

5th Special Session – August 9, 2005

Mayor Richard F. Trump called this 5th Special Session and Work Session of the Mayor and City Council to order at 4:00 p.m., Tuesday, August 9, 2005 in the Council Chambers at the City Hall. Present was Mayor Trump, City Council Members K. B. Aleshire, K. S. Cromer, L. C. Metzner, P. M. Nigh and A. Parson-McBean, City Administrator Bruce Zimmerman, and City Clerk D. K. Spickler.

Resolution: Enact Sewer Capacity Allocation Program

Action: On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember K. S. Cromer, the Mayor and City Council unanimously agreed by voice vote to approve a resolution for enacting a Sewer Capacity Allocation Program (SCAP). This program, as required by a Consent Judgment and approved by the Maryland Department of Environment, will limit the number of gallons of sewer allocation that may be approved for the creation of new final plats or site plans, and the gallons of sewer allocation associated with sewer permit applications for final plats and site plans approved prior to January 12, 2005. Further, it establishes a Discretionary Reserve allocation for the Mayor and Council and allows for annual review of the program.

Discussion: Councilmember Aleshire stated a letter was received from MDE, recognizing that the City is required to do this. He asked if MDE is removing themselves from any liability. Bruce Zimmerman, City Administrator, stated it does not appear that is the case.

On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember K. B. Aleshire, the Mayor and City Council unanimously agreed to adjourn the Special Session at 4:06 p.m.

WORK SESSION – August 9, 2005

“HIP” Employee Award Program

Sherry Alton, Benefits Specialist, stated the following employees are being recognized for the “High Performance Employee Award”:

Michael McAllister, from the City Light Department

Mike Heyser, Gary Pryor, Blaine Mowen, John Shank and Mary Reichert, from the Engineering and Inspections Department

Mayor Trump presented certificates in recognition of their contributions to the City.

Mayor's Report

Mayor Trump reported the City has received over \$ 1 million in Community Development Block Grant funding. This funding will benefit many organizations, including Girls, Inc., Holly Place, Easter Seals, Memorial Recreation Center and the City's Homeownership Program.

Mayor Trump stated Leadership Hagerstown will be attending a Mayor and City Council meeting in September to seek assistance for funding a director's position. He has been assured the City will have as many scholarships as they would like.

He stated an attempt is being made to establish a lobbying group in order to possibly attract Federal funding for roads in Washington County.

Mayor Trump stated there was a meeting last week regarding the East End project. He stated it is his intent to involve Councilmember Aleshire in the planning issues since the Council looks to him for guidance. Mayor Trump has asked Councilmember Aleshire to be the Council representative on the Planning Commission. This leaves the Council representative vacant on the Board of Traffic and Parking. Council representatives need to be appointed to the Hagerstown Housing Authority and the Parks Board.

Mayor Trump stated he would like to appoint Ruth Anne Callahan to the Board of Zoning Appeals as a regular member and John Carter to the Board of Zoning Appeals as an alternate. Councilmember Metzner stated there has been a formal motion made accepting appointments in the past. He recommended discussing this further in executive session.

Augustoberfest Event Update

Karen Giffin, Public Information Manager, stated this year marks the 10th Anniversary of Augustoberfest. The event is being held on Saturday, August 13, 2005 and Sunday, August 14, 2005. Both days of the event will be a celebration of the German heritage of the area. Bavarian food, great entertainment and children's activities will be some of the highlights of the event. Net proceeds go toward the student exchange program. Mayor Trump thanked the committee for their hard work for this event.

Hagerstown Area Softball League Loan Request

The Hagerstown Fairgrounds Softball Association (HFSA) has requested the Mayor and City Council to approve a \$ 26,915.00 interest-free loan to install chain link fence around the three softball fields at Fairgrounds Park. The fence would be 6 feet high and have a 10' x 6' high

double drive gate that would be kept unlocked making the fields accessible.

Currently, HFSA is paying for an interest-free loan obtained from the City to construct and equip the concession stand in May 2001. The loan was for \$ 40,000 to be paid \$ 4,000 annually for 10 years. If approved, HFSA is requesting the new loan amount be added to the existing loan, there by increasing the monthly payments from \$ 4,000/year to \$ 6,700/year.

Staff is recommending that the fencing is necessary for the fields for the safety of the patrons on the side lines. Should the HFSA disband, fail to renew its User Agreement, or default on the Loan Agreement, the fencing would become the property of the City.

Councilmember Cromer stated she understands that, even though HFSA would be paying for the fence, it will still be the City's property. That understanding is correct.

It was the general consensus of the Mayor and City Council to add the approval of the loan to the agenda for August 23, 2005.

Comprehensive Plan

Kathleen Maher, Planning Director, stated ERM has started working to update the Comprehensive Plan. Clive Graham and Ben Sussman were present from ERM. They are working on a background plan and they would like feedback from the Mayor and City Council.

The Comprehensive Plan is a public policy statement of the City's land use and development policies and actions. The document is widely used and referred to by State and County agencies, bond rating agencies, the Planning Commission and the Board of Zoning Appeals. A new Comprehensive Plan is required by the State every six years. There are required elements but no set format for the plan.

The background study is now complete. This plan will be different from the previous plan because the growth rate is very different from what it was eight years ago.

The top 12 issues identified in April, 2005 are:

1. Growth – Ability of the City to provide adequate services (police, fire/EMS, recreation, water & sewer) to support growth in areas proposed for annexation.
2. Water & Sewer – Need to increase waste water treatment plant capacity

3. Fiscal health – Need for increased tax base to be able to pay for the many necessary capital projects and program initiatives. Maintenance of City infrastructure (roads, parks, buildings).
4. Economic Development: City needs to attract more high wage employment.
5. Downtown: Revitalization of downtown is progressing but much more needs to be done.
6. Schools – Lack of school sites and facilities (meeting County's site standards) to meet enrollment needs from growing population.
7. Growth – New development is of insufficiently high design quality.
8. Housing – Low homeownership rate in the City.
9. Transportation/Traffic – Identifying regional solutions to transportation issues in coordination with Washington County.
10. Housing – Concentration of lower value housing in the City compared to the County.
11. Neighborhoods – Some of City's poorer/older/inner ring neighborhoods are distressed, lack investment and need to be upgraded.
12. Economic Development – Large amounts of undeveloped and underdeveloped land are not contributing enough to the City's economy.

Mayor Trump asked if the growth rate in Hagerstown is typical. Mr. Graham indicated the significant growth rate that Hagerstown is experiencing is happening a lot, especially on the fringe of the Baltimore/Washington area.

Mayor Trump asked if the City's plan is being coordinated with the County's plan. Ms. Maher stated the timing is good because the County is now ready to start working on the urban growth area.

Mayor Trump indicated the Mayor and City Council are holding a goal setting session. He urged the Council to consider the feedback from citizens and tie those thoughts in with the goals. He stated growth and annexation are going to be the biggest issues. He stated growth will increase the tax base and give the City the ability to provide as much as is required for the community.

Councilmember Aleshire stated the development community needs to understand that there will be a degree of controversy. He stated the City cannot afford to develop as a city at the current density levels of growth. He stated density has to be reviewed.

Councilmember Nigh stated the results of annexation will not be evident immediately. She stated it is killing the City to exempt groups like the Housing Authority from the fees. She is concerned that growth will happen too quickly and inundate the taxpayers who are already living here. She stated they need to provide a better wage base for the citizens. She wondered what is being gained from the incentives to bring business to the City.

Ms. Maher stated they will compile the notes from the Planning Commission for the Mayor and City Council's review. Councilmember Metzner suggested using the information provided here as an outline for the goal setting session.

Staff Approval for License Agreements

Rodney Tissue, City Engineer, and Jim Bender, Assistant City Engineer, were present to discuss a proposed policy for License Agreement.

The City occasionally receives requests from citizens to allow them to encroach on the public right-of-way for the construction of handicap ramps, fences, porch steps or stoops, etc. Typically, the Engineering Department will require these citizens to request a License Agreement with the City. These agreements must then be presented to the City Council for review and approval.

While some License Agreements raise issues that are appropriate for Council review, the majority of them are cases where review and approval by City Staff alone is probably sufficient. In an attempt to save time and effort for both the City Staff and the Council, Staff proposes to have the Council authorize the City Engineer and/or the City Administrator to approve certain License Agreements without prior Council review.

The purpose of this policy is to streamline the process for reviewing and approving License Agreement requests for "routine" circumstances. The following is a list of potential License Agreements that are proposed for Staff-only review:

1. New or replacement handicap access ramps
2. New or replacement steps, stairs, porches, or stoops
3. New or replacement fences
4. New or replacement roof overhangs, canopies, etc.
5. Street furniture (e.g. sidewalk café tables and chairs)

Staff would propose to include the following conditions and/or exceptions to the ordinance drafted for this policy:

1. The City Engineer and/or City Administrator shall have the discretions to require City Council approval for any proposed License Agreement.
2. Any request for a License Agreement in one of the City's Historic Districts shall require approval by the City Engineer, the City Planning Director, and the Preservation Design District Commission.
3. All License Agreements shall contain "Hold Harmless" language to protect the City's interests upon execution of the agreement.
4. License Agreements must be executed by the Applicant and recorded by the City Clerk.
5. All such License Agreements shall be non-exclusive, meaning that no transfer in interest of real estate takes place, and that the City and the public retain the right to use the property in question.
6. All such License Agreements shall include a clause that allows the City to terminate the agreement at its will after giving reasonable notice to the licensee.

It should be noted that a License Agreement only allows the licensee to use or occupy the City's property under certain conditions; it does not waive the licensee's responsibility to obtain any other required permits or approvals.

Staff anticipates that the City will receive some requests for License Agreements that are outside of the scope of the five areas identified above. It is also possible that some "routine" requests will have related issues that are not appropriate for Staff-only review. In those cases, the current procedures will be maintained, and the License Agreement requests will be presented to the Council for their consideration.

It was the general consensus of the Mayor and City Council to move forward with the proposed policy. Staff will work with the City Attorney to prepare an ordinance enabling this policy. The draft ordinance will be brought back to Council at a future work session for review and comment.

Cost of Service Study – Recommended Changes to Water and Sewer User Rates

Alfred Martin, Finance Director, and David Shindle, Water and Sewer Department Manager, were present to discuss recommended changes to the water and sewer user rates. The changes in

the water and sewer benefit fees and other charges that were recommended as part of the recently completed water and sewer cost of service study will become effective on August 11, 2005. These recommended changes were discussed with the Mayor and Council by staff and the study consultants, Municipal and Financial Services Group, in June. No action was taken on the regular quarterly or monthly water and sewer user charges at that time. The consultant recommended changes in the design of the City's rates and rate structure, including the outside City rate differential and the overall increase in revenues needed to meet the revenue requirements of the Water and Sewer Funds.

The budget adopted for Fiscal Year 2005/06 for the Water and Sewer Funds anticipates that water and sewer user rates will be adjusted by October 1, 2005 in order to generate sufficient revenues to support the operating, maintenance, debt and capital needs of these utilities. While implementing the rate increase can be delayed for a month or two without significant impact on the Water and Sewer Funds' financial condition, the City must proceed with some increase in the rates by the end of the calendar year in order to have sufficient funds to properly operate the utilities.

The Cost of Service Study goals are to ensure rates are fair and reasonable, that user charges are based on the actual cost of providing service, that rates and charges are adequate to support the needs of the system, and that growth pays for growth. This study, and the consultant's recommendations, indicate that larger outside City rate differentials than the ones now being utilized should be used. Staff is recommending that the consultant's recommendations in their cost of service study be followed so that the rate structure reflects the actual cost of service for each of the customer classes so that each class of customer is paying their fair share of the cost of service. This means that rates for customers inside the City will increase less than customers outside the City. Also, the elimination of the 10,000 gallon per quarter minimum use charge and replacement of it with a fixed minimum charge based on meter size, will result in lower water and sewer bills for the smaller users than they are currently paying. This should be of benefit to one/two person households and senior citizens.

A review of the top ten customers for water points out a concern about the impact of the proposed increases in water rates for outside City customers on the three municipalities that are served by the City. They all would be facing potential increases of 62% over what they are currently paying. Discussions have been held with all three municipalities to review the impact of these rate increases on them and their customers. All three operate and maintain their own distribution systems within their towns and bill and collect from their own customers. If the Mayor and Council concur, staff would propose to work with the consultant to develop a special rate class for these customers based on avoided costs to the City, rather than continuing to lump them into the general nonresidential outside City user group.

City of Hagerstown rates are lower than other municipal water and sewer rates in the region and around the State of Maryland. The City's water rates are almost 50% lower than the closest competitors in Annapolis and Salisbury. The City's rates are so low compared to the other communities (especially water), that even with the proposed increase in the outside rate differential, the outside City rates will still be lower than many other comparable communities' inside City rates. The consultant's recommended water and sewer rate changes still allow the City to be very competitive with other comparable jurisdictions.

Councilmember Cromer asked what the average customer uses. The average customer uses 13,000 gallons per quarter.

Councilmember Parson-McBean asked if a customer could request a specific size meter. Mr. Shindle stated each request for service is reviewed to determine the appropriate meter size.

Mr. Zimmerman pointed out the minimum charge per quarter for a 5/8" meter would be \$ 3.14. This would be in addition to the minimum usage charges.

Councilmember Nigh asked how the funding for improvements at the sewer plant will impact the rates. Mr. Shindle stated the improvements have been included in the rate model and projected rates. There would be no additional impact.

Councilmember Aleshire pointed out the rate study was completed, in part, due to a request made by the Washington County Commissioners. The rate study has shown what can happen when the system is not adequately funded. He asked if everyone felt an increase of 135% is too high, especially in relation to the relationship with the County. He stated very few people attend public hearings and he wondered what kind of opposition there would be for this increase. He does not care for the two tier declining block of rates.

Mr. Martin stated many systems have moved to a flat rate system. When forming the models, it was felt the impact would be too severe for larger customers to go from a triple declining block rate system straight to a flat rate system.

Councilmember Aleshire stated he hopes the results of the consultant's study are used for rate class consideration and not for consideration of individual customers.

Councilmember Aleshire and Councilmember Metzner stated the City needs to utilize rates that are the best for the system and the fairest for customers. Councilmember Aleshire suggested that Staff review Middletown's rate structure, which is a tiered increasing block.

Mayor Trump asked if this was also an Economic Development Commission (EDC) issue. Councilmember Aleshire stated EDC is not responsible for the system.

Mr. Martin stated the rates need to be an accepted industry standard. The rates also need to be adequate enough to provide funding for the system and still be competitive.

Councilmember Nigh asked how an increase in the number of users would affect the plant. Mr. Shindle stated there is a limit of 600 new units per year. Councilmember Nigh stated she is concerned that citizens will have to pay for increased growth.

It was stated that a water and sewer plan is included in the Comprehensive Plan.

The consultants will look at a model to include a flat rate comparison. The next step would be to schedule a public hearing on the proposed changes. The public hearing could take place at a special meeting in September or at the regular meeting on September 27, 2005. An ordinance to change the rates would then need to be introduced at a special meeting in October in order for it to be adopted at the regular meeting on October 25, 2005. The ordinance would then become effective 30 days later, on November 24, 2005. This schedule would allow the rate changes to be implemented on bills issued after December 1, 2005. It was the general consensus of the Mayor and City Council to move forward with the recommended changes to the water and sewer user rates.

JSA Expansion Request/Consolidated General Services Agreement (CGSA) Amendment #7
(Halterman Property)

David Shindle, Water and Sewer Department Manager, stated the Mayor and Council heard a presentation for an addition of property to the Joint Service Area (JSA). At that time, staff had recommended, and the Mayor and Council concurred, to proceed with working out the details of the JSA addition and its associated amendment to the Consolidated General Services Agreement with Washington County. Before the details had been worked out, the Maryland Department of the Environment (MDE) had advised the City they had begun working on a Consent Order.

Since that time, the Consent Judgment was completed in January and the City has been working under the Interim Sewer Capacity Allocation Program. Staff and the City Attorney believe the Mayor and Council can now proceed with considering this amendment to the CGSA. The parcels being considered are Parcel 114 and Parcel 759, located on Long Meadow Road and Maryland Route 60. The original request included Hunter Hill Apartments. That property has been deleted from the request. The proposed development on the property is a 133 unit residential use.

Mr. Zimmerman asked what the implications would be for the City in expanding the JSA. Mr. Shindle stated the flow would come through to the plant, as if they were City customers, and there would be a different rate structure. Mr. Shindle stated this amendment includes clauses that address the sewer capacity and allocation to the properties. Paragraph #5 states that sewer

infrastructure assets within the property would be offered for transfer and dedication by the County to the City, at no cost to the City in the event the property is annexed into the City. Paragraph # 6 stated that sewer capacity allocation for properties located within the joint Sewer Service Area is not guaranteed by the City or the County.

Councilmember Aleshire asked if paragraph 5 is agreeable to the County. Mr. Shindle stated the County has reviewed the amendment. Councilmember Aleshire pointed out that this proposed development is in the Paramount school district and Paramount school is over capacity. The property has been zoned for this type of development for many years.

Councilmember Metzner stated these properties are within the urban growth area and he would support the amendment.

Mr. Shindle stated the Mayor and City Council need to decide whether or not to allow the property to be inside the Joint Service Area.

Councilmember Aleshire stated there is a finite amount of capacity. He asked at what point you stop adding property to the green area and leave the parcels vacant.

Councilmember Metzner stated this should be addressed during the comprehensive plan update and the goal setting meeting. He stated this is not a new development coming in. His preference would be to keep all green space, but, a development that has been planned for years, located in the Urban Growth Area, should not be denied. He stated it is important for everyone to understand if the Mayor and Council don't accept the amendment, the project will continue.

Councilmember Aleshire stated the goal is to ensure there are adequate services to provide for the development.

Councilmember Metzner and Councilmember Aleshire are supportive of the amendment. Councilmember Cromer, Councilmember Nigh and Councilmember Parson-McBean would like more information before making a decision.

City Administrator's Comments

Bruce Zimmerman, City Administrator, had no additional comments.

Mayor and Council Comments

Mayor R. F. Trump stated this administration is being blessed with tremendous growth. The people concerned about higher wages need to look at what growth brings to this area. This level of growth sets a new tax base.

He stated the goal setting session will be a time to bring the priorities of the Council to the table. He hopes that the group can have unity and an administration they can all be proud of.

Councilmember K. S. Cromer had no additional comments.

Councilmember P. M. Nigh stated there is an increasing number of refugees locating in the area. There are many economic strengths here. She stated the City has to decrease the number of tax exempt properties.

She stated the Valencia will be giving free haircuts on Saturday, August 13, 2005 for the families of military personnel.

Councilmember Nigh asked that a discussion of the Delta building be scheduled soon. She would like clarification of who owns the building.

She thanked Danny Poffenberger and the other code enforcement officers who were helping at the fire on Washington Street. She asked when the Alms house will be discussed. Mr. Zimmerman stated it will be August 16, 2005 or September 9, 2005.

Councilmember Nigh stated she received an email from someone who is uncomfortable with the hospital project because it seems the usage is anticipated to increase and the calculation being used for costs are less than the amount for the current demand. She stated if MDE requires modifications to accommodate the hospital project, the hospital should be required to provide funding for the accommodations.

Councilmember A. Parson-McBean had no further comments.

Councilmember K. B. Aleshire stated he attended a meeting to discuss the East End Redevelopment project. He liked the fact that many agencies and/or groups are involved. He thinks it would be good to designate this as a "priority places area." He would like to see the MELP plant removed during his lifetime. He stated it could be advantageous to explore the priority places area for possible funding.

He stated the MDE indicated a request for sewer allocation for the hospital would have to be treated as a new request. He stated this is inconsistent. He stated a consistent policy needs to be developed for consideration of expansion into the UGA.

He stated repairs to Memorial Boulevard are complete. It looks better than he has ever seen it.

He recommended using a ten year outlook for the goal setting retreat. He stated Councilmembers could come to the table with the things they feel are important to pursue. If three Councilmembers support the idea, then it will be added to the list. This process seemed to work well during the previous goal setting session.

Councilmember L. C. Metzner stated what the MDE is recommending is something that the City cannot do. He stated there should be no letter clarifying what the City's answers to their questions are. He stated the hospital should get in line for the allocation, like other developers are required to do.

On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember K. S. Cromer, the Mayor and City Council unanimously agreed by voice vote to meet in closed session at 7:04 p.m. in accordance with the provisions of the annotated Code of Maryland, State Government Article, Section 10-508(a) #4 to consider a matter that concerns the proposal for a business or industrial organization to located, expand, or remain in the State, and #3 to consider the acquisition of real property for a public purpose and matters directly related thereto. No formal action was taken at the session. The meeting was held in the Council Chamber, 2nd floor at the City Hall. The meeting was adjourned at 8:01 p.m.

Respectfully submitted,

Donna K. Spickler, City Clerk

Approved: _____
