

UNVEILING OF UTILITY BOX ARTWORK

Members of the Mayor and City Council gathered at the utility box in front of the Washington County Free Library at 100 S. Potomac Street in Hagerstown, Maryland for the unveiling of the Utility Box Artwork by Matt Longer at 6:30 p.m.

REGULAR SESSION (70<sup>TH</sup> VOTING SESSION) – May 23, 2023

**Mayor T. Martinez called this Regular Session (70<sup>th</sup> voting session) of the Mayor and City Council to order at 7:07 p.m., Tuesday, May 23, 2023, in the Council Chamber at City Hall. Participating with the Mayor were Councilmembers K. B. Aleshire, R. E. Bruchey, II, T. Burnett, S. McIntire, and M. J. Schindler, City Administrator Scott A. Nicewarner, City Attorney Jason Morton, and City Clerk D. K. Spickler.**

The invocation was offered by Mayor Tekesha Martinez. The Pledge of Allegiance was recited and led by Mayor Tekesha Martinez.

Mayor Martinez 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, June 6, 2023, Tuesday, June 13, 2023, and the Regular Session on Tuesday, June 20, 2023. No meeting is scheduled for Tuesday, June 27, 2023 due to the Maryland Municipal League Conference in Ocean City, Maryland.

GUESTS

Maryland Municipal League’s “If I Were Mayor” Essay Contest Recognition

Mayor Martinez welcomed Maryland Municipal League’s “If I Were Mayor” Essay Contest winners to the meeting.

Alivia Thomas, Paramount Elementary School, Louisa Foutch, Paramount Elementary School, Maxwell Dobbins, Paramount Elementary School, and Tazmeen Lawal, Paramount Elementary School, were chosen as the Mayor’s Choice winners.

Maxwell Dobbins was also selected by the Maryland Municipal League as a finalist for District 8.

Louisa, Tazmeen, and Maxwell assisted Mayor Martinez during the meeting.

**CITIZEN COMMENTS**

Citizen Comments were accepted by email at [councilcomments@hagerstownmd.org](mailto:councilcomments@hagerstownmd.org) prior to 5:00 p.m. on Tuesday, May 23, 2023. Citizen Comments were also accepted during the meeting.

Brittany Arizmendi, Community Engagement Officer, introduced artist Matt Longer, of Frederick, Maryland to the group. Mr. Longer created the artwork for one of the utility boxes, which was unveiled earlier this evening. Mr. Longer was also the artist for the 2014 Western Maryland Blues Fest poster. Artwork from various artists will be installed on utility boxes around the downtown.

No Citizen Comments were submitted by email.

**PUBLIC HEARINGS**

**Case No. A-2023-01 The Bostetter Group, LLC Proposed Annexation**

A Public Hearing was held to receive testimony regarding Case Number A-2023-01 The Bostetter Group, LLC Proposed Annexation.

Donna K. Spickler, City Clerk, provided the Oath to Kathleen Maher, Director of Planning and Code Administration, and Joanna Wu, Planner, at the beginning of the Public Hearing.

Ms. Maher stated The Bostetter Group, LLC submitted an annexation petition on March 7, 2023 to annex the property at 17601 Broadfording Road. The Mayor and City Council introduced the Annexation Resolution and approved the Annexation Plan at the Regular Session on March 28, 2023. As required by State Law, there were four published notices advertising the Public Hearing and the Annexation Plan was provided to the County, Regional, and State Planning Agencies at least 30 days prior to the hearing.

The property is located at 17601 Broadfording Road, Hagerstown, Maryland and is approximately 81.55 acres in size. It is contiguous to the City and is within the Medium Range Growth Area (MRGA), the Urban Growth Area (UGA), and the Priority Funding Area (PFA). County zoning is Residential Transition (RT) and the proposed City zoning is Residential-Moderate (RMOD). The property fronts Broadfording Road and McDade Road. Water will be served by the City and Wastewater will be through the Joint Sewer Service Agreement (JSSA). Public safety will be provided by City Police, City Fire, and Community Rescue Service. Electric will be provided by Potomac Edison. The Washington County Board of Education has been contacted regarding school capacity. The property adjoins Jonathan Hager Elementary, which includes a playground open to the public. The annexation will not involve taking ownership of the County roads.

The Maryland Department of Planning (MDP) has determined that the requested zoning of the annexation is not substantially different from the existing County zoning and therefore, express approval by the County Commissioners is not required. The letter

from MDP is included in the meeting material. The Washington County Department of Planning and Zoning submitted a letter indicating express approval would be required for the City RMOD zoning classification as it would be an approximate increase of 85% in density, which exceed the 50% requirement. A request may be submitted to the County Commissioners to grant express approval of the zoning.

Four public notices were published advertising this public hearing. Signs were also posted near the property to notify adjacent owners.

The request is for the property to be taxed based on the pre-annexation assessment value in SDAT until the first of the following to occur:

1. Tract is sold
2. Recordation of Final Plat divided into multiple new lots for development and sale
3. 10 years have passed since the effective date of the Resolution

The property owner is concerned that if the developer backs out, they would be responsible for paying City taxes at potentially a much higher value than currently assessed. This occurred with the Unger Annexation.

Ms. Maher entered the following as Exhibits:

Exhibit A – Certificate of advertisement

Exhibit B – Planning Commission and Mayor and Council file by reference

Councilmember Aleshire asked if a concept plan for proposed development has been submitted. Ms. Maher indicated the Planning Commission has reviewed and approved a concept plan but official approval is delayed until the effective date of the resolution.

Councilmember Aleshire asked if the concept plan is for the lower end of the minimum density. Ms. Maher stated it is and they will use the park at the school.

Councilmember Aleshire asked if the City's RMOD classification allows for higher density than the current County zoning. Ms. Maher stated the County zoning only allows single family homes and larger duplexes in that district.

Councilmember Aleshire asked if the project is eligible for State Smart Growth funding.

The following testimony was presented:

Jason Divelbiss, 11125 Bemisderfer Road, Greencastle, Pennsylvania, represents NVR, Inc, contract purchaser and they are the authorized representative of the owner of the Bostetter Group. Ms. Spickler provided the Oath to Mr. Divelbiss.

Mr. Divelbiss stated the property owner volunteers to add language to not exceed the allowable capacity without objection to address the density issue.

Councilmember R. E. Bruchey, II stated it should be easy to obtain express approval from the County. Mr. Divelbiss stated it should be but the owner would rather not request it at this time.

Councilmember Aleshire noted the City is seeing a return to larger scale residential developments lately. It is important as growth continues to keep in mind the City is not relegated to what is left of the original properties. For example, some of the properties may include slopes, steep areas, and stormwater ponds. He stressed that the open space has to be practical. He asked if the concept plan included who would be responsible for maintenance of the remaining tracks.

Mr. Divelbiss indicated the Homeowner's Association (HOA) would be responsible. The areas would not be conveyed to the City of Hagerstown.

Ms. Spickler provided the Oath to Yovi Server. Mr. Server, NVR, Inc., Rockville, Maryland, stated the open space would conceptually be for 190 units.

Councilmember Aleshire stated one of the things the City should note in future hearings is reiterating the City does not have an Adequate Public Facilities Ordinance (APFO) for schools. This development will obviously impact the school system. School capacity has been discussed for at least 14 years. Expansion of the County's educational facilities is continually delayed, which shouldn't happen.

Ms. Spickler provided the Oath to Tim Thompson.

Tim Thompson, 12219 West Lawn Lane, Hagerstown, Maryland, asked what this hearing is for. It seems this is already decided, like he believes the McCleary Hill development was before a hearing was held. Work is already being done for a new sewer line and manholes are being constructed. A lot of money has been spent for something that is not certain.

Councilmember Aleshire asked if Mr. Thompson is asking if the land will be developed. Mr. Thompson indicated an elected official told him 10 years ago that the McCleary Hill development was illegal.

Councilmember Aleshire pointed out this land will be developed, whether it is in the City limits or not.

Mr. Thompson stated if it is not annexed, there will only be 75 or 100 residential units, not 190.

Councilmember Aleshire stated water and sewer service would still be extended to this property.

Mr. Thompson stated Cedar Lawn does not have City sewer and the residents don't want it. He is aware one of the nearby residents has been having water problems due to other development. He anticipates this resident will have more issues soon. He also

noted that he was told there would not be a road from Hager's Crossing to McDade Road. There is now a road there. He thought the purpose of a hearing is to settle things.

Ms. Maher stated the construction Mr. Thompson referred to is a Washington County sewer line to connect Maugansville to the County's sewer treatment plant.

Mr. Divelbiss stated that project is not related to his client's project. The County has been planning this sewer line for years.

After the Public Hearing, the Mayor and City Council may pass or reject the Annexation Resolution. If the Resolution is approved, the annexation becomes effective in 45 days.

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

This hearing was closed at 7:36 p.m.

Case No. A-2023-02 Blaine Properties, LP Proposed Annexation

A Public Hearing was held to receive testimony regarding Case Number A-2023-02 Blaine Properties, LP Proposed Annexation.

Joanna Wu, Planner, stated Burkentine Real Estate Group submitted an Annexation Petition on February 24, 2023 to annex the property on McDade Road and Swann Road owned by Blaine Properties, LP. The Mayor and City Council introduced the Annexation Resolution and approved the Annexation Plan at the Regular Session on March 28, 2023. As required by State Law, there were four published notices advertising the Public Hearing and the Annexation Plan was provided to the County, Regional, and State Planning Agencies at least 30 days prior to the hearing.

The property is located on McDade Road and Swann Road and is approximately 28.347 acres in size. It is contiguous to the City and is within the Medium Range Growth Area (MRGA), the Urban Growth Area (UGA), and the priority funding area (PFA). County zoning is Residential Transition (RT) and the proposed City zoning is Residential-Medium (RMED). The property fronts McDade Road and Swann Road. Water will be served by the City and Wastewater will be through the Joint Sewer Service Agreement (JSSA) or the County's new main. Public safety will be provided by City Police, City Fire, and Community Rescue Service. Electric will be provided by Potomac Edison. The Washington County Board of Education has been contacted regarding school capacity. The property adjoins Jonathan Hager Elementary, which includes a playground open to the public. The annexation will not involve taking ownership of the County roads.

The Maryland Department of Planning has determined that the requested zoning for the annexation is not substantially different from the current county zoning from a use perspective. However, the proposed city zoning appears to allow substantially greater density than the county zoning, therefore, MDP recommends the City seek express approval from Washington County. Washington County has not provided any comments,

but a meeting is scheduled for June 13, 2023 with the County Commissioners to discuss express approval for this annexation's zoning.

Four public notices were published advertising this public hearing. Signs were also posted near the property to notify adjacent owners.

The Washington County Department of Planning and Zoning submitted a letter indicating express approval would be required for the proposed City RMED zoning classification. The RMED allows townhomes which are not permitted in RT (current county zoning). The County compared densities by averaging minimum lot sizes per unit and determined express approval is required because the proposed zoning is substantially different and the density exceeds 50%. The current County zoning (RT) as it would be an approximate increase of 85% in density, which exceed the 50% requirement. A request may be submitted to the County Commissioners to grant express approval of the RMED zoning.

Ms. Wu entered the following as Exhibits:

Exhibit A – Certificate of Advertisement

Exhibit B – Planning Commission file by reference

Councilmember Aleshire thinks the County is clearly correct that the proposed zoning is grossly denser than would be permitted by the County zoning. He asked what the density is at Hager's Crossing. He does not think it is as dense as the proposed 12 units per acre. He envisions significant improvements would be required at the McDade Road and National Pike intersection. There is a limited line of sight at this intersection with no signal.

Mickey Thompson, Director of Land Development for Burketine Properties, 1454 Baltimore Street, Hanover, Pennsylvania, was present. Ms. Spickler provided the Oath to Mr. Thompson.

Mr. Thompson is a representative of the developer. He stated the plan is a sketch plan at this point. The finer engineering points are not figured out yet. They did not want to proceed further with design work until they know if the property will be annexed. They have discussed the general concept with Washington County representatives. Upon successful annexation, they hope to work with the County to overcome some of the issues.

Councilmember Aleshire asked if the RMED was a request from the applicant or was it noted in the Comprehensive Plan. Ms. Maher stated the Comprehensive Plan recommend RMOD and RMED as appropriate zoning in this area and the applicant requested RMED.

Mr. Thompson stated the developer is from York County in Pennsylvania. They have pursued other opportunities along the eastern United States. They build apartment buildings and townhouses. They want to build townhomes on this property. They believe it would blend in well with the townhomes in Hager's Crossing. They don't

intend to seek a variance from any density that would be allowed in the RMED zoning district. The entire development would be controlled by an HOA. The estimated number of units is 170, depending on the final plan. There is a need for this type of housing in the County and in the City. They hope to fill that need with this and other projects.

Councilmember Aleshire asked if the proposed development is units of multiple levels. Mr. Thomson stated it is a town home community, with each home on its own lot. He stated the City staff is exceptional to work with.

Councilmember Burnett asked if the HOA will be merged with the HOA for Hager's Crossing. Mr. Thomson indicated it would be a stand-alone HOA.

The following testimony was presented:

Tim Thompson, 12219 West Lawn Lane, Hagerstown, Maryland, asked if the properties are residential suburban zoning since both currently farms. Councilmember Bruchey stated they are zoned Residential Transitional.

Mr. T. Thompson asked if the residences will be owner occupied or rental unit. Mr. M. Thompson stated that has not been determined. Mr. T. Thompson stated people maintain their homes better if they own them. He does not want more rental properties in this area.

Laurel Walker, 17426 Swann Road, Hagerstown, Maryland, was present. Ms. Spickler provided the Oath to Ms. Walker. Ms. Walker stated she is not opposed to new housing or the annexation. She is concerned about the increased traffic from any development in this area. She asked that some provision be made for the safety of residents on Swann Road. It is already dangerous to travel onto McDade Road from Swann Road.

Ms. Maher stated the development will need a road access permit from Washington County, which will start the Adequate Public Facilities Ordinance (APFO) for roads and a traffic study will be completed.

After the Public Hearing, the Mayor and City Council may pass or reject the Annexation Resolution. If the Resolution is approved, the annexation becomes effective in 45 days.

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

This hearing was closed at 7:55 p.m.

## **MINUTES**

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 approve the minutes as presented for April 4, 2023, April 11, 2023, April 18, 2023, April 25, 2023, and April 27, 2023.

**CONSENT AGENDA**

On a motion duly made by Councilmember R. E. Bruchey, II and seconded by Councilmember M. J. Schindler, the Mayor and City Council unanimously agreed by voice vote to approve the Consent Agenda as follows, with the exception of the purchase of Various Uniform Shirts for the Police Department (which is being removed from the agenda):

- A. Community Engagement:
  - 1. Open Container Exemption for Wind Down – School’s Out for Summer, June 14, 2023
  - 2. Open Container Exemption/Street Closure for Caribbean Festival – July 1, 2023
  
- B. Engineering:
  - 1. Pavement Markings – Alpha Space Control, LLC (Chambersburg, PA) Not to Exceed \$ 50,000.00
  
- C. Information Technology:
  - 1. Arctic Wolf IT Security Software Annual Renewal – HPD – Carahsoft Technology Group (Reston, VA) \$ 55,957.66
  
- D. Police Department:
  - 1. Dual Purpose Patrol and Narcotic Detection Dog – Tri-State Canine Services (Warren, OH) \$ 15,000.00
  - 2. ~~Various Uniform Shirts – Howard Uniform Company (Baltimore, MD) \$ 17,096.04~~
  - 3. Annual Contract for Five Axon License Plate Readers – Axon Enterprises, Inc. (Scottsdale, AZ) \$ 76,371.00
  
- E. Public Works:
  - 1. Replacement of HVAC System at Hagerstown Ice Rink – M. S. Johnston Company (Hagerstown, MD) \$ 91,150.00
  - 2. Park Equipment – Playground Specialists, Inc. (Thurmont, MD) \$ 100,551.30
  - 3. Open Container Exemption – Doleman Black Heritage Museum Juneteenth – June 16 and 17, 2023
  
- F. Utilities:
  - 1. Light – Linework Services Blanket Contract – Diamond Electric (Boonsboro, MD) \$ 350,000.00
  - 2. Light- Equipment Refurbishment Blanket Contract – Southeastern Transformer Company (Dunn, NC) \$ 70,000.00
  - 3. Light – Vegetation Management Blanket Contract – All Reliable Services (Saint Augustine, FL) \$ 354,100.00
  - 4. Light - Regulatory Consulting Services Blanket Contract – Power Services Agreement – DGS Associates, Inc. (Marietta, GA) \$ 75,000.00
  - 5. Light – Consulting Services – Compensation Analysis – Paypoint HR (Davidsonville, MD) \$ 32,500.00

6. Light – Software Support, Maintenance, and License Blanket Contract – Milsoft Utility Solutions (Abilene, TX) \$ 35,235.00
7. Light – Substation Maintenance and Repair Blanket Contract – TRC Companies (Lancaster, PA) \$ 175,000.00
8. Light – Underground Locating Blanket Contract – USIC Locating Services, LLC (Indianapolis, IN) \$ 75,000.00
9. Light – 2023 F-150 4x4 Super Cab (Replacement of Vehicle 102) – Keystone Ford (Chambersburg, PA) \$ 45,800.00
10. Light – Breaker Replacement – Anixter-Wesco (Easton) (Greenwood, DE) \$ 68,806.00
11. Light – Meter Test Equipment – Radian Research, Inc. (Lafayette, IN) \$ 24,047.50
12. Water – 10” Fire Line Meters – Ferguson Waterworks (Frederick, MD) \$ 42,537.65
13. Water – Chlorinator Annual Maintenance Contact – Environmental Service & Equipment Company, Inc. (Marcus Hook, PA) \$ 11,553.00
14. Water – Polymer – Coyne Environmental (Croydon, PA) \$ 45,900.00
15. Water – Potassium Permanganate – Chemrite (Buford, GA) \$ 28,174.79
16. Water and Wastewater – Underground Line Marking – USIC (Indianapolis, IN) \$ 150,000.00
17. Water and Wastewater – FY24 Patching Contract – Huntzberry Brothers, Inc. (Smithsburg, MD) \$ 357,339.00
18. Wastewater – Change Order 2 to Pelletizer Contract – Black and Veatch Corporation (Gaithersburg, MD) \$ 250,000.00
19. Wastewater – Garage Door Replacement – Palmer Construction Company (McConnellsburg, PA) \$ 101,460.00
20. Wastewater – OAB Deck Repair Parts – Process Solutions, Inc. (Columbia, MD) \$ 10,176.69

### **UNFINISHED BUSINESS**

#### **A. Approval of an Ordinance: Deed of Easement Agreement with Columbia Gas for Storm Drain Maintenance and Pedestrian Access on Sycamore 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 an ordinance to accept two easements from Columbia Gas of Maryland for access and maintenance of an existing storm drain, and the installation of a public sidewalk along Sycamore Street.

#### **B. Approval of an Ordinance: Deed of Easement Agreement with Columbia Gas for Installation of Gas Main Adjacent to Frederick Street**

**Action:** On a motion duly made by Councilmember T. Burnett and seconded by Councilmember M. J. Schindler, the Mayor and City Council unanimously agreed by voice vote to approve an ordinance to grant an easement for the

installation of a gas main on lands of the City adjacent to Frederick Street near Funkstown.

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

**Action:** Councilmember R. E. Bruchey, II made a motion to approve an ordinance to amend the City Code by repealing and reenacting Chapter 140, Land Management Code. The re-enacted Land Management Code includes the 2023 Package of annual revisions finalized by the Mayor and City Council. This re-enacted version of the Land Management Code shall be known as version 3.10. Councilmember S. McIntire seconded the motion.

Discussion: Councilmember Aleshire stated he is in favor of recreational and medicinal cannabis use but the inclusion of regulations regarding the use of cannabis clearly violates Federal law and compromises the Oath of Office the Mayor and City Council members agreed to.

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

**D. Approval of an Ordinance: Authorizing the Sale of Property Located at 11850 Indian Lane, Hagerstown, Maryland**

**Action:** On a motion duly made by Councilmember M. J. Schindler and seconded by Councilmember T. Burnett, the Mayor and City Council unanimously agreed by voice vote to approve an ordinance authorizing the sale of property located at 11850 Indian Lane, Hagerstown, Maryland to Ryan Daughtridge and Rori Cannon for a purchase price of \$ 625,000. The sale will be in accordance with all of the terms and conditions outlined in the Contract of Sale, which is attached with the ordinance.

**NEW BUSINESS**

**A. Introduction of an Ordinance: Add Chapter 230, Transient Housing, to the City Code**

**Action:** Councilmember K. B. Aleshire made a motion to introduce an ordinance to add Chapter 230, Transient Housing, to the Code of the City of Hagerstown. This added chapter will:

1. Establish a licensing program for transient housing facilities which includes hotels, motels, inns, bed & breakfast structures, and short-term rentals
2. Enact license fees for transient housing facilities based on tier level for hotels and license fees for bed & breakfasts and short-term rentals
3. Create a tier structure related to code violations per room ratio for hotels
4. Establish joint inspection requirements for transient housing facilities
5. Create ability to reclassify hotel tier after joint inspection

6. Require training for transient housing owners, managers, and staff on human trafficking activities, human trafficking victims and overdose response program
7. Create transient housing facility guest register requirements pertaining to transient visitors letting any transient housing unit
8. Enact premises requirements prohibiting hourly rates and letting transient housing units for illegal purposes
9. Provide processes to deny, suspend or revoke transient housing facility applications and licenses

Councilmember S. McIntire seconded the motion.

Discussion: Councilmember McIntire thanked staff for working through all the discussions and changes for this ordinance. She hopes it will make the changes that address the situations they are seeing.

Councilmember Bruchey agrees with the regulations but not with the requirements for training on overdose responses.

Motion carried, 4-1 with Councilmember R. E. Bruchey, II voting No.

**B. Introduction of an Ordinance: Amending Chapter 232, Vacant Non-Residential Structures, to Enhance Support to Neighborhoods**

**Action:** On a motion duly made by Councilmember R. E. Bruchey, II and seconded by Councilmember M. J. Schindler, the Mayor and City Council unanimously agreed by voice vote to introduce an ordinance to amend the Code of the City of Hagerstown, Chapter 232, Vacant Non-Residential Structures. Specifically the amendments will:

1. Add definitions for “Shell Condition Space” and “Vacant Non-Residential First Floor Space”
2. Amend the definition of “Vacant Non-Residential Structure” to license mixed-use structures in the CCM zoning district having one or more vacant non-residential uses on the first floor
3. Amend the Application/License Fee to provide further clarification on blight determinations and providing property owners with the ability to be reclassified

When the ordinance is scheduled for approval, a motion will be on the same agenda to adopt a policy related to first floor shell condition space standards. A memo and proposed policy are attached with the meeting information.

These amendments are consistent with the City’s Vision and Commitment for Housing and Neighborhoods and the Community’s City Center Plan.

**C. Introduction of an Ordinance: Amending Chapter 233, Vacant Residential Structures, to Enhance Support to City Neighborhoods**

**Action:** On a motion duly made by Councilmember M. J. Schindler and seconded by Councilmember T. Burnett, the Mayor and City Council unanimously agreed by voice vote to introduce an ordinance to amend the Code of the City of Hagerstown, Chapter 233, Vacant Residential Structures. Specifically the amendments will:

1. Amend the Application/License Fee to include an escalating fee for vacant, non-blighted residential properties based on vacant time period
2. Amend the Application/License Fee to provide further clarification on blight determinations and providing property owners with the ability to be reclassified

These amendments are consistent with the City's Vision and Commitment for Housing and Neighborhoods and the Community's City Center Plan.

**D. Approval of a Resolution: City of Hagerstown Public Improvements Bond Anticipation Note of 2023 (Federally Taxable)**

**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 adopt a resolution providing for the sale, issuance and delivery by City of Hagerstown to JPMorgan Chase Bank, N.A. (the "Bank") of the City's Public Improvements Bond Anticipation Note of 2023 (Federally Taxable) (the "BAN") in the original principal amount of \$ 10,600,000 or such lesser principal amount as shall be determined by City officials is necessary prior to issuance in order to finance or reimburse on an interim basis costs of a project generally referred to as "Parking Fund – Parking Facilities – 3<sup>rd</sup> Parking Deck."

The resolution provides that the BAN shall mature two (2) years from the date of issuance, shall bear interest at the rate of 4.90% per annum (except during the occurrence and continuance of a payment default, in which case the BAN shall bear interest at the rate of 10.90% per annum or such lesser maximum interest rate then required by applicable law), and shall be subject to prepayment at the option of the City in whole or in part on any date occurring on or after the date that is the one (1) year anniversary of the date of issuance of the BAN, without premium or penalty. Interest will be payable monthly and all principal will be due at maturity unless prepaid prior to maturity. The entire principal amount of the BAN will be disbursed to the City or at its direction at closing. The resolution pledges the City's full faith and credit and unlimited taxing power to payment of the BAN and specifies the circumstances in which debt service on the BAN shall be payable in the first instance from the Parking Fund to the extent of available moneys. The resolution fixes or provides for other details relating to the BAN, including that the City is responsible for

paying the Bank's counsel's fees in the amount of \$ 8,000. Closing on the BAN shall take place no later than June 7, 2023 unless otherwise agreed to by the Bank.

**E. Approval of a Resolution: Parking Lease with Department of Juvenile Services**

**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 approve a resolution to enter into a second supplemental parking lease agreement between the City of Hagerstown and the State of Maryland for the rental of fourteen parking spaces in the University District Parking Deck for use by the Department of Juvenile Services.

The term of the lease is three years and commences on July 1 2023. The annual rent to be paid to the City is \$ 11,760.00.

The City hereby revokes its approval of Supplemental Lease Agreement No. 2, in the form in which it was presented to the Mayor and Council on March 28, 2023.

**F. Approval of a Resolution: Amend the City's Sewer Capacity Allocation Program (SCAP)**

**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 amend the City's Sewer Capacity Allocation Program (SCAP). The SCAP is utilized by the City as a prudent means of managing its wastewater resources. The 2023 amendments will shift the allocation between new residential and new non-residential development back to the 2008 allotments in the SCAP, with no overall increase in allocation levels, to reflect current and pending demands for new development within the City. With the change, 60,000 gpd will be set aside annually for new residential development in the City and 20,000 gpd will be set aside annually for new non-residential development in the City. In addition, any unused allocation at the end of the year for new residential development in the City will roll into the same category for the following year, as was also the practice in 2008. The amendments will become effective immediately upon approval of the resolution.

**G. Approval of a Resolution: Execution of an Addendum to the Financial Incentive Agreement between the City of Hagerstown and Ares Investment Group, LLC for 86-89 West 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 a resolution authorizing the execution of an Addendum to the Financial Incentive Agreement between the City of Hagerstown and Ares Investment Group, LLC for 86-89 West Washington Street.

The Addendum provides an extension of the deadline from February 1, 2023 to August 31, 2023 and requires the principals of Ares to sign a new Guarantee.

**H. Approval of a Resolution: Parking Lease for the Rochester Parking Lot with the Administrative Office of the Courts**

**Action:** On a motion duly made by Councilmember M. J. Schindler and seconded by Councilmember R. E. Bruchey, II, the Mayor and City Council unanimously agreed by voice vote to approve a resolution to enter into a parking lease agreement between the City of Hagerstown and the Administrative Office of the Courts for the rental of eighteen parking spaces in the Rochester Parking Lot for use by the Washington County Circuit Court.

The term of the lease is one year and commences on July 1, 2023. The annual rent to be paid to the City is \$ 12,096.00.

**I. Approval of a Resolution: Accepting the Offer of Dedication of Pump Station #30 by Hager’s Crossing Homeowners’ Association, Inc.**

**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 accept the offer of dedication of Wastewater Pump Station #30 by Hager’s Crossing Homeowners Association, Inc. to the City of Hagerstown.

**J. Approval of HVAC Service and Maintenance Contract – 7/1/23 – 6/30/24**

**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 authorize and approve the renewal of the HVAC Service and Maintenance Agreement Contract with M. S. Johnston Company, Inc. This contract covers the City of Hagerstown’s air filtration systems and HVAC (heating, ventilation, air condition) preventative maintenance, with hourly repair services as needed. The contract term is July 1, 2023 – June 30, 2024. This is year one of three optional one-year renewals. M. S. Johnston Company Inc’s FY24 annual amount is \$ 42,496.00 with a departmental breakdown as follows:

Fire Department	\$ 2,700.00
Light Department	\$ 2,060.00
Parks Department	\$ 9,550.00

Public Works	\$ 14,056.00
Water Department	\$ 4,790.00
Wastewater Department	\$ 9,340.00

**K. Approval of On-Call Electrical Maintenance Services Contract: 7/1/23 – 6/30/24**

**Action:** On a motion duly made by Councilmember R. E. Bruchey, II and seconded by Councilmember K. B. Aleshire, the Mayor and City Council unanimously agreed by voice vote to authorize and approve the renewal of the On-Call Electrical Maintenance Contract with MED, Inc. as the City of Hagerstown’s on-call electrical contractor for various departments/facilities within the City of Hagerstown on an as-needed basis for projects under \$ 25,000.00. The contract term is July 1, 2023 – June 30, 2024. This is year five of five optional one-year renewals. MEC Inc.’s pricing is as follows:

Regular Hourly Rate (8:00 a.m. to 4:30 p.m.)	\$ 57.75 per hour
After Hours	\$ 86.63 per hour
Weekend Rate	\$ 86.63 per hour
Holiday Rate	\$115.50 per hour
Material Mark-Up on Supplies	10%

**L. Approval of Authorization for the Director of Utilities to Lock in Wholesale Power Supply Terms**

**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 grant the Director of Utilities the authorization to secure wholesale power supply contract rates and terms due to the short duration electric market pricing is offered.

**M. Approval of the Bay Restoration Fund Grant Application for Engineering and Capital Projects for Enhanced Nutrient Removal Operation and Maintenance**

**Action:** On a motion duly made by Councilmember M. J. Schindler and seconded by Councilmember R. E. Bruchey, II, the Mayor and City Council unanimously agreed by voice to approve the Bay Restoration Fund Grant Application for Engineering and Capital Projects for Enhanced Nutrient Removal Operation and Maintenance. Funding will be used for Enhanced Nutrient Removal improvement projects identified in the FY24 CIP and Operating Budget to help ensure compliance with the City’s NPDES nutrient load requirements for nitrogen and phosphorus.

**N. Approval of Increase to Non-Union Pay Scale**

**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 3% increase to the MG Non-Union pay scale and Battalion Chief pay scale effective July 3, 2023. This excludes the non-union police pay scale which is approved separately.

Copies of the pay scales are attached with the motion.

**O. Approval of Hagerstown Police Department Non-Union Sworn Pay Scale**

**Action:** On a motion duly made by Councilmember R. E. Bruchey, II and seconded by Councilmember M. J. Schindler, the Mayor and City Council unanimously agreed by voice vote to approve of a modified pay scale as of July 3, 2023 for regular, full-time, sworn, non-union Hagerstown Police Department employees. A copy of the pay scale is attached with the motion.

The cost of the step increase for non-union, sworn officers was included in the FY24 budget submission.

Discussion: Councilmember Bruchey is glad the Mayor and City Council are approving this pay scale. Citizens contact him every day supporting more pay for officers.

**CITY ADMINISTRATOR COMMENTS**

*Scott Nicewarner, City Administrator*, announced that City Hall will be closed on Monday, May 29, 2023 in observance of Memorial Day. Trash, recycling, and yard waste pick up will be delayed by one day.

**MAYOR AND CITY COUNCIL COMMENTS**

*Councilmember K. B. Aleshire* had no additional comments.

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

*Councilmember T. Burnett* was happy to see so many people downtown last weekend. There were a lot of events and people seemed to be enjoying all the activities. She thanked the Hager's Crossing HOA for hosting a cleanup. She thanked Eric Deike, Director of Public Works, for making sure they had trash bags and gloves for the clean-up.

*Councilmember S. McIntire* congratulated the If I Were Mayor essay contest winners. She thanked them for helping with this meeting.

*Councilmember M. J. Schindler* congratulated the Barbara Ingram School for the Arts (BISFA) for their successful Chili Cook Off.

*Mayor T. Martinez* reminded everyone Start Up Week continues until Friday at the Hagerstown Community College. She congratulated the If I Were Mayor contest winners and thanked each of the three students present for helping her with the meeting. She hopes to have more students participate throughout the year.

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 8:26 p.m.

Respectfully submitted,

*Original signed by D. K. Spickler*

Donna K. Spickler  
City Clerk

Approved: June 20, 2023