# Public Comment from 10/5/2020 Budget Overview

## Question 1:

**The ESCO project aimed at creating a "Sustainable Newark" appears to have a cost of over 10 million dollars which will be added to the growing list of expenditures being funded through debt service.**

1. **As an example, the City Hall HVAC updates will cost Newark 9.5 million dollars. This sounds excessive and seems to avoid public scrutiny due to being captured as "debt services" in the expenditures.**
2. **Is this approach really financially sustainable?**

## Response:

The City Hall HVAC project is being completed under an energy savings performance contract delivery method which under state law is not considered debt and is specifically exempted from the requirement for a referendum. The rationale for this exemption is that when a contract is completed by a energy services company (ESCO) that is certified in the state of Delaware, these projects are guaranteed to provide enough operational savings and new revenue to cover the capital lease payments required to pay off the work that is included. The City has completed three other projects using this delivery method over the last decade, the largest of which is the $13 million smart meter project completed from 2013.

In the case of the City Hall HVAC project, it is much larger than just HVAC upgrades in one building. Some parts of the project generate savings or revenue (HVAC replacement, solar, LED streetlights, etc.) while other parts (roofing replacement) do not. As a whole, the project is revenue positive and is guaranteed by our ESCO to provide the revenue streams that were calculated during the investment grade audit performed at the start of the project.

If the City were to back out of the project now, not only would we not realize any of the savings projected because the work has not commenced, we would also be on the hook to pay for the investment grade audit and any other work that has been completed to date (approximately $540,000). This means that right now is close to the most expensive point where we could cancel the project because all the engineering work is completed, materials have been ordered, and the George Wilson Center HVAC installation is finished, but none of the savings or revenue generation are realized.

City Hall has been in dire need of HVAC and roofing replacement for years. Both staff and Council determined that it was extremely unlikely that we would be able to pay for millions of dollars' worth of roof repairs and heating and air conditioning replacement using cash financing paid for out of the tax base. This leaves two realistic project delivery methods. The first is traditional borrowing via a referendum followed by standalone projects for the roof repairs and HVAC work. Standalone projects would not generate sufficient savings to offset the debt service. So this option would require tax/rate increases or reductions to city provided services to fund. The second option is the guaranteed energy savings performance contract (the route we have taken) which bundles the necessary maintenance with other projects that drive additional savings or new revenue. This method results in a revenue positive project and eliminates the need for additional tax/rate increases to cover the capital lease payments. To summarize, a guaranteed energy savings performance contract was determined to be the best way to resolve critical issues to in our buildings without impacting the taxpayers directly.

For additional information regarding the financial breakdown of this project (cost neutral over the full 20 year payback period), please refer to the approval memo to Council from July 13, 2020. Other ESCO-related presentations and recommendations to Council are as follows:

- **ESCO project presentation (June 15):**
  - https://newarkde.gov/DocumentCenter/View/13811/2C
- **George Wilson Center HVAC project approval (March 9):**
  - https://newarkde.gov/DocumentCenter/View/13479/6E
- **ESCO Initial Grade Audit approval (September 9, 2019):**
  - https://newarkde.gov/DocumentCenter/View/12817/2H

## Question 2:

**Regarding financial sustainability, since revenue sources will continue to be volatile for the foreseeable future, shouldn't the city manager/mayor focus on re-evaluating expenditures and cut costs to match decreased revenue, rather than raising rates, fees, and taxes?**

## Response:

The current 2021 budget proposal includes considerable cost cutting measures and removes nearly all spending that isn't essential for delivery of core services or approved under the 2018 referendum. The City is, at its core, a service delivery organization, be that utility service, police service, refuse collection, planning services, building inspection, etc. This is reflected in the fact that 61.6% of our costs after deducting wholesale utility purchases are on personnel. Over the years we have reduced staffing levels to the point where further reductions would start to affect the quality of services provided or require outsourcing of services to private contractors.

As of 10/5/2020, the only revenue increases proposed for inclusion in the 2021 budget are directly related to what was approved in the 2018 referendum and amount to an annual increase to the average resident of $30.60. This is a 1.1% increase for 2021 when compared to 2020 for the average residential property.

| MONTHLY | CURRENT | PROPOSED | DIFFERENCE | % DIFF |
|---|---|---|---|---|
| Water | $26.84 | $28.49 | $1.65 | 6.1% |
| Sewer | $31.78 | $32.17 | $0.39 | 1.2% |
| Electric | $119.02 | $119.02 | $0.00 | 0.0% |
| Stormwater (Tier 2) | $3.54 | $3.54 | $0.00 | 0.0% |
| Taxes | $51.00 | $51.51 | $0.51 | 1.0% |
| **TOTAL** | **$232.18** | **$234.73** | **$2.55** | **1.1%** |

| ANNUAL | CURRENT | PROPOSED | DIFFERENCE | % DIFF |
|---|---|---|---|---|
| Water | $322.11 | $341.91 | $19.80 | 6.1% |
| Sewer | $381.32 | $386.00 | $4.68 | 1.2% |
| Electric | $1,428.24 | $1,428.24 | $0.00 | 0.0% |
| Stormwater (Tier 2) | $42.48 | $42.48 | $0.00 | 0.0% |
| Taxes | $611.95 | $618.07 | $6.12 | 1.0% |
| **TOTAL** | **$2,786.10** | **$2,816.70** | **$30.60** | **1.1%** |

Feedback we have received so far in the budget process is that if we can avoid reductions to the City's level of service without the need to dramatically impact the cost to residents, we should make effort to do so. We feel that a 1.1% year over year increase is fair and reasonable. That said, Council has indicated that they are not supportive of the 1% tax increase, so we will be removing that from the budget and making adjustments to address the associated revenue shortfall. This will likely involve changes to the City's capital budget by postponing a lower priority project to 2022 or beyond.

## Question 3:

**Last year, the budget for 2021 included a capital expenditure of building a 5 million dollar police firing range in Cecil County.**

1. **What is the current status of the $5million police firing range expenditure?**
2. **Was this expenditure eliminated or is it hidden within the budget under other expenditures or "debt services"?**

## Response:

The firearm training facility has been completely removed from the 2021 budget.

## Question 4:

**On two occasions about 18 months ago I presented a plan to members of council on voluntary contributions to the City from tax exempt organizations. This plan has been done successfully by more than 200 cities in 28 states. They show the taxes that would be due (if the organization was not tax exempt) and then subtract the mutually agreed value of services the organization provides to the city residents. They then negotiate for a voluntary payment to the city. Historically, in these other cities, 35-50% of the requested funds are often granted. Some make long term (20 year commitments). Since giving those presentations, I have not heard back from a single member of the council nor the city administration about exploring the option.**

## Response:

This information has been provided to Council and staff awaits direction as to whether this is something they would like us to pursue. As a side note, asking non-profits to voluntarily pay into the PILOT program may put more financial duress on these organizations and the residents they serve. In addition, the City currently financially supports several local non-profit agencies through our revenue-sharing program which is the opposite of what is proposed above.

## Question 5:

**Why are we going to do ANY Priority 4 and 5 capital projects this year?**

## Response:

Staff has included the following priority 4 and 5 projects in the budget as of the 10/5/2020 budget overview:

**Priority 4**

K2001 – Park Signage – General Fund - $70,000 - Grant Funded. Since this project is grant-funded, it will only be continued once the grant itself is approved.

E1806 – Christianstead Primary Cable Addition – Electric Fund - $60,000 – No electric increase needed

I1902 – Tyler Tech. Cash Module – General Fund (allocated) - $17,700 – Allocated across all funds, as this is a part of the City's accounting software which serves all programs and utilities.

**Priority 5**

E1808 – Voltage Upgrade N College Ave – Electric Fund - $75,000 – No electric increase needed
I1804 – Harris Automation Platform – General Fund – Allocated across all funds, as this is a part of the City's accounting software which serves all programs and utilities.

The proposed tax and utility rate increases are equal to the debt service payments from the 2018 referendum which was outlined at that time. Based on Council feedback around the 1% tax increase proposal, we will reevaluate these projects to see if we can postpone one or more projects to offset the revenue shortfall.

## Question 6:

**Whatever happened to the proposal (from a year ago) to recoup credit card fees (~$1M total, ~$.5 M University) on utility sales. I have a choice on my Delmarva gas bill to either pay by CC (with a fee) or pay by bank draft with no charge. The City should do the same. Give 60 days notice, then implement.**

## Response:

It was determined that applying a credit card fee to recover the cost of credit card charges in the utility fund is not a viable option to address the primary complaint which was the University of Delaware's large credit card transactions. Federal law limits credit card fees on utility payments to a fixed dollar amount. This means that UD would pay the same fee for a $1 million transaction as a resident paying a $30 water bill. This also means that our fee couldn't be set high enough to cover the total cost of the fees for utility payments. Further complicating this is that the City currently receives a reduced rate for credit card transaction fees because we do pass these fees onto our customers. If we were to enact a convenience fee, we would no longer qualify for the reduced transaction fee and our costs would go up considerably from our current level. These issues combine to make convenience fees for credit cards a non-viable option at this time.

Alternately, we are working on a cost of service analysis as part of our electric rate study and can instead include the credit card transaction fees from each customer inside their appropriate customer class, which will adjust the rates to adequately recover their class specific costs. Not only is this allowable but also customary to do so when setting rates. This adjustment will eliminate the cross-customer class subsidy that currently occurs due to credit card fees. This was the direction given by Council during the March 2, 2020 Council meeting. Here is a link to the memo drafted on the topic by Director Del Grande: https://newarkde.gov/DocumentCenter/View/13434/2A and the Minutes from the meeting: https://newarkde.gov/ArchiveCenter/ViewFile/Item/6480 for review.

## Question 7:

**Raise UD's electric rates (already the lowest by far), at a minimum, to recoup the unjustified $300,000 annual electric bill discount granted by the previous City Manager.**

## Response:

While this question suggests there was a discount granted by the previous manager, the agreement in question was in fact negotiated by staff but ultimately approved by Council. At the time, there were questions around whether UD was required to purchase their power from Newark, so an agreement was negotiated to guarantee they remained as our customer. The "discount" also isn't really a discount. UD began to receive an electric bill credit of $300,000 in 2013 under the electric service agreement but in exchange, they increased their subvention to the general fund by the exact same amount, bringing the total annual subvention payment to $511,000. This amount increases by the consumer price index each year of the agreement. While confusing without context, it appears to have been included as a way to provide supplemental funding for the general fund without violating the restrictions that were placed on Newark by then-Governor Markell that limited our transfers to the general fund from the electric fund. The subvention increase to the general fund began in the 2014 budget. We are in year 7 of the 15-year electric service agreement with UD so we will not be able to make changes for another eight years. It is important to note that there are other benefits to the City from being in the agreement, such as a limitation on UD's ability to self-generate electricity and a minimum guaranteed revenue amount, so it is important to consider the agreement as a whole and the environment under which it was negotiated. Although the University pays a contracted rate on consumption charges, they continue to pay an annual demand charge that has been close to $3,000,000 per year. This is analogous to the $10 monthly customer charge that residents pay for electric.

## Question 8:

**Request UD to increase their subvention funds, which are not a gift but an offset, annually to keep pace with inflation. These funds are currently static**

## Response:

While staff would normally say there is no harm in asking, we don't think that is the case this year based on what has been made public by UD regarding their finances. UD is in dramatically worse shape than the City and we would advise against asking for more money until things stabilize for them, likely next academic year or even into 2022.

## Question 9:

**Where in the CIP list is the referenced ESCO project? Is that the solar panels? Is that necessary to start it this year? ($200,000 annually) Delay it. Nice to do but WE DON'T HAVE THE MONEY**

## Response:

The ESCO project is project N1901 and was included in the original 2019 and 2020 capital improvement budget. The scope of the project did change over the course of 2020 as we worked through the investment grade audit because we identified the opportunity to tackle multiple needs of the City (new roofs and HVAC at City Hall, the police station, the George Wilson Center, and the Field Operations Complex) alongside multiple goals of the official Sustainable Newark plan (new solar generation, LED streetlights, LED retrofits inside facilities, and other efficiency upgrades). The scope changes were discussed and approved by Council during public meetings earlier in 2020.

For more information on why it makes financial sense to continue forward versus stopping this project, please refer to the response to question 1 above.

## Question 10:

**Does City Hall require a $9M HVAC upgrade this year while revenues are down? Where did that surprise come from? I do not remember seeing it in the CIP list from the earlier meeting.**

## Response:

Please refer to the response to Question 1 and Question 9 for the response to this question.

## Question 11:

**Are the $400,000 state PILOT funds guaranteed for 2021 or is that a potential additional revenue shortfall?**

## Response:

As discussed during the 10/5 budget overview meeting with Council, we have included the $400,000 in pilot funding in our 2020 budget. We recognize that the State could take this out of their fiscal year 2022 budget, but we have received it two years in a row and it was included in this year's budget without question, despite the financial distress the State was in at the time of the budget. Council has given official direction to the City's lobbyist to work with the legislature to maintain or expand the funding we currently receive. We urge you to help us support the City's need to be considered part of the state's PILOT program permanently with our state legislators.

## Question 12:

**What are you doing to plan for the 2024 $16 million new substation project (largely for STAR Campus)? Why are there no line items in the budget to set aside money before 2024 for this project? You've delayed doing this one year already. You need other DEEP CIP cuts or delays.**

## Response:

Funding planning for the substation was included as part of the electric rate study that was halted due to the impacts of COVID-19. The assumptions included in the rate study were that we would raise 50% of the funding through the rates in the years leading up to construction. We would also begin charging impact fees that would go into a reserve account, alongside the funding raised through rates, to be used to fund the eventual construction. We anticipate using debt, either directly from the City or via conduit funding through DEMEC to cover the difference. To date, we have set aside $2 million in a future project capital reserve account that could be utilized for this project if Council approves.

While we wait for the economy to settle out following COVID, we are continuing work on the electric capacity study that will help us determine how soon we will need to build the substation based on existing loads and buildout projections for STAR and the City in general. We should have this study complete ahead of the 2021 budget process and will be able to set a more precise date and price for the substation at that time, barring some other catastrophe like COVID.

## Question 13:

**What are our legislators (Baumbach and Sokola) doing to help the City?**

## Response:

Council has given staff and the City's lobbyist clear direction on a slate of legislative priorities for the 2021 legislative session. We anticipate working hand in hand with local legislators, like what we did for the lodging tax in 2018, to accomplish any of those goals. We will also continue to work with local legislators on funding through the Community Transportation Fund (CTF) and, where possible, bond bill funding.

Senator Sokola and Representative Baumbach were instrumental in helping City staff work through a disagreement with New Castle County leadership over the local service function process. In 2019, New Castle County removed the City's long-standing fire service credit, even though we have financially supported Aetna for over a century. The Local Service Function Task Force was born from this disagreement due to the efforts of Senator Sokola and Representative Baumbach. Over the past year, this task force (which is chaired by Senator Sokola and Representative Baumbach), has been meeting regularly to amend the local service process in order to avoid double taxation for those who reside within municipalities. This task force also seats City Manager Coleman and Deputy Chief Farrall who were appointed as task force members. This task force has already saved City residents from being taxed in the future by the County for the fire service function. If you compare this year's County tax bill to last year, you will notice that your County tax bill was reduced as a result of their efforts.