

SPECIAL CALL CITY COUNCIL MEETING

*Tuesday, October 26, 2021
6:00 p.m.
City Hall, Council Chambers*

ROLL CALL

Present: Council Member Franke, Mayor Hark, Council Members Bowen, Welch, Veach, McCoy and Mayor Pro Tem Dobson – 7

Absent: - 0 -

CALL TO ORDER

There being a quorum present, Mayor Hark called the meeting to order.

JAMES HARK - MAYOR

Re: Infrastructure Planning, Development & Funding

Mayor Hark advised the purpose of this meeting to discuss infrastructure planning, development and funding for stormwater. He advised input has been received from Council and the Hannibal Board of Public Works (HBPW) and hopefully a decision can be made or a least a plan can be put in place.

Mayor Pro Tem Dobson started off the discussion referring to the Black & Veach study, page nine (9), which explains how a stormwater program costs would be funded if voters do not approve a stormwater user fee. Their comments were stormwater program costs would have to be recovered through sewer rates. The average monthly residential sewer bill would increase \$6-9 per month. Sewer funding of stormwater results inequitable costs recovery of parcels with no current utility bills impact the stormwater program but would not contribute their own fair share of cost. He advised in their own study it lays out a plan if voters didn't approve the utility fee. Basically, he reads it as the HBPW can create their own utility fee, if the voters didn't approve it. He wanted City Attorney James Lemon's view on this, however he was not present at the meeting yet. Council Member Franke advised, he is not speaking on Lemon's behalf, however, he has a recollection of Lemon saying this was no longer an option. He believes it had something to do with the Missouri Supreme Court ruling but wasn't sure. HBPW General Manager Darrin Gordon advised that at the end of page nine it states, funding the stormwater programs with sewer rates would result in inequitable cost recovery.

Council Member Franke advised that a few weeks ago during the last Special Called Council meeting, resulted in very good discussions between Council and the HBPW. He personally learned a lot and felt it was very productive. However, during his walk home he was thinking to himself there are two problems, two different solutions and neither solution solves the other

issue. He stated that neither problem can be ignored, they won't go away, that's how the City/HBPW ended up in the situation it is in today, due to them being ignored. One of the problems is the sidewalks and alleyways and the other, infrastructures that desperately need attention. He stated the sales tax can't be strictly dedicated for stormwater, which he feels is a good thing so those tax dollars can be used on other infrastructures. On the other hand the City has a stormwater system, that in 2005, 16 years ago, Burns & McDonnell presented at least \$50 million dollars of liabilities. His understanding of that report, which was not an in depth report, is the liability is much higher than \$50 million dollars. In the long term, the only way to solve the problem is a dedicated fund source. He suggests doing both, a sales tax increase and a stormwater utility fee. He feels the sales tax should be placed on the April ballot as a dedicated capital improvement tax. In the meantime, HBPW can prepare to place a stormwater utility fee on the November ballot. Again ignoring one problem does not make it go away and neither plan is a solution for both. If one of the ballot issues fail, so be it, we can try again and again until it gets passed. He would rather "strike out swinging" then wait for the perfect opportunity. HBPW Board Member Cogdal advised that she feels the only one saying that the City/HBPW can't do both, is themselves.

Council Member Welch feels that is a pretty good idea. He feels rushing a stormwater utility fee won't work. Agreeing with Council Member Franke, the City's infrastructure definitely needs work and tackling both issues at once is too much stress at one time. He thinks it's a great idea to try to get both solutions passed, the sales tax and stormwater utility fee. Since the sales tax increase won't be strictly for stormwater repairs, this means the City can fix other infrastructure problems.

Mayor Pro Tem Dobson advised he is of the mindset that he wouldn't delay putting the stormwater utility fee on ballot, it was also his understanding that it would have to be a property tax. If the City is looking at a property tax, he believes it would be three years before any funding would be available and he feels it can't wait that long. He feels Matt Munzlinger, Director of Operations for HBPW, did a good job promoting the issue the first time it was placed before the voters, as it only lost by a couple of votes. He feels that the public has a perception and it was positive enough to only lose by a couple of votes, and if the public can be educated and volunteers are willing to knock on a couple of doors, he feels it will pass this time.

HBPW Board Member Dees, questioned if Council had the authority to raise the property tax on its own, in which Mayor Pro Tem Dobson advised no due to the Hancock Amendment it has to go to the vote of the people.

Council Member Franke advised he "bungled" the information earlier, he stated it would have to be collected via property tax bill but it wouldn't necessarily have to be. Even on the property tax bill it would be billed as a fee. There are options, it could be collected on a utility bill or could be collected on property tax bill through the Marion County Collector. Dees questioned if it would be a "line item" on the bill such as the ambulance fee. Munzlinger advised the County could do it that way, however, when the HBPW was discussing this with the County during the initial collection phase of the project, they advised they would need the information in August so that tax bills can be printed and disbursed in a timely manner. If the voters did pass the issue in April, the increase should be able to get on the next year's tax bill and the City would start receiving revenue the end of December 2021, beginning of January 2022. Munzlinger advised it won't be a "quick" turnaround for revenue. Dees advised at least it would help with the planning process of infrastructure, and be a long term solution and you can start making plans. Mayor Pro Tem Dobson advised you would also have the ability to bond as well. Dees advised it is about

getting the increase on the property tax bill as opposed to relying on the sales tax, which is inadequate.

Council Member Bowen questioned Dees what he is referring to when he says inadequate, in which Dees advises he is talking about the sales tax. Council Member Bowen advised the amount required to increase property taxes to equal the same as a half-cent sales tax increase would be 300-400%. He advised that a half cent sales tax would be easier to get passed by the voters then quadrupling property tax.

Council Member Veach advised the Charter states the HBPW has the “power” to set rates for the stormwater utility, and questioned why it has to go to the vote of the people? Council Member Franke advised due to the Missouri Supreme Court ruling which states the City could not create a fee without a vote. It states you could use impervious area but it has to be approved by the vote of the people. He advised that he likes the idea of the tax increase “going first” in April, mostly because it is smaller, revenue wise, and could be more palatable and it can provide emergency funding for projects, such as North Street. Council Member Franke stated the reason he is ok with the stormwater utility fee being on the November ballot is because as soon as a dedicated fee is approved by the voters, the City can start borrowing against it.

HBPW Board Member Fisher questioned what is the time period needed by the HBPW to set up a collection process? Munzlinger advised if going through the counties, they need the information in August. If using the utility billing software, it would be about 13 months to build all the “back end things” in order to add to utility bills. Munzlinger advised the biggest problem with using the utility billing software is not every address is billed, whereas the county knows who the property owner is and can track property owner changes. Fisher then questioned if it was feasible for the HBPW to put the issue on the April ballot and then have all the needed information to the county in August. Munzlinger stated it would depend on how the fee is assessed, whether it was just a flat fee or an impervious area. The flat fee would be an easier, quicker turn around, however, if it is on the impervious fee, that timeframe would be tighter.

Council Member Bowen stated he is opposed to a full property tax bill amount, he doesn't care how the City goes about “getting the fee” of the stormwater in November. He just doesn't think it's a good idea for the fee to be lumped into one sum at the end of the year. He feels if it could be broke down monthly that would be better, and feels that would be more feasible for citizens.

Council Member Franke questioned Council Member Bowen if he was for a sales tax increase on the April ballot and a stormwater utility fee on the November ballot, in which he said he is in favor of that. HBPW Board Member Cogdal advised that if you put both of the issues on the same ballot, she feels it will “split the votes”, and the voters will choose “either, not both”. You really need to know your voter base and she feels the public is being underestimated. Mayor Hark advised that the City needs to be careful on the language of the ballot, to not make it too challenging and having two different issues on the same ballot may confuse voters and you may get a false failure.

HBPW Board Member Cogdal advised you can't approach educating the public until you know what you are educating them on. She feels a lot of things needs to be decided on and figured out before going to the voters and asking them to approve it. She stated the City/HBPW doesn't need to rush into anything until they know everything to ensure the voters will pass it. Mayor Hark feels that if someone isn't “touched” by it, and you aren't real versed in the issue and you may not understand the severity of the problems.

HBPW Board Member Dees stated the question is, how does an informed group like the Council and the HBPW inform the citizens? In other words, if you run for City Council, you can go door to door to promote, however he knows there are limitations on what can be done to educate. Council Member Franke stated from a sales tax perspective, he can't speak to that, however, from a stormwater perspective that is laid out in the Black & Veach report. After the ballot issue failed in 2019, the HBPW main takeaway was that not enough information to answer all the questions was available. The HBPW then went back to Black & Veach to help answer the questions, and came up with a nine step process to do just that. He advised the ninth step in the process was to create a stormwater advocacy group comprised of, theoretically 15-16 people, including Council Members, HBPW Board members, City and HBPW staff and citizens. Those members would be educated closely on the process and the specifics, and that group would educate the citizens. He feels it's a good idea to involve as many people as possible. HBPW Board Member Dees feels that volunteers are needed to educate the citizens, and they can go door to door. A Council Member or HBPW Board Member should be able to direct citizens to a website or to someone in the group to address questions. HBPW Board Member Dees questioned Council Member Franke if he is proposing one group to educate about the sales tax and another group to educate about the stormwater utility, in which he concurred.

HBPW Board Member Ortwerth stated that since the half cent sales tax increase won't cover all of the needed infrastructure repairs, he agrees that it should be two separate issues since the numbers don't add up. Since bonding can't be done unless there is a dedicated income stream, he believes the City/HBPW should pursue both avenues, not concurrently. Council Member Franke agrees with Ortwerth and feels if they start to "sell" the sales tax increase as a stormwater solution, it might dilute the passing of the utility fee in November. Also, the City has enough alleyways, streets and other infrastructure repairs to "sell" the sales tax increase.

HBPW General Manager Gordon also feels it a great idea to split the two issues. The thought of how HBPW is going to collect the stormwater fee, as mentioned there have been two options mentioned. He feels the more complex it is, the harder it will be to educate and explain to voters. He feels the impervious fee route, will take close to a year to get implemented. He agrees, letting Council handle the sales tax increase for infrastructure, the HBPW handle the stormwater utility fee, then both can come together and help each other educate to ensure the passing of both. This way both entities can be on the "same page". Both issues have to be ran by City Attorney Lemon to ensure neither are overstepping when it comes to ethics. He feels this is definitely a step in the right direction, moving forward.

Lemon advised the main thing to watch is staff involvement, the City Council and the HBPW Board are not getting paid in such a way that the Ethics Commission can tell them they can't do it. Individual citizens can do what they want, obviously citizens can ask, via a sunshine request, for information. Lemon stated the biggest way to run a "foul" with the Ethics Commission is to delegate any of these chores to the staff, even if it's "off hours", you still run the risk of a violation. Gordon asked for clarification from Lemon if he has someone ask for clarification regarding stormwater, he has to give them that information, in which Lemon advised absolutely. Peck advised the sunshine law does not require you to "create documents", however, it requires you to give all information within the guidelines of the Sunshine Law, including pictures, if they are available. Peck stated that if you receive just a listing of questions that's not a document, in which Lemon advised that's not considered a proper sunshine request. The public also cannot require the entity to answer some type of derogatory questions, for instance, they can't ask if this happens what will happen next, that is not a proper sunshine request.

HBPW Board Member Ortwerth asked if they could concentrate on the stormwater utility fee for a second and presented a table showing the pros and cons of collecting the impervious fee versus a base acreage fee.

Cons for the impervious fee:

- 12 month delay to implement within NISC billing system.
- \$17,000(estimate) for initial satellite overlay services to determine impervious square footage.
- Added monthly billing costs for adding a utility to NISC billing system (estimated \$2,000 per month.)
- Additional administration needed for a policy for appeals.
- Need administration personnel for appeals to squarefootage calculated.
- Additional administration for bills to remote owners must be set up.
- Additional administration to set up and maintain accurate bills to and from county records
- Additional administration that must track additions to impervious area when drive ways, garages, parking lots or additions are added.

Pros for impervious fee:

- Appearance of fairness based on run off generated per parcel of land.
- Revenue comes monthly.
- Fee may be able to be charged to current exempt land owners.
- Have leverage to collect since fee is connected to electric and water bills.
- Lien on property is available.

Pros for the base acreage fee:

- It would be billed through County Collector same as City Real Estate tax.
- Have square footage on file already.
- Land sales will track changes in lotsize and owners.
- Minimal additional tracking on physical tracks.

Cons for the base acreage fee:

- 1%-2% fee paid to County Collector for service of collection.
- Initial setup of the agreed revenue per track of land.
- No extra administrative costs to track owners.
- Renters may get rent increases if landlord adds cost to rent.

Council Member Franke thanked Ortwerth for his time for putting the table together. However, in his opinion, the City has alley ways and roads to focus on. He would also like for the Council to focus on the best way to develop a sales tax idea while giving the HBPW the authority and directive to figure the stormwater utility fee on their own. The HBPW can come back to Council with updates, along with ideas and solutions.

Mayor Pro Tem Dobson questioned if the HBPW has talked to the County Collector about the assessed valuation that the City has overall, to see what percent increase it would need to charge to cover the stormwater fee. Ortwerth advised it wouldn't have anything to do with assessed valuation, it would only have to do with a property's square footage. He received information from the assessor's data base today with nearly 8,000 parcels. He then had Munzlinger subdivide into different sizes, accounting for small buildings within the City, all the way out to 50 acre lots. Mayor Pro Tem Dobson indicated he is confused due to the County not assessing by

acreage, instead by property values. Ortwerth advised they have the data field in their software that does the calculation of square footage. He is not talking about doing anything with valuation, just using square footage of a parcel and then multiplying the designated amount of the stormwater fee, whatever it is determined to be, by the amount of square footage, and that would be the annual amount that is due that would be a "line" item on their bill. Mayor Pro Tem Dobson stated the Black & Veach study advised that the HBPW would need to generate \$6-9 per month on the impervious fee and questioned if the goal would be to collect approximately \$120 a year on the average lot. Ortwerth did some spreadsheets experiments and in order to come up with the annual amount that is proposed, it would actually be \$13-14 per month added to the majority of residential lots. In other words for a property owner with a "regular" lot, with a house would pay \$15 per month or \$180 per year, which would get collected at the end of the year. The downside of collecting it that way would be that it only gets collected once a year in December/January. Mayor Pro Tem Dobson questioned Ortwerth what he predicted that would bring in on an annual basis, in which he advised \$1.2 million. Council Member Franke advised that Black and Veach estimated it would take \$3.5 million a year, Ortwerth is unsure of how they came up with that amount unless HPBW would charge \$25-30 per month. Munzlinger advised the way Black and Veach came up with the difference is the bigger lots are almost completely impervious areas. They would be charged more, however a "normal" sized residential lot would be charged \$6-7 per month. Ortwerth advised for instance Clover Road Christian Church would be paying as much as 75 houses, due to their parking lot and building. Council Member Franke advised the study mentioned that on average, where commercial lots would pay \$300 per month and a residential lot would pay \$9 per month. Council Member McCoy asked the average cost he is referring to is using impervious area, in which Council Member Franke concurred.

Council Member McCoy questioned if the HBPW used the base acreage fee, would they also tax, or fee, General Mills and all commercial lots, churches, etc. or just residential? Ortwerth advised everyone would be assessed. He is just afraid of the complexity of an impervious fee and trying to get the satellite to keep up with images, along with the overhead of what it will cost in extra administration fees, he feels the base acreage fee would be simpler to explain to citizens/customers than the impervious fee.

Mayor Pro Tem Dobson questioned if the HBPW have looked into assessed valuations, as he feels that would be more fair or increasing the assessed value by a certain percentage. Ortwerth advised he was thinking the idea of gross bare surface, total amount of square footage, not what someone values the property at. He's not sure it would "fly" but feels it would be easier to explain.

Council Member Franke again thanked Ortwerth for the information, however, he doesn't feel anything can be decided tonight on how the stormwater utility fee will be assessed. In his opinion the goal of tonight's meeting would be to agree on the City focusing on the sales tax increase and developing what they want that to look like and giving the HBPW directive on focusing on the stormwater fee. Then they all can come back, together with a plan.

Mayor Pro Tem Dobson advised that the City is losing a key employee to another business who is paying \$20,000 more, to him that is making a statement about the City's salaries. The City Manager could even go elsewhere and be paid more. This also doesn't take into consideration the windows that need replaced at City Hall, all the neighborhoods that need to be taken care of and all the alleyways and infrastructures that need repaired. These are all needs that the City doesn't have the funds for.

Mayor Pro Tem Dobson then made a motion authorizing a half cent sales tax increase to be placed on the April, 2022 ballot, with the cognitive language to be determined at the next Council meeting. Council Member Franke seconded the motion.

Larry Craig then asked if he could speak to Council as he has a couple of questions. His first question, does the City not already have a half-cent sales tax for roads? In which Mayor Hark advised it does. Council is now proposing adding another half cent to take care of alleys, roads, etc., which would be a total of 1%, if voters approve. Council Member Bowen advised that's what's being proposed for the April ballot issue. Mr. Craig advised there is already a half cent sales tax on the books being collected, in which Council Member Bowen advised those funds are used every year. Mr. Craig questioned if that half cent has a sunset on it, in which Council Member Bowen advised he doesn't believe it does. Mr. Craig then asked if the proposed sales tax increase would have a sunset, Council Member Bowen advised that is supposed to be discussed at the next Council meeting.

Mayor Pro Tem Dobson then advised he would like to amend his motion from earlier to include a seven year sunset on the proposed half cent sales tax increase on the April 2022 ballot. Council Member Veach advised this increase would be to cover above ground infrastructure, in which Council Member Welch concurred. Mr. Craig questioned if the sales tax increase would cover what the City is responsible for, such as inlets? Lemon stated the revenue from the tax would be for capital improvements, which includes other infrastructures, not just roads and alleyways. Lemon advised when Council first started discussing the sales tax, it was discussed as a capital improvement tax with a sunset, and if it would be possible, could it pass, etc. There was then discussion of what would it be used for? Is it going to be used for sewers, roads, stoplights, etc. and Council's answer was for all of those, plus more. The reason the Council asked for the HBPW Board to meet with them is because they also have an issue with stormwater that needs addressed. All of these issues need addressed and Lemon believes the intent of tonight's meeting is to further discuss and decide what is appropriate, what will get passed by the voters and what does the City and HBPW need. The thing to remember is ultimately every structure inside the City limits belongs to the City. It doesn't belong to the HBPW, they manage it for the City, doing an excellent job, but ultimately it is the City's responsibility.

Mr. Craig advised early on during the discussion, he thought he heard Council Member Franke state that a half cent sales tax cannot be used to support the funding of stormwater improvements for the HBPW. Council Member Franke clarified, the sales tax cannot be dedicated as an exclusive use for stormwater funding per Missouri Statute. He advised the way it works is per Missouri Statutes, you can dedicate up to a half cent sales tax to be used for Parks and/or stormwater, not both. The City has already maxed out on the Parks part. Mr. Craig thanked Council Member Franke for the clarification. Mayor Pro Tem Dobson then thanked Mr. Craig for reminding him about the sunset on the proposed sales tax increase, which had been discussed. He feels this will give the voters five or seven years, whichever is decided, to see the progress the City is making, and in turn the City can then go back and ask for approval from the voters for another set amount of years.

Mr. Craig stated that Hannibal has ignored their stormwater issues for years. He knows the Council feels like a portion of it is their responsibility and a portion is the HBPW responsibility, which is very confusing. The City and HBPW have challenges ahead of them to make it better, to fix problems that have been lingering around for over 100 years and it's going to be expensive. Promotion and education is going to be key, the City can put the issue on the ballot

but can't lobby the voters. Mr. Craig feels that what has to happen, for both issues to be passed, is to educate the voters which means both entities need volunteers to sit on a campaign committee who are willing to educate the public. In his experience, anything put on a ballot by a government entity, the statutes limit what can be done to convince voters to pass the issue, however, Council as a citizen can volunteer their time to help educate the community, and that's what's needed. This has not happened when the other ballot issues were presented, and when voters don't understand what they are voting for, they will vote no.

Mayor Pro Tem Dobson revised his motion stating he wishes to put a capital improvement half cent sales tax on the April 2022 ballot with a sunset of five years. Council Member Franke stated he would feel better if this in itself was discussed at a separate meeting. Mayor Pro Tem Dobson then questioned when the deadline to get this issue on the April 2022 ballot is. Deputy City Clerk Candy Golian advised the deadline is January 25, 2021, the Ordinance has to be approved and sent to the County.

Council Member Bowen advised that something needs to be decided quickly and to not wait until the last minute. He feels that Council needs to decide now and keep moving forwards. Lemon suggested that Mayor Pro Tem Dobson amend his motion even more to suggest that he starts working on some potential ballot language. This would allow Council some time to look over the language, make any changes before releasing to the public, also allowing at the next Council meeting further discussion and then be voted on at the second meeting in November.

Mayor Pro Tem Dobson then amended his motion again to authorize City Attorney Lemon and City Manager Peck to draft a ballot language to present to Council at the next Council meeting scheduled for November 2nd. Council Member Franke seconded the motion.

Council Member McCoy questioned Lemon if that would be enough time to get the language together being the next Council meeting is just a week away. Lemon stated his deadline is Thursday. He has done several ballots initiatives and this just gives him a chance to put some language together for the Council to view.

Motion carried.

Council Member Franke made a motion for Council to give the utility company a clear and direct goal of creating stormwater utility ballot language, with a dedicated funding source for the November 2022 ballot. Council Member Bowen seconded the motion.

Mayor Pro Tem Dobson questioned the HBPW Board members if they thought something could be done sooner to have the utility fee ready for the April 2022 ballot. Council Member Veach advised he feels the two issues should not be put on the same ballot. Council Member Bowen agrees with what HBPW Board Member Cogdal stated earlier, if both issues on the same ballot, it might split the votes. Council Member Veach stated that if the capital improvement sales tax gets approved that funding can be used prior to the stormwater utility fee being voted in, which might help. Mayor Pro Tem Dobson stated that if the stormwater utility fee is scheduled for November 2022 and an affirmative vote is given, funding wouldn't be available for 12-14 months. Council Member Franke advised that once it is passed, it can be bonded immediately.

Mayor Hark feels this can't be rushed. The public has to have the confidence that the City and the HBPW will use those funds appropriately. Everyone here tonight is vested in making these improvements and the voters need to see that.

Council Member McCoy questioned the HBPW Board if they feel comfortable with that motion, in which Board Member Fisher advised he does. He feels the August ballot has a lower turnout and feels November is a better route.

Motion carried.

HBPW Board Member Cogdal commended the Council, the Street Department and every other department for finally getting the sales tax increase towards infrastructure/capital improvement. The HBPW has a lot to work on but believes it can be done by the deadline. This has been “sat” on for years, and something needs to be done. She supports the Council and this is a great step in the right direction. There are desperate needs in the community and she stated she didn’t think she would ever see this happen.

Mayor Hark advised that “we are all in it together”, and when he says “we”, he is referring to Council, the HBPW Board, the City staff and all the voters in the community. When he says the City, it’s not just what’s in these four walls, it’s every place is in the City. He has great confidence that the public will pass these proposals to make the improvements possible.

Cogdal, speaking as a citizen, stated how can she expect the government to run effectively with no tax increase in over a decade or a property tax increase since 1973. She is just very happy in this moment and commends Council and the HBPW Board for taking action.

ADJOURNMENT

A motion was then made by Mayor Pro Tem Dobson to adjourn the meeting. The motion was seconded by Council Member Franke.

Motion carried.

James R. Hark, Mayor

Angelica N. Zerbonia, MRCC, CMO - City Clerk