

CITY OF SALISBURY, MARYLAND

REGULAR MEETING

OCTOBER 9, 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
Councilman D’Shawn M. Doughty*

IN ATTENDANCE

City Administrator Andy Kitzrow, Police Chief Dave Meienschein, Housing & Community Development Director Muir Boda, Fire Chief John Tull, Lieutenant Zach Bridges, Procurement Director Jennifer Miller, City Attorney Ashley Bosche, City Clerk Kimberly Nichols, and members of the public

PLEDGE OF ALLEGIANCE / MOMENT OF SILENT MEDITATION

The City Council met in Legislative Session at 6:00 p.m. in Council Chambers of the Salisbury Headquarters Building and via Zoom on October 9, 2023. Council President April Jackson called the meeting to order. After the recital of the pledge to the flag, President Jackson invited everyone to participate in a moment of silent meditation.

SWEARING IN NEW POLICE CHIEF DAVE MEIENSCHIEIN- Clerk of Circuit Court James “Bo” McAllister

President Jackson invited Acting Chief Dave Meienschein and Clerk of the Circuit Court James “Bo” McAllister forward to podium. Mr. McAllister administered the Oath of Office to Chief Meienschein, who was the newly appointed Chief of the Salisbury Police Department.

PROCLAMATION- Mayor John R. “Jack” Heath

Fire Prevention Week

Mayor Heath, joined by Lieutenant Zach Bridges, presented the proclamation to proclaim October 8-14, 2023 as Fire Prevention Week 2023 with the theme, “Cooking safety starts with YOU. Pay attention to fire prevention.” All citizens were encouraged to check their kitchens for fire hazard and use safe cooking practices during Fire Prevention Week 2023 and to support the many public safety activities and efforts of the Salisbury Fire Department.

ADOPTION OF LEGISLATIVE AGENDA

President Jackson called for a motion to adopt the legislative agenda. Ms. Blake moved, Ms. Gregory seconded, and the vote was unanimous (5-0) 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 Mr. Doughty, respectively.

- August 21, 2023 Work Session Minutes
- August 28, 2023 Special Work Session Minutes
- August 28, 2023 Closed Session Minutes (emailed separately)
- August 28, 2023 Council Meeting Minutes
- September 5, 2023 Work Session Minutes
- September 5, 2023 Special Meeting Minutes
- **Resolution No. 3284**- approving the reappointment of Mary Buffington to the Bicycle & Pedestrian Advisory Committee for the term ending October 2026
- **Resolution No. 3285**- approving the reappointment of Brenden Frederick to the Historic District Commission for the term ending October 2026

President Jackson thanked Ms. Buffington and Mr. Frederick for volunteering to serve.

AWARD OF BIDS- presented by Procurement Director Jennifer Miller

Ms. Blake moved, Ms. Gregory seconded and the following Award of Bids was approved on a 4-1 vote. Ms. Jackson voted “nay.”

- ITB 24-102 Town Center Parking Garage Construction \$10,750,000.00

RESOLUTION- presented by City Administrator Andy Kitzrow

- **Resolution No. 3286**- authorizing the Mayor to accept a donation from Shore Appliance Connection of a washer & dryer for Anne St. Village

Ms. Gregory moved, Ms. Blake seconded, and the vote was unanimous to approve Resolution No. 3286.

ORDINANCES- presented by City Attorney Ashley Bosche

- **Ordinance No. 2829**- 2nd reading- approving a budget amendment of the FY2024 General Fund Budget to update authorized position counts and grades

Ms. Gregory moved, Ms. Blake seconded, and the vote was unanimous to approve Ordinance No. 2829 for second reading.

- **Ordinance No. 2830**- 2nd reading- authorizing the Mayor to appropriate funds for the Raw Water Line Naylor Mill project

Ms. Gregory moved, Ms. Outten seconded, and the vote was unanimous to approve Ordinance No. 2830 for second reading.

- **Ordinance No. 2832**- 2nd reading- to accept grant funds from the Maryland Department of Transportation – Maryland Transit Administration (MDOT-MTA) for the feasibility study of

fixed and flex route transit services and approving an amendment of the FY24 budget to allocate said funds for purposes of implementation

Ms. Blake moved, Ms. Gregory seconded, and the vote was unanimous to approve Ordinance No. 2832 for second reading.

- **Ordinance No. 2833**- *1st reading- authorizing the Mayor to appropriate funds for the Newton Community Center Project*

Ms. Outten moved, Ms. Gregory seconded, and the vote was unanimous to approve Ordinance No. 2833 for first reading.

- **Ordinance No. 2834**- *1st reading- to authorize the Mayor to appropriate funds for the Lot 5 Compliance project*

Ms. Blake moved and Ms. Gregory seconded to approve Ordinance No. 2834 for first reading.

Ms. Gregory motioned, Ms. Blake seconded, and the vote was unanimous to amend Ordinance No. 2834 with the following:

- *Line 15- Strike “four” and insert “two”*
- *Line 15- insert “and” before “Main”*
- *Line 16- Strike “North Prong Park, and Riverfront Games Park”*

Ordinance No. 2834 for first reading was approved by unanimous vote in favor.

- *Ordinance No. 2835- 1st reading- authorizing the Mayor to appropriate funds for land acquisition for North Prong Park project*

Ms. Gregory motioned, Ms. Outten seconded and the vote was unanimous to table Ordinance No. 2835 until it could be presented to Work Session.

PUBLIC COMMENTS

The following comments were provided by 8 members of the public:

- *The Rules of Order governed the conduct of meetings and referred to Roberts Rules*
- *The Maryland Open Meetings Act required public business to be conducted openly and the public to be given adequate notification of meetings.*
- *Salisbury’s Rules state Work Sessions are public meetings and the public could attend.*
- *On September 18, 2023 President Jackson allowed comments on a non-agenda topic. This was in conflict of the Rules of Order and perhaps violated the Open Meetings Act.*
- *Speaker asked last week about allowing the comments on the 18th and was politely denied by Vice President Blake because it was not on an agenda item. He asked to explain why and Ms. Blake denied him again- did what was required under the Rules. A group on one side was given public platform that was not given to the other. Ms. Jackson allowed the group of speakers without stating whether or not they were City*

- resident (most were not) and allowed them to slander City residents which violated the Rules. Requested Ms. Jackson to recommit herself to the Rules or not be president.*
- Did not receive response to the cash flow he provided showing the garage would lose \$400,000. We have not received a parking or environmental impact study, or prepared a formal cash flow as a municipality. He wanted a response to show the City had given thought to the topic and provide a counter argument. Think this project through.*
 - Was surprised to see the Award for the garage. Why not bid a \$10 million contract to one of the 18 bidders? Why was Sole Source made to Gillis-Gilkerson? City Planner and Developer's attorney lied to Planning & Zoning when preliminary approval was sought. They said they could not do anything, but did have authority to make a recommendation. Giving a \$10 million contract Sole Source award was outrageous. Exhibit E, the CMA, was missing from the LDA approved on June 20, 2023 where Council illegally discussed and approved the LDA. Today, the missing Exhibit E was still missing.*
 - Financing the parking garage should stop. It had the wrong type of contract and was very risky to use estimated construction costs not verified by a bid process. Sole Source required fixed price contracting based on actual costs and require a full summation of all the costs. It should be based on verified proposals, which did not exist. Estimated costs meant nothing in Cost Plus; the City had to pay all costs. Costs may not be determined for a while, but the City was trying to quickly push this through. Worse, they had a contract clause saying Prime could raise the maximum contract cost whenever its cost approached the maximum for the duration of the contract. Bond costs resulted in a huge obligation of over \$20 million. Borrowed money results in large amount of interest.*
 - Suspected contaminants were under the parking lots. In Sanborn Maps, some businesses including a paint shop, were there in the 1800's. Also, a car dealership had been there. The Lot 5 Compliance Project ordinance stated contamination was not discovered until after the FY24 Budget process and after the lot was proposed for sale an environmental assessment done. It would cost the City \$89,000 for year one of a detailed investigation and mediation mandated by MDE. Additional funds in FY25 and beyond that may be required.*
 - Concerned about selling the land for the Salisbury Towne Center. Contamination from abandoned underground storage tanks and possibly ground water contamination by petroleum products from the previous car dealership was likely. The paint shop could have left lead and solvents and cause a serious financial burden to the City.*
 - Was environmental assessment done and what was discovered. If not, it risked putting the City leaders, bond investors and taxpayers in a financial and legal bind. Did the proposed agreement outline how costs and time delays were shared? Until these were addressed, vote against the Award. Speaker's comments are included in the minutes.*
 - Discussed diversity in the City's bidding process. Many projects over the past five years were awarded to the same few bidders. It was important, even if Gillis did the project, that there was transparency in the process. The justification of the Sole Source started in 2015, and then went up to 2021, and the last mentioned was 2022. She was trying to figure out what happened between February 2022 and now for the sole source. Asked how \$750,000 was pulled out of the \$10,750,000 pie. Her company was asked by Gillis to bid on this project, and they may have submitted a bid. She did not know about the Sole Source and people in her organization brought this up.*

- *Looking forward to the Feasibility Study since it was needed. Many of the residents were still walking in harm's way. The current transportation system was not equally serving the community. She would rather see transportation before a parking garage.*
- *Thanked Council for recognizing Breast Cancer Awareness Month and encouraged women to get their mammogram.*
- *Appalled that a \$10,750,000 bid would be given out with a Sole Source. Procurement Director said it was her decision and if not passed it would go to bid, which is what should have happened. Open Source bidding should be used for that amount of money.*
- *Selling Lot 5 would require them to spend over \$89,000 on remediation. Once ground was opened, more could be found. It should be left as paved lots for parking.*
- *The elected officials made him unhappy and less proud to be a resident. The reason for the Sole Source designation was there was a contingency in the LDA that required a signed CMA before the LDA went to closing. Designating the sole source removed the public bidding process. They could sign the contract before the election and that was what was going on here. This was the biggest scam by local government that he ever saw. On election day he would attempt to get rid of this Council, except for maybe one.*

ADMINISTRATION AND COUNCIL COMMENTS

Mr. Kitzrow would provide a follow-up to the last speaker and Council to help them understand.

Mayor Heath requested citizens to donate blood. This was Fire Protection week, and one of our good friends lost his home this week. He asked for prayers for him and his family and also the family of the young man who was fatally injured in the crash.

Ms. Blake remarked the past weekend was very rough and requested prayer for the community.

Ms. Outten urged everyone to reach out to the Berkman's. Delegate Sheree Sample-Hughes would hold a prescription drug affordability workshop at the Mac Center on October 11th at 11:00 a.m.

Ms. Gregory wished everyone a happy Indigenous Peoples Day. The beautiful Pride crosswalk was repainted over the weekend. She congratulated Police Chief Meienschein on his promotion.

Mr. Doughty thanked the public for their comments. It was not an easy decision and many were made before his tenure. He thanked Ms. Miller for her thorough explanation. Morgan State and Bowie State had tragedies at their homecoming events. His thoughts were with Delmar and the Delmar High School students. He wore pink in memory of his Great- Aunt Teresa Jordan Arrington.

Ms. Jackson started her first tutoring session and there were many kids there. Salisbury University students were helping in the endeavor.

ADJOURNMENT / MOTION TO CONVENE IN CLOSED SESSION

At 7:25 p.m. Council President Jackson adjourned the Legislative Session and then called for a motion to convene in 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). The reason for the Closed Session was to interview the candidate for the Deputy City Administrator position. Mr. Doughty moved, Ms. Outten seconded, and the vote was unanimous to convene in Closed Session.

Ms. Gregory exited the room briefly and returned at 7:27 p.m. at which time discussion was held concerning the candidate for the Deputy City Administrator position.

ADJOURNMENT OF CLOSED SESSION/ RECONVENE IN OPEN SESSION/ REPORT OUT

At 7:52 p.m. Ms. Gregory moved to adjourn the Closed Session. Ms. Blake seconded, and the vote was unanimous.

Council returned to Open Session at 7:54 p.m. whereby President Jackson reported that Council had met in 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. She added that Council interviewed the candidate for Deputy City Administrator.

ADJOURNMENT

With no further business to discuss, the Open Session was then adjourned.

CITY OF SALISBURY, MARYLAND
CLOSED SESSION
SEPTEMBER 25, 2023

TIME & PLACE: 8:19 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 the 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, City Administrator Andy Kitzrow, Acting Assistant City Administrator Tom Stevenson, City Attorney Ashley Bosché, Assistant City Clerk Julie English, Dave Meienschein, D'Shawn M. Dougherty

The City Council convened in a Work Session at 4:30 p.m. in Council Chambers of the Salisbury Headquarters Building and via Zoom Video Conferencing on September 25, 2023. At 8:19 p.m. upon the adjournment of the Work Session, Council President Jackson called for a motion to convene in 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). Council would interview candidates for Salisbury City Police Chief and District 2 Council member.

Ms. Gregory moved, Ms. Outten seconded, and the vote was unanimous (4-0) to convene in Closed Session. Following two minutes to allow Ms. Outten to take a break, the Closed Session convened at 8:21 p.m.

Mr. Kitzrow explained the search and interview process conducted by Administration for filling the Police Chief position. The candidate was invited into the meeting and answered questions from Council. He was asked to exit the Closed Session.

The candidate for District 2 Council was then briefly discussed and invited into the room. After answering questions from Council, Council agreed that he was the best candidate for the position.

At 8:58 p.m., Ms. Jackson moved, Ms. Gregory seconded, and the vote was unanimous to adjourn the Closed Session.

Council reconvened in Open Session and President Jackson reported that City Council had met in Closed Session in accordance with the Annotated Code of Maryland §3-305(b)(1) 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. The reason for closing the session was to interview candidates for Salisbury City Police Chief and District 2 Council member.

Kimberly R. Nichols

City Clerk

Dism

City Council President

10/9/2023

COMMENTS BY NANCY ROISUM PRESENTED AT THE SALISBURY MD CITY COUNCIL MEETING

I am a retired construction project manager for Arlington County, VA, where my job duties included advising the County Real Estate Section on property acquisitions as relates to possible environmental concerns. I also oversaw many environmental cleanup projects and large building renovations. One project was overseeing the major soil and groundwater remediation project at the County's 40 acre Equipment Division and Trades Center, which morphed into a 15- plus year EPA and State monitored cleanup, costing millions and resulting in the property being declared suitable only for industrial purposes.

When I heard of the plans for downtown, I suspected there might be some contaminants under the parking lots. Based on the historic Sanborn maps, a number of typical town businesses including a paint shop had been there in the late 1800s. Just recently, in a radio interview, a NABB center historian told us that a car dealership was there. In the 1960s the City tore down and paved over the abandoned businesses and created the current parking lots.

Then, I learned in the recent Council Agenda, about proposed Ordinance No. 2834 to authorize funds for Lot 5 Compliance Project. It states that this contamination was *not discovered until after the FY24 budget process. And not until the lot was proposed for sale, was an environmental assessment done*, which revealed the problem, which for starters is costing the City \$89,000 in the first year of a more detailed investigation & remediation mandated by MDE. "Additional funding in FY25 may be required." And likely for years after that.

So, this leads back to a big concern with sale of property for the SalisburyTown Center. At minimum likely there is some contamination from abandoned underground heating fuel storage tanks for each building. And there might be a full-blown groundwater and soil contamination by petroleum products like benzene & MTBE, from the car dealership, which typically includes vehicle repair facilities, with hydraulic lift pits, fueling stations and the like. the old paint shop could be a source of lead and solvents. These could add up to a serious financial burden on city, as owner/seller of these properties.

So, I beg the question, has due diligence in the form of an environmental assessment been performed by both parties for the Downtown property sale? Already we know the developer's lender is concerned with flooding and requiring the site be raised 2-1/2 feet. And if so, what has the Buyer discovered in their environmental assessment? Has this information and associated cost been provided to the City? And even more important, has the City conducted an environmental audit and shared our findings?


If this is not done and the proposed sale of lots for Salisbury Town Center proceeds, along with the Sole Source for a garage construction, it risks putting the City Leaders, the Bond investors and taxpayers in a real big complicated financial and legal bind. How, and where, in the proposed agreement, will such costs and time delays be shared?

I hereby assert and advise that this is a reasonable concern and must not be ignored.

Until these matters are addressed, I urge the City Leaders to vote against Award of Bid ITB 24-102, Town Center Parking Garage Construction. I also urge the City to revise the Town Center Plan and associated Agreement to reflect this and the many other concerns that are threatening the success of improving the Downtown area.

OATH OF OFFICE

I, DAVID MEIENSCHIN, DO SWEAR THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES, AND THAT I WILL BE FAITHFUL AND BEAR TRUE ALLEGIANCE TO THE STATE OF MARYLAND, AND SUPPORT THE CONSTITUTION AND LAWS THEREOF; AND THAT I WILL TO THE BEST OF MY SKILL AND JUDGMENT, DILIGENTLY AND FAITHFULLY, WITHOUT PARTIALITY OR PREJUDICE, EXECUTE THE OFFICE OF CHIEF OF POLICE FOR THE CITY OF SALISBURY ACCORDING TO THE CONSTITUTION AND LAWS OF THIS STATE.



DAVID MEIENSCHIN

SUBSCRIBED AND SWORN TO BEFORE ME, CLERK OF THE CIRCUIT COURT FOR WICOMICO COUNTY, MARYLAND, THIS 9th DAY OF OCTOBER, 2023.



JAMES "BO" MCALLISTER,
CLERK OF CIRCUIT COURT