

SPECIAL SESSION (25<sup>TH</sup> VOTING SESSION) AND WORK SESSION – November 9, 2021

WORK SESSION – November 9, 2021

The Mayor and City Council met with the Washington County Delegation at Hagerstown Community College, 11400 Robinwood Drive, Hagerstown, Maryland on Tuesday, November 9, 2021. The meeting started at 1:30 p.m.

The following people were present: Mayor Emily Keller, Councilmember Shelley McIntire, Councilmember Tekesha Martinez, Scott Nicewarner, City Administrator, Eric Deike, Director of Public Works, Fire Chief Steven Lohr, Police Chief Joey Kifer, Jill Thompson, Director of Community and Economic Development, Kathleen Maher, Director of Planning and Code Administration, Michelle Hepburn, Chief Financial Officer, Rodney Tissue, City Engineer, Nancy Hausrath, Director of Utilities, Wes Decker, Communications Manager, Delegate William Wivell, Delegate Michael McKay, Delegate Brenda Thiam, Senator Paul Corderman, and City Clerk Donna K. Spickler.

Mayor Keller provided a letter to the members of the Washington County Delegation listing the City of Hagerstown's legislative priorities. The list includes restoring Highway User Revenue, support for bond bills for the Sportsplex Project, support a change in police legislation that would allow municipalities to create their own police advisory board, support removal of the new police reform bill to provide access to unfounded complaints on officers, support/introduce legislation that Washington County government has to meet yearly with each municipality to explain the tax differential, support legislation to require fair level funding of volunteer fire departments across Washington County, including with the City of Hagerstown, and support an increase in the nutrient load for the wastewater treatment plant consistent with the plant's design capacity.

Mayor Keller also distributed copies of the City of Hagerstown Strategic Plan 2021-2024.

Delegate Wivell asked about the unfounded complaints point. Mayor Keller stated all records currently are required to be provided for complaints filed against an officer, even the ones that have been determined to be unfounded. Departments should be allowed to remove the unfounded complaints from an officer's file.

Senator Corderman stated this was discussed during the last session but it was not passed. It is still under discussion. There are concerns with this provision from both parties.

Senator Corderman asked for a summary of recent enhancements to attract new police officers. Mayor Keller stated bonuses are offered for lateral and comparative compliance recruits. Housing assistance was increased for Hagerstown police officers and the starting salary was increased.

Delegate McKay asked about the sportsplex costs. Mayor Keller stated \$ 17 million is the estimate for the full project.

Senator Corderman asked for an update on the Clara Barton Memorial. He noted it is on the Community Coalition's list of legislative priorities. Mayor Keller stated the Mayor and City Council support the statue and memorial and are still discussing the location with the Neighborhoods 1<sup>st</sup> groups.

Senator Corderman asked if the County Commissioners are on board for the City Burn Building Bond Bill.

Delegate Thiam has submitted a pre-filed bill to address the changes requested regarding the recently passed police reform bills. She has been working with Sheriff Mullendore.

Mayor Keller noted she does not think requiring the County Commissioners to explain the tax differential to individual municipalities would be difficult. Senator Corderman has discussed this with County Attorney Kirk Downey. Mr. Downey has indicated all the City has to do for an explanation is to ask for one.

Delegate Wivell stated annual discussion with municipalities was included in the original legislation, which was for a rebate/set off amount to provide payment for duplicated services. He believes that changed when it was legislatively transitioned to a differential consideration.

Delegate McKay is not sure it is up to the Delegation to tell the County Commissioners what they need to do. He pointed out Allegheny settled out of court on a lawsuit for a similar concern.

Chief Lohr spoke as a taxpayer. The fire costs are a perfect example of services provided to Hagerstown citizens that the County does not have to provide. Hagerstown's fire costs are not considered in the tax differential calculation and he has asked repeatedly for an explanation but has not received one.

Delegate McKay noted there are things the County provides that the municipalities don't. He does not think having a meeting between the County and City will resolve this matter.

Mr. Nicewarner stated he understands the legislation was passed to provide information of what is included in the calculation. The City is asking for information in order to provide transparency for taxpayers and residents.

Delegate McKay stated there is draft legislation amending language for the required notices for the Constant Yield Tax Rate.

Delegate Wivell stated he believes City taxpayers are aware of where their tax dollars are used.

This portion of the meeting ended at 1:55 p.m.

WORK SESSION AND SPECIAL SESSION (25<sup>TH</sup> VOTING SESSION) – November 9, 2021

Mayor E. Keller called this Work Session and Special Session (25<sup>th</sup> voting session) of the Mayor and City Council to order at 4:03 p.m., Tuesday, November 2, 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 (25<sup>TH</sup> VOTING SESSION) – November 9, 2021

On a motion duly made by Councilmember R. E. Bruchey, II and seconded by Councilmember T. Martinez, the Mayor and City Council unanimously agreed by voice to meet in Special Session at 4:03 p.m.

**Approval of a Resolution: Water Line Relocation Agreement with Hopewell, LLC**

**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 a resolution with Hopewell Road, LLC authorizing the execution of a Water Line Relocation Agreement to:

1. Relocate the existing eight inch (8”) water line
2. Eventually grant and convey a perpetual and permanent easement via a separate Water Line Easement Agreement, which will reflect the new location of said easement
3. Vacate the existing easement

The parties understand and agree that the existing waterline currently exists as a conduit through the property, serving only adjacent properties, and it does not currently provide public water services to the property. The provisions of this agreement and the performance of the design, review, and installation contemplated hereunder shall not, in and of itself, provide the developer with any right to public water services for the property.

The Special Session was closed at 4:04 p.m.

Grant and Program Opportunities for Community Growth

Soren Dorius, Craig Hartman, and Michael Stanford of Pen-Mar Realtors were present to discuss opportunities for community growth. Pen-Mar Realtor is composed of 950 Realtor and Affiliate members. They represent Washington County, Maryland, as well as Franklin and Fulton Counties, Pennsylvania. The association provides education, services, and products to real estate professionals in the area. The local association is one of 1,200 state and local associations under the umbrella of the National Association of

Realtors. Realtors are the largest trade association in the country, with over 1.5 million members nationwide.

Mr. Dorius informed the group that Pen-Mar Realtors has access to many community outreach programs and grants that could help City residents. They want to work with the City to provide information about revitalization projects, fair housing classes, and housing opportunity workshops. Realtors are working with communities nationwide. There is grant funding available for many of the programs and they want to work with the City to provide opportunities for citizens. Pen-Mar Realtors would apply for the grants, rather than requiring the City to apply. They can be creative and find ways to bring these dollars into the community. More detailed information is available at [www.realtorparty.realtor](http://www.realtorparty.realtor).

Collaboration Opportunities include the following:

1. Fair Housing Grants (\$ 1,500 & \$ 5,000)
2. Placemaking Grants (\$ 1,500 & \$ 5,000)
3. Housing Opportunity Grants (\$ 1,500, \$ 5,000, \$ 10,000)
4. Smart Growth Grants (\$ 1,500 & \$ 5,000)
5. State and Local Growth Polling (costs covered by NAR)

The national association is creating a center for a community process for transforming neighborhoods.

Councilmember McIntire suggested sharing the Mayor and City Council's strategic plan with Pen-Mar and see where the opportunities fit. Mayor Keller agreed.

Councilmember Burnett is glad this information is being shared in the community.

#### Helicopter at Vietnam Memorial Discussion

At the October 5, 2021 Work Session, a proposal from the Joint Veterans Council to place a helicopter at the Vietnam Monument on S. Walnut Street was considered.

Mayor Keller stated members of the Mayor and City Council have received letters in support of and opposed to the placement of the helicopter. Copies of these letters are included in the meeting packet.

Councilmember Bruchey stated the true size mock-up drafted by Rodney Tissue, City Engineer, does not look obnoxious. He thinks it will be a great addition to the memorial.

Councilmember McIntire stated she lives across the street from the Korean War Memorial and she likes the memorial and supports veterans. She is concerned that

allowing the helicopter to be placed at the Vietnam War Memorial will cause requests for similar additions at other memorials.

Councilmember Bruchey pointed out the Vietnam War Memorial is not in a residential location, as it is in the City Park and only the backs of houses face that way. It would not affect the property values in the area.

Councilmember McIntire stated her concern is not for the property value, it is that there may be similar requests for other sites.

Councilmember Bruchey does not think this site compares with any other site as it is not in a residential location.

Councilmember Aleshire noted the elected body received letters with serious concerns from people who live across from the existing memorial. There were also letters from people outside the City limits and outside that neighborhood stating their concerns. The Mayor and City Council have provided deference to requests for changes in traffic flow to improve that neighborhood. He has great reverence for the Hager House and the City's culture. He is concerned the placement of a helicopter at the memorial will change the view from the Hager House, and wants to understand if it will. During his term as County Commissioner, they visited sites to directly see how requests for things like cell towers would impact the surrounding area. Placing balloons at this site showing the dimensions of the helicopter would provide a better visual of what it will actually look like. He won't consider anything further without having that visual.

Councilmember McIntire asked if a neighborhood survey could be completed.

Councilmember Bruchey thinks Councilmember Aleshire's visual request should be done and show it to the community before another survey is done.

Jim Kline, Joint Veteran's Council, stated he doesn't anticipate any trees will be removed. He distributed a photograph with a to-scale helicopter added to the site. A site drawing has not been completed because of the costs involved. They are not asking for money. They will fundraise if necessary. The cost of this helicopter shell is \$ 45,000.00. The helicopter will not be visible from the Hager House.

Councilmember Bruchey is in favor of doing anything that needs to be done to address the neighborhood's concerns and Mayor and Council concerns.

Mr. Kline reported this helicopter is similar in size to the one in Carlisle, Pennsylvania, which is on 12 foot and 10 foot pylons.

Councilmember Burnett agrees that a survey of residents in the area should be completed.

Staff will place balloons at the site for the Mayor and City Council to view. A follow up discussion will be scheduled for a future Work Session.

Antietam Fire Company – Loan Forgiveness Discussion

Jim Sprecher, Captain, Antietam Fire Company, was present to discuss the mortgage held by the City of Hagerstown for the property located at 790 Potomac Avenue. The membership is asking the Mayor and City Council to forgive the mortgage or to consider the outstanding balance a grant, and then to donate the property to Antietam. Antietam began looking for a possible station location north of the railroad tracks in 2011. After looking at several options for financing, they approached the City of Hagerstown for financing. The City provided a mortgage/lease document for a 30 year payback. They have made payments in accordance with the agreement. The outstanding balance is \$ 451,070.07.

It was the general consensus to forgive the remaining balance and to subsequently donate the property to Antietam Fire Company.

Formal action will be included on the November 23, 2021 agenda to complete this request.

Review of Process – CDBG Capital Project Funding Requests for Non-Profit Organizations

Jonathan Kerns, Community Development Manager, and Randy Catlett, Hagerstown Loan Review Authority Chairperson, were present to review the process for awarding Community Development Block Grant (CDBG) capital project loan funding to local non-profit organizations. This topic was briefly discussed as part of the FY22 CDBG Action Plan review during the June 15, 2021 Work Session and a more detailed discussion on the non-profit capital loan process was to be held during a future work session meeting.

Each December, the City accepts CDBG funding requests from area non-profit service providers via a formal application process. During this application period, non-profit organizations may submit CDBG funding requests for both public service activities and capital project activities:

1. Public Service activities involving costs associated with program operations or delivery of a service typically fall under the CDBG eligible activity category of Public Services. Hagerstown's CDBG Public Service funds are traditionally awarded annually to multiple non-profit organizations in the form of a grant. Annual Public Service funds are limited each year as they are subject to a regulatory cap.
2. Non-profit capital project activities involving building construction and/or building rehabilitation typically fall under the CDBG eligible activity category of Public Facilities and Improvements when the building is open to the general public. Hagerstown's CDBG Public Facility Capital Project funds for non-profit organizations are traditionally awarded in the form of a loan. CDBG funded loans for nonprofit capital projects are infrequent and are awarded based on demand

and/or funding availability. There is no regulatory cap for Public Facilities and Improvements activities.

The process that is typically utilized for awarding a CDBG Public Facility Loan includes the following steps:

1. CDBG application period opens for non-profit organizations each December
2. If capital project loan request(s) is/are received during annual application cycle in December, proceed to next step
3. CDBG eligibility review and budget capacity for CDBG capital project loans verified by DCED staff
4. CDBG Budget is approved by the Mayor and City Council and Action Plan is approved by HUD by beginning of Fiscal Year. If sufficient funding is available for CDBG capital project loans, loan approval/declination decisions are completed by the Hagerstown Loan Review Authority (HLRA) for loan amounts up to \$ 200,000. For CDBG capital project loan requests over \$ 200,000, HLRA loan review is followed by a final loan approval confirmation made by the Mayor and City Council.

Girls, Inc., The W House Foundation, Deafnet, and Senior Living Alternatives are some of the organizations that have received CDBG capital project loan funding in previous fiscal years. A CDBG capital project loan for a Horizon Goodwill building improvement project is in progress during the current fiscal year. Interest rates and loan terms have been determined by the HLRA on a case by case basis and have varied for many of these capital project loans over the years.

Discussions with HLRA members regarding the City's CDBG loan process for non-profit organizations have alluded to the challenges that some non-profit organizations could face when attempting to repay CDBG loan funding. Although this CDBG loan process can certainly continue as is in future years, staff would like an opportunity to revisit this overall process with the Mayor and City Council. Additional CDBG funding options for non-profit capital projects can be explored. Updated procedures could also be established in order to create more consistency with loan terms and conditions for future CDBG capital project loan cases.

CDBG capital project funding options and process updates that could be considered include:

1. Creating a new CDBG funding opportunity for non-profit capital improvement grants with across the board minimum and/or maximum thresholds (example – across the board \$ 25,000 capital project grants for eligible projects)
2. Updating current CDBG capital improvement loan process with minimum loan amount requirements (example – minimum loan request of \$ 75,000 or \$ 100,000)

3. Updating current CDBG capital improvement loan process with consistent, across the board interest rate and repayment terms

Mr. Kerns stated the goal of the program is to have the funding repaid but if an entity struggles to pay it back, the process may be counterintuitive. CDBG Entitlement Funding is likely in the form of a grant. There could be a loan option for significant repairs and an alternative, smaller grant option for fledgling non-profits. The amount of time established for repayment is also inconsistent.

Councilmember Aleshire noted there have been successful and unsuccessful experiences. Based on past successes, he believes the option for significant repairs is the most valid. This guarantees investment in the physical aspect of the entity, rather than the operational aspect. He recommended that a limit be established. He would recommend a cap of \$ 500,000 for this option.

Mr. Kerns noted staff thought a smaller, across the board grant was also a good option to help entities in some way.

Mr. Catlett has been part of the HLRA for 30 years. The success rate is probably 80%. When dealing with entities with no income, an interest rate of 3% is significant. He believes a loan amount of \$ 25,000 to \$ 30,000 is reasonable. The reason the organizations are requesting funding is because they are having issues and challenges with funding. With the current criteria, he thinks the HLRA does a good job in deciding who qualifies for the funding. Some of these organizations are trying to address the opioid problem in the community.

Mr. Kerns stated they would monitor to ensure the entity is complying with their funding request, such as paying for the things they stated were needed. There should be a minimum threshold as well.

It was the general consensus to set a maximum request for capital improvements at \$ 25,000.00. If the organization needs more, they would be asked to consider a loan. The application will be updated, including an option for loans.

#### Arts and Entertainment District Redesignation

Jill Thompson, Director of Community and Economic Development, and Kitty Clark, Community Events Coordinator, were present to review two components related to the redesignation of the Arts & Entertainment District: Proposed Revised Property Tax Incentive and Proposed Change to A & E Boundaries.

Arts & Entertainment Districts must apply for redesignation from the Maryland State Arts Council (Department of Commerce) every 10 years. During the process, districts can revise their boundaries and modify the property tax credit incentive offered. Staff have been meeting over the last several months to review current incentives and boundaries and to propose options for the 2022 redesignation application, due April 1, 2022.

The owner of a manufacturing, commercial or industrial property is eligible for a local property tax credit based on the difference between the pre- and post-renovation assessments of the property when it has been wholly or partially renovated for use by qualified residing artists or arts and entertainment enterprises.

Staff have devised three options for the Mayor and City Council's consideration, with a recommendation to offer a more robust incentive to increase the likelihood of receiving redesignation approval and more importantly, to garner investment. The A & E Property Tax Incentive has never been utilized in the 20 years it has existed in Hagerstown's district. Giving it more teeth and actively promoting it may attract arts investors.

Option 1: Same incentive as the Enterprise Zone (however, with A & E, the State does not reimburse the City and County any percentage of the credit given. EZ reimbursement is 50%)

Years 1-5:	80% of change in assessed value
Year 6:	70%
Year 7:	60%
Year 8:	50%
Year 9:	40%
Year 10:	30%

Option 2:

Years 1-6:	100% of change in assessed value
Years 7-10:	0%

Option 3: no change

Years 1-10	50% of change in assessed value
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Current boundaries and proposed boundaries were shown on a map in the packet material. Staff recommend changes to the boundaries to better align them with other designations, including Main Street and the CC-MU Zoning District, and also to include assets that are currently A & E enterprises and are in the current A&E district (Mulberry Lofts, Massey Building) or that the City would like to incentivize to become A&E enterprises (old hospital site, Herald Mail building).

Kathleen Maher, Director of Planning and Code Administration, noted the A & E District and Main Street area overlap on the west side and the A & E District and CC-MU districts overlap on the East side. Staff is proposing to adjust the area since the artists housing program no longer exists.

Councilmember Aleshire thinks the nature of the tiny space to the rear of the convenience store should be included. Ms. Maher indicated that location is not within the Main Street area. Councilmember Bruchey does not think it should be included.

It was the general consensus to move forward with the proposed boundary adjustments.

Option 1 and Option 2 were considered for the property tax incentive. Councilmember Aleshire stated he also likes the Denton, Maryland model. No decision was made for amendments to the incentive.

#### Temporary Lease Agreement with The Foundry Pop-Ups – 6 N. Potomac Street

Doug Reaser, Business Development Specialist, was present to review a proposed lease agreement with The Foundry Pop-Ups for retail space located at 6 North Potomac Street.

The temporary lease will enable the space to be utilized by the business in advance of the permanent lease which was approved at the September 28, 2021 Regular Session. The Foundry Pop-Ups intends to sign the permanent lease effective January 1, 2022 in anticipation of state grant funds through Project Restore.

Key terms and conditions for the proposed temporary lease include the following:

1. Lease to be effective November 17, 2021 to December 31, 2021
2. Rent will be \$0/month during this period
3. Utilities will be tenant paid, excluding water and sewer

Staff have worked with the City Attorney to review the proposed lease.

It was the general consensus to include approval of the lease agreement on the November 23, 2021 Regular Session agenda.

#### Updates to Farmer's Market Guidelines

Chris Siemerling, Economic Development Specialist, was present to review proposed changes to the Historic City Farmer's Market Guidelines necessary due to the listing of the property for sale under the City's Competitive Negotiated Sale (CNS) process.

The proposed new guidelines will help clarify the notice process for any vendors, clarify the criteria for vendors, and establish activities requiring permission. The new guidelines will also provide more flexibility with the operation of the market.

It was the general consensus of the Mayor and City Council to schedule approval of the new guidelines for November 23, 2021.

#### Incentive Review – Market Vendors

Doug Reaser, Business Development Specialist, and Chris Siemerling, Economic Development Specialist, were present to review a proposed incentive for market vendors that wish to establish a permanent commercial presence in the City following notice that the City is terminating Vendor Agreements due to the sale of the property at 25 W.

Church Street. Staff are seeking Mayor and City Council input on the proposed incentive terms and conditions.

Key terms and conditions of the incentive include:

1. Upon receipt of 30 days' notice to vacate the market, an incentive will be offered for vendors who relocate their business into a commercial space within City Limits.
2. The incentive will provide \$ 1,500.00 to any current vendor provided that:
  - a. The business executes a lease with a landlord within 120 days of receiving the notice to vacate the Market House.
  - b. Leased space must be within the City of Hagerstown's corporate limits.
  - c. The lease must be for a minimum of 12 months.
  - d. Payment will be made directly to the business to assist with costs associated with rental expense, moving, or utilities.
3. This incentive will only be available should a sale of the Market House become imminent. The incentive will only be valid when a notice to vacate is provided.
4. This incentive will be funded from the Department of Community and Economic Development Economic Incentives line item from the budget.

Councilmember McIntire stated vendors have expressed concern about the food vendors. She asked if there is a possibility to add a food truck component to the Market.

Mr. Reaser indicated the Micro-grant enables a mobile business. If the Mayor and City Council wish to include food trucks, staff would ask for conditional approval for the food trucks in order to work out the language. The remaining incentives could still be approved next week.

Mr. Siemerling stated the Invest Hagerstown City Wide program could be used to purchase restaurant equipment.

Councilmember McIntire asked if staff is speaking to vendors directly, rather than just by email. Mr. Siemerling stated the Market Director, Cathleen Miller, spoke to them last Saturday.

It was the general consensus to move forward with approving the incentives as presented, with the addition of a food truck component.

Request to Purchase Competitive Negotiated Sale (CNS) Property: 25 West Church Street

Chris Siemerling, Economic Development Specialist, and Doug Reaser, Business Development Specialist, were present to review the Mayor and City Council's consideration of a purchase offer of the City-owned property at 25 West Church Street.

This property has been advertised for sale as part of the City's Competitive Negotiated Sale (CNS) program. Mr. David Blackmon of Marketplace, LLC has submitted an application and purchase price offer.

Mr. Blackmon's purchase offer is as follows:

1. Purchase price for 25 W. Church Street building - \$ 1.00
2. Purchase price of accompanying parking lot: \$ 400,000 over 5 years
3. Hagerstown Fire Department will enter into a lease for 24 months from the date of settlement at a rate of \$ 1.00 annually, with consideration for extension if mutually agreed upon
4. Right of first refusal
5. The use for the property would be to maintain ownership of the building long term, and convert it into a brewery/distillery/winery and community-based entertainment district.

Mr. Reaser informed the group that Mr. Blackmon currently has two operations. This one will be known as Hub City Brewery. Employment is expected be 2 full time positions and 20 part time positions.

It was the general consensus of the Mayor and City Council to include introduction of the ordinance to approve the sale of 25 W. Church Street on the November 23, 2021 Regular Sesion Agenda. Language will be included to permit the potential owner to enter the building prior to the sale for the purpose of beginning the inspection period.

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

*Scott A. Nicewarner, City Administrator* reminded everyone that City offices will be closed on Thursday, November 11, 2021 in observance of Veteran's Day.

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

*Councilmember T. Martinez* had no additional comments.

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

*Councilmember T. Burnett* had no additional comments.

*Councilmember R. E. Bruchey, II* thanked and honored the veterans who have served and passed on. He hopes the issue of not being able to hire qualified individuals for the police department is resolved soon. He hopes this is resolved as contract negotiations begin and to also address why officers are leaving.

*Councilmember S. McIntire* had no additional comments.

*Mayor E. Keller* thanked all veterans. She wished her daughter a happy 14<sup>th</sup> birthday.

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 5:25 p.m.

Respectfully submitted,

*Original signed by D. K. Spickler*

Donna K. Spickler  
City Clerk

Approved: January 25, 2022