

WORK SESSION AND EXECUTIVE SESSION – APRIL 29, 2008

WORK SESSION – April 29, 2008

Mayor R. E. Bruchey, II called this Work Session and Executive Session of the Mayor and City Council to order at 4:05 p.m., Tuesday, April 29, 2008, in the Council Chamber at City Hall. Present with the Mayor were Councilmembers M. E. Brubaker, K. S. Cromer, L. C. Metzner, P. M. Nigh and A. Parson-McBean; City Administrator Bruce Zimmerman, and D. K. Spickler, City Clerk.

Discussion of Water and Sewer Funds and Rates

Alfred Martin, Director of Finance, Michael Spiker, Director of Utilities, Nancy Hausrath, Water Operations Manager, and Donnie Barton, Wastewater Operations Manager, were present to discuss water and sewer funds.

In order to achieve the financial operational stability of the Water and Wastewater Funds, an increase of 6% in the Inside City wastewater rate and the associated fixed quarterly service charge is proposed. For those customers under the Outside City and Joint Service Area rates, a 7.3% increase in the base rate and associated fixed quarterly service charge is proposed. Additionally, the Low Pressure Grinder Fees will increase 6%. An overall 3.5% increase of City water rates for both Inside City and Outside City customers is proposed. The overall quarterly increase seen by the Inside City, Joint Service Area, and Outside City rate will be \$4.04, \$7.68 and \$8.54 respectively. Overall, the proposed rate increases will generate an additional \$537,773.00 in wastewater revenue and \$259,752.00 in water revenue for Fiscal Year 08/09.

In regard to inside city rates, a 5% increase in the overall combined quarterly charges will be realized. The outside city rate customers will realize a 6% total increase in the overall combined quarterly charges and the Joint Service Area customers will realize a 4% combined rate increase. The average Inside City residential customer who uses 13,000 gallons of water per quarter will pay \$0.88 per day for combined water and wastewater service. Outside City and Joint Service Area residential customers pay \$1.65 and \$2.06 respectively.

Mr. Spiker stated the Department is on track for meeting the MDE deadline of April, 2009 for completion of a covered water tank. Costs have been kept at a minimum by updating the large meters to ensure all revenue from usage is captured.

The City of Hagerstown's water rates are significantly lower than comparable jurisdictions. Cash reserves have fallen due to outflows for construction projects. When funds are borrowed from the General Fund, the interest rate for all funds is reduced. Staff recommends moving forward with the proposed rate for both water and sewer customers.

Councilmember Brubaker asked why bond setting is included in project funding. Mr. Martin indicated expenses are separated into growth related and non-growth related

categories. Growth related expenses are addressed with benefit charges. Councilmember Brubaker asked if cost deferrals could be accomplished and still comply with State requirements.

Mr. Barton stated this is not possible in the Wastewater Division. Mr. Martin indicated the cost of meeting environmental standards has risen steadily.

Mr. Zimmerman stated expenses in the wastewater division include increased I/I efforts, capital upgrades to meet MDE regulations, and chemical and energy costs.

Councilmember Brubaker asked what would have to be done to reduce the rate increase to 3%. Mr. Spiker stated costs would have to be reduced by another \$ 250,000.

Councilmember Metzner suggested looking at reducing the rate increase while considering capital projects. He is concerned that rates would have to be increased significantly in later years.

Councilmember Parson-McBean stated the City needs to continue to meet the mandates of the State.

Ms. Hausrath stated there is a double benefit in proper maintenance of the water system. When water revenue is captured, it assists the wastewater revenue because it is based on water usage.

Mayor Bruchey asked if the anticipated hotel/motel tax revenue could offset eliminating the water dividend. Mr. Spiker stated the water dividend is less than the rate increase.

Mr. Zimmerman indicated several choices are being presented for the Mayor and Council's consideration.

Staff expressed concern that not increasing rates will cause future shortfalls.

Councilmember Parson-McBean asked that staff look for grants. Mr. Spiker stated the Ferguson Group has been providing information about grant availability. Mr. Martin indicated federal grants may be the key for reducing some of the impact of State mandates.

Capital Improvement Program Overview

Mr. Martin reviewed the CIP items. The list includes \$ 53.9 million in projects. There are \$ 1.46 million of property management projects. This includes the Roslyn Building renovation, which is largely bond financed. Property management projects also include demolition of the adult bookstore building and providing access to the A & E parking deck.

Councilmember Nigh pointed out the County has not provided all the funding they promised for the widening of the alley to the A & E parking deck. They have paid \$ 600,000 of the amount to date.

Councilmember Metzner asked if the County has included any funding in their budget for expansion of the library. Mr. Martin stated they have not. Mr. Zimmerman indicated the County has included funding for construction in FY 2009/2010 and FY 2010/2011. Funding for engineering services is included in FY 2008/2009. Councilmember Brubaker stated a memorandum of understanding is needed to ensure the project moves forward.

A list of the projects included in the next bond issue will be provided to the Mayor and City Council.

Mr. Martin stated the vehicle replacement list is included in Section 4. Vehicles are replaced on a schedule.

Community Development Block Grant Fund Overview

Larry Bayer, Community Development Manager, stated the CDBG entitlement has been decreased. The entitlement is down approximately \$240,000 from 5 years ago. The poor housing market and decrease in loan portfolios also decreases program income. There has been a loss of \$ 170,000 in public services capacity over the last 5 years. In the proposed CD budget, three activities have been eliminated, four are slated for funding reductions and three will be maintained at the current level.

The estimated FY 2008/2009 revenue is \$ 2,976,080. Community Development 2009 impact projects include:

1. Single-family Home Ownership Program
 - a) Bester Place
 - b) Community Land Trust
2. Community Development
 - a) South Locust Street Streetscape
 - b) Clarkson Avenue
 - c) Neighborhood Parks

The most challenging issue for Community Development is developing funding sources which will permit the City to meet the needs of their clients in the face of reductions in federal funding and decreasing program income.

Public Services includes:

1. Neighborhoods 1st
2. Community Free Clinic
3. Easter Seals Society
4. Food and Friends
5. Girl's, Inc. Supper Program

6. City- Summer Camp
7. Hagerstown Home Store
8. Children in Need
9. Senior Living Alternatives (Holly Place)

Public facilities and improvements include:

1. Handicap Ramps
2. Downtown Cameras
3. Neighborhood Development
4. Alley Reconstruction
5. Storm Drain Improvements
6. Engine 1 Replacement
7. Inner Block Park and Parking
8. Pangborn Park Restroom Renovations
9. Replacement of Traffic Signals
10. Park Circle Improvements
11. S. Locust Street Streetscape
12. Neighborhood Parks
13. Automatic External Defibrillators
14. Hellane Park Walkways

Acquisition, Clearance & Commercial Improvements include:

1. Jonathan Street Gateway
2. Clarkson Avenue Property
3. Acquisition of property
4. Demolition of buildings
5. Commercial Administration

Housing includes:

1. Smoke Detectors
2. Second Mortgages/Down payment and Settlement exp.
3. Emergency Repair
4. Project Park-Inside
5. Home Repair Grants – Commission on Aging
6. House Keys 4 Employees
7. Curb and Sidewalk Loan Program
8. Single Family Rehabilitation Loans
9. Administration
10. Residential Rental Rehabilitation Loans
11. Hagerstown Neighborhood Development Partnership

Councilmember Nigh asked how much money has been allocated to the HNBP Baltimore Street project. Mr. Bayer indicated the amount is just over \$ 500,000. Councilmember Nigh pointed out the project has not been started yet.

Sharon Disque, Hagerstown Home Store, stated for every dollar spent on the CDC, the City realizes an increase of approximately \$ 4.00.

Funding is included in the CD budget for purchase of property around Clarkson Avenue, if the Mayor and Council direct this. Mr. Bayer stated there is a vacant lot on the corner of Jonathan and Church Street. The Council may wish to acquire the property in order to create a green space. If this works in this neighborhood, the same approach could be used in other neighborhoods. Councilmember Parson-McBean indicated this could work if other historically significant areas in the Jonathan Street area are highlighted, such as the Doleman Black History Museum.

User Fee Schedule Overview

Mr. Martin indicated a few increases are proposed in user fees. Staff anticipated an increase in tipping fees for the Washington County Landfill. At this point, the County is not proposing an increase in tipping fees.

A new fee is proposed for Code Administration for property owners who don't register their rental properties. Increases are proposed for the market house and stall rentals. An increase in monthly parking permit rates is proposed.

City Administrator's Comments

Bruce Zimmerman, City Administrator, had no additional comments.

Mayor and Council Comments

Councilmember K. S. Cromer had no additional comments.

Councilmember M. E. Brubaker attended the most recent "At the Center of It All" forum. Entrepreneurs provide the audience with their views and how they achieved success. The meeting will be televised on Channel 6.

Councilmember A. Parson-McBean expressed concern of the hiring ratio of minorities of color vs. minorities of non-color. She would like the City to position itself as an employer that caters to minorities of color. She welcomed Cornerstone Investments. She expressed condolences to the family of Walter Washington.

Councilmember P. M. Nigh thanked Community Rescue Service for providing additional ambulance coverage in the west end of Hagerstown. The number of incidents of graffiti is increasing. There was an incident involving a number of juveniles at the carnival near Bester Elementary School. She expressed concern about the number of incidents involving juveniles. She stated with costs of living increasing people will need more assistance. She attended the opening day of the Pony League.

Councilmember L. C. Metzner stated the increasing cost of energy is affecting prices of many things. He thinks the City needs to start actively pursuing green activities. He

would like to discuss this in a work session. It is time to start saving energy through conservation. He asked Staff to provide information of how energy consumption can be reduced. Councilmember Parson-McBean suggested looking at wind energy.

Mayor R. E. Bruchey, II had no additional comments.

EXECUTIVE SESSION – April 29, 2008

Councilmember A. Parson-McBean made a motion to meet in executive session to consult with counsel to obtain legal advice, #7 at 6:05 p.m. Councilmember M. E. Brubaker seconded the motion.

Discussion: Councilmember Metzner does not think the portion of the executive session dealing with optional benefits for elected officials should be discussed in closed session. He also thinks the discussion regarding the MELP building should be discussed in open session.

Councilmember L. C. Metzner made a motion to amend the original motion to discuss optional benefits in open session. Councilmember P. M. Nigh seconded the motion.

Motion passed unanimously.

City Attorney Mark Boyer had been asked to provide a legal opinion regarding whether the elected Mayor and Council of the City of Hagerstown may receive certain newly available employee benefits during their current term. He does not believe this would be permissible under Maryland law. He provided a formal opinion and legal analysis.

Mr. Boyer believes the newly created benefits, which will not be publicly funded, constitute compensation and are therefore constitutionally unavailable to the elected officials during their current term. As a result of the broad interpretation which is accorded the constitutional prohibition against changing an elected official's compensation during their term, and because there is no court decision or Attorney General opinion directly on point which is contrary to this general rule, he can reach no other conclusion.

Additionally, because the Mayor and Council would arguable be receiving the benefit of a lower premium for the insurance policies in question than would otherwise be available to the general public, and because it would require an amendment to the City Code, it is Mr. Boyer's opinion that the Mayor and Council are prohibited from taking advantage of the disability, life, accident and critical illness insurance benefits during their current term. However, he believes that the elected officials may avail themselves of the vision insurance benefit immediately, with no Code amendment being necessary, as a result of the vision insurance being closely akin to the "health insurance" benefits which the Mayor and Council currently enjoy.

Mr. Boyer indicated, if the Mayor and Council desire to receive an Opinion of the Attorney General on this issue, they may use the opinion to either (1) send a letter from the Mayor to the Attorney General requesting such an Opinion, or (2) a request of the Attorney General's Office for a letter of advice from a member of the Washington County Delegation to the General Assembly.

Councilmember Metzner stated a presentation will be made from the Charter Review Committee. The benefits could be reviewed as part of the discussion. Mr. Boyer indicated the Mayor and Council expense amounts should also be discussed at that time.

Donna Messina, Director of Human Resources, stated open enrollment will be held from May 27, 2008 through June 13, 2008.

It was the general consensus to not seek an opinion from the Attorney General.

Councilmember A. Parson-McBean made a motion to meet in executive session to consult with counsel to obtain legal advice regarding code enforcement issues, #7 at 6:21 p.m. Councilmember L. C. Metzner seconded the motion.

Discussion: Councilmember Metzner asked if there were issues in addition to the memo. Mr. Boyer stated his concern with the code issues are matters of strategy. Councilmember Metzner stated he appreciated the strategy but the buildings included in the memo are ones in which the status should be discussed publicly, i. e. the MELP building. The community should know what issues have caused the City to not do anything about the building.

Councilmember Parson-McBean is not comfortable second guessing what is placed on the agenda for executive sessions.

Councilmember Metzner would like to make a public statement about the MELP building. The citizens are owed an explanation of the status.

Mayor Bruchey suggested discussing the status of the MELP building in open session and discussing strategies in closed session.

Mr. Boyer suggested meeting in closed session prior to discussing the status of the MELP building in open session.

Councilmember Metzner agreed, if a public statement is issued after the closed session regarding the MELP building.

Motion to meet in executive session carried unanimously.

No formal action was taken at the session. The meeting was held in the Council Chambers, 2nd floor at the City Hall. The meeting was adjourned at 7:48 p.m.

Respectfully submitted,

Donna K. Spickler, City Clerk

Approved: June 17, 2008