

**CITY OF SAINT MARYS COUNCIL
REGULAR MEETING**

JANUARY 16, 2023

CALL TO ORDER

The regular monthly Council meeting of the City of Saint Marys was called to order by Mayor Lyle Garner on Monday, January 16, 2023, at 7:00 p.m. Notice of this meeting was sent to Council on January 12, 2023, posted at City Hall and published in the Daily Press.

PLEDGE TO THE FLAG**ROLL CALL**

Mayor Lyle Garner, Deputy Mayor Bob Roberts, Andrew Mohny, Shane Schneider, Jerome Sorg, Sally Geyer, Manager Joseph Fleming, Solicitor Tom Wagner and Recording Secretary Lorrie Levenduski.

Nedward Jacob dialed in.

City Staff: Joe Kugler, Deputy Director of Community & Economic Development, Dani Schneider, Parks and Recreation Director, and Matt Pfeufer, Zoning Officer.

VISITORS

Bob Rogan, Terri Rogan, Bob Carnes, Marshall Wolfe, Faisal El Awar, Stephen Bagley, Martin Dornisch, Devin Brock, Joe Sarginger and Richard Sadley.

**APPROVAL OF MINUTES
December 19, 2022 – Regular
Meeting
Motion Passed**

Sally Geyer made a motion to approve the December 19, 2022 minutes, seconded by Jerome Sorg and all were in favor.

**PRESENTATION OF
CERTIFICATE OF
APPRECIATION FOR
OUTGOING BOARD
MEMBERS**

Mayor Lyle Garner presented Devin Brock with a Certificate of Appreciation for his 21 years of service on the Recreation Board.

The following individuals were also recognized:

Dr. Robert Baker – Airport Authority – 2 years

Danielle Corrigan-Gabler – Board of Health – 2 years

**CITIZEN COMMENTS ON
AGENDA TOPICS**

There were no citizen comments on agenda topics.

MANAGER'S REPORT

Manager Fleming provided the following report:

- "I hope everyone had a great Christmas season as we hit the road running in 2023.
- The downtown camera project is basically complete out of the 11 cameras installed, just waiting on internet for 3 cameras.
- We are waiting on a relay part for the elevator to be completed, I believe they are coming in this week or next to finish it up.

**CITY OF SAINT MARYS COUNCIL
REGULAR MEETING**

61

JANUARY 16, 2023

- As you may have noticed, the Christmas decorations are coming down and with the nice weather the street department has been completing miscellaneous roadwork such as pothole repairs and clearing any low-lying trees.
- Contrary to last month's statement, we will not be having ice skating at Benzinger Park this year, the rink is unable to hold water as the press release stated, which was published earlier this month.
- We are currently closing out the 2022 budget.
- For 2022, the city received a total of 420 complaints with 390 or 93% of them being cleared. The outstanding issues are code enforcement situations, which they are currently working at this time.
- Some of the big initiatives for the year will be to continue to increase of code enforcement activities to clean up areas around the city along with getting pending city projects completed.
- Still waiting on the final decision of all our grant applications at the state level, of course we will be watching this as they transition to a new administration.
- Saint Marys is in the running to participate in the PA Wilds Remote Worker Program, application was submitted last month and should know the decision sometime in early February.
- For any residents interested in running for City Council this year, as we have 3 seats up for the election, the Elk County Election Office will be holding a candidate information night on February 7th at 6pm at the Courthouse Annex Building."

TREASURER'S REPORT

Manager Fleming provided the following December, 2022 Treasurer's Report:

Total General Fund revenue for 2022 was \$8.5M or 103% of budget; for 2021: \$7.3M or 97%; for 2020: \$6.7M or 91%; and for 2019 it was \$6.7M or 92% of budget. General Fund expenditures for 2022 was \$7.9M or 95% of budget; for 2021 it was \$7.4M or 98% of budget; for 2020 it was \$6.5M or 88.5%; and for 2019 it was \$7.26M or 99.8% of budget. Total real estate taxes collected for 2022 is at 99% of budget; for 2021 they were 101%; for 2020 they were 99.5%; 2019 collections were at 99% of budget. Earned income tax collected for 2022 is 96% of budget; for 2021; 100% and for 2020 it was 94.5% of budget; and for 2019 it was 92.5% This is EIT collections for the year, not earned. The market value of the pension funds decreased 13.5% from last year. At this time, we have not received all the

**CITY OF SAINT MARYS COUNCIL
REGULAR MEETING**

JANUARY 16, 2023

revenue for 2022 and some of the invoices due to be paid, so figures for the end of the year will change and will be adjusted in the following months.

**PUBLIC HEARING: Proposed
Zoning Ordinance Changes
Opened Hearing**

Mayor Garner opened the public hearing on the Proposed Zoning Ordinance Changes at 7:08 p.m.

Public Comment

Solicitor Wagner explained the following: "Public comments were received by the City from a citizen who was not able to attend the meeting tonight. As Council is aware the impetus for passing this Zoning amendment came from me. After seeing a number of reports in the media about the adverse effects that bitcoin mining operations were creating in other municipalities, I felt it was incumbent upon Council to address this subject, as soon as possible. The reasons for that are that in zoning there are some very basic principles that affect the ability of the property owners to use their property as they wish. One of those very basic principles is that you cannot absolutely exclude uses, which are legal legitimate uses. You can restrict them and regulate them to some extent, but you cannot exclude them. The other basic principle is that if your zoning ordinance does not address a particular use, then the burden shifts to the municipality to keep it out of the municipality altogether, which is an extremely heavy burden to bear. We do have provisions in our zoning ordinance that say where use is not provided for in the ordinance that it can be placed where it could be compatible with other uses, But the burden of proving compatibility is not on the applicant, it is on the municipality. So, I felt it was incumbent upon the City, to have at least some basic rules in place now, because at the time I first proposed this, bitcoin mining seemed to be on the rise, and we all recognized the potential problems it creates. I drafted a proposed ordinance that was submitted to the Planning Commission for review and comment, and they came back with some comments and I made some changes to the proposed ordinance. What Council has in front of you is what is being proposed for adoption at this stage. In preparing this ordinance I had a couple of particular things in mind. First of all, we have had some experience with other uses that are novel and also present potential adverse impacts of the surrounding neighborhoods, in particular, shale drilling. As Council is aware several years ago we drafted very extensive regulations about shale drilling. Some of those regulations I have carried over into this ordinance to use them to help the City regulate what might go on with the bitcoin mining operations. The first question that comes up, if you cannot exclude this kind of use, where do you allow it, where will it be compatible? Shale mining regulation limit drilling to Residential Agricultural and

JANUARY 16, 2023

Industrial areas, because at that time Council felt that those were the two areas where the uses were most similar that involved industrial type activities with significant levels of noise. It seemed to me, based upon review of the zoning ordinance that if bitcoin operations were going to happen somewhere, they ought to be confined to those same two areas. As we know one of the biggest issues is the noise, so in the shale drilling regulations Council imposed a noise limit of 65 decibels (Dba's). That number came from articles that were presented to Council and researched that dealt with noise levels permitted by OSHA for industrial operations and it was based on those articles it was suggested that those noise levels of below 65 decibels at the property line were not unreasonable levels of noise that emanates from an industrial factory. So that is what is being proposed for the bitcoin mining. And that is at the property boundary, not where the activity is going on. The level of noise maybe higher there. What happens on the property is not necessarily the City's concern. We are not in the business of telling people how to operate their business. This is a free country and people should be able to do what they want on their property, as long as it does not adversely impact their neighbors. That is what we are looking to control and that is where the decibel level limitation came from, and it applies around the entire property. The other issue is deciding where to locate the bitcoin mining operations and has to do with why they are where they are now. Based on the research I did, and the newspaper articles that I read, the reason why bitcoin mining operations are located where they are at is almost singularly due to one issue, and that is energy. It takes enormous amounts of energy to run a bitcoin mining operation. That energy comes from electricity, and that electricity can either be generated through the electrical system that serves a community or it can be generated independently on the site. I am reminded of one article that I think Mr. Pfeufer actually located and it had to do with the original location of bitcoin mining in the Northwest part of the country and they were located there because of the availability of hydroelectric power at extremely cheap rates. In our area it all has to do with natural gas and if you look at names of the companies that are doing bitcoin operations in our area, they were affiliated with the gas drillers (Pin Oak) and what happens in those sorts of facilities is that natural gas generated on the site is used to run electric generators. Of course, electric generators are the singular largest source of the noise that we see in our area. Under our current zoning ordinance, the drilling for natural gas in the quantities that are what a bitcoin mining operation would require, would only occur in a residential agricultural district. Potentially in the industrial districts, but very unlikely.

CITY OF SAINT MARYS COUNCIL
REGULAR MEETING

JANUARY 16, 2023

So that is why it was recommended that this type of use be restricted to the residential agricultural and industrial districts. As I said earlier, the City is not, and I believe does not legally have the power, to engage in regulating the operations of these types of facilities. However, you certainly have the right to regulate their siting or location and that is what we have tried to do here. The citizen who raised these questions has asked a couple of things. "Will these uses be full time or part time?" There is no way to Council to know that in advance. The assumption is that whatever is done, will be done on a full-time basis. He also asks about setback requirements. The ordinance that is proposed here requires a minimum setback of 100 feet. Now, that is in addition to the decibel limitation. So even if a building is setback more than 100 feet and it generates noise levels that exceed the decibel limitation, then the City can deny the request for that. In addition, these types of uses are only permitted by Special Exception. That means that before a permit is issued, the applicant has to submit certain data to the City and the ultimate grant of a permit will be in the hands of the City's Zoning Hearing Board. The Zoning Hearing Board by law has the ability to impose additional conditions on the grant of a permit, if conditions are necessary in order to protect the neighbors around this proposed use. The citizen also asked about the effects on electrical or digital internet services in the neighbor, because one of the restrictions in this ordinance is that the developer must demonstrate by appropriate engineering data that there will not be an adverse effect. The article that I mentioned that Mr. Pfeufer produced regarding bitcoin mining operations in the northwestern US, there became a significant problem with the draw that these facilities had on electrical service. And we need to know in advance, and the City has a right to this information that there won't be that kind of problem here. The adoption of this ordinance will not prevent the City from adopting further regulations if it becomes apparent and necessary to do that. Based upon what I have seen in the media, and I am not necessarily an expert about this, it looks like bitcoin mining operations are, at least in the near future, unlikely to occur anywhere, because of the collapse in the digital currency market. It doesn't mean it won't come back, but right now it is not looking so good. The citizen also drew attention to an article that appeared in Popular Mechanics that raises the same issues regarding noise and its effect on the neighborhood and wildlife. These are the same type of issues that were addressed with the shale mining litigation in which the PA Commonwealth Court ruled that the City of St. Marys regulations are appropriate, reasonable and sufficient. So, I think we covered those issues reasonably well in this ordinance."

CITY OF SAINT MARYS COUNCIL
REGULAR MEETING

65

JANUARY 16, 2023

Mr. Pfeufer did not have any additional comments.

Sally Geyer asked if the Solicitor had spoken to the citizen and Solicitor Wagner responded no, the citizen had submitted his questions to the City Offices.

Jerome Sorg stated he had a question on the solar energy and asked if people would have to apply for a permit for an accessory solar energy system and Mr. Pfeufer responded yes.

Jerome Sorg asked if they didn't meet the requirements, would they have to go to for a Special Exception for what they were going to do and Solicitor Wagner clarified they would have to request a variance.

Mr. Pfeufer confirmed the request for a variance was necessary.

Jerome Sorg explained he saw a solar panel system mounted on the ground.

Solicitor Wagner explained one of the differences between digital mining regulations and the solar regulations in the case of solar, is that you do not have to go through a Zoning Hearing to get a permit, because they are more reasonable and acceptable property uses that generally don't have much impact on neighbors.

Jerome Sorg explained that there may be instances where people wanted to install them differently than in the regulations, so then they would have to get a variance.

Closed Hearing

Mayor Garner closed the public hearing at 7:25 p.m.

Councilman Jacob left the conference call.

LEGISLATIVE ACTION

Consider for adoption:

**Ordinance No. 334, amending
the City Zoning Ordinance by
establishing regulations for
digital mining facilities and
solar energy systems
Motion Passed**

Ordinance No. 334 amending the City Zoning Ordinance by establishing regulations for digital mining facilities and solar energy systems was presented for adoption.

Sally Geyer made a motion to adopt Ordinance 334, seconded by Bob Roberts and all were in favor.

It was clarified that this ordinance was a good start and Council

**CITY OF SAINT MARYS COUNCIL
REGULAR MEETING**

JANUARY 16, 2023

could amend it as necessary.

Ordinance No. 335, declaring an extension of South Michael Road to be a public road and opening the same for public travel

Ordinance No. 335 declaring an extension of South Michael Road to be a public road and opening the same for public travel was presented for adoption.

Andrew Mohny made a motion to adopt Ordinance 335, declaring an extension of South Michael Rd. to be a public road and opening the same for public travel, seconded by Shane Schneider.

Solicitor Wagner noted there were some minor corrections to the legal description of the road to ensure the road qualified for liquid fuel reimbursement from the State.

Motion Passed

All were in favor of the motion and the corrections.

**Ordinance No. 336, increasing the compensation of Council members and the Mayor
Motion Passed**

Ordinance No. 336 increasing the compensation of Council members and the Mayor was presented for adoption.

Deputy Mayor Bob Roberts made a motion to adopt Ordinance 336, increasing the compensation of Council members and the Mayor, seconded by Andrew Mohny and all were in favor.

Ordinance No. 337, declaring Service Road to be a public road and opening the same for public travel

Ordinance No. 337, declaring Service Road to be a public road and opening the same for public travel was presented for adoption.

Solicitor Wagner noted there were also minor modifications to the legal description of the road to qualify for liquid fuel funds.

Motion Passed

Deputy Mayor Bob Roberts made a motion to adopt Ordinance 337 declaring Service Road to be a public road and opening the same for public travel, seconded by Jerome Sorg and all were in favor.

Councilman Jacob rejoined the conference call.

Resolution No. 23-01 – 2023 Annual Fair Housing Resolution

Resolution No. 23-01, 2023 Annual Fair Housing Resolution was presented for adoption.

Tina Gradizzi explained this was an annual requirement due to the City receiving federal funding.

Motion Passed

Sally Geyer made a motion to adopt Resolution 23-01, seconded by Jerome Sorg and all were in favor.

**CITY OF SAINT MARYS COUNCIL
REGULAR MEETING**

67

JANUARY 16, 2023

**Historic Preservation Project
Award of Bid**

Joe Kugler, Deputy Director of Community and Economic Development explained the CDBG 2020 Fund Project: Historic Preservation – 45 Erie Avenue Project

This project included the upgrading of the electric to meet code, the replacement of the windows on the front of the building along with repairing and repointing the bricks on the building façade. The estimated cost for the project was \$60,800 and we allocated 2020 CDBG funds towards the project.

The electrical upgrades have been completed and paid at a cost of \$18,300. We received one bid for the window and brick repair project; the bid was opened during a scheduled meeting on October 7, 2022 at 10:00 am:

Steger Masonry	\$49,450
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As a result, the project costs are over the budgeted amount by \$9,423. We are able to provide \$5,000 of our Keystone Communities Façade funds towards the improvements leaving a balance of \$4,423 which, we received "Letter of Commitment" from the owners of the property to cover the amount over budget.

It was requested that Council approve to award the bid to Steger Masonry in the amount of \$49,450.

Motion

Andrew Mohny made a motion to approve the award of bid to Steger Masonry in the amount of \$49,450, seconded by Jerome Sorg.

Discussion

Nedward Jacob questioned what are the provisions that qualify this as a historic building and Tina Gradizzi responded 45 Erie Avenue was within the historic district and the project was for code deficiencies as outlined by an inspector, which allowed the use of CDBG funds for historic preservation.

Nedward Jacob asked if we do the project, if there were certain restrictions on the building or do the owners have to comply with certain regulations and Tina Gradizzi responded, any funds used for the project will have a lien placed on the property for 5 years once exact costs are determined. Council can reduce the lien amount 20% each year or keep the total amount for the entire 5 years.

Nedward Jacob stated since the building is located in the historic district was the only reason it was placed in this category and

**CITY OF SAINT MARYS COUNCIL
REGULAR MEETING**

JANUARY 16, 2023

Tina Gradizzi responded correct.

Motion Passed

All were in favor of the award of bid, except Nedward Jacob who opposed.

TOPICS FOR DISCUSSION:

There were no topics for discussion.

**CITIZEN COMMENTS ON
NON-AGENDA TOPICS**

Faisal El Awar again explained his opposition to the pedestrian access walkway to Benzinger Park and suggested other options.

Devin Brock stated his dissatisfaction with how he was not reappointed to the Recreation Board and how he was notified of it.

COUNCIL COMMENTS

Jerome Sorg commented that new people are needed on City boards.

Deputy Mayor Bob Roberts commented Council is constantly criticized for not picking new people for City boards. He wished that six people would run for the upcoming Council seats but was afraid it would one be only one.

Andrew Mohney commented who would want to run for Council and deal with this.

Sally Geyer stated there were three Council seats available and a pass raise was just passed to encourage people to run for Council.

Nedward Jacob commented it is okay to have older people on City boards. He further commented if he would been on the conference call he would have voted against Ordinance 335.

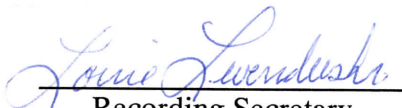
ANNOUNCEMENTS

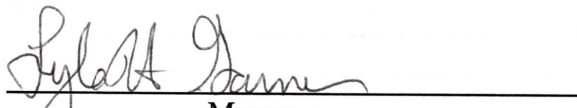
Mayor Garner made the following announcements:

- Council next regular meeting will be held on Monday, February 20, 2023 at 7:00 p.m.

ADJOURNMENT

Andrew Mohney made a motion to adjourn the meeting, seconded by Jerry Sorg. Meeting adjourned at 8:22 p.m.


Recording Secretary


Mayor