

**REGULAR SESSION (37<sup>TH</sup> VOTING SESSION) – March 22, 2022**

**Mayor E. Keller called this Regular Session (37<sup>th</sup> voting session) of the Mayor and City Council to order at 7:00 p.m., Tuesday, March 22, 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 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: Work Sessions beginning at 4:00 p.m. on Tuesday, April 5, 2022, Tuesday, April 12, 2022, and Tuesday, April 19, 2022, and the Regular Session on Tuesday, April 26, 2022.

**CITIZEN COMMENTS**

Citizen Comments were accepted by email at [councilcomments@hagerstownmd.org](mailto:councilcomments@hagerstownmd.org) prior to 5:00 p.m. on Tuesday, March 22, 2022. Citizen Comments were also accepted during the meeting.

There were no Citizen Comments.

**PUBLIC HEARINGS**

**Eklund Family, LLC – Local Conversion District Overlay at 4 Cypress Street**

Megan Flick, Planner, was present and stated this Public Hearing is being held for rezoning Case WS-2021-01 for a Local Conversion District Overlay (LCD) at 4 Cypress Street. The Local Conversion District is a type of rezoning overlay that allows use of nonconforming small properties for a variety of commercial or mixed-use activities.

The property is an existing mixed-use building located on the corner of Cypress Street and Potomac Avenue. It is currently occupied by one dwelling unit and one office space. The applicant wishes to expand the permitted commercial uses for that office space to include the following uses: Professional offices; administrative support offices; business and professional offices; ambulatory health care services; and scientific and technical services. Catering kitchens was struck from the list of potential uses at the request of the Chairman.

The Planning Commission has received background information on this case in a consultation and additional work session, during which members expressed no concern over the applicant's proposal to install additional parking. There are no other specific requests or recommendations from the Commission aside from requiring a site plan for the parking proposal.

The Planning Commission Public Review Meeting yielded the following public input:

1. Edward Little, 8 Cypress Street – Not opposed to the proposed overlay, but has concerns about the traffic impacts from when it was previously a dental office and the littering by clients as they waited to enter the building during COVID. The street parking by the dental clients created conflicts for the neighborhood. If they do not build the proposed parking lot, it will be a problem.
2. Brenda Little, 8 Cypress Street – repeated concerns about parking and littering.

The Planning Commission recommends that the Mayor and City Council approve ZM-2021-01 Local Conversion District Overlay at 4 Cypress Street.

Ms. Flick entered the following Exhibits:

- Exhibit 1 – Planning Commission File by Reference
- Exhibit 2 – Certificate of Publication – Notice of Public Hearing

The following testimony was presented:

William C. Wantz, Attorney representing the Eklund family, 123 W. Washington Street, Hagerstown, Maryland, is pleased to present this application for the Mayor and City Council's consideration. The proposal has received a favorable recommendation from the Planning Commission. He noted catering kitchens has been removed from the potential uses list for this property. The current use is an existing dental practice, which constitutes the non-conforming use. They will continue to own the current building and use it for innovative technology. This will provide faster and more efficient service for patients. They have been operating a prototype/pilot program at a nearby location. Benefits of receiving the LCD overlay include future marketability of the property should the dental practice be discontinued. It provides for compatible uses without interruption. There is no existing off-street parking. The project includes a large parking lot for off-street parking. Use of this parking lot would make on-street parking spaces available. There is a small apartment on the second floor and the building height will not change. There will be no change in signage.

Mr. Wantz addressed the requirements of the Zoning Ordinance noting the proposed LCD overlay provides the following benefits to Hagerstown:

1. Increase the assessable base as the owner continues to invest in both properties
2. Provide additional employment opportunities
3. Meets the requirements for commercial uses in the Zoning Ordinance

There will be no outdoor dining, outdoor storage, or outdoor vending machines. Uses are limited to the stated list.

Mr. Wantz submitted the application for the LCD Overlay, supporting statements, history of the use of the property, and the record and recommendation from the Planning Commission.

Councilmember Bruchey is happy to see the reuse of a current structure in Hagerstown and appreciates the Eklund family's investment in Hagerstown.

There was no further testimony presented.

The record will remain open for 10 days for additional comments. If the Mayor and City Council agree to move forward, the rezoning ordinance would be introduced on April 26, 2022 and approved on May 24, 2022.

The public hearing was closed at 7:13 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 February 1, 2022, February 8, 2022, February 10, 2022, February 15, 2022, and February 22, 2022.

## **CONSENT AGENDA**

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

A. Engineering:

1. FY 2023 and FY 2024 Pavement Preservation Lists

B. Information Technology:

1. Duo-Two Factor Authentication Software – SHI (Somerset, NJ) \$ 26,675.00
2. Copier Lease Renewal – Doing Better Business, Inc. (Hagerstown, MD)  
\$ 233,120.00

C. Public Works:

1. Sweeper Shed Pole Barns – Myers Building Systems, Inc. (Clear Spring, MD)  
\$ 73,778.00
2. Concession Services at City Park and Potterfield Pool (Revenue)
  - a. Nena's Curbside Café – City Park Concession Stand - \$ 5,000.00
  - b. Blissful, LLC – Potterfield Pool Concession Stand - \$ 2,500.00

D. Police Department:

1. 10 Year Contract for Tasers/BWC's, Virtual Reality, Digital Storage and

Warranties – Axon Enterprise, Inc. (Scottsdale, AZ) \$ 1,742,651.67

E. Utilities:

1. Light: Linework Services Blanket (Extension #1) – Everhart & Hoover Power Line Construction, Inc. (Hustontown, PA) \$ 150,000.00
2. Water: 2022 F-550 Chassis 4x4 Regular Cab with Dump Bed – Keystone Ford (Chambersburg, PA) \$ 91,950.00
3. Water: Annual Service Contract for Hach Analytical Equipment - Hach Company (Loveland, CO) \$ 17,082.00
4. Wastewater: Digester Feed Pump Upgrade – Komline-Sanderson (Peapack, NJ) \$ 15,148.00
5. Wastewater: 2022 Dodge Durango AWD SUV – Criswell Automotive (Gaithersburg, MD) \$ 40,337.00

**UNFINISHED BUSINESS**

**A. Approval of an Ordinance: Amend the City Code by Repealing and Re-enacting Chapter 140, Land Management Code**

**Action:** Councilmember S. McIntire made a motion to approve an ordinance to amend the City Code by repealing and re-enacting Chapter 140, Land Management Code. The re-enacted Land Management Code includes the 2021 packet of annual revisions finalized by the Mayor and City Council. This re-enacted version of the Land Management Code shall be known as version 3.8. Councilmember R. E. Bruchey, II seconded the motion.

Motion carried, 4-1 with Councilmember K. B. Aleshire voting No.

**NEW BUSINESS**

**A. Approval of a Resolution: To Accept the Memorandum of Understanding for the Relocation of a Portion of Hagerstown Cultural Trail**

**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 approving a Memorandum of Understanding with the Maryland Stadium Authority regarding land exchange, construction details, and associated cost for the relocation of a portion of the Cultural Trail. The Mayor and City Council unanimously agreed to authorize the Mayor to execute the MOU twenty (20) days from March 22, 2022.

**B. Introduction of an Ordinance: Conveyance of Hood Street**

**Action:** On a motion duly made by Councilmember K. B. Aleshire and seconded by Councilmember T. Burnett, the Mayor and City Council unanimously agreed by voice vote to introduce an ordinance to quit claim any vested interest the City may have in Hood Street to the Maryland Stadium

Authority. This conveyance is required for the construction of the Multi-Use Sports and Events facility.

It was noted the effective date of the Ordinance, if approved on April 26, 2022, will be May 27, 2022. The Ordinance included in the meeting material shows an effective date of June 27, 2022.

**C. Introduction of an Ordinance: Conveyance of a Portion of Hagerstown Cultural Trail**

**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 introduce an ordinance approving the conveyance of a portion of the Hagerstown Cultural Trail to the Maryland Stadium Authority. Consistent and in conjunction with the related Memorandum of Understanding, this conveyance is required for the construction of the Multi-Use Sports and Events facility.

**D. Approval of a Resolution: 2022 Summer Camp Program**

**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 contracts with the Hagerstown YMCA, Boys and Girls Club, R. W. Johnson Community Center, Girls, Inc., and Beacon House to operate summer play camps for the 2022 season. Funding amounts for each camp shall be per the “staff recommended funding levels” in the attached memo from the March 10, 2022 Work Session. Funding is from the Recreation Division operating budget.

**E. Approval of a Resolution: Re-Designation Application for the Hagerstown Arts and Entertainment District**

**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 indicating the City’s intention to apply for redesignation of the Hagerstown Arts and Entertainment District. By this resolution, the Mayor and City Council are also expressing their intent to provide Admission and Amusement Tax exemption and property tax credits for eligible activities and agree to the income tax subtraction modification for qualifying residing artists in this area, if the Hagerstown A & E District is redesignated by the State of Maryland.

Discussion: Councilmember Aleshire clarified and confirmed the application includes the tax credit percentages the Mayor and City Council discussed at the last meeting.

Jill Thompson, Director of Community and Economic Development, confirmed the documents maintain the existing tax credit, and this is stated in the resolution.

**F. Approval of a Resolution: Annexation Agreement for 55 W. Oak Ridge Drive**

**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 approve a resolution authorizing an annexation agreement between the city of Hagerstown and JDA Hagerstown Industrial Properties, LLC, owner of 55 Oak Ridge Drive, which outlines the process and conditions of annexation of the tract in exchange for receipt of City water and wastewater service. Per the annexation agreement, the annexation process for each lot on the tract will be initiated following the property owner's receipt of use and occupancy permits from Washington County for construction of the two proposed warehouse buildings or December 31, 2023 for Building 1 or December 31, 2024 for Building 2, whichever comes first for each lot. The properties will be zoned I-MU (Industrial Mixed-use) when the annexations are effective.

**G. Approval of a Resolution: Offer of Dedication for Portion of Edgewood Drive**

**Action:** On a motion duly made by Councilmember T. Burnett and seconded by Councilmember S. McIntire, the Mayor and City Council unanimously agreed by voice vote to accept the 1988 offer of dedication included in Deed Liber 973, Folio 797 by Hoffman and others for the "future widening of Edgewood Drive". This additional property will allow the Currwood Development to widen and add turn lanes on Edgewood Drive as part of their land development project.

**H. Approval of a Resolution: Easement Agreement with Potomac Edison for Secondary Electrical Power to a Newly Constructed Single-family Home**

**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 to enter into an easement agreement for the underground installation of secondary power for a new home construction off Watershed Lane across City property along Foxville Road.

**I. Approval of a City Holiday – Juneteenth (June 19)**

**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 authorize the addition of June 19 (Juneteenth) to the list of City observed holidays, beginning on June 19, 2022 (observed June 20, 2022) and continuing into future years.

**J. Approval of Appalachian Regional Commission (ARC) FY23 Project Funding Requests**

**Action:** On a motion duly made by Councilmember K. B. Aleshire and seconded by Councilmember T. Martinez, the Mayor and City Council unanimously agreed by voice vote to authorize the submission of the following projects to the County Commissioners for funding from the Fiscal Year 2023 Appalachian Regional Commission (ARC) Grant:

1. Upgrade Hagerstown WW Pump Station 13 on Western Maryland Parkway – requesting \$ 1,000,000 in ARC funds
2. Extend R. Paul Smith Boulevard to Hebb Road – requesting \$ 750,000 in ARC funds
3. Construct new parking deck on W. Antietam Street – requesting \$ 1,000,000 in ARC funds
4. Update 16-20 inch piping and valves inside Willson Water Treatment Plant – requesting \$ 1,000,000 in ARC funds
5. Reduce inflow and infiltration of groundwater into Hagerstown Wastewater Treatment Plant – requesting \$ 250,000 in ARC funds
6. Create hydraulic model of Hagerstown wastewater sewer shed – requesting \$ 110,000 in ARC funds

**K. Approval of Conversion of One Part-time Position to Full-time for Department of Community and Economic Development**

**Action:** On a motion duly made by Councilmember S. McIntire and seconded by Councilmember T. Burnett, the Mayor and City Council unanimously agreed by voice vote to approve the conversion of one part-time position to full-time: one Economic Development Coordinator or other appropriate title to be determined.

This position is necessary to support the high volume of economic development related demand, opportunities, and customer needs. This change will be budget neutral, and the position will be funded from the General Fund.

Discussion: Councilmember McIntire stated it is exciting the City is booming with business. She praised staff for their efforts.

**L. Approval of Change Order for the 2022 Pavement Preservation Program**

**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 Change Order 03 in the amount of \$ 120,000 for the Pavement Preservation Program contract with Craig Paving, Inc. Funded by additional Highway User Fee funds received from the State, this Change Order allows additional paving to occur.

Discussion: Councilmember Aleshire noted it was difficult to get to South Hagerstown High School, Emma K. Doub Elementary School, and E. Russell Hicks Middle School due to this work. Rodney Tissue, City Engineer, stated staff realize there were challenges and that portion of the work is now complete.

**M. Approval of Application Form and Guidelines for the Historic City Farmers Market at University Plaza, 50 W. Washington Street**

**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 an Application Form and Guidelines for the Historic City Farmers Market at University Plaza, 50 W. Washington Street. Staff may make administrative edits from time to time with the approval of the City Administrator. A copy of the application form and guidelines is included with the meeting material.

Discussion: Councilmember Aleshire stated his suggestion of a location on Lee Street during last week's discussion was simply an idea of a possible downtown location for a revamped farmers market.

Councilmember Bruchey would not be opposed to having the farmers market open during events at the new Hatter's Plaza either.

**CITY ADMINISTRATOR COMMENTS**

*Scott Nicewarner, City Administrator*, had no additional comments.

**MAYOR AND CITY COUNCIL COMMENTS**

*Councilmember S. McIntire* had no additional comments.

*Councilmember T. Martinez* had no additional comments.

*Councilmember T. Burnett* had no additional comments.

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

*Councilmember K. B. Aleshire* noted the Mayor and City Council have voted unanimously to move the stadium project forward, with the exception of the location. He believes citizens expect their representatives (elected officials) to ask questions when things are brought to the table. He probably asks more questions than others. It is important to reiterate the Mayor and City Council's effort is to be on "team everything". When people bring things to the table, he will ask those questions. His longevity as an elected official supports the fact that he does ask questions and reviews the merit of issues brought before him. His intent is not to demean anyone. This body wants the same thing as everyone else – for Hagerstown to be successful.

*Mayor E. Keller* thanked staff and everyone who was involved in making the St. Patrick's Day run a success. She thanked Community Rescue Service for sending a crew to a roller derby meet to cover for the scheduled group who could not make it. The International Film Festival is being held this weekend. She wished Delegate Thiam a speedy recovery from surgery. She congratulated Congressman Trone for signing the bill for \$ 500,000 for blight reduction and \$ 500,000 for emergency beds at Meritus Medical Center. There were 12 fatal overdoses in February, 2022. This is the highest number ever and the emergency beds are needed to help people in the community.

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 7:32 p.m.

Respectfully submitted,

*Original signed by D. K. Spickler*

Donna K. Spickler  
City Clerk

Approved: April 26, 2022