

SPECIAL SESSION (17<sup>TH</sup> VOTING SESSION), EXECUTIVE SESSION AND WORK  
SESSION – July 13, 2021

EXECUTIVE SESSION – July 13, 2021

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 of all members present at the time of the 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)), to conduct collective bargaining negotiations or consider matters that relate to the negotiations (#9) (Section 3-305(b)), and to discuss the appointment, employment, assignment, promotion, discipline, demotions, compensation, removal, resignation or performance evaluation of appointees, employees, or officials over whom it has jurisdiction (#1) (Section 3-305(b)), on Tuesday, July 13, 2021 at 3:03 p.m. in Room 407, 4<sup>th</sup> floor, City Hall, Hagerstown, Maryland. Councilmember Aleshire was not present at the time of the vote.

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, Jason Morton, City Attorney, Jill Thompson, Director of Community and Economic Development, Don Francis, Director of Human Resources, Kathleen Maher, Director of Planning and Code Administration, Brooke Garver, Accounting and Budget Manager, Paul Fulk, Neighborhood Services Coordinator, Chris Siemerling, Economic Development Specialist, Wes Decker, Communications Manager, Ash Azadi and Moe Azadi, Ares Investment Group, and Donna K. Spickler, City Clerk.

The meeting was held to discuss a business proposal, the AFSCME 1540 contract, the MG Salary scale, membership of the Planning Commission and City Ethics Commission, and the City Administrator's Contract and Compensation. No formal action was taken at the meeting. On a motion duly made, seconded, and passed, the meeting was adjourned at 3:38 p.m.

SPECIAL SESSION (17<sup>TH</sup> VOTING SESSION) AND WORK SESSION – July 13,  
2021

Mayor E. Keller called this Special Session (17<sup>th</sup> Voting Session) and Work Session of the Mayor and City Council to order at 4:01 p.m., Tuesday, July 13, 2021 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.

SPECIAL SESSION – July 13, 2021

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 Special Session at 4:01 p.m.

**Approval of Increase to AFSCME Local 1540 Pay Scale Effective July 12, 2021**

**Action:** 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 approve the increase in the attached AFSCME Local 1540 pay scale, to be effective July 12, 2021.

Funding for FY22 is from General Fund contingency and Enterprise Fund budgets as approved.

**Approval of Increase to Non-Union Pay Scale Effective July 12, 2021**

**Action:** On a motion duly made by Councilmember S. McIntire and seconded by Councilmember T. Martinez, the Mayor and City Council unanimously agreed by voice vote to approve the increase in the attached Non-Union pay scale by 1.75%, to be effective July 12, 2021.

Funding for FY22 is from General Fund contingency and Enterprise Fund budgets as approved.

The Special Session was closed at 4:02 p.m.

WORK SESSION – July 13, 2021

Review of New Office Lease for BuroBox at 60 W. Washington Street – Goshen Investment Properties

Jill Thompson, Director of Community and Economic Development, and Chris Siemerling, Economic Development Specialist, were present to review a lease agreement for new BuroBox office tenant, Goshen Investment Properties, at 60 W. Washington Street.

Babah Tarawaille, Goshen Investment Properties, would like to rent Office 2 at the BuroBox. The rent on this office is \$ 100/month, on a month to month basis. Goshen Investment Properties is a real estate investment company that buys and sells real estate within the Tri State area. The prospective tenant's applications, business description, and credit score were reviewed by Staff. A copy of the proposed lease agreement was provided for review.

At the October 25, 2016 Regular Session, the Mayor and City Council approved the packet of BuroBox Membership Agreements as drafted by the City Attorney and staff. The packet of BuroBox Membership Agreements was reviewed during the October 18, 2016 Mayor and City Council Work Session. At the June 22, 2021 Regular Session, the Mayor and City Council approved the change from an annual to a month-to-month lease.

It was the general consensus to move forward with this lease agreement and to include approval of the agreement at a Special Session on July 20, 2021 or at the Regular Session on July 27, 2021.

Invest Hagerstown City Center Redevelopment Grant Application: 17-21 E. Franklin Street (Roslyn Building)

Jill Thompson, Director of Community and Economic Development, was present to review the Invest Hagerstown City Center Redevelopment Grant Application for WLR Residential Properties, Inc. for 17-21 E. Franklin Street.

The Review Committee believes this project meets the eligibility requirements of the program for approval. The requested grant amount is \$ 250,000 in City Center Redevelopment Grant funds. The estimated total project costs are \$ 1,250,00. The project is expected to start June 1, 2021 and be completed by January 1, 2022. The Review Committee recommended a completion deadline of July 1, 2022. The project is full renovation of vacant upper floors to create 8 residential units and upgrading features of the commercial space and common areas. The number of new jobs within 2 years of the project completion is 0 and the number of jobs retained as a result of the project is 3.

This project was approved for a \$ 100,000 student housing grant using Community Legacy Funding at the June 22, 2021 Regular Session. The second project approved for a \$ 100,000 student housing grant is the 170 W. Washington Street project. The project was approved for a \$ 250,000 Invest Hagerstown City Center Redevelopment Grant for a \$ 1,100,000 project to create 9 fully renovated one-bedroom residential units.

It was the general consensus to move forward with approval of the grant application.

Grant Coordinator Position

Brooke Garver, Accounting and Budget Manager, was present to request approval to hire a Grant Coordinator to oversee and manage the American Rescue Plan Act of 2021 (ARPA) grant. The City of Hagerstown was awarded \$ 20.4 million in ARPA grant funds. Even though the funding is extremely positive for the community, regulations and oversight will be significant.

This will be a full-time, temporary position ending on December 31, 2024. This position will serve as the primary administrator of ARPA funding. Duties will include, but are not limited to, coordinating grant committee meetings, taking meeting minutes,

compiling documentation, research and analysis, monitoring for compliance, and submitting reports to the federal government.

Councilmember Aleshire has read through the ARPA regulations, especially as it relates to the utility infrastructure. He stated he would not want the grant coordinator to be expected to interpret the ARPA regulations on their own. Mr. Nicewarner indicated he expects they would seek guidance from multiple sources, including Congressman Trone's office.

Ms. Garver noted the job description could be modified to note this.

It was the general consensus to include approval of the grant coordinator position on the July 27, 2021 Regular Session agenda.

Proposed Guidelines for Community Development Block Grant (CDBG) Funded  
Microenterprise Grant Program

Lauren Metz, Planning and Outreach Coordinator, and Jonathan Kerns, Community Development Manager, were present to discuss proposed guidelines for the Community Development Block Grant (CDBG) Microenterprise Grant program. This is a new CDBG activity to be carried out in Fiscal Year 2022.

The City of Hagerstown is recognized as one of six entitlement communities in Maryland for the U.S. Department of Housing and Urban Development's Community Development Block Grant program. The goal of the CDBG program is to develop viable urban communities through decent housing, improved public facilities and public services, and expanded economic opportunities for low-to-moderate income residents.

During the June 22, 2021 Regular Session, the FY22 CDBG Action Plan was approved by the Mayor and City Council. As part of the FY22 CDBG Action Plan, \$ 75,000 was allocated for a new Microenterprise Grant Program that would provide grant funding to eligible microenterprise businesses operating in the City of Hagerstown.

Consistent with the City's Five-Year CDBG Consolidated Plan, the program goals include the following:

1. Support and encourage new job creation, job retention, and employment and job training services for low and moderate income residents
2. Plan and promote the revitalization of vacant commercial spaces
3. Support business and commercial growth through business stabilization and/or business expansion

City staff have prepared draft guidelines and an application form for this program for review. In order to qualify for the grant program, there are several CDBG eligibility criteria that applicants must meet including:

1. Applicant/Business owner must have five or fewer employees and this number includes the owner
2. The owner of the business must have a household income that is either at or below the federal levels for low-to-moderate income households
3. Minimum grant of \$ 2,500 and maximum grant of \$ 5,000 with no matching requirement
4. Applicants must be a private, for-profit business

This type of program targets sole proprietors, which could be mobile businesses such as food trucks, which could be encouraged to stay within the City limits to be eligible. Other examples include lawn care businesses, hair stylists, t-shirt printing, and day care.

Grant funding may be used for acquisition of business equipment, purchase of inventory, necessary fixed assets, professional services including marketing and business promotion, technological infrastructure and upgrades, entrepreneurial and business training, and operation expenses including payroll, utilities/rent/mortgage. Grant funding may not be used for real property improvements or rehabilitation activities, political activities, sectarian activities, utilities, rent/mortgage for residential or home based business occupancies, repayment of exiting debt, or reimbursement of costs incurred prior to grant award.

To obtain funding, applicants will submit completed applications and the required supporting documentation. City staff will inform the applicant of approval or denial via email and/or grant award letter detailing that the applicant can move forward with purchase of eligible products or services requested in the application. The applicant will then submit receipts and/or documentation showing expenses have been paid. The City will provide reimbursement in the form of a grant. Once this new program is operational, staff will report back to the Mayor and City Council on the program's progress later in the fiscal year. If necessary, program guidelines can also be reassessed at that time.

Mayor Keller likes the idea of requiring a majority of the business to be done within the City limits. Mr. Kerns asked if a 2/3 requirement would be acceptable. Mayor Keller stated it would be.

Approval of the program will be included on the July 27, 2021 Regular Session agenda.

Requesting Authorization to Amend Contract with Hazen and Sawyer to Include the Water Master Plan Update and a Sanitary Sewer Evaluation

Nancy Hausrath, Director of Utilities, and Fire Chief Steve Lohr, were present to discuss the Water Master Plan Update and a Sanitary Sewer Evaluation.

Ms. Hausrath stated staff received a proposed map amendment to the Washington County Zoning Ordinance which involved a major change to the current Black Rock

Planned Unit Development (PUD) on the east side of the City between Robinwood Drive and Mt. Aetna Road. After review of the PUD Concept Plan drawing, staff have the following concerns – this PUD is for the construction of 1,148 units which is approximately twice the number of units previously approved.

The future water usage within this PUD will be approximately 229,600 gallons. This PUD is located within the City of Hagerstown's Water System Zone-5. Water Zone-5 has limitations in distribution system pressure and fire flow ability even without the addition of this PUD. These limitations are detailed in the Hagerstown Fire Department comments to this PUD. The existing average water demand within Zone 5, per the 2008 City of Hagerstown Water System Master Plan, was 0.48 MGD. The 2008 Master Plan incorporated a future planning year of 2025 and an average water usage of 0.61 MGD. This PUD will increase the average water demand within this Zone to a rate that exceeds the planned future average water usage. Per the Master Plan, upgrades to the water infrastructure are required when this future flow is approached. The required upgrades are detailed in the 2008 Master Plan but generally the upgrades include: 1) Improvements to Pump Station 6; 2) the addition of a water storage tank within Zone 5; and 3) Water distribution system improvement.

The wastewater generated within the PUD will travel through the City owned gravity collection system as well as multiple wastewater pump stations. Depending on the final site grading and proposed sewer collection system layout within this development, upgrades to City Wastewater Pump Station 19 and possibly the discharge force main will most likely be required. Currently, this pump station was designed for the development in which it is located with limited excess capacity. Pump Station 19 is located near the intersection of Sani Lane and Ayoub Lane. The layout of wastewater collection/conveyance infrastructure within this PUD that avoids wastewater conveyance through Pump Station 19 would be acceptable and can be evaluated as the project progresses. The remaining City wastewater pump stations affected by this PUD appear to have sufficient hydraulic capacity for the anticipated wastewater flow generated within this PUD.

The City owned gravity sewers between this PUD and Wastewater Pump Station 8 appear to have sufficient hydraulic capacity however the City reserves the right to require sewer collection system upgrades depending on the final sewer collection system layout within the PUD. City Wastewater Pump Station 8 is located along Robinwood Drive in front of Hagerstown Community College.

This development is located within Hagerstown Water Zone-5 which historically has struggled to meet both domestic and fire protection water flows within the entire zone. These struggles are known issues and well documented over time. This is exasperated by the geography (high elevation, lack of a storage tank or standpipe, and undersized water transmission/distribution lines supply Water Zone-5). After several large fires in that area of the county in recent years, including Doey's House, Woodbridge Drive, and others where fire protection water is limited to successfully deploy large caliber streams,

the Funkstown Volunteer Fire Department has added multiple tankers (water on wheels) to the assignments to partially compensate for the lack of needed fire flow.

The City has recently added an automatic swing check valve in the vicinity of the Elks Club on Robinwood Drive to provide some interim relief by increasing the available water from the Water Zone-1 when demand exceeds supply. This, however, is limited.

The proposed development and existing construction in Water Zone-5 is primarily comprised of very large single-family homes, townhomes and some extended residence buildings that are of Type-5 light-weight, wood-frame construction that are a challenge for fire departments everywhere. The need for additional fire-fighting water streams is essential to stopping well advanced fires in these buildings.

To achieve effective fire-fighting streams, the correct combination of pressure and volume is needed to adequately protect structures like those proposed in the Black Rock subdivisions.

In the interim, and without an adequate size storage tank for fire protection water located within Water Zone-5, the Hagerstown Fire Department strongly recommends that further development does not occur as proposed. There simply is inadequate water necessary to flow two or more large caliber fire-fighting streams necessary to stop fires in well involved attic spaces of the type and size of buildings proposed.

As indicated above, there is considerable concern regarding water supply in Water Zone-5 (Black Rock PUD). Water system improvements will be needed to ensure the Average and Maximum Daily Demand can be consistently met. In addition to the domestic water system demand, fire flow requirements must also be met.

To ensure domestic and fire water demand needs are met, staff is requesting authorization to amend the current contract with Hazen and Sawyer (ISO Study) to include a comprehensive update to the sections of the Water Master Plan that identify improvements needed for Water Zone-5. In as much as the potable water source for Water Zone-5 is Water Zone-1, updates will be required to portions of the Master Plan for Water Zone-1.

Staff is further requesting authorization to include in the contract amendments with Hazen and Sawyer an evaluation of the sanitary sewer system in the areas identified above to ensure all improvements to the sanitary sewer system are identified and included as part of the developer's responsibility.

Staff recommends that all approval for water and/or wastewater service in Water Zone-5 be delayed until the Water Master Plan updates and sanitary sewer evaluations are completed to ensure the needed improvements can be constructed as part of the developer's planned water and sanitary sewer system upgrades.

Staff is also requesting guidance from the Mayor and City Council as it pertains to Edgemont/Breichner projects with regard to system improvements that would allow Breichner/Edgemont to supply Water Zone-5.

Historically, the Breichner Water Plant and Edgemont Reservoir were used to supply Water Zone-4 (Smithsburg area). The current system designs allow finished water to be supplied through the Greendale Valve to Water Zone-1. The following is an update of the work currently underway for Edgemont Reservoir.

Design Storm evaluations were originally prepared using TR-60 (1976). Maryland Department of the Environment (MDE) identified alternatives which provided more current data for planning purposes and MDE has required the City to evaluate these alternatives. Staff continues to work with MDE to determine the acceptable methodology for the design storm (Probable Maximum Precipitation – PMP) to allow the City to complete the design for the spillway. To date staff has worked with the engineering team to evaluate the Virginia Statewide PMP Study (from 2018) and the Pennsylvania Statewide PMP Study (from 2019). Most recently, staff requested MDE consider a Site Specific PMP which has not yet been approved.

MDE may require climate resiliency to be assessed and incorporated into the spillway design. At this time, MDE has not provided direction to staff on what will be required and how it would impact the design and total cost.

Staff have requested guidance from MDE Dam Spillway Design and what the requirements would be for freeboard and associated parapet wall design.

The screening requirements that were requested as part of the Water Appropriation Permit process (and subsequent dam improvement design) have been confirmed. At this time, staff does not have a cost estimate for screening pending guidance from MDE on PMP and climate resiliency requirements.

The most recent funding request to MDE for the Edgemont Reservoir only is \$ 17,250,000. Staff estimates the additional funding needed to upgrade the Breichner Water Plant to be between \$ 5 and \$ 8 million.

Chief Lohr stated when the County Planning Commission asked for comments on the PUD, he and the Funkstown Volunteer Company went on record with their concerns about firefighting in Water Zone-5. This area has been allowed to develop for decades without improvements to the water system. There is not enough water supply, even with the tankers, to adequately fight significant fires in Zone-5. His recommendation from the fire standpoint is to not allow any more development in that area until the water system is improved. He understands the need for City water and County development. However, there is not adequate water for fire protection for what is already there, let alone for additional development. Many of the occupied areas of the buildings are sprinklered, but

the attic areas are not and this allows fires to spread. Large fires are difficult for any fire department but it would be more difficult without adequate water availability.

Councilmember Aleshire noted the development is outside the City limits and is served by City water. He finds it odd that the County Planning staff states water and sewer service is adequate when the County is not the provider. He doesn't know if this is a statement County Planning is making after consulting with Hagerstown's utilities divisions or if they are making that assumption because lines are there. Water lines do not mean capacity is there or the flow is adequate. There has to be a more deliberate process in which the County Planning Department obtains an actual confirmation of adequate service from Hagerstown, as the owner of the utility. At one time, the only thing on Robinwood Drive was Hagerstown Community College and now significant development has occurred. The City has spent 6 years trying to figure out what MDE wants the City to do with the Edgemont Reservoir. MDE stated it is an imminent danger but nothing has happened in the last 6 years. The estimate to repair the reservoir has risen to \$ 20 million during that time. The City customers will be taking on the debt for the upgrade. It needs to be reviewed. The City does not have the system capacity to service the areas that includes Robinwood Drive or for additional development in that area.

Councilmember Bruchey asked if a water tower is being proposed by the developer.

Ms. Hausrath indicated a water tower was mentioned during a conversation but there is no formal indication. She noted a water tower is only one piece to the service capacity. There has to be a way to get the water to the tower. She believes the State will allow a site specific PMP study for the Edgemont watershed. She estimates the cost of the study to be \$ 200,000. The Mayor and City Council had previously agreed that additional piping and looping is needed in that area. Looping the system was required for the Breeze Hill project. She anticipates this body will agree with the recommendation from staff regarding additional development at Black Rock. The water system needs to be reviewed realistically for service capabilities. The City needs to determine how much capacity to retain for the City for development inside the City.

Councilmember Aleshire pointed out the City has to state what the system requires.

Ms. Hausrath stated she was asked how much funding the City would provide for this new tank. Her response was none. The City already built a second tank in the west end in anticipation of development in that area. Recent development has been occurring at the east end of Hagerstown.

Mr. Nicewarner stated there may be funding available through an infrastructure bill or the ARPA funding. Councilmember Bruchey pointed out the County will also be receiving funding from these programs.

Councilmember Aleshire questioned using funding from these programs to assist in an area that is not near the City limits.

Ms. Hausrath stated Smithsburg is planning and moving forward with development. They are already at capacity and will be asking the City for more capacity. Smithsburg is a beneficiary of the Edgemont improvements.

It was the general consensus to move forward as recommended to amend the contract with Hazen and Sawyer to review both the water and sewer systems in Zone-5. Formal approval for the amendment to the contract will be scheduled for August 24, 2021.

Doleman Black Heritage Museum (DBHM) – Request to Increase the Grant Request to the Department of Housing and Community Development (DHCD)

Kathleen Maher, Director of Planning and Code Administration (PCAD), was present to provide information on the request to increase the grant request for the Doleman Black Heritage Museum (DBHM) pass-through application to the FY 2022 Strategic Demolition Fund program of the Maryland Department of Housing and Community Development (DHCD).

In mid-May, staff from PCAD and the Department of Community and Economic Development (DCED) developed the list of proposed grant applications for the State's Community Legacy and Strategic Demolition Fund (SDF) programs for FY 2022. Staff shared the plan of applying for flexible pre-construction activity money for a SDF grant for the DBHM with Alesia Parson McBean on June 2, 2021 but did not discuss the funding level for the request. If they had, they might have learned then of the desired funding level by DBHM. On June 8, 2021, staff presented the proposed plan for FY 2022 grant applications which included a request of \$ 250,000 for DBHM which matched the FY 2021 grant request. The Mayor and City Council indicated support for the plan and then approved the resolutions for the proposed Community Legacy and Strategic Demolition Fund grant applications on June 22, 2021. PCAD staff were preparing the grant applications for entry into the DHCD grant portal by the July 8, 2021 deadline.

PCAD staff forwarded the draft SDF grant application for DBHM to Alesia Parson McBean on June 18, 2021 for comment and received the requested funding increase on June 22, 2021. Rather than \$ 250,000, the museum would like to request \$ 547,097 in SDF funding for pre-construction preparation activities at 465 Pennsylvania Avenue. Work to be covered under this increased funding plan included environmental study and earthwork, site improvements, site utilities, and project management and administration. City staff also suggested remediation of building conditions identified by engineer studies.

Due to the grant deadline of July 8, 2021 and the lack of Mayor and City Council meetings from June 29, 2021 to July 6, 2021, there was not time to gain Mayor and City Council review of the requested funding change prior to the grant deadline. The grant

deadline has now been extended to July 13, 2021 because the portal crashed on July 8, 2021. Staff sent an email to DHCD after notification of the extension on July 8, 2021 to

see if an extension to July 14, 2021 would be granted, in case the Mayor and City Council agree to increase the funding request for DBHM.

PCAD staff do not have a problem with the increase in grant request for the DBHM project, but need authorization from the Mayor and City Council to make that change. If given the go ahead, staff will make that change and put it into the grant portal (if given the extension to July 14, 2021). An amended resolution for the SDF grant request would need to be approved on July 27, 2021 and then forwarded to the DHCD as an attachment to the SDF grant applications. DHCD has accepted post-deadline resolutions in the past, since their deadline notifications are often a bit too short for the meeting schedules.

It was the general consensus of the Mayor and City Council to increase the funding request from \$ 250,000 to \$ 547,057. The pass through status will not change.

#### Impact of 2021 State Legislation Passed on Police Reform and Its Impact on Hagerstown Police Department Operations

Police Chief Paul “Joey” Kifer, and Captain Tom Langston, were present to explain the State legislation regarding police reform passed during the 2021 session and its impact on current operating procedures of the Hagerstown Police Department. Chief Kifer also explained the Commission on Accreditation for Law Enforcement Agencies, Inc. (CALEA) certification process recently completed by the Department and its relevance and application to the passed legislation.

Chief Kifer and Captain Langston summarized the recent legislation and its impact on the Hagerstown Police Department as follows:

1. House Bill 1248 – Use of Force Settlement Reporting. On or before March 1, 2022, and each March 1 thereafter, each local law enforcement agency shall report to the Governor’s Office of Crime Prevention, Youth, and Victim Services information, for the previous calendar year, on each use of force incident involving a police officer employed by the law enforcement agency that resulted in a monetary settlement or judgment against the law enforcement agency.

Excessive use of force is not part of the HPD’s history and this bill will have little impact.

2. House Bill 445 – Criminal Procedures – Charging Procedures – Designates what charges a police officer shall charge by citation and which the officer may charge by citation.

HPD tests suspected illegal drugs before charging documents are filed. Warrants are designed for distribution and higher level criminal actions.

3. Senate Bill 600 – Military Surplus

HPD does not receive any equipment from military surplus and this bill will have no impact.

Councilmember Bruchey asked if HPD could take advantage of military surplus pricing. Chief Kifer stated a license is needed for this and he could apply for one if the Mayor and City Council want him to.

Senate Bill 600 also includes regulations for an independent investigative unit. There are no concerns with this bill for HPD.

4. Senate Bill 71 – Use of Force – Each police officer shall sign an affirmative written sanctity of life pledge to respect every human life and act with compassion toward others. A police officer may not use force against a person unless under the totality of the circumstances, the force is necessary and proportional to prevent an imminent threat of physical injury to a person or to effectuate a legitimate law enforcement objective.

This is addressed in the Departments' Policies and Procedures, the oath of office, and the Code of Ethics. Signing this document will formalize the statement already implied within current operations.

Chief Kifer reported HPD officers are trained how to de-escalate a situation so force is not needed.

Councilmember Bruchey asked if legislators in Annapolis will be regulating when weapons can be drawn.

Chief Kifer thinks that might be possible. HPD officers' weapons don't leave the holsters very often. He is confident this policy will not be an issue for HPD to adopt. The law states an officer has to intentionally violate the use of force standard or policy. An officer's mistake would not be intentional. This could be problematic but HPD will work through it.

Senate Bill 71 also regulates Body Worn Cameras. HPD started using body worn cameras many years ago. Policies are well within the boundaries of the legislation.

Early Intervention is also included in Senate Bill 71. Chief Kifer implemented training on this two years ago. A team of instructors provide training on excessive

force. Every case is reviewed, which has been in place for investigations for many years.

Senate Bill 71 requires each law enforcement agency to provide access to an employee assistance program for all police officers whom the law enforcement agency employs.

Chief Kifer informed the group HPD uses EAP programs as often as possible. HPD mandates staff on traumatic incidents to seek help. If the incident was very serious, they are required to talk to a psychiatrist.

5. House Bill 670 – Contains multiple components that Chief Kifer indicated will allow the men and women of HPD to be better educated. Much of the bill deals with hiring and certification, including training for implicit bias. All sworn and civilian personnel complete the training.

Mental health screening is completed during the hiring process. If screenings are required every 2 years, it may impact HPD as there are not many psychologists and psychiatrists to cover every officer in the state. It will be costly. Agility assessments are completed every year for all officers hired after 2006. This also includes the specialized units.

Past use of marijuana no longer disqualifies a candidate from being hired. It is still illegal but it does not keep someone from being a police officer.

If an HPD officer violates use of force criteria they will be fired.

The City has a Whistleblower Policy in the Human Resources Employee Manual that covers all employees.

HPD has not prohibited citizens from recording a police officer for some time.

There will be no change in traffic stop procedures from what is in practice and in policies. The only change is the punishment that could be administered for failing to follow the display of proper identification.

The Accountability Board required by House Bill 670 falls to the County jurisdiction to establish. He is not concerned about the regulation.

Each County will also establish an Administrative Charging Committee. This Committee will not investigate a charge but will review each department's process.

Chief Kifer welcomes the Disciplinary Matrix established by House Bill 670. HPD does not often deal with large incidents and this will provide a road map for discipline for such incidents.

The former Law Enforcement Officers Bill of Rights (LEBOR) board is being replaced with a Trial Board. With the LEBOR, the Police Chief chose board members except for one. The bill provides for specific criteria, which are not concerning to Chief Kifer. The new Board will hold meetings that are open to the public. It also allows for the complainant to be part of the Trial Board. The last LEBOR complaint was 20 years ago.

Chief Kifer will be seeking clarification if HPD's current process meets the requirements of the process for the Victim's Rights Advocate. Councilmember Aleshire asked if this will increase costs to local jurisdictions. Chief Kifer stated the jurisdiction may have to hire someone (a judge) to sit on a Trial Board.

House Bill 670 also includes a General Officer Rights and Compelled Testing, which will not change procedures for HPD.

The Emergency Suspension component of House Bill 670 will provide additional rights for police chiefs. Employee terminations have occurred in the last few years that match the Employee Termination component of the bill.

Each law enforcement agency will be required to create a Misconduct Database that enables a complainant to follow the status of the case as it proceeds through the process. HPD is reviewing a software program to provide this.

Chief Kifer stated the Investigative Records part of House Bill 670 is one that he is not comfortable with. This section prohibits records relating to an administrative or criminal investigation of misconduct by a police officer, including an internal affairs investigatory record, a hearing record, and records relating to a disciplinary decision from being expunged or destroyed by a law enforcement agency. His concern is that if a complaint is found to be unfounded, it remains on the record. Under current LEBOR criteria, an officer could ask for the record to be expunged after three years. A complaint could be completely false or an accusation untrue but it cannot be removed from the record. A criminal can have a record expunged and officers should have the same opportunity for unfounded complaints. Chief Kifer believes the emotions of the last year contributed to this component. Legislators might believe there must have been something wrong if a complaint was filed. He has discussed his concerns with Senator Corderman and Delegate Thiam.

Mr. Nicewarner served on a task force following the legislations. The leaders indicated they were looking for patterns, whether founded or not.

Chief Kifer noted one of the busiest beats is downtown and that officer has the potential for the most complaints because they are in a busy area. A member of the community might not like someone and decides to make continual complaints. Those complaints will never go away

Councilmember Bruchey stated it is not fair that an officer can currently ask for the complaint to be expunged after 3 years and now they cannot have an unfounded complaint removed.

Chief Kifer stated if there are multiple complaints, supervisors may be able to guide the officer to a better way of interacting with people, for example. He is concerned this record will be used by defense attorneys to impeach officers. There will also be a morale impact for the officers. If the officer is outside the policy, he may be able to provide assistance, but he can't change someone's personality. He hopes Senator Corderman and Delegate Thiam are able to have this amended during the next session.

The Investigate Action Review portion of House Bill 670 regulates how a complaint will be handled.

House Bill 670 prevents a law enforcement agency from negotiating or altering any of the requirements through collective bargaining. Chief Kifer noted this is different than the LEBOR regulations.

Chief Kifer stated HPD is already collecting the data, with the Sheriff's Department, for the requirements of the SWAT Reporting regulations. The bill requires distribution to specific agencies, which will be completed when required.

Use of Force Complaint Reporting data is already collected by HPD as part of the CAELEA certification process.

HPD posted signs indicating the procedures for filing a complaint of police officer misconduct and how to request records relating to an administrative or criminal investigation of misconduct by a police officer under the Public Information Act as required under the Signage to be Posted section of House Bill 670. A policy addressing this will be adopted within the next few months.

6. Senate Bill 178 addresses the process for search warrants, and in particular No-Knock search warrants. HPD has not used No-Knock warrants for a long time so this bill will not change procedures significantly. HPD could have requested a No-Knock warrant but has not. Many of the search warrant noted requirements are already in the rules and regulations. If there are any not included, the rules and regs will be revised to include them.

Senate Bill 178 includes provisions for the Public Information Act. Chief Kifer noted the only change from what is current procedure is that it will increase access to investigation reports. Mr. Nicewarner noted this was the second most contentious issue discussed by the task force.

Councilmember Aleshire asked how this will affect executive bodies. Chief Kifer indicated there are protections built into the bill for executive bodies. Councilmember Aleshire asked if this change will make discussions by an elected body subject to releasing information about the discussions. Chief Kifer suggested legal review for this question. Councilmember Aleshire stated he thinks this will affect how willing elected bodies are to discuss personnel concerns.

Chief Kifer is concerned that LEBOR has been limited and the safety nets to protect the men and women in law enforcement from challenging supervisors/unreasonable expectations/false complaints are reduced. HPD officers and staff will continue to treat people like people.

Mr. Nicewarner stated there was significant legislation passed. He pointed out the Hagerstown Police Department operations matched about 90% of the regulations before they were passed. HPD is one of the few departments in Maryland that received CALEA certification.

Chief Kifer stated personnel actions are plain and simple – when someone should be fired they will be. He believes everyone has implicit bias and everyone should have to attend training.

Mr. Nicewarner stated when these discussions started, there were regulations suggested without having been researched. After additional information was provided, some legislators changed their stance. Hagerstown is fortunate to have most of the legislation covered, especially with the body camera regulations.

Chief Kifer stated HPD is a good size. Smaller agencies may lack training and oversight and larger agencies deal with differing opinions of the administration. If the legislation had remained intact from the initial reading, there would not be police officers in Maryland. Real time, split decisions are significantly different than being able to sit back and review options and discuss how to handle situations with someone else before reacting.

Councilmember Bruchey has history with the Department (his father was a long-time police officer) and he knows the department functions well.

Chief Kifer stated new officers will weigh their options. Mr. Nicewarner stated he wants officers to be confident in the decisions they make. Chief Kifer stated Hagerstown Police Department has the best men and women. They are top notch.

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

*Scott A. Nicewarner, City Administrator*, informed the Mayor and City Council that staff has been reviewing the ARPA funding package for several weeks and have developed a project list. Staff brainstormed ideas and then categorized the projects. There are 62 projects on the list and it may increase. They are looking at projects that will be the most impactful to the community. He will be meeting with the County in the next few weeks to compare lists and determine if resources can be combined to reach more people. The City is fortunate to have the support of Congressman Trone and his office. They have a copy of the City's project list and they want to help identify ARPA funding eligible projects. Congressman Trone's staff also will be looking for other funding sources through the CARES Act and Covid relief initiatives. Part of a temporary City grant coordinator's duties will be to work with Congressman Trone's office. More information will be provided in August. Initial discussions were held with the health department about a crisis center.

Mr. Nicewarner reminded everyone this week's Friday movie at City Park will be Jurassic Park. On Saturday, July 17, 2021, the Cruisers will be performing at City Park.

### **MAYOR AND COUNCIL COMMENTS**

*Councilmember T. Martinez* had no additional comments.

*Councilmember K. B. Aleshire* offered condolences to the friends and family of two of his friends that passed away recently. Social media is a great way to convey thoughts and feelings in these moments. He urged people to tell someone how they feel directly when they can.

*Councilmember T. Burnett* reminded everyone the Ruth Ann Monroe Basketball League tournament starts this weekend. This will be the 48<sup>th</sup> season. More than 240 kids participate in this event. There is no charge to play and jerseys are free. Music and food are supported by local businesses. It is amazing to see these kids grow up and continue to return and play and participate.

*Councilmember R. E. Bruchey, II* thanked all employees who responded following the storm in late June that blew down trees and limbs and knocked out power. Many worked all night to restore service to residents.

*Councilmember S. McIntire* gave a shout out to Rodney Tissue, City Engineer, and staff for their tremendous communication with all the road work happening on Wesel Boulevard. Randy Scott, Chic-fil-A, contacted Councilmember McIntire and thanked her for the way City staff has been keeping them informed.

Mr. Nicewarner stated the road work is almost finished.

*Mayor E. Keller* offered condolences to the family of Mayor Harriett Johnson, Mayor of Martinsburg, and to the family of Colin Ploscaru, both who passed away recently.

Mayor Keller received two requests for letters of support – one from Crist Instruments to the Maryland Department of Housing and Community Development for a grant application for the Neighborhood Business Works (NBW) Opportunity Zone Microgrant Program, and one from the Convention and Visitors Bureau in support of the CVB's and BMX Hagerstown's intent to host a USA Nationals BMX event in 2022. It was the general consensus to send letters as requested.

Mayor Keller announced that Old Line Tattoo has raised \$ 11,160.00 for the skatepark. She thanked them for the tremendous efforts and support of this project.

She thanked Congressman Trone for his support of Hagerstown and for submitting a bill for \$ 500,000 for a blight reduction program in Hagerstown.

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 6:01 p.m.

Respectfully submitted,

*Original signed by D. K. Spickler*

Donna K. Spickler  
City Clerk

Approved: August 24, 2021