

13<sup>TH</sup> SPECIAL SESSION AND WORK SESSION – April 9, 2013

The Mayor and Council attended the annual luncheon meeting at the Washington County Museum of Fine Arts earlier in the day.

Prior to the start of the Mayor and Council meeting, Ryan Edwards and Lucas Hanson, members of the Washington County All County Jazz Ensemble, performed Nirvana's Smells Like Team Spirit. The performance was in recognition of Jazz and Poetry Month.

13<sup>TH</sup> SPECIAL SESSION – April 9, 2013

Mayor D. S. Gysberts called this 13<sup>th</sup> Special Session and Work Session of the Mayor and City Council to order at 4:07 p.m., Tuesday, April 9, 2013, in the Council Chamber at City Hall. Present with the Mayor were Councilmembers K. B. Aleshire, M. E. Brubaker, L. C. Metzner, D. F. Munson and P. M. Nigh; City Administrator Bruce Zimmerman, City Attorney Mark Boyer, and City Clerk D. K. Spickler.

On a motion duly made by Councilmember D. F. Munson and seconded by Councilmember K. B. Aleshire, the Mayor and City Council unanimously agreed by voice vote of all members present to meet in Special Session at 4:07 p.m.

**Approval of a Resolution: Authorizing a Loan-to-Grant Business Assistance Package with Greg and Marjorie Kane, Owners of The Flying Pie Company**

**Action:** On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember D. F. Munson, the Mayor and City Council unanimously agreed by voice vote to approve a resolution authorizing the City to enter into a loan-to-grant business assistance agreement not to exceed the amount of \$ 15,000 with Greg and Marjorie Kane, owners of the Flying Pie Company, in connection with its commitment to downtown Hagerstown and anticipated creation of new jobs to be paid for from the Economic Redevelopment Unreserved Fund.

On a motion duly made, seconded and passed, the Special Session was closed.

WORK SESSION – April 9, 2013

Collection of Delinquent Utility Bills

Scott Nicewarner, Director of Information Technology and Support Services, Michael Spiker, Director of Utilities, and Beth Everhart, Customer Services Supervisor, were present to provide information regarding the collection of delinquent utility bills.

In regard to the current state of the utility receivables, as of March 31, 2013, 30% of the total water/wastewater active receivable is 31+ days delinquent. This is just slightly higher than normal for this time of year due to the fact that water/wastewater accounts are

billed quarterly and the City does not interrupt service for nonpayment when temperatures are below freezing to avoid any damage to property caused by burst pipes. Warmer weather, forecast for next week, will allow service interruptions to resume for non-paying accounts. Staff anticipates this receivable to decrease by 50% - 60% by mid-Summer. Water accounts are always placed in the name of the property owner, and are more likely to be collected, or a tax lien may be placed on the parcel.

In regard to the electric utility, the City is governed by the rules and regulations administered by the Public Service Commission (PSC) through the Code of Maryland as to the interruption of service for non-paying customers. As of March 31, 2013, 17% of the total active receivable was 31+ days delinquent. This is also slightly higher than past years, which averaged about 15% at this time of year. The City, as of April 1, is able to resume interruption of service for non-paying accounts. Staff started with the accounts with the highest delinquent amounts, and were able to process 125 service interruptions before having to cease activity on Wednesday, April 3, 2013 due to the 32 degree minimum temperature restriction placed by the PSC several years ago. Again, warmer weather next week allows the process to continue. Staff anticipates the outstanding receivable to decrease 40% and 45% by mid-Summer based on past experience. The receivable for electric becomes harder to collect due to the frequent movement of customers who are predominantly renters.

Any vacant parcels that have service shut-off will still show as active with an outstanding balance and are a portion of the delinquency noted.

Mr. Nicewarner stated staff makes every effort to establish payment arrangements with customers who want to work with the City.

Councilmember Aleshire noted the vacant property rate has been more than 10%. He wondered if a bill continues to accumulate while a property is in foreclosure. Ms. Everhart stated typically, the service is terminated when the City receives notice of a foreclosure.

Mr. Spiker stated the outstanding water and wastewater amounts are collectible because a lien can be placed on the property tax bill. Electric amounts are not considered liens against the property.

Councilmember Aleshire asked what ordinance establishes the termination policy for delinquent accounts. Mr. Nicewarner stated PSC regulations apply to electric accounts. The water and wastewater accounts are not regulated by the PSC. Service interruptions for these accounts are completed by following standard operating procedures.

Councilmember Aleshire asked if the City is governed by the PSC or chooses to follow their guidelines. Mr. Nicewarner stated the City must follow PSC regulations.

Mr. Spiker indicated there is \$ 2.8 million outstanding for final billed accounts. This is over a 15 year period.

Councilmember Aleshire stated the amount of outstanding accounts is the same amount as a year of wages and overtime. He asked if there are mechanisms within PSC regulations that could be implemented, such as City legislative action, to limit additional exposure.

Mr. Boyer stated the City cannot supersede State of Maryland law.

Mr. Nicewarner stated accounts are sent to collection attorneys for potential payment.

Councilmember Aleshire stated the Mayor and Council should implement what legislation they can to limit additional exposure of delinquent utility bills. He wondered if other municipalities have legislation in place to address delinquent utility bills.

Councilmember Munson stated staff needs some flexibility for working with customers who are trying to pay their bills.

Councilmember Brubaker inquired if any legislation regarding utility payments has been in front of the PSC or the General Assembly in the last 10 years. Mr. Nicewarner and Mr. Spiker indicated there had been, one for water/wastewater and one for PSC payment plans.

#### Update on Impact of Excise Tax Ordinance and Adequate Public Facilities Ordinance (APFO) on City Development

Kathleen Maher, Planning Director, provided an update of the City's APFO. On March 26, 2013, the County Commissioners adopted revisions to the County Excise Tax Ordinance that reduces the tax rate on retail development and residential development. The City's ability to retain a portion of the County excise tax is tied to the City's adoption and continued use of an APFO for schools.

The City's APFO allows staff to review whether there is a continuing need for this Ordinance and allows the City to repeal the ordinance if the Mayor and City Council determines that retention of this Ordinance has become detrimental to the ability of the City to administer its policies and goals affecting growth and development in the City. If the City were to take this step, it would no longer be eligible to retain 28% of the County excise tax collected within the city.

Since the City adopted the APFO in 2006, the County Commissioners have revised the excise tax ordinance seven times resulting in steadily declining tax rates on new development. The most recent changes occurred in March, 2013. These changes will not only have an impact on the amount of revenue that the City will collect in the 28% retention of the excise tax for City parks and roads projects, but it will also have an impact on the amount of revenue that the County will collect for school construction projects since 70% of the excise tax is obligated for the CIP for schools.

Between FY 2006 and FY 2012, the City retained \$ 2.3 million of the excise tax revenue collected from development projects in Hagerstown. Seventy five percent of that revenue was collected in the first two years. Fifty seven percent of the collected funds was used to help with the City's share of the Edgewood Drive/Dual Highway project in FY 2010-2012. Smaller allotments of funds are planned for several parks and roads projects in the current fiscal year.

The market slowdown and subsequent economic downturn severely affected new development plan considerations for Hagerstown. This coupled with inadequate school capacity and the APFO has created a situation where the City has not received a preliminary plat/development plan submittal for a new subdivision since 2008 (and that plat failed the school test). Five condominium site plans have been submitted in that time. One passed the school test, two gained mitigation approval under the Revitalization Clause, and two within the past year are stalled due to inadequate school capacity.

Since the City's APFO went into effect on May 26, 2006, eleven proposed new residential developments have been affected by the APFO and the capacity issues at the schools which serve the City of Hagerstown and the surrounding area. When a development project fails the school test in the APFO, the subdivision or site plan cannot be approved unless the County Commissioners and then the Mayor and City Council approve a mitigation plan as negotiated with the developer. The mitigation plan is intended to provide some benefit or slowing of the impact of the project to assist the affected school capacity issue.

Of the eleven proposed developments, only one was approved with sufficient capacity at all school levels to serve the development. Three projects were approved despite a deficit in school capacity at the elementary school level, because they were determined to have significant revitalization value for the City. Five projects have been stalled due to school capacity problems, until the developers can devise a mitigation program acceptable to the County Commissioners. One project was abandoned and one project was annexed with a tight phasing schedule due to the possibility of the impending adoption of the APFO.

Budget constraints and State funding restrictions make it difficult for the County School CIP to construct excess school capacity to allow for approvals of new developments under consideration for the Hagerstown Urban Growth Area. As a result, mitigation programs are an important alternative means of allowing new development to move forward. To date, the County Commissioners have demonstrated discomfort in reviewing mitigation plans and have not adopted a policy to inform developers and municipalities of what proffers would be acceptable to gain APFO approval. Reviews are on a case-by-case basis and negotiations have proved to be lengthy and frustrating for developers. On those projects which have gained approval, developers have negotiated a variety of mitigation plans for the projects with solutions that included phasing schedules, donation of a school site, prepayment of excise taxes, payment of a fee on top of the excise tax, etc. This method of gaining APFO approval has worked for some City revitalization projects, but it has proven difficult to secure for many developers whose

projects do not fall under that category.

Councilmember Metzner stated he is not in favor of removing the ordinance that covers the increase in school enrollment. Councilmember Brubaker stated the Council needs to research options available to cover costs if the APFO is deleted. If the City imposed its own impact fee, developers would likely complain about the City. Councilmember Munson stated this ordinance was implemented because it covered the costs of improvements to infrastructure to serve increased needs. Councilmember Aleshire is concerned there may be consideration to remove a funding source.

The Mayor and City Council can make revisions to the City's APFO at any time. This information was provided as an update.

### Sale of City Real Property

John Lestitian, Director of Community and Economic Development, and Andrew Sargent, Downtown Manager, were present to review the newly developed process by which the City is soliciting interested parties for the redevelopment/reuse of City owned property.

The City has brought about visible and impactful change in the downtown through a strategy of acquiring, improving, selling and retaining some properties. In many cases the City has developed project specific private-public partnerships or public-public partnerships. Examples include the USMH Center, the Elizabeth Hager Center, 36-40 North Potomac Street, the Barbara Ingram School for the Arts, the Potomac Walk Building, 60 West Washington Street, 140 South Potomac Street and the former McBare's building which now houses part of the Maryland Theatre's operation. Most recently the City has acquired the former Mid-town Motel and settlement is scheduled for 43-53 West Washington Street. A key component of this strategy is the development of these project specific private-public or public-public partnerships to ensure the redevelopment/appropriate reuse of buildings.

Based on discussions with the Mayor and City Council and review of best practices, staff developed the Competitive Negotiated Sale (CNS) process. Through this process the City solicits proposals for redevelopment/appropriate reuse of City owned real property. Available properties, corresponding forms and instructions are listed on a newly created page within the city's website.

The application is the centerpiece of the process. Prospective purchasers are asked to detail their vision, experience, job creation goals, public benefits, financing plans and other relevant information. Similar to the Partners in Economic Progress program a staff committee will then review applications. Viable applications which meet the City's vision will then be recommended for review by the Mayor and City Council. Currently two properties are listed on the Competitive Negotiated Sale webpage; the Public Square property and the former Midtown Motel property. Interest has been expressed in both of these properties.

The sale of properties purchased in the 1990's additionally requires a notice in the local newspaper in order to comply with the ordinances the properties were purchased under.

Mr. Lestitian asked if there were other properties the Mayor and City Council wanted listed on the website. Mayor Gysberts mentioned the Alms House and the Central Parking Lot.

Councilmember Aleshire asked how many businesses have loans with the City of Hagerstown. Mr. Lestitian stated there are several. This topic is on the agenda for next week.

Councilmember Brubaker stated citizens need to understand the highest offer isn't always the best offer for the City. The City is not looking for someone to flip the property.

Councilmember Brubaker asked if the review of the applications will be held in open session. Mr. Lestitian and Mr. Boyer indicated there will be some instances in which the information would not be discussed in an open session.

There will be outreach to the business and development community for the properties that are listed for sale.

It was the general consensus of the Mayor and City Council to move forward with this process and to expand the list of available properties.

#### Funding Request – Maryland Theatre Sound System Upgrade

Benito Vattelana, Maryland Theatre, Jessica Green, Maryland Theatre, and Jim Hovis, Washington County Office of Community Grant Management, were present to discuss a funding request for the Maryland Theatre.

Ms. Green stated the Board is requesting funding for the project of a new sound system for the Theatre. The sound board has been recently upgraded; however, the rest of the sound system, including but not limited to speakers, amplifiers and microphones, are approximately 30 years old. The equipment can no longer be repaired as needed and need to be replaced. Sound equipment is ever improving, especially for large venues such as the Theatre. Upgrading the Theatre's sound system will dramatically improve the audiences' experience each time they visit the Maryland Theatre.

John Lestitian, Director of Community and Economic Development, reported the Maryland Theatre has filed an application with the Washington County Office of Community Grant Management for funding for their sound system upgrade project. The total cost of the project is \$ 44,822. Subsequent to the application, the City received correspondence from the Office of Grant Management advising that the County was

prepared to fund half of the project and asked that the City consider providing a matching contribution. If approved, the City's portion would be \$ 22,411. Funding for this request could be taken from the current fiscal year net revenue in the general fund.

It was the general consensus of the Mayor and City Council to support this funding request.

A recess was then taken.

#### FY 13/14 Budget Review

Michelle Burkner, Director of Finance, and Michelle Hepburn, Budget Officer, reviewed several sections of the FY 13/14 Proposed Budget.

The proposed General Fund revenue of \$ 37,834,776 for FY 13/14 represents a 2.5% increase from the FY 2012/13. The primary causes for this are increases in State and County revenue, an increase in intergovernmental revenues due to receipt of the COPS grant, and an increase in Fines/Forfeitures due to revenue from speed camera violations.

Property tax revenue is expected to remain flat. Transfer from other funds includes a \$ 250,000 water fund dividend to the General Fund and \$ 55,000 for a Wellness Program.

Projections for expenditures are mainly flat. Departments are doing a good job of monitoring expenses. Expenses for the police department show an increase due to the hiring of five officers through the COPS grant, a school resource officer and a speed camera officer. The fire department expenses include an increase to cover the filling of vacancies in Captain positions. The Parks Department expenses will increase as more parks are added to the City. Funding for maintenance for the MUSEC has been removed from the proposed budget. There is a CIP item for this project.

Mr. Zimmerman stated efforts have been made to reinstate positions in police and fire. He pointed out Public Works has held many vacant positions. If there is further consideration from the Mayor and Council to reinstate positions, he recommended they discuss these vacant positions as well.

Councilmember Metzner stated he thinks there should be more people in Public Works but he is concerned about the out years for reinstated positions. He wondered if this administration will be able to complete budgets in the coming years without a tax rate increase.

Ms. Burkner stated an increase in the cost of benefits is included, as well as an increase in debt service to cover the purchase of vehicles. There is nothing in the debt service for a stadium. Fund balance is approximately 22.5%. According to GFOA Best Practices, the City should have 2.6 months worth of operating funds in reserve. The City is within that range.

A table showing a 25 year history of the property tax assessment and property tax rate is included in the budget book. It is anticipated there will be a \$ 1.6 million shortfall in future years due to the expected decrease in the assessable base.

Councilmember Metzner pointed out the chart should also show the effect on City revenues of the change in the tax differential with the County lowering the tax rate for municipal residents. An amendment will be included to reflect this information.

The city provides funding for and participates in many functions throughout the year. These functions improve the quality of life in Hagerstown. The proposed budget is \$ 468,200. Functions include BluesFest, Augustoberfest, the Miss Maryland Pageant, the Mummers Parade, Music by the Lake, Harvest Hoedown, Fishing Tournament and downtown events. Councilmember Brubaker stated this is a small investment for what these events add to living in Hagerstown.

Due to the increased debt service required for future capital projects being proposed in the Capital Improvement Program Fund and expected increases in wages and benefits and other operating expenses, new and/or increased revenue sources are needed beginning in FY 2014/15. Staff has recommended the following revenue sources for consideration: property tax rate increase, stormwater management fee, red light cameras and a fire service tax. The Stormwater Management fee is contingent upon State legislative requirements currently under consideration in Annapolis and a study would need to be performed to establish the fee and rate structures.

Projections for wages and benefits have been reduced to help with financial projections. There are currently 26 vacant positions.

Councilmember Brubaker pointed out revenue sources are not the only way to address the anticipated budget shortfall. Decreases in expenditures are an option as well.

Mayor Gysberts stated enhanced infrastructure will increase interest and property values.

Ms. Burkner stated, even with the tax base decreasing over the next few years and the debt ratio increasing, the budget projections still meet the City Debt Policy Guidelines.

The City's Capital Improvement Program budget for FY 2013/14, at \$ 33.2 million, has increased from \$ 17.1 million in the FY 2012/13 revised budget. In total, CIP continues the same trend higher in the FY 2013/14 budget over the current fiscal year. The City has included \$ 6.25 million for land acquisition, demolition, planning and design for a Stadium/Multi-use Facility in the FY 2013/14 budget. The City is committed to assist in the demolition of the former Municipal Electric Light Plant (MELP), help remediate for environmental issues, and reacquire the land. Subsequently, \$ 1.0 million is included in the FY 2013/14 budget.

Also included in the proposed budget is \$ 1.5 million for a Downtown Redevelopment project(s) to help revitalize downtown and help spur economic redevelopment. A specific project has not yet been identified, but funding is included for consideration as the Mayor and Council discuss the budget.

Mr. Zimmerman pointed out that partial funding for replacement fire engines is being provided by the volunteer companies.

Each CIP project has a number and detailed information in the budget book. Many of these projects will be discussed in detail in the coming weeks.

Councilmember Brubaker has heard from citizens that the MUSEC was fully funded. This is not accurate because the private donation was not secured. The gap from the anticipated funding would have to be filled for a new project. Ms. Burker mentioned revenue from naming rights is a possibility.

Councilmember Aleshire stated he heard repeatedly there was a donor. He noticed operating costs are anticipated to be \$ 100,000, not \$ 200,000 as has been reported to the public.

Councilmember Munson thinks there will soon be a need for cameras in all alleys. This will be included on a list of potential CIP projects. Councilmember Brubaker stated cameras could be eligible for grants. Councilmember Metzner stated they may be eligible for funding from the speed camera revenue. Councilmember Aleshire noted that Frederick City does not have surveillance cameras and questioned why Hagerstown uses cameras in lieu of public safety personnel.

Parking deck revenues show an increase in the FY 15 assumptions. This assumption was made when it was thought the primary user would be the Board of Education, using the spaces, free of charge. This assumption has changed since the budget document was created. Similar to the General Fund, a revenue source has to be identified for the Parking Fund.

Councilmember Aleshire asked what the debt service would be for a new deck. Debt service would be approximately \$ 700,000 annually. To justify a third deck without an anticipated use will require extensive review and discussion with staff and Mayor and Council. Details for a third parking deck are on page 173 of Section 9 of the proposed budget book.

Mr. Zimmerman stated the bond rating agencies review the budget information and they do not look favorably on transferring money from one fund to another.

It was agreed to hold a budget work session on April 30, 2013. The budget will also be discussed on May 7, 2013. A Work Session will be held prior to the Regular Session on April 23, 2013 to discuss the Ripken Report and the Sora Proposal.

*Bruce Zimmerman, City Administrator*, had no additional comments.

**MAYOR AND COUNCIL COMMENTS**

*Councilmember D. F. Munson* had no additional comments.

*Councilmember K. B. Aleshire* attended a Neighborhoods 1<sup>st</sup> meeting. There is a downtown group of homeowners who want to be more involved. He attended the EDC Strategic Plan presentation yesterday and the Sister City Dinner last night.

*Councilmember M. E. Brubaker* had no additional comments.

*Councilmember L. C. Metzner* stated attendance was good at the Holocaust Memorial Service at the synagogue.

*Councilmember P. M. Nigh* has received calls from two property owners concerning bed bugs. She is concerned there may be an increase in the number of homes with these pests. She is concerned that clients of Soul Haven are gathering on the sidewalks. People come to Hagerstown for all the services that are offered to the disadvantaged. She wondered why the groups offering services don't combine their efforts. Councilmember Metzner agreed that having services located in one place, instead of people traveling from location to location, would be better. However, the center of downtown Hagerstown is not the ideal location.

Councilmember Nigh reminded everyone the community yard sale is being held at Fairgrounds Park on April 13, 2013.

*Mayor D. S. Gysberts* is looking forward to visiting Wesel Germany. He thanked the Museum board and staff for hosting the lunch meeting earlier today. The International Film Festival begins in Hagerstown on April 11, 2013. The first home game of the 2013 Hagerstown Suns season is April 11, 2013.

There being no further business to come before the Mayor and City Council on a motion duly made, seconded and passed, the meeting was adjourned at 6:45 p.m.

Respectfully submitted,

Donna K. Spickler  
City Clerk

Approved: May 21, 2013