

EXECUTIVE SESSION – July 23, 2019

On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember S. McIntire, 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)), and to consider a matter that concerns the proposal for a business or industrial organization to locate, expand, or remain in the State; #4 (Section 3-305(b)), on Tuesday, July 23, 2019 at 3:33 p.m. in Room 407, 4<sup>th</sup> floor, City Hall, Hagerstown, Maryland. Councilmember K. B. Aleshire was not present for the vote.

The following people were in attendance: Mayor R. E. Bruchey, II, Councilmember K. B. Aleshire, Councilmember A. Heffernan, Councilmember E. Keller, Councilmember S. McIntire, Councilmember L. C. Metzner, City Administrator Scott Nicewarner, Jill Thompson, Director of Community and Economic Development, Jonathan Kerns, Community Development Manager, Lauren Metz, Planning and Outreach Coordinator, Danelle Hayer, Business Development Specialist, and Donna K. Spickler, City Clerk.

The meeting was held to discuss appointments to the Hagerstown Youth Advisory Council Partner Group and termination of a lease for a City owned property. No formal action was taken at the meeting. On a motion duly made, seconded, and passed, the meeting was adjourned at 3:45 p.m.

WORK SESSION – July 23, 2019

Mayor R. E. Bruchey, II called Work Session of the Mayor and City Council to order at 4:03 p.m., Tuesday, July 23, 2019 in the Council Chamber at City Hall. Present with the Mayor were Councilmembers K. B. Aleshire, A. Heffernan, E. Keller, S. McIntire, and L. C. Metzner, City Administrator Scott A. Nicewarner, and City Clerk D. K. Spickler.

Preliminary Agenda Review

**Consent Agenda**

A. Department of Community and Economic Development:

1. Christkindl Open Container Exemption

B. Department of Human Resources:

1. Workers' Compensation Self-Insurance TPA Services – PMA Management Corporation (PMA) (Blue Bell, PA) \$ 32,040.00
2. Workers' Compensation Security Deposit Bond – continuous bond – Safety National Casualty Corporation (St. Louis, MO) \$ 38,100.00
3. Excess Workers' Compensation Liability Insurance – Safety National

Casualty Corporation (St. Louis, MO) \$ 170,960.00

4. Liability and Property Insurance – Local Government Insurance Trust (LGIT) (Hanover, MD) \$ 398,993.00

C. Police Department:

1. Monthly Delinquent Citation Collections – Rekor (Hanover, MD) \$ 60,000.00
2. Monthly Speed Camera Charges – Rekor (Hanover, MD) \$ 446,400.00
3. Western Maryland Regional Crime Lab Accreditation – ANSI National Accreditation Board (Milwaukee, WI) \$ 12,300.00
4. 2019 Dodge Chargers – Hertrich Fleet Services, Inc. (Milford, DE) \$ 212,376.00
5. Equipment and Installation for 2019 Dodge Chargers – Occasion of a Lifetime, LLC (Myersville, MD) \$ 118,869.44
6. Fourier Transform Infrared Spectrometer – Thermo Electron North American (Madison, WI) \$ 27,593.00

D. Public Works:

1. Pay by Phone Consulting Service – DEC Parking Associates (Ivyland, PA) \$ 16,800.00

E. Utilities Department:

1. Wastewater – Repair of Pump No. 6 – Apparatus Repair and Engineering, Inc. (Hagerstown, MD) \$ 20,995.00

Mayor Bruchey asked for an estimate of what the speed camera revenue will be.

Councilmember Metzner asked why the police department is purchasing Dodges again. Chief Paul J. Kifer noted the previous issues have been resolved and they are less expensive vehicles. The department was able to purchase an extra vehicle with the savings.

### **Approval of REACH Memorandum of Understanding**

Dana Jenkins, Executive Director of REACH, reported the Bridge to Change program kick off will be happening soon. There are several individuals ready to start next week. The first sponsor for the program is A. C. & T., Co. There have been many people asking how they can support the program.

Councilmember McIntire is excited to see this program be successful in Hagerstown.

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

### Zip Trip with DC and Fox 5

Wes Decker, Communications Manager, and Skip Davis, Hagerstown resident, were present to discuss the upcoming Fox 5 Zip Trip. Mr. Davis has been a strong advocate for a zip trip in Hagerstown. He attended the one in Frederick and thought it would be a good way to showcase what Hagerstown has to offer. Fox 5 will be broadcasting their morning show on Friday, August 16, 2019 from Hagerstown from 6:00 a.m. to 11:00 a.m.

The programming includes live on-location outdoor segments, weather forecasts, and pre-taped segments.

Mr. Davis thinks it is important to have this broadcast in Hagerstown because it will emphasize what good things are happening in Hagerstown. Hagerstown will be showcased throughout the region. The broadcast did great things in Frederick and can do the same for Hagerstown.

Everyone is encouraged to be part of the Hagerstown Zip Trip and show their enthusiasm.

### Farmers Market Guidelines Review

Kitty Clark, Community Events Coordinator, was present to review the revised Application and Guidelines for the Historic City Farmers Market. The revised guidelines incorporate the direction from the Mayor and City Council from the May 8, 2019 Work Session for operations of the Market.

Those directives include the following:

1. A rent-free market
2. Annual “good standing” check of vendors to ensure compliance with state, county, and city regulations
3. Products to be homegrown or handmade/artisan products only
4. No limitation on how many vendors of the same type are in the Market
5. Expanding Market hours until 2:00 p.m., with a requirement for all vendors to be Present from 8:00 a.m. to 12:00 p.m.
6. Attendance requirements limiting vendors to six absences per year
7. Annual 1-2 week closure following Christmas

It was the general consensus of the Mayor and City Council to include approval of the revised guidelines on the July 30, 2019 Regular Session agenda.

### Update on Stormwater Utility Implementation

Rodney Tissue, City Engineer, Jim Bender, Assistant City Engineer, David Bulova, WOOD, and Elizabeth Treadway, WOOD, were present to provide an update on the progress of Phase 2 of the Stormwater Utility Implementation.

In 2018, with the issuance of the City's new NPDES MS4 stormwater permit, the Mayor and City Council authorized staff to hire a consultant (WOOD PLC, or WOOD) to explore methods to raise sufficient revenue to cover the costs of compliance with the permit. WOOD, working with City staff and an appointed Stormwater Advisory Committee, completed the first phase of their work in November, 2018, and presented the results of this work to the Council. The report recommended the implementation of a stormwater utility fee based upon the amount of impervious surface on each property, along with development of a public education program to explain the need for the fee to City residents. The Council authorized WOOD to initiate the second phase of their work, which would include the calculation of the user fee rates, development of a credit program to decrease the impact of the fee on certain users, and other policies.

The MS4 permit requires water quality treatment for 20% of untreated impervious areas. An area is considered "treated" if the facility meets 2000 MDE design standards. Actions must be in place by 2025. The original estimate for compliance is approximately 450 acres to be treated, with a capital need of approximately \$ 27 million. By comparison, the FY19 capital budget for stormwater was \$ 1.1 million.

The number of stormwater quality management structures the City must inspect is increasing. Private structures are inspected every three years by the City. City staff anticipates approximately 10 new private structures each year. The workload is expected to exceed City staff capacity starting in FY2021.

The City manages approximately 106 miles of pipe and 4,000 storm drain inlets. Much of the public drainage system is more than 100 years old. The current maintenance program is reactionary based on discovery of problems after failure. A more proactive approach could avoid short-term cost of road closures, flooding, safety issues, property damage, etc. Rehabilitation is more cost-effective in the long-term. The first step for a proactive approach is to inspect the system to assess its condition and understand the capital needs.

Roadway curb and sidewalk maintenance is currently a private landowner responsibility. This can impose a significant burden – both on the property owner and staff. As a part of the public drainage system, roadway curb operation and maintenance can be covered under the stormwater program. Staff estimates the annual cost of roadway curb and gutter at \$ 100,000 per year. The cost of sidewalk maintenance could be covered under savings to the General Fund.

Councilmember Metzner asked how sidewalk maintenance would save money. Mr. Tissue indicated the costs would be transferred to the Stormwater Utility, which would free funding for sidewalks. Instead of paying \$ 4,000 to \$ 5,000 for a sidewalk, residents will be paying a quarterly fee to cover the costs.

The question is not whether there will be cost impacts, but rather how costs will be distributed. A plan is needed for a revenue source that is sufficient to meet long-term

program needs. Equity and fairness are very important. All properties with impervious cover should be part of the solution regardless of tax status. A user fee based on square feet of impervious cover is perceived as more equitable. The City should pay for City-owned properties. This enables the City to charge other governmental units.

The City should adopt a robust, yet simple, credit policy. While all stormwater management structures should be eligible for credit, the policy should encourage and incentivize redevelopment and voluntary private investment.

The key focus areas and policy discussions for Phase 2 include the following:

1. Impervious area refinement – a solid base map is key to the success of any fee based on impervious area. City staff is systematically reviewing the impervious area layer in GIS. WOOD staff is reviewing the work for significant issues. Property owners will be able to verify impervious cover with City staff if there are questions and appeal if necessary.
2. Billing Mechanism – options considered include real property tax bill, water/sewer utility bill, and stand-alone bill. The City Administrator has recommended including the fee on the water/sewer utility bill. The budget includes funding for staffing support, plus additional budget for one-time system set up.
3. Program Cost Refinement – Removal of areas not subject to City treatment requirement will reduce area from approximately 450 acres to 394 acres. This reduced the expected capital cost from approximately \$ 27 million to \$ 23.6 million. The original rate estimate assumed 100% bonds for capital. Staff is currently evaluating bonding 1/3 of the annual capital costs. The rate would increase because more cash is needed upfront. Maryland has created a credit trading program. Hagerstown wastewater treatment exceeds permit discharge limits, which can be sold as credits. It is important to note that credits are year-to-year (not permanent) and are a short-term option only to gain more time.
4. Draft Credit Policy – Utility financial credit should be available for any structure that was built in accordance with the City's Stormwater Ordinance and is in compliance with a maintenance agreement. The utility credit amount is linked to the benefit to the City.
5. Incentive Program – Larger-Scale Incentives will help attract major private investment in stormwater treatment and help the City meet treatment requirements. The City could match up to 50%. Smaller-Scale Incentives would incrementally improve water quality and helps educate residents. It can be tailored to Hagerstown-specific needs. There could be a partnership with the Washington County Soil Conservation District.
5. Public Outreach – Ensure City residents understand program needs and why the City is exploring a stormwater fee as the most equitable approach to generating revenue.

A public meeting is scheduled for August 8, 2019. Additional outreach will occur in August and September. A video explaining the program was created and will be shown in multiple settings.

Councilmember Heffernan asked if a more pervious material could be used for sidewalks. Mr. Tissue stated other jurisdictions are looking at this possibility. There would be some challenges for this type of material, such as having to be vacuumed rather than washed.

Mayor Bruchey noted Hagerstown Ford installed a system that drains the parking lots, without runoff.

Councilmember Heffernan wondered how long different types of paving materials would last. Homeowners could also start looking at rain gardens.

Mayor Bruchey recalled discussions from 2007 of the City incurring the costs of sidewalk repair and maintenance.

Councilmember Aleshire asked what the nexus is between using the indirect savings for sidewalks and managing stormwater management. Mr. Tissue stated curbs are included and in many places the curb and sidewalk are connected. It seems to be the most logical direction.

Councilmember Aleshire asked if the credit program will also include the capacity management plan for the MRGA. Nancy Hausrath, Director of Utilities, stated the simple answer is no, it can't be double counted. For the training program, monthly reports are created. It wouldn't be in the best interest for the Wastewater Treatment Plant to release that to the stormwater program in order to ensure the capacity level (on paper) is met by the end of the calendar year.

It is Staff's intention to bring a final recommendation on the program to the Mayor and City Council in December for their consideration.

### Building and Trade Codes Update

Kathleen Maher, Director of Planning and Code Administration, Paul Fulk, Neighborhood Services Manager, and Blaine Mowen, Chief Code Official, were present to review Building and Trade Codes updates to include changes, amendments, and additions.

Staff has reviewed the 2018 International Codes, internally, with the building and trade contractor licensee work groups, the Permits Inspections Code Compliance Review Committee, and Washington County for adoption as the City of Hagerstown Building and Trade Codes. Staff is proposing that most of the original amendments to the Codes remain as previously adopted by having included format changes and additional amendments to provide consistency throughout the individual building and trade codes.

New provisions per changes to the 2018 International Codes include:

1. Key changes in the Building Code include a Manual J Design Criteria Table provided to assist HVAC design professionals with local heating and cooling requirements for residential occupancies and the inclusion of an adoptable appendix for the minimum code requirements for tiny houses.

New local amendments:

1. Added two new sections to the Building Code to address rooftop egress routes from existing upper floor residential occupancies with specific requirements and conditions for path and guard protection.
2. Added new sections for on-site utility contractor registration and permit requirements to allow properly licensed utility contractors to obtain permits for water, sewer, and storm water management system installations within five feet of a structure. This change was requested by site utility contractors and matches Washington County requirements.
3. Added the commercial Ground Snow Load design criteria to assist design professionals and provide consistency with Washington County.
4. Added administration sections to clarify the requirements for ceiling close-in inspections for each trade, violation penalties for each trade, modified which work is exempt from permits as required by PICCR, provided a definition for electrical repairs, and modified heating appliance safety control requirements.
5. Amended the code section requiring associated trade permits be obtained prior to issuances of a residential building permit. Trade permits will still be required prior to issuance for swimming pools, solar panels, and electric signs. This change parallels the County requirements and was requested by PICCR.
6. Removed an exception in the residential construction code that does not require carbon monoxide alarms be provided for plumbing and mechanical installations, repairs, and additions to make the City consistent with State Law.
7. Unresolved Items – Recommended by PICCR but not supported by the trade contractor work group:
  - a) Replacing any plumbing fixture without a permit. Work Group agrees to the replacement of sinks, faucets, showerheads, and dishwashers by the property owner but with a permit and inspection. Work Group and PICCR did not agree that replacement toilets should be exempt from permits and inspections nor should they be allowed to be removed/replaced by anyone other than a licensed plumber of the residing homeowner. Waste receptor installations must be safe, sanitary, and correct.

- b) Replacement of electrical receptacles without a permit. Electrical Code requirements include arc-fault protecting all replacement receptacles where arc-fault protection is required in residential occupancies. Licensed professionals recommended permits and inspections be required for this work.

Councilmember Aleshire asked if dishwashers require electric. Mr. Fulk indicated he believes most do.

Councilmember McIntire pointed out if a homeowner installed a shower head incorrectly, they would have to call in a professional.

Councilmember Metzner has no issue allowing an exemption for showerheads, but doesn't feel the same about exempting installation of a dishwasher.

Councilmember Keller noted other jurisdictions don't require a permit for installing a dishwasher.

Mr. Fulk stated Washington County requires a permit to replace a dishwasher, however their policy is to allow one replacement without a permit.

Councilmember Heffernan asked what the City is trying to achieve. Mr. Fulk stated staff is seeking direction from the Mayor and City Council for the recommendations from the PICCR meetings.

It was the general consensus to exempt homeowner replacement of sinks, faucets, showerheads, and dishwashers from permit requirements. Replacement of toilets, if it is the same, will not require a permit.

Councilmember Aleshire stated a permit should be required if the work is done by a professional.

Councilmember Keller left the meeting.

Mr. Fulk stated the remaining unresolved item is the replacement of electrical receptacles with arc fault protection.

Councilmember Heffernan stated replacing receptacles with arc fault protection may be difficult because much of the housing stock in Hagerstown is approaching 100 years old.

Councilmember Metzner thinks the arc fault protection is needed. There have been two fires in his neighborhood as a result of faulty electrical wiring.

Councilmember Heffernan noted the circuit could be arc fault protected without replacing individual receptacles.

Councilmember Aleshire stated not installing arc fault protected circuits or receptacles can cause injury or death in older homes that have been divided into multiple apartments. He wants a professional to complete that type of work.

Councilmember Heffernan stated the regulations should require arc fault protection on the circuit, rather than the individual receptacles.

Mr. Fulk noted that an arc fault protected home would not require replacement of the outlets.

#### Hagerstown Cultural Trail – Proposed Splashpad Location and Acquisition of Property

Rodney Tissue, City Engineer, was present to discuss the final design of the proposed Splashpad on the Cultural Trail.

Staff is working to finalize the design of the final phase of the Trail in conjunction with the Urban Improvement Project (UIP). They are hoping to bid the final phase late this year for construction in the Spring/Early summer of 2020. Staff is seeking input from the Mayor and City Council on the following items:

1. Provide feedback on potential Splashpad location and design
2. Provide feedback on the re-use of the property the City has agreed to purchase at 319 Summit Avenue

Staff understand that the Splashpad along the Trail is a priority for the Mayor and City Council and was included in the Mayor and Council Goals and Priorities approved in November, 2018. Splashpads are very popular and are increasingly used in urban areas. Having constructed a Splashpad at the Porterfield Pool and researched them in detail, staff are prepared to recommend the following for this proposed CDBG-funded Splashpad:

1. A water-to-waste system where potable water is used and it flows directly to sanitary sewer. This arrangement does not require any restrooms, attendants, and avoids costly maintenance and treatment systems. It is basically treated like a fountain. Staff would have to visit it every day to ensure it is operating properly and check on any issues.
2. In this scenario, water consumption is expected to be a maximum of 70 gallons per minute, resulting in a monthly water bill of about \$ 1,000 when in use. Staff propose that the Splashpad be operational May through September and programmed to only allow operation from approximately noon to 9:00 p.m. (only operated when activated by an actual user).

3. Since the area is unsupervised, staff suggest that the Splashpad have all ground jets with several choreographed routines and LED lights.
4. Staff propose a decorative surface with public art adjacent along with benches and shade for adults.
5. Some public art grant funding is available through the Public Art Across Maryland program that offers \$ 10,000 Implementation Grants to support the artwork fabrication and installation.
6. The location of the Splashpad could be in one of three locations:
  - a) Immediately south of Washington Street at existing 43/47 building footprint
  - b) Herald Mail Plaza
  - c) 319 Summit Avenue

Staff is suggesting that the location south of Washington Street would be the best location.

Councilmember Aleshire stated Splashpads are usually in open spaces, with good accessibility to sunlight and are fairly insulated from traffic. The Washington Street site is between two buildings, next to a street. He does not think this is the ideal location. He recommends moving the orange sculpture on the trail and placing the Splashpad there.

Councilmember Heffernan suggested looking at the space in front of the Mural of Unusual Size. As this area is owned by the Hagerstown Housing Authority (HHA), Mr. Tissue stated this idea would have to be discussed with them. He noted that a wall would be built at the staff recommended site, which would block access to the street.

Councilmember Aleshire is not opposed to the HHA site. The Splashpad needs to be in open area. Site 2 on the provided drawing would be his first recommendation. This site is on the Cultural Trail.

Mr. Tissue will discuss the possibility with the HHA. If the HHA is not agreeable to the Splashpad at that location, Site 2 will be selected.

Councilmember Heffernan suggested the artwork on the floor of the Splashpad be relevant to Hagerstown and/or Maryland.

Since the Mayor and City Council passed a resolution to purchase 319 Summit Avenue, the following due diligence has occurred:

1. Environmental Study: Triad has completed their work at this former gasoline service station and not surprisingly it resulted in the detection of petroleum hydrocarbons in exceedance of Maryland's non-residential cleanup standards. As required by Maryland law, Triad notified the Maryland Department of the Environment (MDE). MDE sent a letter that describes the findings on the site and potential impacts of environmental concerns depending on the reuse. In general,

- the City can abide with these requirements, but some potential reuses create more environmental concerns than others.
2. Program Open Space: To partially fund the acquisition, staff were recently informed that Washington County approved the \$ 105,000 request for Maryland Program Open Space funds and acknowledgment has been received from the Department of Natural Resources. The Maryland Board of Public Works must approve this funding, which could take several months, and will delay the closing for the property. Staff is suggesting passing a resolution extending the potential closing date through the end of November.
  3. Staff offer the following list of potential reuses of the 310 Summit Avenue Property, along with the pros and cons of each:
    - a) Remove the structure, plant grass and landscaping  
Pros: Consistent with POS objectives, adds to existing green space, minimal environmental issues  
Cons: Not an attraction, additional maintenance
    - b) Remove building and construct parking area for Trail  
Pros: Consistent with POS criteria, adds parking along the Cultural Trail, could be used as food truck vending area, minimal environmental issues  
Cons: potential illegal parking and monitoring/maintenance of the parking area
    - c) Remove the building and install Splashpad  
Pros: Consistent with POS requirements, adds an attractive feature to this portion of the Trail  
Cons: This may constitute a change in land use from commercial to institutional and because it involves use primarily by children, the MDE may require additional investigations and/or remedial actions
    - d) Build new or renovate building for a future ice cream sales or other vending  
Pros: Ice cream sales formerly in this area of the City, added attraction, proceeds must be invested in parks per POS requirements  
Cons: Possible additional POS implications, maintenance of another structure, some environmental issues like potential soil disposal from the construction of any new foundations and vapor intrusion mitigation would likely be needed if building is re-used, most costly option and with likely cost well over \$ 125,000

Staff suggests removing the building and either install landscaping or parking in the area. If the Mayor and City Council desire the building to remain, feedback on potential re-sue and further investigation with POS will be needed for a better estimate of renovation costs.

It was the general consensus to remove the building and paved area to create additional greenspace.

### **CITY ADMINISTRATOR'S COMMENTS**

WORK SESSION AND EXECUTIVE SESSION  
2019

JULY 23,

MAYOR AND CITY COUNCIL

HAGERSTOWN, MARYLAND

*Scott A. Nicewarner, City Administrator*, announced “How to Train a Dragon” will be shown Friday evening at City Park. The City Championship will be held Saturday at the Greens at Hamilton Run. The Summer Concert Series continues at City Park on Saturday. He congratulated Mike Tresla for being inducted into the Sportsman Hall of Fame.

**MAYOR AND COUNCIL COMMENTS**

*Councilmember S. McIntire* had no additional comments.

*Councilmember L. C. Metzner* also congratulated Mr. Tresla.

*Councilmember A. Heffernan* had no additional comments.

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

*Mayor R. E. Bruchey, II* had no additional comments.

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 6:11 p.m.

Respectfully submitted,

*Original signed by D. K. Spickler*

Donna K. Spickler  
City Clerk

Approved: August 27, 2019