Mayor and Council

November 19, 2013
Agenda

"A diverse, business-friendly, and sustainable community with clean, safe and strong neighborhoods."
"Providing the most efficient and highest-quality services as the municipal location of choice for all customers."

"Let nature be your teacher." William Wordsworth

3:00 p.m. Mills Park Trail Ribbon Cutting

4:00 PM WORK SESSION

	1.	Preliminary Agenda Review
4:15 PM	2.	Water and Wastewater 5 Year Rate Plan Presentation
4:45 PM	3.	History of Hagerstown Community College
5:00 PM	4.	Hub City 100 Miler
5:05 PM	5.	Program Open Space (POS) Proposed Projects for FY 2015
5:15 PM	6.	City Park Sculpture Project
5:25 PM	7.	Greens and Grains Tent
5:35 PM	8.	Parks and Rec Rental Fees
5:45 PM	9.	Land Transfer/Business Expansion, 1481 Salem Avenue
5:55 PM	10.	2005 APFO/Excise Tax Agreement and New APFO Amendments
6:10 PM	11.	Revisions to Crime Free Housing Proposal and Chapter 95 of the City Code

CITY ADMINISTRATOR'S COMMENTS

7:05 p.m.

MAYOR AND COUNCIL COMMENTS

EXECUTIVE SESSION

7:15 p.m. Executive Session

ADJOURN

8:00 p.m.

REQUIRED MOTION

MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND

Topic:
Preliminary Agenda Review

Mayor and City Council Action Requested:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

Name:	Description:
No Attachments Available	

REQUIRED MOTION

MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND

Topic:

Water and Wasterwater 5 Year Rate Plan Presentation

Mayor and City Council Action Requested:
Discussion of the Water/Wastewater Five Year Rate Plan

Discussion:

The Utilities Department Financial/Administrative staff has been working with Municipal & Financial Services Group (MFSG) staff Dave Hyder and Tracy Moher in the development of a Water and Wastewater Five Year Rate Plan that would be in effect from Fiscal Year 15 through the end of Fiscal Year 19. The analysis has been completed utilizing updated financial operational requirements and capital needs for the departments. I propose the following schedule to benchmark the process;

- November work session presentation with members of MFSG and City Staff detailing the final financial projections and requirements of the rate plan
- December/January/February discussions, input and deliberations with the Mayor and Council regarding rate study information
- Late February/early March adoption of the Five Year Rate Plan
- July 1, 2014

effective date of the Five Year Rate Plan

The goals of the Five Year Rate Plan include;

- The continued financial solvency of both funds

- The financial ability to continue investment within the infrastructure

- Customer financial budgeting of water and wastewater usage. The five year structure allows our commercial/industrial and wholesale users (residential customers to a lesser degree) to trend usage and cost analysis in their respective budget plans for five years.

Assumptions were developed utilizing historical data and economic projections including but not limited to;

- Fees and Charges collected will continue to self-support the Departments' financial needs

- Fees and Charges collected will allow for continued reinvestment of the systems

- Contingency and Unplanned Expense fund reserves should be maintained

- 3% Inflation rate

- 0.5% Customer growth rate

- 0.5% Consumption growth rate

- 3% Interest rate on borrowing (maximum)

The Revenue Requirements for the model were developed during the previous rate plan and the analysis utilized the points listed below which are contained within our five year capital and budget projections within the approved FY14 Budget.

- operating and maintenance costs

-

capital improvements

- existing debt service

- contributions to reserves

The following is a partial listing for the revenue requirement findings and recommendations that were developed during the completion of the water and wastewater cost of service update and the proposed five year rate adjustment:

- Based on projected water sales, the City's current water rates will not produce adequate revenues to cover the costs of operating and maintaining the water system in Fiscal Years 2016 - 2019.

- To ensure the continued health of the water system we recommend that the City adjust rates as defined by the financial plan. The annual adjustments will eliminate the need for substantial increases in future years. The water fund will experience minor shortfalls due to yearly fluctuations in capital funding; however the water system has sufficient cash reserves to support these fluctuations.

- Based on projected wastewater sales, the

City's current sewer rates will not produce adequate revenues to cover the costs of operating and maintaining the wastewater system over the entire projection period. The annual shortfalls in sewer revenues will exhaust the sewer fund cash balance by FY 2015.

- To ensure the continued health of the wastewater sewer system we recommend that the City adjust rates as defined by the financial plan. We are recommending a very substantial increase in wastewater rates in FY 2015. This level of increase in recommended due to the limited cash within the fund and the substantial shortfall in revenues compared to expenditures. An increase of this magnitude will be necessary unless the City can reduce expenditures in the wastewater fund or potentially delay/defer capital projects. Although the increases will still result in a shortfall in FY 2015, the overall cash balance of the fund is healthy enough to withstand the shortfall until the fund itself becomes self-sustaining and results in a positive cash flow in FY16. The wastewater increase in the current plan were averaged over the five years in order to avoid an initial projected large increase in the first year with the understanding the fund would not become financial solvent until the fifth year of the plan. This was accomplished through the deference of CIP, vehicle purchases, and the continued open and unfilled positions within the division.

Proposed
Rate Adjustments

	FY14*	FY15	FY16	FY17	FY18	FY19
Water Rate						

Increases - Inside City	**5.0%**	**2.0%**	**2.0%**	**2.0%**	**2.0%**	**2.0%**
Water Rate Increases - Outside City	**6.5%**	**2.0%**	**2.0%**	**2.0%**	**2.0%**	**2.0%**
Total System Surplus / (Deficit)	$638,098	$489,474	$398,904	($189,092)	($202,039)	$20,671
Ending Water Operating Cash Balance	$4,838,098	$5,327,572	$5,726,476	$5,537,384	$5,335,345	$5,356,015
Sewer Rate Increases - Inside	**5.0%**	**12.0%**	**4.0%**	**4.0%**	**2.0%**	**2.0%**
Sewer Rate Increases - Outside	**3.0%**	**12.0%**	**4.0%**	**4.0%**	**2.0%**	**2.0%**
Total System Surplus / (Deficit)	($853,907)	$50,366	$146,056	$336,900	$429,533	$762,714
Ending Sewer Operating Cash Balance	$939,434	$1,188,607	$1,780,495	$2,691,719	$3,546,459	$4,498,963

* FY14
rate adjustments approved by the City

- The City currently charges customers with higher than normal strength wastewater surcharges due to the additional cost associated with treating this wastewater. The City increased the surcharge amounts as a result of the cost of service study completed in 2005 and subsequently based on inflation. The current charges were reviewed based on the updated financial model and were determined to be set at the appropriate level. The City should continue to monitor the costs associated with treating high strength sewage. The recently completed Local Limits Study confirmed this approach.

- The City currently has two types of maintenance charges, materials and labor, imposed upon customers with grinder pumps required for low pressure systems. For those customers within the Woodlands area, a pump is shared among two dwellings and the maintenance charge is approximately $45 per dwelling. Customers within other areas are charged a maintenance fee of approximately $82 per pump. In FY14 the annual cost to fund replacements and repairs to the grinder pump systems equals approximately $106K. The current charges are projected to provide adequate revenues to cover the costs of maintaining these systems.

- The City currently imposes benefit charges on customers who connect to the water and/or wastewater system. The benefit charges are based on the capital costs of providing water and sewer capacity for new customers. Benefit charges are proportioned based upon anticipated usage and jurisdiction (inside/outside city). Benefit charges are intended to recover the capital cost of capacity constructed to serve a new customer. This includes treatment as well as pumping, distribution and collection for systems that are off-site. The current benefit charges are set at the appropriate level based on the cost of providing water and wastewater capacity to new customers. The level of growth in the water and wastewater systems is not forecasted to generate sufficient revenues from benefit charges to cover the cost of growth related capital expenditures.

- In 2002 the City acquired the Conocoheague and Martins Crossroads portion of the water system and in doing so assumed the debt that had been used to fund the area. In order to make the annual principal and interest payments on this debt the City imposes an annual debt surcharge to customers living within this area. The current surcharge imposed by the City was reviewed. The surcharge is calculated by dividing the annual payment by the number of customers located within this area. Based on the number of customers and the annual debt payments the charge per EDU should be $14.50 in FY14. The charge should decrease to approximately $6.00 per EDU for FY16 and beyond until the debt is extinguished.

- The City currently charges customer fire line charges based on meter and/or pipe size. The City increased the charges for fire lines by approximately 15% in FY10 to bring the revenues from these charges in line with the cost of providing private fire protection. Based on the updated model we recommend that the City adjust fire line charges at an annual rate of 3% to ensure that the fire line charges keep up with the increasing cost of providing private fire protection service.

The following charts utilize a quarterly billed usage of 13,000 gallons to list the billed comparisons with other local regional utilities. The proposed rate increases for each of the divisions, water on top and wastewater below, are shown with City data through FY19.

The City has utilized 13,000 gallons of usage per quarter for comparison purposes the past few years. An inside customer would pay $1.22 per day for water/wastewater service and an outside customer would pay $2.29 per day. This is a combined utilities rate differential between the inside/outside customer rate base of 1.88. Per the recently completed study, our average residential customer is billed for 8,500 gallons per quarter. Our average inside residential customer would therefore be charged $.90 per day and an outside residential customer would be charged $1.70 per day for water/wastewater service.

For comparative outside rates with local utilities who use the same rate structure as the City, the next chart details the quarterly billing for residential customers who use 13,000 gallons per quarter. The City FY15 rate is our actual proposed rate and the comparative rates are stated using a 3% increase per year period as an update for their stated rates.

Water/Wastewater Rates at 13,000 gallons per Quarter		
	Outside City Rate	Outside City Rate FY15
City of Hagerstown	$189.57	$205.82

City of Frederick	$321.68	$340.98
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The following chart was supplied by Scott Nicewarner and details the most recent ageing analysis of water and wastewater billing, receivables, outstanding balances. Aggressive collection practices have assisted in the lowering of the funds that could be considered carrying charges on a monthly basis.

City and MFSG Staff will be available to discuss the status of the Five Year Rate Plan preliminary financial information during the November 19, 2013 Work Session.

Financial Impact:
To be determined

Recommendation:
To be determined

Motion:

Action Dates:
November 19 Work Session

ATTACHMENTS:

Name:	Description:
🗋 Memo_for_WWW_Five_Year_Rate_Plan_111913_3.doc	Memo for WWW Five Year Rate Plan 111913 3
🗋 City_of_Hagerstown_-_Water_and_Sewer_Rate_Study_Update_3.pptx	City of Hagerstown - Water and Sewer Rate Study Update 3

City of Hagerstown

Hagerstown Light Department

Department of Utilities

425 East Baltimore Street
Hagerstown, MD 21740-6105

1 Clean Water Circle
Hagerstown, MD 21740-6848

51 West Memorial Blvd
Hagerstown, MD 21740-6848

November 19, 2013

TO: Bruce Zimmerman, City Administrator

FROM: Michael S. Spiker, Director of Utilities
Nancy Hausrath, Water Operations Manager
Nelia Tidler, Utilities Financial Manager
Dave Hyder, VP Municipal & Financial Services Group
Tracey Moher, Municipal & Financial Services Group

SUBJECT: Water/Wastewater Rates Five Year Rate Plan

ACTION: Discussion

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		Proposed Rates				
	FY 14	FY15	FY16	FY17	FY18	FY19
City of Hagerstown, MD	$25.60	*$26.12*	*$26.64*	*$27.17*	*$27.70*	*$28.23*
Town of Smithsburg, MD	$59.71					
City of Cumberland, MD	$71.38					
City of Frostburg, MD	$73.75					
Town of Funkstown, MD	$92.60					
City of Frederick, MD	$88.46					
City of Martinsburg, WV	$127.15					
City of Winchester, VA	$107.08					

		Proposed Rates				
	FY14	FY15	FY16	FY17	FY18	FY19
City of Martinsburg, WV	$46.76					
City of Hagerstown, MD	$74.58	*$83.49*	*$86.89*	*$90.32*	*$92.18*	*$94.05*
City of Frederick, MD	$88.46					
City of Frostburg, MD	$89.90					
City of Cumberland, MD	$145.25					
City of Winchester, VA	$132.08					
Town of Smithsburg, MD	$116.44					
Town of Funkstown, MD	$135.67					

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The following chart was supplied by Scott Nicewarner and details the most recent ageing analysis of water and wastewater billing, receivables, outstanding balances. Aggressive collection practices have assisted in the lowering of the funds that could be considered carrying charges on a monthly basis.

	Current	% of Total	1-30	% of Total	31-60	% of Total	61-120	% of Total	120+	% of Total	Total	Billed Customers
8/30/2012	$ 1,197,749.44	54.0%	$ 370,279.81	16.7%	$297,385.52	13.4%	$125,134.51	5.6%	$227,996.29	10.3%	$ 2,218,545.57	11,305
9/30/2012	$ 2,040,199.69	61.4%	$ 572,588.86	17.2%	$181,619.80	5.5%	$272,209.80	8.2%	$253,613.65	7.6%	$ 3,320,231.80	14,155
12/31/2012	$ 1,878,956.08	60.7%	$ 246,851.33	8.0%	$246,805.76	8.0%	$389,072.23	12.6%	$335,477.37	10.8%	$ 3,097,162.77	15,538
3/31/2013	$ 1,859,551.05	59.8%	$ 512,072.83	16.5%	$137,111.62	4.4%	$255,710.53	8.2%	$345,771.10	11.1%	$ 3,110,217.13	14,218
4/30/2013	$ 678,210.67	33.0%	$ 700,884.58	34.1%	$135,864.26	6.6%	$205,707.83	10.0%	$334,253.72	16.3%	$ 2,054,921.06	12,966
5/31/2013	$ 996,633.88	53.1%	$ 334,615.19	17.8%	$184,789.17	9.8%	$ 74,390.71	4.0%	$288,105.67	15.3%	$ 1,878,534.62	11,911
6/30/2013	$ 1,492,170.43	59.0%	$ 516,795.47	20.4%	$154,783.76	6.1%	$121,797.14	4.8%	$241,756.16	9.6%	$ 2,527,302.96	11,865
7/31/2013	$ 1,449,337.96	59.5%	$ 483,745.76	19.9%	$166,907.51	6.9%	$115,168.75	4.7%	$219,543.95	9.0%	$ 2,434,703.93	12,850
8/31/2013	$ 1,404,059.90	62.1%	$ 279,656.87	12.4%	$208,207.42	9.2%	$126,765.55	5.6%	$242,845.77	10.7%	$ 2,261,535.51	12,254
9/30/2013	$ 1,119,213.53	53.3%	$ 531,272.16	25.3%	$104,248.57	5.0%	$125,898.90	6.0%	$217,470.32	10.4%	$ 2,098,103.48	11,775
10/15/2013	$ 1,498,574.30	61.7%	$ 501,471.26	20.7%	$142,510.04	5.9%	$ 72,869.37	3.0%	$212,547.45	10.1%	$ 2,427,972.42	12,660
10/31/2013	$ 549,255.65	33.6%	$ 697,398.65	42.6%	$111,506.26	6.8%	$ 67,631.14	4.1%	$211,119.03	12.9%	$ 1,636,910.73	10,469

City and MFSG Staff will be available to discuss the status of the Five Year Rate Plan preliminary financial information during the November 19, 2013 Work Session.

Phone 301.739.8577 ext. 143 Electric Fax 301.739.7958 TDD 301.797.6617
Phone 301.739.8577 ext. 650 W/WW Fax 301.733.2873 TDD 301.797.6617

Municipal & Financial Services Group

City of Hagerstown

Water and Sewer Rate Study

Executive Summary

November 19, 2013

Contents

Summary of Findings and Recommendations

- Based on the City's projected water and sewer sales, the City's current water and sewer rates will not generate sufficient revenues to cover system expenses beginning in FY15.

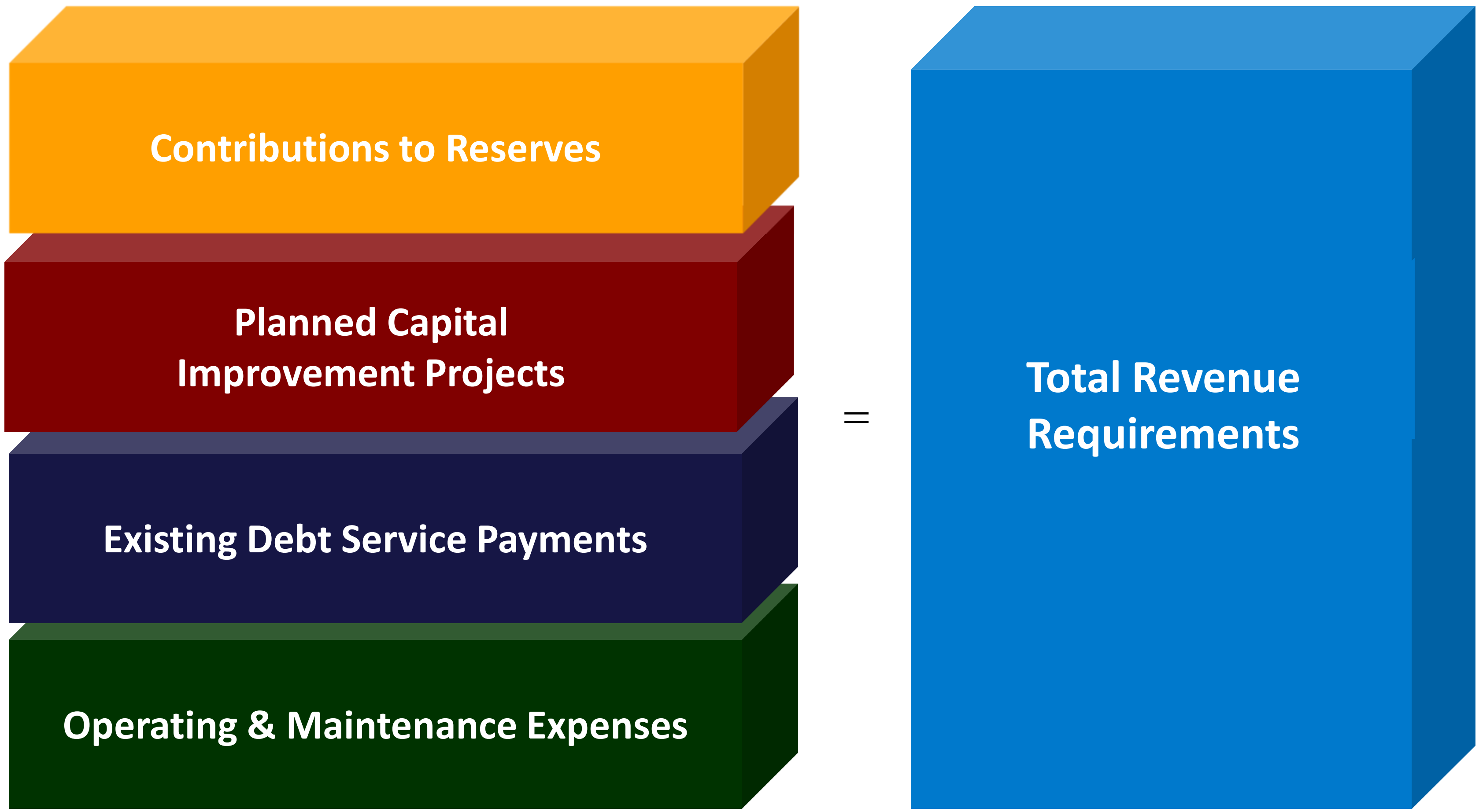
- The shortfalls in sewer revenues will completely exhaust the sewer fund cash balance in FY15.

- Increases in water and sewer rates are required to ensure the continued financial health of each system.

Recommended Increase	FY 15	FY 16	FY 17	FY 18	FY 19
Water Rates	**2.0%**	**2.0%**	**2.0%**	**2.0%**	**2.0%**
Sewer Rates	**12.0%**	**4.0%**	**4.0%**	**2.0%**	**2.0%**

Water and Sewer Revenue Requirements

“Building Blocks” of Revenue Requirements



Water Revenue Requirements

(in millions)	FY 15	FY 16	FY 17	FY 18	FY 19
Operating Costs					
Total Operating Expenses(1)	$8.25	$8.50	$8.76	$9.02	$9.29
Total Operating Reserve	$ -	$ -	$ -	$ -	$ -
Capital Costs					
3R Reserve Contribution(2)	$ -	$ -	$ -	$ -	$ -
Existing Debt Service	$1.89	$1.83	$1.84	$1.84	$1.61
Cash Funded Capital Projects	$1.12	$0.54	$0.95	$0.93	$0.91
Projected Debt Service	$0.97	$1.22	$1.69	$2.05	$2.13
Total Revenue Requirement	**$12.23**	**$12.09**	**$13.24**	**$13.84**	**$13.94**
Less: Misc. Other Revenues	($0.60)	($0.57)	($0.57)	($0.57)	($0.58)
Less: Benefit Charges	($0.63)	($0.64)	($0.64)	($0.64)	($0.65)
Less: Use of Capital Fund Balance	($0.67)	($0.19)	($0.44)	($0.73)	($0.75)
Net Revenue Requirement	**$10.33**	**$10.69**	**$11.59**	**$11.90**	**$11.96**

(1) Assumes annual 3% increase in operating expenses

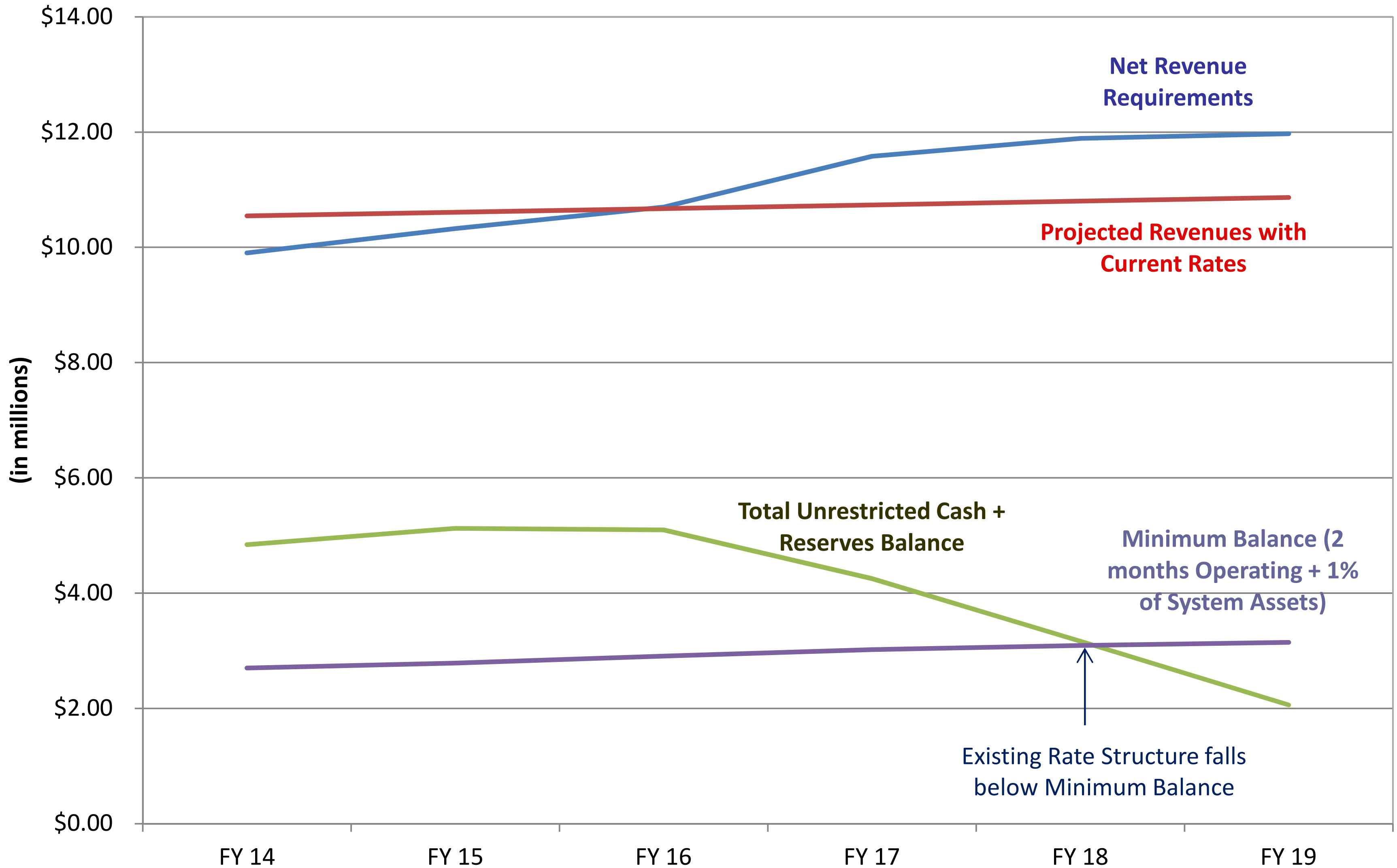
(2) A balance of $1.7 million is maintained with no additional contributions

Performance of Water Fund (without Rate Increase)

(in millions)	FY 15	FY 16	FY 17	FY 18	FY 19
Net Revenue Requirement	$10.33	$10.69	$11.59	$11.90	$11.96
Projected Revenues with Current Rates	$10.61	$10.67	$10.74	$10.80	$10.87
Surplus / (Shortfall)	**$0.28**	**($0.02)**	**($0.85)**	**($1.10)**	**($1.12)**
Additional contributions to Reserves	$ -	$ -	$ -	$ -	$ -
End of Year Total Unrestricted Water Fund Cash Balance[1]	$3.42	$3.40	$2.55	$1.45	$0.33

(1) Does not include $1.7 million 3R reserve balance

Water Financial Forecast (without Rate Increase)



Financial Plan

Financial plan identifies necessary water revenue increases to:

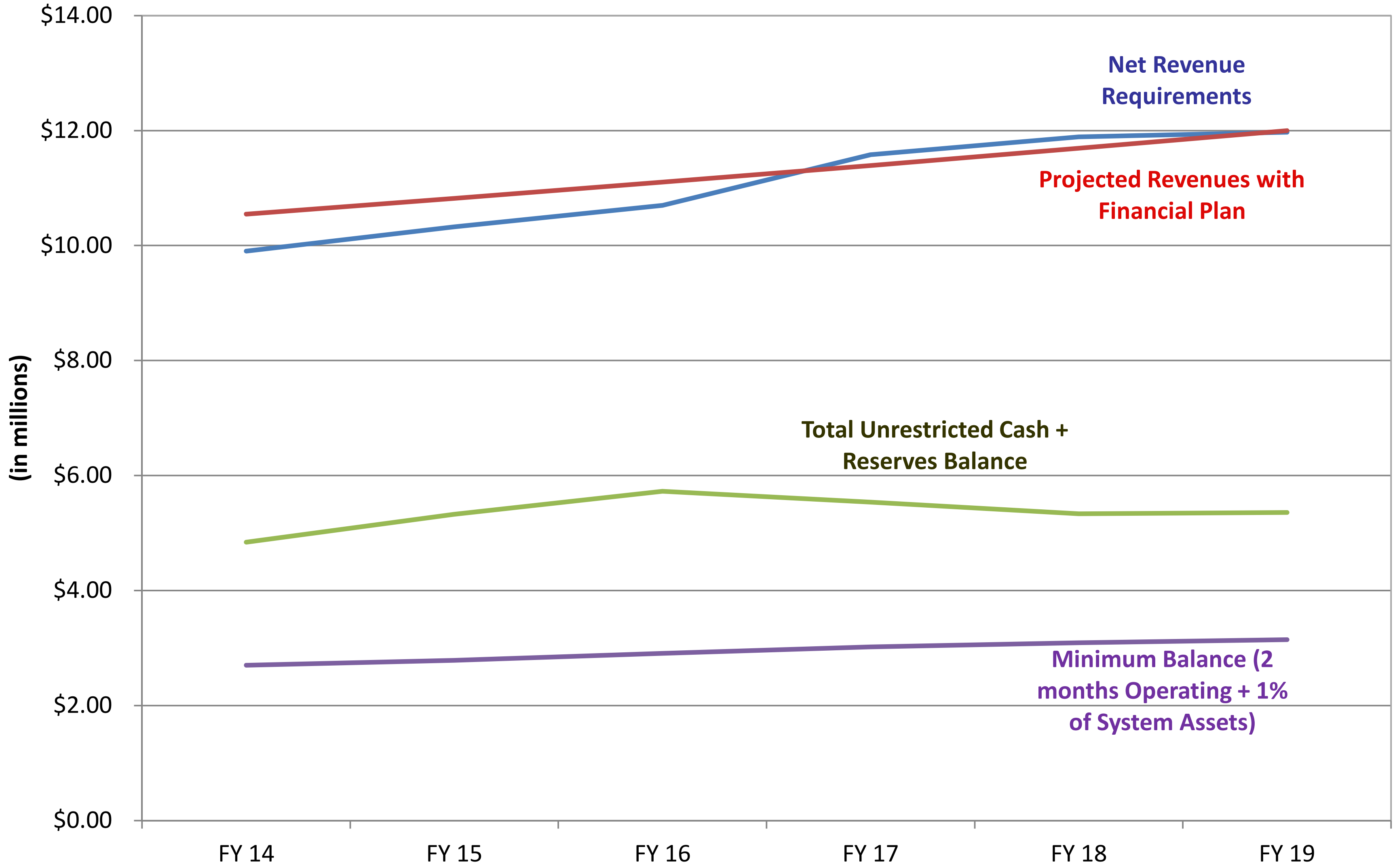
- Fund system revenue requirements as shown on page 6
- To maintain recommended minimum cash balance of 2 month operating requirements plus 1% of replacement cost of system

Five-year financial plan provides inflationary increases to keep revenues in line with increasing costs.

	FY 15	FY 16	FY 17	FY 18	FY 19
Total Revenue Increase	**2.0%**	**2.0%**	**2.0%**	**2.0%**	**2.0%**
End of Year Total Unrestricted Water Fund Cash Balance (million) (1)	$3.63	$4.03	$3.84	$3.64	$3.66

(1) Does not include $1.7 million 3R reserve balance

Financial Forecast - Financial Plan (with Proposed Rate Increase)



Sewer Revenue Requirements

(in millions)	FY 15	FY 16	FY 17	FY 18	FY 19
Operating Costs					
Total Operating Expenses(1)	$10.03	$10.33	$10.64	$10.96	$11.29
Total Operating Reserve	$0.08	$0.20	$0.20	$0.05	$ -
Capital Costs(2)					
3R Reserve Contribution	$0.12	$0.25	$0.37	$0.38	$0.19
Existing Debt Service	$2.00	$2.00	$2.01	$2.01	$1.89
Cash Funded Capital Projects	$1.00	$0.54	$0.39	$0.39	$0.39
Projected Debt Service	$0.01	$0.16	$0.27	$0.36	$0.42
Total Revenue Requirement	**$13.24**	**$13.48**	**$13.88**	**$14.15**	**$14.18**
Less: Misc. Other Revenues	($0.20)	($0.20)	($0.20)	($0.20)	($0.20)
Less: Benefit Charges	($0.50)	($0.50)	($0.50)	($0.50)	($0.51)
Less: Use of Capital Fund Balance	($0.34)	($0.12)	($0.13)	($0.14)	($0.16)
Net Revenue Requirement	**$12.20**	**$12.66**	**$13.05**	**$13.31**	**$13.31**

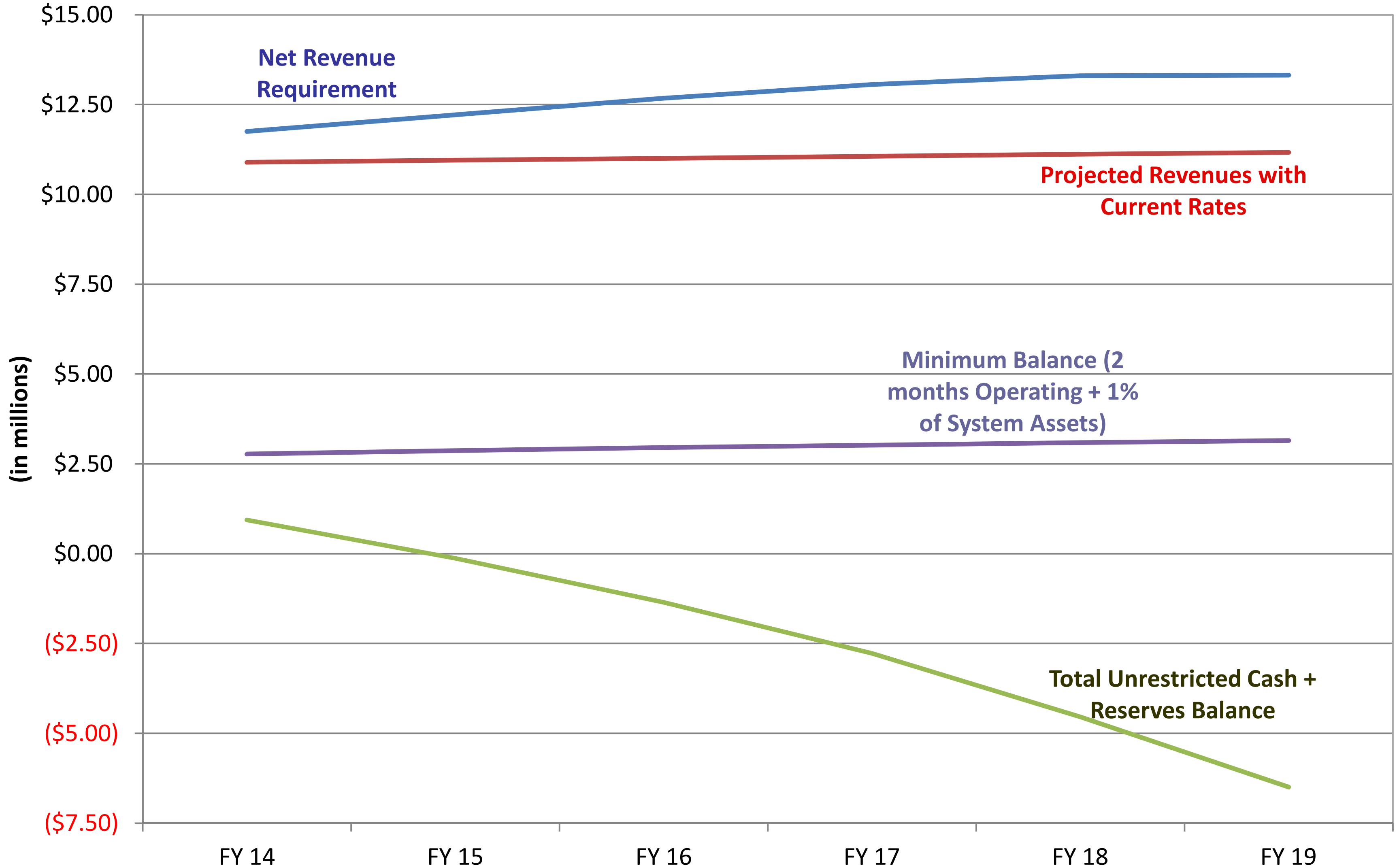
(1) Assumes annual 3% increase in operating expenses

(2) Includes costs associated with approved Synagro contract obligations

Performance of Sewer Fund (without Rate Increase)

(in millions)	FY 15	FY 16	FY 17	FY 18	FY 19
Net Revenue Requirement	$12.20	$12.66	$13.05	$13.31	$13.31
Projected Revenues with Current Rates	$10.95	$11.01	$11.06	$11.12	$11.17
Surplus / (Shortfall)	**($1.25)**	**($1.65)**	**($1.99)**	**($2.19)**	**($2.14)**
End of Year Total Unrestricted Sewer Fund Cash Balance	($0.32)	($1.97)	($3.96)	($6.15)	($8.29)
Excluding Reserve Contributions	$0.20	$0.45	$0.57	$0.43	$0.19
End of Year Total Unrestricted Sewer Fund Cash Balance	($0.12)	($1.32)	($2.74)	($4.50)	($6.45)

Sewer Financial Forecast (without Rate Increase)



Financial Plan

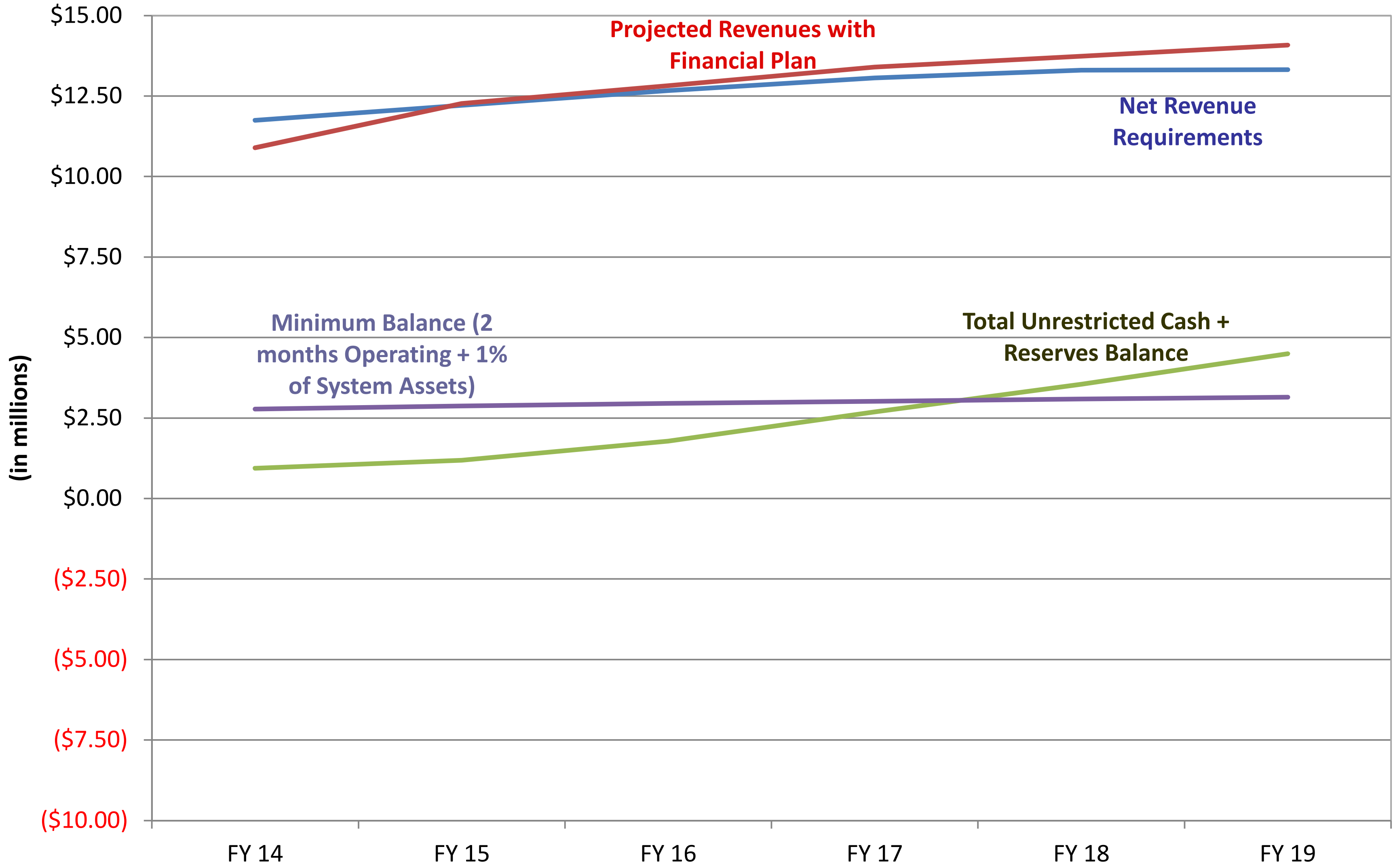
Financial plan identifies necessary sewer revenue increases to:

- Fund system revenue requirements as shown on page 11
- To ensure financial viability of the sewer fund

Financial Plan provides for a five-year phase-in with substantial increase in first year to align revenues with annual expenses.

	FY 15	FY 16	FY 17	FY 18	FY 19
Total Revenue Increase	**12.0%**	**4.0%**	**4.0%**	**2.0%**	**2.0%**
End of Year Total Unrestricted Sewer Fund Cash Balance (million)	$1.19	$1.78	$2.69	$3.55	$4.50

Financial Forecast - Financial Plan (with Proposed Rate Increase)



Sample Customer Bills

Sample Bills – Inside City Residential

Combined Quarterly Sample Bills

Meter Size	Quarterly Usage	Current FY 14	FY 15	FY 16	FY 17	FY 18	FY 19
5/8"	2,000	$36.05	$39.43	$40.82	$42.25	$43.10	$43.96
		Quarterly Dollar Increase	***$3.38***	***$1.38***	***$1.44***	***$0.85***	***$0.86***
5/8"	8,500*	$73.95	$80.92	$83.77	$86.73	$88.46	$90.23
		Quarterly Dollar Increase	***$6.97***	***$2.85***	***$2.96***	***$1.73***	***$1.77***
5/8"	13,000	$100.18	$109.64	$113.51	$117.51	$119.86	$122.26
		Quarterly Dollar Increase	***$9.46***	***$3.86***	***$4.01***	***$2.35***	***$2.40***
3/4"	20,000	$143.61	$156.99	$162.49	$168.18	$171.55	$174.98
		Quarterly Dollar Increase	***$13.38***	***$5.49***	***$5.70***	***$3.36***	***$3.43***

*8,500 gallons per quarter represents average residential customer.

Sample Bills – Outside City Residential

Combined Quarterly Sample Bills

Meter Size	Quarterly Usage	Current FY 14	FY 15	FY 16	FY 17	FY 18	FY 19
5/8"	2,000	$70.33	$76.17	$78.69	$81.29	$82.92	$84.58
Quarterly Dollar Increase			***$5.84***	***$2.52***	***$2.61***	***$1.63***	***$1.66***
5/8"	8,500*	$140.79	$152.78	$157.90	$163.19	$166.46	$169.78
Quarterly Dollar Increase			***$11.99***	***$5.11***	***$5.30***	***$3.26***	***$3.33***
5/8"	13,000	$189.57	$205.82	$212.73	$219.89	$224.29	$228.77
Quarterly Dollar Increase			***$16.25***	***$6.91***	***$7.16***	***$4.40***	***$4.49***
3/4"	20,000	$271.83	$294.84	$304.67	$314.86	$321.16	$327.58
Quarterly Dollar Increase			***$23.01***	***$9.83***	***$10.19***	***$6.30***	***$6.42***

*8,500 gallons per quarter represents average residential customer.

Discussion

REQUIRED MOTION

MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND

Topic:
History of Hagerstown Community College

Mayor and City Council Action Requested:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

Name:	Description:
History_of_HCC.pdf	History of Hagerstown Community College

CITY OF HAGERSTOWN, MARYLAND

Donna K. Spickler
City Clerk

To: Mayor and City Council
Bruce Zimmerman, City Administrator

From: Donna K. Spickler, City Clerk DKS

Date: November 15, 2013

Re: History of Hagerstown Community College (HCC)

Dr. Guy Alteri, HCC President, and Austin Abraham will be attending the Mayor and Council Work Session on November 19, 2013.

They will be presenting copies of the book, The Remarkable Journey of Hagerstown Community College, authored by Dr. Diane Weaver, that describes the history of the College.

If you have any questions, please contact me. Thank you.

City Hall • One East Franklin Street • Room 200 • Hagerstown, MD 21740-4987
Telephone: 301.739.8577, Ext. 113 E-mail: dspickler@hagerstownmd.org Fax: 301.790.3424 TDD: 301.797.6617

REQUIRED MOTION

MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND

Topic:
Hub City 100 Miler

Mayor and City Council Action Requested:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

Name:	Description:
11.19.13MemoHubCity100.docx.doc	Hub City 100

CITY OF HAGERSTOWN, MARYLAND

Department of Parks and Engineering

November 13, 2013

TO: Bruce Zimmerman, City Administrator

FROM: Amy Riley, Recreation Promotion & Services Coordinator

RE: Hub City 100 Miler

1. Background

Beginning late November, the Parks and Recreation Division is launching the Hub City 100 Miler, an active living community challenge that will serve two purposes. One, to showcase a new recreational event for the City of Hagerstown while meeting a need in the community. Second, to be used as a marketing tool to promote our parks, trails, bike paths, and recreational facilities.

2. Mayor & Council Action Requested

Staff requests that the Mayor & Council endorse this initiative of the Parks & Recreation Division and help us raise awareness.

3. Proposal

The goal of the Hub City 100 Miler is to have the participant complete 100 miles in 100 days. What's unique about the program is that it's self-reporting and participants can choose how they will complete the 100 miles. A mileage tracking form will be available via our website. The miles can be accomplished through walking, running, biking, taking a fitness class, or even golfing. Staff will be the weekly "coach" offering suggestions on how to get your miles in and weekly prizes will be drawn as an incentive to keep going.

We will build this campaign into the City's Wellness program, as well as continue to build partnerships with organizations like HEAL and area fitness professionals to make it successful.

4. <u>Budget</u>

Staff is using budgeted operating funds and a participation fee will be charged to offset the costs associated with running the event. Anticipated expenses are those to cover advertising and t-shirts. We also will seek a cash sponsor to support the program and call on local businesses to donate the weekly and grand prizes. Those registered will have two fees to choose from: $20 with a t-shirt and $10 without a t-shirt.

5. <u>Timeline</u>

Event registration begins November 25 and will continue through mid-January. The event will officially begin on January 6 with a small event in one of our parks. At that time, the community will be invited to walk the first mile with the Mayor. The program will continue for 100 days and will conclude on April 15 with a small celebration and grand prize drawing(s) for those who have completed the 100 miles.

6. <u>Other</u>

In conclusion, here is the promotional information to be used on banners, flyers and our website:

HUB CITY 100 Miler
100 Miles in 100 Days
Walk, bike, run, hike, skate….*your* way into 2014!

How it works:

- Make it your New Year's Resolution - register for the challenge by January 6
- Track your own miles – the goal is to stay active for 100 days
- Move your body *your* way – walking, biking, skiing, a fitness class…it counts!
- HAVE FUN – generate a lifestyle change that gets you active and healthy while having fun!

Weekly Prizes through April 15 – Personal Fitness Sessions, Gift Cards, Golf and Swim Passes, and more! Grand Prize – Trek Bike Giveaway!

Fee: $10 without t-shirt; $20 with t-shirt

For more info or to register online: www.hagerstownmd.org/hubcity100
Email/call: ariley@hagerstownmd.org 301-739-8577 x 180

Staff will be available on Tuesday to discuss the proposed project.

REQUIRED MOTION

MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND

Topic:

Program Open Space (POS) Proposed Projects for FY 2015

Mayor and City Council Action Requested:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

Name:	Description:
Program_Open_Space.pdf	Program Open Space Application

CITY OF HAGERSTOWN, MARYLAND

Department of Parks and Engineering

TO: Bruce Zimmerman, City Administrator

FROM: Junior Mason, Parks Superintendent Junior Mason

SUBJECT: Program Open Space (POS) Proposed Projects for FY 2015

DATE: November 14, 2013

We received notice from Jim Sterling, Director of Washington County Parks, Recreation & Facilities, that applications for POS funding are now being accepted for FY 2015.

A special note, originally designated for dog park amenities in Fairgrounds Park in FY 2014, the POS amount of $22,500 is proposed by staff to be redirected to outdoor gym equipment at Fairgrounds Park. (Our goal is to purchase additional gym equipment as funds permit.) The FY 2014 projects have already been approved on the County level but have not yet been approved on the State level.

We plan to submit the following projects for FY 2015:

1. Kiwanis Park Creek Access and Paths - $90,000
2. City Park Benches and Picnic Tables - $27,000
3. City Park Band Shell Seating - $31,500
4. Community Garden (location TBD) - $27,000
5. Fairgrounds Park Outdoor Gym Equipment - $27,000

Staff will be present at the Mayor & Council workshop on November 19 to discuss and/or answer questions.

Att: 5-Yr POS Proposed Plan

Cc: Rodney Tissue

Parks and Recreation Division
351 North Cleveland Avenue • Hagerstown, MD 21740
Ph: 301.739.8577 Ext. 169 • Fax: 301.790.0171

Engineering Division
1 East Franklin Street • Hagerstown, MD 21740-4817
Ph: 301.739.8577 Ext. 125 • Fax: 301.733.2214

CITY OF HAGERSTOWN
5-YR POS PROPOSED PLAN - FY15
(Prepared 11/14/13)

FY	CIP #	Project	Location	Est. Cost	POS Funds	In-Kind Match
2015	C0773	Kiwanis Park Creek Access and Paths	Kiwanis Park - create creek access and paths on donated land along Antietam Creek	$100,000	$90,000	$10,000
2015	C0237	Park Play Equip	Park Benches & Picnic Tables for City Park	$30,000	$27,000	$3,000
2015	C0332	Band Shell Seating	City Park - install additional seating	$35,000	$31,500	$3,500
2015	New	Community Garden	Location TBD - results of survey due back end of Nov.	$30,000	$27,000	$3,000
2015	New	Outdoor Gym	Fairgrounds Park - purchase various exercise equipment as funds permit	$30,000	$27,000	$3,000
		FY 2015 Priority		$225,000	$202,500	$22,500
2016	C0784	Wall of Honor	Memorial Park, Phase III	$70,000	$63,000	$7,000
2016	C0522	Parking Impr.	City Park at Mansion House	$250,000	$225,000	$25,000
2016	C0812	Pangborn Lake Reconstruction	Pangborn Park - dredge lake, replace deteriorating stone walls with a "natural edge", construct fishing pier; improve lake infow/outflow; restore adjacent Hamilton Run with natural techniques	$350,000	$315,000	$35,000
2017	C0784	Parking	Memorial Park, Phase IV	$80,000	$72,000	$8,000
2017	C0522	Parking Impr.	City Park - upper lot by tennis court and pavilion	$250,000	$225,000	$25,000
2017	C0047	Lake Wall Repl	City Park (upper lake)	$500,000	$450,000	$50,000
2018	C0764	Land Acquisition	Winter Street School - playground area	$200,000	$200,000	$0
2019	C0548	Gatekeeper's House Renovation	Fairgrounds Park	$500,000	$450,000	$50,000
2020	C0624	Sport/Event Center	Fairgrounds Park Grandstand	$8,500,000	$7,650,000	$850,000

H:\parksrec\Grants\POS\POS 5-yr list FY15 REV.wpd

REQUIRED MOTION

MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND

Topic:
City Park Sculpture Project

Mayor and City Council Action Requested:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

Name:	Description:
Sculpture_Project.pdf	City Park Sculpture Project

CITY OF HAGERSTOWN, MARYLAND
Department of Parks and Engineering

November 14, 2013

TO: Bruce Zimmerman, City Administrator

FROM: Rodney Tissue, City Engineer
Karen Giffin, Community Affairs Manager

RE: Proposed City Park Sculpture Project

1. Background

One initiative staff is working on is to try to bring public sculpture to our community….we have almost none. We became aware of a $5,000 grant program through the Maryland State Arts Council and we decided to apply in partnership with the Washington County Arts Council and the Washington County Fine Arts Museum. Recently we were pleased to hear that the Washington County Arts Council was awarded the grant (see attached).

2. Mayor & Council Action Requested

Staff requests that the Mayor & Council review the proposal and if acceptable, authorize staff to proceed with fundraising, and the installation of the sculpture as shown. The City's capital contribution is suggested to be $7,000 plus staff operating expenses for the installation.

3. Proposal

The proposal is the 'team', comprised of the Arts Council; Washington County Museum of Fine Arts (WCMFA); Valley Arts; Barbara Ingram School for the Arts (BISFA) and students; and the City will work with local sculptor, Paul Rhymer, to create a bronze sculpture for placement in the lake at City Park. The sculpture will be life size and be located just off shore in the lake to ensure maximum visability from the lake-side walkway system. A sketch and a 'photo-shop' picture are attached that give a sense of look of the sculpture. It is called "*The Fishing Lesson*".

Why black bears? City Park is iconic for parents taking their children to the City Park lakes. The sculpture not only mirrors the teaching relationship of parent and child, but also subtly educates about the chain of life and the importance of teaching self–sufficiency. Locating the sculpture within the lake keeps viewers at a distnce, discouraging direct contact with the work and also reinforcing the idea that one can appreciate the beauty of wild animals from a safe distance.

In addition, we have engaged a local author to write a children's book about the bears, at no charge. The book would emphasize the theme of learning, parent/child relationship and self-sufficiency. We proposed a free distribution of a few thousand of the books to children in the community. After that, the author would sell the book.

Parks and Recreation Division
351 North Cleveland Avenue • Hagerstown, MD 21740
Ph: 301.739.8577 Ext. 169 • Fax: 301.790.0171

Engineering Division
1 East Franklin Street • Hagerstown, MD 21740-4817
Ph: 301.739.8577 Ext. 125 • Fax: 301.733.2214

4. Budget

The proposed budget is $22,000 to create the piece plus staff time and materials (from our operating budgets) for installation. We are proposing that the City of Hagerstown provide $5,000 toward the sculpture and an additional $2,000 toward the printing of the distribution of the free children's books. The balance of funds would be from the private sector and Karen Giffin will commence fundraising for the $12,000 balance. This private sector fund raising includes students from the Visual Arts Department at the Barbara Income School for the Arts who are staging a 'bucket campaign' with a goal of $1,000. In addition, the Washington County Museum of Fine Arts is planning a fundraising event in the spring.

5. Timeline

We anticipate the following timeline:

2013

• November	Mayor & Council endorsement
• December	Commence fundraising & selection of boulders for base

2014

• April	Begin sculpture work
• May	WCMFA Fundraiser
• June	"Bucket Campaign" by BISFA art students
• August	City staff construct foundation, lights
• September	Installation and unveiling

Staff will be available on Tuesday to discuss the proposed project.

Attachment:
* Grant Award
* Artist sketch of proposed sculpture
* Photo-shop picture of proposed finished sculpture

c: Project team members

MARYLAND
STATE ARTS
COUNCIL

October 3, 2013

Ms. Mary Anne Burke
Executive Director
Washington County Arts Council, Inc.
34 S. Potomac Street
Suite 100
Hagerstown, MD 21740-4804

Dear Ms. Burke:

Congratulations! It is a pleasure to inform you that the Maryland State Arts Council (MSAC) voted to award $5000.00 to the Washington County Arts Council, Inc. for the Public Art Project Grant.

The purpose of this grant program is to acknowledge the growing role that the arts play in community building and personalizing Maryland landscapes. Please keep in mind that this grant can only be used for the development of the public art project as submitted in the grant application.

Grant Agreement forms and other documents are enclosed. The grant agreement forms must be signed in the highlighted areas and returned to the Maryland State Arts Council.

We ask that you provide us with updates on the progress of your project and notify us of its anticipated completion date. Pamela Dunne, Program Director, will be your contact person. She can be reached at 410-767-6484 or pdunne@msac.org.

Once again, congratulations on receiving this grant. We look forward to seeing your completed and installed public art project.

Sincerely,

Theresa Colvin

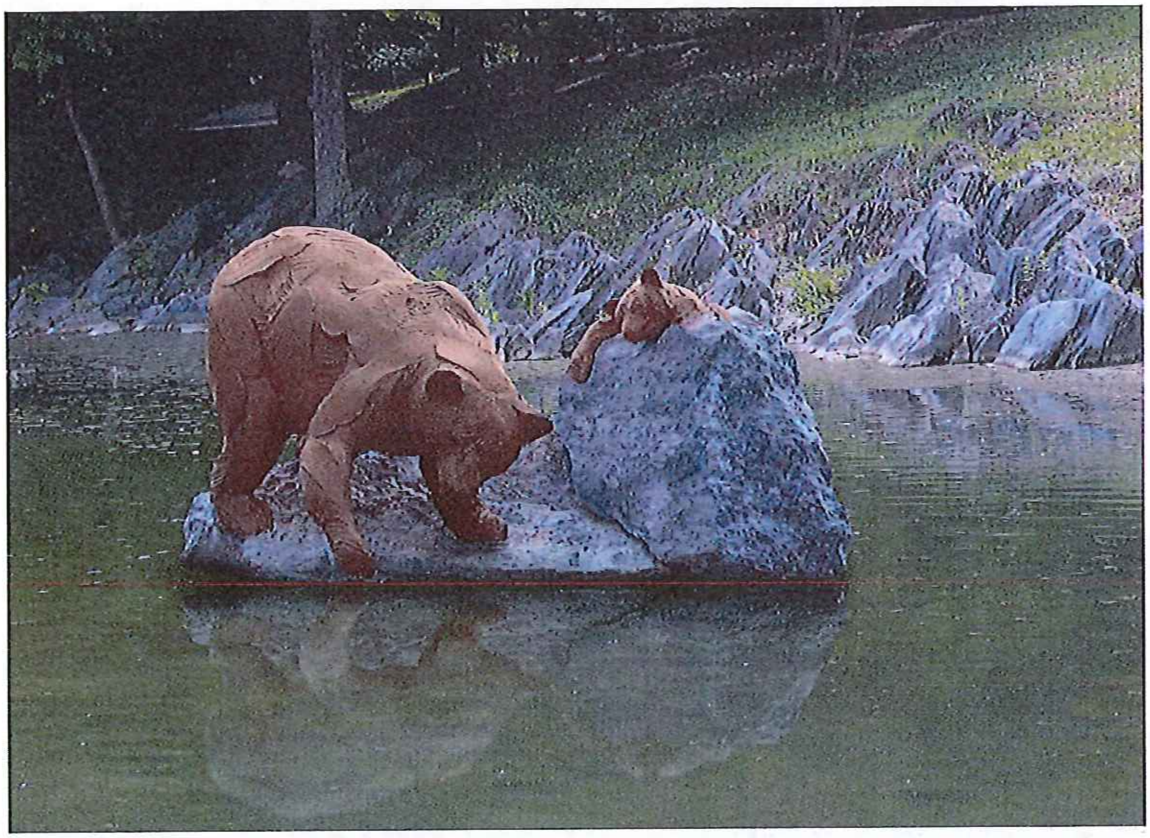
Theresa Colvin
Executive Director

TC:jaf

Enclosures

175 West Ostend Street, Suite E, Baltimore, MD 21230 | 410-767-6555 | www.msac.org

HELP BRING
"**THE FISHING LESSON**"
TO CITY PARK



Your tax-deductible donation will help create a life-size bronze sculpture in Hagerstown's beautiful City Park from this model by local artist Paul Rhymer.

Symbolizing Washington County as the "gateway to Western Maryland," the mother bear teaching her cub to fish represents family, self-reliance, and a reverence for nature.

A Project of Art in Public Spaces Sponsored by the City of Hagerstown, The Maryland State Arts Council, and the Washington County Arts Council.

REQUIRED MOTION

MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND

Topic:
Greens and Grains Tent

Mayor and City Council Action Requested:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

Name:	Description:
Greens_and_Grains.pdf	Greens and Grains Tent

CITY OF HAGERSTOWN, MARYLAND

Department of Parks and Engineering

November 14, 2013

TO: Bruce Zimmerman, City Administrator

FROM: Rodney Tissue, City Engineer Rod

RE: Expansion of Café License for "Greens & Grains"

1. Background

The owner of Greens & Grains, Pietro Priola, currently has a staff-approved café license. He requests permission to place two 15' X 15' tents from December – March in the Public Square adjacent their business so they can continue outdoor dining throughout the winter. Since this request is in the public right-of-way (see attached drawings and photographs), to permit this café expansion, the Council would have to authorize a License for this proposed work.

2. Mayor & Council Action Requested

Review the proposed request, and determine whether or not to enter into an expanded Café License Agreement with Greens & Grains for the installation of the tent in the public right-of-way. If the Council agrees, a final License Agreement will be presented for consideration at the Regular Session meeting on November 26, 2013.

3. Discussion

The Applicant is requesting permission to install this structure in order to provide an outdoor dining café for people patronizing his restaurant during the winter months. After March, the owner wishes to install "sails-style" canopy for outdoor dining.

The License Agreement includes clauses that will require the Applicant to remove the structure upon request, if it is found to interfere with future City operations. The license cannot be transferred to future owners without the approval of the City. The owner will be seeking permission to serve beer and wine in the café from the Board of License Commissioners for Washington County.

Staff and the owner will be present at the Council's work session to discuss.

Attachment: * Site photos & exhibits

c: Andrew Sargent
Eric Deike
Pietro Priola

Parks and Recreation Division
351 North Cleveland Avenue • Hagerstown, MD 21740
Ph: 301.739.8577 Ext. 169 • Fax: 301.790.0171

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1 East Franklin Street • Hagerstown, MD 21740-4817
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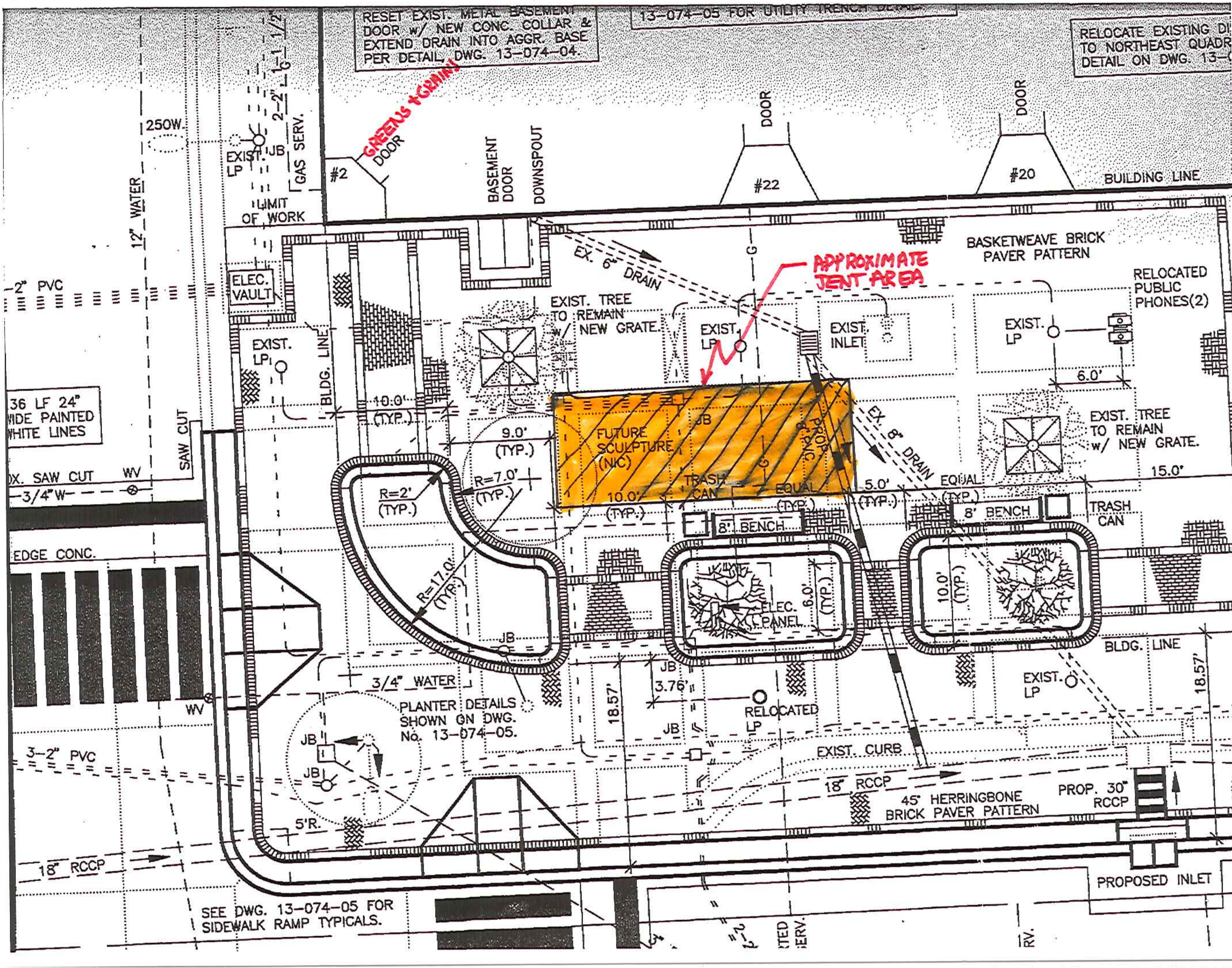
RESET EXIST. METAL BASEMENT DOOR w/ NEW CONC. COLLAR & EXTEND DRAIN INTO AGGR. BASE PER DETAIL, DWG. 13-074-04.
13-074-05 FOR UTILITY TRENCH DETAIL
RELOCATE EXISTING DI TO NORTHEAST QUADR DETAIL ON DWG. 13-
GREENS + GRAIN!
APPROXIMATE TENT AREA
DOOR
BASEMENT DOOR
DOWNSPOUT
#2
#22
#20
BUILDING LINE
250W.
12" WATER
EXIST. LP
JB
GAS SERV.
LIMIT OF WORK
ELEC. VAULT
2" PVC
36 LF 24" WIDE PAINTED WHITE LINES
SAW CUT
SAW CUT
3/4" W
WV
EDGE CONC.
BLDG. LINE
10.0' (TYP.)
9.0' (TYP.)
R=7.0' (TYP.)
R=2' (TYP.)
R=17.0' (TYP.)
EX. 6" DRAIN
EXIST. TREE TO REMAIN w/ NEW GRATE.
EXIST. LP
EXIST. INLET
FUTURE SCULPTURE (NIC)
PROP. 8" PVC
EX. 8" DRAIN
TRASH CAN
EQUAL (TYP.)
5.0' (TYP.)
8' BENCH
ELEC. PANEL
6.0' (TYP.)
10.0' (TYP.)
BASKETWEAVE BRICK PAVER PATTERN
RELOCATED PUBLIC PHONES(2)
6.0'
15.0'
BLDG. LINE
18.57'
3.76'
RELOCATED LP
3/4" WATER
PLANTER DETAILS SHOWN ON DWG. No. 13-074-05.
3-2" PVC
5'R.
EXIST. CURB
18" RCCP
45° HERRINGBONE BRICK PAVER PATTERN
PROP. 30" RCCP
PROPOSED INLET
SEE DWG. 13-074-05 FOR SIDEWALK RAMP TYPICALS.

PROPOSED WINTER INSTALLATION
DEC – MARCH

2 - 15'x15' HEATED TENTS.

Arris a Design Studio, Inc.

PROPOSED CANOPY FOR REST OF YEAR
≈ 15' X 30'

greens & grains
5/27/10

11/13/2013

To whom it may concern,

We Bikles give permission to Greens and Grains to place a tent in the courtyard for the winter season of 2013-2014.

Dax Zombro and Mike Zello

REQUIRED MOTION

MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND

Topic:
Parks and Rec Rental Fees

Mayor and City Council Action Requested:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

Name:	Description:
No Attachments Available	

REQUIRED MOTION

MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND

Topic:

Land Transfer/Business Expansion, 1481 Salem Avenue

Mayor and City Council Action Requested:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

Name:	Description:
No Attachments Available	

REQUIRED MOTION

MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND

<u>Topic:</u>
2005 APFO/Excise Tax Agreement and New APFO Amendments

<u>Mayor and City Council Action Requested:</u>

Since the County Commissioners amended the Adequate Public Facilities Ordinance (APFO) for schools last month, the City must follow suit if we desire to continue the 2005 APFO/Excise Tax Agreement with the County. Staff will be present at the November 19th Mayor and City Council work session to discuss whether to continue the 2005 Agreement and, if so, to explain the recent APFO amendments.

<u>Discussion:</u>

The following provides information on changes which occurred to the County ordinances and the economic climate since the 2005 Agreement went into effect - all of which have had an impact on the City's revenues.

2005 Excise Tax/APFO Agreement between Hagerstown and the County

The County Commissioners received State enabling authority in 2005 to adopt new rates in their Excise Tax Ordinance for all new development in the county; and to allow the municipalities in the county to retain 28% of the tax collected for their own infrastructure upgrades, if the municipalities adopted an APFO for schools substantially similar to the County's. At this time, the County and some of the municipalities were experiencing rapid growth and alternative sources of revenue to support infrastructure upgrades were desirable.

As a result of this excise tax sharing proposal and the significant revenue to be gained under the 2005 rates, the City adopted an APFO for schools in 2006 which allowed us to retain 28% of the County excise tax for our Capital Improvements Program (CIP) for roads and parks improvement projects. In the first three years under the 2005 rates, the City retained $1.98 million in excise tax revenue for our CIP. Since adoption of an APFO in 2006, ten City projects have been affected by the APFO. Five projects were reviewed and approved (four via mitigation approvals) and four projects stalled at the hurdle. The New Haven annexation, which was approved just prior to the City's adoption of an APFO, was adopted with phasing constraints in anticipation of the APFO. Of the five approved projects, two have been abandoned (Potomac Square and Hager's Crossing condos), one has had tax sale issues (Deerfield Knolls), and one has been stalled for several years (Hamilton Hotel condos). The New Haven project has not been able to attract a developer and the owner attributes this to the phasing constraints in the annexation agreement.

The Impact on City Revenues from Adjustments to the Excise Tax Rates

Starting in 2008, the County Commissioners amended the Excise Tax Ordinance several times in an effort to address concerns about the tax's alleged stifling affect on economic development in the county. As a result of these amendments, the fee system in the Excise Tax Ordinance has been reduced by as much as 78-85% on residential development and 33-69% on non-residential development. Within the past five years under the much reduced rates, the City has retained $475,150 for our CIP (see Appendix A). Changes to the Excise Tax Ordinance in March 2013 will drop our revenue prospects even further, as illustrated in Appendix B.

Issues to Consider When Assessing the 2005 Agreement Today

The City entered into the 2005 agreement with the County, because of the anticipated benefit to be gained from excise tax revenues for City infrastructure projects - as well as due to pressure from the Board of Education and their staff to subject City development to a school APFO at a time when development activity was much higher in the city. While staff can respect those motivations in 2005, subsequent actions by the County Commissioners and the reality of growth in the Hagerstown Urban Growth Area in the intervening years have created a different environment today that raise the question of whether this agreement is still in the best interests of the City of Hagerstown.

The following are issues for consideration as the Mayor and City Council weigh the merits of continuing the 2005 APFO/Excise Tax Agreement:

1.The revenue to be gained from the excise tax is vastly reduced from what was available to us in 2005.

In the first year, we retained $1.04 million.

In FY 2013, we retained $118,229 (75% of the year being under the 2008 rates).

Revenues in FY 2014 are likely to be even lower due to the rate changes which went into effect on March 26th of this year. For example, our 28% share on 55 dwelling units at 2,500 sq.ft. each would drop from $115,500 under the prior rates to $38,500 under the new rates.

2. Any new proposed developments in the city are held up by the APFO for schools even though the vast majority of new home construction in the county is occurring outside the City of Hagerstown and most of our schools serve areas well beyond the corporate boundaries (see Appendices C and D).

76% of the new home construction in the county between 2009-2013 (excluding the elderly housing for the HHA) was in the unincorporated areas of the county, while only 21% occurred in the city.

3.Residential development is not rebounding within the city - our new home construction has dwindled since 2009 and we have not received a new subdivision plan for single family detached or attached homes since 2008.

4.We have not annexed a large tract of land for new development since 2008; and only two tracts have annexed in the past two years (Pangborn Corporation and a house in Cedar Lawn).

5.We are not experiencing growth in our property tax base as we were in 2005; in fact the base has declined in recent years.

As we attempt to improve the fiscal health of Hagerstown, we must consider whether policies adopted during the growth boom that were designed to control growth and support infrastructure upgrade needs are still relevant in an era where the City struggles to attract economic growth and forge a sustainable path for our future.

The City needs measures that would make city tracts of land and annexation opportunities more competitive for the residential and commercial market in our county. The resulting development would increase the City's tax base and help to make us more fiscally sustainable.

New Amendments to the County APFO

Last month, the County Commissioners amended their APFO to impose a fee in this ordinance that would apply to new residential development wishing to move forward even though inadequate school exists or will exist to serve it. These amendments set up a formula for calculating a fee known as an Alternative Mitigation Contribution. Based on data provided during the Commissioners deliberations this summer, the fee would range from about $1,600-$3,000 per unit, based on unit type. Payment of the APFO fee must be made up front at time of site plan or final plat approval. This mechanism would not be available to developers if the affected schools would be more than 120% over capacity. In those instances, the developer would need to negotiate a mitigation plan with the County Commissioners to further redress the school inadequacies.

In order to continue retaining 28% of the Excise Tax collected in our jurisdiction, the City will need to amend our APFO for schools to reflect these new County amendments. While these amendments create a mechanism to allow new residential development to move forward within the city (provided the developer is willing to pay the upfront APFO fee), the City will not be sharing in the APFO fee revenue. The APFO fee revenue will be paid directly to the County for their CIP for schools. The City would still retain $0.28/square foot on new residential units and most non-residential development through the Excise Tax Ordinance, however.

Next Steps

1. <u>Continue with the 2005 Agreement</u>: Provided the Mayor and City Council decide to continue with the 2005 Agreement, attached are draft amendments to the City APFO for schools which would make our ordinance substantially similar to the recently amended County APFO (see Appendix E). These amendments could be introduced at the November 26th regular meeting.

or

2.<u>Discontinue the 2005 Agreement</u>: If the Mayor and City Council decide to discontinue the 2005 Agreement, we will need to repeal the City's APFO for schools, as well as the City's Excise Tax Ordinance.

> If we take this step, we will continue to collect the County excise tax on all new development in the city, but we would not retain 28% of the revenue for our CIP. We would be able to approve new residential development, however, without the need for developers to pay an APFO fee if the development fails the school test or seek additional mitigation approvals from the County if the schools would be over 120% of capacity.

<u>Financial Impact:</u>
If amend APFO to match recent County APFO amendments, the City will continue to retain $0.28/square foot on new residential development and most non-residential development.

If the City ends the 2005 Agreement and repeals the City APFO, we will still collect the County Excise Tax on building permits, but would not retain 28% for our CIP for infrastructure projects.

<u>Recommendation:</u>

Motion:

Action Dates:

ATTACHMENTS:

Name:	Description:
APFO_Exise_Tax_Agreement_2013_-_Memo.pdf	2005 APFO/Excise Tax Agreement and New APFO Amendments
2013_APFO_Amendment_Proposal.pdf	2005 APFO/Excise Tax Agreement and New APFO Amendments

CITY OF HAGERSTOWN, MARYLAND
Department of Community and Economic Development
Planning and Code Administration Division

MEMORANDUM

TO: Bruce Zimmerman, City Administrator

FROM: Kathleen A. Maher, Planning Director

DATE: November 14, 2013

SUBJECT: 2005 APFO/Excise Tax Agreement and New APFO Amendments

MAYOR AND CITY COUNCIL ACTION REQUESTED

Since the County Commissioners amended the Adequate Public Facilities Ordinance (APFO) for schools last month, the City must follow suit if we desire to continue the 2005 APFO/Excise Tax Agreement with the County. Staff will be present at the November 19th Mayor and City Council work session to discuss whether to continue the 2005 Agreement and, if so, to explain the recent APFO amendments.

The following provides information on changes which occurred to the County ordinances and the economic climate since the 2005 Agreement went into effect – all of which have had an impact on the City's revenues.

2005 Excise Tax/APFO Agreement between Hagerstown and the County

The County Commissioners received State enabling authority in 2005 to adopt new rates in their Excise Tax Ordinance for all new development in the county; and to allow the municipalities in the county to retain 28% of the tax collected for their own infrastructure upgrades, if the municipalities adopted an APFO for schools substantially similar to the County's. At this time, the County and some of the municipalities were experiencing rapid growth and alternative sources of revenue to support infrastructure upgrades were desirable.

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Square and Hager's Crossing condos), one has had tax sale issues (Deerfield Knolls), and one has been stalled for several years (Hamilton Hotel condos). The New Haven project has not been able to attract a developer and the owner attributes this to the phasing constraints in the annexation agreement.

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Starting in 2008, the County Commissioners amended the Excise Tax Ordinance several times in an effort to address concerns about the tax's alleged stifling affect on economic development in the county. As a result of these amendments, the fee system in the Excise Tax Ordinance has been reduced by as much as 78-85% on residential development and 33-69% on non-residential development. Within the past five years under the much reduced rates, the City has retained $475,150 for our CIP (see Appendix A). Changes to the Excise Tax Ordinance in March 2013 will drop our revenue prospects even further, as illustrated in Appendix B.

Issues to Consider When Assessing the 2005 Agreement Today

The City entered into the 2005 agreement with the County, because of the anticipated benefit to be gained from excise tax revenues for City infrastructure projects – as well as due to pressure from the Board of Education and their staff to subject City development to a school APFO at a time when development activity was much higher in the city. While staff can respect those motivations in 2005, subsequent actions by the County Commissioners and the reality of growth in the Hagerstown Urban Growth Area in the intervening years have created a different environment today that raise the question of whether this agreement is still in the best interests of the City of Hagerstown.

The following are issues for consideration as the Mayor and City Council weigh the merits of continuing the 2005 APFO/Excise Tax Agreement:

1. The revenue to be gained from the excise tax is vastly reduced from what was available to us in 2005.
   - In the first year, we retained $1.04 million.
   - In FY 2013, we retained $118,229 (75% of the year being under the 2008 rates).
   - Revenues in FY 2014 are likely to be even lower due to the rate changes which went into effect on March 26th of this year. For example, our 28% share on 55 dwelling units at 2,500 sq.ft. each would drop from $115,500 under the prior rates to $38,500 under the new rates.

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In order to continue retaining 28% of the Excise Tax collected in our jurisdiction, the City will need to amend our APFO for schools to reflect these new County amendments. While these amendments create a mechanism to allow new residential development to move forward within the city (provided the developer is willing to pay the upfront APFO fee), the City will not be sharing in the APFO fee revenue. The APFO fee revenue will be paid directly to the County for their CIP for schools. The City would still retain \$0.28/square foot on new residential units and most non-residential development through the Excise Tax Ordinance, however.

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Attachments:
A. City Excise Tax History
B. Analysis to Illustrate Impact of Rate Changes
C. Residential Development Activity since 2006
D. Official School Enrollment Figures, September 2013
E. Proposed Amendments to City APFO

c:
Hagerstown Planning Commission
John Urner, City Attorney
John Lestitian, Department of Community & Economic Development
Jill Estavillo, Economic Development Manager
Rodney Tissue, City Engineer
Michelle Hepburn, Acting Finance Director
Chad Criswell, Washington County Public Schools
Steve Goodrich, County Planning Director

City Excise Tax History

Amount Retained by City - 28% of Excise Tax

Fiscal Year	Amount	
FY 2006	$1,036,634	
FY 2007	$719,319	
FY 2008	$220,679	
FY 2009*	$31,677	
FY 2010	$115,417	
FY 2011	$96,342	
FY 2012	$113,485	
FY 2013	$118,229	
TOTAL	**$2,451,782**	**plus interest**

*significant change in rate

Recent Year City Expenditures from Excise Tax Fund

Fiscal Year	Project	Amount Expended
FY 2010-2012	Edgewood/Dual Highway	$1,333,115
FY 2013	Kiwanis Park	$20,000
FY 2013	Irrigation at City Park and Oswald Park	$20,000
FY 2013	Inspection of Burhans Bridges	$15,073
FY 2013	Design of Bridge Repair on Burhans	$46,723
	TOTAL	**$1,434,911**

Propsed Expenditures in Draft FY 2014 CIP

Fiscal Year	Project	Amount Budgeted
FY 2014	Dog Park	$40,000
FY 2014	Frederick Street Culvert	$156,729
FY 2014	Bridge Repair on Burhans	$425,690
FY 2016	Northwest Connector	$280,000
FY 2018	Northwest Connector	$150,000
	TOTAL	**$1,052,419**

Hagerstown Planning Office
8-Nov-13

A

Analysis to Illustrate Impact of Changes to Excise Tax Rates on City Revenue

In FY 2013, the City retained $118,229 in excise tax from residential and commercial development in the city. July 1, 2012 through March 25, 2013 was at the 2008 rate. The 2013 rates went into effect on March 26.

The following analysis using FY 2013 residential permit activity in an attempt to illustrate the impact on revenue to the City as a result of the County's changes to the rates over the years.

FY 2013 Residential Permits - Estimated Revenue Resulting From Different Rates That Year

New Units Permitted	28% of 2008 Rate from July 1 to March 25	28% of 2013 Rate from Mar 26 to June 30
31 Units	$65,100	
24 Units		$16,800

For purposes of this analysis, assumes each unit was 2,500 sq.ft. in area.

FY 2013 Residential Permits - Using Three Different Rates on the Total

New Units Permitted	28% at 2005 Rate	28% at 2008 Rate	28% at Mar 2013 Rate	Actual Estimated Revenue from Above Chart
35 SFR	$127,400	$73,500	$24,500	
20 TWN	$86,800	$42,000	$14,000	
TOTAL	$214,200	$115,500	$38,500	$81,900

For purposes of this analysis, assumes each unit was 2,500 sq.ft. in area.

Residential Rates in County Excise Tax

2005 Rate	$13,000 per SFR; $15,500 per All Other Types of Units
2008 Rate	$3.00 per square foot on all unit types
2013 Rate	$1.00 per square foot on all unit types

Rate Changes have also affected Non-Residential Development Over the Years

For example, as a result of changes over the years, the revenue for the City from a 14,500 sq.ft. retail store dropped from $13,020 in 2005 to $4,060 with the 2013 rates.

2005 Rate	$3-$4 per sqft on retail; $0.20-$3 per sqft on other types development
2008 Rate	$3.00 per sqft on retail; $1.00 per sqft on other types of development
2013 Rate	$3.00 per sqft on retail over 15,000 sqft; $1.00 per sqft on everything else

PCAD, November 14, 2013

B

Residential Development Activity Since 2006
City of Hagerstown, Other Towns and Washington County

Permitted for New Dwelling Units

Year	City	Unincorporated Area	Towns	Total in County
2006	395	481	21	897
2007	133	291	5	429
2008	170	151	18	339
2009	37	126	15	178
2010	114 (includes 60 units for HHA on W. Baltimore)	150	9	273
2011	44	152	0	196
2012	34	141	0	175
2013*	51	211	3	265
TOTAL	978	1703	71	2752

* as of September 30, 2013

Excluding the 60 units in 2010 for Elderly Housing for HHA on W. Baltimore Street, between 2009-2013, 76% of the new home construction has been in the unincorporated area of the county and only 21% within the City of Hagerstown.

Source: City of Hagerstown, Washington County, Town of Smithsburg, and
Town of Keedysville

PCAD, November 6, 2013

C

BOARD OF EDUCATION OF WASHINGTON COUNTY

Hagerstown, Maryland 21739

Sept. 30, 2013

OFFICIAL ENROLLMENT

as required by Section 5.3 and 5.5 (c) of the current Adequate Public Facilities Ordinance (APFO) for the determination of the available capacity at school facilites.

2013-2014

	School	State Rated Capacity	Local Rated Capacity	Enrollment	
ELEMENTARY	Bester	511	460	456	
	Boonsboro	514	463	556	
	Cascade	274	247	194	
	Clear Spring	385	347	376	
	Conococheague	249	224	176	
	Eastern	567	510	483	
	Emma K. Doub	299	269	304	
	Fountaindale	352	317	351	
	Fountain Rock	298	268	188	
	Funkstown	200	180	94	
	Greenbrier	252	227	197	
	Hancock	298	268	257	
	Hickory	235	212	225	
	Lincolnshire	555	500	583	
	Maugansville	735	662	645	
	Old Forge	377	339	312	
	Pangborn	745	671	745	
	Paramount	409	368	383	
	Pleasant Valley	229	206	231	
	Potomac Heights	274	247	214	
	Rockland Woods	745	671	611	
	Ruth Ann Monroe	695	626	671	
	Salem Avenue	725	653	645	
	Sharpsburg	252	227	285	
	Smithsburg	419	377	376	
	Williamsport	570	513	620	
	Winter Street	305	275	310	10,488 Sub-Total Elementary Schools
MIDDLE	Boonsboro	872		754	
	Clear Spring	563		412	
	E. Russell Hicks	797		764	
	Northern	818		792	
	Smithsburg	829		639	
	Springfield	860		865	
	Western Heights	828		737	4,963 Sub-Total Middle Schools
HIGH	Barbara Ingram	149		247	
	Boonsboro	1,030		883	
	Clear Spring	574		501	
	Hancock Middle/High	584		268	
	North Hagerstown	1,337		1,312	
	Smithsburg	829		799	
	South Hagerstown	1,209		1,292	
	Wash. Co. Technical	575		520	
	Williamsport	935		918	6,740 Sub-Total High Schools
OTH	Marshall Street Ed. Ctr.	90		44	
	Job Development Center	60		29	73 Sub-Total Other Schools
	TOTAL			22,264	

• City serving schools

Background enrollment pushes most schools over capacity.

D

CITY OF HAGERSTOWN, MARYLAND

AN ORDINANCE TO AMEND AN ADEQUATE

PUBLIC FACILITIES ORDINANCE FOR THE

CITY OF HAGERSTOWN

RECITALS

WHEREAS, the Land Use Article of the Annotated Code of Maryland authorizes municipal corporations within the State of Maryland to enact Adequate Public Facilities Ordinances, and

WHEREAS, the Washington County Growth Management Act of 2005 authorizes Washington County to collect a building excise tax and further authorizes municipalities within Washington County to retain a portion of the tax provided they enact an Adequate Public Facilities Ordinance with school adequacy tests substantially similar to or more stringent than that in the Adequate Public Facilities Ordinance adopted by the County, and

WHEREAS, the City deems it in its best interest to enact an Adequate Public Facilities Ordinance for the benefit of its citizens.

NOW, THEREFORE, BE IT RESOLVED, ENACTED AND ORDAINED, by the Mayor and Council of the City of Hagerstown, Maryland as it's duly constituted legislative body as follows:

Section 1 of the Code of the City of Hagerstown is hereby amended to incorporate revisions adopted by the County Commissioners on October 22, 2013 into Chapter 47, Adequate Public Facilities Ordinance, to read as follows:

ADEQUATE PUBLIC FACILITIES ORDINANCE OF THE CITY OF HAGERSTOWN, MARYLAND

ARTICLE I - PURPOSE

1.1 SHORT TITLE

This Ordinance shall be known and may be cited as the Adequate Public Facilities Ordinance of the City of Hagerstown, Maryland.

1.2 PURPOSE

E

It is the purpose of the Mayor and City Council of the City of Hagerstown that public facilities and services needed to support new development shall be available concurrently with the impacts of such new developments. In meeting this purpose, public facility and service availability shall be deemed sufficient if the public facilities and services for new development are phased, or the new development is phased, so that the public facilities and those related services which are deemed necessary by the local government to operate the facilities necessitated by that new development, are available concurrently with the impacts of the new development.

ARTICLE II - DEFINITIONS

2.1 GENERAL

(a) For the purpose of this Ordinance, the following terms, phrases, words and their derivations shall have the meanings given herein. Words in the present tense include the future, the singular number includes the plural, and the plural includes the singular. The word "shall" is mandatory and the word "may" is permissive. The words "used for" shall include "arranged for," "designed for," "intended for", "maintained for," "constructed for", or "occupied for". The word "individual" shall mean natural person, joint venture, joint stock company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, association, club, company, corporation, limited liability company, real estate investment trust, business trust or similar legal entity or the manager, lessee, agent, servant, officer or employee of any of them. The word "land" shall include water surface and land under water. The term "Ordinance" shall refer to this Ordinance and all subsequent additions or amendments thereto.

(b) A developer shall not avoid the intent of this Ordinance by submitting piecemeal applications for preliminary plats or site plans. However, a developer may seek approval of only a portion of the subdivision or development, provided that the impact from all previously approved preliminaries or site plans from that development shall be considered during the adequate public facilities review of each subsequent portion of the development.

2.2 ADEQUATE PUBLIC FACILITIES

For the purpose of this Ordinance, the term "Adequate Public Facilities" shall be defined as those facilities relating to roads, parks and recreational facilities, schools and public safety systems meeting established minimum standards.

2.3 DEFINITIONS

2.3.1 Agricultural Purposes

A parcel of land that has been determined by the Maryland Department of Assessments and Taxation as having an "Agricultural Use Assessment" or a parcel of land that is primarily involved in a bona fide and continuing agricultural activity, such as, the raising of farm products for use or sale, including animal or poultry husbandry, and the growing of crops such as grain, vegetables, fruit, grass for pasture or sod, trees, shrubs, flowers and similar products of the soil.

2.3.1.1 Alternative Mitigation Contribution

An option for mitigation of inadequate school capacity that involves payment of a fee to the County to address impact created by the proposed development, based on a formula defined in this ordinance (not in County ordinance).

2.3.1.2 Background Enrollment Growth

The average annual impact of equated student enrollment changes during the preceding three (3) years in the school attendance areas serving the proposed development as determined in Section 4.4 with appropriate adjustments made in the determination by the Board of Education to eliminate student enrollment changes caused solely by school redistricting.

2.3.2 Board of County Commissioners

The legislative body of Washington County, Maryland.

2.3.3 Board of Education

The elected Board of Education of Washington County.

2.3.4 The City of Hagerstown Comprehensive Plan

The Comprehensive Plan of the City of Hagerstown.

2.3.5 County

Washington County, Maryland.

2.3.6 City Engineer

The City Engineer of the City of Hagerstown

2.3.7 County Engineer

The duly designated Chief Engineer of Washington County, Maryland.

2.3.8 County Health Department

The Washington County Health Department.

2.3.9 Developer

Any individual commencing proceedings under this Ordinance to effect a subdivision or development of land for himself or for another.

2.3.10 Extraordinary Hardship

Extraordinary hardship is a condition that exists when strict compliance with this Ordinance would result in an unusually and extraordinarily severe financial economic impact on the owner or developer.

2.3.11 Immediate Family Member

Immediate family member shall mean father, mother, step-father, step-mother, son, daughter, brother, sister, stepson, stepdaughter, grandchild.

2.3.12 Improvements

Improvements shall mean storm sewers, sanitary sewers, water supply lines, roads, curbs, gutters, gas lines, electricity lines, water lines, septic tanks, wells, walks, and other accessory works and appurtenances, dwellings, farm buildings, and other principal or accessory structures.

2.3.13 Lot

A parcel of real property marked by the developer as a numbered, lettered or otherwise identified tract to be utilized as a unit of land intended for building development or a lot or parcel described by metes and bounds, the description of which has been recorded among the land records of Washington County.

2.3.13.1 Minor Subdivision

Any parcel which has been or is proposed to be subdivided or developed to create seven (7) or fewer units.

2.3.14 Mayor and Council

The Mayor and Council of the City of Hagerstown.

2.3.15 New Development

New development consists of new subdivisions and site plans for new construction received for approval by the City of Hagerstown Planning Commission after the effective date of this Ordinance. New development also consists of construction activity requiring a building and/or zoning permit but does not consist of construction activity for agricultural purposes provided that, after said development, the parcel does not lose the "Agricultural Use Assessment" classification as determined by the Department of Assessments and Taxation.

2.3.16 Original Tract of Land.

A parcel of real estate unsubdivided as of the date of adoption of this Ordinance.

2.3.17 Planning Commission.

The Planning Commission of the City of Hagerstown.

2.3.18 Plat

A map, plan, chart or drawing indicating the subdivision or resubdivision of land filed or intended to be filed for the record.

2.3.19 Remaining Lands

The residual portion or tract of land which remains after lots or parcels have been subdivided from the original tract of land.

2.3.20 Residential Development

The term "residential development" as used in this Ordinance means any lot, building or portion thereof used exclusively for dwelling units, including concomitant uses, and other uses of a residential nature for the individuals residing in said dwelling units.

2.3.21 Right-of-Way

A land area designated, dedicated, or reserved for use as a highway, street, alley, interior walk, or for a drainage channel, or other public use.

2.3.22 Road

A public right-of-way, intended for vehicular traffic, including freeways, expressways, arterials, parkways, thoroughfares, collector streets, local streets, cul-de-sacs, marginal access streets, avenues, boulevards, lanes and other public ways, and as now or hereafter or otherwise designated.

2.3.23 Simplified Plat

The term "simplified plat" as used in this Ordinance is a map, plan, chart or drawing indicating the proposed subdivision or resubdivision of land filed or intended to be filed with the Planning Commission and where the intent of the subdivider is not to develop the land. Any future development would require submittal of a preliminary and final plat.

2.3.24 Site Plan

A drawing that shows all of the existing conditions of a specified area (the site) and all of the improvements and changes proposed to be made on the site. A site plan is the drawing required by the Zoning Ordinance for all new development and certain additions and must contain all applicable information as specified in the Zoning Ordinance.

2.3.25 State Rated Capacity

As used in this Ordinance, State Rated Capacity shall refer to the capacity of each school as determined by the state of Maryland. Portable classrooms shall not be used in computing the school capacity for the purposes of this Ordinance.

2.3.26 Subdivision Ordinance

The City of Hagerstown, Maryland Subdivision Ordinance, and all subsequent additions or amendments thereto.

2.3.27 Zoning Ordinance

The Zoning Ordinance of the City of Hagerstown, Maryland, and all subsequent additions or amendments thereto.

ARTICLE III - ADMINISTRATION

3.1 ADMINISTRATION OF ORDINANCE

This Ordinance shall be administered by the Planning Commission. All applications, maps, and documents relative to subdivision or site plan approval or building permit coming under the provisions of this Ordinance shall be submitted to the Planning Commission.

3.2 JURISDICTION

This Ordinance does not apply to land outside the City of Hagerstown.

3.3 NEW DEVELOPMENT

This Ordinance applies to all new subdivisions and site plans for new construction received for preliminary approval, not to include preliminary consultations under the Subdivision Ordinance or Zoning Ordinance, by the Planning Commission after the effective date of this Ordinance, as set forth in Article XI. Except as provided in this Section or Section 3.5 of this Ordinance, all new development shall meet the requirements set forth in this Ordinance prior to preliminary plat or site plan approval, or prior to building permit approval for those renovation projects not requiring a site plan. Nothing in this Ordinance shall prevent the Planning Commission from approving portions of subdivisions or site plans of new development if the portions of the subdivision or site plan comply with the provisions of this Ordinance. If any plan approval becomes void per City regulations, any approval through this ordinance shall become void. If the Planning Director of the City of Hagerstown ~~Planning Department~~ determines that a site plan or building permit contains minor additions or changes to existing development, the site plan or building permit shall not be subject to the requirements of this Ordinance.

3.4 DISAPPROVAL

New development not meeting the requirements for adequate public facilities contained within this Ordinance shall not be approved by the Planning Commission unless the developer reaches an agreement with the Mayor and Council for the purpose of advancing the adequacy of public facilities, pursuant to Section 8.1.

3.5 SIMPLIFIED PLATS EXEMPT

Subdivisions which can be approved by the simplified plat procedure described in Section 219-29 of the City of Hagerstown Subdivision Ordinance are not subject to the requirements of this Ordinance.

3.6 APPEALS

Any person or persons, jointly or severally, aggrieved by any decision of the Planning Commission, or any other Officer, Department, Board, Bureau of the Jurisdiction, may appeal the same to the Circuit Court for Washington County, Maryland. Such appeal shall be taken in accordance with the Maryland Rules of Practice and Procedures for Judicial Review of Administrative Agency Decisions.

3.7 VIOLATIONS AND PENALTIES

Any violation of this Ordinance shall constitute a municipal infraction and shall be punishable upon conviction by a fine of not less than Two Hundred ($200.00) Dollars or more than One Thousand ($1,000.00) Dollars. Each day that a violation continues shall be deemed a separate offense. In addition to any other remedies, the Mayor and Council may institute any appropriate actions or proceedings to compel compliance with this Ordinance, as provided for in Article 66B of the Annotated Code of Maryland, as amended from time to time.

ARTICLE IV - SCHOOLS

4.1 ADEQUACY

All residential new development shall be served by public schools that:

(a) Are currently adequate; or

(b) Have funded construction capacity, exclusive of any capacity created pursuant to a Developer-funded mitigation program, scheduled for completion within the same school attendance area in the current or the next year of the approved Washington County Capital Improvement Program following preliminary plat approval to be adequate based upon 90% of elementary school State Rated Capacity and to be adequate based on 100% of State Rated Capacity for middle schools and high schools; or

(c) Have been identified by the Board of Education (BOE) as part of an approved redistricting plan scheduled to occur within the current or next year of preliminary plat approval that will render the public schools adequate.

4.1.1 Capacity created by Mitigation Program

Construction of capacity that is funded and to be created by a mitigation program may not be used in a determination of adequacy for any Developer other than the Developers who are parties to the mitigation program.

4.2 EXEMPTIONS

Article IV of this Ordinance does not apply to:

(a) New development to be developed exclusively for non-residential uses;

(b) New development to be developed according to federal regulations restricting occupancy in the dwelling units to elderly persons;

(c) Minor residential subdivisions as defined in Section 2.3.13.1, as well as an equivalent amount of new dwelling units within City boundaries per high school attendance area in a given year as were exempted by the County in the prior year in the North Hagerstown High and South Hagerstown High school attendance areas;

(d) Public or private elementary and secondary schools and public safety facilities;

(e) New development requiring only a building permit for approval which does not result in the creation of additional dwelling units on the property;

(f) New development of single-family or two-family dwellings on existing lots of record requiring only a building permit for approval;

(g) Developments which have preliminary plat or site plan approval prior to the effective date of this Ordinance; or

(h) Developments requiring only a building permit for approval (e.g., renovation projects) which had building permits submitted prior to the effective date of this ordinance and which have construction underway no later than six months following issuance of permits.

(i) Changes to existing development or already approved development if those changes do not increase the result of the pupil generation formulas approved by the County Commissioners from that which was previously generated by the existing development or already approved development.

4.3 DATA ON WHICH ADEQUACY SHALL BE DETERMINED.

The Board of Education shall provide actual enrollment data to the City of Hagerstown for the last school day of September, December, March and June and the State Rated Capacity for each elementary and secondary school.

4.4 DETERMINATION OF ADEQUACY

4.4.1 The Planning Commission of the City shall determine whether public school facilities are "adequate" for the proposed new development upon recommendation by the Planning ~~Department~~ Office of the City after evaluating enrollment information provided by the Washington County Board of Education (BOE). The Planning Commission shall determine that a school is adequate if the school has the capacity as follows:

(a) Elementary schools are adequate if the school has available capacity to accommodate student enrollment, including new development without exceeding 90% of the State Rated Capacity (SRC) for each school.

(b) Middle schools and high schools are adequate if the school has available capacity to accommodate student enrollment, including new development without exceeding the State Rated Capacity established for each school.

(c) Available capacity for individual schools shall be determined in accordance with 4.5 below.

(d) Preliminary Plat or site plan approval, or building permit approval for projects that do not require site plan approval (e.g., renovation projects), will not be granted for developments in the review process until the affected schools obtain adequate status.

4.5 MEASURING FOR AVAILABLE CAPACITY

(a) Adequacy of every elementary, middle and high school serving the proposed development shall be measured at the time of preliminary consultation, preliminary plat review, or site plan review, or the first date upon which all necessary documentation and materials have been submitted, whichever occurs last, based upon data as published by the BOE.

(b) If approval has not been received from the Planning Commission within ~~six (6)~~ 12 months of the date of plan submission, the most recent quarterly school enrollment data must be utilized by the Commission for APFO review unless a delay occurs not attributable to the applicant.

(c) For determining adequacy, enrollment shall mean the total of the BOE official enrollment figures, background enrollment, pupils generated from the proposed development, and other previously approved developments.

(d) On a biennial schedule, student yield from approved development may be subtracted from the equation to determine adequacy in an amount equal to the number yielded by the dwelling units constructed.

~~(d)~~ (e) Pupil generation rates shall be determined using the formulas proposed by the BOE and adopted by the Board of County Commissioners and shall reflect the characteristics of the school attendance area within which the proposed development is located.

4.5.1 Options for Mitigation of Inadequate School Capacity

(a) If a school is not adequate as defined in this ordinance but does not exceed 120% of State Rated Capacity, a developer may choose to make an Alternate Mitigation Contribution (AMC) as defined and described in Section x.x. A developer may not choose to make an Alternative Mitigation Contribution (AMC) if the existing enrollment in any school affected by the new development exceeds 120%.

~~(e)~~ (b) If a school is not adequate as defined in Section 4.4.1 and an adjoining school attendance area at the same level is at least twenty (20) percent below State Rated Capacity, then the applicant may request the BOE to determine the viability of redistricting to accommodate the new development. If the BOE determines that redistricting is a viable alternative, and the BOE approved a specific redistricting plan that would result in all the schools serving the proposed development meeting the standards established in Section 4.4.1, then the school shall be considered adequate.

~~(f)~~ (c) If a school is not adequate, and the BOE has not approved a specific redistricting plan that would result in the school meeting the standards established in Section 4.4.1, then the preliminary plat of subdivision or site plan approval shall be denied, except as provided for in Section 8.3A.

~~(g)~~ (d) Improvements necessary to meet the standards herein shall be determined by the Planning Commission and may be provided by the developer. Any developer proposal to create improvements to meet adequacy shall be submitted to the Board of Education for recommendations and reviewed under any BOE adopted mitigation policy then in effect and be subject to the standards and review processes of the Interagency Committee on School Construction (IAC) of the Board of Public Works of the State of Maryland.

~~(h)~~ (e) Background enrollment growth will be extrapolated over the number of years for which approval is requested. Included in the calculations shall be any additional approved but unplatted major preliminary plan developments in the affected area which might impact the historical growth trend to make it inaccurate or obsolete.

~~(i)~~ (f)The Planning Commission may require phasing or an annual maximum build-out rate to plan for future adequacy.

4.6 RESIDENTIAL BUILDING PERMIT APPROVAL

4.6.1 The Mayor and Council shall have the authority to limit the number of building permits in any school attendance area. The decision to limit building permits shall be based on the recommendation of the Planning Commission upon receipt of a recommendation from the BOE taking into consideration of the adequacy of a school attendance area and enrollment capacity in immediately adjacent school attendance areas.

4.6.2 The Mayor and Council shall have the authority to cap the number of residential building lots approved for development on an annual basis.

4.7 Alternate Mitigation Contribution (AMC)

(a) When any school affected by the new development exceeds adequate capacity as defined in this ordinance but does not exceed 120% of its State Rated Capacity, a developer may choose to make an Alternate Mitigation Contribution (AMC) as described and calculated below.

(b) The formula to calculate the AMC is (A/BxC)xDxE=AMC, where "A" is the average cost of a school seat; "B" is the expected lifespan of a school or seat; "C" is the average pupil generation rate attributable to the type of dwelling units proposed as set by resolution and referenced in sub-section (e) below; "D" is the years a student spends in the school system (e.g., 13 years); and "E" is the number of dwelling units, per type (i.e., single family, apartment, and/or townhouse), proposed in the new development.

(c) The formula in sub-section (b) above shall be applied for each type of dwelling unit comprising the new development. The sum of all calculations for each type of dwelling unit will be the total AMC due for the proposed development.

(d) When the AMC is required in order to achieve preliminary plat ("final plat" in County ordinance) or site plan approval, the City will notify the applicant of the amount due at the time that it is determined the preliminary plat or site plan is complete and ready for an unconditional approval. The AMC shall be paid in full for the applicable units (change in City ordinance) to the County prior to affixation of the signature evidencing the Planning Commission's approval of the site plan or final subdivision plat.

(e) The actual factor values to be used in the formula specified in sub-section (b) above shall be established by resolution of the Board of County Commissioners. The factor values shall be reviewed by the Board at its discretion, but at least by the end of every second year of each term of office.

(f) Any sums paid as an AMC are not refundable.

ARTICLE V – ROADS
(To be Added)

ARTICLE VI - SEWAGE DISPOSAL SYSTEMS
(To be Added)

ARTICLE VII - WATER SUPPLY AND DISTRIBUTION SYSTEMS
(To be Added)

ARTICLE VIII - EXCEPTIONS, AGENCY PARTICIPATION

8.1 Nothing under the terms of this Ordinance shall prohibit or prevent the Mayor and Council or any governmental body from reaching an agreement as to a mitigation program with a developer for the purpose of advancing the adequacy of public facilities as required by this Ordinance. Prior to entering any such agreement, the Mayor and Council shall invite comment from the BOE and shall gain the approval by the Board of County Commissioners as follows:

(a) If the mitigation program is in compliance with the standards set forth in Section 9.3A of the Washington County Adequate Public Facilities Ordinance, it shall be deemed approved.

(b) If the Board of County Commissioners determines that the mitigation program is not in compliance with Section 9.3A of the Washington County Adequate Public Facilities Ordinance and withholds its approval it must set forth in writing the reasons for withholding approval with specific findings of fact based on substantial evidence.

8.2 Notwithstanding any other provision or term of this Ordinance, neither the Mayor and Council nor any governmental body shall be compelled to enter into an agreement as to a mitigation program with a developer for the purpose of advancing the adequacy of public facilities as required by this Ordinance.

8.3 A mitigation program may be agreed to including, but not limited to, the types, methods and schedules for the implementation of the mitigation program for the purpose of advancing the adequacy of public facilities.

8.3A In its sole discretion, the Mayor and City Council or its designee may approve a mitigation program, subject to the approval of the Board of County Commissioners, that allows a development to proceed in a school attendance area otherwise designated as inadequate for development under the following conditions:

(a) The Mayor and City Council determines that approving this development benefits the community by:

(i) encouraging certain types of development that offer advantages to the community, including but not limited to the following:

(1) development in designated revitalization areas;
(2) renovation of abandoned or under-utilized structures;
(3) affordable or workforce housing; or
(4) community revitalization projects.

(b) Development occurring while a particular school is in an inadequate status must not cause the enrollment level at that school to reach a level where temporary measures such as portable classrooms are not sufficient to prevent the class size from rising beyond the class size based on State Rated Capacity or prevent the school's core services from serving the increased number of students in an acceptable manner.

(c) A mitigation program for major subdivisions under this section must provide for improvements that will occur within three years in order to return a school attendance area to adequate status.

(d) A mitigation program proposed under this section must include an acceptable phasing program for the development that is approved by the Mayor and City Council or designee.

(e) Any developer-funded mitigation program construction project shall be excluded from the adequacy testing calculation in Article 4 of this Ordinance.

8.4 With regard to any public facility required to be adequate under the terms of this Ordinance, the Mayor and Council of the City, the state of Maryland, Washington County or any other governmental body, may elect to participate in the cost of any necessary improvements to advance the adequacy of facilities as required by this Ordinance.

8.5 Any mitigation program shall be contained in a legal, binding, adequate public facilities agreement between the developer or other responsible party and the Mayor and Council. Such agreement must have been approved for form and content by the Office of the City Attorney.

8.6 A mitigation program shall be binding on the heirs, successors, and assigns of a project and shall run with the land. The subdivision plat or site plan for the property shall contain references to the mitigation program.

8.7 If a developer fails to agree to a mitigation program to assure adequacy of public facilities, the Planning Commission shall disapprove the project for want of adequate public facilities as required by this Ordinance.

8.8 The Mayor and Council shall require security as appropriate to cover the costs of the facilities and lands not under the developer's ownership that are part of a mitigation program providing for deferred payment of fees, in a form acceptable to the Mayor and Council. The amount of the security shall be reduced as payments are made under the mitigation program. Upon default, the Mayor and Council shall have the authority to redeem the security in addition to any other remedy provided by law.

ARTICLE IX - VALIDITY

If validity of any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance is, for any reason, held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

ARTICLE X - PERIODIC REPORTS

The Planning ~~Department~~ Office of the City of Hagerstown, beginning six (6) months from the date of the effective date of this Ordinance, shall periodically review whether there is a continuing need for this Ordinance or suggested amendments at an open, public, advertised meeting.

ARTICLE XI - EFFECTIVE DATE

This Ordinance is effective as of May 25, 2006. Adopted this 25th day of April, 2006. This Ordinance was amended on October 24, 2006 and those amendments became effective on November 23, 2006.

Section 2. This Ordinance shall become effective at the expiration of thirty (30) calendar days following its approval.

BE IT FURTHER RESOLVED, ENACTED AND ORDAINED, that if at any time this Ordinance becomes detrimental to the ability of the City to administer its policies and goals affecting growth and development in the City, that it may repeal in part or in total this Ordinance and if so repealed it may no longer retain 28% of the County excise tax collected within the City.

WITNESS AND ATTEST
AS TO CORPORATE SEAL

____
Donna K. Spickler,
City Clerk

MAYOR AND COUNCIL OF THE
CITY OF HAGERSTOWN, MARYLAND

____
David Gysberts, Mayor

Date of Introduction:
Date of Passage:
Effective Date:

REQUIRED MOTION

MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND

Topic:

Revisions to Crime Free Housing Proposal and Chapter 95 of the City Code

Mayor and City Council Action Requested:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

Name:	Description:
Crime_Free_Housing.pdf	Crime Free Housing
Crime_Free_Housing2.pdf	Revisions to Crime Free Housing Proposal and Chapter 95 of the City Code

City of Hagerstown
MARYLAND

DEPARTMENT OF POLICE
50 N. Burhans Blvd.

Non-Emergency 301-790-3700
Emergency 301-739-6000
Fax 301-733-5513

November 14, 2013

To: Bruce Zimmerman
City Administrator

From: Chief Mark Holtzman

CC: John Lestitian
Director of Comm. Economic Development

Re: Revisions to Crime Free Housing proposal and Chapter 95 of the City Code.

The below revisions have been made to the proposed Crime Free Housing ordinance and Excessive Use of Police Services (Chapter 95) following the discussion with Mayor and Council on November 5th. Additionally, a new definition for an Apartment Complex was added to differentiate high-rise apartment buildings and apartment complexes from a more traditional multi-unit structure.

Crime Free Housing Revisions

1. Added a definition of a Rooming House Facility and Rooming Unit
2. Clarification for exemption of non-profit temporary shelters or treatment facilities

Chapter 95 Revisions

3. Added a definition of Apartment Complex and modified the definition of Multi-Unit Residential Property to permit the two definitions to mesh.
4. Updated the Chronic Nuisance Property calls for service threshold.

Type of Property	Minimum # Qualifying Calls
Commercial	8
Residential	3, or 2 if one is a felony
Mulit-Unit Residential	4
Apartment Complex	8

5. Included "on, at or in" language at both Sections 95-3.E. and 95-5.
6. Included the annual publishing requirement in Section 95-4.

Chapter 197 – No changes

CITY OF HAGERSTOWN, MARYLAND

A RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF HAGERSTOWN AND UNIVERSITY OF SYSTEM OF MARYLAND AT HAGERSTOWN CONCERNING POLICE SERVICES AT THE UNIVERSITY

RECITALS

WHEREAS, the University System of Maryland at Hagerstown (USMH) desires to have the Hagerstown Police Department continue to provide certain policing services at the University facility; and

WHEREAS, the City of Hagerstown, Maryland, currently maintains and desires to continue to maintain a substation at the University System of Maryland, Hagerstown facility; and

WHEREAS, the City and USMH desire to establish their mutual rights and obligations with respect to the policing services to be provided, the substation and other related issues at the University System of Maryland at Hagerstown facility; and

WHEREAS, the City and USMH previously entered into a Memorandum of Understanding for Police services at USMH, the term of which has expired; and

WHEREAS, the Mayor and Council of the City of Hagerstown find it in the best interests of the citizens of the City to do so;

NOW THEREFORE BE IT RESOLVED by the Mayor and Council of the City of Hagerstown, Maryland, as its duly constituted legislative body, as follows:

1. The foregoing recitals be and are hereby incorporated herein by reference.

2. That the Mayor be and is hereby authorized to execute and deliver the Memoranda of Understanding between the City of Hagerstown and University System of Maryland at Hagerstown, copies of which are attached hereto and incorporated herein by reference.

3. That the Mayor be and is hereby authorized to execute and deliver any other documentation that may be necessary to effectuate the purposes of this resolution.

BE IT FURTHER RESOLVED that this Resolution shall become effective immediately upon its approval.

ATTEST:

BY: ________________________________
Donna Spickler, City Clerk

Date of Introduction:	November 26, 2013
Date of Passage:	November 26, 2013
Effective Date:	November 26, 2013

CITY OF HAGERSTOWN, MARYLAND

BY: ________________________________
David S. Gysberts, Mayor

PREPARED BY:
NAIRN & BOYER, LLC
City Attorney

MEMORANDUM OF UNDERSTANDING
between the
CITY OF HAGERSTOWN
and the
UNIVERSITY SYSTEM OF MARYLAND AT HAGERSTOWN

This Memorandum of Understanding ("MOU") between the City of Hagerstown and the University System of Maryland at Hagerstown ("USMH") sets forth the principles, terms, and conditions under which the Hagerstown Police Department ("HPD") will provide certain police services at the University System of Maryland Hagerstown Education Center, Hagerstown, Maryland

Recitals

The University System of Maryland at Hagerstown (USMH) is a regional higher education center operating under the aegis of the University System of Maryland at facilities in Hagerstown, Maryland.

USMH desires to enter into this MOU to provide certain policing of USMH and its surrounding property and the City of Hagerstown agrees to provide those services through its police department pursuant to the following terms and conditions:

I. Term

a. The term of this MOU shall be from July 1, 2013 through June 30, 2016. The term may be renewed or extended upon the mutual written agreement of both parties, under such additional terms and conditions as the parties mutually agree. The parties agree to discuss renewal terms at least (90) ninety days prior to June 30, 2016.

II. Rights and Responsibilities of the University System of Maryland at Hagerstown

a. USMH shall provide a room on the ground floor of USMH's Main building, located at 32 W. Washington Street, to serve as a police substation for HPD. The substation shall be located in Room 105. Room 105 is equipped with an interview area, data ports and telephone lines. Currently, there is no charge for phones or copiers. Two desks, one table, and several chairs have been provided at no charge. Room 105 has an outside entrance that provides access to the Substation for police officers. USMH will provide access to the restrooms for use by the police officers. The bicycles used by the police officers are stored in an area by the back alley door on a bicycle rack.

b. USMH shall provide HPD with a classroom for any in-service training when requested by HPD, at a rental rate of $18.00 per square foot for the space utilized. Additionally, should HPD desire to again rent space for its Western Maryland Police Academy in the future, USMH will accommodate HPD's request.

c. USMH has installed and maintains a "blue light" emergency telephone on the USMH grounds.

d. USMH has no expectation of rental income or other compensation for HPD's continued use of this space. The only consideration due USMH is performance as outlined in this document under III, below.

e. The primary contact for the implementation, modification or amendment of this MOU shall be the USMH Executive Director.

III. Rights and Responsibilities of the Hagerstown Police Department.
HPD will make every reasonable effort to fill the following responsibilities based on manpower availability.

a. HPD agrees to conduct "walk-thrus" of USMH, the University Plaza and the property behind the Main building, and the adjacent parking garage each Monday thru Thursday evening, preferably after dark.

b. HPD agrees to provide Monday thru Thursday evening coverage for the University District between 7:00 pm and 11:00 pm, ensuring coverage while evening USMH students are entering and exiting the buildings.

c. HPD agrees to assist USMH with the enforcement of the "No Smoking" ordinance in University Plaza, and with vacating any individuals refusing to leave UP after 10:00 pm. A portion of the USMH property adjacent to the University Plaza is exclusively reserved for use for USMH activities and by USMH students. Said Reserved Area is depicted on the attached Exhibit 1. HPD shall assist USMH in the enforcement of this exclusive use in the Reserved Area.

d. HPD shall respond to any and all "blue light" emergency phone calls on USMH grounds. All telephone calls from the "blue light" will be picked up at the Emergency Communications Center.

e. University Plaza gates, which are locked by USMH on Monday – Thursday evenings when classes are in session, shall be unlocked by HPD (or others as directed by the Chief of Police) on Tuesday – Friday mornings at 6:00 am. This MOU does not require the City to lock the gates when not locked by USMH.

f. In order to facilitate USMH's responsibilities for reporting crimes pursuant to the Cleary Act, HPD agrees to establish a special crime district consisting of the USMH grounds, adjacent public property, and the parking garage used for the USMH (the "University District"). Crime statistics in this special district shall be submitted to the USMH Executive Director at least annually at the request of USMH.

g. HPD agrees not to use the Substation as a holding area for prisoners or suspects. If an arrest occurs at the Substation after an interview has taken place, HPD must immediately relocate the individual(s) to an appropriate detention facility or jail.

h. HPD shall provide all other furnishings for the Substation not specified in this MOU.

i. The primary contact from the City of Hagerstown for implementation, modification, or amendment of this MOU shall be the Chief of Police of the HPD.

IV. Modification and Amendment

a. This MOU may be modified or amended only in writing by mutual agreement of the parties.

IN WITNESS WHEREOF, the authorized representatives of the City of Hagerstown and the University System of Maryland at Hagerstown have signed this MOU on the date and year written below.

CITY OF HAGERSTOWN

______________________________________ Date: ____________________________

David S. Gysberts
Mayor

UNIVERSITY SYSTEM OF MARYLAND
AT HAGERSTOWN

______________________________________ Date: ____________________________

Mark C. Halsey
Executive Director

REQUIRED MOTION

MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND

Topic:
7:05 p.m.

Mayor and City Council Action Requested:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

Name:	Description:
No Attachments Available	

REQUIRED MOTION

MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND

Topic:

Mayor and City Council Action Requested:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

Name:	Description:
No Attachments Available	

REQUIRED MOTION

MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND

Topic:
7:15 p.m. Executive Session

Mayor and City Council Action Requested:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

Name:	Description:
No Attachments Available	

REQUIRED MOTION

MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND

Topic:
8:00 p.m.

Mayor and City Council Action Requested:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

Name:	Description:
No Attachments Available	