

REGULAR SESSION (60TH VOTING SESSION) – January 31, 2023

Mayor E. Keller called this Regular Session (60th voting session) of the Mayor and City Council to order at 7:00 p.m., Tuesday, January 31, 2023, 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 Tekesha Martinez. The Pledge of Allegiance was recited and led by Mayor Emily 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 7, 2023, February 14, 2023, and February 21, 2023, and the Regular Session on Tuesday, February 28, 2023.

APPOINTMENTS

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 appoint Gregor Deck to the Board of Zoning Appeals.

Mr. Deck's term will expire January 28, 2026.

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:

- Thomas Gladhill, Wastewater Division, 46 years of service
- John Semler, Wastewater Division, 39 years of service
- Brian Shank, Light Department, 38 years of service
- David Scriver, Wastewater Division, 35 years of service
- Michael Walchshauser, Light Department, 35 years of service
- William Rice, Parks Department, 30 years of service
- Brian Thomas, Parks Department, 30 years of service

CITIZEN COMMENTS

Citizen Comments were accepted by email at councilcomments@hagerstownmd.org prior to 5:00 p.m. on Tuesday, January 31, 2023. Citizen Comments were also accepted during the meeting.

There were no Citizen Comments submitted by email.

Alyse Cohen, 3720 Green Valley Road, Ijamsville, Maryland, supports the proposed Land Management Code Amendments to add sports betting to the list of permitted uses in certain zoning districts. Her family has been in business for many years. She thinks retail sports betting is a tremendous opportunity for additional revenue for Washington County.

Michael Staup, 18 S. Mulberry Street, Hagerstown, Maryland, wished the Mayor well in her new position. He is seeing more police officers on the street and things are getting better. There are more homeless people because of increasing rents. Something needs to be done to help this situation.

He thanked Mayor Keller for helping him when he needed help.

Jeremey Leasure, 18250 Hurricane Court, Hagerstown, Maryland, stated when Mayor Keller was elected she knew what she wanted to correct and that is the addiction problem. He stated she shows up and makes things better. He wished her well in Annapolis.

PUBLIC HEARINGS

2022 Land Management Code Amendments

A Public Hearing was held to receive testimony regarding the 2022 Land Management Code (LMC) updates. The Planning Commission forwarded the updates to the Mayor and City Council in December.

City Clerk Donna K. Spickler provided the Oath to Stephen Bockmiller, Development Review Planner/Zoning Administrator.

Mr. Bockmiller stated each year staff and the Planning Commission process a collection of proposed updates and amendments to the LMC. The LMC is a consolidation of four previous stand-alone ordinances as follows:

1. Zoning
2. Subdivision and Land Development
3. Floodplain Management
4. Forest Conservation

The Planning Commission's public review meeting (PRM) for these materials was held on November 9, 2022. The Code is reviewed annually for needed changes,

corrections and updates. When reviewing the proposals in workshop, there was concern among members of the Council regarding two issues.

First, the issue regarding the parking and storage of recreational vehicles and boats at residential properties caused concern. The Planning Commission determined that whatever changes may need to be made to this provision can be accomplished with minor language adjustments after the Council conducts its public hearing. The language regarding this proposal remains unchanged from the Council's earlier review.

The second issue was regarding State-licenses for gambling. There was concern that this provision was too broad and should be narrowed. The Planning Commission reviewed text proposed by staff and supported by the party interested in conducting sports betting at their facility in the City, and approved those changes as part of its recommended package. The proposed revised language is included in the attached materials.

The proposals accepted by the Mayor and Council (with or without adjustments based on the results of this hearing) are enacted by adopting an ordinance to amend the Code which goes into effect 30 days after it is adopted. The process should be completed around April.

There are 13 proposals. Six relax existing regulations. Three are corrections or clarifications to existing regulations. Four proposals either are new proposals or strengthen existing regulations.

The proposals are as follows:

1. 2022-01 Permitting solar farms in the POM District on EPA/MDE remediation sites
2. 2022-02 Adding thirteen new permitted uses to the INST district and one new use each to the CG and CR Districts
3. 2022-03 Minor adjustment to three standards for wall-mounted signs
4. 2022-04 Adds "sports wagering facilities as defined, permitted regulated and licensed by the State of Maryland" to the use chart and permit it in the CC-MU and CR Districts
5. 2022-05 Amend the public notice requirements for text and map amendments to be consistent with Maryland law
6. 2022-06 Adjustments to the flex building performance standards of the POM District
7. 2022-07 Clarifying that the definition of livestock includes beekeeping
8. 2022-8 Clarifying the accessory structure setback requirement from a principal structure
9. 2022-9 Minor correction to the Conversion Overlay District section to correct an internal conflict of language
10. 2022-10 Relocate and adjust industrial performance standards to apply to all industrial uses, not just districts
11. 2022-11 Regulations for camper, recreational vehicle and boat parking in residential zoning districts

12. 2022-12 Requires a mix of housing when developing land in the N-MU District to encourage mixing of housing types. This provision prevents single-use high density housing complexes.
13. 2022-13 Regulation of new driveway entrances to public streets from improved residential properties

Councilmember Bruchey asked if the City wants to encourage pervious parking pads as opposed to impervious ones. Mr. Bockmiller stated it depends on how pervious the parking pad would be. The regulations are designed to move away from the use of regular gravel as the parking surface.

Councilmember Aleshire has the same question from the December meeting regarding the sports wagering facilities. He clarified the proposed language differentiates this type of facility from a casino. Mr. Bockmiller stated he understands it does.

Mr. Bockmiller entered the following as Exhibits:

Exhibit A: Certificate of publication of the hearing notice

Exhibit B: Planning Commission file by reference

Testimony:

Alyse Cohen, 3720 Green Valley Road, Ijamsville, Maryland, is in favor of the proposed amendments for the sports wagering facilities. She stated retail sports betting is a huge driver of income and tourism. She is the only woman in the United States currently in the sports betting listing. These facilities are not casinos. There is no other betting permitted beyond the sports betting. There are only 5 such facilities in Maryland.

There was no further testimony presented, either in favor of or against the proposed amendments.

The Mayor and City Council will discuss the testimony taken and any other communications received at a work session in February.

The record will remain open for 10 days for additional public comment.

The hearing was then closed.

2022 Comprehensive Rezoning

A Public Hearing was held to receive testimony on the proposed 2022 Comprehensive Rezoning.

City Clerk Donna K. Spickler provided the Oath to Kathleen Maher, Director of Planning and Code Administration.

Ms. Maher stated the Planning Commission's public review meeting (PRM) for the 2022 Comprehensive Rezoning was held on November 9, 2022. This comprehensive

rezoning is intended to clean up areas that should have been rezoned to INST in the 2020 comprehensive rezoning and to add two other areas that have arisen as planned INST uses. No one from the public participated in the November 9, 2022 PRM and nothing was submitted in the 10 days following the PRM. The Planning Commission forwarded the recommended 2022 Comprehensive Rezoning to the mayor and City Council on December 14, 2022.

The City's updated Comprehensive Plan, *visionHagerstown 20235*, was adopted on April 3, 2018. In order to implement the Comprehensive Plan's Future Land Use Map recommendations, the City undertook a comprehensive rezoning in 2019-2020 which became effective on July 23, 2020. One of the significant changes of that comprehensive rezoning were rezonings of 35 properties to implement the new Institutional (INST) zone on schools, parks, government properties, and other institutional uses.

Since the initial comprehensive rezoning, staff have discovered eight properties that were inadvertently left out of the Institutional zone rezonings and two other museum properties that make sense to be rezoned INST. A chart was provided that includes detail on each property. Those properties include:

1. Jonathan Hager Elementary School
2. Potomac Heights Elementary School
3. Kiwanis Park (along Antietam Creek within the Light Business Park)
4. Oswald Park (along Prospect Avenue)
5. Rotary Club of Longmeadow Park (on Northern Avenue)
6. Terrapin Park (in Collegiate Acres)
7. Wheaton Park (in Jonathan Street neighborhood)
8. Woodland Way Park (in North End)
9. Future home of Doleman Black Heritage Museum (465 Pennsylvania Avenue)
10. Future home of expansion of Washington County Museum of Fine Arts (321 Highland Avenue/111 Key Street)

A second comprehensive rezoning is underway to clean-up these oversights and facilitate future development of the two properties owned by the museum. Both museum properties are adjacent to City parks.

Information on the proposed rezoning was sent to affected property owners on September 27, 2022, posted on the City web site by September 30, 2022, and advertised four times in the Herald Mail in October and November, 2022, and in January, 2023.

Ms. Maher entered the following Exhibits:

- Exhibit A: Planning Commission file by record
- Exhibit B: Certificate of Advertisement

There was no testimony presented, either in favor of or against the 2022 Comprehensive Rezoning.

Ms. Maher noted there were representatives of the Washington County Museum of Fine Arts in attendance at this hearing.

The Mayor and City Council will review any other communications received at a work session in February.

The record will remain open for 10 days for additional public comment.

The hearing was then closed.

MINUTES

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 the minutes as presented for December 6, 2022, December 7, 2022, December 13, 2022, and December 20, 2022.

CONSENT AGENDA

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 Consent Agenda as follows:

A. Engineering:

1. 2022 Pavement Preservation Program (Change Order) – Craig Paving, Inc. (Hagerstown, MD) \$ 280,000.00
2. Change Order for Additional Handicap Ramp Construction – D I R Construction, Inc. (Laurel, MD) \$ 50,000.00
3. Acquisition and Delivery of Trash Totes Phase I - Rehrig Pacific Co., (Erie, PA) \$ 71,721.00

B. Fire Department:

1. Hurst Tool Replacement – Municipal Emergency Services (Rockville, MD) \$ 78,492.82

C. Information Technology:

1. ESO Fire RMS-Incident Management Software Renewal – ESO Solutions, Inc. (Dallas, TX) \$ 24,705.60

D. Planning and Code Administration:

1. 2023 Ford Ranger – Keystone Ford (Chambersburg, PA) \$ 32,890.00

E. Public Works:

1. Pool Concessions Agreement – Nena’s Curbside Café (Hagerstown, MD) Paying \$ 1,200.00 to the City of Hagerstown
2. Repairs to the Fuel Dispenser Pumps – Darkhorse (Severna Park, MD) \$ 11,178.88

3. July 4th Fireworks Display at Fairgrounds Park - Starfire Corporation (St. Benedict, PA) \$ 28,000.00

F. Utilities:

1. Water: Emergency Purchase: Double Check Detector Assemblies – Ferguson Waterworks (Frederick, MD) \$ 50,818.20
2. Wastewater: Grinder Pump Replacement Program – Fluid Solutions, Inc. (Westminster, MD) \$ 64,280.00
3. Wastewater: Engineering Services – Industrial Pretreatment Program – Black and Veatch Corporation (Overland, KS) \$ 63,860.00

UNFINISHED BUSINESS

A. Approval of an Ordinance: Conveyance of Land at 43-47 W. Washington Street

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 the Property Acquisition Agreement for the conveyance of 351 square feet of land at 43-47 West Washington Street to Blackthorn Capital Partners (BCP Property).

B. Approval of an Ordinance: Purchase of a Portion of a Parcel Located at Hebb Road

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 an ordinance to purchase a portion of property known as Parcel 824 on TM 217; Liber 4288, Folio 128, located on Hebb Road, Hagerstown, Maryland authorizing the execution and delivery of an attached Property Acquisition Agreement between the City and CAROLEE Investments, LLC, a Maryland limited liability company; Margaret L. Harrison holdings, LLC, a Maryland limited liability company; and FRALOHA, LLC, a Wyoming limited liability company authorized to do business in the State of Maryland.

C. Approval of an Ordinance: Purchase of Meritus Holdings

This agenda item was postponed.

NEW BUSINESS

A. Introduction of an Ordinance: Purchase of Wakefield Road Property

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 introduce an ordinance for the acquisition and settlement of multiple parcels of property totaling 1.65 acres and currently

owned by Calvary Grace Brethren Church on the even side of the 100 block of Wakefield Road in Hagerstown, Maryland.

B. Approval of a Resolution: Approval of User Agreement with the Monocacy Aquatic Club (MAC) for the Use of the Potterfield Pool

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 to enter into a user agreement with the Monocacy Aquatic Club (MAC) for use of the Potterfield Pool. The fee to the City of Hagerstown for the use of the pool will be \$ 3,000.00

The agreement shall be for one year beginning on June 7, 2023, with the option for two additional, 1-year extensions. The user fee shall increase by two percent per season.

C. Approval of a Resolution: Approval of User Agreement with the Hagerstown Fairgrounds Softball Association, Inc. for Use of the City Park Softball Fields

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 resolution to enter into a long-term user agreement with the Hagerstown Fairgrounds Softball Association, Inc. for non-exclusive use of the City Park softball fields.

The agreement shall be for twenty-three months beginning on February 1, 2023, with two additional renewal terms of two years each. The City shall charge no monetary rent for use of the premises.

D. Approval of a Resolution: Inspection Agreement with Meritus Medical Center, Inc.

This agenda item was postponed.

E. Approval of Funding for Municipal Electric Lobbyist Service

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 contribution amount of \$ 10,000.00 from the Electric Fund to Easton Utilities Commission toward their contact with Kress Hammen, Inc.

F. Approval of Lease Holdover Extension with Maryland Department of Labor, Licensing and Regulation, Division of Occupational Health

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 holdover extension letter with Maryland Department of General Services for a lease at 2-6 N. Potomac Street, Hagerstown, Maryland.

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

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 amendments to the FY23 Community Development Block Grant Annual Action Plan for the following actions:

1. Reallocation of \$ 362,642 CDBG funding from Alms House Rehabilitation Project as follows:
 - a) Reallocate \$ 60,000 to Single Family Emergency Repair Grant Program
 - b) Reallocate \$ 50,000 to Accessibility Ramps
 - c) Reallocate \$ 30,000 to Hagerstown Skate Park
 - d) Reallocate \$ 150,000 to Improvements to Triangle North of Park Circle
 - e) Reallocate \$ 72,642 to Alleyway Repaving
2. Increase funding maximum for individual Emergency Repair Grant cases from \$ 10,000 to \$ 15,000

Details of the CDBG amendments were attached with the meeting material.

H. Approval of Invest Hagerstown: City Center Redevelopment Application for 25 W. Church Street – MarketPlace LLC

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 Invest Hagerstown City Center Redevelopment Grant application for the renovation project at 25 W. Church Street with estimated total project costs of \$ 446,971.85. Staff are authorized to issue a Letter of Commitment to MarketPlace LLC for a grant in the amount of \$ 150,000 with a project completion deadline of December 31, 2023.

No funds will be dispersed until staff have verified that all work in the development plan is completed to the City's satisfaction and the total

project cost expenditure requirements have been met. Funding of this grant will come from the Invest Hagerstown line item in the Economic Redevelopment Fund.

I. Approval of Invest Hagerstown: City Center Redevelopment Grant Application for 34 W. Franklin Street – Cosner Business Services LLC

Action: Councilmember R. E. Bruchey, II made a motion to approve the Invest Hagerstown City Center Redevelopment Grant application for the renovation project at 34 W. Franklin Street with estimated total project costs of \$ 827,492. Staff are authorized to issue a Letter of Commitment to Cosner Business Services LLC for a grant in the amount of \$ 250,000 with a project completion deadline of December 31, 2023.

No funds will be dispersed until staff have verified that all work in the development plan is completed to the City's satisfaction and the total project cost expenditure requirements have been met. Funding for this grant will come from the Invest Hagerstown line item in the Economic Redevelopment Fund.

Councilmember T. Martinez seconded the motion.

Motion carried 4-1, with Councilmember S. McIntire abstaining from the vote

J. Approval of Temporary Overfill of Fire Positions

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 one full-time fire fighter position to be hired in an effort to save training costs and eliminate a transition period when the next person retires; as it is expected for this to happen July 1, 2023. This will allow for all new hires to begin training classes February 6, 2023. Approval of this request will ensure that all will be available to be moved to shiftwork, minimum staffing positions in the shortest amount of time possible for trained firefighters.

CITY ADMINISTRATOR COMMENTS

Scott Nicewarner, City Administrator, thanked all staff who attended this year's Day in Annapolis (January 25, 2023). The many good things that were said about Hagerstown is encouraging. Visits to Annapolis are paying off.

Mr. Nicewarner, on behalf of himself and City staff, stated it has been a true honor to serve with Mayor Keller. He presented a caricature drawing by Kathleen Maher, Director of Planning and Code Administration, to Mayor Keller. He wished the Mayor well in Annapolis. City staff, with the guidance of the elected body, will continue the work this administration has started.

MAYOR AND CITY COUNCIL COMMENTS

Councilmember R. E. Bruchey, II wished the Mayor good luck with the adventure that starts tomorrow for her.

Councilmember T. Burnett is proud of Mayor Keller and she offered congratulations again to her. This body and the City will keep moving forward.

Councilmember T. Martinez thanked Mayor Keller for her leadership. She hopes Mayor Keller understands she is equipped to do the job she has been appointed to. She has come far and has far to go. The best is yet to come.

Councilmember K. B. Aleshire thanked the medical staff at Med Star for their care of his 93 year old neighbor. He apologized to Nancy Hausrath, Director of Utilities, for his comments during last week's Work Session. He is frustrated with the Maryland Department of Energy (MDE) and he hopes the projects that are planned can be completed.

Councilmember Aleshire has served on Council for more than 20 years. Mayor Keller is the fifth Mayor he has served with. He thanked her for stepping up as a Councilmember. He stated it has been an honor to serve along side her. He urged her to keep her enthusiasm and to never apologize for it.

Councilmember S. McIntire wished Mayor Keller good luck. She is sure Mayor Keller decided in 2016 when she was elected to be Councilmember that she would be loud. She has given people in the community a reason to believe good things are possible. She has given little girls the belief that it is ok to speak up or to be a Councilmember or Mayor.

Councilmember McIntire thanked City staff who are promoting Hagerstown on social media. She is impressed with the amount of information that is being delivered.

Mayor E. Keller thanked the North American Rod and Gun Club for raising money to purchase a K-9 for the Hagerstown Police Department. A check for \$ 13,750 was presented to the City.

Mayor Keller thanked City staff for being so kind to her. She hopes Hagerstown's citizens know how lucky they are to have this staff who works here. Before she was elected, she had no idea of the amount of work it takes to operate the City. She thanked staff for what they've taught her about the City's functions.

This will be Mayor Keller's meeting. She announced she will be resigning as Mayor before the end of the day.

She stated Mr. Nicewarner had asked her if she considered the Field House as her legacy. She thought about it and realized that one of the greatest things she accomplished was being on the team that hired him as City Administrator. He has done an exceptional job.

She thanked her family for being there for her and supporting her. She would not be able to do all she does without their love and support. She thanked her parents for allowing the weird her to grow up in her own way. She thanked her friend Star supporting her. She thanked her daughter Layla for always supporting her. She does what she does for her daughter. She knows it hasn't been easy for Layla when her friends share with her what is being said about her mother.

Mayor Keller offered thoughts for each Councilmember:

To Councilmember Aleshire – she thinks he is the most brilliant person she's ever met. Most of the time, he was her favorite phone call of the week. She appreciates his friendship. He is an awesome person, friend, and father.

To Councilmember Bruchey – this is all his fault. At the end of 2015, he came to her office to tell her he was running for Mayor and to ask her to run for Council.

To Councilmember Burnett – she is proud of her and how she ran her campaign. When Councilmember Burnett saw a problem, she spoke out and decided to do something to resolve the issue. She is happy to call her a friend. The City is lucky to have her as a Councilmember.

To Councilmember Martinez – she and Mayor Keller are an odd couple. She doesn't think four years ago anyone would have thought they would be close friends. Now, they call each other several times a day and are good friends.

To Councilmember McIntire – is a very close friend. She thanked Councilmember McIntire for letting her facetime her multiple times a day. Councilmember McIntire is a great councilmember. She has enjoyed watching Councilmember McIntire's projects come to life.

To the citizens – it has been an honor and privilege to represent them as Mayor. The support from the City and the citizens has been tremendous. She will always believe in Hagerstown and she hopes the City starts to believe in itself. There are so many tremendous things going on and so many tremendous projects. Hagerstown is better than what the nay-sayers post on social media. Hagerstown deserves all the great things. She thanked all her supporters.

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 8:01 p.m.

Respectfully submitted,

Original signed by D. K. Spickler

Donna K. Spickler
City Clerk

Approved: February 28, 2023