

77<sup>th</sup> SPECIAL SESSION - January 12, 2005

Mayor William M. Breichner called this Special Session of the Mayor and City Council to order at 10:05 a.m., Wednesday, January 12, 2005 in the Council Chambers at the City Hall. Present was Mayor Breichner; City Council Members N. L. Hendershot, L. C. Metzner, C. N. Moller, City Administrator Bruce Zimmerman, City Attorney John Urner, and City Clerk D. K. Spickler.

Mayor Breichner announced that Councilmember Aleshire and Councilmember Nigh were not able to attend this meeting due to other commitments and responsibilities.

The meeting was called for the purpose of approving a resolution agreeing to the terms of a consent order being issued by the Maryland Department of the Environment (MDE).

Bruce Zimmerman, City Administrator, stated, as everyone is aware, the performance at the Wastewater Treatment Plant has not kept up with high ground water and rain water over the last two years. As a result there have been violations of the permit from MDE. Members of the community, environmental groups, the Mayor and City Council and City government Staff are aware this needs to be resolved. There have been electrical problems, heavy rains, and high ground water that have caused the overflows. These overflows have not occurred as a result of errors by plant personnel. City staff and the Mayor and City Council are not satisfied with the operation of the plant and we know we need to upgrade the facility. Some upgrades are already occurring, including the electrical switchgear, Phase II Project, the interceptor at Hamilton Run upgrades, and the replacement of an air compressor. Other upgrades have already been approved and others are in the CIP list. The City has made good progress and will continue to face challenges until the upgrades are complete.

Some challenges, as a result of the consent order will be:

1. Developing a plan to manage the allocation of 120,000 gallons per day (gpd) that this consent order provides the city on an annual basis. It will affect the development community and the City. A plan has to be submitted to MDE within 180 days. A capacity management plan will be discussed with the Mayor and City Council next week.
2. Need to move aggressively on the upgrade program, this includes upgrades authorized by the Mayor and City Council and others that were included in the CIP budget.

The Capacity Management Plan will assist the City in planning for and managing development within the City. The Consent Order does not stop new development from occurring

in Washington County, but it will set the pace of development. The allocation of 120,000 gpd that is provided, coupled with other provisions, will allow the City to manage development at a reasonable and well planned pace. It will afford the opportunity to work with the community.

Mr. Zimmerman stated the fine of \$ 85,750.00 is higher than the City would like to pay, but but given the nature of the situation, the amount is consistent with other fines issued by MDE throughout the State. It is fair and reasonable. MDE has been reasonable to work with.

The environmental groups that have expressed concern want to see government working to make sure the environment is protected. The City wants to be sure it is supporting the environment in the operation of the treatment plant. An important focus of the consent order is the environmental concerns.

David Shindle, Water and Sewer Department Manager, stated the Department accepts the consent judgement as presented. It is reasonable and the Department is prepared to meet the requirements of and constraints of the judgement.

The following list are the Consent judgement Highlights:

1. City to pay a fine of \$ 85,750.00
2. Perform a “Supplemental Environmental Project” within 5 years as a means of offsetting payment of additional fines.
3. Timely completion of Plant improvements fairly consistent with our CIP program.  
Projects include:
  - Completions of Hamilton Run Interceptor
  - Installation of flow meters to monitor flows in the collection system,
  - ENR Pilot Study
  - Phase II WWTP construction (effluent pumps, blending pipe, additional final clarifier)
  - Conduct a “Sanitary Sewer Evaluation Study” to find I/I and develop a rehab schedule
  - Rehab of 02 system used for aeration system (Phase III)
  - Development of a “CMOM” (capacity management, operation and maintenance program) that includes electronic mapping, overflow trends, capacity assessment, training of staff, electronic inventory system for equipment and parts
  - Rehab of plant’s headworks and disinfection system (Phase IV)
4. Develop a “Capacity Allocation” program within 180 days

5. Limit approvals of final plats and non-residential site plans to not exceed 120,000 gallons per year
6. Existing recorded plats and approved non-residential site plans can be served and are not part of the 120,000 CPG
7. Affects all properties within the City, Joint Service Area, and areas of county served by City's plant.
8. Provisions to increase allocation above 120,000 GPD: flow transfer, successful performance of the blending process, reduction of I/I, completion of Plant upgrades that increase its ability to handle additional capacity
9. Submission of quarterly progress reports required

Mayor Breichner indicated this is a judicial order that will be filed with the judge. It initially started out as an administrative order. The MDE decided it should be judicial in order to put more emphasis on it.

Mr. Shindle stated the City could have been faced with a larger fine but the requirements for upgrades provide the City with the opportunity to benefit the community. Being able to use the money that would have been paid in fines to complete the upgrades will benefit the system and the community.

#### **Resolution - Maryland Department of the Environment Sewer System Consent Order**

**Action:** On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember N. L. Hendershot, the Mayor and City Council unanimously agreed by voice vote of all members present to approve a resolution authorizing the City of Hagerstown to enter into a consent order with the Maryland Department of the Environment for the City's Sewer System. The Mayor is hereby authorized to execute this consent order and any other documentation necessary to effectuate the purpose of this resolution.

Discussion: Councilmember Metzner stated it is important to note this issue was discussed in executive session with all Council members present. It was clear that two Councilmembers would not be able to be here today but they authorized those who could attend to announce, had they been able to attend, they would have voted in favor of accepting the consent order. This is something that has been unanimously agreed to by the full Mayor and City Council.

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Mayor & City Council

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There being no further business to come before the Mayor and City Council, on a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember N. L. Hendershot, the meeting was adjourned at 10:30 a.m.

Respectfully submitted,

Donna K. Spickler, City Clerk

Approved: \_\_\_\_\_