

74th SPECIAL SESSION - December 14, 2004

Mayor William M. Breichner called this Special Session of the Mayor and City Council to order at 4:04 p.m., Tuesday, December 14, 2004 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, P. M. Nigh; City Administrator Bruce Zimmerman, City Attorney William Nairn and City Clerk D. K. Spickler.

Mayor Breichner asked that a Moment of Silence be observed for Pamela McKoy (wife of Officer Brett McKoy) who passed away on December 13, 2004.

Resolution: Approval of Bond Financing for FY 2004/05

Action: Councilmember L. C. Metzner made a motion to approve a resolution authorizing the City of Hagerstown to issue and sell a \$ 4 million general obligation installment bond to Bank of America maturing on February 15, 2020, with annual principal payments due on February 15 in each year between 2006 and 2020. The bonds will bear interest at the fixed rate of 3.36% per annum, payable semiannually on August 15 and February 15 each year. The bond will be designated as the "City of Hagerstown Public Facilities Bond of 2004" per the attached detailed resolution.

As required by Section 5 of the enabling ordinance adopted on November 23, 2004, the resolution enumerates the uses of the bond proceeds and all the details regarding the bond and its sale. The resolution provides that the full faith and credit and unlimited taxing power of the City of Hagerstown shall be irrevocably pledged to the payment of principal and interest on the bond. Councilmember N. L. Hendershot seconded the motion.

Motion carried, 3-2 with Councilmember Aleshire and Councilmember Nigh voting No.

Adoption of Resolution - Interim School Impact Policy

Kathleen Maher, Planning Director, presented an Interim School Impact Policy Resolution for the Mayor and City Council' consideration. She stated this is similar to Washington County's Adequate Public Facilities Ordinance (APFO) and the County has provided exemptions for lots of record. Staff has recommended the following:

1. Exemption for Gateway Crossing - This project is advanced and the contract for Phase IV will soon be awarded.
2. Exemption for the former Charlton Trucking housing project - The houses being built here are to be moderately priced single-family housing units and the impact fees would add considerable cost to the overall price.
3. Since the City of Hagerstown does not provide financing for school facility improvements, the City will transfer any school fees to Washington County for the purpose of school capacity expansion for schools within the Hagerstown Urban Growth Area that serve City residents by district boundary determination, not by special permission. This section will be amended to read "school district boundary."

Councilmember Aleshire asked if the two properties mentioned are exempted, who will pick up the tab for the needed money for schools. Councilmember Metzner stated one failing housing project was demolished in order to build Gateway Crossing and he doesn't think this will create a large change in the school needs in that community. It was stated this is a larger project.

Ted Shankle, Hagerstown Housing Authority, stated there was an impact study conducted with the school in that community and this development was considered in the expansion that is being completed at the school at this time. These units are smaller than the previous ones and the number of children expected to attend the school is about the same as it was. Mr. Shankle stated the overall area size for the project is larger.

Ms. Maher stated the exemption will only apply to the 85 units in Phase IV that are not under contract.

Councilmember Nigh stated it may be necessary to count children who live with grandparents in the school enrollment numbers.

Mr. Shankle asked the City to remember that a number of homes were demolished, trailers were removed, an industrial site was relocated and a \$ 5 million community center was constructed through this project. He stated the Housing Authority has not been exempted from the County's APFO fees.

Action: Councilmember L. C. Metzner made a motion to adopt the attached resolution creating an Interim School Impact Policy which shall provide for the collection of the County's APFO school fee for all building permits for new residential units.

This Policy provides for an exemption period from date of passage to February 1, 2005 for lots with a notarized contract, dated by December 8, 2004 with an affidavit of authenticity, to build a single-family, two-family, townhouse, or condominium housing unit. This Policy also exempts Gateway Crossing from paying the school fee for the remaining units in Phase IV due to the late stage of this federally-funded Hope VI project and an inability to raise \$ 723,000 at this point for school fees. This Policy shall sunset on July 1, 2005. Councilmember N. L. Hendershot seconded the motion.

Discussion: Councilmember Aleshire is not in favor of exempting any units from the fee. He asked why the Fridinger property is being considered when there was never a house on the property. Ms. Maher stated this was not included in the motion, it was a suggestion made based on how the County implemented the APFO. Bruce Zimmerman, City Administrator, stated it was intended to be a nice community improvement with middle income housing and it may be a problem to implement the fees this far into the project, even though no housing has been started.

Councilmember Hendershot stated he can see how Gateway Crossing would impact City schools. The Fridinger project would be a good improvement but the school fees need to be paid.

Councilmember Metzner stated the APFO fees for Gateway Crossing should be discussed with the County. This is an important project that has contributed a Community Center in the West End.

Councilmember Aleshire stated the Mayor and City Council have to ask themselves how many times can the taxpayers be asked to pay for the exemptions (through building permit fees, site plan fees and now school impact fees). Councilmember Metzner and Councilmember Hendershot both agree to exempting the fees for Gateway Crossing but not for the Fridinger property.

Motion carried, 3-2 with Councilmember Aleshire and Councilmember Nigh voting No.

Approval of Construction Agreement: Authorizing the Approval of a Change Order for Construction of the Arts and Entertainment District Parking Deck

Action: Councilmember K. B. Aleshire made a motion to approve of a Part II Agreement (construction) Change Order with Bowman Development Corporation to construct the Arts and Entertainment District Parking Deck. Project costs, financing plan

and project details are provided in the December 2, 2004 memo to the City Administrator from the City Engineer.

Funding for the additional cost of \$ 497,277 is \$ 200,000 included in the City's December 2004 General Obligation bond and an anticipated \$ 300,000 from Washington County. Additional foundation costs exceeding the base contract up to \$ 100,000 will be funded by Bowman Development Corporation, any amount over \$ 100,000, while unlikely, will be funded by the City.

It is the Mayor and Council's intent that the cost of construction and operation of this parking deck will primarily come from revenues of the parking system. The above funding does not require General Fund support at this time. Mayor and Council hereby state that user charges will need to be adjusted to ensure that any future potential support by the City's General Fund does not exceed \$ 65,000 per year.

The deck will be constructed by Bowman Development Corporation, acting as the general contractor and owned and operated by the City of Hagerstown. Councilmember C. N. Moller seconded the motion.

Motion carried, 4-1 with Councilmember Nigh voting No.

Approval of Contract for Demolition of 572-574 Pen Mar Avenue

Action: Councilmember Hendershot left the room as this time. On a motion duly made by Councilmember K. B. Aleshire and seconded by Councilmember C. N. Moller, the Mayor and City Council unanimously agreed by voice vote of all members present to award a contract to Milton Stamper Builders of Hagerstown in the amount of \$ 13,500 to demolish and remove the structure at 572-574 Pen Mar Avenue. The instability of the structure jeopardizes the health and safety of the community and constitutes an emergency.

Discussion: Councilmember Nigh asked if the City would be reimbursed for the cost of the demolition. Rodney Tissue, City Engineer, stated the owner will be billed and if they do not pay, the bill would be placed as a lien against the property. Alfred Martin, Finance Director, stated the City would take every step to collect the bill. Mr. Tissue stated this is an emergency situation and there is no other choice at this point.

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Councilmember Hendershot returned to the meeting at this time. City Attorney Mark Boyer arrived at the meeting. City Attorney William Nairn left the meeting.

Preliminary Agenda Review

BFI Contract Adjustment

Rodney Tissue, City Engineer, stated the BFI contract has a built in cost of living increase. BFI is asking for this 3% increase. In order to cover the cost of the increase, an emergency ordinance would have to be passed to implement an increased fee to the customers.

Councilmember Aleshire asked if any savings were expected if the rubble landfill reopens. Mr. Tissue stated the department is always negotiating with the County for lower rates.

It was the general consensus of the Mayor and City Council to approve the cost of living increase and to pass an emergency ordinance to increase fees to customers.

Water/Sewer Meter

Hughes Supply Inc. will supply water meters for \$ 14,017.50. Christopher Bordlemay, Water and Sewer Department Assistant Manager, stated this is an inventory replacement item. Hughes Supply is the sole source for these radio read meters.

This purchase will be added to the consent agenda.

Change Order #3 - Phase II WWTP Project

Mr. Bordlemay stated no bids were received for the duct bank installation. Since no bids were received, Staff is recommending adding Change Order Number 3 to the original bid submitted by Ulliman Schutte Construction, LLC. The price of the change order is \$ 65,000.00.

It was the general consensus of the Mayor and City Council to add Change Order Number 3 to the contract with Ulliman Schutte Construction, LLC.

Ornamental Street Lights

Union Metal Corporation submitted a bid for street lights in the amount of \$ 14,800.00. This purchase will be added to the consent agenda.

Biosystems Posicheck 3 Equipment

Allsafe MES submitted a proposal of \$ 18,328.80 for Biosystems Posicheck 3 equipment. Allsafe is the sole source provider for this equipment. Fire Chief Gary Hawbaker stated 90% of the purchase price will be covered through the 2004 U.S. Department of Homeland Security's Assistance to Firefighters Grant. The remaining 19% will come from the General Fund.

This purchase will be added to the consent agenda.

Councilmember Nigh hopes that, with new development occurring, people make sure the streets are passable for fire trucks. Chief Hawbaker stated the Department took members of the Planning Commission to areas where there are concerns. The Planning Commission is addressing these and other access issues. Councilmember Hendershot stated he has received complaints about streets being blocked by parked vehicles. He stated this is especially a problem where parking is switched from side to side every three months.

Approval of Rehabilitation Contract

Alfred Hobbs submitted a bid of \$ 85,920.00 to rehabilitate the house at 46 Charles Street for the Home Ownership Program. This contract will be added to the consent agenda.

Spray Vehicle

A spray vehicle is needed for the golf course. John Budesky, Director of Administrative Services stated new equipment would cost approximately \$ 30,000.00. Bids were submitted for used equipment. G. L. Cornell Co. submitted a bid in the amount of \$ 21,865.00.

This purchase will be added to the consent agenda.

Acceptance of Street - East Ridge Drive

Rodney Tissue, City Engineer, stated East Ridge Drive (located between Eastern Boulevard and Tracy's Lane) was designed and constructed per the 1986 Public Ways Construction Standards. Staff is recommending accepting an offer of dedication of East Ridge Drive into the public road system conditioned on receiving a one-year maintenance surety per the subdivision ordinance.

It was the general consensus of the Mayor and City Council to approve a resolution accepting the dedication.

Gateway Crossing Development - CSX Railroad Track Crossing Agreement

James Bender, Assistant City Engineer, stated the Hagerstown Housing Authority, working with Pennrose Properties, Inc., has submitted preliminary plans for Phase IV of the Gateway Crossing development in the west end of Hagerstown. Phase IV is the final section of the development to be constructed.

The topography of the land in Phase IV will make it difficult for stormwater runoff to be discharged from the property. Under current conditions, stormwater is impounded against the embankment of the CSX railroad tracks until it reaches a depth where it can flow along the tracks to the east. In order to facilitate the conveyance of this stormwater, the Phase IV construction plans call for the installation of culverts under the railroad embankment; this would allow stormwater to flow from the Gateway Crossing development into the Wesel Blvd./Hagerstown Business Park drainage system.

Pennrose has informed City staff that CSX will allow the installation of the culverts, but only if the City of Hagerstown acts as the Applicant for the required CSX Track Crossing Agreement. Mr. Bender indication final plans have been submitted and Pennrose is also requesting permission to expand the existing stormwater pond. Staff is asking for direction on this question: Is the City willing to act as the Applicant for the CSX Track Crossing Agreement?

If the City is willing to act as the Applicant, Staff will work with Pennrose and the Housing Authority to prepare the application and submit it to CSX. Staff, working with the City Attorney, will also prepare a side agreement between the City and the Housing Authority that establishes the Authority's responsibility to pay any and all application fees, and the Authority's responsibility for maintenance of the culverts after they are installed.

Recent decisions by the Staff and Council have been based upon the goal of limiting the City's liability and responsibility for infrastructure that is not required for a public purpose. The decision to install these culverts under the railroad was made by the Housing Authority in an effort to facilitate development of the property; the City did not require the Authority to select this as the means for dealing with stormwater drainage from the site.

Staff would only recommend the City's involvement in the CSX Track Crossing Agreement application under the following conditions:

1. The culverts, if installed, shall be owned and maintained by the Housing Authority, not the City. The culverts would be treated as a private drainage system, and the Housing Authority will be required to enter into a Stormwater Management Maintenance Agreement with the City.

2. The Housing Authority/Pennrose shall enter into a side agreement with the City that clearly states that the Housing Authority shall be responsible for payment of any and all application, inspection, and construction fees to CSX. The Housing Authority will also be responsible for providing all insurance coverages required to perform the installation in the CSX right-of-way, and for fulfilling all of the other requirements listed in the CSX Track Crossing Agreement.
3. The Housing Authority/Pennrose shall prepare a plan for the expansion of the existing stormwater management pond at the Hagerstown Business Park, which will receive the runoff from the new culverts. The plan must be reviewed and approved by the City Engineer. The pond expansion must be completed at the Housing Authority's expense in conjunction with the construction of Phase IV.

This Agreement will be added to the agenda for approval.

Volunteer Snow Removal Program Agreement

John Lestitian, Chief Inspector, stated the Volunteer Snow Removal Program is moving forward. City Attorneys have drafted an agreement between the City and the Commission on Aging. Currently, the agreement is being reviewed by the Commission on Aging. The biggest response for volunteers has been from city employees.

Approval of City Attorney Contract Renewal

The current two year agreement with Urner, Nairn & Boyer, to provide legal services for the City, expires on December 31, 2004. The firm has submitted a proposal to provide legal services for the City of Hagerstown over the next three years.

Major terms of this three year proposal include the following:

1. Calendar Year 2005: A monthly retainer payment of \$ 4,000 plus an hourly rate of \$ 115 for attorney's time. A \$ 400 flat fee for each title examination.
2. Calendar Year 2006: A monthly retainer payment of \$ 4,500 plus an hourly rate of \$ 125 for attorney's time. A \$ 400 flat fee for each title examination.
3. Calendar Year 2007: A monthly retainer payment of \$ 4,500 plus an hourly rate of \$ 130 for attorney's time. A \$ 400 flat fee for each title examination.

It was the general consensus of the Mayor and City Council to approve the renewal agreement with Urner, Nairn and Boyer.

Norfolk & Southern License Agreement

David Shindle, Water and Sewer Department Manager, and Michael Spiker, Hagerstown Light Department Manager, reported a consultant working on behalf of the Norfolk Southern Railway has extended an offer to the City that, in exchange for a lump sum payment, the City would no longer be subject to annual payments for three license agreements for utilities that cross railway's property. Two of the agreements are for sewer crossings and one is for electric. Combined, \$ 1153.85 is paid annually for the three license agreements. Norfolk Southern's offer is to amend the agreements to eliminate the annual payments and the City would pay a one-time fee of \$ 17,305.75.

It was the general consensus of the Mayor and City Council to accept this license agreement.

Introduction of an Ordinance: To Amend Code Chapter 46, Adult Businesses - to modify procedures for obtaining an adult business license

Mark Boyer, City Attorney, presented an amendment to the Ordinance to establish a time frame within which the City Clerk must issue or deny the license, and to specifically identify the right of appeal.

The Mayor and City Council agreed to add this code amendment to the agenda.

This completed the Preliminary Agenda Review.

2005 General Assembly Legislative Priorities

The Mayor and Council, along with the County Commissioners, are scheduled to meet with members of the State Delegation at 11:00 a.m. on December 16, 2004 to discuss legislative issues and project priorities for the coming session of the General Assembly.

The following is a preliminary outline for possible topics of discussion:

1. Excise Tax/School Funding - the 2+2 Committee has been considering a long term solution to providing a county-wide approach to providing funds for increasing the capacity of county schools.
2. Central Booking - City, County and State officials have held discussions

over the need for a central booking operation and the schedule for State and local funding of such a facility.

3. USMD Operating Funds - The continuation of State funding for the operation of the USMD Center which is scheduled to open in January, 2005, is clearly a top priority for the community in the next General Assembly.
4. Edgewood Drive/Dual Highway Intersection Improvements - A cooperative effort of the State, County, and City to improve this intersection began this year with the commencement of design work. Each government has contributed 1/3 of the cost of the design services. The plan for funding and constructing the improvements needs further discussion. Rodney Tissue, City Engineer, stated he understands the State Highway Administration will be completing the design services "in-house." The City will pay for 1/3 the cost of design only, not of construction.
5. Hotel Room Tax - There have been some preliminary discussions regarding potential amendments to the State's legislation pertaining to the Washington County Room Tax and the possible distribution of a portion of these funds to Hagerstown. Mayor Breichner stated he understands there may be about \$ 100,000 in revenue associated with this tax. Councilmember Aleshire stated it depends on how the bill is written. Mayor Breichner suggested asking for a room tax of 2% for hotels within the city limits. Councilmember Hendershot stated this additional revenue may help in getting some projects started.
6. School for the Arts - The Delegation obtained \$ 400,000 in bond bill funding for the future creation of the Board of Education's School for the Arts on South Potomac Street. The Board is currently in the process of beginning a feasibility study for the former Henry's Theater Building.
7. Bond Projects - The Mayor and Council may wish to consider whether there are any bond projects they would support as priorities for State funding.
8. MML Priorities - Each year the Maryland Municipal League identifies legislative priorities for the General Assembly.

9. House Bill 258 - During the 2004 Session, Delegate Frush introduced House Bill 258. This proposed legislation authorized municipal corporations in Maryland to create special taxing districts within their corporate limits for the purpose of financing capital and operating costs to enhance police and fire protection in areas determined by the municipal corporation to require additional public safety services. HB 258 was not adopted in 2004, but it is anticipated that the same legislative proposal will be submitted in 2005. Chief Gary Hawbaker stated HB 258 allows the funding to be used for operating costs as well as capital expenses. Councilmember Hendershot stated this tax would ensure the best protection for citizens.
10. Continuation of State Funding Programs: Program Open Space, Community Legacy, Urban Parks and Recreation and Highway User Revenues

Councilmember Aleshire asked that more information be provided about the request from ABC concerning the Best Value Bill. He suggested that the Mayor and Council consider, at some point, making a statement of position on slots in Maryland and malpractice insurance coverage.

Councilmember Metzner stated slots is a State wide issue and his position would be to ensure the Washington County Gaming Commission continued operation. He stated steps need to be taken to resolve the malpractice insurance issue. He encourages the Delegation to ensure this issue is resolved.

The malpractice insurance issue will be added to the list of priorities for the Delegation from the Mayor and City Council.

Hagerstown Softball Association Lease at Fairgrounds Park

Hagerstown Softball Association (HSA) has made a request to renew their lease with the City of Hagerstown. The current lease expires December 31, 2005; however, they have asked to renew the lease at this time.

John Budesky, Director of Administrative Services, stated the Washington County Pony League has expressed interest in using the fields at Fairgrounds Park. The Mayor and City Council will need to determine whether to renew the existing lease at this time or explore other options.

Rodney Tissue, City Engineer, stated the Mayor and City Council decided eight years ago that the uses allowed in Fairgrounds Park would be softball, baseball, soccer and walking trails.

Mr. Budesky stated the lease with the HSA has been in place for four years and ends after the fifth year. The HSA has secured loans to make improvements to the ballfields and they still owe on the loans.

Mike Kelbaugh, HSA President, stated there are 23 teams in the league and if the lease expires at the end of December, 2005, there will not be enough time to secure a new facility. The participants really enjoy Fairgrounds Park.

Mr. Budesky stated the original agreement stated the City will negotiate with the current user before choosing another user. He stated it is also important to discuss how the facility needs differ between softball and baseball.

Councilmember Hendershot asked how a group would schedule a tournament. Mr. Budesky stated it will be a more controlled process. If the requesting group would bring a lot of people to the City and would be beneficial to the City, the league would be asked to move. The whole process would be coordinated between the City and the league.

Mr. Budesky stated he wants to make sure the Mayor and City Council understand if the existing lease is renewed at this time, it would prohibit other groups from seeking a lease.

Councilmember Nigh stated the Pony League should have been considered originally. It would be a great asset. She understands there has been a problem with the concession stand being closed a great deal of the time.

Councilmember Metzner stated preference was given to softball uses and to leagues that were out of space.

Mr. Kelbaugh stated the concession stand was closed during soccer games, but if the City would like it to be open all the time, they will do that.

Mr. Budesky stated the agreement presented to the Mayor and City Council is a draft and is still being worked on. It will not be ready for approval before the January meeting.

It was the general consensus to move forward with the agreement between the City and the HSA.

Russell Harshman Lease Agreement

John Budesky, Director of Administrative Services, presented a lease agreement renewal with Russell Harshman for the Mayor and City Council's review. Mr. Harshman leases the Fairground Park property that is adjacent to his North Cleveland Avenue property. The terms of the lease are unchanged from prior years.

It was the general consensus of the Mayor and City Council to renew the lease with Mr. Harshman.

Corporation of Assistive Technology Lease

John Budesky, Director of Administrative Services, presented a lease renewal agreement with the Corporation of Assistive Technology for the Mayor and City Council's review.

Due to the renovations at the Grandstands at Fairgrounds Park, The Corporation of Assistive Technology's storage area has been relocated to an unused space in the basement of Claude M. Potterfield Pool.

The Corporation of Assistive Technology builds ramps for handicap access. Councilmember Nigh asked if the group charges for the ramps. Councilmember Hendershot stated it depends on the individual's ability to pay. Councilmember Nigh asked if the space should be provided free to this group. Councilmember Hendershot stated they try to keep the supplies stocked and they do pay permit fees.

It was the general consensus of the Mayor and City Council to renew the lease with Corporation of Assistive Technology.

Forest Conservation Ordinance Amendments

Kathleen Maher, Planning Director, stated in administering the Forest Conservation Fund for City tree planting projects, staff have discovered two problems with the Forest Conservation Ordinance. The first is that the collection rate of 10 cents per square foot per canopy coverage for the Forest Conservation Fund is inadequate to cover the City's costs to plant the required tree canopy. The second is that the language governing the types of trees which may be used for Fund projects is too restrictive for some urban street tree or park planting situations.

A proposed amendment to Chapter 113, Forest Conservation Ordinance, was presented to the Mayor and City Council for their review. The Maryland Department of Natural Resources and the Planning Commission have reviewed the amendments and are recommending approval by the

Mayor and City Council.

Because new development projects are steadily coming in, it is recommended that the proposed amendments be adopted as quickly as possible.

The Mayor and City Council agreed to add introduction of the amendments to the agenda for December 21, 2004. The ordinance will be scheduled for approval on January 4, 2005.

Proposed Annexation - David Lyles

Deborah Everhart, Economic Development Director, presented information on a proposed annexation from David Lyles. The property is located east of Eastern Boulevard behind the Food Lion Grocery store and south of Jefferson Boulevard, containing 28.83 acres of land. The property is proposed to be developed with professional offices or businesses similar to those existing along Eastern Boulevard and Professional Court.

Jason Divelbiss, Attorney, was present to discuss the proposed annexation for the developer. The proposed zoning for the property is C-2, Commercial General and this would be a natural extension of the business park. Access to the property will be from Cameo Drive.

Ms. Everhart stated the developer has been working with the Engineering Department to accommodate the width of the new road that would be necessary for this development. There is a pre-annexation agreement with the owners of the property to the east. If this annexation is approved, another 16 acres would be annexed under the agreement at the same time. She stated this development would be required to contribute to the Edgewood Drive Improvement Fund.

Councilmember Aleshire asked if conceptual plans have been developed. Mr. Divelbiss stated the plans are for one acre lots. Councilmember Aleshire suggested it would be beneficial to make sure City departments express any concerns about this annexation to the Mayor and City Council for their consideration during the review process.

The Mayor and City Council agreed to review this annexation request further.

Proposed Annexation - Todd Snook

Deborah Everhart, Economic Development Director, presented information on a proposed annexation from Todd Snook. The property is located between West Washington Street and Washington Avenue. The current zoning on the property is RS (Residential, Suburban), and the requested zoning classification is R-2 (Moderate Density).

Todd Snook, Owner, was present to discuss the proposed annexation. He stated the property is the Ardinger property on W. Washington Street. The planned development is primarily single family homes, with the average lot size being 1/4 acre. The area is currently served by septic systems.

Councilmember Aleshire asked how many homes were planned. Mr. Snook stated the density requirements of the zoning ordinance would be met.

The Mayor and City Council agreed to review this annexation request further.

Taxicabs and Common Carrier Program

Rodney Tissue, City Engineer, John Lestitian, Chief Inspector and Lt. Richard Reynolds, were present to discuss Taxicabs and Common Carriers in the City of Hagerstown.

Presently there are no taxicab companies operating within the City. However, the City is served by numerous common carrier companies. These firms operate vehicles in a manner very similar to taxicabs but operate under somewhat different regulations. The Public Service Commission (PSC) currently regulates both taxicabs and common carriers in the City. Regardless of the type of company, both vehicles and drivers are required to be licensed through the PSC.

Lt. Reynolds stated a complaint was received from the Broadway Neighborhoods First group about taxis blowing horns excessively. In responding to the complaint, it has become clear that a significant number of the vehicles and drivers serving the citizens are not properly licensed and are violating numerous regulations. There is only one PSC inspector for the entire state. The PSC has conducted inspections three times in Hagerstown and have issued citations for numerous vehicle violations.

Mr. Lestitian stated Staff is recommending that a taxicab/common carrier driver's permit program be developed that would make it incumbent on the driver to ensure the vehicle is in compliance with the license regulations. Current state laws and regulations permit municipalities to regulate the driver's permit component for taxicabs. However, the common carrier component will require legislative action on the state level.

Councilmember Metzner asked that this legislation be added to the list of priorities to discuss with the Washington County Delegation.

It is anticipated that no increase in staff would be required to implement a driver licensing program.

Mark Boyer, City Attorney, indicated there is a section in the City Code covering Passenger for Hire vehicles. The State law establishes minimum standards of what a municipality can do in regards to taxis, but not for passenger for hire vehicles. He recommends creating standards for passenger for hire vehicles.

Councilmember Hendershot stated the condition of the taxis and common carrier vehicles damages the perception of the city. Establishing a licensing program would help ensure safety for citizens and visitors.

Mr. Boyer will draft a request to the Washington County Delegation for this issue to be discussed in the general session. The PSC Commissioner will be kept informed about the City's planned licensing program.

Councilmember Nigh asked if there are regulations about the age of the vehicle used for a taxi service. Mr. Lestitian stated there are no regulations for transportation companies, but taxis cannot be older than 10 model years.

It was the general consensus of the Mayor and City Council to move forward with this licensing program and take the necessary steps through the legislative process.

Alarm Ordinance and Hagerstown Police Department Information

Chief Arthur Smith, Hagerstown Police Department, stated Central Booking is still being planned. When Central Booking is included in the State's CIP budget, both Washington County and the City of Hagerstown will include it in their budgets.

Chief Smith and Donna Messina, Director of Human Resources, made a request to restore a police position that had been frozen. Two years ago a police position, along with several other positions, was eliminated when a Lieutenant retired. The functions of grant writing and management were reassigned, resulting eventually with one less patrol officer. Since that time, four additional positions were eliminated to bring the officer salary scale to a more competitive level.

The compounding of this situation creates operational difficulties. Chief Smith and Ms. Messina are jointly making the request to restore a patrol officer position, effective January 1, 2005 to backfill for the lost lieutenant position from two years ago.

Mr. Zimmerman stated the position was frozen in the 2003/2004 budget and staff feels it is important to reinstate the position mid-year.

It was the general consensus of the Mayor and City Council to reinstate the position at this time.

Ms. Messina stated the outpouring of caring from employees for Brett McCoy and his family has been tremendous.

Chief Arthur Smith and Captain Jack Moulton, Hagerstown Police Department, were present to discuss the City's Alarm Ordinance. Chief Smith stated the ordinance was implemented to ensure alarm systems were used properly and no changes are recommended at this time.

Councilmember Metzner asked how many multiple alarm complaints there are. Chief Smith stated there are two, one residential and one commercial. Both cases have experienced several false alarms in a short period of time and fees are accumulating.

Councilmember Aleshire asked if the ordinance allows for a case by case review before fines are levied. There is no case by case review.

Mr. Boyer stated the fine can be reduced by 50%, if the owner pre-pays. Mr. Boyer asked if a bill is sent or if a citation is issued. Chief Smith stated a bill is sent. There was some discussion concerning the process and whether or not a notice is issued, which the owner would need in order to take the case to court. This will be reviewed by Mr. Boyer and Chief Smith.

City Administrator's Comments

Bruce Zimmerman, City Administrator, stated it is heartwarming to see the outpouring of caring for Brett McKoy.

He reported the water distribution staff has completed repair of the break in the transmission line near Williamsport. He commended the field workers and supervisors for their work in making this challenging repair and for continuing the operation of the system, both at the plant and on the distribution side.

Mayor and Council Comments

Councilmember K. B. Aleshire asked that the Code Compliance staff provide him with an update on a complaint made by Mr. Draper. They will do so.

He asked Mr. Boyer if the Board of Zoning Appeals is bound to approve a request for a Special Exception if all the conditions in the Zoning Ordinance are met. Mr. Boyer deferred the question to John Urner, City Attorney, who is more familiar with zoning issues.

Councilmember Aleshire left the meeting at this time.

Councilmember C. N. Moller stated after visiting some of the new developments, she can see the problems the fire company will be having with street width. She addressed a complaint about the location of the tree in the lake at City Park. The tree was not located in the lake this year because of the work that is being completed there. She stated the tree will be put back in the lake next year.

Councilmember L. C. Metzner stated he appreciated the way Mayor Breichner started this evening's meeting, in memory of Pam McKoy.

Councilmember P. M. Nigh stated there is a trust fund being started for Brett McKoy's children. She is hoping all of Washington County will consider contributing to this fund.

She stated she received a complaint about the parking lot at the South End Shopping Center. Code Compliance will look at this parking lot. She is concerned that homeless people are being told to get an identification card and then they are classified as Washington County residents.

Councilmember N. L. Hendershot stated the taxi licensing will greatly improve Hagerstown's image. He urged the Council to support the fire tax. The Boys and Girls Club is asking for support from the community. He asked people to please consider supporting a child.

He expressed his sympathy to Brett McKoy, in the loss of his wife, Pam. This is truly a great loss for the community.

Mayor W. M. Breichner announced a joint meeting with the Washington County Delegation on December 16, 2004.

EXECUTIVE SESSION - DECEMBER 14, 2004

On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember K. B. Aleshire, the Mayor and City Council unanimously agreed by voice vote of all members present to meet in closed session at 6:43 p.m. in accordance with the provisions of the Annotated Code of Maryland, State Government Article, Section 10-508(a) #9 to conduct collective

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bargaining negotiations or consider matters that relate to the negotiations. 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 7:29 p.m.

Respectfully submitted,

Donna K. Spickler, City Clerk

Approved: January 25, 2005