they've made to keep the City fiscally sound and maintain a high level of service to the citizens.

Councilmember Nigh agreed with Councilmember Aleshire.

J. Approval of Use of CDBG Contingency Funds: 36-40 N. Potomac Street Artist Apartment Renovations

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 the use of contingency funds for the Artist Apartment Renovation Project at 36-40 North Potomac Street. The contingency funds are included in the project budget of \$ 550,000 and will be used for structural upgrades, fire separation work, and roof replacement. The original Lump Sum Construction Contract with Milton Stamper Builders for Bid No. 1528.12 will increase in value by \$

61,000. The project is funded by Federal Community Development Block Grant funds and State Community Legacy funds.

K. Approval of Appalachian Regional Commission (ARC) FY 14 Project Funding Request

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 authorize the submission of two projects to the County Commissioners for funding from the Fiscal Year 2014 Appalachian Regional Commission (ARC) grant. The two projects requesting ARC funding are ranked as follows:

1. Design and Engineering of a new Parking Deck in Downtown Hagerstown – requesting \$ 350,000 in ARC funds
2. City of Hagerstown Broadband Expansion Strategic Plan – requesting \$ 25,000 in ARC funds

L. Approval of Ratification of an Emergency Procurement: Emergency Partial Demolition of 21 West Antietam Street, Hagerstown, Maryland

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 approve the ratification of an emergency procurement for the partial demolition of 21 West Antietam Street. The building sustained significant fire damage on February 7, 2013, and the top floor was deemed to be unstable and a threat to public safety by Daniel A. Matonak, Professional Engineer. Staff ordered the immediate partial demolition of the structure to eliminate the threat to public safety. West Antietam Street was ordered closed and remained closed for over two weeks. Allegany Wrecking and Salvage of Hagerstown, Maryland, completed the demolition work. The cost of the demolition work performed by Allegany Wrecking and Salvage was \$ 87,100.00. The total project is \$ 90,417.35 inclusive of materials and supplies acquired by staff. The work performed at this property has been paid from the Property Abatement Account. The property owners have been invoiced for the total costs, and corresponding liens have been placed against the property.

M. Approval of a Contract: Frederick Street Culvert and Sidewalk Improvements – Huntzberry Brothers, Inc. (Smithsburg, MD) \$ 340,860.00

Action: On a motion duly made by Councilmember M. E. Brubaker and seconded by Councilmember D. F. Munson, the Mayor and City Council

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unanimously agreed by voice vote to approve Contract No. 12-12-SD-13 with Huntzberry Brothers, Inc. in the amount of \$ 340,860 to extend both ends of the existing box culvert to widen Fredrick Street and construct sidewalks on both sides of the street. Funding of the project will be from Excise Tax and State Aid amounting to \$ 360,000.00.

Discussion: Councilmember Brubaker stated this is a good project for a difficult location.

Councilmember Aleshire stated he has received many complaints about this area. He thanked staff for securing the funding for this project. He has asked the County to provide shelters for bus passengers.

N. Approval of Amendment to the Safe Speeds for Students Contract

Action: On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember K. B. Aleshire, the Mayor and City Council unanimously agreed by voice vote to approve a contract amendment to modify the Speed Camera Enforcement Contract dated January 3, 2012 between the City and Brekford Corp. The amendment is expected to cost an additional \$ 15,000 per year and will be paid for by revenues received from this program. The amendment was reviewed and approved by the Mayor and Council at the March 19, 2013.

O. Approval of Transfer of \$ 50,000 from the Upper Floors Redevelopment Fund to the Hagerstown Revolving Loan Fund

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 of the transfer of \$ 50,000 from the Upper Floors Redevelopment Fund into the Hagerstown Revolving Loan Fund (HRLF). This will allow the City to apply for and receive a 2:1 match from the State of Maryland providing \$ 100,000 in State funding into the City's revolving loan fund. This partnership with the State will allow for the processing of a loan application from Duvinage LLC. If Duvinage's loan application is approved, the State funding would be used for this purpose.

Discussion: Councilmember Brubaker stated this is a win/win situation with the State funding going to the City's revolving loan fund, which can then be loaned to other business ventures.

CITY ADMINISTRATOR'S COMMENTS

Bruce Zimmerman, City Administrator, reminded everyone that City offices will be closed on Friday, March 29, 2013 in observance of Good Friday.

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MAYOR AND COUNCIL COMMENTS

Councilmember L. C. Metzner wished everyone a happy holiday.

Councilmember D. F. Munson wished everyone a happy Easter.

Councilmember P. M. Nigh has received a request from residents at the Alexander House for more dedicated parking spaces, particularly at night. More handicap parking is needed at Elizabeth Court. She stated there is a major problem with trash around downtown. Mr. Zimmerman stated there is a part time position dedicated to picking up trash that is currently vacant. Councilmember Nigh reported that someone is putting trash out on weekends in the Key Circle and Dakotah Avenue area. She thanked Ms. Willson for speaking during comments. The park being considered for a dog park is used by many children. She would rather have a dog park located near CSX property at City Park. She asked about the status of the Utility Relief money. This money should be made available to eligible customers for their utility bills. Mr. Zimmerman will check with Scott Nicewarner for this information.

Councilmember Munson has also received complaints about the trash.

Mayor Gysberts stated the comments about the dog park were in anticipation of the Mayor and Council receiving information from the Dog Park Task Force.

Councilmember M. E. Brubaker attended the I-81 Coalition in Hagerstown during the last two days. The conference was informative. This coalition lobbies for increased capacity as well as focusing on safety, impediments and the environment.

Councilmember K. B. Aleshire attended the MML Chapter meeting on March 25, 2013. He reiterated the City's concerns about the Excise Tax to other municipalities. The intent of the Excise Tax is being disrupted. The gas tax was also discussed at this meeting. The public should be aware that the additional revenue from this tax will go toward mass transit. He attended the HNBP meeting. He wants to talk about the tenants and status of the accounts for the various City owned properties. He asked when a report from the Sora group would be made, since it was to be on a weekly basis. The results of the environmental study for the previously considered MUSEC site were provided to the Mayor and City Council. He stated there is not a majority of the Board of Education members that are interested in discussing a downtown location. He believes the least expensive alternative would be to tear down the MELP building and locating the Board of Education offices on that 15 acre site. The Mayor and Council need to continue to focus on neighborhoods for revitalization of the City.

Mayor D. S. Gysberts welcomed the students from Wesel, Germany this week. He is looking forward to visiting Wesel and getting to know the people there.

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 8:28 p.m.

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Respectfully submitted,

Donna K. Spickler, City Clerk

Approved: April 23, 2013