

85<sup>TH</sup> SPECIAL SESSION, WORK SESSION, AND EXECUTIVE SESSION – October 15, 2019

EXECUTIVE SESSION – October 15, 2019

On a motion duly made by Councilmember A. Heffernan and seconded by Councilmember S. McIntire, the Mayor and City Council unanimously agreed by voice vote to meet in closed session 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, October 15, 2019 at 3:30 p.m. in Room 407, 4<sup>th</sup> floor, City Hall, Hagerstown, Maryland.

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, Michelle Hepburn, Director of Finance, Kathleen Maher, Director of Planning and Code Administration, Jonathan Kerns, Community Development Manager, Paul Fulk, Neighborhood Services Manager, Kaitlin Bell, Economic Development Specialist, Doug Reaser, Business Development Specialist, and Donna K. Spickler, City Clerk.

Councilmember S. McIntire recused herself from the discussion and left the room.

The meeting was held to discuss four, separate business proposals. No formal action was taken at the meeting. On a motion duly made, seconded, and passed, the meeting was adjourned at 4:02 p.m.

85<sup>th</sup> SPECIAL SESSION AND WORK SESSION – October 15, 2019

Mayor R. E. Bruchey, II called this 85<sup>th</sup> Special Session and Work Session of the Mayor and City Council to order at 4:08 p.m., Tuesday, October 15, 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, City Attorney Jennifer Keefer, City Attorney Jason Morton, and City Clerk D. K. Spickler.

85<sup>th</sup> Special Session – October 15, 2019

On a motion duly made by Councilmember E. Keller and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to meet in Special Session at 4:08 p.m.

**Approval of a Resolution: Support of the Maryland Department of Housing and Community Development's Neighborhood Business Works Program Financing for William D. Carroll, III**

**Action:** On a motion duly made by Councilmember S. McIntire and seconded by Councilmember E. Keller, the Mayor and City Council unanimously agreed by voice vote to adopt a resolution indicating support for the Maryland Department of Housing and Community Development’s Neighborhood Business Works program to finance a loan in the amount of \$ 250,000 to William D. Carroll, III. This loan will allow Mr. Carroll to finance a portion of the acquisition and renovation costs for the Pythian Castle building project at 16-18 W. Franklin Street, Hagerstown, Maryland.

**Approval of Adoption of Rules of Procedure**

**Action:** On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember A. Heffernan, the Mayor and City Council unanimously agreed by voice vote to adopt amended Rules of Procedure dated October 22, 2019. These Rules of Procedure shall apply to all meetings of the Mayor and City Council to be held by this administration and shall be in effect upon adoption of the Mayor and City Council.

The Special Session was closed at 4:10 p.m.

Work Session – October 15, 2019

Proclamation: Character Counts! Week

Mayor Bruchey presented a proclamation to Carolyn Brooks, Founder and Director of Character Counts! of Washington County, naming October 20-26, 2019 as Character Counts! Week in Hagerstown, Maryland. Character Counts! provides a framework of universal values that transcend cultural, religious, political, and socioeconomic vales through the six pillars of character – Trustworthiness, Respect, Responsibility, Fairness, Caring and Citizenship.

Character Counts! Update

Carolyn Brooks thanked the City and the school system for their support of the program. She is always excited to see the Character Counts! Qualities on the pillars in the Council Chamber.

Hagerstown Police Department Staff Update

Police Chief Paul “Joey” Kifer provided an update on staffing at the Hagerstown Police Department.

The Hagerstown Police Department (HPD) has lost 48 people since FY 2016, with most leaving during FY 2018. In an effort to recruit new officers, the Department’s social media pages have been updated. A new recruiting video was created, in the hope

of attracting a new generation to HPD. Members of HPD attend job fairs on a regular basis.

Chief Kifer noted that 18 officers have been hired since he was appointed Chief. There have been 40 officers hired since FY16. Even with the new hires, the approved total number of sworn positions are not filled. With the next academy graduating class, there will be 100 officers. Currently, there are 88 officers that are street ready. They work a three-shift schedule. As of October 16, 2019, there will be seven new recruits completing field training. Special divisions include the Narcotics Task Force (NTF), Community Resource Officers, and School Resource Officers.

In order to fully staff the shifts, Chief Kifer will be implementing schedule changes soon. With the change, the peak times will be covered by overlap of shifts. The Detective Bureau will work a shift that will allow them to respond to calls and free up a uniformed officer. Detectives will also be able to handle calls on occasion, if needed. This schedule change will provide four additional officers working during the peak hours Tuesday through Friday. The change will make it safer for the officers and provide better service to the community.

The schedule change will not solve all the issues with officer numbers being down. Chief Kifer anticipates there will be seven more officers on the street early in 2020. As long as there is not a large number of officers leaving HPD, he believes the department will be close to full manpower by this time next year.

Mayor Bruchey asked where the department stands with overtime costs.

Chief Kifer stated he does not have the firm numbers with him. However, during a recent discussion with the Support Services Manager, the department is on track to have close to \$ 1 million in overtime costs. Last year, overtime was needed to get to minimum staffing. He noted the schedule change will lessen the burden for manpower and forcing people to work over. Officers are being burnt out. They work their days off and often work past the end of their shift. HPD officers will do what they have to do but the current situation isn't safe for officers or the community.

Mayor Bruchey asked if the schedule change provides additional officers in the core area. Chief Kifer stated there will be extra officers available to cover where there is a need.

Councilmember Aleshire asked if 17 officers per shift is the optimal number. Chief Kifer stated that would definitely boost patrol, but there are other options to cover the shifts. If the department went back to an eight-hour schedule, it would automatically put 25% more people on the street, without changing the number of personnel. He doesn't want to go back to that schedule as the majority of officers really value time off. Reverting to an eight-hour schedule would likely cause people to leave. After the next academy recruits are street ready, he feels the difference will be noticeable.

For every 100 people who pass the entrance exam, only one makes it through the entire process. The biggest issue for HPD is retention. He would rather keep the quality of staff here because they are the best around. There are some officers who have 30+ years with the department because they love what they do.

Mayor Bruchey noted this may not be the perfect shift schedule, but he thinks Chief Kifer is working on developing a good schedule. Chief Kifer noted the union asked him to look into scheduling when he took office. A committee was appointed to review the current schedule and coverage. The committee recommended a schedule that will address the staffing issues and he hopes it will be accepted soon. He is making a change now because he doesn't feel he can wait to do something that provides better efficiency and protects staff, while not causing retention issues. He believes this schedule is a good balance.

Mayor Bruchey mentioned he spoke to the Pen Mar Realtors Association and talked about the quality of Hagerstown Police Department officers. There were four new officers sworn in earlier today.

Chief Kifer noted these four officers will hit the street tomorrow. The Department will then have its first ever Latino officer and first ever Muslim Officer. Chief Kifer then left to attend the academy graduation.

Mayor Bruchey thanked HPD Command staff and all the officers who go out and serve Hagerstown citizens every day.

#### Discussion on Legislative Priorities for 2020 Session

Scott Nicewarner, City Administrator, returned today from the MML Fall Conference. During this conference, the League voted for two major legislative initiatives – one is restoration of the Highway User Revenue to 100% permanently, and the second is to allow local jurisdictions to have authority over placement and logistics of 5g small cell placement. Federal Communications Center guidelines make it difficult for municipalities to have control of their own equipment regarding 5g.

Delegate Paul Corderman was present to discuss Hagerstown's legislative requests. Mr. Nicewarner stated the City has been dealing with challenges from the Maryland Department of the Environment (MDE) regarding the Edgemont Dam project. Initially, MDE indicated there would be no funding available for any portion of the project. Very recently, the City was notified some funding is now available. The funding availability may be due to Delegate Corderman's inquiry in this matter.

Mayor Bruchey asked if there is the possibility of legislative assistance to help with illegal drug use and nuisance properties. Delegate Corderman has discussed this issue with Councilmember McIntire. He believes everyone here sees things that are happening in Martinsburg with the City obtaining ownership of the property and then demolishing the building. Part of that program may be helpful for Hagerstown. If the Mayor and City

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Council wish to pursue this, he will support their efforts. He has discussed this issue with Chief Kifer and feels that HPD is doing some things to address the problem. He wondered if there is a way to assist with abatement issues.

Chief Kifer noted the State of Maryland does have a nuisance abatement law. Brett Wilson, as prosecutor, never successfully abated a house through that law. Once the property owner mitigates the problem by eviction, it negates the problem. He believes the department's crime free program worked but due to personnel changes it has been less active. Higher fines at a State level may be helpful in abating the nuisance properties. It is not the intent to punish good owners with bad tenants.

Delegate Corderman stated he supports efforts to reduce the number of incidents through legislation. He also supports ways to incentivize good property owners. He believes the Edgemont Dam project and the changing requirements from MDE is a good topic to discuss with the full Delegation next month. He encouraged the Mayor and City Council to contact him about topics he can help with.

Mr. Nicewarner reported this was also discussed during the MML Fall Conference. Many municipalities are experiencing the same issues with nuisance properties. It was shared that they are willing to get tougher and work with delegations to understand if there are opportunities with legislation to address the problem. More information is expected from MML.

Councilmember McIntire stated police are blamed for not being able to control the neighborhood, which isn't accurate. She wondered if the length of time it takes for intervention is too long.

Chief Kifer indicated the number of calls isn't dependent on the tenant. Calls are assigned to the property owner. The state model is based on the calls being assigned to the tenant. When an issue with the tenant is resolved (such as eviction), the actions end. There has to be a balance for what works best for logging calls. The intent of the program is not to punish good landlords.

Councilmember Heffernan stated the landlord has to be responsible for completing background checks and knowing who they are renting to. He is concerned that landlords aren't aware of what illegal activities their tenants may be participating in.

Councilmember Metzner pointed out there are many landlords who don't live in this area and aren't aware of what is actually taking place on their property. They hire a management company to manage their rental properties.

Councilmember Keller stated part of the problem is that property management companies are not required to obtain a license from the State of Maryland. A real estate group was working on this several years ago. Delegate Corderman stated he supports this initiative.

Councilmember McIntire stated this is important to her. She wants to help create an additional layer of protection for good landlords.

Mr. Nicewarner asked if Delegate Corderman anticipates reintroduction of the prison release bill. Delegate Corderman stated it will absolutely be reintroduced.

Councilmember Aleshire stated the Council was encouraged to move forward and accelerate the process of the next phase with the Maryland Stadium Authority, under the auspices that failing to do so would delay the funding mechanism until the following legislative session. There are two legislative requests that were discussed during that time. The first being that the MSA be allowed to apply for and secure bond financing. The second item is that the funding for the design be covered by the State of Maryland.

Delegate Corderman believes the MOU covers these requests. He doesn't believe a particular ask is necessary.

Councilmember Aleshire was disappointed last week while discussing the Coalition's agenda that it was noted no specific asks for the stadium are included on the agenda. He is hoping that, as the legislative session gets underway, there will be an adjustment with the MSA regulations and the funding.

Delegate Corderman stated he can provide updates on the progress of the funding.

Councilmember Aleshire stated he is concerned about the make-up of the Potomac Center and how it has changed since it opened. He questioned the sudden need for a protective fence between a school yard and this State facility. He wondered how much of a voice the City has in the process of determining what services that facility now will be providing.

Delegate Corderman stated the fence is a collaboration between the police department, the State, and local citizens.

Chief Kifer reported there were concerns about the proximity of the Potomac Center to Marshall Street school. A vulnerability and threat assessment was completed by the Hagerstown Police Department. The results were provided to the State Secretary of Health and the fence is one of the minimal changes that were noted in the report. A fence would slow someone who was running away. Additional lighting has been installed as well. He wants to be proactive in addressing the issues with them and is hoping to assist them with issues.

Delegate Corderman stated the way society treats challenged individuals is different than it was 40 years ago. The primary goals are to make sure the children in the neighborhood are safe and that the employees inside the Center are safe. This is not an easy subject to tackle. Staff at the Center are supportive of moving forward and dealing with the changing guidelines. As this is a concern to him, he will be meeting with the parent company and partners of the Potomac Center.

Councilmember Aleshire then discussed the City's water resource. The City has an established growth area that is predicated by the State's allocation. Recently, there have been requests for service outside that growth area. He is willing to work with the County Commissioners to determine if there is a need for service in another area and if it is logical to adjust the original growth area. He keeps insisting that municipalities must be given equal consideration in the development of water and sewer master plans, just like the State has directed the counties to.

Delegate Corderman stated he understands and has been looking into this.

### Preliminary Agenda Review

Mayor Bruchey noted there will be a new order of business for the meeting on October 22, 2019.

### **Consent Agenda**

#### A. Department of Community and Economic Development:

1. Community Development Block Grant Consultant Services of Consolidated Plan 2020-2024 – Urban Design Ventures, LLC (Homestead, PA) \$ 46,000.00

#### B. Fire Department:

1. 2020 Police Inceptor Utility Vehicle – Keystone Ford (Chambersburg, PA) \$ 52,729.91

#### C. Department of Information Technology and Support Services:

1. Building Blocks Software Purchase, Installation, and Migration – Opportunity Space, Inc. (d.b.a. Tolime) (Boston, MA) \$ 12,000.00
2. MUNIS Transparency Module Annual Maintenance Agreement Renewal – Tyler Technologies, Inc. (Dallas, TX) \$ 11,669.90

#### D. Department of Planning and Code Administration:

1. Snow and Ice Abatement Contract – Botanica, Inc. (Boonsboro, MD) Variable

#### E. Police Department:

1. Cyanoacrylate Fuming Chamber – Foster and Freeman (Sterling, VA) \$ 17,055.91
2. Monthly Speed/Red Light Camera Charges – American Traffic Solutions, Inc. (Mesa, AZ) \$ 130,000.00

#### F. Department of Public Works:

1. Bulk Road Salt – Morton Salt (Chicago, IL) \$ 61.80/ton

#### G. Utilities Department:

1. Light – Substation Class Vacuum Reclosers – Eaton Power Systems Division (Waukesha, WI) \$ 52,815.00



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2. Washington County Museum of Fine Arts	\$ 40,500
3. Maryland Theatre	\$ 9,000
4. Maryland Symphony Orchestra	\$ 16,550
5. Hagerstown Municipal Band	\$ 18,000
6. Community Rescue Service	\$ 25,100
7. Hagerstown Neighborhood Development Partnership	\$ 28,450
8. Hagerstown Historical Society	\$ 4,000

The discussion during this meeting is to provide direction to staff for the amount to include in the budget and to determine if these agencies are to remain on the list.

Councilmember Heffernan suggested using a starting amount of \$ 205,000, subtracting the prior obligations amounts, and divide the rest equally among the remaining agencies.

Councilmember Keller agrees with a beginning amount of \$ 205,000 but she doesn't want to reduce the funding to a group that relies on the City of Hagerstown for a majority of their funding.

Councilmember McIntire asked if other groups requesting assistance. Councilmember Metzner stated there are always other requests submitted.

Councilmember McIntire stated it seems there are a number of agencies on the list of eight that provide the same service, for example arts and music.

Councilmember Aleshire pointed out this amount is a small portion of the \$ 29 million budget. In the past, the Council has considered what these agencies provide to the community and their ability to generate revenue.

Ms. Hepburn is proposing the same amount of \$ 284,600 for the FY21 budget. This would cover the base amount plus the additional obligations.

It was the general consensus to include a range of \$ 205,000 up to \$ 284,600 in the FY21 budget. Finance staff will send out requests for financial information to each of the eight agencies listed in the policy.

#### Code Requirements for Obstructing Public Sidewalks

Mayor Bruchey has requested a discussion with the City Council on existing City Code requirements related to hedges obstructing public sidewalks. Kathleen Maher, Director of Planning and Code Administration, and Paul Fulk, Neighborhood Services Manager, were present to assist with the discussion.

The issue for discussion is whether to: 1) continue with code language that requires the sidewalk in the public right-of-way to be clear of any vegetation for the entire width

of the sidewalk: or 2) amend the code to only require the minimum required pathway width for ADA compliance.

As the below code citations illustrate, there are a variety of City code sections and United States Access Board sections addressing minimum public sidewalk widths and minimum clear pathway widths. Minimum public sidewalk and clearance widths range from:

1. 3 foot for replacement of existing sidewalk and utility pole clearance (City)
2. 4 foot for snow abatement and sidewalk cafes (City)
3. 5 foot for yard sales (City)
4. 5 foot for pedestrian access route with at least 4 feet of obstruction-free zone (USAB)
5. Full width of sidewalk for shrubs, weeds, etc. (City)
6. 15 feet to street/alley corner or driveway for yard sales (City)

It is a goal of the City's Comprehensive Plan that the City's pedestrian facilities meet the mobility needs of residents, businesses, and visitors of all ages, abilities, and socio-economic backgrounds. It is important to preserve as much public sidewalk space as possible for pedestrian mobility challenges, and all people walking in the community, and to prune back hedges to ensure adequate sight visibility around intersections and property access points. Staff would not recommend reducing the code requirement for shrubs, etc. To be clear the full width of the sidewalk. If the Mayor and City Council are in favor of reducing the clear width for a pedestrian access route, the City Engineer would not recommend going below five feet for accessibility reasons.

Councilmember Heffernan noted that overgrowth makes a property appear run down.

Mayor Bruchey clarified that a sidewalk that is four feet wide has to be cleared for the full four feet. Ms. Maher indicated this is correct.

It was the general consensus to keep the City Code as it is regarding obstructions on public sidewalks.

#### Proposed Automatic Mutual Aid Agreement

Fire Chief Steven Lohr, City Attorney Jason Morton, and David Hays, Washington County Emergency Services Director, were present to discuss the final draft of an Automatic and Mutual Aid Firefighting, Rescue and EMS Agreement, that has been jointly prepared by city and county staff representing both political bodies. Staff recommends that Mayor and Council accept this final draft with all recitals.

Staff is confident that this MOU, initiated and signed by the two political bodies with overall responsibility for fire-rescue and EMS services in their respective jurisdictions, is a significant step forward as both bodies continue to work through governance and funding

issues necessary to deliver high quality and efficient services in Hagerstown and Washington County.

As all are aware, delivery of fire-rescue and EMS services are provided by different entities who in some cases control the allocation of resources that have traditionally been determined by legacy tax districts and political boundaries that don't always ensure the deployment of the closest resources to the citizen's emergencies. This is particularly troublesome in the areas immediately surrounding the Hagerstown Municipal boundary due in part to the very irregular jurisdictional boundaries that have accompanied growth, annexation, and infrastructure.

This agreement:

1. agrees to dispatch the closest appropriate services
2. clearly delineates between automatic aid and mutual aid in accordance with industry best practices
3. articulates equitable levels of in-kind service delivery
4. provides criteria for reimbursement of costs particularly as it relates to workers' compensation death, and other benefits, and adds language provided by the WCVFRA regarding billing of an independent fire, rescue, or EMS company
5. agrees to a waiver of claims for delivery of services, acts and omissions conducted by said agents and employees
6. fully complies with all laws of the State of Maryland

Chief Lohr stated Recital #7 has been revised (at the request of the Washington County Volunteer Fire and Rescue Association (WCVFRA). This recital discusses reimbursement of costs and the new language. The language indicates no independent fire, rescue, or EMS company will be billed by another company. The City and County Attorneys have reviewed the agreement. He thinks the next time the agreement will be reviewed by the County Commissions is during the joint meeting with the Mayor and City Council on November 12, 2019.

Director Hays reported the Association is working through reviewing the document. He thinks this is the proper format for the agreement. His mission is to present the agreement to the Board of County Commissioners for their review and approval.

Councilmember Keller asked what the intent of the change is. Mr. Morton indicated he does not know the intent.

Councilmember Aleshire stated he thinks the intent is to negate the language saying the parties will work together on billing but an independent company can negate it.

Councilmember Metzner stated he reads it as one company cannot bill another company unless there is an outside agreement, a court order, or a legally binding order.

Councilmember Aleshire asked who would be defined as the party and the independent entity.

Mr. Morton indicated the only two parties would be the City and the County. No one can be billed by a party for services provided by an independent fire and rescue company.

Councilmember Aleshire believes the Association thinks this would be their assurance they wouldn't be billed for covering a call.

Councilmember Metzner expressed his concern that this clause was not added to the agreement by either party of the agreement.

Councilmember Keller thinks the agreement was acceptable prior to the additional language.

Chief Lohr pointed out the City has the ultimate authority within the City limits. He does not think the independent companies view the authority the same way.

Councilmember Metzner asked if there has ever been a bill issued from one company to another. Chief Lohr is not aware of any such bill.

Councilmember Metzner asked if the first due area is typically defined geographically. Chief Lohr indicated those areas are defined differently in some places.

Director Hays has worked during the last three years to correct some of the issues with the fire system. This document is necessary to establish the jurisdictions.

Councilmember Metzner stated this agreement addresses a substantial problem related to emergency services. This agreement clarifies the problem. He does not want to see it rejected because of language to address an issue that has not existed up to this point. He does not think a third party should have input for this agreement. If Attorney Bruce Poole asked that it be included, he should be willing to explain the intent. If both the Chief and the City Attorney can't explain it, he thinks the Mayor and City Council should reconsider approving it.

Mr. Morton stated he can explain what the language means but he can't explain the intent.

Chief Lohr believes some of the Association members want to be signers on the document. In his opinion, only the Mayor and City Council and the Board of County Commissioners need to sign the agreement.

Councilmember Aleshire stated this document immediately obligates the City to spend taxpayer dollars outside the City limits. In 2014, there was a change made and the County Commissioners have the ultimate authority over the independent companies. When the Fairplay company was shut down, the City was immediately obligated to

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provide a paid fire system outside the City limits. He does not think there is the same level of determination of service capability occurring under the Commissioners authority, which is concerning to him.

Chief Lohr stated the same level of services does not exist at independent companies. They are not staffed around the clock. He has not been refused assistance from any volunteer company.

Councilmember Aleshire stated he is not talking about refusal; he is talking about the obligation.

Chief Lohr noted law enforcement agencies have conquered this issue, with both the City and County responding to irregular City limit boundaries, such as on the Dual Highway.

Councilmember Keller stated the bottom line is that first responders they do what is right when responding to a call for assistance. She is concerned about the additional statement in the agreement.

Director Hays stated he believes everyone would want their neighbors to receive the highest level of service. As first responders, they will all do what is right.

Councilmember Metzner stated it appears there is support for this agreement, if a satisfactory explanation of the additional language is provided. He suggested having Mr. Morton contact Mr. Poole for clarification.

Councilmember Keller listened to a recording from the Association meeting and is concerned that the president made borderline derogatory comments about the City and their sincerity in the agreement. She is also concerned this language was added after that meeting and those comments.

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

*Scott A. Nicewarner, City Administrator*, had no additional comments.

### **MAYOR AND COUNCIL COMMENTS**

*Councilmember E. Keller* noted over the past several days there have been a number of overdoses resulting in deaths. As this crisis receives less and less media coverage, people start to believe things are getting better. Unfortunately, things are not getting better. She urged anyone struggling to get help. She hopes the stigma of addiction can be overcome.

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

*Councilmember A. Heffernan* had no additional comments.

*Councilmember L. C. Metzner* thanked staff and everyone who participated for the wonderful event at the dedication of the statue at Kennedy Park and the grand opening of the Maryland Theatre on October 11, 2019.

*Councilmember S. McIntire* 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 6:14 p.m.

Respectfully submitted,

*Original signed by D. K. Spickler*

Donna K. Spickler  
City Clerk

Approved: November 26, 2019