

SPECIAL SESSION (38TH VOTING SESSION), EXECUTIVE SESSION, AND WORK SESSION
APRIL 5, 2022
MAYOR AND CITY COUNCIL HAGERSTOWN, MARYLAND
SPECIAL SESSION (38TH VOTING SESSION), EXECUTIVE SESSION, AND WORK
SESSION – April 5, 2022

EXECUTIVE SESSION – April 5, 2022

Mayor Keller called the Executive Session to order at 3:03 p.m.

Councilmember S. McIntire made a motion 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)), and to conduct collective bargaining negotiations or consider matters that relate to the negotiations; (#9) (Section 3-305(b)), on Tuesday, April 5, 2022 at 3:03 p.m. in the Council Chamber, 2nd floor, City Hall, Hagerstown, Maryland. Councilmember T. Burnett seconded the motion.

Motion carried, 3-1 with Councilmember K. B. Aleshire voting No. Councilmember T. Martinez 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, Jill Thompson, Director of Community and Economic Development, Don Francis, Director of Human Resources, Rodney Tissue, City Engineer, Chris Siemerling, Economic Development Specialist, Doug Reaser, Business Development Specialist, Wes Decker, Communications Manager, and Donna K. Spickler, City Clerk.

The meeting was held to review a business proposal and to discuss terms of AFSCME 1540 and AFSCME 3373 labor contracts. No formal action was taken at the meeting. On a motion duly made, seconded, and passed, the meeting was adjourned at 3:54 p.m.

SPECIAL SESSION (38TH VOTING SESSION) AND WORK SESSION – April 5, 2022

Mayor E. Keller called this Special Session (38th voting session) and Work Session of the Mayor and City Council to order at 4:08 p.m., Tuesday, April 5, 2022 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, City Attorney Jason Morton, and City Clerk D. K. Spickler.

Work Session – April 5, 2022

Proclamation: National Poetry Month

Councilmember Martinez read a proclamation naming April, 2022 as National Poetry Month in Hagerstown. Mr. Khary Tolliver (poet and author) accepted the proclamation.

Special Recognition: Afegenwi Minang

Mayor Keller presented a certificate of Special Recognition to Afegenwi Minang in Recognition of his recent debut book series entitled Art Man – Black Out. Being an author and publishing a book is an incredible achievement, and the Mayor and City Council commended him for his hard work and dedication to making his dream become a reality. Mr. Minang is 12 years old, making this achievement even more significant.

Proposed Charter Amendment

Lindsey Rader, Funk & Bolton, was present to review a draft Charter Amendment Resolution.

The issuance of general obligation bonds, notes or other evidences of indebtedness by a Maryland municipality, absent other specific statutory authority, is governed by Sections 19-301 to 19-309, inclusive, of the Local Government Article of the Annotated Code of Maryland (the “Enabling Act”) and by the municipality’s charter. Generally, to the extent a charter does not provide for certain details, then the provisions of the Enabling Act control. The Enabling Act allows a municipality to amend its charter to provide for different procedures or details than those set forth in the Enabling Act.

Ms. Rader noted certain other Maryland statutes also contain authority for the issuance by a municipality of general obligation debt for specific purposes, including, for example, provisions of the Environment Article regarding loans from the Maryland Water Quality Financing Administration and provisions of the Housing and Community Development Article regarding loans from the Maryland Community Development Administration for infrastructure projects, any of which loans are papered by general obligation bonds of the borrowing municipality.

Article VII, Section 717 of the City’s Charter currently provides as follows:

Section 717. Bond Issues – Borrowing.

The city shall have the power to borrow money for any proper public purpose in accordance with the provisions of the Annotated Code of the Public General Laws of Maryland; and, to evidence such borrowing by the issue and sale of its general obligation bonds, notes or other evidences of indebtedness in the manner prescribed by the Annotated Code of Public General Laws of Maryland, except that any such bonds, notes or other evidences of indebtedness may be sold by negotiation at private sale without solicitation of competitive bids if the ordinance or resolution authorizing such borrowing so provides.”

In order to sell general obligation debt directly to a bank, the United States of America (for any of the United States Department of Agriculture loan programs), or in a negotiated underwriting, A Maryland municipality must have what is known as “private sale” authority in its Charter. The City has had that authority in the existing Charter Section 717 for years.

The City often sells larger issues of general obligation bonds (typically \$5 million or more in original aggregate principal amount) by a method customarily referred to as “public sale by competitive bid” or “at public sale by the solicitation of competitive bids” or similar terms. (Issues smaller than \$ 5 million may also be sold by this method for various reasons.) Section 717 of the Charter does not specify the procedures for such method of sale; therefore, the Enabling Act provisions control when the City uses that method of sale.

For a public sale by the solicitation of competitive bids, the sale date and time is set ahead of them and, on that date, the City receives electronic bids over an electronic platform. The terms of the sale are set forth in a very detailed notice of sale. With this method of sale, the only variables that bidders may specify are (i) the interest rate (coupon rate) for each maturity, (ii) whether any run of stated maturities will be combined to form a term bond, and (iii) the purchase price over par (principal amount) that a bidder will pay to purchase the issue. Firms that have the ability to underwrite the issuance of municipal bonds (such as Robert W. Baird & Co., Janney, JPMorgan Chase, etc.) submit bids at the stated date and time and, working with the City’s financial advisor, the City determines the firm that submits a bid with the lowest true interest cost. The winning bidder’s bid is subject to adjustment as to principal amount (and, correspondingly, purchase price) in accordance with the terms of the notice of sale, in order to make sure the City does not end up with more proceeds than it needs for the purpose of the issue.

Absent contrary provisions in a charter, the Enabling Act provides that for a public sale at competitive bid the full notice of sale must be published at least twice in a newspaper of general circulation in the municipality, with the first publication being at least 10 days prior to the sale. The notice of sale is also included as an appendix to the Preliminary Official Statement for the general obligation debt in question. The Preliminary Official Statement is a disclosure document that contains information regarding the terms of the issue as well as financial, economic and demographic information concerning the City.

Underwriting firms that routinely submit bids for public sales at competitive bid used to subscribe to newspaper clip services that gathered notices of sale published in newspapers across the country. Once use of electronic bidding platforms and the ability to post Preliminary Official Statements electronically became the standard, underwriting firms discontinued such newspaper clip service subscriptions. They now get their sale information from the notice of sale included in or with the Preliminary Official Statement as posted to a special website used for the submission of electronic bids. Notices of sale are lengthy, and the costs to publish them twice in a newspaper can be significant.

Ms. Rader recommends that the City amend Charter Section 717 in order to allow the City to dispense with the two times publication requirement regarding notices of sale when the City sells general obligation debt by public sale at competitive bid. Because she recommends the City amend the Charter for that purpose, she also recommends that the City expand that Charter Section to set forth the procedures to be followed when

authorizing general obligation debt and to give the City some additional flexibility as described below.

The proposed Charter Amendment Resolution confirms that City general obligation debt may be sold by private sale or at a public sale (which are the terms now used in the Enabling Act). The proposed Charter Amendment Resolution gives the Council the option for any general obligation debt sold at public sale by solicitation of competitive bids to determine to publish the full notice of sale, to publish only a summary notice of sale, or to disseminate the notice of sale in any then-customary manner (without any publication), and specifies that if the Council chooses to publish the full or summary notice of sale, publication may be in a newspaper of general circulation in the City only one time at least 7 days prior to the sale (rather than twice). The proposed Charter Amendment Resolution also (i) confirms that certain details of a general obligation borrowing may be determined or provided for by resolution after the Council first enacts an ordinance specifying certain details (which has been the city's standard practice), but reserves to the Council the right to determine or provide for all details of a particular financing by ordinance, (ii) provides that general obligation debt may be sold at, above or below par value, and (iii) specifies that general obligation debt may be sold for cash or other valuable consideration (absent this provision, debt may only be sold for cash). Allowing the City to sell debt for less than par value will be helpful if the City sells general obligation debt through a negotiated underwriting.

The proposed Charter Amendment Resolution gives the City flexibility. It does not take away any of the City's current power with regard to general obligation debt. It will be the Council's choice what method of sale or procedures to use for any general obligation debt issue on a case-by-case basis.

It was the general consensus to move forward with the proposed Charter Amendment Resolution. It is proposed that the Charter Amendment Resolution be introduced at the Regular Session on April 26, 2022, that a public hearing regarding the Charter Amendment Resolution (which is now required by Maryland law) be held on May 10, 2022, and that the Charter Amendment Resolution be considered for adoption at the Regular Session on May 24, 2022.

FY23 Budget Initial Discussion

Scott Nicewarner, City Administrator, and Brooke Garver, Accounting and Budget Manager, presented the FY23 Proposed Budget to the Mayor and City Council. On March 31, 2022, copies of the FY23 Proposed Budget were distributed and an electronic version was made available on the City's website.

Mr. Nicewarner thanked the Finance staff for their hard work in putting the proposed budget together. He noted Michelle Hepburn, Chief Financial Officer, is not able to be present during this presentation.

This will be the first year the City of Hagerstown will not be eligible for the GFOA Award due to changes in their criteria.

The proposed budget is being presented without a real property tax increase and maintaining the current level of services to citizens. The City is still facing challenges.

This past year, the Hagerstown community, along with the state, the nation, and the world continued to recover from the ramifications associated with the COVID-19 pandemic. Though initially seeing the first “back to normal” period in the Summer months, the late Fall and Winter found the City and surrounding community in the grips of the worst outbreak of the disease since the beginning of the pandemic in March, 2020. However, even during the bleakest months, which saw many City staff members contract COVID, the guidelines and processes put in place during the initial months of the pandemic allowed the City’s dedicated staff to continue offering high-quality and timely services to citizens. It was also during this time that City staff were able to transition operations in ways that directly impacted citizens to allow for the ability to directly connect to the community.

FY23 is the third year of the triennial assessment period which means that real estate market values will be reassessed again in December, 2022. In addition, there have been some new developments, as well as renovations within the City’s enterprise zone area. Based on the current data available from the State Department of Assessments and Taxation (SDAT), the City anticipates that there will be overall growth of 3.5% in total property tax revenue dollars. There is a concern that assessed values may not increase to the anticipated levels, mainly due to the effect of urban blight. Mr. Nicewarner stated the City will be taking an aggressive stance toward addressing blight, especially in the urban core. The focus of this initiative is to bring the quality of life to neighborhoods that all citizens deserve. The infusion of \$ 500,000 from the Federal Government in the FY23 budget will allow the City to identify and either demolish those structures beyond repair, or rehabilitate those that remain viable and move them into the hands of homeowners. An additional \$ 500,000 of ARPA money will ensure the City will be able to continue this effort into the next calendar year.

The Mayor and City Council made a commitment in their goal setting sessions to ensure that employees experienced increases in salary/wages to compete with other markets. Staff have done this within the budget through both union contract offerings and the non-union pay scale. It is important that the City pay a marketable wage for all positions, yet not a wage that puts the City behind the eight-ball related to sustainability as recognized through the percentage of the general fund that accounts for this expense. Th City cannot grow, however, without the ability to attract and retain the best available candidates for all City positions and staff believe this budget allows for that.

Mr. Nicewarner pointed out the City continues to receive huge amounts of interest from prospectors and developers of all forms of business not only in the brownfield areas but also the urban core. The pending construction of the Multi-Use Sports and Events Center, as well as the Hagerstown Indoor Turf Facility at the location of the former Municipal stadium, are just two examples of what many see as quality-of-life

improvements they want to capitalize on. This proposed budget maintains the level of economic incentives which are setting Hagerstown apart as a destination of choice for those looking for quality development land, a solid water, wastewater and electric utility infrastructure, and a vibrant community quality of life. The strategic plan produced by the Mayor and City Council provide the framework of moving this momentum forward toward additional opportunities for business attraction and quality of life that a business looking to either begin or relocate a business would be proud to be a part of.

Ms. Garver stated the American Rescue Plan Act (ARPA) of 2021 provided the City of Hagerstown a total of \$ 20.4 million. \$ 10.2 million was received in May 2021, and the remaining \$ 10.2 million in funding is scheduled to be received in May 2022. The funding must be spent or appropriated by December 2024. The seven federal expenditure categories are Public Health, Negative Economic Impacts, Services to Disproportionately Impacted Communities, Premium Pay, Infrastructure, Revenue Replacement, and Administrative. FY21 expenditures total \$ 2.2 million. FY22 projected expenditures are \$ 2.2 million and FY 23 proposed budget expenditures are \$ 7.9 million. FY23 proposed expenditures include a Grant Coordinator position in the General Fund and various General Fund and Wastewater Capital Improvement Projects.

Staff used the Mayor and City Council's strategic plan and noted the funding to meet the goals of the plan.

The proposed budget will be reviewed each week in April and May, 2022. A Public Hearing regarding the Property Tax Rate and FY23 Budget is scheduled for May 10, 2022.

Planning Commission Recommendation to Mayor and City Council: Conversion District Overlay at 535 Summit Avenue (Surrey School)

Megan Flick, Planner, was present to review the Planning Commission's recommendation that the Mayor and City Council approve Case ZM-2022-01 for a Conversion District Overlay at 535 Summit Avenue.

The property is an existing vacant building that was previously occupied by a day care center and before that a public school. It is located on Summit Avenue and also has frontage on Virginia Avenue facing City Park. The applicant wishes to create a boutique hotel with associated accessory uses including a restaurant with outdoor dining. The proposal also includes additions on either side of the building and Virginia Avenue frontage. Parking would be created for guests in the Summit Avenue frontage and for staff behind the building.

The Planning Commission held a public review meeting on February 23, 2022. Members expressed enthusiasm over the applicant's proposal. No public input for this case has been received. There are no other specific requests or recommendations from the Commission aside from the stipulation that outdoor dining will be permitted with a pending text amendment.

Mayor Keller stated this project is exciting.

Councilmember Aleshire is concerned that a lot of the traffic will be traveling on Summit Avenue for this project. He is surprised no one expressed concern about this. He stated it seems odd that the parking will be on the Summit Avenue side of the property.

Councilmember Bruchey thinks the proposed use is absolutely the best use for the property.

A Public Hearing before the Mayor and City Council is scheduled for April 26, 2022.

Review of Central Lot Addition to the Competitive Negotiated Sale Program

Doug Reaser, Business Development Specialist, was present to review the Central Lot, and the possibility of adding these sites to the City's Competitive Negotiated Sale (CNS) program with the goal of transferring the property to the private sector for redevelopment.

DCED staff have received inquiries about potential sale of portions of the Central Parking lot to private entities for redevelopment. The site was previously included in the Community City Center Plan as Catalyst Project #1 for Class A office space. A developer had responded to a RFQ but the agreement has since expired. Including two sites on the Central Lot would eliminate future surface parking. Site A would eliminate 48 parking spaces while Site B would eliminate 16 parking spaces. Staff reviewed potential traffic impact if Site A is included on the CNS list and determined that building a structure fronting onto Potomac Street will have no impact on the Potomac/Washington intersection's level of service.

Councilmember Bruchey noted eliminating the parking spaces actually subtract from the value of the Elizabeth Hager Building since it will not have adjacent parking.

Mayor Keller pointed out there is a parking deck across the street and other surface spaces available. She noted the Elizabeth Hager Building has been on the CNS list for a year and no offers have been made. Mr. Reaser stated there has been interest in the building.

Councilmember Aleshire thinks the relocation of Customer Service to the building at 32 N. Potomac Street will have an impact on traffic flow. He would prefer to wait for a couple years after the relocation occurs to consider adding these sites to the CNS list.

The consensus of the Mayor and City Council is to add the sites to the CNS list at this time, instead of waiting. Formal approval will be included on the April 26, 2022 Regular Session agenda.

National Opioid Distributors and J & J Settlements Update

Jason Morton, City Attorney, was present to provide an update of the opioid distributors acceptance of national settlement agreements and the City's responsibilities under those agreements.

The City of Hagerstown is a party of two agreements, one is a settlement against the producer and the other is an allocation agreement with the State of Maryland. The Attorney General requires all parties to segregate settlement funds and show how the funds are spent. The City of Hagerstown already has a separate grant fund program set up that is totally separate from general City accounts. The program allows separate listings for projects and is completely trackable. This fund will satisfy the Attorney General's requirement. Mr. Morton stated he is not able to provide a dollar amount of the settlement at this time.

Mr. Nicewarner stated a Special Session will immediately follow this Work Session. The Special Session includes a motion for consideration that establishes how the funds will be handled in compliance with the agreement with the State of Maryland. Formal action is not typically completed for an item just discussed in Work Session; however, this is time sensitive and needs to be completed before the next Work Session.

SPECIAL SESSION (38TH VOTING SESSION) – April 5, 2022

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 meet in Special Session at 4:58 p.m.

Approval of a Motion Authorizing, Approving, and Directing the Deposit of All Funds Paid to the City in Connection with its Litigation Against Contributors of the Opioid Addiction Crisis into the City's Special Grant Revenue Fund

Action: On a motion duly made by Councilmember K. B. Aleshire and seconded by Councilmember S. McIntire, the Mayor and City Council unanimous agreed by voice vote to approve a motion authorizing the City to deposit all funds which it receives by virtue of the State Subdivision Agreement dated January 21, 2022 ("the Agreement") into the City's Special Grant Revenue Fund, which will allow the City to segregate and separately track all funds received and spent by utilizing various accounts and projects by virtue of the Agreement. In addition, the City will establish a separate non-pooled bank account to monitor and track these funds. The Agreement is the mechanism by which the City receives its share of the settlement funds realized by virtue of its participation in the Distributor Settlement Agreement (dated 7/21/21) and the Hannsen Settlement Agreement (dated 7/21/21) (collectively "the National Agreements."). The City anticipates receiving additional opioid litigation settlement funds by virtue of additional national agreements. Said additional funds shall be allocated among the subdivisions in accordance with the Agreement. And

said additional funds will likewise be deposited into the Special Grant Revenue Fund, without the need for further motion.

Approval of Purchase of One Vehicle for Police Use – Gene Latta Ford (Hanover, PA) \$ 22,034.00

Action: On a motion duly made by Councilmember S. McIntire and seconded by Councilmember T. Burnett, the Mayor and City Council unanimously agreed by voice vote to approve the purchase of one vehicle for police use. These vehicles will be purchased from Gene Latta Ford in Hanover, Pennsylvania, for a total of \$ 22,034.00.

Funding will be from HPD’s Vehicle CIP Account #C0129.

The Special Session was closed at 5:00 p.m.

CITY ADMINISTRATOR’S COMMENTS

Scott A. Nicewarner, City Administrator, reminded everyone auction of the seats at Municipal Stadium will be held on Wednesday, April 6, 2022 at 6:00 p.m. sharp.

MAYOR AND COUNCIL COMMENTS

Councilmember S. McIntire had no additional comments.

Councilmember R. E. Bruchey, II had no additional comments.

Councilmember T. Burnett and Councilmember T. Martinez celebrated National Women’s History Month last week at an event at the Boys and Girls Club. She noted it was a good event.

Councilmember K. B. Aleshire congratulated his daughter Greenlee, who placed first in the FFA Creed speaking contest at Clear Spring High School.

Councilmember T. Martinez will be hosting Open Mic night at the Black Box Theatre on April 24, 2022. This event is held every third Sunday. She recognized the hard work of the Economic Development staff, in particular Chris Siemerling. Her mother recently had a conversation with Mr. Siemerling and she was pleased with how Mr. Siemerling talked with her. There have been times when Councilmember Martinez’s mother has been treated poorly and it means a lot when her mother says she had a good experience.

Mayor E. Keller noted Doug Reaser also is great to work with. She thanked Horizon Goodwill for hosting a carnival for homeless youth. She also thanked Councilmember Martinez’s daughter for helping with the event. She offered congratulations to Fred Chavis, who was sworn in as the President of the NAACP recently.

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Mayor Keller received a request for a letter of support of the HELPER Act, which is a bipartisan federal bill that would aid the City’s police, firefighters, EMTs, and teachers. It was the general consensus to provide the requested letter.

There being no further business to come before the Mayor and City Council, on a motion duly made, seconded and passed, the meeting was adjourned at 5:05 p.m.

Respectfully submitted,

Original signed by D. K. Spickler

Donna K. Spickler
City Clerk

Approved: April 26, 2022