

EXECUTIVE SESSION – July 7, 2020

On a motion duly made by Councilmember E. Keller and seconded by Councilmember A. Heffernan, 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)), 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)), and to consult with counsel to obtain legal advice; #7 (Section 3-305(b)) on Tuesday, July 7, 2020 at 3:03 p.m. in the Council Chamber, 2nd floor, City Hall, Hagerstown, Maryland.

The following people were in attendance: Mayor R. E. Bruchey, II, Councilmember A. Heffernan, Councilmember E. Keller, Councilmember L. C. Metzner, Councilmember S. McIntire, City Administrator Scott Nicewarner, City Attorney Jason Morton, Michelle Hepburn, Director of Finance, Kathleen Maher, Director of Planning and Code Administration, Jill Thompson, Director of Community and Economic Development, Nancy Hausrath, Director of Utilities, Jonathan Kerns, Community Development Manager, Lauren Metz, Planning and Outreach Coordinator, Doug Reaser, Business Development Specialist, Megan Flick, Planner, and Donna K. Spickler, City Clerk. Councilmember K. B. Aleshire was not present.

The meeting was held to discuss membership of the Hagerstown Youth Advisory Council, two business proposals, and to obtain legal advice. No formal action was taken at the meeting. On a motion duly made, seconded, and passed, the meeting was adjourned at 3:56 p.m.

104TH SPECIAL SESSION AND WORK SESSION – July 7, 2020

Mayor R. E. Bruchey, II called this 104th Special Session and Work Session of the Mayor and City Council to order at 4:05 p.m., Tuesday, July 7, 2020 in the Council Chamber at City Hall. Participating with the Mayor were Councilmembers A. Heffernan, E. Keller, L. C. Metzner, and S. McIntire, City Administrator Scott A. Nicewarner, and City Clerk D. K. Spickler. Councilmember K. B. Aleshire was not present.

104th SPEICAL SESSION – July 7, 2020

On a motion duly made by Councilmember E. Keller and seconded by Councilmember S. McIntire, the Mayor and City Council unanimously agreed by voice vote of all members present to meet in Special Sesion at 4:05 p.m.

Approval of a Variance from City Code Chapter 155, Noise

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 of all members present to approve a variance from the City of Hagerstown's Noise Ordinance under Section 155-6 of the City Code for the NorthPoint Development project on Wesel Boulevard to include NorthPoint Development and its construction contractors. The project requires contractors to pour concrete slabs and perform associated work from midnight to approximately 7:00 a.m. The schedule of work is expected to be up to four nights per week, the nights of Sunday into Monday through Wednesday into Thursday, with Thursday into Friday being an alternate night in case of rain. The project is expected to run from July 12, 2020 to November 1, 2020 with the majority of work expected to be completed by September 30, 2020.

The Special Session was closed at 4:06 p.m.

WORK SESSION – July 7, 2020

COVID-19 Update

Scott Nicewarner, City Administrator, noted the Council Chamber has been set up for on-site meetings with space to allow for social distancing. Face coverings are also required. All City facilities will be open as of Monday, July 13, 2020. All visitors will be required to wear a face covering. Masks will be available for those who don't have one.

Even though Governor Hogan's moratorium on termination of utility service has been extended until August 1, 2020, Mr. Nicewarner urged customers to at least pay a portion of their outstanding bills so the arrearages don't continue to accumulate. Customer Service staff will work with customers who request payment plans. Information is also being distributed about service organizations that help with bills. There is currently more than \$ 1 million in outstanding utility bills. Mr. Nicewarner noted the moratorium does not include industrial or commercial accounts and termination of service on delinquent accounts will begin this week.

Potterfield Pool is now open at 1/3 capacity. Movies in the City Park will start Friday, July 10, 2020. The first movie will be Aladdin. Parks staff have marked off areas to create social distancing. If the movie goes well, the series will continue.

Councilmember McIntire suggested making public service announcements about the utility bills on the City's tv channel, flyers at the pool and other locations, and announcements in church bulletins.

Mr. Nicewarner indicated Beth Everhart, Support Services Manager, has been working with Wes Decker, Communications Manager, and the Community Action

Council (CAC) on a video to inform people what assistance is available and how to get it. Mr. Decker noted the CAC is working on flyers.

Non-Discrimination Policy

Don Francis, Director of Human Resources, was present to review the City's Non-Discrimination Policy. The original Personnel Policy 400.00 was titled Equal Employment Opportunity. Because the updated policy is broader in scope, a title change was necessary. Additionally, as a result of expansion of protections by federal and state legislation, broader coverage of both employment practices and personal protections that the outdated policy did not cover are now included. A copy of the newly titled Non-Discrimination Policy was provided to the Mayor and City Council for review.

Personnel Policy 400.00, Equal Employment Opportunity was written to bridge City Code Chapter 82, Discriminatory Practices, Article V, Section 82-12 through 16 and has not been updated in some time. Changes in personal protections continues to evolve and the most recent Supreme Court decision to include protections for the LBGTQ community has made it necessary to update this policy.

Staff began this discussion prior to and continued it during the Pandemic as they discussed the Human Rights Scorecard received from the Human Rights Commission. The City has continued to strive to do better on the scorecard and increase the cumulative score from 32 to 54 between 2018 and 2019. As part of the submission this year, staff are excited to include additional information about this updated policy that is anticipated to again increase the City's score. City Code will also likely have to be amended in the near future to extend the required protections not currently covered by the Code. This will further raise the City's score on the scorecard.

The updated policy covers a broad range of personal protections in the treatment of individuals seeking employment and/or doing business with the City, as well as protections for employees and the environments they work within. It covers employees while on-and off-duty.

The new policy makes clear that the City of Hagerstown (The City) is committed to an employment environment free of discrimination and harassment, promotes equal opportunities for all and prohibits unlawful discriminatory practices. It assures protection for all federally and State mandated classes including gender, race, color, religion, sex, sexual orientation, gender identity or expression, age, disability, marital status, citizenship, national origin, genetic information, or any other protected characteristic.

This updated policy makes clear that the law and the policies of The City prohibit disparate treatment on the basis of any legally protected categories with regards to terms, conditions, privileges and perquisites of employment. Additionally, the update sets forth a clear path in the event that an employee feels they have been discriminated against, harassed, or retaliated against for reporting perceived incidents of discrimination or harassment.

Staff feel that this updated policy brings the City in line with the legal protections afforded to people working and doing business within The City while aligning the City with societal norms requiring all to be treated with dignity and respect.

Mr. Francis stated, prior to the COVID pandemic, staff was reviewing the Human Rights Scorecard. They are excited to provide a copy of this updated Human Rights Policy to the Human Rights Commission. He hopes this update will significantly raise the City's score. Personal protections have been expanded and included in the revised policy. The revised policy provides a level of protections for all employees and the environment they work in. It also assures protection for all federally protected classes. The City Code will also be amended to reflect these changes.

Councilmember Keller stated this is an important goal and she thanked staff for making the update. She also thanked Hagerstown Hopes for their assistance in helping raise the City's score.

Councilmember Metzner asked what the expectation is for employees in their social media posts on their time and on their personal pages. Mr. Francis stated this policy covers employees both on duty and off duty. However, there is a level of protection for expressing opinions. If it is discriminatory in nature, employees will be held accountable for that. He stated training and development would be used as a way of changing and modifying behavior, rather than disciplinary action. He stated employees may want to reconsider including their place of employment on a personal social media page.

Public Art Across Maryland (PAAM)

Rodney Tissue, City Engineer, was present to discuss grant opportunities with Public Art Across Maryland (PAAM). Over the past four years, staff has worked with the Washington County Arts Council and the City Council appointed an "Artist Selection Committee" to facilitate the installation of public art in the downtown. The community can now boast that the City has 23 unique and noteworthy pieces of public art in the public spaces of Hagerstown.

There is an opportunity to again apply for grants through the Maryland State Arts Council (MSAC) and the applications are due later this year. To that end, the Artist Selection Committee (Rebecca Massie Lane, Mary Anne Burke, Lesley Whalley, and Aaron Peterancz) reviewed possible art locations on the Cultural Trail and throughout the downtown. At their February meeting, the Committee recommended these two priority areas:

1. Site of former Park Circle Service Center at 319 Summit Avenue – The former service station was demolished in April and would be great for public art along the Cultural Trail at this iconic location looking into City Park. At this point, the Committee does not have a theme, type of art, or artists selected and they welcome Mayor and City Council input. It is suggested applying for a \$ 5,000 Panning Grant to support the community visioning process, artists selection process and artist honorariums for the development of artwork proposals. Staff will plan to

submit an application by the August 17, 2020 deadline. Once the theme is settled upon and the artist selected, staff would apply for an Implementation Grant hopefully by the May 12, 2021 grant application deadline.

2. Replacing the deteriorating “Colorblind” mural on West Washington Street – This mural, painted by school students in the 1990’s, has significantly deteriorated in the last five years and is severely stained by rust from the steel railroad bridge above. Perhaps a high quality photograph could be taken to document it.

This railroad overpass is actually two separate railroad bridges; the west one is CSX and the east one is Norfolk Southern. To try to do anything ON the bridge abutments themselves is not recommended due to the chronic rust staining potential and obtaining railroad approval. CSX’s process is especially lengthy, expensive and bureaucratic. It may be a better idea to focus on the Norfolk Southern Bridge (the one with the colorblind mural) and to place panels (like a billboard) in front the wall mounted in the sidewalk.

This location has over 10,000 vehicles a day passing by making it a good location for a large-scale art piece. Lighting could be improved by City Light similar to the work they did on the West Franklin Street overpass.

Staff can apply for a \$ 20,000 Implementation Grant to support the fabrication and installation of a public artwork. To apply, staff will ask the Arts Council to do a call for concepts and have a jury select the artist. The artist’s concept must be fully developed and the artists selected before the grant application can be submitted. The deadline for the grant application is November 12, 2020.

CIP #868 has a fund balance in FY20 of \$ 9,775 in unrestricted funds and \$ 5,000 restricted for a grant match. These funds will be carried forward to FY21. FY20 also had \$ 40,000 as a transfer from General Fund balance reserve for bridge murals and beautification that is available to match grants and create more robust projects.

The only commitment on these funds will be about \$ 3,000 for updating the “Faces of Hagerstown” photo murals which staff plan to ask the Arts Council to do a “call” for early next year.

Mr. Tissue pointed out this may be an appropriate time to update the membership of the Public Art Commission and seek applications from people in the community. Councilmember McIntire encouraged youth to apply for membership.

Councilmember McIntire stated spending money on artwork may be questioned given the City’s decreasing revenue. Mr. Tissue stated something significant can be done for just \$ 20,000.00.

Councilmember Keller confirmed with Michelle Hepburn, Director of Finance, that this grant cannot be used for anything except art. It cannot be used for wages or salaries.

Mayor Bruchey stated this will be something positive in the community.

FY21 Budget Review: General Fund (GF) Agency Contributions

Scott Nicewarner, City Administrator, and Michelle Hepburn, Director of Finance, were present to review the FY21 budget. Mr. Nicewarner noted a budget review will be included on Work Session agendas each week for the foreseeable future because of the continuing pandemic and the uncertainty of its impact on the City's budget. He and Ms. Hepburn meet weekly, and sometimes daily, to review current information. As of July 1, 2020, a hiring freeze is implemented. Only mission critical positions will be considered for filling. Step and salary increases will be maintained in accordance with negotiated contracts. If the deficit is significantly higher than the anticipated \$ 1 million in late summer/early fall, the City will be forced to look at staffing levels. He has said many times this would be the year to review how the City operates and provide services to citizens. The pandemic makes that review even more critical. One advantage to the timing of the pandemic is that most of the real property revenue was paid to the City prior to the pandemic. He reiterated local governments have not received any stimulus money. None of the stimulus funds was provided to municipalities. The CARES Act funding went straight to businesses. He is hoping there will be a stimulus for local governments. The National League of Cities is reporting more than $\frac{3}{4}$ of local governments and jurisdictions have made drastic changes to their budgets. Capital projects are being cancelled. The City of Hagerstown is doing this as well. It will be important that the utility termination moratorium be lifted soon in order to recoup some of the funding. Otherwise, the City's utility funds will be struggling.

Ms. Hepburn noted the City's cash flow has been significantly impacted. The impact is City wide, not just in the General Fund. Staff has had the opportunity to participate in and listen to seminars and webinars at deeply discounted rates. The common message is that services, staffing, and large capital projects will be impacted.

Ms. Hepburn stated there will be a surplus in the General Fund for the year ended June 30, 2020. This is due to the timing of the pandemic as most revenue had been received. There has been a substantial decrease in overtime costs because things have been shut down. A surplus will be difficult for some to understand. Many utility customers thought the moratorium meant the City was forgiving the bills. The City is paying for generation of electricity but not necessarily receiving the revenue from the bills. Utilities will see significant declines in revenue, as will parking. It is anticipated paid parking will resume in August. Some experts are suggesting not contributing the full pension for the employer's side. This is a bad practice and makes it worse because it compounds and lengthens the liability.

Ms. Hepburn thanked the Mayor and City Council for approving the proposed budget as it was presented and reminded everyone that budget reviews and adjustments are anticipated for some time. She anticipates notification from the State of Maryland on reduced revenue from programs such as the Highway User Funds.

Staff last discussed General Fund Agency Contributions during the May 19, 2020 Work Session. Before committing to FY21 GF Agency Contributions amounts, more information was requested. During the month of June, staff reached out and communicated with all of the eight agencies that normally receive funding on an annual basis. A number of the agencies receiving funding have reached out to ask where their contribution stands for this year. Almost all of the agencies have received some sort of federal funding relief. The Hagerstown Municipal Band notified the City they did not need the \$ 18,000 this year because their events have been cancelled. However, they asked for the opportunity to reapply next year.

With the uncertainty of the current economy and the continuing effects of the pandemic, and understanding every dollar makes a difference, Ms. Hepburn asked if the Mayor and City Council wished to review the budgeted agency contributions. The Mayor and City Council may want to consider dividing the \$ 18,000 from the Municipal Band amongst the other agencies, or reduce the individual amounts by a certain percentage. She noted all agencies received their final quarter payment, even if they were not open/operating at the time.

Councilmember Heffernan thinks every item in the budget needs to be reviewed – from staffing to capital projects. He thinks each agency contribution should be reviewed. Expenses need to be reduced across the City.

Councilmember Keller stated the City needs to honor the multi-year obligations they've agreed to. The remaining amounts should be reduced across the board.

Councilmember Metzner does not understand how Community Rescue Service (CRS) has been negatively impacted. They received federal assistance and they have a large reserve. He noted there is a founding agreement with the Washington County Museum of Fine Arts that requires the City to provide an annual contribution to the museum. He agreed the multi-year commitments need to remain in the budget.

Councilmember McIntire agrees the commitments need to be honored. Many of the agencies are not open currently and it is uncertain when they will be open.

Councilmember Keller stated CRS has had fewer calls and has lost revenue because of this.

It was the general consensus of the Mayor and City Council to wait three months to determine the City's financial position before providing any of the annual contributions to the agencies.

CITY ADMINISTRATOR'S COMMENTS

Scott A. Nicewarner, City Administrator, thanked the Parks Department, Fire Department, and Police Department for their great work in making the July 4th Fireworks event a success. People were socially distanced and many were wearing masks. It was a tremendous show. He is concerned about the number of large fireworks that were set off

all over town. It appeared that many citizens purchased their own fireworks. The Fire Department confiscated mortar shells, among other illegal fireworks.

Mr. Nicewarner reported two non-profit organizations submitted applications to be involved in the tax sale property program. Moving these chronic tax sale properties to productive properties will improve neighborhoods and increase the tax base.

Mr. Nicewarner offered condolences to the family of Rick Reeder. Mr. Reeder influenced and supported local athletes. He and Dave Foltz organized the Hagerstown Community College (HCC) Round Ball Classic Tournament. He was the first voice of HCC Basketball.

MAYOR AND COUNCIL COMMENTS

Councilmember A. Heffernan agreed the number of illegal fireworks is concerning. He is pleased that people are taking personal responsibility and following CDC guidelines.

Councilmember E. Keller had no additional comments.

Councilmember L. C. Metzner is glad the fireworks event went well. Maryland is not experiencing the same issues as some other states because Governor Hogan did not give in to pressure to reopen too soon. Things will be fine if we all follow simple guidelines.

Councilmember S. McIntire had no additional comments.

Mayor R. E. Bruchey, II attended the fireworks and was pleased to see people were being responsible. He has faith that citizens will do what they need to do to protect themselves and their families. He is proud to live in this community.

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 5:16 p.m.

Respectfully submitted,

Original signed by D. K. Spickler

Donna K. Spickler
City Clerk

Approved: August 25, 2020