

WORK SESSION – November 14, 2023

Mayor T. Martinez called this Work Session of the Mayor and City Council to order at 4:02 p.m., Tuesday, November 14, 2023, in the Council Chamber at City Hall. Participating with the Mayor were Councilmembers K. B. Aleshire, T. Burnett, S. McIntire, and M. J. Schindler, City Administrator Scott A. Nicewarner, and City Clerk D. K. Spickler.

Council Vacancy

Mayor Martinez announced that during the November 7, 2023 Executive Session, the Council discussed appointing Peter Perini to fill the Council vacancy. It is the Council's intent to formally appoint Mr. Perini at the November 21, 2023 Regular Session. He will receive the Oath of Office and take his seat following the appointment. The Council feels Mr. Perini is the best choice for the vacancy.

Special Recognition: Steve Lohr, Hagerstown Fire Chief

Mayor Martinez read a Special Recognition Certificate recognizing Fire Chief Steve Lohr for his dedication to fire service since 1971. Steve was recently honored as the William F. Foster Outstanding Service Award Honoree at the Spartan Emergency Response 2023 Fire Truck Training Conference in Lansing, Michigan.

Preliminary Agenda Review

Mayor Martinez announced that Citizen Comments for the November 21, 2023 Regular Session will be welcome either in person or by submitting comments by email to [councilcomments@hagerstownmd.org](mailto:councilcomments@hagerstownmd.org) by 5:00 p.m. that day. If by email, the submitter's name, address, and a summary of the comments will be announced during the Citizen Comments portion of the meeting. The email will not be read in its entirety, but it will be included in the public record for the meeting and may be viewed by the public at any time.

**Consent Agenda**

A. Engineering:

1. Greens at Hamilton Run Stream Restoration Surveying and Construction Management Services – Frederick Seibert & Associates, Inc. (Hagerstown, MD) \$ 55,380.00

B. Fire:

1. Turnout Gear Replacement – Witmer Public Safety Group (Williamsport, MD) \$ 36,280.00

C. Planning and Code Administration:

1. 2024 Ford Maverick – Keystone Ford (Chambersburg, PA) \$ 27,330.00

D. Police:

1. 2023 Ford Explorer – Keystone Ford (Chambersburg, PA) \$ 39,700.00
2. Two 2023 Ford Inceptor Utility AWD Vehicles (\$ 44,596.00/each) – New Holland Auto Group (New Holland, PA) \$ 89,192.00

E. Public Works:

Pricing for Builk Diesel Fuel and Gasoline Purchase is the total Washington County bid price – the original City Purchase Order for each component will be the approved FY24 budget totals.

1. Bulk Diesel Fuel and Gasoline Purchase – Tank-Wagon Deliveries – A. C. & T. Co, Inc. (Hagerstown, MD) \$ 449,930.29
2. Bulk Diesel Fuel and Gasoline Purchase – Transport Deliveries – Petroleum Traders Corporation (Fort Wayne, IN) \$ 3,390,993.50
3. Rental of 20 Golf Carts for The Greens at Hamilton Run Golf Course – Capitol Golf Cars & Utility Vehicles, LLC (Frederick, MD) \$ 149,414.40
4. Two 2024 Ford F-150's for Parks (Replacing # 302 and # 313) – Keystone Ford (Chambersburg, PA) \$ 88,400.00

F. Utilities:

1. Water: Fire Hydrant Purchase – Core & Main (Martinsburg, WV) \$ 81,129.24
2. Wastewater: Muffin Monster Bottom Purchase – JWC Environmental (Santa Ana, CA) \$ 49,275.00
3. Wastewater: Ferric Pumps – Sherwood Logan (Annapolis, MD) \$ 24,470.00
4. Wastewater: Liquid Oxygen Purchase – AIRGAS USA, LLC (Horsham, PA) \$ 24,340.00
5. Wastewater: Oxygen Building Roof Repair – Bonded Applicators, Inc. (Waynesboro, PA) \$ 12,366.00
6. Wastewater: UV Bulbs and Assemblies – Veolia Water Technologies Treatment Solutions USA, Inc. (Leonia, NJ) \$ 41,530.20
7. Wastewater: Methanol Metering Pumps – Sherwood Logan (Annapolis, MD) \$ 28,194.00

Ms. Spickler noted approval of an open container exemption for the Christkindl Markt will be added to the Consent Agenda for November 21, 2023. An Executive Session at 6:15 p.m. will also be added to the meeting schedule for November 21, 2023.

There were no other questions or comments.

This completed the Preliminary Agenda Review. There were no additional questions about any items. All items, unless noted, are scheduled for approval on November 21, 2023.

Fire Response Discussion

Steven Lohr, Fire Chief, was present to discuss fire services outside the City limits. This has been a legacy issue for at least 6 years. He and the command staff do not recommend not extending resources outside the City. The City's fire department relies

on other companies and other companies rely on the City's fire department. This issue should not be balanced on the backs of citizens in either the City or the County. Several years ago, a plan was developed for the closest resource response. He cannot morally suggest that plan be removed.

There have been meetings with 5 County Administrators, 3 Finance Directors, and 3 City Administrators over the past 5 years and there has been no meeting scheduled to discuss a fair City fire funding plan with the County Commissioners. There has been no written response. He strongly recommends not denying any citizen fire service.

Councilmember Aleshire stated this is not a complicated issue for him. For mutual aid discussions, it needs to be clarified that there is no other Washington County municipality that provides a paid fire service, but all municipalities received the exact same tax differential – which is 12 ½ cents. He pays \$ 1,200 in City taxes and \$ 1,200 in County taxes. Approximately \$ 75 of his County taxes provide funding for the County's Fire and Rescue responsibility. Hagerstown officials have determined they expect more service for their citizens and decided to fund a City fire system, which is provided through the City taxpayers at approximately \$ 300 to \$ 400 of their taxes. As a resident, he expects and understands that he receives additional fire service. The reality is that just two streets away from him (just outside the City limits), a resident would still receive service from the Hagerstown Fire Department. That resident is only paying \$ 75 for the service. The situation is similar for police services; however, the County recognizes the duplication of services for the police department and includes those costs in the differential calculation. There is no consideration of the duplication of services for fire service. Fire funding is not the only duplication of services that is not considered. As a City taxpayer, he doesn't pay the taxes for fire service with the expectation it will be used somewhere else in the County. Another component of the issue is that the County looks at the volunteer fire system and determines those companies should receive additional funding because the City provides a higher level of service to its citizens. This can't continue.

Chief Lohr stated he agrees with Councilmember Aleshire as a taxpayer. But, as Fire Chief, he can't morally not respond to someone who needs assistance, no matter where they are.

Councilmember Aleshire asked if he should assume that the Washington County volunteer fire, rescue, and emergency medical system is adequate to provide the service.

Chief Lohr stated it is adequate in the eyes of the County government. He has attempted to discuss changes to the governance and funding for all the fire and EMS services for 8 years. Nothing has changed in that time.

Councilmember Aleshire recalled sitting at this table and providing a chart of the coverage to the County Commissioners. They said they would take the information and review the numbers. Chief Lohr stated nothing ever came of that review.

Councilmember Aleshire noted in the interim, the Mayor and City Council have received report after report from the Hagerstown Fire Department about responses to incidents outside the City limits. As a representative of Hagerstown's 40,000 taxpayers who pay an extra \$ 400 in taxes, it is difficult to hear the service might not be available because the firefighters are on another call.

Chief Lohr stated the fire department's established limit on mutual aid is 2 engines and 2 ladder trucks. Reaching the limit happens infrequently. The closest resource governance is the main issue. He started trying to discuss this issue with the County in 2016 and nothing has changed. He needs political help to get it moving.

Councilmember Aleshire stated the life span of apparatus is about 8 years. Volunteer companies can't afford to purchase apparatus or build a building. The volunteer companies aren't staffed at the same levels as they were years ago. The City is now an 80% contributor to the fire service. He is assuming purchases of apparatus for the Hagerstown Fire Department is not reimbursed by the County.

Chief Lohr stated fuel is not covered. There is some funding but a small portion of that makes it to the departments. The City fire department utilizes 4 of the City's facilities. Those volunteer companies would argue that the City fire department doesn't pay rent and would also ask what the City would do if they weren't able to use those facilities.

Councilmember Aleshire asked what the other municipalities would do. Saying the City fire department gets the building space for free isn't reflective of the greater financial deference that those stations located in other municipalities receive.

Chief Lohr stated one of the reasons he lives in the City is because of the increased services residents receive. The quicker response time for the Hagerstown Fire Department is important. There are no standards for the County's response time. Residents are not aware that most volunteer stations are not manned 24/7. He thought this fact would generate a more immediate response and change in the system. He feels the biggest obstacle is the cost of manning a station, but no one wants to discuss this. As long as City residents continue to pay \$ 475 there isn't an incentive to change things.

Chief Lohr agrees the financial aspect is significant, but the volunteer companies don't have the same moral obligation. The Hagerstown Fire Department runs almost 10,000 calls per year, compared to Funkstown Volunteer Company who runs 1,200. The primary benefactors are Funkstown and Halfway.

Councilmember Aleshire attended meetings of the volunteer companies north of the City and they wished the City would stop annexing because it takes away from their fundraising area. Chief Lohr stated that is an empty argument for those companies as fund drives only contribute 20% of their revenue. All those areas were formed on tax districts and had nothing to do with services.

Councilmember Schindler stated no one wants a house just outside the City limits to burn down because the City's fire department didn't respond. That can't happen. Public Safety is the most important service. He asked what other tools can be used to try to solve this issue or to raise awareness of what is happening in order to start a dialog.

Chief Lohr would be happy to participate as a taxpayer. Water issues and the tax differential are important to him. If the City can't meet with the Commissioners for an open and honest discussion about fair funding and water service, it is a big issue for all the other plans for urban growth. These include annexation and overcrowding at City schools. He doesn't know what message is strong enough to get things to the table for discussion.

Councilmember Aleshire stated there are only 4 municipal fire companies in Maryland. They are Annapolis, Salisbury, Cumberland, and Hagerstown. Allegany County and Cumberland have a fiscal policy that offsets that partnership. Annapolis has a different means for recognizing the paid service. Salisbury's department is treated similar to a contractor type service. Hagerstown does not have the same relationship as those jurisdictions do because here the differential is a County responsibility. He reminded everyone that people living in the City also pay County taxes. Several services are considered in the tax differential, but paid fire service is not.

Councilmember McIntire stated the key is to gain the support of the people who are unfairly paying for services that they aren't receiving. She recognized Chief Lohr has been trying for 8 years to get things changed without success.

Chief Lohr asked if anyone has seen this issue explained in the Herald Mail newspaper.

Mr. Nicewarner stated it has been discussed during open joint meetings with the County Commissioners. The tax differential was explained in an easy-to-understand way.

Councilmember Burnett stated the City can continue to provide the information to residents through social media and the City's website.

Mr. Nicewarner stated it seems honest discussions only occur around election times. This issue should not have to be put off until the next election. This is about what is right and fair and what is not. The City may not always be right, but they aren't always wrong either. There has to be an honest discussion. He and the former County Administrator hoped the joint meeting at the Water Treatment plant would generate the desire for a deeper discussion. Instead, it turned out to be a meeting where the County questioned what the City does. Everyone needs to understand what is provided by the City and how it is provided and what is fair and what is not fair.

Chief Lohr pointed out fair level funding between the City and the County started prior to World War II.

Councilmember Aleshire visited all 109 stations in 2009 as a County Commissioner. He thinks the County looks at the differential in terms of the operation of the municipalities in lieu of the County having to provide that service. The annual cost for the Hagerstown Police Department is \$ 46 million and the differential is calculated to be \$ 14 million. If the volunteer system folded tomorrow, it would cost a significant amount to provide the service. If the City's paid fire department folded tomorrow, the County system would not be able to function. He doesn't think that portion of the differential is understood. He thinks the other components are adequately reviewed. The costs for services has changed significantly from 14 years ago. The bottom line is the City taxpayer shouldn't pay \$ 475 toward fire service while County taxpayers pay \$ 75. Everyone should be paying about \$ 250 per year. Fire service is the only service that is not included in the differential calculations.

Mayor Martinez recalled this was discussed soon after she and Councilmember Burnett were elected, and they vowed to get it on an agenda for discussion during this administration. If the elected bodies can't get together and discuss it, residents will never understand.

Councilmember Burnett stated the tax differential and fair funding for fire services should be the next topic for a joint meeting.

Mr. Nicewarner stated potential topics include the tax differential and a collaborative discussion of the water resource issue in order to reach a group consensus to determine how to provide services so development does not go to Pennsylvania or West Virginia. Another topic is the City's future role in the Narcotics Task Force (NTF). There is a rumor that the City is leaving the NTF, which is not true. Things have changed since the NTF was created and the City can't afford to leave the NTF when 80% of the calls are within the City limits. The impact of eliminating the Emergency Services Advisory Council (ESAC) needs to be understood. These topics can't be discussed in just 15 or 20 minutes. He feels that the Mayor and City Council are willing to put the time in to discuss all these things but a willing partner in the discussion is needed. School capacity and how that affects the City's ability to provide services is another topic.

The 911 Center payment has been resolved through a collaborative effort. Mr. Nicewarner thanked the County for this. The City provides more services than other municipalities do, and that fact is worthy of a discussion.

Mayor Martinez pointed out this administration wants to have the conversation. The issues can't continue to be overlooked.

Councilmember Aleshire realizes specific public services can't be taxed and real estate taxes are intended to cover the services. He wonders if the City could tax properties outside the jurisdiction for specific services, such as fire response. He suggested exploring the possibility of billing for fire services outside the City limits.

Chief Lohr stated he agrees to billing philosophically, but it needs to be remembered that volunteer companies also respond to calls within the City limits.

Councilmember Aleshire stated the volunteer companies are supposed to provide the same service for all County residents (which all City residents are).

Chief Lohr stated there are services the Hagerstown Fire Department cannot provide, such as water rescues. Hagerstown does provide support for some of those calls. He doesn't want to bill for services because he is concerned it would be a back-and-forth billing for any calls.

Councilmember Aleshire stated there is no ability for County volunteer stations to charge for responding to another part of the County because they are required to respond to any portion of the County.

Councilmember McIntire thinks a community-wide discussion is needed since this affects all aspects of the County and growth. She would like to invite the Greater Hagerstown Committee (GHC), the Chamber of Commerce, and all other community partners.

Mr. Nicewarner stated the water plant discussion is being presented at the GHC meeting this week by City staff.

Councilmember Schindler stated if the discussions don't happen, he is prepared to take drastic actions.

Councilmember McIntire stated she is strong enough to start a difficult discussion.

Mayor Martinez stated all residents are part of Washington County and there should not be an "us" and "them".

Mr. Nicewarner will provide the list of potential topics for a joint meeting to the County Administrator.

#### Items for Joint Meeting with Washington County Commissioners

This agenda item is combined within the previous discussion.

#### Sponsorship Signage at Flying Boxcars Stadium

Scott Nicewarner, City Administrator, and Brittany Arizmendi, Community Engagement Officer, were present to discuss sponsor signage at the new stadium.

City staff met with the Flying Boxcars marketing team in October to discuss marketing the City both through their materials to customers and within the stadium. The City has purchased a ½ page ad in the gameday program, and a video presentation of upcoming City events like those shown before each movie at local cinemas. This video would be played during each home game for the 2024 season.

Staff is also interested in direction on placing signage advertising the City, Main Street Hagerstown, the Arts & Entertainment District or any combination of these within the Stadium. The initial thoughts are to place the signage either on the outfield fence or on the Summit Avenue side of the suites. The rate cards were provided for the Mayor and City Council's review and consideration.

The cost for a sign on the suite is \$ 20,000 over 3 to 5 years.

Councilmember Aleshire stated seeing the City logo in a stationary fashion doesn't tell him anything about Hagerstown. Ms. Arizmendi noted the video and program ad will be updated weekly.

Councilmember McIntire asked if the message on the scoreboard could be changed periodically. Mr. Nicewarner indicated it would be static for a specific time frame.

Councilmember Burnett stated she likes the idea of the video.

Mr. Nicewarner stated the sponsorship shows Hagerstown supports the new stadium.

Councilmember Aleshire is in favor of promotional information being presented but not the stationary sign.

Councilmember Schindler wondered if a bobblehead would be a good promotion. Mr. Nicewarner thought maybe there could be a City night or the Department of Community and Economic Development could rent a suite.

The consensus is to place an ad in the program and the video presentations and not purchase a sign. The funding for a sign could be used for City nights or other promotions.

Request to Purchase Community Development Block Grant (CDBG) Property: 263 S. Prospect Street

Margi Joe, Community Development Manager, and Amanda Gregg, Business/Community Development Finance Specialist, were present to review a proposal from Sven Alstrom to purchase property at 263 S Prospect Street as part of the City's CDBG Homeownership Program. The following is a summary of the request:

1. Complete eligible application packet and contract offer received on October 5, 2023 from Sven Alstrom to purchase 263 S. Prospect Street
2. Proposed purchase price is \$ 185,000, matching both asking price and appraisal that was completed on March 24, 2023
3. Commission to be paid to buyer's agent (2.5%): \$ 4,625.00

The vacant home at 261-263 S. Prospect Street was purchased in April, 2015 with Community Development Block Grant (CDBG) funding for the purpose of rehabilitating

the property and offering the renovated units to eligible homebuyers through the CDBG Homeownership Program.

The original single-family dwelling had previously been converted into four substandard rental dwellings and due to the poor condition and inferior layouts of the existing units, reoccupying the structure as a four-unit rental property would be a strain on the South Prospect Street neighborhood and surrounding property values would continue to be negatively impacted.

Renovations to the structure transformed the four substandard apartments into two duplex units with high end finishes. Because the project was financially sourced by CDBG funding, the sale of at least one of the two units is restricted to CDBG income-qualified households. The current applicant has been determined to be qualified under current HUD income guidelines. Under the City's CDBG Homeownership Program guidelines, Mr. Alstrom will be required to occupy the property as his principal residence for five years after the purchase.

Staff recommends moving forward with the sale of 263 S. Prospect Street to Mr. Alstrom with the terms mentioned previously. These terms are reflected in the sale contract which is part of the meeting material.

It was the general consensus to accept the offer and to include approval of the sale on the November 21, 2023 agenda.

#### Request for Proposals (RFP) for Upper Floor Housing Grant Program

Margi Joe, Community Development Manager, and Doug Reaser, Economic Development Manager, were present to review a draft Request for Proposal (RFP) for the Strategic Properties Grant.

The City of Hagerstown has been awarded \$ 200,000 in Maryland Community Legacy grant funds to be applied to the renovation expenses to create the units in the Upper Floor Housing project.

The goal of the upper Floor Housing Grant is to provide matching funds for developers to adapt vacant or under-utilized upper floors for market rate housing targeting 12-40+ units per project, as a means of accelerating efforts to change the market conditions downtown. The RFP allows the City to award a single project or multiple projects based on scale. Grants will require a 1:1 match.

Ms. Joe stated the City has partnered with 6 developers since 2014 and 4 of those were funded through the Community Legacy program.

It was the general consensus to include authorization of the RFP on the November 21, 2023 Regular Session agenda.

Request for Proposals (RFP) for Strategic Properties Grant Program

Doug Reaser, Economic Development Manager, was present to review a Request for Proposal (RFP) for the Strategic Properties Grant program.

The City of Hagerstown has been awarded \$ 200,000 in Maryland Community Legacy grant funds to be applied to expenses to rehabilitate vacant/strategic properties.

The Strategic Properties Grant Program goal is to provide matching funds for developers to adaptively reuse large, vacant strategic properties as a means of accelerating efforts to lift property values and quality of life in the surrounding area. The RFP allows the City to award to a single project or multiple projects based on scale. Grants will require a 1:1 match.

Mr. Reaser stated commercial and residential properties are eligible to apply for this grant. Recipients will be able to layer these two grants for additional funding opportunities.

It was the general consensus to include authorization for the RFP on the November 21, 2023 Regular Session agenda.

Invest Hagerstown City Center Redevelopment Grant Application: 105-107 North Potomac Street (Junior Fire Hall)

Christopher Siemerling, Economic Development Specialist, was present to review an Invest Hagerstown City Center Redevelopment Grant Application for 105-107 North Potomac Street (Junior Fire Hall). The Review Committee believes this project meets the eligibility requirements of the program for approval.

The applicant is Firehouse Rentals, LLC and the request is for \$ 250,000.00. The estimated total project costs are \$ 642,602.44 and will create 10 new jobs within 2 years. The project is historic restoration and redevelopment of the Junior Fire Hall building. The project will restore historic features of the building and upgrade core systems to PEP standards with HVAC, sprinkler system, and the addition of an elevator for DA compliance. Once completed, the applicant has plans for the creation of an authentic Italiana Café on the first floor and an event center on the second floor which will utilize 3D projection mapping for historic tours, company events, and more. The project is expected to begin in the Fall of 2023 and be completed in the Summer of 2024.

The Invest Hagerstown City Center Grant requires a 2:1 match from the developer. Current plans are 80% complete, pending items from the State loan requirements, and additional/updated quotes are anticipated once the plans are fully completed that will meet/exceed \$ 750,000 in unique anticipated project costs.

The project was approved for the Partners in Economic Progress (PEP) Property Renovation Program and is pending State approval for the fire Suppression System Grant.

It was the general consensus of the Mayor and City Council to include approval of the grant on the November 21, 2023 Regular Session agenda.

American Rescue Plan Act (ARPA) Nonprofit Funding Recommendation

Michelle Hepburn, Chief Financial Officer, and Brooke Garver, Accounting and Budget Manager, were present to seek direction and approval to move forward to send notification letters to all nonprofit organizations that applied, prepare subrecipient agreements for the organizations that will receive funding, and reallocate existing ARPA funding from another category. This is a continuation of the discussion from the November 7, 2023 Work Session.

As a reminder, a Nonprofit Funding Request Program and Funding Guidelines were approved in July 2023. In addition to the application, other required documentation included: IRS designation letter, current certificate of good standing with the State of Maryland, project budget, and evidence of an active SAM.gov registration. Applications were received through 4:00 p.m. on September 1, 2023. As outlined in the application document, an internal staff subcommittee was established that reviewed the applications through October and prepared a spreadsheet to reflect a summary of all applications received. The spreadsheet is included with the meeting material. There was a total of fifty-five applications submitted. Of that total, forty-two met the overall eligibility requirements as outlined in the nonprofit guidelines.

The proposals are meant to respond to the negative economic impact nonprofit organizations experienced due to the COVID-19 pandemic and help provide support to the community to better serve the citizens of Hagerstown that fall within the categories outlined in the application: Children & Families, Seniors, Economic Recovery, Health/Health Disparities, Transposition, Mental Health, and Education.

Staff were provided with a total not to exceed \$ 600,000 for the nonprofit program with a maximum amount of \$ 50,000 per category that grant recipients could receive. As reviewed during the November 7, 2023 Work Session, the subcommittee's recommendation includes a request for additional ARPA reallocation in the amount of \$ 324,670 to fund eighteen organizations that scored a total of forty points or more. All organizations were scored utilizing the same matrix that was discussed in July and that was included in the application.

Councilmember McIntire understands there was a request from Gatekeepers for a basketball program. She thinks this is a duplicate of what ENVY is trying to do. Ms. Hepburn doesn't think the basketball portion would be a duplication. Gatekeepers will hit a different demographic than ENVY. Councilmember McIntire stated Gatekeepers is a partner in ENVY and she wants to make sure this request is completely separate from the ENVY program.

Mayor Martinez thinks the Gatekeepers program is to assist adults with re-entry into the community and not for at-risk youth.

Ms. Hepburn stated language can be included in the subrecipient agreement to ensure the funding is not used for a program similar to ENVY.

Councilmember Aleshire reviewed the list and doesn't feel there is justification to award funding beyond the \$ 50,000 for any of the highest scoring agencies. He asked what project Beacon House submitted for consideration. Ms. Hepburn indicated the request was funding to purchase 2 vans for transporting participants, but their budget did not include any purchase of equipment. Their request also included additional funding for contracted staff salaries.

Councilmember Burnett recalled there was an announcement last week that Beacon House was closing.

Councilmember Aleshire asked if CASA and CASA Western Maryland are the same entity. Ms. Hepburn indicated they are separate entities. CASA requested funds for replace the HVAC system at the Mulberry House.

Councilmember Aleshire asked for details for the request by the Washington County Museum of Fine Arts. Ms. Hepburn stated being funded through the City's Agency Contributions did not exclude them from applying for additional funding. Their request was not for a new exhibit but to cover costs for what is already in place.

Councilmember Aleshire was contacted by the Hagerstown Area Religious Council (HARC) about their application. He understands the religious organization exclusion, but it appears that they are asking for funding to address food insecurity. If that is accurate, he wondered why it didn't qualify as the guidelines clearly stated addressing food insecurity is an eligible activity. Ms. Hepburn stated that although the Micha's Backpack program is not a religious activity, all the supporting documentation referenced a religious organization.

Mayor Martinez pointed out some after school programs are in central locations at churches but aren't always run by the churches.

Ms. Hepburn stated the review group used the scoring matrix to review this and all applications. She pointed out this administration has provided funding to other organizations outside an established process, which is their right. She stated it would be difficult to go back and re-rank a few applications.

Mayor Martinez asked how the group determined which applications should receive more than \$ 50,000. Ms. Hepburn stated those applications included several programs and each served a different demographic.

Councilmember Aleshire asked about the Horizon Goodwill application, which was considered ineligible due to a conflict of interest due to an elected official signature. He stated this funding is not from the local or State level so having an elected official sign the application is not concerning to him. Ms. Hepburn stated the group reviewed all the

guidelines and there was another instance where ARPA funding was denied for another valid project for the same reason. Staff has strived to be consistent.

Councilmember Schindler is satisfied that the review group applied a fair, data driven way to review the applications. He is still concerned that only 18 of the 55 applications will be funded.

Councilmember Aleshire noted there are some applications in the lower than 40 score and ineligible groups that he would support funding for. He does not support providing more than \$ 50,000 to an organization.

Ms. Hepburn clarified that Councilmember Aleshire is saying he supports \$ 50,000 for one organization, no matter how many programs were included in the application or if multiple applications were submitted. Councilmember Aleshire indicated that is correct.

Councilmember McIntire stated she would support providing more than \$ 50,000 if there are separate programs.

Councilmember Schindler asked if the guidelines were clear about submitting multiple projects/programs. Ms. Hepburn stated the guidelines specifically stated multiple applications could be submitted. Councilmember Schindler stated he would struggle with giving \$ 100,000 to one organization with one application and only \$ 50,000 for multiple applications.

Councilmember McIntire asked if the group observed things that every organization needed. Ms. Hepburn stated staffing and lack of socialization due to not interacting with others during the COVID pandemic were common issues.

It was the general consensus to move forward with awarding the grants as presented. There will be 18 separate resolutions and subrecipient agreements scheduled for approval on December 19, 2023.

All applicants will receive notice of the outcome of the grant applications. She asked the Mayor and City Council to keep in mind there is funding that can be reprioritized if that is what they decide to do. Staff recommends the restaurant ready grant program be handled in the same manner as this process was.

#### Summit Avenue Railroad Crossing

Jim Bender, City Engineer, was present to discuss the Summit Avenue railroad crossing.

Since 2015, staff have attempted to have the railroad crossings near Park Circle (Walnut Street, Virginia Avenue, and Summit Avenue) improved. Also, since 2015, the City has worked with an engineering consultant to design the “Marsh Run Trail”, a multi-use trail that would connect Memorial Park to Park Circle. In both cases, these efforts have been hampered by CSX Transportation. There is now an opportunity to have

movement on both of these issues, but it will depend upon the City's willingness to close the Summit Avenue railroad crossing.

The City has been at an impasse with CXS with both the upgrades to the Park Circle railroad crossings and the Marsh Run Trail design for several years. Under former CSX management, they refused to advance either project unless the City agreed to enter into maintenance agreements for the railroad crossings. As was previously presented to the Council, the staff's recommendation was that the City should not execute those agreements, as they put an undue burden on the City with regard to liability at those crossings.

Two factors have changed the dynamics of the situation. There have been personnel changes at CSX, and the current management appears to be more open to working with the City. Also, Hogan Development Company (Hogan) has been in discussions with CSX regarding a new railroad crossing on property that they would like to develop near Sharpsburg Pike. CSX policy is that they will only allow a new at-grade crossing over their tracks if three other existing crossings are removed. Hogan has (apparently) secured the closure of two other crossings and has reached out to the City to determine whether or not the City would agree to close the Summit Avenue crossing. CSX has indicated that if the City agrees to close that crossing, they will release the funds to upgrade the Walnut Street and Virginia Avenue crossings, and that they will approve the plans for the Marsh Run Trail (assuming that the trail design meets all CXS standards).

In January 2023, the Council was presented with the results of a survey that the Engineering Department conducted with residents and businesses in the area of the Summit Avenue crossing; the survey asked their opinion regarding the closure of the crossing. The results of the survey were effectively split evenly between closing/not closing the crossing.

If the Summit Avenue crossing remains open, then CXS will likely not approve the upgrades to the existing railroad crossings and will not approve the Marsh Run Trail project. This will force the Maryland Department of Transportation (MDOT) to withdraw the Marsh Run Trail project from funding consideration and MDOT will require the City to reimburse the grant funds that have been spent on the project to date (approximately \$ 130,000). If the Summit Avenue crossing is closed, MDOT will fund the bulk of the upgrades to the Walnut Street and Virginia Avenue crossings and will continue to provide funding for the Marsh Run Trail project.

Staff still does not recommend entering into maintenance agreements with CSX for the crossings, as CSX's terms are not to the City's benefit.

One concern of closing the crossing is deliveries to Columbia Gas, which is located on Sycamore Street. Trucks would have to travel to Potomac Street to reach Columbia Gas.

Mr. Nicewarner pointed out if the crossing is closed, the City would not have to fund upgrades to the Virginia Avenue and Walnut Street since CSX has indicated they would fund the upgrades.

Mr. Bender noted this is Federal funding that flows into the State Highway Administration (SHA). Before the SHA can move forward with the upgrades, CSX has to sign off. There is a concern that the funding would be retracted.

Conservit uses the crossing and deliveries are made twice per week. If the Marsh Pike Trail project moves forward, the City will have to construct a tunnel for the tracks.

Councilmember Schindler asked if closing the crossing would lock the City into a perpetual maintenance agreement in the future.

Mr. Bender stated he is not sure. The next step would be for the City to send a letter to CSX to confirm, in writing, CSX's commitment to the crossing upgrades.

Councilmember Aleshire asked how a closure affects public safety. Mr. Bender stated Public Safety staff are not excited about the potential closure but there are alternatives.

Councilmember Aleshire asked about development potential for property on Sycamore Street. Mr. Bender stated there are larger commercial uses on the North side of Sycamore and Columbia Gas on the South side. Kathleen Maher, Director of Planning and Code Administration stated it is a scrubby area that is identified on old maps as Central Chemical sulfate piles.

Councilmember Burnett stated it would be good to have those two railroad crossings fixed.

Councilmember Aleshire pointed out closing the crossing does have a tangible benefit for the City. He wondered why the Council would agree to the closing for the tangible benefit of a private developer who is developing property outside the City limits. It would be better to keep the tangible benefit for future needs. The City is negotiating with CSX, not a private developer. He asked what interest it is to the private developer. He asked if the City could have the crossings upgraded without involving the private developer. If the City agrees to the crossing solely for the benefit of a developer makes the decision political in nature. Mr. Bender could raise the questions with the developer.

Ms. Maher indicated this property is reachable by the City. The developer needs a crossing to move forward with their project.

Councilmember Aleshire stated it seems the City would be inheriting that crossing and another obligation.

Mr. Nicewarner would like to have the crossing closed as it is used as a shortcut from Wilson Boulevard to downtown that has no signal lights. The closure may be an option for parking for the Clara Barton Memorial Park. It is not known what benefit the City could receive for agreeing to the closing.

Mr. Bender will contact CSX for further details.

Aviation Resources Delaware, Inc. (ARDI) Agreement for Community Water Tank

Nancy Hausrath, Director of Utilities, and Ashley Newcomer, Utilities Finance Manager, were present to discuss the ARDI Agreement for a community water tank.

The City and Aviation Resources Delaware, Inc. entered into an agreement on February 4, 2004, for the construction of a community water storage tank capable of storing 300,000 gallons of potable water. The tank was to be located on ARDI property or at a location the City deemed appropriate.

The agreement also required the installation of a third pump at Pump Station 3. This work was completed.

Because of FAA regulation in the vicinity of the airport, constructing a tank that can store 300,000 gallons at an elevation that is beneficial as it pertains to water system pressure is not feasible. Staff also have concerns as it pertains to water quality - specifically the disinfectant by-product rule and secondary disinfectant residual requirements. Because of the distance from the RC Willson Water Treatment Plant, the calculated water age in the northernmost region of the water system presents many challenges during the summer and a 5<sup>th</sup> tank will add to these challenges.

Staff asked legal counsel to review the agreement to determine whether the funds can be used towards the replacement of an existing tank and/or for additional improvements to Pump Station 3.

Legal counsel advised staff that the agreement did not have the flexibility needed to allow the City to utilize the \$ 101,000 in any manner other than the construction of a new community water storage tank.

Staff is recommending an addendum to the agreement that rescinds the agreement in its entirety and removes all obligations defined under the agreement. Rescinding this agreement requires the City to return \$ 101,000.00.

It was the general consensus to include the appropriate documents for rescinding the agreement on the November 21, 2023 Regular Session agenda.

Maryland Department of the Environment (MDE) Funding: Wastewater Division

Councilmember Aleshire recused himself from this discussion. He then left the meeting at 6:26 p.m.

Nancy Hausrath, Director of Utilities, and Tyler Puffenberger, Deputy Director of Water and Wastewater, were present to discuss Maryland Department of the Environment (MDE) funding for the Wastewater Division projects.

Staff submitted funding applications to MDE in January, 2023 for several wastewater projects including Phase 1C Collection System Lining and the Wastewater Treatment Plant Improvement Project.

On February 21, 2023, staff reported that the Wastewater projects submitted to MDE were not favorably ranked. On October 16, 2023, staff received correspondence from MDE notifying the city that it is eligible for \$ 20,000,000 in SRF Funding (\$ 17 million loan and \$ 3 million Principal Forgiveness). The loan term can be for up to 30 years but cannot exceed the useful life of the project. For reference, for loans that closed in Fiscal Year 2023, the Standard Rate ranged from 1.60% to 1.90% and the Disadvantaged Community Rate ranged from 0.80% to 0.90%.

The funding application for the Wastewater Treatment Plant Improvement Project was provided with the meeting material. This funding application identified approximately \$ 37,000,000 of needed plant improvements. Staff will work to amend the scope of work for this project and focus on nutrient removal and mechanical and electrical upgrades. Staff will work with Black and Veatch to amend the previous funding application for submission to MDE in January 2024.

Projects identified for funding are expected to start construction by December, 2024 in accordance with the application submitted; funding may be deleted from projects that do not proceed to construction by this time. MDE will notify the City of this action and there will be an opportunity to reapply for future financial assistance. The City is required to notify the funding coordinator of any schedule delays.

Mr. Puffenberger noted the condition of the plant has been deteriorating and the funding could be utilized for upgrades to the plant. A number of emergency repairs have been necessary due to the condition of the plant.

Staff is requesting approval to move forward with notifying MDE of the City's desire to accept the funding offer. Because of the competition for State funding and the construction deadline, staff is also requesting permission to work with Black and Veatch as the design, bidding, and construction phase engineer. Black and Veatch has been the Design Engineer for all BNR/ENR upgrades and has the most institutional knowledge of the City's Wastewater Treatment Plant. All engineering expenses would be considered the City's local share for this project.

It was the general consensus to seek the funding and to approve a new scope of service with Black and Veatch.

#### Hagerstown Police Department Contractual Overtime

Police Chief Paul Kifer was present to discuss contractual overtime. The Hagerstown Police Department is seeking Mayor and City Council approval to increase the overtime rate of pay for contractual police services. Currently, officers are compensated for those services at an overtime rate of pay equal to that of a top paid police officer (\$59.93 per hour), and the recipients are billed at 115% that rate (\$68.92 per hour). Those rates are

currently set per Special Order. Chief Kifer is requesting approval to increase those amounts to \$ 65.00 per hour with a billing rate of \$ 84.50 per hour. The proposed rates put the Hagerstown Police Department on par with the Washington County Sheriff's Office and the Maryland State Police for similar services.

It was the general consensus to approve the requested increase in contractual overtime rates.

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

*Scott Nicewarner, City Administrator,* thanked the Mayor and City Council for working through the long agenda. The Hagerstown Youth Council had a great meeting last night. This is a fantastic group of kids with great ideas.

Ani Anisau spoke at the Chamber of Commerce Economic Summit meeting last week and stated the region is prime for all forms of development. Mr. Nicewarner stated the issues with the County need to be resolved and programs developed so that business is not turned away from Washington County and Hagerstown.

There are a lot of activities this coming weekend including Holly Fest, photos with the Grouchy Green Neighbor, the second annual Holiday Maker's Market and the downtown tree lighting. This year's tree is from former Councilmember William King's yard. His widow, Joanne King, has been pruning the tree for many years to make it worthy of being in the square. Mrs. King will help light the tree on Saturday. He thanked Brittany Arizmendi for her efforts with very successful downtown events.

### **MAYOR AND COUNCIL COMMENTS**

*Councilmember S. McIntire* stated that is a nice story about this year's tree. She asked that staff think about making the event ADA accessible prior to the evening of the event.

*Councilmember T. Burnett* attended the Economic Summit last week. It is good to see data confirming that development is continuing. She attended the Washington County Museum of Fine Arts Picasso exhibit. She also participated in the Hagerstown Fire Department's and IAFF Local 1605's Operation Warm. During this event, free coats are given to students at Bester Elementary School. It was a heartwarming experience. She attended the soft opening of The Marq (former Charlie's Tavern).

*Councilmember Matthew J. Schindler* stated that is an awesome story about the Christmas tree. The Washington County Museum of Fine Arts is world class. He encouraged everyone to visit during the Picasso exhibit. He thanked Eric Deike, Director of Public Works, and the Parks and Recreation Department for doing awesome work. The new signage at Pangborn Park includes Spanish.

*Mayor T. A. Martinez* was unable to attend several events as she was ill last week. She thanked Councilmember Schindler for attending the Veteran's Day wreath laying

ceremonies with her. Councilmember Schindler also helped her deliver wreaths to memorials throughout Hagerstown.

She thanked Melissa Tucker for inviting her to the Homewood Veteran's Day celebration. The Barbara Ingram School for the Arts ensemble performed during the ceremony and they were amazing.

Mayor Martinez has been teaching at the Museum's workshops for the last several weeks. The group recently made a collage from Hagerstown magazines. Any youth can sign up for the workshops.

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 6:50 p.m.

Respectfully submitted,

*Original signed by D. K. Spickler*

Donna K. Spickler  
City Clerk

Approved: December 19, 2023