

CITY OF SALISBURY, MARYLAND

REGULAR MEETING

SEPTEMBER 11, 2023

PUBLIC OFFICIALS PRESENT

*Council President April R. Jackson
Council Vice-President Angela M. Blake
Councilmember Megan Outten*

*Mayor John R. “Jack” Heath
Councilmember Michele Gregory*

IN ATTENDANCE

*City Administrator Andy Kitzrow, City Attorney Ashley Bosche, City Clerk Kimberly Nichols,
and members of the public*

CITY INVOCATION – PLEDGE OF ALLEGIANCE

The City Council met in Legislative Session at 6:00 p.m. in Council Chambers of the Salisbury Headquarters Building and via Zoom. Council President April Jackson called the meeting to order. After calling for a moment of silent meditation for those who lost their lives during the 9/11 attacks, President Jackson invited everyone to recite the pledge to the flag. Since the scheduled pastor was not in attendance to provide the City invocation, a moment of silent meditation was observed.

MOMENT OF REFLECTION

Mayor John R. “Jack” Heath addressed the public with the following message:

“Ladies & Gentlemen, tonight we acknowledge the past wrongdoings from those who worked within these walls who contributed to the lynching of Matthew Williams. We condemn the actions of anyone who was involved in this incident. Let us now observe a moment of silence in remembrance of Matthew Williams and all victims of racial violence. As we move forward, let us unite in the commitment to creating a safe and inclusive space where everyone’s voice can be heard. Our goal is to come together as one community dedicated to building a prosperous and harmonious Salisbury. Thank you very much”.

ADOPTION OF LEGISLATIVE AGENDA

President Jackson called for a motion to adopt the legislative agenda. Ms. Gregory moved, Ms. Outten seconded, and the vote was unanimous (4-0) to approve the legislative agenda.

CONSENT AGENDA- *presented by City Clerk Kimberly Nichols*

The Consent Agenda, consisting of the following items, was unanimously approved on a motion and second by Ms. Gregory and Ms. Blake, respectively.

- *July 17, 2023 Work Session Minutes*

- *July 31, 2023 Special Meeting Minutes*
- *August 7, 2023 Work Session Minutes*
- *Resolution No. 3282- to approve the appointment of Chelsye Phillips-Hutton to the Zoo Commission for term ending September 2027*

President Jackson said the Council appreciated Ms. Phillips-Hutton for volunteering to serve.

RESOLUTION- *presented by City Administrator Andy Kitzrow*

- **Resolution No. 3283- to establish a Public Art Committee**

Ms. Outten moved, Ms. Gregory seconded, and the vote was unanimous to approve Resolution No. 3283.

Ms. Blake commented that she thought it was a fantastic idea and she really was looking forward to seeing the Arts that would come out of this. Ms. Outten added, that for anyone looking to check out the Master Plan, there was a wonderful presentation last week during the Work Session. Anyone interested in learning more about it could view it on PAC14 or view the Work Session packet on the City website. It was exciting to see that we were reinvesting in the Arts. It was a great way to reengage our artists, too. Council President Jackson said she loved the bright, bold colors signifying who we really were. It spoke volumes when we had tourists come in. Most of the murals were history and generations to come would know our history in Salisbury.

Ms. Outten asked when this would be effective and Mr. Kitzrow answered immediately.

ORDINANCES- *presented by City Attorney Ashley Bosche*

- **Ordinance No. 2820-** *2nd reading- to approve a budget amendment of the FY24 General Fund Budget to appropriate funds received from the Blue Heron Agility Association of Delaware*

Ms. Gregory moved, Ms. Outten seconded, and the vote was unanimous to approve Ordinance No. 2820 for second reading.

- **Ordinance No. 2822-** *2nd reading- to convert Calvert Street from US 13 Business North to 300 feet west to one-way westbound traffic only*

Ms. Blake moved, Ms. Gregory seconded, and the vote was unanimous to approve Ordinance No. 2822 for second reading.

- **Ordinance No. 2823-** *2nd reading- to approve a budget amendment of the FY2024 General Fund Budget to appropriate additional funds required for legal services*

Ms. Outten moved, Ms. Gregory seconded, and the vote was unanimous to approve Ordinance No. 2823 for second reading.

- **Ordinance No. 2824-** 1st reading- approving a budget amendment of the FY2024 General Fund Budget to appropriate funds to the Department of Field Operations Budget for increased overtime

Ms. Blake moved, Ms. Gregory seconded, and the vote was unanimous to approve Ordinance No. 2824 for first reading.

- **Ordinance No. 2825-** 1st reading- to authorize the Mayor to enter into a contract with the Maryland State Arts Council for the purpose of accepting grant funds in the amount of \$17,846 and to approve a budget amendment to the Grant Fund to appropriate these funds to be used for eligible expenses associated with a Public Art Fund for the Arts & Entertainment District

Ms. Gregory moved, Ms. Blake seconded, and the vote was unanimous to approve Ordinance No. 2825 for first reading.

- **Ordinance No. 2826-** 1st reading- approving a budget amendment of the FY2024 General Fund Budget to appropriate additional funds required for a Downtown Ambassador Program

Ms. Blake moved, Ms. Gregory seconded and the vote was unanimous to approve Ordinance No. 2826 for first reading.

- **Ordinance No. 2827-** 1st reading- amending Chapter 5.69 of the Salisbury City Code to include exclusions from the Paper Carryout Bag Fee

Ms. Gregory moved, Ms. Blake seconded, and the vote was unanimous to approve Ordinance No. 2827 for first reading.

PUBLIC COMMENTS

The following comments were provided by seven members of the public:

- *Speaker said he inquired about the local processes to certify licensing of recovery homes with the Local Behavioral Health Department Officer. He learned they did not certify recovery homes; that was done by the State Health Department. The role of the local Behavioral Health Department was to inspect for the State Health Department. He asked if they had ever inspected for the State and was told that was confidential information. He requested the enabling language that required that information to be confidential. He had not received a reply from the local or the State Health Departments. He asked what the contents of the inspections would be and the local department replied it would be a visual inspection with no inspection points listed. This left them with another claimed safety check in the process of certifying and licensing recovery homes that did not hold up to scrutiny. There was no local county health department oversight of the recovery housing. As the City moved forward with drafting an ordinance to regulate recovery houses and how they were governed, he hoped they would keep in mind the Somerset County homeless shelter was shut down because of mismanagement and violations of*

- best practices and financial reporting which has resulted in a displacement of the homeless population, arriving in Salisbury and creating conflict with Salisbury-based homeless people. The stakes were real and the process protected the clients in those homes and did not displace them if everything was done properly. Homes4Hope was speaking publicly about suing the City if it did not their way. He believed the City had a good position based on the regulations he was reading. He said the stakes were very high and there were human beings in this who needed this process to work well.*
- *Speaker said he wouldn't be here but for the efficiency, professionalism, compassion and care of the City Emergency Medical Services. Since January, unfortunately, that has happened multiple times and he was grateful to the men and women of the EMS. He said in the City of Salisbury one could operate a dog breeding business. It was happening, and he did not know how Animal Control did their jobs. Wicomico County just passed a stricter, more effective, and efficient dog ordinance. We only had a \$50 fine for a citation. He asked the City to take a look at the County ordinance and mirror it. Waverly Drive was a speedway now that it was flat. There were no obstructions and he requested law enforcement to enforce the speed limit, safety, truck restrictions posted on Waverly. It was very dangerous for pedestrians.*
 - *Speaker was concerned with the recovery homes, one of which was next door to her. It had eight gentlemen or more, and the traffic and different unknown cars were a concern. There now was strange activity the residents never had to worry about before. Middle Boulevard was only .2 of a mile long and there were sixteen or more men in recovery with a daycare center across the street. She asked where this would stop. 708 Riverside Drive, less than ½ mile from Middle Boulevard, had six men living there. Within less than a mile there were 22 or more recovering addicts. The relapse rate was quite high for opioids. There was going to be another house on the market on her street soon. She asked who was regulating this and understood that the City did not know about this.*
 - *Speaker said that Waverly Drive made sense to her, like Riverside Drive. She requested that the City not start Eastern Shore Drive. She understood it was in the pipeline, and that it would be a wonderful addition. She recalled Mayor Heath saying that the City would evaluate the projects that were already in the works before moving onto new. Please really look at what was in place. She was assuming that grant money paid for all of the initial work, but who was paying for re-dos. She asked who paid for Waverly, and who would pay to re-do Fitzwater and Isabella Streets. She suggested that the \$12 million received from the Department of Transportation be used for re-dos and review projects that Mayor Heath has talked about before starting one more thing.*
 - *Speaker was concerned about taking huge gifts and grants without budgeting for the maintenance of what was the result. She gave examples of Eastern Shore Drive, Vision Zero and some of the new developments around town that have not been factored into the maintenance budget for future years. They will come back and haunt us at budget time, such as Ordinance No. 2824, which increased overtime. In City staff's own words, in recent months, the combination of an expanded residential footprint of the City as well as other maintenance issues have cost additional "unforeseen costs" which a good fiscal manager would have been able to foresee. Another example was back in 2006 there was a Deed of Preservation Easement attached to a \$150,000 grant from the Maryland Historic Trust to the City to repair and construct the pavilion and three of the major bridges in City Park. With that money, she thought the new pedestrian bridge at Ben's Red Swings was constructed. Due to lack of any maintenance whatsoever, there*

- were some horrible disrepair on these bridges and facilities. These were not factored in our maintenance budget. She passed out photographs of the City Park bridges showing damage and disrepair and a copy of a Deed of Preservation Easement which are attached and made part of these minutes.
- *Speaker said that anyone who attended the City's Open and Closed Meetings on June 20th believed that during the Closed Session the Council decided to approve the contract to sell all of Parking Lots 11, 15 and part of Lot 1 to a developer and voted to do so without further discussion of the contract when it returned to an Open Session. The Open Meetings Compliance Board (OMCB) has ruled the discussion was unlawful because it should have occurred in an Open Meeting for the public to watch and listen. The OMCB ruled that the discussion went beyond the interchange between the client public body and its lawyer. As the Council's Closed Session summary indicated, the City Administrator fielded questions from the Council. The Council was not only consulting with Council to obtain legal advice. She said they concluded the Council violated the act when they closed its meeting under the legal advice exception. In her complaint to the board she asked that it recommend the minutes and recording of the Closed Session be released to the public. The OMCB Opinion indicated it was not authorized to make the recommendation, but she said if the Council respected the citizens it would release them.*
 - *Speaker said this would be the last regular meeting before the Folk Festival and hoped it all went well. Remember, this would be the last one if all of the development planned goes through where there would be parking on Lot 15, Lot 11, Lot 1, and Lot 10. They, and Lot 30 would be gone, depending on how fast the development went. He reiterated thought the Eastern Shore Drive project had been stopped. By converting it to one lane in each direction, traffic jams would be built in. It was heavily used at times and there were many turns into commercial property. He said to not start the project and rethink the one approved on June 20th. If it has not been signed, reconsider that decision. The Closed Session was unlawful and the development would devastate Downtown.*
 - *Speaker said he was a property owner, resident, tax payer, concerned citizen and an attorney who represented indigent and struggling people trying to turn their life around. His fiancé recently bought a home on Union Avenue and while moving out of his home he learned of the law stipulating they had to be single family occupied. He said he thought it was odd but didn't do anything because he thought it did not affect him. He learned the purpose was to prevent college kids from taking over. The irony there was obvious as the Ross loomed over Downtown and he was concerned that this limitation precluded people from finding affordable housing, did not protect from kids taking over, was antiquated and probably unconstitutional as it likely violated the Fair Housing Act He had concerns for the City's exposure and many of his clients who relied on housing that it did not fall into a single-family house such as Homes4Hope and other recovery housing. He said that the relapse rates of recovery was relatively high but significantly lower for those ready and chose to live in recovery homes which provided significant oversight, frequent random urine drug tests, and they were frequently unable to go places unless approved. He was concerned the ordinance was used against those places and the residents would lose their housing and recovery. The City would not benefit from that. He was concerned how that exposed the City and himself as a taxpayer. Substance use disorder was recognized under the ADA and discrimination was unlawful. Drug Court Graduation was October 13. These people have turned their lives around and have spent hundreds of hours giving back.*

- *Speaker congratulated President Jackson and Vice President Blake for their positions and all were women. She thought it may be historical to have a whole Council of women.*
- *Speaker who lived on Middle Boulevard for 26 years and had two young daughters, stood in solidarity with his neighbors' concerns with the two houses. He said he had nothing against recovery and understood their struggles but he worried about the occupancy of the two houses. Council needed to decide how this would play out and set precedence. When he found out about them he contacted Councilmember Outten and she had no knowledge about it. It was done under the cover of darkness. They could not get truthful answers from the owner of the establishments, which raised suspicion. He and his neighbors were all taxpayers and voters. Families who used the daycare center could react and pull their children out. He hoped Council thought very deeply about this.*
- *Speaker, who was President of the Wicomico County NAACP was looking forward to the City moving forward with true representation, diversity and understanding so that when the issue regarding this old firehouse was , it was not just the firehouse but systemic issues. She said she was glad that the Council was bringing them on board so they could discuss a resolution or some sort of official apology from the City. This was not just about a building, but about bringing healing and closure. There were people of color who said they did not feel welcome in the Downtown area, and this would send out a message that the City was inclusive of everyone.*

President Jackson thanked the speakers for their comments and concerns.

ADMINISTRATION AND COUNCIL COMMENTS

Mr. Kitzrow welcomed new Communications Director Shawn Yonker, present in the audience. Mr. Boda's first day was today as Director of Housing and Community Development. The Maryland Folk Festival was soon so please come out and enjoy the festivities September 22nd through 24th . During Public Comments they received a lot of questions and concerns. He received a copy of all the slips so if there was anything he could address, feel free to contact him for greater detail.

Mayor Heath said that Friday, September 15th was Third Friday with the theme Artscape. On the side of the school buses, the stop signs meant to not go faster. He saw the second one in two weeks go right by and it was on Eastern Shore Drive. If you see someone do it, honk at them as someone was going to get hurt or killed. He saw an ambulance going down Rt. 13 the other day. For about five minutes no one pulled over. If you can give blood, please do. The area was still short on supply.

Ms. Gregory announced to serve on the Arts Committee, go on the City website and apply. She was looking forward to seeing what the committee came up with. Regarding the comments about the disrepair in the parks, she reminded the public that we had a pandemic and that was not the focus of attention. We have been playing catch up ever since, so give Field Ops a little grace to catch up. We were still in need of volunteers for the Folk Festival. Sign up at [MDFolkFest.com/volunteer](https://www.mdfolkfest.com/volunteer).

Ms. Blake asked the public to donate blood. One pint could save up to three lives. Consider donating plasma and becoming an organ donor. She said vestibular disorders were very near and dear to her and she would be sharing information. Oftentimes it was about balance and it impacted the quality of people's lives.

Ms. Outten thanked everyone for coming out and staying engaged on the issues. She asked Mr. Unis to stay after the meeting for continued discussion and she thanked Ms. Dashiell and Mr. Maher for their comments. Speeding in the neighborhoods was a big concern and DID was looking how to tackle the issues. She did a ride along last week with the Salisbury Police Department and got to see what they were experiencing in their day to day. They were happy to see the Ambassador Program Downtown to help ease some of their pressures. She said there was an upcoming event in District 3 and a desire to revive the Camden Neighborhood Association since it dissolved after Covid. September 19th from 6pm to 7pm there would be an event at Newton Street Community Center.

Ms. Jackson agreed with Mayor Heath's concerns with the school buses and asked parents to be sure their children crossed the streets in the cross walks. She has seen an overwhelmingly number of opioid use in her district every day. It was not just in her district, it was everywhere. She asked the citizens to keep coming out to the meetings, as their voice meant a lot.

OPEN MEETINGS COMPLIANCE BOARD (OMCB) STATEMENT

Council President Jackson then read the following statement regarding the decision of the OMCB:

"Official Opinion of the Maryland Open Meetings Compliance Board issued 9/11/23

Complainants alleged that the Salisbury City Council violated the Open Meetings Act by improperly discussing a contract in closed session. The Council responded that it properly closed the meeting to consult with counsel to obtain legal advice. The Council was entitled to enter closed session to ask questions of its attorney, but because the Council's closed session discussion went beyond the receipt of legal advice, the Council violated the Act.

The State of Maryland Open Meetings Compliance Board's review of the closed session minutes reveals that members of the Council received legal advice during the closed session. But the discussion went beyond the mere interchange between the client public body and its lawyer. As the Council's closed session summary indicates, the City Administrator also fielded questions from the Council. During this and other parts of the closed session discussion, the Council was not merely "consulting with counsel to obtain legal advice."

Because the Council did not invoke any other exception under § 3-305(b) that would have permitted such discussions to take place in a closed session, the conclusion is that the Council violated the Act when it closed a meeting to the public under the legal advice exception of § 3-305(b)(7) but then engaged in closed-session discussions that exceeded the bounds of that exception."

ADJOURNMENT

With no further business to discuss, the Legislative Session adjourned at 7:19 p.m.

CITY OF SALISBURY, MARYLAND
CLOSED SESSION
AUGUST 28, 2023

TIME & PLACE: 7:17 p.m., Council Chambers, Salisbury Headquarters Building
PURPOSE: To discuss the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of appointees, employees, or officials over whom this public body has jurisdiction; or any other personnel matter that affects one or more specific individuals;

VOTE TO CLOSE: Unanimous (4-0)

CITATION: Annotated Code of Maryland §3-305(b)(1)

PRESENT: Council Vice-President April R. Jackson, Councilmember Angela M. Blake, Councilmember Michele Gregory, Councilmember Megan Outten, Acting Mayor John R. Heath, City Administrator Andy Kitzrow, Acting Assistant City Administrator Tom Stevenson, Muir Boda, City Attorney Ashley Bosché, City Clerk Kim Nichols

The City Council convened in a Special Work Session at 6:00 p.m. in Council Chambers of the Government Office Building and via Zoom Video Conferencing on August 28, 2023. At 6:02 p.m. upon the adjournment of the Special Work Session, Council then convened in the regularly scheduled Legislative Session which adjourned at 7:13 p.m.

Vice President April Jackson called for a motion to enter into Closed Session to discuss the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of appointees, employees, or officials over whom this public body has jurisdiction; or any other personnel matter that affects one or more specific individuals as permitted under the authority of the Maryland Open Meetings Law, Annotated Code of Maryland General Provisions Article § 3-305(b)(1).

Ms. Blake moved, Ms. Outten seconded, and the vote was unanimous (4-0) to convene in Closed Session. Following a break to allow the public to exit, the Closed Session convened at 7:17 p.m.

Mr. Kitzrow explained the search and interview process conducted by Administration for filling the vacant Director of Housing and Community Development position. The candidate was invited into the Closed Session at 7:23 p.m. After discussion with the candidate, Council unanimously approved the Mayor's recommendation for the position of Director of Housing and Community Development.

At 7:27 p.m. Ms. Outten moved, Ms. Gregory seconded, and the vote was unanimous (4-0) to adjourn the Closed Session.

Council immediately reconvened in Open Session and Vice President Jackson reported that Council had met in Closed Session in accordance with the Annotated Code of Maryland General Provisions Article 3-305(b)(1) and interviewed the Mayor's recommendation for Director of Housing and Community Development. The meeting was held in Closed Session to protect the confidentiality of the candidate.

The Open Session was then adjourned.

Kimberly R. Nichols
City Clerk

April R. Jackson
City Council President

Return to:
C: Sherman
Maryland Historical Trust
100 Community Place
Crownsville, Md. 21032

LIBER 2715 FOLIO 765

MM

DEED OF
PRESERVATION EASEMENT

THIS DEED OF PRESERVATION EASEMENT is made as of this 23rd day of November, 2006 by and between the MAYOR AND CITY COUNCIL OF SALISBURY, now known as the CITY OF SALISBURY (the "Grantor"), and the MARYLAND HISTORICAL TRUST, an instrumentality of the State of Maryland (the "Grantee").

WHEREAS, Grantee is a body corporate and instrumentality of the State of Maryland created for the purpose generally of preserving and maintaining historic, aesthetic and cultural properties, all as is more particularly provided for by law; and

WHEREAS, the real property as hereinafter described (the "Property") has substantial historic, aesthetic and cultural character and this Deed of Preservation Easement (this "Deed") will promote the preservation and maintenance of the Property and its historic, cultural, scenic and aesthetic character; and

WHEREAS, Grantee is possessed with the power and duty to accept, hold and administer this Deed; and

WHEREAS, Grantee has determined that the easement contained within this Deed is exclusively for conservation purposes; and

WHEREAS, in accordance with Chapter 204 of the Laws of Maryland 2003 (the "Act") and the terms and conditions of a letter of approval from the Department of General Services on behalf of the Board of Public Works ("BPW") to the Grantor dated May 6, 2004, and further pursuant to a Capital Project Grant Application submitted by the Grantor, BPW has approved a grant in the amount of up to ONE HUNDRED FIFTY THOUSAND DOLLARS (\$150,000.00) (the "BPW Grant"), to be made to the Grantor for the purpose of financing, in part, the repair and reconstruction of the historic bandstand pavilion, pedestrian bridges, the Beaverdam Bridge, the Picnic Island Bridge, and the Memorial Drive bridges located in the City Park in Salisbury, including any applicable architects' and engineers' fees; and

WHEREAS, the Act requires as a condition precedent to the making of the BPW Grant that the Grantor shall submit evidence satisfactory to BPW of matching funds at least equal to the amount of the BPW Grant, which condition has been satisfied; and

≅
≅ \$300K

WHEREAS, the Act requires as a condition precedent to the making of the BPW Grant that the Grantor, as owner of the Property, convey a perpetual preservation easement in form and substance acceptable to the Maryland Historical Trust.

Pg 1072

"24.2744 ACRES"
See pg 106 of
mht.maryland.gov
CURRENT TOTAL EASEMENTS

NAME OF PROPERTY (w/ alternative name)		LOCATION	CITY	ACRES	INVENTORY #	LIBER	FOLIO
Poplar Hill at Pemberton Hall	House at Poplar Hill Labor Camp	Pemberton Hall	Salisbury	0.69	WI-38	1763	792
Poplar Hill Mansion	Pemberton's Good Will	117 Elizabeth Street	Salisbury	0.86	WI-8	831	75
Rockawalkin School		1300 Pemberton Drive	Salisbury	0.55	WI-77	837	436
Salisbury City Park	Municipal Park	Adjoining East Main Street, Snow Hill Rd and South Park Drive	Salisbury	24.2744	WI-581	2715	765
				<i>deed of preservation easement in exchange for 715DK MHT grant to repair pavilion + burial ground (2011)</i>			
San Domingo Rosenwald School		11526 Old School Road	San Domingo/Sharp	1.9375	WI-676	3223	282
Whitehaven Hotel		2685 Whitehaven Road	Whitehaven	3.5	WI-103	1424	223
Whitehaven Schoolhouse		2740 Whitehaven Road	Whitehaven	0.5	WI-155	1514	744
Whitehaven United Methodist Church		2740 Church Street	Whitehaven	0.27	WI-156	2434	269

Worcester

From: Nancy Roisum nroisum@gmail.com
Subject: Bridge deck damage
Date: September 11, 2023 at 4:01 PM
To: Nancy Roisum nroisum@gmail.com

City Park Bridge over Beaverdam Creek near BRS:



large hole under core,
see next page

City Park Bridge over Beavercreek



Nancy

With cone moved, to
reveal huge hole open to
water below

page 2 of 2

From: Nancy Rolsum nrolsum@gmail.com
Subject: City Park "Historic/White Bridge" railing pics
Date: July 7, 2023 at 10:11 AM
To: CITY COUNCIL Salisbury, MD allcitycouncilmembers@Salisbury.md, Mayor Jack Heath jheath@salisbury.md
Bcc: nrolsum@gmail.com



Taken July 6, 2023 Whats being done about this? Budget? Schedule? Monitoring for safety?







Nancy