

WORK SESSION, AND EXECUTIVE SESSION – April 21, 2020

In response to the Mayor's declaration of a Civil Emergency, this Mayor and City Council meeting was held virtually through Go-To-Meeting software and was made available for public viewing.

Mayor and City Council members and meeting participants were provided with a specific meeting ID prior to the meeting. This meeting ID is required in order to join the meeting as a participant.

The meeting was streamed live through the City of Hagerstown's Cable Channel 25, Facebook, and YouTube accounts. All members of the public were welcome to view meetings through these platforms, but only able to participate in public meetings through Go-to-Meeting with the published meeting ID.

EXECUTIVE SESSION – April 21, 2020

On a motion duly made by Councilmember A. Heffernan and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to meet in closed session to consult with counsel to obtain legal advice; #7 (Section 3-305(b)), and to discuss (i) 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, April 21, 2020 at 3:05 p.m. in the Council Chamber, 2<sup>nd</sup> floor, City Hall, Hagerstown, Maryland.

The following people were in attendance: Mayor R. E. Bruchey, II, Councilmember K. B. Aleshire (remotely), Councilmember A. Heffernan (remotely), Councilmember E. Keller (remotely), Councilmember L. C. Metzner (remotely), Councilmember S. McIntire (remotely), City Administrator Scott Nicewarner, City Attorney Jason Morton (remotely), Nancy Hausrath, Director of Utilities, (remotely) and Donna K. Spickler, City Clerk.

The meeting was held to discuss negotiations of an existing contract and members of the Board of Code Appeals. No formal action was taken at the meeting. On a motion duly made, seconded, and passed, the meeting was adjourned at 3:16 p.m.

WORK SESSION – April 21, 2020

Mayor R. E. Bruchey, II called this Work Session of the Mayor and City Council to order at 4:00 p.m., Tuesday, April 21, 2020 in the Council Chamber at City Hall. Participating with the Mayor were Councilmembers K. B. Aleshire (remotely), A. Heffernan (remotely), E. Keller (remotely), L. C. Metzner (remotely), and S. McIntire (remotely), City Administrator Scott A. Nicewarner, City Attorney Jason Morton (remotely), and City Clerk D. K. Spickler.

On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember E. Keller, the Mayor and City Council unanimously agreed by all members to suspend the Rules of Procedure as to subsections 6.1, 6.2, and 6.4.

### COVID-19 Update

Scott Nicewarner, City Administrator, stated even though termination of utility service is suspended during the State of Emergency, letters will be sent to customers with delinquent accounts reminding them of the delinquency and encouraging them to make a payment or contact City staff to discuss payment arrangements. He reminded customers that one of the suggested uses of the federal stimulus check is to assist with utility payments. Washington County has postponed the property tax sale until September. This will provide additional time for payments on tax bills. The Potterfield Pool is still on schedule for a Memorial Day opening. Government guidelines for operating pools regarding social distancing and safety measures for patrons and staff are being reviewed and discussed. The golf course will be reopened as soon as possible, with social distancing and safety guidelines established. Staff continues to discuss whether certain City events should be rescheduled. Parking charges will be phased in when they are re-established. Staff is also reviewing guidelines for operating the City Farmers' Market, including a carryout option.

Mayor Bruchey noted farmers markets are exempt from closing under Governor Hogan's executive orders. He wondered why the City's market is closed. Mr. Nicewarner stated the market is currently closed due to difficulties in creating social distancing.

Mr. Nicewarner talked to the MML President last week and he noted that the MML staff is doing everything they can to still hold the MML Summer Conference as planned. Plan B would be a virtual conference.

Police Chief Paul Kifer reported three new cases of the coronavirus were confirmed today.

### Preliminary Agenda Review

Mayor Bruchey announced the April 28, 2020 Regular Session includes Citizen Comments. While meetings are being held virtually, Citizen Comments will be accepted by email at [councilcomments@hagerstownmd.org](mailto:councilcomments@hagerstownmd.org). The submitters name, address, and subject of the comments will be announced during the Citizen Comments portion of the meeting. The email will not be read but will be included in the public record for the meeting and may be viewed by the public at any time.

### **Consent Agenda**

- A. Department of Community and Economic Development:
  - 1. 2020 Trick or Treat Date – October 30, 2020

B. Department of Parks and Engineering:

1. Asphalt Walkway Paving in Parks – Craig Paving, Inc. (Hagerstown, MD)  
\$ 67,150.00
2. City Park Ornamental Fencing – All State Fence (Lynchburg, VA) \$ 68,324.00

C. Utilities Department:

1. All Utilities – Street Patching/Repair – Huntzberry Brothers, Inc. (Smithsburg, MD) \$ 297,500.00
2. Water – RCW Water Treatment Plant HMI Upgrade – ABB, Inc. (Cleveland, OH) \$ 295,937.00
3. Water – Poly-Orthophosphate – Shannon Chemical Corp. (Malvern, PA)  
\$ 79,560.00
4. Water – Cationic Polymer – Magnafloc – George S. Coyne Chemical Co., Inc. (Croydon, PA) \$ 26,910.00
5. Wastewater – Synagro – Engineering – Biosolids removal during DAF Replacement (Baltimore, MD) \$ 402,873.00

**New Business**

**Approval of a Resolution: Bailment Agreement between Hagerstown Police Department and Washington County Sheriff's Department**

The Hagerstown Police Department is seeking approval to execute a bailment agreement between the Washington County Sheriff's Office and the Hagerstown Police Department for the use of 33 patrol rifles purchased through the Washington County narcotics Task Force.

The total value of the rifles is \$ 47,850.00, and no costs, beyond maintenance, are incurred by the bailment.

**Approval of On-Call Plumbing Services – 5/1/20 – 4/30/21**

Beaver Mechanicals Contractors, Inc. submitted pricing for on-call plumbing services and Backflow Preventer Inspection and Testing on April 23, 2019, which included five optional one-year renewals. This renewal is year one of the five years.

This completed the Preliminary Agenda Review. There were no additional questions about any items. All items, unless noted, are scheduled for approval on April 28, 2020.

**Hagerstown Suns: Request for Rent and Utility Relief**

Rodney Tissue, Director of Parks and Engineering, Tim McDulin, Hagerstown Suns President (remotely), and Travis Painter, Hagerstown Suns General Manager (remotely), discussed the Suns' request for rent and utility relief.

With the pandemic restrictions, the Suns season has obviously been delayed. Their first game of the season was planned for April 9, 2020 but at this point it seems very unlikely that any baseball will be played until at least June. With no game revenue, the Suns have requested both rent relief and utility bill relief.

The Suns pay \$ 35,000 annually for rent to use Municipal Stadium. The City in turn uses these funds to complete various repairs and upgrades to the stadium. This season's list of projects was approved by the City Council in November. The work is only partially complete.

The City Attorney believes that the Suns' reading of the "Unusability" provision in the Lease is correct as the stadium is not usable at this point (and not due to any act by the Suns). Therefore, according to the Lease, the rent (and all other tenant obligations under the Lease) shall "abate" (meaning that rent and other charges like utilities) during the time when the stadium cannot be used.

There is no formula spelled out in the Lease on how to abate the rent, so this must be determined. There are two options:

1. The Sun's rent relief request is based upon \$ 500 per game (\$ 35,000/70 games). Relief could be offered based on the actual number of games canceled due to the pandemic. That formula is not specified in the lease in any way.
2. The Suns occupy the stadium all year long, so the abatement could be calculated based simply on the number of months the Suns cannot use the stadium. This amount would be \$ 2,916 per month. The Suns staff decided to leave the stadium on or about March 17, 2020 due to the pandemic restrictions.

Since the intention is for the rent and the annual improvements to be "cost neutral", the City can abate the rent up to the amount not spent on improvements (since the City is only obligated to spend up to \$ 35,000). To-date, about \$ 20,000 of the \$ 35,000 has been spent on annual improvements.

The Suns have also asked that they not pay any utilities during the shutdown. Typically, during April, May, and June this would total over \$ 10,000 in utility costs but during the shutdown only the groundskeeper is on site so they are only incurring minimal utility costs such as electricity for refrigerators, freezers, security lights, and minimal water usage. The minimum monthly electric bill is \$ 105 and the minimum monthly water/sewer bill is approximately \$ 200 (field irrigation could easily add \$ 500 more per month). Based on the Lease, it appears the general fund is obligated to abate these minimal charges from March 17, 2020 until the Suns return to the stadium when the pandemic subsides.

For any decision made on the rent, staff suggest a letter be sent to the Suns for them to execute that memorializes the arrangement and clearly defines the abatement of rent and utilities.

Councilmember Heffernan asked if there has been any discussion about delaying the baseball schedule nationwide.

Mr. McDulin stated the season is in jeopardy. The earliest any games could be held is July 1, 2020, which may extend the season into September. He has heard the major leagues are trying to have a 100 game schedule beginning July 1, 2020.

Mayor Bruchey supports the Suns. He recommends delaying any rent reduction discussion until it is known when the Suns can start playing again and if the season is extended. He wants to be sure the City is being fiscally responsible.

Mr. McDulin indicated they are not receiving any revenue at this time. He pointed out that Bruce Quinn, owner, has not laid off any employees and continues to pay them. Mr. Quinn is not receiving any relief funding from the federal government.

Councilmember Metzner noted the lease provides the Suns use of the stadium all year. Mayor Bruchey stated there are personnel at the stadium all year, preparing for the next season.

Councilmember Metzner suggested using the proposed formula for the season length, which would provide a higher rent per month base.

Councilmember McIntire supports this suggestion. She believes local baseball and other entertainment will be very important to people when the gathering restrictions are lifted.

Mayor Bruchey asked if the Council would support the City paying the utility costs during the shutdown. The Council agreed to this.

Mayor Bruchey will discuss the formula with the City Administrator and have a decision by April 24, 2020.

Mr. Painter thanked the Mayor and City Council and City staff for taking the time to discuss their request.

#### Professional Boulevard Agreement with Washington County

Rodney Tissue, Director of Parks and Engineering, was present to review an agreement with Washington County for Professional Boulevard.

In February, 2019, Interim City Administrator Mike Spiker presented draft terms of an agreement between the City and Washington County pertaining to the funding, construction, and future ownership responsibilities for the new street. Since a significant portion of Professional Boulevard is located in the City (either current Professional Court or by recent annexation), it is important to memorialize everyone's understanding of

various issues. This agreement is now complete and ready for approval by the City Council and the Board of County Commissioners.

Some of the highlights of the agreement are as follows:

1. The City will fund \$ 50,000 toward the final design of widening Professional Court.
2. City will fund the widening of Professional Court and alterations on Eastern Boulevard, all of which is estimated to cost \$ 2,500,000. The work will occur in late 2021 and early 2022. This is in the City's FY21 CIP budget that the Council will review in the coming weeks.
3. All future major repairs to the bridge, which the City will take ownership of, will be funded 10% by the City and the balance by the State and County.
4. The agreement also assigns responsibility for routine street and bridge maintenance, easements, and stormwater management.

It was the general consensus to include approval and acceptance of the agreement on the April 28, 2020 Regular Session agenda.

#### Budget Discussion

Michelle Hepburn, Director of Finance, and Rodney Tissue, Director of Parks and Engineering, were present to continue review of the FY21 Proposed Budget.

To continue FY21 budget discussions, it is important to stop and focus specifically on the Stormwater Management Program (SWM) implementation and assumptions in the FY21 Proposed Budget. All related costs, as well as offsetting revenues, for SWM are included in the General Fund operations and capital request portions of the FY21 Proposed Budget document. Provided below is a brief summary directly from the budget document:

1. Stormwater Management Program: Maryland municipalities have the authority to implement a stormwater utility fee. In 2018, the City completed Phase I of developing a cost rate model and addressing associated administrative issues related to a stormwater utility. In 2019, the City completed Phase II to further define a cost rate model and held several community outreach and information forums. The City is undertaking this initiative to address required mandates from a state and federal level. The goals of the Stormwater Management Program include: maintain and preserve the existing storm drainage system; limit flooding and runoff-related damages; improve the quality of the water in the Chesapeake Bay and Potomac River through the construction of new treatment facilities and the retrofit of existing facilities; and comply with permit requirements issued by the Environmental Protection Agency. It is estimated that the mandated requirements in improvements will cost the City approximately \$ 24 million. At this time, the FY21 proposed budget projections include revenue from a stormwater utility fee to be effective July 1, 2020. There is not a separate stormwater fund within the FY21 proposed budget as local legislation is not yet

completed that would establish a new fund. Due to the requirements of the City's MS4 stormwater permit received from the Maryland Department of the Environment (MDE), the CIP budget does include project expenditures over the next five years. The funding for these specific projects will be funded with general fund supported debt issues and anticipated implementation of stormwater revenue sources and are reflected in Section 7 on page 32. There are also current operating expenses reflected in the General Fund for service costs related to stormwater activity.

- a. Stormwater Operating Expenses - \$ 1.3 million in FY21 budget in Section 2 on page 55
- b. Stormwater Capital Expenses - \$ 2.5 million in FY21 budget in Section 7, pages 13, 26, and 32 in summary
- c. Stormwater Future Bond Issues and Annual Debt Service Requirements – the Annual Debt Service Requirements spreadsheet reflects all future debt issues separately for Stormwater related capital projects in Section 6 on page 12

One of the primary assumptions for SWM is that implementation would become effective July 1, 2020. Given the current state of operations, the timing of implementation is most relative. Over the course of the following weeks, various Mayor and Council approvals will be needed to establish and set the rates plus create a separate Utility Fund to track and monitor all SWM activity. It is still important to move forward with these approvals to start this program but staff recommends that the implementation be delayed until October or January. This additional time would permit staff time for set-up, to send out communications, and most importantly allow the community time to recover the COVID-19 pandemic.

Ordinances to modify Chapter 213 and Chapter 216 of the City Code were introduced on April 7, 2020. These ordinances are scheduled to be approved at the April 28, 2020 Regular Session.

Mr. Tissue stated he will meet with the Homeowners' Associations as part of the communication plan to residents. Another Public Hearing could also be held prior to implementing the plan.

Mayor Bruchey stated there is no doubt the process of the SWM, as well as the FY21 budget, will be a fluid process due to the uncertainty associated with the COVID-19 pandemic. He believes advance notification to taxpayers and residents is an important step prior to implementing the fees.

Councilmember Heffernan recommended sending out information now about how to obtain credits to reduce the fees. There are many things homeowners can do around their homes to earn credits. Mr. Tissue stated staff has a fact sheet to distribute about this that does not include a starting date. This sheet could be sent out now.

It was the general consensus of the Mayor and City Council to move forward with approving the ordinances for the Stormwater Management Program with a delayed implementation date.

Ms. Hepburn reported she and Mr. Nicewarner and other staff have reviewed the City's financial balance and outstanding balances on customer utility bills. Even though City building facilities are closed to the public, the City is still open and staff are receiving phone calls and emails. Customers are able to pay their bills by phone or through the drop box payment box outside City Hall. Outstanding balances and expected cash flow will continue to be closely monitored. Courtesy notices will be sent to customers with arrearages on their accounts. The City, as well as other utilities in Maryland, is currently under a no termination moratorium as part of Governor Hogan's State of Emergency Declaration.

Mr. Nicewarner noted that property tax payments are close to where they have been at this time of the year. During the months from November to April, utility bill arrearages rise to 35% - 40% of the overall receivables. He anticipates additional payment collection regulations for electric customers from the Public Service Commission.

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

*Scott A. Nicewarner, City Administrator*, thanked City staff for everything they continue to do for the citizens and for providing services as normally as possible. He thanked staff for their commitment and quality of service. Two downtown restaurants – C & O Taco and The Dog House – are making plans for indoor dining as soon as possible.

Mr. Nicewarner's community highlight for the week is Brittany Webb of the Discovery Station. She is creating videos in her dinosaur costume. She read stories for kids to listen to and watch. She is trying to help young kids adapt to the current situation. With every video, they have something fun to watch when things around them are confusing.

#### **MAYOR AND COUNCIL COMMENTS**

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

*Councilmember L. C. Metzner* thanked City staff for their efforts to continue to provide services to Hagerstown's citizens.

*Councilmember A. Heffernan* also thanked City staff. He noted the Mayor and City Council received a nice letter about the City Park and the excellent job staff is doing to maintain the park.

*Councilmember E. Keller* had no additional comments.

WORK SESSION AND EXECUTIVE SESSION  
2020

APRIL 21,

MAYOR AND CITY COUNCIL

HAGERSTOWN, MARYLAND

*Councilmember S. McIntire* had no additional comments.

*Mayor R. E. Bruchey, II* reported the pandemic has affected the Maryland Municipal League's "If I Were Mayor" contest. He asked teachers to continue sending their students' essays to City Hall. He will still read the essays and choose three to be "Mayor's Picks" who will participate in the Regular Session on May 26, 2020. The format of that meeting is pending. He thanked all the City employees for their continued hard work. He is anxious to reach the end of the shut downs and restrictions due to the pandemic. Viewing the sacrifices that people have made during this time shows what this community is all about.

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 5:05 p.m.

Respectfully submitted,

*Original signed by D. K. Spickler*

Donna K. Spickler  
City Clerk

Approved: May 26, 2020