

EXECUTIVE SESSION AND WORK SESSION – DECEMBER 8, 2020

EXECUTIVE SESSION – December 8, 2020

On a motion duly made by Councilmember R. E. Bruchey, II and seconded by Councilmember S. McIntire, 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 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, December 8, 2020 at 3:01 p.m. in the Council Chamber, 2<sup>nd</sup> floor, City Hall, Hagerstown, Maryland.

The following people were in attendance: Mayor E. Keller, Councilmember K. B. Aleshire, Councilmember R. E. Bruchey, II, Councilmember T. Burnett, Councilmember T. Martinez, Councilmember S. McIntire, City Administrator Scott Nicewarner, City Attorney Jason Morton, Rodney Tissue, City Engineer, Michelle Hepburn, Director of Finance, Police Chief Paul (Joey) Kifer, Don Francis, Director of Human Resources, Captain Tom Langston, Mark Chaney, HPD Support Services Administrator, and Donna K. Spickler, City Clerk.

The meeting was held to discuss terms of a current lease and various personnel issues. No formal action was taken at the meeting. On a motion duly made, seconded, and passed, the meeting was adjourned at 4:18 p.m.

WORK SESSION – December 8, 2020

Mayor E. Keller called this Work Session of the Mayor and City Council to order at 4:28 p.m., Tuesday, December 8, 2020 in the Council Chamber at City Hall. Participating with the Mayor were Councilmembers K. B. Aleshire, R. E. Bruchey, II, T. Burnett, T. Martinez, and S. McIntire, City Administrator Scott A. Nicewarner, and City Clerk D. K. Spickler.

Presentation for City Park Lighting

Amanda Gowin, Office Manager, Hagerstown Heating and Cooling, presented a check for their sponsorship of the City Park Lighting to the City of Hagerstown. The Mayor and City Council thanked Hagerstown Heating and Cooling for their continued support of Hagerstown's activities.

Senator Paul Corderman and Delegate Brenda Thiam

Senator Paul Corderman and Delegate Brenda Thiam (remotely) were present to offer their assistance to the City of Hagerstown.

Senator Corderman congratulated the new administration. As the legislature moves forward, the Mayor and City Council and State representatives need to have a shared vision. As the Mayor and City Council develop goals and objectives, he would like to be involved in meeting those goals. He asked if there are specific issues he and Delegate Thiam can help with.

Mayor Keller stated the Mayor and City Council have decided to conduct a community survey before setting strategic goals. The survey will be sent out soon to randomly selected residents with representation from all areas of Hagerstown. At some point after the first cycle of surveys are distributed, the survey will be opened to anyone who wishes to participate. At that point, it will not be limited to city residents.

Senator Corderman stated the most input should be from city residents; however, it will be good to provide the opportunity to respond to investors and others who may want to move to Hagerstown.

Senator Corderman will continue his commitment of investment in Hagerstown. The Urban Improvement Project (UIP) was successful. Perhaps a UIP2 type project would continue the improvements. The planned projects on Jonathan Street will have a positive impact in the neighborhood. He has not been opposed to any type of investment in Hagerstown and will continue to work with anyone for the betterment of Hagerstown and its citizens. He would appreciate being included in the survey information and future plans.

Mr. Nicewarner assured Senator Corderman and Delegate Thiam any requested information for potential legislation will be provided by City staff, as usual, during the coming session.

#### FY20 Audit Presentation

Michelle Hepburn, Director of Finance, and Chris Lehman, Engagement Partner with SB & Company, LLC (remotely), were present to discuss the City's Comprehensive Annual Financial Report for FY20.

Ms. Hepburn stated an independent audit and a complete single audit concentrating on Federal grant awards are conducted each year.

Councilmember Bruchey left the room.

Mr. Lehman reported SB & Company, LLC has issued an unmodified opinion on the finance statements. No instance of fraud or material weaknesses in internal controls were discovered. They received full cooperation from management during the audit. The City's net position as of June 30, 2020 is \$ 203,598,504. This is an increase from the prior year.

Mr. Lehman stated the scope of services included the audit of the June 30, 2020 financial statements, performance of Uniform Guidance Single Audit, review of Uniform Financial Report, and review of Data Collection form. They are available year round for consultation. He noted this report is not a requirement but it is a more prestigious report that is submitted for awards.

SB Company had many clients who had to extend reporting deadlines due to the pandemic. The City of Hagerstown is one of their few clients who completed both the audit and this report within the original deadline.

Mr. Lehman reported SB's evaluation of key processes were rated as effective. Review of government activities shows total assets for FY2020 at \$ 119 million. This compares to liabilities of nearly \$ 94 million, leaving a net position of \$ 28 million.

The Single Audit, which encompasses both financial and compliance components, is required for entities that expend \$ 750,000 or more of federal assistance received for its operations. It provides assurance to the US Federal government as to the management and use of such assistance. The City's Community Development Block Grant expenditures were \$ 1,083,647 and total expenditures for all Federal awards was \$ 1,709,653. The percentage of coverage of audited Federal grants is 63%. There were no single audit findings.

Mr. Lehman stated there are no required communications as a result of the audit. SB & Company have reviewed the significant accounting policies adopted by the City and have determined that these policies are acceptable accounting policies. There were no recorded or unadjusted audit adjustments for the City's audit. Their procedures identified no instances of fraud or illegal acts. They have not identified any material weaknesses in internal controls.

Ms. Hepburn reiterated SB & Company commended the City for not requesting an extension for filing the report and for the very well defined policies and structures for funds. Ms. Hepburn thanked Jonathan Kerns, Community Development Manager, and his group for their work with administering the CDBG program.

Councilmember Aleshire asked if the Federal CARES act funding is going to require the same type of single audit as other Federal funds.

Ms. Hepburn stated she believes original recipients will be required to complete a single audit. She noted the City of Hagerstown is not an original recipient.

Mr. Lehman stated there is typically a fairly large administrative burden for an organization receiving Federal funding. The CARES act funding came out so fast that the audit requirements and guidance are still being written.

Mr. Nicewarner thanked the Finance Staff for getting this done in the environment everyone is operating under and getting it done on time. He is not a fan of remote

working but this group is an example of how home offices should work. Functions continued and no extensions were requested.

### Preliminary Agenda Review

Mayor Keller announced that Citizen Comments for the December 15, 2020 Regular Session may be submitted by email to [councilcomments@hagerstownmd.org](mailto:councilcomments@hagerstownmd.org) prior to 5:00 p.m. that day. The submitters name, address, and a summary of the comments will be announced during the Citizen Comments portion of the meeting. The email will not be read in its entirety but it will be included in the public record for the meeting and may be viewed by the public at any time.

### **Consent Agenda**

#### A. Fire Department:

1. Records Management System – ESO (Austin, TX) \$ 27,225.60

#### B. Police Department:

1. Replace Water Source Heat Pump (Mechanical Room) – M. S. Johnston (Hagerstown, MD) \$ 10,325.00

#### C. Public Works:

1. Bulk Gasoline Purchase – Petroleum Traders Corporation (Fort Wayne, IN)  
Estimated Cost Not to Exceed \$ 441,244.00
2. Bulk Diesel Fuel Purchase – Mansfield Oil Company (Gainesville, GA)  
Estimated Cost Not to Exceed \$ 441,244.00

#### D. Utilities:

1. Water – Annual Software Support and Services at the Willson Plant for SCADA – ABB, Inc. (Cleveland, OH) \$ 67,100.00
2. Water and Wastewater Chemical Purchase:
  - a. Water – Various Vendors \$ 811,034.00
  - b. Wastewater – Various Vendors \$ 433,912.00
3. Wastewater – Replacement Ultra Violet Bulbs and Quartz Sleeves – SUEZ (Paramus, NJ) \$ 45,141.43

This completed the Preliminary Agenda Review. There were no questions about any items. All items, unless noted, are scheduled for approval on December 15, 2020. November 17, 2020.

### The Greens at Hamilton Run Golf Course – Proposed Rates for 2021

Rodney Tissue, City Engineer, Mark Haddock, Parks and Recreation Manager, and Amy Riley, Recreation Promotion and Services Coordinator, were present to discuss a proposed increase in green fee rates and season pass memberships beginning January 1, 2021 at The Greens at Hamilton Run Golf Course. Staff feels these increases are justifiable since the course is lower priced than many comparable courses, have

significantly improved the course condition by the outstanding grounds keeps, and the course play in increasing. Staff also recommend that season passes only be accepted on weekdays and on weekends after noon, which is comparable to other courses.

The annual general fund subsidy to the golf course has been running around \$ 270,000 the last several years. However, with revenue up over 25% this year, this subsidy will decrease. In the past, 9-holes rounds played has hovered around 11,000 annually while this year that is approaching 16,000 rounds played (and this with being closed six weeks in the spring for COVID restrictions). This significantly decreases the “per round” subsidy. This subsidy is one reason staff feel that City residents deserve a break on passes.

In calendar year 2020, there are 34 season passes issued: 6 season pass holders are City residents; 12 are City senior residents; and 16 senior non-residents. Most pass holders play at least 75 rounds of golf a year (some may play many times that). This equals a payment of only a couple dollars per round.

Staff plans to keep the golf course open all winter and members will be able to enjoy an additional two to three months of play.

A chart comparing rates of The Greens at Hamilton Run and other nearby courses was provided. Review of the rates show that Hagerstown’s rates are on the lower end in every category, while the course is arguably in the best condition of all the nine-hole courses. Therefore, as shown on the chart, staff is proposing rate increases effective January 1, 2020.

Councilmember McIntire supports the rate increase. She asked if the Hagerstown course is listed in the Tee Time magazine, which is a guide to nine hole courses. Ms. Riley indicated Hagerstown is included.

Councilmember Aleshire stated the course is in excellent condition and the rate increase is justifiable. His friends play this course more than they do 18 hole courses. The grounds keepers are doing a great job.

It was the general consensus of the Mayor and City Council to include approval of the rate changes on the December 15, 2020 Regular Session agenda.

#### Program Open Space (POS) Annual Program

Rodney Tissue, City Engineer, and Mark Haddock, Parks and Recreation Manager, were present to review the City of Hagerstown’s Program Open Space (POS) annual program.

Mr. Haddock reported projects for FY 2022 include a skatepark, park play equipment and amenities, and roof replacements at various parks. The estimated cost for these three projects is \$ 865,000.00. The total request for POS funds will be \$ 429,000.00. The

required City match is \$ 61,000.00. The City also plans to provide \$ 375,000 in Community Development Block Grant (CDBG) funds for the skatepark project.

It was the general consensus to submit the City of Hagerstown's request to Washington County as discussed. Formal approval of the POS application will be included on the December 15, 2020 Regular Session agenda.

Mr. Tissue noted that more lights and music were added to the light show at City Park this year. The vehicle count of people viewing the show is more than 50% higher than last year.

#### Stormwater Protection Program – Update and Fee Implementation

Rodney Tissue, City Engineer, was present to provide an update on the Stormwater Protection Program. Staff, working with the consultant (WOOD), the Finance Department, and the Customer Service staff, have been preparing to send out the initial bills for the stormwater utility fee. As a reminder, the City Council approved an ordinance to create the Stormwater Protection Program and the stormwater utility fee, with the intention that the first stormwater bills would begin going out after July 1, 2020. Due to the COVID-19 pandemic and the economic strain that it had placed on City residents, Council decided to delay the initial billing until January 1, 2021. However, due to the ongoing pandemic and several other factors, the Council may desire to further delay the initial billing cycle.

The financial model developed for the Stormwater Protection Program assumed that billing of the stormwater utility fee would begin in July 2020, and would generate sufficient revenue to cover the anticipated program costs necessary to meet the requirements of the City's NPDES MS4 permit by 2025. While delaying the initial stormwater billing will force changes to the financial model, staff recommends that the Council delay implementation until March 1, 2021. This assessment is based upon the following factors:

1. COVID-19 pandemic effects: All Americans had hoped that the pandemic would be somewhat under control by January, 2021; however, it is clear that this is not the case. Large numbers of workers remain unemployed, and continued remote learning at local schools has prevented other workers from returning to the work force. The Congress has yet to pass another round of stimulus funding, putting a further burden on the personal finances of many. And, with the expiration of protections against evictions and the collection of payments for overdue utility bills, the burden of a new fee would further strain the resources of both residents and businesses.
2. Administrative billing set-up: Staff has been working to create a Master Account File that would tie the new stormwater fee to the water bills issued to each property. However, this has proven to be a difficult and time consuming task, as some properties do not have an existing water service, and other properties have

water accounts that have been suspended due to vacancies, foreclosures, etc.

While staff has continued to work toward having this Master Account File ready for implementation on January 1, 2021, a delay until March 1, 2021 would allow staff to resolve remaining account issues, and to fully test the billing system prior to the first bills going out.

3. Stormwater Enterprise Fund revenue: The City Council previously approved an ordinance that created an Enterprise Fund dedicated to operating the Stormwater Protection Program. Since July 1, 2020, the Finance Department has been allocating costs for the program to this Enterprise Fund, but the Fund has been unable to generate revenue because the stormwater fee has not been charged. Staff, recognizing this lack of revenue, has delayed planned projects and expenditures until the City begins charging the fee. To date, the costs to the Enterprise Fund have totaled approximately \$ 150,000, significantly below what was projected to have been spent if the fee had been implemented on July 1, 2020. Staff feels the revenue that will be generated for the remainder of FY21 with a fee implementation of March 1, 2021 will be sufficient to cover the costs incurred by the Enterprise Fund.
4. Verification of stormwater fee rate: Staff has continued to refine the Stormwater Protection Program financial model to more accurately determine how much revenue must be generated by 2025 to meet the MS4 permit goals. Based upon some recent calculations of the credits that the City can earn through its street sweeping program, and the cost of reforestation and retrofit projects that the City plans to complete, the overall cost of the program by 2025 will be less than originally estimated. The initial annual fee rate was set at \$ 32 per 1,000 square feet of impervious area, based upon the projected program costs; if the program costs will be lower, there may be an opportunity to reduce the fee rate. By delaying implementation to March 1, 2021, staff and WOOD will have an opportunity to review the financial model, and determine whether the fee can be reduced prior to implementation.

Assuming that the stormwater fee is implemented on March 1, 2021, staff will begin to move forward with the delayed projects and programs that are needed to meet the MS4 permit requirements. These projects will likely include stream restorations, the retrofit of existing stormwater management facilities, reforestation, and other projects that will earn the City credits toward its goal of providing treatment for 20% of the existing impervious area in the City by 2025.

Mr. Tissue stated Columbia Gas will be inspecting their lines due to issues across the country. There will be a significant cost savings for this project since the City will not have to perform these inspections.

It was the general consensus to delay implementation of the Stormwater Protection Program fees until March 1, 2021 based on the factors discussed.

Second Allocation – Community Development Block Grant CARES Act Funding (CDBG-CV)

Jonathan Kerns, Community Development Manager, was present to seek Mayor and City Council direction on proposed next steps for a second allocation of CDBG-CV funding being awarded to the City through the Federal CARES Act legislation.

In early April, the City received written correspondence from the U. S. Department of Housing and Urban Development (HUD) regarding a special allocation of CDBG-CV funding being awarded to the City in the amount of \$ 472,845.00. This CDBG-CV funding was a result of the Federal CARES Act legislation in response to the COVID-19 pandemic. A second allocation of CDBG-CV funding was to be announced at a later date.

In September, HUD correspondence was received confirming the City will be awarded a second allocation of CDBG-CV funding in the amount of \$ 274,365. Like the first CDBG-CV allocation, the second allocation of CDBG-CV funding must be used via standard CDBG activities that also prevent, prepare for, or respond to the COVID-19 pandemic. These activities still must meet CDBG national objective requirements with the primary national objective being a benefit to low/moderate income citizens. In essence, CDBG-CV funds are more restrictive than standard CDBG funds with additional requirements related to COVID-19 prevention, preparation, and response.

For the City's first allocation of CDBG-CV funding, non-profit service providers were given the opportunity to submit applications to seek CDBG-CV funding for public service activities that provide assistance to COVID-19 impacted, CDBG eligible clientele. After an application period and review process, the City Council approved CDBG-CV funding awards to local non-profit organizations as listed below. The amount of CDBG-CV funding expended to date for each organization is also listed.

1. Washington County Community Action Council (CAC) Housing Stability Program (mortgage payment assistance and/or rent payment assistance) – \$ 350,245.00. Expenditures to date: \$ 23,374.07. CAC has utilized other programs first to meet expenditure deadlines.
2. CAC and Horizon Goodwill Housing Short-Term Housing Stability Funding and Food Resource Funding - \$ 58,900.00 this funding is administered in partnership with Horizon Goodwill and the CAC is the lead agency. Expenditures to date: \$ 13,607.72.
3. CAC Food Resources for Food Pantry Program - \$ 25,300.00. Expenditures to date: \$ 1,036.56.

4. Washington County Commission on Aging Food Resources for seniors – \$ 17,300.00. Expenditures to date: \$ 17,300.00.
5. Girls Inc. Food Resources for Girls Inc. Members – \$ 21,100.00. Expenditures to date: \$ 2,971.76.

During the initial application process for local non-profit organizations, total CDBG-CV funding requests exceeded available CDBG-CV funding. The initial CDBG-CV award amounts were based on an across the board reduction proportional to the requested amount of funding for each service.

CDBG-CV funding has been allocated to states and cities nationwide. After researching a sample of CDBG-CV funded cities throughout the country, the majority of CDBG-CV funded programming is targeted for public service assistance programs (housing subsistence payments, homelessness services, food resource services) and business assistance programs. Hagerstown's initial CDBG-CV allocations for housing stability services and food resource services appear to be in line with many CDBG-CV funded activities nationwide.

During an October discussion with the previous Mayor and City Council administration, DCED staff were asked to research the possibility of using CDBG-CV funding for a Public Restroom facility. After review of the program guidelines and consultation with HUD Baltimore Field Office staff, DCED staff do not view the public restroom facility as an eligible CDBG-CV project.

Based on guidance from the Baltimore Field Office, recommended options for allocating the recently awarded CDBG-CV funding are:

1. Option 1 – The second allocation of CDBG-CV funding can be distributed to each non-profit recipient that received initial allocation of CDBG-CV funding without the need for a new application process. If distributed to initial CDBG-CV non-profit recipients, newly available CDBG-CV funding could be distributed in amounts proportional to the first awards or funding could be awarded based on most critical need. The Mayor and City Council would vote on final funding allocation amounts prior to distribution of funds.
2. Option 2 – The second allocation of CDBG-CV funding can be distributed after a new non-profit service provider application period and review process. The application and review process would mirror the steps taken with the first allocation of CDBG-CV funding. The Mayor and City Council would vote on final funding allocating amounts prior to distribution of funds.
3. Option 3 – Revisit funding decisions on the second allocation CDBG-CV funding in the first or second quarter of 2021. Impacts from the COVID-19 pandemic can be reassessed and the Mayor and City Council would be then be consulted for direction at that time. Per HUD regulations, 80% of the City's CDBG-CV funding

must be expended within 3 years of grant agreement execution so funding decisions in early 2021 would not jeopardize funding availability.

After final funding decisions are made, a CDBG-CV Action Plan amendment reflecting planned expenditures for the second allocation CDBG-CV funding must be advertised for public comments. After a required 5 day public comment period, a CDBG-CV amendment will be submitted to HUD for approval. The second allocation of CDBG-CV funding will then be available after HUD's approval of the required amendment.

Councilmember Bruchey would like to understand the eligibility parameters for the funding through the CAC. He has been contacted by residents wondering why they aren't eligible. Mr. Kerns indicated he could ask Geordie Newman, CAC Executive Director, to present this information to the Mayor and City Council during a future Work Session.

Councilmember Aleshire stated while he was a County Commissioner, he served as the County liaison to the Commission on Aging. It was clear at that time there is a senior citizen population that is constantly seeking additional food resources. He wants to make sure the City is cognizant that this necessity is apparent within the senior citizen community.

Councilmember McIntire noted there is not the same demand for assistance as there was with the first allocation. There is clearly a need for food resources and she would be open to further discussion.

Councilmember Aleshire stated the additional allocation is being sent in a "time is of the essence" manner. He would like to see the City use the same plan and wants to focus on assisting folks in this community. He asked if the Mayor and City Council has the ability to redirect the funding to other agencies that provide resources for immediate needs if it is not expended by a certain time.

Councilmember Bruchey realizes this funding is intended to assist people in need but he doesn't understand why people can't use the funds to help pay their utility bills.

Councilmember Aleshire would be disappointed to find out this funding had been channeled into the parameters of the regular programs these agencies receive and not for an unexpected need due to the pandemic.

Mr. Kerns will discuss the questions raised with Mr. Newman.

It was the consensus to follow the plan in Option 2, which is to distribute the second allocation of CDBG-CV funding after a new non-profit service provider application period and review process.

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

*Scott A. Nicewarner, City Administrator*, thanked the Parks and Recreation Department for their work on the light display at City Park. The display is larger than last year, with more lights and more music. Staff will be adding to the display next year as well.

### **MAYOR AND COUNCIL COMMENTS**

*Councilmember K. B. Aleshire* noted the Main Street program is for the for-profit businesses but not really for non-profits. There is funding from other sources for non-profit organizations. He supports the skatepark but he can't support that item knowing additional funding for non-profits is available and the skatepark is a community amenity rather than a community need. He would not be comfortable using CARES Act funding intended for Main Street businesses for this amenity either. There was a recent newspaper headline saying Hagerstown still continues stadium talks even after the announcement that the Hagerstown Suns lost their affiliation. He clarified there is movement on that topic outside of the Mayor and City Council and the headline implies discussions are only within the elected body.

*Councilmember R. E. Bruchey, II* stated he does not think the headline was specific about the government body but the community in general. He understands concerns about COVID-19. He believes there are three types of COVID people – those who believe there is a COVID conspiracy, COVID realistic – these are people who care about and protect others while still living their lives, and COVID hysterical people – these are the people who will call the State Police compliance office about an actor on stage not wearing a mask. He urged people to do what they believe they need to do to be protected, but don't be critical of others who may not believe the same as they do.

*Councilmember T. Burnett* thanked all the organizations who are doing give aways for people in need in the community.

*Councilmember T. Martinez* urged people to stay encouraged and be kind to each other. Most people are going through something. Each person has their own list of priorities.

*Councilmember S. McIntire* thanked Ryan Smetzer for emceeding the virtual tree lighting. She hopes the next tree lighting can be live.

*Mayor E. Keller* thanked staff who helped the Yarn Shop move from the Hamilton Hotel after the recent partial collapse. She addressed the photo in the newspaper that appeared some elected officials did not have their hands over their hearts during the Pledge of Allegiance. The photo was not actually taken during the Pledge and all elected

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officials had their hands over their hearts during the Pledge. She and Councilmember McIntire posted video showing this on social media. She would appreciate it if the Herald Mail could help clarify this.

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 5:42 p.m.

Respectfully submitted,

*Original signed by D. K. Spickler*

Donna K. Spickler  
City Clerk

Approved: January 26, 2021