

Work Session and Executive Session
Mayor & City Council
Maryland

March 1, 2005
Hagerstown,

WORK SESSION – March 1, 2005

Mayor William M. Breichner called this Work Session and Executive Session of the Mayor and City Council to order at 4:00 p.m., Tuesday, March 1, 2005 in the Council Chambers at the City Hall. Present was Mayor Breichner; City Council Members K. B. Aleshire, N. L. Hendershot, L. C. Metzner, C. N. Moller, Councilmember P. M. Nigh, City Administrator Bruce Zimmerman, City Attorney John Urner, City Attorney William Nairn and City Clerk D. K. Spickler.

Community Free Clinic Request to Utilize Fairgrounds Park for Chili Cook-Off

John Budesky, Director of Administrative Services, stated the Community Free Clinic submitted a request to utilize Fairgrounds Park for a Chili Cook-Off.

This request includes utilizing the west quadrant of the Park that includes the stables and the upper grandstands. In addition, they would like to include the ability to sell alcohol at their event. This is in conflict of the recent direction given to legal counsel to draft language that would prohibit alcohol in City parks.

Mr. Budesky stated representatives of the Community Free Clinic had approached the Parks and Recreation Department about holding a chili cook off event (which was held at the Suns Stadium last year). The request was reviewed using the same process that was utilized for the request for a Bonanza at the Fairgrounds. A deposit was accepted in order to reserve the date. During this time, the Mayor and City Council wished to review the alcohol policy in City parks. The discussion with the Community Free Clinic was ended at that time and the deposit was refunded. The request has been made again and is now being brought before the Mayor and City Council.

Bruce Zimmerman, City Administrator, indicated the City Attorney is in the process of drafting an ordinance to prohibit alcohol in City parks, at the direction of the Mayor and City Council during their last discussion.

Councilmember Aleshire noted the Parks Board also recommended prohibiting alcohol in City parks. Mr. Budesky stated their recommendation was based on the fact that Fairgrounds Park is more of a family community park and there are open areas that would be difficult to control.

Councilmember Nigh stated she was not able to attend the Parks Board meeting when the recommendation was made. She would have been in favor of allowing events with alcohol at Fairgrounds Park. She stated she doesn't understand why there is any difference with children

being at the stadium or Fairgrounds Park.

Councilmember Aleshire stated if the City wants more than just children's activities at Fairgrounds Park, they need to realize that other activities will have alcohol associated. He stated fencing and an alternative road connection would be needed for Fairgrounds Park for these events.

Councilmember Metzner expressed his concern that events would be on the balls fields. He asked how everyone felt about uses of alcohol for the benefit of non-profit groups. Councilmember Aleshire stated he thinks requests will continue to be made from profit and non-profit organizations. He stated he is totally opposed to events with alcohol at City Park.

Mr. Budesky indicated another group has requested the use of the Fairgrounds for a KIX reunion. The event is to be called "Rockin Ass Concert." Councilmember Nigh stated she would have opposition to that request. Councilmember Aleshire indicated the hours of operation plays a large role in the decision making process for him.

Councilmember Metzner stated he is not totally agreeable, specifically for for-profit organizations, to granting permission to use Fairgrounds Park. He stated he would be in favor of allowing the Community Free Clinic to use the upper area (not on the fields) for an event. He suggested developing an overall policy to cover times and locations of acceptable events. He doesn't think Fairgrounds Park should be used for rock concerts, with alcohol being available.

Councilmember Aleshire stated any policy has to be comprehensive.

Councilmember Hendershot stated no County park or National Park allows alcohol. He wants to make sure people realize Hagerstown is not the only organization that doesn't allow alcohol in parks. He is very supportive of the Free Clinic and believes the event could be successful without having beer available. He thinks there has been a communication breakdown between the Community Free Clinic and the Hagerstown Suns.

Councilmember Aleshire stated this should not be a consideration in the Mayor and City Council's decision on a policy.

Councilmember Nigh stated she doesn't see doesn't see a problem with allowing alcohol at Fairgrounds Park. She stated she would like to find out why there are many times that the fields are not being used.

Mayor Breichner stated if alcohol is allowed, there will have to be a policy approved by the Mayor and City Council.

Councilmember Aleshire stated the Clinic would have to understand they would have to fit within the parameters of the policy.

Mr. Budesky provided the information that there are two chili events planned for the same day. One at the stadium and the one requested at Fairgrounds Park.

Councilmember Aleshire stated again this is something between the Community Free Clinic and the Hagerstown Suns.

Bruce Zimmerman, City Administrator, asked if the Mayor and City Council are granting permission to the Community Free Clinic to use Fairgrounds Park for a Chili Cook Off, with alcohol availability. It was the general consensus of the Mayor and City Council to allow this.

The Community Free Clinic will be asked to work with the Parks and Recreation Department to work out details for fencing and location of the event. The details will then be reviewed with the Mayor and City Council prior to the event. Councilmember Metzner stated he anticipates additional donations, in the form of services, will be requested.

Councilmember Nigh stated she hopes both events will be successful.

Council of Governments

Donna Brightman, Chairperson of Boonsboro High School Citizens Advisory Committee, was present to discuss the possibility of establishing a Washington County Council of Governments.

The purpose of a Council of Governments would be to increase county-wide communication, share information and data as well as to provide a safe, coordinated and comprehensive approach to growth and development.

It is anticipated that the Washington County Council of Governments (WCCOG) would be comprised of the Board of County Commissioners, the Board of Education, representatives from each municipality, the County Planning Director, the Public Works Director, the Public Safety representative and other department personnel as well as other organizations as needed by the standing members of the WCCOG. Citizen's organizations and groups will be invited to attend as needed and all meetings would be open to the public.

Ms. Brightman indicated that the Washington County Commissioners requested that the State Delegation be included in the WCCOG. Several municipalities are supportive of the creation of the WCCOG and others are reviewing the information.

Mayor Breichner indicated the Council of Governments has worked well in Frederick County, especially with communication. He finds it helpful that the Mayors in Washington County meet bi-monthly to discuss issues.

Councilmember Aleshire stated he has attended some of the meetings in Frederick. He is not certain a Council of Governments would encourage municipalities to adopt an Adequate Public Facilities Ordinance. He doesn't agree with all of the findings listed in the material presented.

Ms. Brightman stated the findings came from a broad base of people. They were put in a format that they thought would lead to more discussion. None of the findings were meant as a criticism.

Councilmember Aleshire stated it is difficult to accept there will be a "superwave" of growth until the County determines the zoning for some of the rural areas. Ms. Brightman mentioned that increasing growth is going to affect schools.

Councilmember Nigh asked for an explanation of a home rule charter. Ms. Brightman stated a home rule charter allows the county or the municipality to pass its own laws, without a State Legislation requirement. She stated a Council of Governments would alleviate the need to go to the delegation for everything.

Councilmember Nigh asked why the Greater Hagerstown Committee is involved in the group when the proposed members are other municipalities. Ms. Brightman stated it was suggested that this would create a broader dialogue amongst all the groups. Councilmember Nigh stated it appears the Greater Hagerstown Committee is trying to run the City government.

Councilmember Moller stated growth is an immediate problem. She suggested presenting this concept to the planning commissions for each municipality.

Mayor Breichner stated the information will be reviewed and a response will be made.

239 N. Locust Street Parking Lot

Lauren Bayer, Manager of the Community Development Department, stated on November 11, 2004, the City closed on the purchase of 239 N. Locust Street, which was acquired at public auction for \$ 90,000. The property consists of a three story brick structure housing six apartment units which have been vacant for a number of years, a four-bay garage and a concrete block out-building, both of which are in poor condition and need to be demolished.

The size of the lot and the condition of the buildings makes this property important to the revitalization efforts of the neighborhood. Staff has explored two ideas for reuse of the property.

One would be to renovate the main structure for housing as either lofts or townhouses. However, the layout of the building does not lend itself to this use.

The other option considered was the creation of neighborhood parking. On-street parking in the area is very limited and there are a number of buildings along this block of N. Locust Street which have no alley access, thereby precluding off-street parking. A preliminary plan indicates that approximately 14 parking spaces could be constructed on the site. The estimated cost of the construction, including demolition, will range from \$ 100,000 to \$ 125,000.

Mr. Bayer asked how the Mayor and City Council would like to proceed from this point. If they wished to create a parking lot, Staff would develop a five year plan for the area for the Mayor and City Council's review.

Councilmember Nigh stated she is not in favor of creating more parking lots and tearing down buildings. Mr. Bayer stated the City needed to obtain control of the property in order to preserve the neighborhood. The best recommendation will be the one that does the most good for the people in the area.

Councilmember Aleshire stated he thought the idea was to get the property back on the tax roll. He stated the Mayor and City Council need a long term cost benefit analysis to review so they have a better understanding of the impact on the tax base.

Councilmember Nigh stated she would like to see the neighborhood improved. She stated people need to be interested in the places they live.

Another possible use would be infill housing. Councilmember Aleshire stated he would like to see a cost analysis on the feasibility of this.

The Mayor and City Council asked that staff review other options for the property and suggested that staff start work on developing a neighborhood plan.

Federal Lead Control Grant

The Maryland Department of Housing and Community Development has received a \$ 3,000,000 Lead Control Grant from the U. S. Department of Housing and Urban Development (DHCD), which is being focused on Western Maryland. To be eligible to receive assistance under the program, at least one-half of the residents of a multi-family building must be below 50% of area median income (AMI) and the remaining residents must be below 80%. In owner-occupied homes, all of the participating families must be below 80% of AMI and 90% of the units must be occupied with children under the age of six or where children under the age of six spend significant periods of time.

For several reasons, particularly the income levels and age requirement, this program does not lend itself to use by the City. However, staff felt that we should determine if there was some way that the City could utilize the program. The City would need to be the recipient of the funds and it would be possible to work with a third party to administer the program.

David Jordan and Kathy Saxman from the Washington County Community Action Council (CAC) have expressed a serious interest in administering the program locally. By its very nature, CAC works with members of the target population on a daily basis, they have the staff capacity to administer the program and access to funds to meet match requirements.

Staff is seeking Mayor and Council approval to work with DHCD on a grant agreement which will allow a portion of these funds to be utilized in Hagerstown and to develop a sub-recipient agreement with CAC for the implementation and administration of the grant.

It was the general consensus of the Mayor and City Council to develop an agreement with CAC.

Presentation of City's 2004 Comprehensive Annual Report, Auditor's Opinion and Required Auditor Communications

Tom Newkirk, CAP and audit manager, and Bill Early, CPA of Clifton Gunderson, LLP, were present to present their opinion on the City's 2004 Comprehensive Annual Financial Report (CAFR) and their report on internal controls, compliance and other matters based on their audit of the City's financial statements.

The City has once again, for the ninth straight year, received the Certificate of Achievement for Excellence in Financial Reporting from the national Government Finance Officers Association of the United States and Canada.

Mr. Newkirk presented a correspondence outlining the auditor's responsibilities to the Mayor and City Council. For the purpose of calculating depreciation on the City's streets and roads, the City changed the estimated lives from 25 years to 50 years. Included in the calculation of the claims liability reserve is an estimate of claims that have been incurred but not reported as of June 30, 2004. The estimate is calculated based on historical information and current conditions related to claims reported. There were no significant audit adjustments. Past adjustments were not significant enough to affect the financial statements. There were no disagreements with management during the course of the audit. Due to current staffing issues in the finance department, the financial statements and supporting work papers were not readily available to the auditors within the time periods required to allow them sufficient time to complete their audit procedures and issue their report prior to the deadline of November 1.

Mr. Newkirk presented a management letter to the Mayor and City Council. In the management letter it is noted that a good system of internal control involves adequate segregation of duties in which individuals do not have the ability to initiate, approve and record a transaction. He recommended that the City review current employees duties to adequately segregate duties related to the processing of invoices and related vendor files.

The Finance Department is addressing implementing levels of internal controls. Their responses to improve the segregation of duties will not result in hiring additional personnel or reduce the responsiveness to processing vendor invoices for payment. A new policy was implemented as of February 1, 2005 to address these issues.

Alfred Martin, Finance Director, and Ray Foltz, Assistant Finance Director, presented the first Popular Annual Report (PAFR). This report provides an analysis of the financial position of the city, where the revenues come from to operate the City and where those dollars are spent. The goal is to better communicate the results of financial operations for the City of Hagerstown in a more easily understandable, user-friendly report.

Overall, the City had a very good year. The General Fund broke even. Net assets were valued at \$ 181 million, which is an increase of \$ 7 million. There was growth within the Enterprise Funds. Cash balances in the light fund are starting to rebuild. The rental registration program and the annexation policy are helping encourage growth for future years.

Councilmember Aleshire stated he appreciates the work that is done with the budget each year. He asked if the Finance Department anticipates needing additional help with the reporting due to increase in growth. No additional staffing is anticipated.

Mr. Martin stated he would like to see the City focus more on personal services to citizens. There will be additional needs as the City moves to accepting credit card and internet payments.

Broadband Over Powerline and Fixed Wireless Initiative

Michael Spiker, City Light Manager, Karl Kohler, Assistant City Light Manager, Ray Foltz, Assistant Finance Director, and Scott Nicewarner, Information Technology Manager, (members of the BPL team) were present to discuss the status of the Broadband Over Powerline and Fixed Wireless Initiative.

In January 2004, the City of Hagerstown began a study in regard to the feasibility of supplying broadband internet services to the residents of the city. The intent of this project was to utilize our existing municipal electrical and street light system to supply the residents of Hagerstown with inexpensive, fast, broadband internet service. The light department would receive an outage management system along with electrical system data. The development of

this technology and its relation as an economic development tool for the city and the surrounding area may well bring national attention to the City of Hagerstown as a progressive, forward thinking community with leadership that is attuned to the future technological advances that are occurring.

On April 13, 2004, Electric Broadband Associates and the BPL team presented to the Mayor and City Council the details of roles in the process of supplying broadband services, the development of the landlord proposal versus the developer/service provider role, the recent FCC regulations, and a cursory cost overview of the process. The Mayor and Council approved going forward with the initiative.

On February 2, 2005, bids were opened, with the two of the largest BPL business entities, COMtek and ACcess Broadband, submitting bids for review. COMtek (located in Chantilly, Va.) is the franchise holder for the City of Manassass BPL project. Members of the BPL team visited Manassass in April, reviewed the project and technologies involved, and experienced firsthand the system architecture, design, and operation.

The team has visited ACcess Broadband's (located in Ashburn, Va.) project in PEPCO territory in Potomac, Maryland, reviewed the project and technologies involved, and experienced firsthand the system architecture, design, and operation. There are operational and technological differences in both systems such as; operational radio frequency bandwidth, hardware and software requirements, system speed, etc.

A visit to the BPL demonstration house in Potomac, Maryland with city officials and other interested community members is planned for March 3, 2005. A Public Hearing will be held on March 15, 2005 so that the citizens and business community may comment in open forum. If the BPL team has reached a decision on the successful Grantee, an invitation will be offered to them to attend this meeting to assist in answering community or council questions.

The BPL team anticipates that the Council will be receiving more questions as awarding the Franchise agreement gets closer. The following information was presented so that the Council can respond to the concerns of citizens on this topic:

1. Interference: The FCC has in place strict guidelines to ensure that BPL systems do not interfere with Amateur Radio frequencies or Emergency Operations bands; The FCC also mandates that all BPL systems deployed must have the capability to

“notch” frequencies that may cause interference or be shut down in those areas;

Early BPL services experienced issues with Amateur Radio frequencies. These issues

have been mitigated with improved equipment.

2. Competition with Other Providers: The City is issuing a Non-Exclusive Franchise (as it did with Antietam Cable) for a private entity to operate a BPL and wireless system within the City. A customer can achieve high-speed access by plugging a modem into any wall outlet in their home. This provides Broadband service to a wider range of citizens who do not have Cable service, or where DSL is not offered. The addition of another provider should lower the overall price of the service.
3. Easements: Opponents of BPL have raised issues that the Electric Utility's existing easement language does not allow a use for communications services. Approximately 95% of HLD facilities are within the City of Hagerstown's Public Rights-of-Way and are therefore exempt from easement challenges.

Technological improvements have grown since earlier deployments of trial BPL systems around the United States. Safeguards are in place and enforced by the FCC that mandates all entities must coexist within the allotted RF spectrum. The City of Hagerstown's BPL team endorses the use of BPL and Fixed Wireless for the betterment of the residents of the city and requests that all groups work together in this endeavor.

Councilmember Aleshire stated this schedule provides for an open discussion of the broadband initiative.

Councilmember Metzner stated he has received correspondence that indicates this initiative has not worked in any municipality that tried it. He informed everyone that the BPL team has been in contact with everyone who has questions about the initiative. Mr. Spiker stated there has been an open exchange of information. Councilmember Metzner stated this initiative could be good for the citizens to have access to. Mr. Spiker this could make a big difference in the services offered to Hagerstown citizens.

Councilmember Nigh stated her uncle was a ham radio operator. She watched a show on television about Broadband and a comment was made that it works in some municipalities and not in others. She stated Verizon is concerned about broadband in Hagerstown because of competition.

Councilmember Moller indicated this initiative may provide high speed internet access to low/moderate income families, without additional cabling.

Mr. Spiker indicated some other benefits would be the monitoring capabilities for things like electrical outages, service problems and service disconnections.

Councilmember Aleshire asked what the cost to be the City would be if the system is not successful. Mr. Spiker indicated there is no capital outlay being expended by the City, and therefore, no liability. Revenue has been projected, but no expense has been projected..

Mr. Zimmerman stated the contractor would be paying for the use of the City's power lines but it would not be a City operation. It would be an agreement similar to the one with Antietam Cable Television. He commended Mr. Spiker for taking the initiative to pursue this service for the residents of the City.

Councilmember Metzner indicated he thought there may be a large number of people who wish to speak at the public hearing scheduled for March 15, 2005. He recommended that speakers keep their comments concise.

John Umer, City Attorney, arrived at the meeting.

Excise Tax Bill (HB 1272)

House Bill 1272 is the Washington County Growth Management Act of 2005, which has been drafted by members of the County Commissioners and the Delegation to revise the County's existing excise tax program to provide for additional revenues from development projects throughout the county to fund public capital improvement projects, including schools.

On February 22, 2005, the County Commissioners reviewed recommended revisions to this bill and presented a revised draft to the Delegation on February 23, 2005.

The main points in House Bill 1272 are as follows:

1. Proposed Fee Structure
2. Proposed Distribution of Funds
3. Proposed Relationship with Municipalities

The issues of concern for Hagerstown in HB 1272 are:

1. County Commissioners may waive the fee for non-residential development
2. Single-family versus multi-family residential development fees
3. County Commissioners may charge a higher fee for residential development if the number of units in the development exceeds an amount specified by the County Commissioners
4. County Commissioners shall by ordinance grant an excise tax credit for

workforce housing

5. A portion of the nonresidential fees shall be used for public infrastructure projects

6. A portion of the nonresidential fees shall be used for debt reduction related to capital improvement expenditures

7. 5% of the residential fees shall be allocated for either: 1) public works improvements or capital improvement projects or 2) parks and recreation, public infrastructure projects, public safety, and ag land preservation

8. Municipalities will not keep any of the Excise Tax for City projects unless they adopt an Adequate Public Facilities Ordinances with a school adequacy test

9. Each year, the County Commissioners shall encumber at least \$ 1.8 million for agricultural land preservation

Several concerns were raised if municipalities adopt an APFO with a school test. Those concerns are as follows:

County and all municipalities shall implement APFOs with a school adequacy test – According to a 2/16/05 Herald Mail article, the County Commissioners' Board of Education (BOE) CIP will be funded by state revenues and excise/transfer taxes collected on new development or home sales with no contribution from the General Fund. If the BOE CIP plan remains with local contributions only coming from new development or home sales, how will the capacity issues at the schools be addressed, if, through our APFOs, we deny development in inadequate school districts and thus do not collect the excise tax funds earmarked for BOE CIP projects? We would create an indefinite moratorium in urbanizing areas and a green light in rural areas.

Municipalities will NOT receive 30% of the fee collected on nonresidential development – nonresidential projects within municipalities create impacts on road systems within municipalities. Why shouldn't nonresidential projects continue upgrades to these municipal systems just as residential projects will? If this fee does not stay with the City for road projects, etc., the City will be forced to double up on these non-residential development projects with an impact fee for road improvements to ensure that these developments participate in regional improvements necessary to serve the project.

A portion of the municipalities' 28% of the excise tax fee shall be used for ag land preservation – agricultural land preservation does not occur within the Urban Growth Areas around the municipalities because UGAs are not eligible for the Rural Legacy program (ag preservation) and Smart Growth law specifies that the municipalities are the appropriate place for development to occur.

Kathleen Maher, Planning Director, indicated there are a number of things that could be a

problem for all municipalities with the requirement of the school capacity test. Mr. Zimmerman stated there is a question about whether or not the City can even adopt an APFO with a school test. The City of Hagerstown does not fund school construction and it would be difficult to tell developers they had to pay if the city has no control over the school budget.

Councilmember Metzner expressed concern that the issue won't be resolved by the end of the legislative session. Mayor Breichner stated Delegate Shank suggested that the City develop a draft of legislation and submit it to the delegation.

Councilmember Aleshire expressed his concern that school construction is continually delayed in the County's budget. He predicted many municipalities won't be able to adopt the APFO and the County will then keep the money collected.

Councilmember Metzner is fearful there will be more problems at the end of this legislative session than there were at the beginning.

Ms. Maher indicated the City may have to impose an impact fee, in addition to the excise tax.

Mayor Breichner stated Delegate Shank has asked that the City and the County develop a draft that will work for all parties. The proposed legislation will be sent to all the municipalities in Washington County so they are aware of it.

James Kercheval, Washington County Commissioner, was present at the meeting. He stated the Delegation indicated there needs to be a policy on work force housing. He expressed surprise that there may be concerns about this. He stated there is plenty of room for discussion on the non-residential details of the legislation. His biggest concern is the APFO. Implementing this is a matter of making sure classes are not overfilled. There is an enormous challenge to control the capacity issues in the county. He indicated allowing development without an APFO is allowing a school to become overcrowded.

Mayor Breichner stated the Mayor and City Council understand the responsibility they have for schools. He questioned why it is necessary for any municipality to adopt an APFO if this legislation passes.

Commissioner Kercheval stated the funding is not going to fix the situation. The APFO guarantees the classes will not be overcrowded. More than half of the County's CIP budget is for City schools. He stated if there are too many policies, the students could be put in jeopardy.

Mr. Urner asked for a working definition of "City school." Mayor Breichner indicated it is a school with City residents attending there.

Commissioner Kercheval stated he doesn't know how this could be resolved without a

uniform school policy. He indicated he represents City residents, in addition to County residents.

Alfred Martin, Finance Director, expressed concern that if construction is stopped due to school capacity issues, growth will stop and be difficult to start again.

Commissioner Kercheval stated growth can't be turned off. It will be difficult working through these issues in the next few years.

Councilmember Metzner expressed the same concern as Mr. Martin. He stated he is hearing that after April 1, new development won't be permitted until a new school is built.

Commissioner Kercheval indicated that portable class rooms would be used to house additional students, if necessary.

Councilmember Metzner stated it will ultimately be up to the BOE to determine which schools will be permitted to be built. He is concerned that in four years, the County Commissioners will decide they would like to see growth in a different area and tell the City the development has to stop.

Councilmember Aleshire stated he doesn't think there is a problem with adopting an APFO type of document that allows the City to phase in development and move forward. Commissioner Kercheval stated discussions about developments could be held to determine the best plan for moving developments forward. It was agreed this issue would be discussed further.

City Administrator's Comments

Bruce Zimmerman, City Administrator, thanked John Budesky, who has announced his resignation. Mr. Budesky has conducted labor negotiations, acted as the Water Department Manager, Parks and Recreation Director, Purchasing Director and was the Director of Administrative Services. He will be the County Administrator in New Kent County in Virginia. Mr. Zimmerman wished him well in his new position and stated he appreciates everything he has done for the City of Hagerstown.

Mr. Zimmerman announced that Moses Norris, Parks and Recreation, is a Reserve member and has been called to active duty in Iraq. He wished he and his family well during this period.

Mr. Zimmerman thanked the Public Works Department for their snow removal efforts. He thanked Eric Deike, Public Works Manager, and Rodney Tissue, City Engineer, for their quick response to the complaints about crows.

Mayor and Council Comments

Councilmember L. C. Metzner had no further comments.

Councilmember P. M. Nigh stated she is concerned that a member of Greater Hagerstown is the executive director of the Community Development Corporation. She is concerned that the City of Hagerstown's interests will not be protected.

She stated citations have been issued for property repairs recently. She stated she has received complaints and people need to understand these are different from the rental licensing program. These citations are being issued under the Property Maintenance Code that was adopted in the 1980s.

She stated there is an issue with an air conditioning unit on Winter Street. This is now before the Planning Commission. She thought the issue had been resolved.

Councilmember C. N. Moller had no additional comments.

Councilmember K. B. Aleshire stated the Board of Traffic and Parking completed a program using various speed reducing methods and drivers slowed down. He asked that a meeting be scheduled with the Maryland Department of the Environment to discuss the crow issue on Jonathan Street.

He pointed out that 79 units on Medway Road have been approved for development. This is one block away from the City limits and the City will have to provide services. This is another instance where the City is providing urban services to an area that sits on the fringe of the city line.

He asked the Council to note the Startzman property issues that were raised in the Planning Commission minutes. He stated the Mayor and City Council need to make sure there are boards and commissions members that can be a part of the meeting a majority of the time.

He stated one of the candidates for elected office had asked about electioneering on Channel 6. He stated he supports the City attorney's opinion and the Mayor and City Council should avoid it if at all possible.

Councilmember N. L. Hendershot urged everyone to vote in the primary election, which is being held on March 8, 2005. He thanked everyone involved for their response to the crow problem. He thanked Tom Lowman for providing a "distressed" crow audio tape.

He stated he continually hears complaints from visitors to the hospital about the parking meters. He asked for a report on the revenue generated from these meters. He stated, in the mind of the public, the meters are a major concern, not the quality of health care.

Councilmember Metzner stated if the parking meters were not in place, there would be fewer parking spaces around the hospital.

Mayor W. M. Breichner stated the meters were installed to help with turnover. He thanked Mr. Budesky for his service to the City and wished him well.

Mayor Breichner indicated a discussion was held with the Maryland Department of the Environment (MDE) about transferring sewer service to the hospital. The MDE reiterated that the City is responsible for those policies and the MDE will not step in and institute a policy. This is a decision that is up to the City and not up to MDE.

Councilmember Aleshire asked if this means the transfer could be approved. Councilmember Metzner indicated he thought there was a limit on the number of hook ups permitted under the consent order.

Mayor Breichner stated the hospital has indicated to MDE they would like to take their existing capacity and move it to the new location. Mr. Umer stated he thinks MDE is saying it is up to the City to make that decision and the consent order would need to be changed.

David Shindle, Water and Sewer Department Manager, stated a request could be submitted to change the City's laws. MDE may or may not review the request.

Mayor Breichner indicated he expects there will be a request made in writing to the City or to MDE. Mr. Zimmerman stated what MDE expects from the City is to address the issues of the overflow and make sure it doesn't happen again.

Mayor Breichner stated the State of the City has been rescheduled for March 15, 2005, due to inclement weather.

EXECUTIVE SESSION – MARCH 1, 2005

Councilmember N. L. Hendershot made a motion to meet in closed session at 7:07 p.m. in accordance with the provision of the Annotated Code of Maryland, State Government Article, Section 10-508(a), to discuss the appointment, employment, assignment, promotion, discipline, demotions, compensation, removal, resignation or performance evaluation of appointees, employees, or officials over whom it has jurisdiction, #1; to consult with counsel to obtain legal advice, #7; and to consider a matter that concerns the proposal for a business or industrial

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organization to locate, expand, or remain in the State, #4. Councilmember C. N. Moller seconded the motion.

Councilmember Metzner asked how a comprehensive study for employee groups could be held in executive session. Mr. Zimmerman indicated Staff was following the Mayor and City Council's direction on pay equity among employee groups and labor negotiations.

Councilmember Metzner stated he still doesn't see how this would be a discussion held in executive session.

Councilmember Aleshire stated if the business proposals are annexation proposals, he doesn't think this is a valid reason to hold an executive session, unless it is a specific location of an annexation. He agrees that the consultation with an attorney is a valid executive session discussion. People have hired private attorneys to fight a policy that the Mayor and City Council have put in place to address school overcrowding.

Donna Messina, Director of Human Resources, stated the discussion would have included labor negotiations. Councilmember Metzner stated he is in favor of completing the compensation study. Mr. Zimmerman stated more information will be provided to the Mayor and City Council on the study. He stated Staff needs to know how the Mayor and City Council wish to proceed with negotiations, either in executive session or in public session.

The first item: to discuss the appointment, employment, assignment, promotion, discipline, demotions, compensation, removal, resignation or performance evaluation of appointees, employees, or officials over whom it has jurisdiction, #1, was removed from the executive session discussion.

Motion carried, with a unanimous vote. No formal action was taken at the session. The meeting was held in the Council Chambers, 2nd Floor at the City Hall. The meeting was adjourned at 8:47 p.m.

Respectfully submitted,

Donna K. Spickler, City Clerk

Approved: _____