

EXECUTIVE SESSION – August 20, 2019

On a motion duly made by Councilmember S. McIntire and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote of all members present to meet in closed session to discuss the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation or performance evaluation of appointees, employees, or officials over whom it has jurisdiction, #1 (Section 3-305(b)), on Tuesday, August 20, 2019 at 3:31 p.m. in Room 407, 4<sup>th</sup> floor, City Hall, Hagerstown, Maryland. Councilmember A. Heffernan and Councilmember E. Keller were not present.

The following people were in attendance: Mayor R. E. Bruchey, II, Councilmember K. B. Aleshire, Councilmember S. McIntire, Councilmember L. C. Metzner, City Administrator Scott Nicewarner, Michelle Hepburn, Director of Finance, Police Chief Paul (Joey) Kifer, Don Francis, Director of Human Resources, and Donna K. Spickler, City Clerk.

The meeting was held to discuss appointments to the City Ethics Commission and the Hagerstown Housing Authority, and various personnel issues. No formal action was taken at the meeting. On a motion duly made, seconded, and passed, the meeting was adjourned at 3:42 p.m.

WORK SESSION – August 20, 2019

Mayor R. E. Bruchey, II called this Work Session of the Mayor and City Council to order at 4:04 p.m., Tuesday, August 20, 2019 in the Council Chamber at City Hall. Present with the Mayor were Councilmembers K. B. Aleshire, S. McIntire, and L. C. Metzner, City Administrator Scott A. Nicewarner, and City Clerk D. K. Spickler. Councilmember A. Heffernan and Councilmember E. Keller were not present.

Community Coalition 2019 Legislative Update

Paul Frey, Chamber of Commerce President and CEO, and James Kercheval, Greater Hagerstown Commission Executive Director, were present to provide an update of the 2019 Legislative Session.

Mr. Kercheval took a moment to thank the Mayor and City Council and City staff for their support and efforts with Augustoberfest. He especially thanked Eric Deike, Director of Public Works, Jim Bender, Assistant City Engineer, and Kitty Clark, Events Coordinator, for their hard work. This year's Augustoberfest was a banner year.

Mr. Frey reported the Coalition has been working on branding and as a result, were able to give out Maryland gift boxes and scarves to legislators at the start of the session. It is hoped these things will help Washington County be remembered.

A summary of the top agenda items are as follows:

- A. WorkKeys Career Certification Pilot – Senator Serafini worked hard to secure \$ 200,000 in the final budget compromise that was restricted for Hagerstown Community College to begin work on this workforce development tool. Unfortunately, this money became part of a larger pot of state money for multiple counties that was frozen and “fenced off” by the legislature in May due to revenue write downs and upcoming budget concerns. John Favazza, Lobbyist, and Senator Serafini are working to identify alternative funding options.

A related bill established a grant program for Workforce Skills Assessment within the Department of Labor Licensing, and Regulation (DLLR). The program would have provided financial assistance to an employer for the administration of assessments that measure workplace or job-related skills of employees who are State residents. The Senate passed the bill; however, it arrived very late to the House and was not taken up by the Economic Matters Committee. In the end, a permanent, statewide program was not established.

- B. Sales Tax Exemption for Aircraft Parts – Unfortunately, the sales tax exemption legislation did not pass this year. Combined with a looming major education funding commitment next year, this bill and similar tax exemptions and credits were shelved. The outlook for next year is tricky with tax increases expected to fund Kirwan, but if the Coalition wants to move forward again, Mr. Favazza recommends some early strategic decisions regarding bill sponsorship and interim activities.
- C. Urban Improvement Project – The planned \$ 500,000 for the Hagerstown Revitalization project was included in this year’s Capital Budget. The funding ramps up significantly for the final two years of the state’s commitment in FY 2021 and 2022, so the Coalition and Delegation should be prepared to be more active on this item next year.
- D. Thoughts on 2020 Session – Next year will be a challenging budget year for the state with current projections and the implementation of Kirwan funding. Any new legislation that has a significant fiscal note will be a challenge to get passed. The last scheduled installments promised by the Governor for the UIP will be much larger than the prior 3 years. The Coalition will need to work harder than in the past to keep this in the capital budget. The lobbyist also recommends that the collation considers 2020 agenda items that are more about policy than those that require state funding. He suggests having agenda items developed prior to the start of the session so bills can be presented early and improve the chances for success.

Other highlights include:

1. Capital budget funding coming to Washington County;
  - a. \$ 500,000 UIP Project

- b. \$ 300,000 earmarked for Maryland Stadium Authority for a Hagerstown Stadium Preliminary design and engineering study (this money would only be used if City Council approves moving forward after they review site options)
  - c. \$ 200,000 for WorkKeys program
  - d. \$ 150,000 for YMCA HVAC improvements
  - e. Small allotment of funding to complete a Veteran's Memorial
2. A bill from Delegate Wivell did not pass that would have offered certain tax incentives for Fort Ritchie.
  3. Most of the funding for Kirwan Commission's recommendations were pushed back to next year due to cost and the \$ 300,000,000 write down to the state's budget mid-season. However, some funding did come through to the benefit of Washington County Public Schools. There will be funding for full day preschool.
  4. A minimum wage bill was passed which will move the minimum wage to \$ 15/hr. by 2025. Incremental increases will begin in January, 2020.
  5. Speaker of the House, Mike Busch, passed away late in session due to health issues and Delegate Adrienne Jones (Baltimore County – Speaker Pro Tem) was named the new Speaker. The Coalition has met with Delegate Jones at past visits to Annapolis and Mr. Favazza has a good relationship with her, but will need to build on this relationship for the future.

The Washington County Delegation will be moving up their annual pre-legislative session meeting day from early December to early November. Therefore, the Community Coalition must have their agenda finalized a month earlier than normal. Coalition members should be working to identify any legislative items to bring forward to the Coalition for consideration in the 2020 agenda. Items that require funding may be a challenge during the coming session. Policy change items will most likely have a better chance of moving forward.

Mr. Kercheval noted that no funding was awarded for the next phase of widening I-81. Conversations have been held with MAACO and State representatives regarding this important project.

The annual Day in Annapolis will be held on January 29, 2020.

#### Preliminary Agenda Review

A joint meeting with the Washington County Commissioners will be held on August 27, 2019 at 2:00 p.m.

#### **Consent Agenda**

- A. Department of Community and Economic Development:
  - 1. 2019 Trick or Treat Date – October 31, 2019
- B. Fire Department:
  - 1. Emergency Repair to Reserve Engine 1 – Matheny Fire and Emergency (Hagerstown, MD) \$ 13,865.26
- C. Department of Information Technology & Support Services:
  - 1. VxRail Infrastructure Upgrade – Mavenspire (Annapolis, MD) \$ 184,746.81
  - 2. Annual Phone Maintenance Contracts – Glessner Technologies (Hagerstown, MD) \$ 10,998.00
- D. Planning and Code Administration Department:
  - 1. Demolition of Property at 335 N. Jonathan Street – Allegany Wrecking and Salvage (Hagerstown, MD) \$ 17,000.00
- E. Department of Parks and Engineering:
  - 1. Replacement of Potterfield Pool Whitecoating and Other Repairs – DRD Poole Management, Inc. (Hunt Valley, MD) \$ 90,000.00
  - 2. Handicap Ramp Construction – MIM Construction, Inc. (Frederick, MD) Not to Exceed \$ 100,000.00
- F. Police Department:
  - 1. Annual Software Maintenance Agreement – Keystone Public Safety, Inc. (Maple Shade, NJ) \$ 93,629.00
- G. Utilities Department:
  - 1. Light – GIS Mapping Software License – Milsoft Utility Solutions (Abilene, TX) \$ 10,700.00
  - 2. Light – Substation Testing and Inspection Services – Electric Power Systems (Cockeysville, MD) \$ 49,485.00
  - 3. Wastewater – Vehicle Replacement Truck 536 – Keystone Ford (Chambersburg, PA) \$ 41,155.00
  - 4. Wastewater – Stainless Steel Discharge Assemblies – Fluid Solutions, Inc. (Westminster, MD) \$ 23,525.00
  - 5. Wastewater – Replace Cooling Tower Condensing Unit – MS Johnston Company (Hagerstown, MD) \$ 16,984.00
  - 6. Water – Change Order 1 for the Water System Pumping Improvement Project – EMH Environmental, Inc. (Glenwood, MD) \$ 82,931.00

### **Approval of Fairground Park Entrance Building and Gatekeepers House Grant**

Rodney Tissue, City Engineer, reported staff was successful in obtaining at \$ 60,000.00 grant from the Maryland Historic Trust. This Capital Historic Preservation Grant could be used to address the numerous issues with this unused structure.

Councilmember Aleshire stated it appears the City received \$ 42,000.00 from the Maryland Historical Trust (MHT) in 2002, which required a perpetual easement. He asked if there is a process to reverse the perpetual easement. Rodney Tissue, City Engineer, indicated staff has asked MHT that question but has not received a response at this time. In 2017, MHT indicated they had never rescinded an easement.

Councilmember Aleshire stated it looks like more than \$ 100,000 is going to be spent on a building that will never be habitable. Costs to maintain the building are increasing. He would like an explanation from MHT officials of their rationale in awarding this additional funding.

Mayor Bruchey had contacted MHT about the windows at the Hamilton Building and how to remove an easement. He was told they don't do that. He suggested having a discussion about the value of doing more work at the Fairgrounds Entrance Building with a representative of MHT at a Work Session.

Mayor Bruchey asked that Mr. Tissue send a letter to MHT asking how the City can buy back the easement. Mr. Tissue clarified that accepting the grant will be on hold until the issue of the easement is resolved.

Mayor Bruchey announced two items are being added to the Regular Session agenda – a maintenance contract for telephone services and the process for implementing the recently approved HPD management step scale.

This completed the Preliminary Agenda review. There were no questions about any items. All items are scheduled for approval on July 30, 2019.

#### North Cannon Avenue: Request to Make One-Way

Rodney Tissue, City Engineer, was present to discuss a request from residents to make North Cannon Avenue one way. The Department has received complaints from several residents that parked vehicles in the 100 and 200 block of North Cannon Avenue are repeatedly sideswiped. They asked that the City address this issue. A list of incidents from the police department showed that over a 3-year period there were 26 side-swipe accidents in these two blocks. The residents suggested making North Cannon Avenue one-way from Franklin Street to Jefferson Street. The 300 block north of Jefferson Street is already one-way northbound.

The City's traffic consultant prepared an evaluation of the impact on traffic on the surrounding streets if North Cannon Avenue were made one-way northbound and the 200 block of Jefferson Street were reversed to be one-way westbound to Mulberry Street. The consultant's study showed they feel the traffic pattern change will not negatively impact the surrounding streets, even though traffic volumes would increase on some.

The Hagerstown Police Department, Hagerstown Fire Department, County Commuter and Board of Education all said they could accept this change. The Board of Traffic and

Parking discussed this issue at two meetings and after reviewing the consultants' evaluation, and on May 9, 2019, they recommended that the City proceed with making these changes.

Surveys were sent to the residents and owners of Cannon, Jefferson, East, Mulberry, and Liberty Streets asking for comments. Of the 215 survey sent, 47 people responded. 42 agreed with changing Cannon Avenue, four opposed it and one had a conditional approval. Six opposed changing the Jefferson Street flow direction and losing parking on Mulberry Street.

Staff estimates the cost to implement this change at about \$ 6,000 and funding would be from the Department of Public Works and Engineering Operating budgets.

Advantages include less conflicting vehicle movements at intersections may reduce left-turn and angle crashes. A wider travel lane may reduce sideswipe crashes. Traffic will decrease on East Avenue by 20-30% and along N. Cannon Avenue.

Disadvantages include longer route from the north for Liberty Street residents, potential increase in emergency vehicle response times, increased traffic on 200 block of Jefferson St (30-50% increase) and on N. Mulberry Street, and removal of one parking space from the northeast corner of Mulberry Avenue.

Representatives of Roto Rooter asked that consideration be given for trucks leaving their property at the corner of Franklin Street and Cannon Avenue. Mr. Tissue stated a different traffic pattern for that property can be accommodated.

Mayor Bruchey stated a lot of residents would be happy if East Avenue was one way from Potomac Street. He asked that the Board of Traffic and Parking review the request.

A motion to approve a resolution changing the traffic patterns as discussed will be included on the Regular Session agenda on August 27, 2019.

#### Update on the Warner Hollow Dam/Edgemont Reservoir Project

Nancy Hausrath, Director of Utilities, and William Luhn, Water Operations Manager, were present to provide an update of the Warner Hollow Dam/Edgemont Reservoir Project.

Water Division Staff continues to work through the project challenges for the Edgemont Reservoir and the associated Water Appropriation Permit for Edgemont. In an April meeting, MDE requested the City update the Probably Maximum Precipitation (PMP) Analysis using the Virginia methodology. The justification for this request was based on the constructability issues and expected cost increase for the reconstruction of the Ogee and Emergency Spillway. MDE Dam Safety is generally in agreement with using the VA PMP Study, which would result in less rainfall intensity and a subsequent reduction in dam improvement sizing. However, MDE Dam Safety has not fully

completed their review. MDE has requested additional input on the comparison of the Virginia temporal distribution to the Pennsylvania temporal distribution because of the overlap between the two data sets. MDE wants to ascertain the two data sets are similar to one another near the project area. Additionally, MDE has requested from the author of the VA PMP Study a release of the data for use on this particular project.

Jeremy Hise (Hazen and Sawyer) and City staff met with MDE on May 30, 2019 to discuss the recently updated PMP analysis for the Reservoir and to acquire direction from the Maryland Department of Natural Resources (M-DNR) for the additional requirements needed to determine safe yield and conservation flow (flow-by) that were discussed with City staff and MDE during a meeting on April 19, 2019.

It was the hope that this meeting would result in clear direction so that the Edgemont Rehab design could be completed – design remains at approximately 35%. To date, the approved City funding for the Evaluation and Design is \$ 2,800,000 with the actual expenses to date totaling \$ 917,000. However, the following direction was provided by MDE that will result in additional delays and increased expenses:

1. M-DNR expressed concern for cold water fisheries downstream in the Little Antietam Creek. Fisheries would prefer a flow by that varies with natural stream flow, such as 85% passing using the Maryland Flow-By method. Important to note is that water has not been diverted from Raven Rock to Edgemont for many years. M-DNR would prefer to limit how much warm water overtops the dam and this has to be assessed via modeling to minimize spill and minimize use of Raven Rock. The action required is for Hazen and Sawyer to assess warm water overtopping with an updated modeling effort and will be presented to MDE and M-DNR at a follow up meeting.
2. MDE Water Supply will require use of the Maryland Flow-By Method with a new permit appropriation or increase in existing appropriation. MDE is requiring the combined watershed of Warner Hollow and Raven Rock to calculate the required flow-by, as prior to the dam those two streams would have combined. There will not be a flow-by requirement for Warner Hollow. It was also noted that any seasonal flow-by at Raven Rock would require seasonal modification of the diversion at Raven Rock. This will be accounted for in the design (i.e. removable weir, adjustable weir, etc.).
3. M-DNR will require screening at Raven Rock, but not at Warner Hollow. DNR is concerned with adult trout getting into the reservoir during certain times of the year. Therefore, some amount of screening may be required throughout the year at Raven Rock to prevent adult trout from entering Edgemont Reservoir.
4. MDE and M-DNR is also requiring an evaluation of the current condition of the existing fish ladder and it is uncertain if repair or modifications will be required.

Staff submitted an updated funding application to MDE in January, 2019, which represented the most recent estimated construction project cost of approximately \$ 12 million. MDE completed their review of all projects as submitted and the Edgemont Rehabilitation Project was not included on the State's Intended Use Plan (IUP) for funding.

Appropriation permit renewal applications have been submitted for the Edgemont and Potomac sources. At this time, staff is not clear on the exact requirements should MDE and M-DNR require the design and installation of improvements to prevent fish from entering the intakes at each source.

Hazen and Sawyer has provided estimates for the additional requirements of \$ 445,000. These estimates do not include construction phase engineering or actual construction costs. Depending on the model approved for PMP by the MDE, the estimated cost to replace the ogee and spillway could be \$ 7.6 million to \$ 9.7 million. This estimate does not include the screening and diversion piping nor do they include any estimates for the Breichner Plant. Ms. Hausrath provided a conservative estimate of \$ 18 million to \$ 20 million for the Edgemont/Breichner improvements. Because the RCW Plant intake is located on NPS land and extends into the Potomac, she expects this to be a \$ 3 million to \$ 5 million project.

Ms. Hausrath reported there is not state funding for this project. The Dam Safety Commission notified City staff there was a new grant available which requires a match from MDE so that is also on hold at this time. She noted staff has been, and will continue to be, aggressive and assertive in their approach to get answers from MDE. She asked for direction of whether or not to continue working on the Edgemont Rehabilitation Project or take a step back to allow MDE to find funding for the project.

Councilmember Metzner thinks the State is trying to eliminate this project, as they keep adding more requirements. He believes this dam is vital for the City of Hagerstown. Support from the Washington County Delegation is extremely important for moving forward with this project.

Mayor Bruchey agreed. He noted the next item on the agenda is a request for water in an area that the Health Department and State of Maryland will not approve a well. Councilmember Aleshire has appropriately pointed out that water is a finite resource and water will be needed for these properties.

Ms. Hausrath stated the State of Maryland has to determine how to mold this project within the Clean Water Act and the effect downstream is a component of the Act. This project is competing with MS4 regulations. Hagerstown is not the only community with a high hazard dam. If the City moves forward with the project and a funding source, the message to the State still needs to convey there is a funding need if the dam is closed. She believes this needs to be discussed with the Delegation.

Councilmember Metzner suggested including Congressman Trone as well. This conversation is essential and would be the most effective thing to do before spending more money.

Councilmember Aleshire asked what the current appropriation is. Ms. Hausrath stated there is adequate allocation however, it is at .5, which a 200,000 gpd reduction. Councilmember Aleshire pointed out that appropriation isn't really relevant when every jurisdiction in Maryland relies on the Potomac River for water. The time will come when there isn't enough water for the demand. A secondary water source is needed. He anticipates there will be supply challenges as Hagerstown's water system is extended further into suburban areas. Ms. Hausrath stated the plant has to be designed to operate at low flows and high flows while staying within the stated appropriations. The benefits of a secondary water source are water quality and an emergency supply.

Councilmember Metzner stated it is fair to say this body is committed to completing this project.

Councilmember Aleshire stated there was a similar issue in Myersville, Maryland and it was resolved by the Frederick County Delegation contacting the State of Maryland.

Ms. Hausrath will develop a list of key points to discuss with the Delegation. The City has been required to complete several studies, with each costing up to \$ 40,000.00.

Request for Exception to City Water and Wastewater Policy: Hagerstown Mason RE – Building 1 and Building 2

Jill Thompson, Director of Community and Economic Development, and Nancy Hausrath, Director of Utilities, were present to review two requests for exceptions to the City's Water and Wastewater Policy as a vital economic development project or an economic development project located in the targeted economic development area at the airport, as delineated in the County's 2002 Comprehensive Plan (Exception #6).

Both projects are planned for the same 5 acre parcel.

Request #1 – Hagerstown Mason RE, Building #1 – 7/11 Convenience Store. The store would be located at the Airport Business Park on Citicorp Drive. Planned investment is \$ 7 million, with 35 jobs created. The estimated water use is 1,000 gallons per day. The owners are requesting water service from the City of Hagerstown. Wastewater services will be provided by Washington County.

Request #2 – Hagerstown Mason RE, Building #2 – the use and size of the project is yet to be determined. However, tenants are expected to be a fast food restaurant and/or Retail/Commercial. The location is Airport Business Park on Citicorp Drive. This request is for water, as wastewater services will be provided by Washington County.

As the Community and Economic Development Director and the Utilities Director, Ms. Thompson and Ms. Hausrath recognize that water services are available to the

parcels and support the consideration of the Mayor and City Council for the exception being requested for this economic development project.

Approval using this exception is contingent upon the recommendation of the Board of County Commissioners and the County Economic Development Director, as well as the City Economic Development Director and the City Utilities Director; and upon the approval of the Mayor and City Council. Mayor and City Council approval will be contingent upon receiving a copy of a recorded Pre-Annexation Agreement, and will be contingent upon a requirement of a water main extension.

Ms. Thompson indicated one of the topics for the joint meeting with the County Commissioners is incorporating the City's water service area into the County's Comprehensive Plan. Councilmember Aleshire thought this would be settled before considering any further requests.

Ms. Maher indicated the people outside the MRGA are in a difficult position because the Health Department says no to a well and the City will not permit a water connection.

Mayor Bruchey indicated staff has discussed this issue with County staff as best they could until the joint meeting is held. He does not think it is the City's intention to delay economic development.

Councilmember Metzner is concerned one of the requests is for an unknown use. He indicated he will not vote to approve a request without a known use. Until there is an agreement with the County, he will not consider any further requests.

Councilmember Aleshire stated years ago it was said the City was delaying economic development so boundaries were established for a logical water service area. He is concerned the service is being extended even beyond that boundary.

Ms. Maher stated she thinks staff is making progress. The boundary lines in the City's growth plan have been discussed with City staff. It appears the County is looking for water service extensions in the Route 63 area.

Mayor Bruchey believe the City has to receive something worthwhile for extending services. He wondered if there will be development along Interstate 70 as anticipated. He also wondered if there would be PILOT agreement (payment in lieu of taxes).

Councilmember Metzner stated the City would not be giving up anything as capacity would be transferred from one area to another. City residents will always be the top priority. He is more concerned about capacity issues than he is boundary issues.

Ms. Thompson stated the developer's concept includes fast food uses and a small hotel development. Ms. Thompson will include a motion approving the exemption on the August 27, 2019 agenda.

Ms. Hausrath noted the latest amendment to the exemption list added an 18 month cap for work to begin. After that time, a new request must be submitted for consideration. She noted the Water Department will probably have to complete the service loop in the area at the airport. This will ensure better fire protection as well as other service.

2020 Imagine Hagerstown Discussion

This agenda item was postponed.

**CITY ADMINISTRATOR'S COMMENTS**

*Scott A. Nicewarner, City Administrator*, thanked everyone who participated in the Fox 5 Zip Trip segments on August 16, 2019. He especially thanked Wes Decker, Communications Manager, Amy Riley, Recreation Promotion and Services Coordinator, and Kitty Clark, Events Coordinator, for all their help.

**MAYOR AND COUNCIL COMMENTS**

*Councilmember S. McIntire* agreed the Zip Trip was a great promotion for Hagerstown. She would like to continue the momentum.

*Councilmember L. C. Metzner* also thought the Zip Trip was great. It was good to see the enthusiasm from residents and visitors. He hopes another trip will be planned.

*Councilmember K. B. Aleshire* had no additional comments.

*Mayor R. E. Bruchey, II* reported he beat Delegate Paul Corderman in the Hagerstown trivia contest during the Zip Trip. He thanked everyone for participating.

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 5:32 p.m.

Respectfully submitted,

*Original signed by D. K. Spickler*

Donna K. Spickler  
City Clerk

Approved: September 24, 2019