

EXECUTIVE SESSION AND WORK SESSION – FEBRUARY 13, 2024

EXECUTIVE SESSION – February 13, 2024

Mayor Martinez called the Executive Session to order at 3:01 p.m.

On a motion duly made by Councilmember M. J. Schindler and seconded by Councilmember S. McIntire, the Mayor and City Council unanimously agreed by voice vote to meet in closed session to consider a matter that concerns the proposal for a business or industrial organization to locate, expand, or remain in the State; (#4) (Section 3-305(b)), and to consult with counsel to obtain legal advice; (#7) (Section 3-305(b)), on Tuesday, February 13, 2024 at 3:01 p.m. in the Council Chamber, 2nd floor, City Hall, Hagerstown, Maryland.

Participating with Mayor Martinez were Councilmembers K. B. Aleshire, T. Burnett, S. McIntire, P. E. Perini, Sr., and M. J. Schindler, City Administrator Scott Nicewarner, City Attorney Ann Rotz, Jim Bender, City Engineer, Jill Thompson, Director of Community and Economic Development, Kathleen Maher, Director of Planning and Code Administration, Eric Deike, Director of Public Works, Nancy Hausrath, Director of Utilities, and City Clerk Donna K. Spickler.

The meeting was held to discuss select development activity and to discuss a draft Field House operations agreement with the City Attorney. No formal action was taken at the meeting. On a motion duly made, seconded, and passed, the meeting was adjourned at 4:03 p.m.

WORK SESSION – February 13, 2024

Mayor T. Martinez called this Work Session of the Mayor and City Council to order at 4:10 p.m., Tuesday, February 13, 2024, in the Council Chamber at City Hall. Participating with the Mayor were Councilmembers K. B. Aleshire, T. Burnett, P. E. Perini, Sr., and M. J. Schindler, City Administrator Scott A. Nicewarner, and City Clerk D. K. Spickler. Councilmember S. McIntire was not present for the Work Session.

Maryland Heritage Area (MHAA) Grants FY 2025 for Hager House Visitors' Center

Eric Deike, Director of Public Works, Amy Riley, Recreation Promotion and Services Coordinator, and Kay Osmer, Recreation Program Coordinator, were present to discuss a Maryland Heritage Area (MHAA) Grant for the Hager House Visitors' Center.

Ms. Osmer stated staff has applied for the Appalachian Regional Commission (ARC) capital grant of \$ 100,000 to cover Phase I of the demo and renovation of the space and to complete preproduction files for future museum exhibits at the Jonathan Hager House Museum. Matching funds have already been allocated in the current and following fiscal years and staff are awaiting the grant award announcement.

As part of Phase I, staff proposes to apply for an MHAA non-capital grant of \$ 50,000 (the maximum request allowed). This grant has a 1:1 match. The grant's application draft is due February 15, 2024.

If awarded, the MHAA non-capital grant can be applied as matching funds for the ARC grant, reducing the City's match.

If ARC funding is not successful, the MHAA grant may be used alone to continue the project; finalizing exhibit production files required to seek more accurate bids and proposals regarding cost of the renovation and the future fabrication of the exhibits.

It was the general consensus to authorize staff to apply for the grant as requested.

### Preliminary Discussion – Retail Electric Rates

Nancy Hausrath, Director of Utilities, Nathan Fridinger, Deputy Director of Electric Operations, and Jake Thomas, GDS Associates, Inc. (remotely), were present to discuss retail electric rates.

The preliminary budget projections for the upcoming fiscal year indicate a deficit to the cash balance. To remain financially viable, an adjustment to the base operating rate is recommended, which was last implemented in 2006. A Cost-of-Service Analysis (CSA) is in progress and, with the inclusion of the Compensation Study results, a new rate structure will be designed to provide justifiable data for a rate adjustment case before the Maryland Public Service Commission (MDPSC).

GDS Associates, Inc. is the consulting firm selected to perform the Analysis and testing of the CSA. With the recommended goal of submission to the State within six months of the fiscal year 2023 audited financial report dated 10/31/2023, the following milestones for delivery have been provided:

1. 02/02/2024 Revenue requirements and preliminary CSA
2. 03/12/2024 Finalize CSA and preliminary rate design
3. 03/26/2024 Finalize Rate Design
4. 04/09/2024 Draft testimony and exhibits
5. 04/16/2024 Receive comments on draft testimony and exhibits from MDPSC counsel and HLD staff
6. 04/23/2024 Finalize testimony and exhibits provided to MDPSC counsel for filing by end of April

Continuing to defer maintenance and improvements does allow for short-term cost reduction, however, it is not recommended. This would result in escalated capital expenditures in the out-years, add risk to system reliability, and cause financial instability. Anticipated expenditures include the following:

1. Two power transformer units are expected to be delivered by March, 2024 with a total cost of over \$ 1 million. These units are replacing two that were removed from service and scrapped because of the high levels of combustible gases found

- within the insulating oil signaling failure. This follows previous attempts to ship these units to the factory for repair and/or reprocessing of the insulating oil to prolong the life of these units.
2. As a result of the annual statistical sample testing requirements of the State, 2,800, or roughly 16%, electric revenue meters are required to be replaced. The initial phase has begun for a full meter replacement project with an Advanced Metering Infrastructure, with a projected budget of \$ 475 million through fiscal year 2028.
  3. There are projects dependent on the time schedule of anticipated, new, residential development within the service territory. This can initiate the anticipated need for infrastructure installation and upgrades, with an estimated cost of \$ 1.5 million.
  4. Routine substation equipment inspections can find degraded mechanical parts within fault protection devices and complete failure of the solid-state control devices, which typically require full replacement because of obsolescence. Maintaining a replacement program for this legacy equipment and fault control devices, with a budget of \$ 640,000 through fiscal year 2029, improves the reliability of the system, reduces outage durations, minimizes equipment damage, and maintains the safety of employees and the public.
  5. The acquisition of new utility fleet vehicles placed in fiscal year 2023 include:
    - a. Order placed August 2022 for 55' Material Handler Bucket Truck, FY25 \$ 280,000
    - b. Order placed March, 2023 for 41' Material Handler Bucket Turck, FY26 \$ 190,000
    - c. Order placed March, 2023 for 55' Material Handler Bucket Truck, FY29 \$ 370,000
    - d. Consideration for a reserved build slot for 45' Digger Derrick Truck, FY29 \$ 400,000
  6. Performing a large-scale technical pole inspection program is recommended to identify poles in need of replacement to lengthen the life of the infrastructure and improve system reliability. Added to traditional maintenance projects, such as vegetation management, this project is anticipated to add \$ 600,000 over the course of two fiscal years.
  7. The escalated cost and availability of materials impacts the non-CIP Capital funds to include daily work, service upgrades, revitalization of the downtown core, distribution transformer orders, etc.

Mr. Thomas stated a rate study is a lengthy process that involves review of a lot of data. The study includes a review of the revenue requirements, the cost to serve the different customers, and how to collect the revenue requirements given the results of the cost of service.

Industry cost pressures include fuel costs, market prices, supply chain and distribution costs, continued investment in transmission, increasing interest rates, and general inflation. Many utilities have found it necessary to increase rates over the last couple of years.

It has been 20 years since the last base rate increase for Hagerstown Light Department customers. Instead of raising rates, the Light Dependent has been trying to control costs

by reducing staffing levels and delay/cancelling of investment in the distribution system. Electric utilities strive to provide safe, reliable, and affordable power – if affordability is the only focus, safety and reliability will eventually suffer.

A rate increase is needed as soon as possible. This rate study will help determine how much. GDS will seek to achieve the best possible outcome for ensuring ability to invest in capital infrastructure while trying to maintain impacts on the citizens' electric bills. The MDPSC regulates all electric utilities in Maryland, and they will decide how much is reasonable and fair.

The Maryland PSC Process is as follows:

1. Hagerstown files a formal rate case with the PSC
2. PSC staff and intervenors (e.g., Maryland Office of the People's Counsel) will review, seek discovery, and provide expert testimony on the fairness and appropriateness of the City's request
3. Case concludes with either settlement by parties or a ruling by the Commission on the allowable rate increase and rates to be charged to each customer class

An aggressive schedule is underway, dictated by guidance from counsel that the MDPSC prefers accounting data supporting the case to be six or less months old. Audit of FY23 books was completed in October, 2023, so GDS is targeting a filing by the end of April, 2024.

Ms. Hausrath indicated staff is seeking authorization from the Mayor and City Council submit the filing with the MDPSC in April. The rate study cost was previously approved. It is important to hit the April deadline.

Councilmember Perini asked how often utilities go through a review and study like this for a potential rate change. Mr. Thomas stated most public utilities are not regulated like Hagerstown is. Typically, rate increases are filed every 3 to 5 years.

Councilmember Aleshire asked if it is common in the industry for governmental entities of Hagerstown's size to continue to own and operate electric utilities. Mr. Thomas stated it is very common.

Mr. Fridinger pointed out the City of Hagerstown rate per kwh is 7 cents, compared to Potomac Edison rate of about 12 cents per kwh.

Mr. Nicewarner stated the City Light Department is to the point that an aging work force is getting close to retirement. The ability to recruit and retain employees is even more important now. To retain qualified linemen, there needs to be a more motivational pay structure.

Ms. Hausrath reiterated that the Light Department has been deferring capital for years. The ability to continue to defer capital expenses and meet the regulatory conditions and meet the needs of the customers has reached the point where the money has to be spent to make the necessary upgrades.

Councilmember Perini asked how staff accounts for both of these issues. The costs mentioned won't be captured in an audit. He wondered how the projects will be integrated into a study without knowing the rates/costs. Mr. Thomas stated GDS makes adjustments based on known capital needs.

Councilmember Schindler recommends establishing a routine schedule to review rates. Mr. Fridinger agreed a 3-to-5-year rate review would be appropriate. Ms. Hausrath stated staff intend to keep this model current, so the consultants have the updated annual financials.

Mr. Nicewarner stated one of the largest challenges is the cost of going before the Public Service Commission.

Councilmember Perini noted another benefit of routine rate adjustments is that increases would be gradual.

It was the general consensus to authorize staff to move forward with the rate review as discussed.

#### FY 2025 – FY 2027 Pavement Preservation Program

Jim Bender, City Engineer, was present to review the FY25 overlay list with the Mayor and City Council.

Staff is finalizing the FY25 street overlay list and beginning to establish the FY26 and FY27 pavement preservation lists. This will allow the utility division to plan and budget for any necessary main replacements and will allow the curb and sidewalk contractor time to make any necessary repairs.

Staff completed a pavement condition survey of all City streets in 2021 and plan to update this survey in the fall of 2024. Each street is given a PCI number (Pavement Condition Index) which is based on a combination of sensor assessment and physical viewing of the street. A combination of milling/overlay, patching, and crack filling will be used to address streets that are showing signs of deterioration.

A big factor in determining which streets will be overlaid is the condition of the existing underground utilities. Engineering staff will coordinate with the City utility divisions, as well as Columbia Gas, to ensure that their facilities are in good condition prior to the overlay.

Typically, approximately \$ 1,300,000 is spent on milling, paving, patching, crack filling, and pavement markings using Highway User Revenue (HUR) funds. If sufficient HUR funds are not available, staff will delay paving certain streets as necessary to stay within the available funds. Based upon recent statements from the State, HUR funding is expected to, at best, stay flat for the next few fiscal years.

Councilmember Burnett asked the status of the North Avenue sidewalk that she reported recently. Mr. Bender indicated this area is on the list for the sidewalks to be repaired/replaced in the next few months.

It was the general consensus to approve the FY25 and preliminary FY26 and FY27 lists at the Regular Session on February 27, 2024.

### **CITY ADMINISTRATOR'S COMMENTS**

*Scott Nicewarner, City Administrator*, provided a legislative update. He thanked Kathleen Maher, Director of Planning and Code Administration, for reaching out to Secretary Day's office regarding the omnibus Housing bills on refinancing, rezoning, and renters rights. She was able to provide them with good information. He thinks each of these bills could provide significant opportunities for affordable housing within municipalities.

The Washington County Community Coalition had put forth a lobbying effort for \$ 1 million for developing a water/wastewater master plan for a system to be maintained per Maryland Department of the Environment (MDE) guidelines. SB 1078 and HB 1378 were submitted last week that did not look anything like what the Coalition had put forward. The City has an issue with how these bills read as they would create a task force to review how the system is governed, not the capacity or infrastructure. He asked what position the Mayor and City Council wish to take on these bills. The City owns the water and wastewater system that is included in these bills. Options are to let the bills go through unamended, which is very different than what was agreed to through the Coalition, or look to amend the bill to make it more like what the Coalition agreed with; or ask for the bill to be pulled. He suggested that the Mayor and City Council consider offering amendments to the bill. The City of Hagerstown owns and governs the system. It is imperative that something be done about the amendments. He prepared a draft letter requesting amendments to the bill for the Mayor and City Council's review. He thanked Councilmember Perini for assisting with the language and for requesting amendments. It is up to the Mayor and City Council to determine how they wish to proceed.

Councilmember Aleshire stated it is simple. He doesn't feel like he received an answer to his question since the Mayor and City Council were made aware of this new bill. The bill proposed by the Delegation is unrelated to the priority bill the Coalition put forth. He is a bit confused. He thought the Coalition members determine the priority list they wish to present to the Legislature to move forward. Then the others in the legislative process carry the bills forward as priorities in the manner that the Coalition intended. He read both bills and they are clearly different than what the Coalition presented. The new bills read as a separate initiative that the County unilaterally proceeded with the Delegation to present. He doesn't want this to be confused with what is being put forth from the Coalition. The new bill includes all the utilities throughout Washington County and the governance associated with all those facilities. He would not want to opine on this and request amendments without deliberating with the other municipalities. If he did, it would appear the City was the driving force behind the bill being put forward. This initiative is not associated with what the Coalition submitted.

These new bills were submitted by the Washington County Delegation. He stated Hagerstown has good working relationships with the other municipalities which he doesn't want to jeopardize. Something doesn't feel right about the way the new bills are written or how they were presented.

Mr. Nicewarner stated the bill submitted by the Coalition was an ask by the City of Hagerstown for its own system that includes the residents within the City boundary and customers in the County service areas. It did not include other municipalities.

Councilmember Perini stated the challenge with the way the new bills were submitted is determining if the Delegation ignored the Coalition's specific request by Hagerstown (a Coalition partner) to receive funding for a study of the City's Water and Wastewater systems. It appears the new bills were drafted to address a different situation. Senator Corderman sent an email indicating his intention with the new bill he drafted is an attempt to get a bill into this session that can be modified. Consequently, the City is correct that, on the surface, this bill does not look like what was requested. It was submitted and can be reviewed after the first reading. He suggested asking that it be removed and then submit a subsequent request that the original Coalition priority bill be considered, which is for funding for a study of the systems. If the City lets the bill die, there is no funding. He stated the study is important for Hagerstown and the entire County, particularly in areas where the systems impact economic development and utility rates. Any funding for the study is important. If the City takes the Senator at his word that it was submitted to get something on the schedule for the 2024 Session before the deadline, with the anticipation it would be amended as needed, he suggests the Council ask the Mayor to send a letter asking for the opportunity to provide amendments to the bill. If the Delegation denies the request and continues with the bill as written, he anticipates the City would vehemently oppose the bill. If the bill is not amended, there may still be the opportunity for the City to receive some funding for a study.

Mayor Martinez appreciates that perspective.

Councilmember Schindler agrees with Councilmember Perini. If the City requests amendments to the bill it is the Delegation's decision as to whether or not they continue with the bill. He mentioned the County Commissioners submitted a letter stating they fully support the new bill as presented.

Mr. Nicewarner stated it is the Delegation's decision as the sponsor whether or not to amend the bill. If they keep it as presented then the City of Hagerstown would have the opportunity to oppose it.

Councilmember Aleshire noted the Coalition process starts months before the General Session. The group reviews requests made by members and develops the priority list. He thinks the Coalition has to come forward and say the bill is not what was intended. He is concerned it will appear the City is asking to speak for what it believes should happen with the other municipalities with water or wastewater systems. He does not think the Delegation contacted those municipalities prior to submitting the bills either.

Councilmember Perini stated he believes this is the attempt of the Delegation to draft a bill without consulting all the partners. He believes the other municipalities were also caught off guard. If there is a desire of the entities to talk about governance, it should be discussed but not in the legislative session.

Mayor Martinez is concerned Hagerstown will be viewed as trying to strong arm the other utilities and govern this entire area. She feels that was the message at the joint meeting with the County Commissioners last month. The message seemed to be the Commissioners saying to the City, you aren't going to be in charge of the entire County. This is not what the City's discussion was.

Councilmember Aleshire could agree to request the bill be amendment, but it might not change during the political process. Then he would have to look at a bill that is erroneously attached to the City of Hagerstown, where it identifies who will be able to participate in the discussion. None of the other municipalities are afforded the opportunity to be a part of the committee. If the bills were submitted as a sincere attempt to talk about the water and wastewater system, then those other partners would have been given the opportunity to be named on the committee.

Mr. Nicewarner stated if the discussion is wanted it doesn't have to be legislated. He agrees with Councilmember Perini who suggested requesting amendments to the bill. If it does go through the session, then the City will simply testify against it. The City cannot be forced into something because it is the City's system.

Councilmember Burnett asked how much influence the City may have with requesting amendments.

Councilmember Perini indicated the bill has been filed. The Washington County Delegation meets on Thursday mornings, which means if the Mayor and City Council decides to provide an opinion in writing, it needs to be received by the Delegation by Wednesday night. From that point, the Delegation decides, as a group, what they are going to do. They have already received a letter supporting the bill from the County Commissioners.

Mayor Martinez stated she does not have a vote in this, but this is not how collaboration works. She feels this is a disingenuous attempt to do something and call it collaboration. She feels like the City always stays back and is blamed for everything. There are too many political issues to navigate through in order for the City's story to come out. She doesn't want to spend the next three months sorting through political issues. The constituents are the most important component of this whole issue.

Councilmember Schindler supports a request to amend the bill rather than a request to cancel it, since it has already been submitted.

Councilmember Burnett is in favor of requesting the bill be cancelled.

Councilmember Perini reminded the group that cancelling the bill also means no possibility of any funding. Councilmember Burnett pointed out the bill is vastly different than the original intent.

Councilmember Perini stated he views the challenge as being the Coalition was formed to speak as a unified voice and then the Delegation developed a different bill. He supports submitting a letter with a request that the new bill be amended.

Councilmember Aleshire stated the end result could erroneously appear that the City is attempting to develop something for all the systems in the County. He is not confident the bill will be amended.

Councilmember Perini would feel differently about requesting the bill be cancelled if there was not potential funding involved. Councilmember Schindler agreed.

Councilmember Aleshire stated the response from the Delegation made it sound like they are doing this because we can't figure it out for ourselves. The bill does not simply reflect a different initiative. By adopting the bill, the Delegation is directing the City to participate in the initiative. Time and manpower would have to be dedicated to that committee process, which the City is not in favor of.

Councilmember Perini stated that is why the City should make every effort to have the bill amended or withdrawn.

Councilmember Aleshire noted the bill, as written, specifically excludes the other municipalities from representation on the board.

Mr. Nicewarner will distribute a draft letter this evening for review requesting the bill, as presented, to be amended or withdrawn.

Mr. Nicewarner congratulated E. J. Fuller, who has been named director of the Robert W. Johnson Community Center. CHOICE Neighborhoods met here last week, and the group was impressed with what is happening in Hagerstown.

### **MAYOR AND COUNCIL COMMENTS**

*Councilmember P. E. Perini, Sr.* had no additional comments.

*Councilmember T. Burnett* had no additional comments.

*Councilmember K. B. Aleshire* had no additional comments.

*Councilmember M. J. Schindler* had no additional comments.

*Mayor T. A. Martinez* met with the Mayor of Martinsburg, West Virginia, to discuss their goodwill program. They have established a downtown food hall. It is good to see how other municipalities are connecting, with many looking to Hagerstown for help.

The Fit Room at Fairgrounds Park is a great venue for parties and meetings at a very reasonable rate. There was a baby shower for her daughter there last weekend.

She thanked the teachers at Eastern Elementary School for allowing her to visit the school and talk to students about the Maryland Municipal League's "If I Were Mayor..." contest. She is looking forward to visiting other schools.

Ella Baker says, "Give light and people will find a way". Another word for light is understanding. If a situation is more transparent and broken down to understandable components, people will find a way to make it work.

She congratulated everyone who filed as Candidates for 2024 Election. In order to get the people's work done, there has to be collaboration.

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 5:28 p.m.

Respectfully submitted,

*Original signed by D. K. Spickler*

Donna K. Spickler  
City Clerk

Approved: March 26, 2024