

REGULAR SESSION (5TH VOTING SESSION) – February 23, 2021

In response to the Mayor's declaration of a Civil Emergency, this Mayor and City Council meeting was held with limited attendance.

At this time, members of the public were not permitted to attend the meeting in person. However, all meetings will be streamed live through the City of Hagerstown's Cable Channel 25, Facebook, and YouTube accounts. All members of the public were welcome to view meetings through these platforms, but only able to participate in public meetings virtually.

Mayor E. Keller called this Regular Session (4th voting session) of the Mayor and City Council to order at 7:00 p.m., Tuesday, February 23, 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, City Attorney Jason Morton, and City Clerk D. K. Spickler.

The invocation was offered by Councilmember T. Martinez. The Pledge of Allegiance was recited and led by Mayor E. Keller.

Mayor Keller announced the Rules of Procedure for this meeting will be followed as adopted December 15, 2020. It was announced that the use of cell phones during meetings is restricted and that all correspondence for distribution to elected officials should be provided to the City Clerk and should include a copy for the City Clerk for inclusion in the official record.

The next scheduled meetings are: State of the City beginning at 8:00 a.m. on Tuesday, March 2, 2021, Work Sessions beginning at 4:00 p.m. on Tuesday, March 9, 2021, and Tuesday, March 16, 2021, and the Regular Session on Tuesday, March 23, 2021 at 7:00 p.m. No Work Session is scheduled for Tuesday, March 2, 2021 or Tuesday, March 30, 2021.

CITIZEN COMMENTS

Citizen Comments were accepted by email at councilcomments@hagerstownmd.org prior to 5:00 p.m. on Tuesday, February 23, 2021.

There were no citizen comments.

PUBLIC HEARING

Land Management Code Amendments

This Public Hearing was held to receive testimony regarding the Annual Land Management Code Update.

Stephen Bockmiller, Development Review Planner/Zoning Administrator, presented a chart of 15 proposals, including page references for easier referral, to the Mayor and City Council. The proposals were reviewed by the Mayor and City Council during a recent Work Session as well.

Proposed amendments include the following:

1. Article 4 – Correct outline format for use chart and table of contents.
2. Article 4 – Re-insert parking requirement for drive up restaurants.
3. Article 4 – Make consistent all references to adult entertainment businesses.
4. Article 7 – Rephrase language about off-site forest conservation easements to make it easier to understand.
5. Articles 3 and 4 – Define and permit small scale breweries and set parking requirements.
6. Article 4 – Add certain permitted uses to the CG, CC-M, CR and IR Districts.
7. Article 4 – Relax current parking requirements for warehousing and manufacturing plants.
8. Article 4 – Eliminate front yard fence standards for through lots backing to the municipal boundary.
9. Article 4 – Refine standards for use and development of lots in residential districts that have no public street frontage.
10. Article 4 – Refine standards for construction of larger accessory buildings on large lots in the residential districts.
11. Article 4 – Provide zoning administrator flexibility in applying minimum area requirements for new dwelling units in buildings being retrofitted for new dwelling units (apartments).
12. Articles 4 and 5 – Move all remaining regulation of buffers from Article 4 to Article 5.
13. Article 5 – Refine language regarding the approval of final plats.
14. Article 5 – Set paving depth standards for parking and driveway areas.
15. Article 4 – Clarify administrative history of dates of nonconformity.

Mr. Bockmiller entered the following Exhibit into the record:

1. Certificate of Advertisement

Due to public attendance at the meeting not being permitted, persons wishing to provide testimony were asked to register to participate in the meeting remotely through several methods by 12:00 noon on Tuesday, February 23, 2021.

There was no testimony presented.

Councilmember Aleshire has questions about the amendments proposed for the off-site forest conservation easements (Article 7). He is opposed to the addition of permitted uses under Article 4, Section Z. He wondered why the size of residential lots are being amended. He is opposed to amending the minimum size for dwelling units. He also has

concerns about the amendments for mobile homes. He will send an email to Mr. Bockmiller regarding his questions.

The record will remain open for 10 days for further comments.

Staff plans to return to the Mayor and City Council on March 9, 2021 to discuss the testimony provided and take direction from the Council on what changes, if any, they would like to make before introducing an ordinance to amend the Code.

Once that is complete, the Mayor and City Council will introduce and adopt an ordinance to amend Chapter 140 of the City Code, which will go into effect a few weeks after adoption.

The entire process is anticipated to be completed by June or July.

MINUTES

On a motion duly made by Councilmember K. B. Aleshire and seconded by Councilmember R. E. Bruchey, II, the minutes from January 7, 2021, January 12, 2021, January 19, 2021, and January 26, 2021 were unanimously approved as presented.

CONSENT AGENDA

On a motion duly made by Councilmember S. McIntire and seconded by Councilmember R. E. Bruchey, II, the Consent Agenda was approved as follows:

- A. Department of Community and Economic Development:
 - 1. Open Container Law Exemption – Imagine Hagerstown Music Events
- B. Parks and Engineering:
 - 1. Marsh Run Trail: CSX Review Fees - \$ 20,100.00
- C. Public Works:
 - 1. Ground Services – Advantage Landscape & Construction (Hagerstown, MD)
\$ 30,171.69
- D. Utilities:
 - 1. Water - Maintenance Agreements – Hach Company (Loveland, CO)
\$ 12,657.00
 - 2. Wastewater - Grinder Pump Replacement Program – Fluid Solutions, Inc.
(Westminster, MD) \$ 29,453.74

UNFINISHED BUSINESS

There is no unfinished business.

NEW BUSINESS

A. Introduction of an Ordinance: City of Hagerstown Police & Fire Employees' Retirement Plan – Amendment 13 to the Plan

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 introduce an ordinance for the following changes to the Police and Fire Retirement Plan, effective July 1, 2021:

1. Employees shall receive additional years of credited service for unused sick leave at the time of retirement.
2. Increase the percentage of an employee's payroll contribution from 8% to 9%.

B. Introduction of an Ordinance: Deed and Easement Agreement with Richard and Mary Manspeaker for Future Sidewalk Construction

Action: On a motion duly made by Councilmember T. Martinez and seconded by Councilmember T. Burnett, the Mayor and City Council unanimously agreed by voice vote to introduce an ordinance authorizing the execution of a Deed and Easement Agreement accepting an easement granted by Richard Manspeaker and Mary J. Manspeaker. For no financial consideration, this easement will allow the developer of the adjacent lands to install a sidewalk along the entire southern edge of Marshall Street to fulfill the Planning Commission condition of approval.

C. Approval of a Resolution: Amendment to Comprehensive Settlement Agreement and Mutual Release with Cascades Holding US, Inc.

Action: 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 vote to approve a resolution for an Amendment to the Comprehensive Settlement Agreement and Mutual Release with Cascades Holding US, Inc.

D. Approval of a Resolution: Lease Agreement with GB & J's, LLC

Action: On a motion duly made by Councilmember T. Martinez and seconded by Councilmember R. E. Bruchey, II, the Mayor and City Council unanimously agreed by voice vote to approve a resolution for a Lease Agreement with GB & J's, LLC

E. Approval of a Resolution: Amending the Consolidated General Services Agreement Between the City of Hagerstown and the Board of County Commissioners of Washington County

Action: On a motion duly made by Councilmember R. E. Bruchey, II and seconded by Councilmember T. Burnett, the Mayor and City Council unanimously agreed by voice vote to approve a Joint Resolution of the Board of County Commissioners of Washington County, Maryland and

the Mayor and City Council of the City of Hagerstown, Maryland amending the Consolidated General Services Agreement for the provision of sanitary sewer service, attached to the resolution as Amendment #12. The referenced property is identified as Parcel 427 on Map 24 containing 68.03 acres with 72 planned lots.

Discussion: Councilmember Aleshire asked where this property is. Nancy Hausrath, Director of Utilities, indicated it is north of Leitersburg. Councilmember Aleshire asked if the flow is going through County line to City lines. Ms. Hausrath stated that is correct. Councilmember Aleshire asked if there are a lot of County, one acre lots that send wastewater to the City for treatment. Ms. Hausrath indicated there are not. The piping is already in place and there is no new infrastructure. Councilmember Aleshire asked if the property is within the defined growth area. Councilmember Bruchey asked if this should have been completed years ago. Ms. Hausrath stated the County missed it in 2018.

F. Approval of a Resolution: Execution of a Residential Lease Agreement for the City of Hagerstown Property Located at 38 North Potomac Street, Apt. #4, Hagerstown, Maryland.

Action: On a motion duly made by Councilmember T. Burnett and seconded by Councilmember T. Martinez, the Mayor and City Council unanimously agreed by voice vote to approve a resolution authorizing the execution of a residential lease agreement at the City of Hagerstown property located at 38 North Potomac Street in Hagerstown, Maryland. The Lease will be between the City of Hagerstown and Alexandra Burt and shall be in effect from April 2, 2021 to March 31, 2022.

G. Approval of Non-Disclosure Agreement with Howard B. Bowen and Frank Boulton, and the City of Hagerstown

Action: Councilmember R. E. Bruchey, II made a motion to approve a non-disclosure agreement with Howard B. Bowen and Frank Boulton to review the Phase II MUSEF draft study prior to public presentation of the final study by the Maryland Stadium Authority.

Mr. Bowen and Mr. Boulton shall maintain the draft study in strictest confidence.

The motion was seconded by Councilmember S. McIntire.

Discussion: Councilmember Aleshire stated he has no issue with a non-disclosure agreement with Mr. Boulton and Mr. Bowen. He stated the study is so close to being completed and he doesn't understand why it shouldn't be released to everyone at the same time. At a minimum, at least some member of the elected body should be added. If all members

aren't added, at a minimum the Mayor should be added. This would remove staff from the politics of that process and allows the Mayor greater leeway to weigh in on the project as it moves forward.

Councilmember Bruchey stated in 2019, the body felt it would be best to have staff members (Scott Nicewarner, City Administrator, and Rodney Tissue, City Engineer) represent the City of Hagerstown throughout the process. This was to keep politics out of the process. If any elected official is added to the agreement, it should be all of them.

Councilmember Aleshire stated politics are already involved in the process. Things have changed since 2019. The Hagerstown Suns were part of the relationship at that time. There have been more conversations with other elected officials in the last two months than during the entire initial portion of the process.

Councilmember K. B. Aleshire made a motion to amend the motion and to add Mayor Emily Keller to the non-disclosure agreement, along with Frank Boulton and Blackie Bowen. Councilmember T. Burnett seconded the motion.

Motion carried unanimously.

H. Approval of Memorandum of Agreement with the Washington County Soil Conservation District (Residential Stormwater Incentive Program)

Action: On a motion duly made by Councilmember K. B. Aleshire and seconded by Councilmember S. McIntire, the Mayor and City Council unanimously agreed by voice vote to authorize the City to enter into an agreement with the Washington County Soil Conservation District to establish a Residential Stormwater Incentive Program for residential property owners to implement stormwater management facilities and reduce their stormwater utility fee.

I. Approval of Annual Financial and Single Audit Contract for Three Years

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 authorize and approve a three year agreement for the City's annual financial audit contract with SB & Company, LLC. The City is going to continue to piggyback for the remaining three years on the

County's awarded audit contract for audit services provided by SB & Company, LLC. This three year contract would be for the completion of the FY21, FY22, and FY23 financial audit which includes the single audit. The cost to perform these services is below:

1. FY21 Financial Statement Audit - \$ 36,900
2. FY22 Financial Statement Audit - \$ 37,800
3. FY23 Financial Statement Audit - \$ 38,600

J. Approval of FY21 General Fund Budget Adjustments

Action: On a motion duly made by Councilmember K. B. Aleshire and seconded by Councilmember S. McIntire, the Mayor and City Council unanimously agreed by voice vote to authorize and approve FY21 General Fund Budget adjustments as follows:

City of Hagerstown: General Fund (GF) FY21 Proposed Budget Adjustments	
GF Surplus as of 7/1/20: Original Approved FY21 Bud	3,032.70
Move: SWM Revenue to SWM Fund #59	(1,326,718.36)
Decrease: SWM Op Bud Exp from GF to SWM Fund #59	1,326,718.36
Add: Allocation to CDBG (1050001) for program Admin from GF salaries & benefits	35,000.00
7/21 MC Memo: Decrease RE tax revenue - per Constant Yield to <0.3%> from 4.0%	(1,139,500.00)
7/21 MC Memo: Estimate growth in RE tax revenue based on trends from <0.03%> to 2.0%	609,500.00
7/21 MC Memo: Decrease Personal Property Tax rate	(150,000.00)
7/21 MC Memo: Decrease State Income Tax Revenue approx 15%	(438,000.00)
7/21 MC Memo: Decrease Hotel/Motel Revenue by 25%	(55,000.00)
7/21 MC Memo: Decrease Admissions & Amusement Revenue by 25%	(50,000.00)
7/21 MC Memo: Decrease Traders License be equivalent to FY20 actual receipts	(15,000.00)
7/21 MC Memo: Decrease HPD Red Light Violations by 25%	(50,000.00)
7/21 MC Memo: Decrease Interest on Investments by 40%	(80,000.00)
Decrease budget contingency to \$0 from \$130K	130,000.00
Decrease GF Agency contributions from \$284.6 to \$112.5K per 10.13.20 M&C meeting	172,100.00
Add: CARES Gen Fund Reimburse Portion for PPE (Mar-Sept Items)	82,084.04
Add: CARES Reimburse for Salaries	1,354,551.97
Decrease: GF Stipend to all FT Employees	(657,742.00)
Increase: Additional Departmental Vacancy Savings	249,000.00
<hr/> General Fund FY21 Revised Budget Balance / Surplus	<hr/> 26.71

K. Approval of City-Wide Mowing Contract 2021: 3/15/21 to 12/15/21

Action: On a motion duly made by Councilmember K. B. Aleshire and seconded by Councilmember S. McIntire, the Mayor and City Council unanimously agreed by voice vote to authorize and approve Custom Landscape Management, Inc. (Custom) and Servtec Custodial, Inc. (Servtec) as the

City of Hagerstown’s mowing contractors for the respective departments as listed below. These services were offered through Bid Proposal B1719.21 in January, 2021. The contract term is from March 15, 2021 through December 15, 2021, with the possibility of up to two additional one year extensions subject to the mutual consent of the City of Hagerstown and the respective individual vendors (Custom Landscape

Management, Inc. and Servtec Custodial, Inc.). The total contract amount is \$ 134,569.10.

Light Division	Custom	\$ 6,555.00
Parks Division	Servtec	\$ 95,454.10
Water Division	Custom	\$ 13,860.00
Water Division Contingent Items	Custom	\$ 5,250.00
CDBG Homeownership	Custom	\$ 600.00
Wastewater Division	Custom	\$ 750.00
Police Department	Custom	\$ 7,250.00
Fire Department	Custom	\$ 4,850.00

L. Approval of a License Release and Nondisclosure Agreement with Columbia Gas

Action: On a motion duly made by Councilmember T. Burnett and seconded by Councilmember T. Martinez, the Mayor and City Council unanimously agreed by voice vote to approve a license release and nondisclosure agreement with Columbia Gas of Maryland. The agreement grants permission to Columbia Gas to video inspect the City’s storm and sanitary systems to locate gas line cross bores that they will subsequently remove. In return, the City will receive storm drain and sanitary sewer condition data and video.

M. Approval of Application and Guidelines for Use of University Plaza

Action: On a motion duly made by Councilmember T. Martinez and seconded by Councilmember S. McIntire, the Mayor and City Council unanimously agreed by voice vote to approve the guidelines and application for use of University Plaza, dated January, 2021. These will be used by the Department of Community and Economic Development to manage public use and rentals of University Plaza, located at 50 West Washington Street.

N. Approval of Amendments to FY21 Community Development Block Grant (CDBG) Annual Action Plan

Action: On a motion duly made by Councilmember S. McIntire and seconded by Councilmember R. E. Bruchey, II, the Mayor and City Council unanimously agreed by voice vote to amend the FY21 Community Development Block Grant Annual Action Plan in order to reprogram

\$ 320,000 of CDBG funding to new and existing CDBG capital projects as follows: \$ 100,000 for Fairgrounds Park Fit Room Bathroom Rehabilitation, \$ 200,000 for Fairgrounds Park Skate Park Construction, and \$ 20,000 for Hellane Park Basketball Court Rehabilitation. Full details of the CDBG amendment are attached with the motion.

O. Approval of Street Closures: Barbara Ingram School for the Arts (BISFA) – Do What Moves You Festival

Action: On a motion duly made by Councilmember T. Martinez and seconded by Councilmember S. McIntire, the Mayor and City Council unanimously agreed by voice vote to approve a street closure for the unit block of South Potomac Street for the BISFA “Do What Moves You” Street Festival on Friday, May 14, 2021 (with a rain date of May 21, 2021) from 3:00 p.m. to 10:00 p.m.

P. Approval of User Fee Rates in Parks and Recreation

Action: On a motion duly made by Councilmember T. Martinez and seconded by Councilmember R. E. Bruchey, II, the Mayor and City Council unanimously agreed by voice vote to increase the User Fees to rent facilities in the parks of the City and increase fees to various recreation facilities. The increase is necessitated due to increase staffing costs. The revised rates shall be effective March 1, 2021.

Q. Approval of Policy: Summer Camp Grant Program

Action: On a motion duly made by Councilmember R. E. Bruchey, II and seconded by Councilmember T. Burnett, the Mayor and City Council unanimously agreed by voice vote to approve a policy entitled “Summer Camp Grant Program”. This policy will provide guidance to non-profits regarding the eligibility, application and selection criteria for receiving Summer Camp Grant funds. Staff will annually recommend selected non-profits to City Council for grant awards.

R. Approval of Traffic Signal Removal at Locust Street and Fairground Avenue

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 of the removal of the traffic signal at the intersection of Locust Street and Fairground Avenue. The signal is approximately 60 years old and the pole structure is damaged by vehicle accidents. A recent engineering study determined that the signal does not meet current warrants and can be removed.

The Mayor and City Council further authorized Public Works staff to remove the signal, install a STOP sign for westbound Fairground Avenue, remove two parking spaces on the east side of Locust Street, and relocate the existing street name and truck restriction signs.

CITY ADMINISTRATOR COMMENTS

Scott Nicewarner, City Administrator, reported staff are evaluating a reopening plan for City facilities to the public. The plan is to open the lobby a couple days per week and then move to all five days after a few weeks. The intent was to get as many employees vaccinated as possible before reopening. This is not possible so plans have been revised.

He apologized to the residents in the South End for the delay in getting information distributed during a recent power outage. The volume of calls caused the phone system to crash, adding to the frustration of many residents. Staff is developing a plan to avoid delays in communications in the future.

MAYOR AND CITY COUNCIL COMMENTS

Councilmember K. B. Aleshire realizes people in the community need assistance, as shown in the applications for the CDBG-CV funding, but he has a soft spot for senior citizens, especially those who are struggling working through the process for vaccinations.

He has had time to collect his thoughts about his frustration from the presentation on Municipal Stadium. When the Mayor and City Council discussed the use or non-use of Municipal Stadium in January, they talked about having the facility available for the community for multiple uses. Then, a single user (Municipal Baseball Group) proposed their use of the stadium for the summer. This differs from the January conversation about being flexible with the use. It is not the intent of this body to let the stadium sit idle. He is concerned that a nebulous entity, with members who aren't from City organizations, will have controlling access of the facility. He has a vision for that property and has for some time. He is frustrated and concerned with the indication of a multi-year proposal. He is happy there will be a temporary use but he wants the agreement to be flexible enough so other groups can use it.

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

Councilmember T. Burnett had no additional comments.

Councilmember T. Martinez had no additional comments.

Councilmember S. McIntire had no additional comments.

Mayor E. Keller stated Senator Paul Corderman has asked for the Mayor and City Council's support of Senate Bill 865, which will assist EMS companies with receiving Medicaid reimbursement. The Council agreed to submit a letter of support.

Mayor Keller reminded everyone the State of the City will be broadcast from the Council Chamber on Tuesday, March 2, 2021 at 8:00 a.m. The event is hosted by the Chamber of Commerce. She thanked Wes Decker, Communications Manager, and Eric Hastings, TV Production/Web Coordinator, for their efforts to create the video.

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 7:50 p.m.

Respectfully submitted,

Original signed by D. K. Spickler

Donna K. Spickler
City Clerk

Approved: March 23, 2021