

REGULAR SESSION (31ST VOTING SESSION) – January 25, 2022

Mayor E. Keller called this Regular Session (31st voting session) of the Mayor and City Council to order at 7:04 p.m., Tuesday, January 25, 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 Ann Rotz, and City Clerk D. K. Spickler.

The invocation was offered by Pastor Spencer Jackson, Lifehouse Church. 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: Work Sessions beginning at 4:00 p.m. on Tuesday, February 1, 2022, Tuesday, February 8, 2022, and Tuesday, February 15, 2022, and the Regular Session on Tuesday, February 22, 2022.

GUESTS

Recognition of 30+ Year Retirees

Mayor Keller presented plaques to employees who retired from the City of Hagerstown during the past year with 30 years or more of service. The following retired employees were recognized:

Debbie Calhoun, Planning and Code Administration, 40 years of service
Michael Currin, Wastewater Division, 37 years of service
Darren Dattilio, Electric Division, 34 years of service
Barbara Dawn Pickett, Police Department, 31 years of service

CITIZEN COMMENTS

Citizen Comments were accepted by email at councilcomments@hagerstownmd.org prior to 5:00 p.m. on Tuesday, January 25, 2022. Citizen Comments were also accepted during the meeting.

Michael Staup, 18 S. Mulberry Street, Hagerstown, Maryland, enjoyed the Donut Drop on New Year's Eve. He asked everyone to remember Crystal Kemp, post office employee, who passed away recently. His street has finally been cleared of drug dealers. There is no trash and now there is plenty of parking available. He and his neighbors are having issues with the newspaper delivery. He stated there is something running down the alley at the new distillery near Antietam Street.

PUBLIC HEARINGS

**Recommended Amendment to Transportation Element of 2018 Comprehensive Plan,
visionHagerstown 2035**

Kathleen Maher, Director of Planning and Code Administration, stated this public hearing is being held to hear input on the Planning Commission's recommended amendments to the Transportation Element of the 2018 Comprehensive Plan, *visionHagerstown 2035*. The amendment process was initiated because of the Mayor and City Council's direction to remove the northern leg of R. Paul Smith Boulevard from the plan. Other revisions were included to update sections prepared in 2015 and to recommend additional road improvements in the southeast area of the City.

A summary of recommended amendments are as follows:

1. New Map 5-5 - creation of new map to show modifications to the R. Paul Smith Boulevard alignment and additions of connector roads within the Harrison tracts. This amendment follows Mayor and City Council direction to remove the north leg of R. Paul Smith Boulevard. It also includes connection alignments along the Dual Highway between the Harrison Tracts approved by the State Highway Administration.
2. MPO's 2040 Long Range Transportation Plan – revised text on Page 5-7 and 5-8 to show updates on projects in the list of recommended transportation improvements.
3. Explanation of Recommended Transportation modifications on Map 5-5 – addition of text on Page 5-8 to explain changes made to recommended transportation improvements in the southeast area of the city which are illustrated on new Map 5-5.
4. MPO's 2045 LRTP – new section added on Page 5-9 to outline changes made to recommended transportation improvements in the Medium Range Growth Area in the MPO's 2045 LRTP, no further amendments are recommended until after the 2050 LRTP is adopted (scheduled for May, 2022).
5. Policy 5-6 – additional text to elaborate on the City goal to fill gaps in the pedestrian network as funding allows. Added in response to State input.
6. Action 5-8 – added new action statement that indicates that as development comes forward for vacant land in the southeast area of the City, the City should ensure traffic studies include assessment of the Comp Plan's transportation improvement recommendations for that area. Added in response to State input.

The complete text for the Transportation Element, with recommended revisions in red, is included with the meeting material and is posted on the City web site.

Ms. Maher entered the following Exhibits into the record:

- Exhibit 1 – Certificate of Advertisement
- Exhibit 2 - Planning Commission file by reference

Councilmember Aleshire asked where the roundabout would be at Underpass Way and Halfway Boulevard. Councilmember Bruchey indicated it would be at the back of Hagerstown Ford but he doesn't think there is adequate room in that location. Councilmember Aleshire stated he does not see a benefit for that roundabout.

Ms. Maher indicated the funder of the roundabout would also have to decide if it is worth the expense.

There was no testimony presented, either in favor of or opposed to the proposed amendments.

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

This public hearing was then closed.

Annual Package of Amendments to the Land Management Code – 2021

Kathleen Maher, Director of Planning and Code Administration, presented the Land Management Code amendments recommended this year by the Planning Commission for the Mayor and City Council's consideration. This hearing is being held to receive input on the proposed amendments.

This year's package consists of six proposals. Five proposals address single issue or several adjustments closely related to one another. However, one of the proposals (number 6) is a grouping of unrelated, miscellaneous adjustments. The proposals contained herein for 2021 are as follows (proposals 2021-01 and 02 were in last year's package):

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|---------------------|---------|--|
| 1. Proposal 2021-03 | Page 3 | Addresses homeless shelters and crisis centers. |
| 2. Proposal 2021-04 | Page 5 | Addresses alternate uses for properties in the POM District that are subject to environmental remediation orders by permitting mini-storage facilities with required design standards. |
| 3. Proposal 2021-05 | Page 7 | Adjustments to the Conversion Overlay District to make redevelopment of existing buildings more achievable, mostly with permitting outdoor dining facilities for certain uses. |
| 4. Proposal 2021-06 | Page 8 | Grouping of 12 unrelated minor adjustments and corrections. |
| 5. Proposal 2021-07 | Page 16 | Grouping of 10 related adjustments to clarify provisions in existing regulations about traditional residential subdivision |

6. Proposal 2021-08 Page 22

design, and make use of traditional subdivision design more attractive to developers
Adjustments to the sign regulations. An explanation of the structure of the proposed amendments are included on page 2 of the report included in the meeting material.

The Planning Commission held a public review meeting on December 8, 2021 and met on December 20, 2021, voting to forward these six proposals to the elected body for its consideration and approval. Proposals numbered 3, 4, 5, 6, and 8 passed by unanimous vote of 6-0 (Councilmember McIntire abstained). Proposal 7, regarding traditional neighborhood design passed by a vote of 5-1. Mr. Stone voted in the negative, and Councilmember McIntire abstained.

Negative commentary was received by local engineering firm president Fred Frederick regarding the amendment to wording the ordinance to prioritize traditional neighborhood subdivision design. He raised concerns with the creation of additional impervious surfaces in traditional design developments, increased engineering and construction costs that would be passed through to builders and purchasers, and the potential of builders decision to avoid developing residentially zoned land in or adjacent to the City. While his views are respected, for a number of reasons the Commission and planning staff disagree with this assessment.

New residential subdivisions within the City will be part of the local environment for the next 200 years or more. Homes built in a rush in the west end to meet the influx of railroad workers in the 1880s to 1910s remain in place, serviceable, and do not approach contemporary building code standards. Yet these 110 are 140 year old homes will be occupied and part of the streetscapes for the indefinite future. What is subdivided and built today can be expected to be part of the landscape two centuries from now. It is important to plan communities that will withstand the test of time and be the best possible community design product for a very long time to come.

Traditional design may or may not result in additional impervious surface depending on the existing conditions of a site and the nature of proposed design. However, this does not deter other urban communities and municipalities in the region from promoting or requiring new development to fit in with the character of the existing locality. Also, required adherence to the State's stormwater management standards addresses any additional runoff. The Subdivision and Land Development Ordinance, as re-written in 2007 already promotes the use of traditional design; these amendments merely clarify and prioritize it and makes some standards more flexible to allow design engineers more latitude in creating interesting and creative communities that will retain and build value over time. These amendments do not prohibit suburban designs in circumstances and locations where the Planning Commission determines them to be appropriate.

Currently, there are two new developments that employ these expectations: Brookmeadow on Security Road (currently under plan review) and the single-family

component of McCleary Hill facing MD 144 (and to a tangential extent, the HHA townhouse development behind it). Not only can traditional streetscape design be expected in Hagerstown – it is being done. The Planning Commission has researched this issue carefully and debated the details at length. Developments in other communities were analyzed and the Commission even took the unusual step of conducting a field trip meeting at an especially well-done development near Mechanicsburg, Pennsylvania.

Ms. Maher noted there were several people in the audience interested in the discussion regarding the alley plan in the amendments.

Ms. Maher entered the following Exhibits:

1. Exhibit 1 – Certificate of Advertisement
2. Exhibit 2 – Planning Commission file by reference

Councilmember Aleshire has several questions that are similar to the questions during the discussion last week. He understands allowing multi-story buildings in the CCMU zoning district but all of the front doors need to face the street, especially downtown. He is opposed to the recommendation to allow the Historic District Commission to hire a consultant at the applicant's expense to review the applications for economic hardship for demolition. He believes this will delay projects. He does not favor Miscellaneous Amendment #12 which would allow expired townhouses to be brought back as three or more units in a zone where they are not currently permitted.

Councilmember Aleshire asked for clarification if the proposed amendments require developments to provide rear parking from an alley. Ms. Maher indicated the amendments are intended to provide a clear statement that traditional street layouts are the propriety form of subdivision development. Alleys are a predominant Hagerstown feature and the use of alleys is generally expected in new subdivisions. It does not require alleys, but strongly encourages them. Councilmember Aleshire recalled there were multiple proposals for a development on Burhans Boulevard. It seems these situations can get political fairly quickly and he would like to avoid that. He agrees with what staff and the Planning Commission are attempting to do but he believes developers will disagree.

The following testimony was presented:

Steven Ferrandi, Maryland Land Advisors, 5771 Waterloo Road, Ellicott City, Maryland, teaches land use practices at Johns Hopkins University. He discussed the regulations under consideration that would mandate all new residential subdivisions within the City of Hagerstown to be developed exclusively as neo-traditional layout, incorporating alleys, and limiting garages to alley feed only as the preferred standard and any other layout would be considered a modification of standards.

He stated Hagerstown is a tertiary market where builders come and go. There is interest in the Unger property and most have said they like the property and are looking for other projects. Hagerstown has a chance to attract a lot of nice buildings. It would be a mistake for the Mayor and City Council to think Hagerstown is a Class A market rather

than a tertiary market. An alley loaded project causes a builder to lose 30% of the density because of open space requirements. In addition, the cost increases about 30% because of having to construct 2 roads. With this regulation, the home cost would increase by \$ 150,000. People will drive a distance to get a nice single family home but they will go to the nearest community. Builders will go to the most economical area.

Councilmember Aleshire pointed out the government spends about \$ 2.00 for every tax dollar it collects and it is anticipated developments will be in place into perpetuity. It seems Mr. Ferrandi is saying the City should accept whatever kind of housing is proposed.

Mr. Ferrandi stated the alley fed reequipment adds 30% to the cost. National home builders would not be able to sell homes with that added cost in Hagerstown. The minimum number of residences used to be 50 town houses. Projects smaller than that is too small for builders to be interested in. Hagerstown wants the national home builders here because they will raise the building standards. They can offer much more than the local builders.

Donald Unger, 4005 Springfield Lane, Wilmington, Delaware, is a new land owner. He is a retired professor from the University of Delaware. He didn't study land management but he has economic development knowledge. His family has been in Hagerstown since the 1800's. If the land he recently acquired is developed, he would like it to be a nice community for Hagerstown and leave that as a legacy to his family. He would like to see the Unger and Groh families continue to provide positive quality of life improvements. He wondered why Hagerstown wants alleys. There is really no consensus whether these type of housing designs are good living environments or remain as they were intended to be. Some alleys are filled with litter and people loitering. There are some negative consequences in some communities where alleys are located. If Hagerstown had a great deal of experience with neighborhood communities, it might make sense.

No further testimony was presented.

Mayor Keller thanked everyone for their input. The Mayor and City Council will take the comments into consideration.

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

The public hearing was closed at 8:10 p.m.

MINUTES

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 the minutes, as presented, for November 2, 2021, November 9, 2021, November 16, 2021, November 23, 2021, December 7, 2021, December 14, 2021, and December 21, 2021.

CONSENT AGENDA

On a motion duly made by Councilmember S. McIntire and seconded by Councilmember T. Martinez, the Mayor and City Council unanimously approved the Consent Agenda as follows:

- A. Communications:
 - 1. Video Switcher – Washington Professional Systems (Wheaton, MD)
\$ 36,521.00

- B. Engineering:
 - 1. Hager House Restoration Improvements: Restoration Work – Restorations Unlimited (Williamsport, MD) \$ 38,150.00
 - 2. Masonry Repointing – Gruber-Latimer Restoration (Sharpsburg, MD)
\$ 25,000.00

- C. Fire Department:
 - 1. Annual Uniform Purchase 0 BJ's Custom Creations (Hagerstown, MD)
\$ 35,000.00

- D. Police Department:
 - 1. Monthly Red Light Camera Charges – American Traffic Solutions, Inc. (Mesa, AZ) \$ 165,000.00

- E. Public Works:
 - 1. Landscape Bed and Ground Maintenance – City-wide and in Parks (as needed) – Advantage Landscape & Construction (Hagerstown, MD)
\$ 35,321.52

- F. Utilities:
 - 1. Light: Distribution Transformers – Solomon Transformers (Solomon, KS)
\$ 48,179.00
 - 2. Light: Distribution Transformers – T & R Electric Supply (Colman, SD)
\$ 135,735.00
 - 3. Water: PLC and HMI Upgrade to Generator Switchgear – Critical Power Consultants, Inc. (Glenview, IL) \$ 75,737.00
 - 4. Water and Wastewater: Underground Infrastructure Locating and Marking Water and Wastewater Pipes and Appurtenances – Triple A Locating Service, LLS (Odenton, MD) \$ 85,000.00
 - 5. Wastewater: Liquid Oxygen – Air Products and Chemicals, Inc. (Allentown, PA) \$ 30,000.00
 - 6. Wastewater: D. O. Probes and Calibration kits for OAB Deck – Hach Company (Loveland, CO) \$ 10,858.00
 - 7. Wastewater: New Generator Set for PS #21 – Coffman Electrical Equipment Co. (Grand Rapids, MI) \$ 41,278.33
 - 8. Wastewater: Change Order for Final payment – Solids Project Handling Improvements – Synagro – WWT, Inc. (Baltimore, MD) \$ 130,771.88

9. Wastewater: Slide Gate Motor Operators and Accessories for UV Channels – Tri-State Technical Sales Corporation (Baltimore, MD) \$ 62,109.00

UNFINISHED BUSINESS

There was no Unfinished Business.

NEW BUSINESS

A. Approval of a Resolution: Second Amendment to Real Estate Purchase and Sale Agreement for a Portion of 441 South Potomac Street with Columbia Gas of Maryland, Inc.

Action: On a motion duly made by Councilmember K. B. Aleshire and seconded by Councilmember R. E. Bruchey, II, the Mayor and City Council unanimously agreed by voice vote to approve a resolution to approve the second amendment to the Real Estate Purchase and Sale Agreement for a portion of 441 South Potomac Street with Columbia Gas of Maryland, Inc. This amendment extends the settlement date to April 21, 2022.

The Mayor is further authorized to execute and deliver the agreement.

B. Approval of a Resolution: Agreement with American Traffic Solutions, Inc. (ATS) for Red Light Camera Enforcement

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 approve a resolution with American Traffic Solutions, Inc. regarding the operations and implementation of the red light camera enforcement program.

C. Approval of a Resolution: Speed Camera Contract

This item was postponed to a future meeting.

D. Approval of a Resolution: Joint Sewer Service Agreement Amendments

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 resolution for a Joint Sewer Service Area Agreement between the Board of County Commissioners of Washington County, Maryland and the Mayor and City Council of the City of Hagerstown, Maryland.

E. Approval of a Resolution: Railway Right of Entry Agreement with Norfolk Southern Railway Company

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 approve a resolution to enter into a right of entry agreement for the lining of a 20” sanitary sewer across a Norfolk Southern Railway Company right of way along West Washington Street for the continued rehabilitation of the City of Hagerstown Sanitary Sewer System.

F. Approval of a Resolution: Deed and Easement with Ellsworth Properties, LLC – Scuri Fence

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 approve a resolution authorizing the execution of a deed and easement agreement with Ellsworth Properties, LLC. This agreement includes the long-term maintenance responsibilities and ownership of the artist screen located on the Ellsworth property adjacent the Cultural Trail.

G. Approval of a Resolution: Authorizing an Amendment to Purchase Agreement for Sale of 25 W. Church Street with Marketplace, LLC

Action: On a motion duly made by Councilmember R. E. Bruchey, II and seconded by Councilmember S. McIntire, the Mayor and City Council unanimously agreed by voice vote to approve a resolution authorizing the execution of an Amendment to the Purchase Agreement for the sale of 25 W. Church Street with Marketplace, LLC. The amendment provides extensions of time to cure title defects to May 31, 2022 and the settlement date to June 30, 2022.

H. Approval of License Agreement for the Third Street Right-of-Way

Action: On a motion duly made by Councilmember S. McIntire and seconded by Councilmember T. Martinez, the Mayor and City Council unanimously agreed by voice vote to approve and execute a license agreement with Raymond Higgins to construct a private driveway and stormwater management facility in the undeveloped right-of-way of Third Street and to provide access to property owned by Mr. Higgins. The Mayor and City Council further moved to terminate the License Agreement with Mr. Higgins dated June 8, 2016.

I. Approval of a Grant from Maryland State Arts Council

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 accept a Public Art Across Maryland grant from

the Maryland State Arts Council in the amount of \$ 20,000. This grant will be used to replace the deteriorated Be Colorblind mural on West Washington Street.

J. Approval of Request for Proposals for Outside Operation of the BuroBox

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 authorize staff to explore the possibilities of recruiting an outside operator of the BuroBox via a Request for Proposals (RFP), with the goal of higher utilization of the space for entrepreneurship development and/or creating a co-work space.

Staff may make administrative edits with the approval of the City Administrator.

K. Approval of Power Services Agreement Amendment #8 with Energy Harbor

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 approve Power Services Agreement Amendment number eight with Energy Harbor to pass through certain transmission charges directly and reduce the full requirements contact rate resulting from changes to the State of Maryland renewable energy portfolio standard requirements.

L. Approval of Changes to Invest Hagerstown Homeownership Initiative (HHI) Program

Action: On a motion duly made by Councilmember R. E. Bruchey, II and seconded by Councilmember S. McIntire, the Mayor and City Council unanimously agreed by voice vote to approve the included Invest Hagerstown Homeownership Initiative Guidelines and Application form.

Staff may make administrative edits with the approval of the City Administrator.

CITY ADMINISTRATOR COMMENTS

Scott Nicewarner, City Administrator, offered condolences to the family of Valerie Belfoure who recently passed away. Valerie is the daughter of retired employee Kathy Belfoure.

MAYOR AND CITY COUNCIL COMMENTS

Councilmember K. B. Aleshire stated many people are aware that an indoor sports facility will close soon in Frederick and many people are looking for an alternate facility. The City's facility is to open by the end of 2024. He will be looking for ways to expedite

the completion of this project. He believe there will be a significant number of patrons from the very beginning.

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 also offered condolences to Valerie's family. She was well loved in the community.

Councilmember McIntire attended a performance of the Authentic Community Theater on Saturday evening and was pleased to see so many people downtown. The A & E parking deck was full. She stated this is exactly what should be happening downtown and shows a third parking deck is needed.

Mayor E. Keller stated a letter was drafted to send to the County Commissioners regarding the request for renaming Col. Henry K. Douglas Drive in Washington County. It was the general consensus to send the letter as written.

Mayor Keller thanked everyone who attended the A & E Redistricting meeting this morning. Another meeting is scheduled for Thursday, January 27, 2022 using ZOOM.

Mayor Keller thanked Congressman David Trone for visiting Hagerstown today and meeting with City representatives about the federal infrastructure funding. The group discussed three potential projects and then visited Professional Boulevard.

She offered sympathy to the Baltimore Fire Department for the loss of three firefighters yesterday. She thanked Chief Steve Lohr and the entire Hagerstown Fire Department for their service to the City.

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 8:23 p.m.

Respectfully submitted,

Original signed by D. K. Spickler

Donna K. Spickler
City Clerk

Approved: February 28, 2022