

WORK SESSION AND EXECUTIVE SESSION – November 19, 2013

Mills Park Trail Ribbon Cutting

The Mayor and City Council attended the ribbon cutting at the Mills Park Trail, Northern Avenue, Hagerstown, Maryland at 3:00 p.m.

WORK SESSION – November 19, 2013

Mayor D. S. Gysberts called this Work Session and Executive Session of the Mayor and City Council to order at 4:07 p.m., Tuesday, November 19, 2013, in the Council Chamber at City Hall. Present with the Mayor were Councilmembers K. B. Aleshire, M. E. Brubaker, L. C. Metzner, D. F. Munson and P. M. Nigh; City Administrator Bruce Zimmerman, City Attorney Mark Boyer and City Clerk D. K. Spickler.

Preliminary Agenda Review

**Consent Agenda**

- A. Fire Department: Battalion Vehicle – Criswell Auto Com (Gaithersburg, MD)  
\$ 33,921.00
- B. Department of Community and Economic Development: Western Maryland Blues Fest – 2014
- C. Police: Predictive Policing Software – Pred Pol (Santa Cruz, CA) \$ 18,000.00
- D. Department of Utilities: Goulds Vertical Pump Assembly – Geiger Pump and Equipment (Baltimore, MD) \$ 24,200.00

**Approval of a Resolution: University System of Maryland at Hagerstown – Police Services Memorandum of Understanding for University Plaza**

Chief Mark Holtzman stated this agreement states that Hagerstown Police Department will provide certain police services at the University System of Maryland at Hagerstown and its surrounding property in exchange for use of office space for the downtown patrol officers. The agreement includes changes regarding the shared responsibility between the police and the University System of Maryland at Hagerstown to open and close the University Plaza Park in accordance with park hours.

**Approval of Bulk Diesel Fuel Purchase – Cato, Inc.(Salisbury, MD) \$ 313,110.00**  
**Approval of Bulk Gasoline Purchase – Petroleum Traders (Fort Wayne, IN)**  
**\$ 315,997.00**

Eric Deike, Director of Public Works, stated Washington County government competitively bids out the diesel fuel and gasoline for themselves, the Board of Education

and the City of Hagerstown to obtain a better bulk rate. The price is based on a bidder's Plus/Minus Factor added to the current OPIS (Oil Price Information Service) price given on a particular date. The actual price for fuel will vary over the length of the contract from the bid price depending upon the current OPIS rate. The pricing is good from December 1, 2013 through November 30, 2014.

**Approval of Water Chemical Purchase (Various Vendors) \$ 577,451.00**  
**Approval of Wastewater Chemical Purchase (Various Vendors) \$ 250,095.00**

Michael Spiker, Director of Utilities, stated the chemicals for both the Water and Wastewater Divisions are bid through the Washington County bidding process. The contract will begin on December 1, 2013.

### **Approval of Pavement Preservation List for 2014 and 2015**

Rodney Tissue, City Engineer, provided a listing of streets to be included in the pavement preservation program for 2014 and 2015. Some of the streets for 2014 are Church Street, View Street, Linden Avenue, S. Mulberry Street, Hamilton Boulevard, Eastern Boulevard North, West Irvin Avenue, and King Street.

### **Acceptance of Maryland Bikeways Grant**

Mr. Tissue reported that the City has received a \$ 70,000 grant from the Maryland Department of Transportation (MDOT) for continued bicycling-related improvements in the City. The grant has no financial match. The grant will be used for striping/signing of bike lanes and sharrows, bicycle-friendly storm drain grates, additional bike racks, helmet distribution at bicycling events and decimating information containing the City's educational and promotional videos on bicycling.

Councilmember Brubaker encouraged Councilmembers to review the streets that are involved.

It was the general consensus to approve the draft grant agreement and authorize staff to proceed with the work.

This completed the preliminary agenda review.

### Water/Wastewater Rates Five Year Rate Plan

Michael Spiker, Director of Utilities, Nancy Hausrath, Water Operations Manager, Nelia Tidler, Utilities Financial Manager, Dave Hyder, VP Municipal & Financial Services Group, and Tracey Moher, Municipal & Financial Services Group, were present to discuss a five year rate plan.

The Utilities Department Financial/Administrative staff has been working with Municipal & Financial Services Group (MFSG) staff Dave Hyder and Tracy Moher in

the development of a Water and Wastewater Five Year Rate plan that would be in effect from Fiscal Year 15 through the end of Fiscal Year 19. The analysis has been completed utilizing updated financial operational requirements and capital needs for the departments.

The goals of the Five Year Rate Plan include:

1. The continued financial solvency of both funds
2. The financial ability to continue investment within the infrastructure
3. Customer financial budgeting of water and wastewater usage. The five year structure allows the commercial/industrial and wholesale users (residential customers to a lesser degree) to trend usage and cost analysis in their respective budget plans for five years.

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

1. Fees and Charges collected will continue to self-support the Departments' financial needs.
2. Fees and Charges collected will allow for continued reinvestment of the systems
3. Contingency and Unplanned Expense fund reserves should be maintained.
4. 3% Inflation rate
5. 0.5% Customer growth rate
6. 0.5% Consumption growth rate
7. 3% Interest rate on borrowing (maximum)

Based on projected water and wastewater sales, the City's current rates will not produce adequate revenues to cover the costs of operating and maintaining the systems over the projection period. The annual shortfalls in sewer revenues will exhaust the sewer fund cash balance by FY 2015.

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

To ensure the contained health of the wastewater sewer system, it is recommended that the City adjust rates as defined by the financial plan. A very substantial increase in wastewater rates is recommended in FY 2015. This level of increase is recommended due to the limited cash within the fund and the substantial shortfall in revenues compared to expenditures. An increase of this magnitude will be necessary unless the City can reduce expenditures in the wastewater fund or potentially delay/defer capital projects. Although the increases will still result in a shortfall in FY 2015, the overall cash balance of the fund is healthy enough to withstand the shortfall until the fund itself becomes self-sustaining and results in a positive cash flow in FY 16. The wastewater increases in the current plan were averaged over five years in order to avoid an initial projected large

increase in the first year with the understanding the fund would not become financially solvent until the fifth year of the plan. This was accomplished through the deference of CIP, vehicle purchases, and the continued open and unfilled positions within the division.

Water rates are projected to increase by 2% each of the five years. Wastewater rates are projected to increase 12% in FY 15, 4% in FY 16 and FY 17, and 2% in FY 18 and FY 19.

The City currently imposes benefit charges on customers who connect to the water and/or wastewater system. The benefit charges are based on the capital costs of providing water and sewer capacity for new customers. Benefit charges are proportioned based upon anticipated usage and jurisdiction (inside/outside city).

In 2002 the City acquired the Conococheague and Martins Crossroads portion of the water system and in doing so assumed the debt that had been used to fund the area. In order to make the annual principal and interest payments on this debt, the City imposes an annual debt surcharge to customers living within this area. The current surcharge imposed by the City was reviewed. Based on the number of customers and the annual debt payments, the charge per EDU should be \$ 14.50 in FY 14. The charge should decrease to approximately \$ 6.00 per EDU for FY 16 and beyond until the debt is extinguished.

The City currently charges customer fire line charges based on meter and/or pipe size. The City increased the charges for fire lines by approximately 15% in FY 10 to bring the revenues from these charges in line with the cost of providing private fire protection. Based upon the updated model, it is recommended that the City increase fire line charges at an annual rate of 3% to ensure that the fire line charges keep up with the increasing cost of providing private fire protection service.

Per the recently completed study, the average residential customer is billed for 8,500 gallons per quarter. The average inside residential customer would therefore be charged \$.90 per day and an outside residential customer would be charged \$ 1.70 per day for water/wastewater service.

Compared to other local utilities, City customers pay the lowest water rates and nearly the lowest sewer rates.

Aggressive collection practices have assisted in the lowering of the outstanding balances on water and wastewater bills.

During December, January and February, discussions will continue, with input and deliberations with the Mayor and Council. Adoption of the Five Year Rate Plan is anticipated in late February/early March, with an effective date of July 1, 2014.

Councilmember Brubaker pointed out the previous five year rate plan followed the same process. The final result of the increase was 5% each of the five years.

Mr. Spiker indicated with the 5% annual increase, it was necessary to limit CIP projects and defer purchases to stay within the budget. If the Mayor and City Council determine a 5% annual increase is appropriate, the same budget limitations would be necessary. At the end of the five year period, the same issues would remain.

Councilmember Aleshire wondered if the dividend from the water division is being continued in the projections. He also wondered why a 12% increase was recommended when the information indicates expenses decrease after the first year.

Councilmember Brubaker stated it would be helpful for him if the FY14 budget included information on the incremental changes. Mr. Spiker will include this information with the next work session information.

Councilmember Aleshire pointed out there are significant carrying costs included in the projections. Mr. Spiker indicated the carrying costs include the un-captured revenue.

Councilmember Aleshire asked how the vacant properties are handled. He stated the service tap should be removed from properties with long term vacancies. The property owner could have the service reinstated, for a fee, when the property is occupied. Mr. Spiker stated this could be discussed further.

Councilmember Aleshire asked if large users receive the same sliding scale rate schedule for their sewer bills. Mr. Spiker indicated they do not, sewer charges are based on water consumption.

Councilmember Munson asked that the recently approved late fees be reviewed. There appears to be issues with the timing of the assessment of the fees. Mr. Spiker stated staff has adjusted the grace period from 28 days to 30 days. Ms. Hausrath stated customers with special circumstances should contact the City.

Mr. Spiker stated the Hagerstown Light Department late fees will be implemented soon.

Additional discussion of the proposed rate adjustment will be scheduled for the December 10, 2013 Work Session.

#### History of Hagerstown Community College (HCC)

Dr. Guy Alteri, HCC President, and Austin Abraham, Board of Trustees, were present to discuss the book, *The Remarkable Journey of Hagerstown Community College*.

Mr. Abrahams mentioned that Dr. Alteri is the third president in the history of HCC. When HCC was established in 1946, it was one of two junior colleges in the State of Maryland. The college has grown to enrollment of 7,000 credit students and 9,000 non-credit students.

Dr. Alteri presented copies of the book, *The Remarkable Journey of Hagerstown Community College*, to the Mayor and Council members. He thanked the City of Hagerstown for their continued support of the college.

Dr. Alteri stated the Board of Education partners with the College to provide the opportunity for high school students to take college classes while still in high school. A STEM program for high school seniors will begin soon. The College also has a partnership with USHM-H for students to continue their college education downtown.

Councilmember Munson thanked Dr. Alteri for his service to HCC.

### Hub City 100 Miler

Amy Riley, Recreation Promotion & Services Coordinator, was present to discuss the Hub City 100 Miler.

Beginning late November, the Parks and Recreation Division is launching the Hub City 100 Miler, an active living community challenge that will serve two purposes: 1) to showcase a new recreational event for the City of Hagerstown while meeting a need in the community and 2) to be used as a marketing tool to promote the parks, trails, bike paths, and recreational facilities.

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

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

Staff is using budgeted operating funds and a participation fee will be charged to offset the costs associated with running the event. Event registration begins November 25 and will continue through mid-January. The event will officially begin on January 6 with a small event in one of the parks. The program will conclude on April 15 with a small celebration and grand prize drawing(s) for those who have completed the 100 miles.

Mayor Gysberts encouraged the Council members to participate in this challenge.

Program Open Space (POS) Proposed Projects for FY 105

Rodney Tissue, City Engineer, and Junior Mason, Parks Superintendent, reported the City received notice from Jim Sterling, Director of Washington County Parks, Recreation and Facilities, that applications for POS funding are now being accepted for FY 2015.

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

The following projects are tentatively included on the application:

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

Councilmember Munson agrees with the list presented. He would like to have the band shell seating in place prior to the Hagerstown Municipal Band's 100<sup>th</sup> anniversary activities.

Councilmember Brubaker asked how the POS funding has been allocated County-wide. Mr. Mason will gather this information. Councilmember Brubaker wondered why the out years show increased funding. Mr. Mason stated there has been no information provided for future funding. These numbers represent an optimistic estimate.

Councilmember Aleshire does not want the bandshell seating to limit the area where people can sit on the ground for the concerts, if they choose to. Mr. Tissue indicated there will be ample grassy areas for those who wish to sit on the ground.

Councilmember Aleshire is opposed to a community garden. He is concerned City staff will ultimately have to take care of the garden. Mayor Gysberts stated he asked staff to work on a plan for a new community garden. The more successful gardens have each person being responsible for a specific portion of the garden.

Councilmember Aleshire is opposed to three items on the future list: City Park – upper lot paving, acquisition of Winter Street school playground area and a sports/event center at Fairgrounds Park Grandstand.

Councilmember Nigh is strongly opposed to removing the grandstand at Fairgrounds Park. Mr. Tissue stated the idea is to enclose the lower area of the grandstand, not remove the structure.

Approval of the FY 2015 Program Open Space list will be included on the agenda for November 26, 2013.

Proposed City Park Sculpture Project

Rodney Tissue, City Engineer, and Karen Giffin, Community Affairs Manager, were present to discuss a sculpture for City Park.

One initiative staff is working on is to try to bring public sculpture to the community, as there is very little currently. There is a \$ 5,000 grant program available through the Maryland State Arts Council and staff applied in partnership with the Washington County Arts Council and the Washington County Museum of Fine Arts. Recently, it was announced that the Washington County Arts Council was awarded the grant.

The proposal is the “team”, comprised of the Arts Council, Washington County Museum of Fine Arts (WCMFA), Valley Arts, Barbara Ingram School for the Arts (BISFA) and students, and the City will work with local sculptor, Paul Rhymer, to create a bronze sculpture for placement in the lake at City Park. The sculpture will be life size and be located just off shore in the lake to ensure maximum visibility from the lake-side walkway system. A sketch and a photo-shop picture were provided. The sculpture is called “The Fishing Lesson”.

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

In addition, the team has engaged a local author, Amanda Miller, to write a children’s book about the bears, at no charge. The book would emphasize the theme of learning, parent/child relationships and self-sufficiency. The Team proposed a free distribution of a few thousand of the books to children in the community. After that, the author would sell the book.

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

Ms. Giffin reported that \$ 12,000 has been received in private donations.

Mary Ann Burke, Executive Director of the Washington County Arts Council, stated this is the first time Washington County has received this grant since the program began.

Rebecca Massie Lane, Director of the Washington County Museum of Fine Arts, stated this sculpture will be a nice embellishment for the City Park.

Councilmember Nigh suggested including items for sale in the museum gift shop that show the sculpture, i. e. shirts.

Councilmember Brubaker wondered if the Board of Education could provide funding for the books.

It was the general consensus to approve funding of \$ 7,000 for the sculpture project.

Expansion of Café License for “Greens and Grains” -

Rodney Tissue, City Engineer, stated the owner of Greens and Grains, Pietro Priola, currently has a staff-approved café license. He requests permission to place two 15’ x 15’ tents from December – March in the Public Square adjacent their business so they can continue outdoor dining throughout the winter. Since this request is in the public right-of-way, to permit this café expansion, the Council would have to authorize a License for this proposed work. Andrew Sargent, Downtown Business Manager, and Mr. Priola were also present.

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

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

Mr. Tissue stated he expects a building permit would be required for the tent structure. Mr. Priola indicated he met with the City Fire Marshall to discuss the heating for the tent. Heating units would be placed on the outside of the tent.

Mr. Sargent pointed out this is a new idea from a business owner who is looking at unique ways to enhance his business.

Councilmember Munson asked if the neighboring business have any objections. Mr. Priola indicated the party rental business has not responded to his contacts. The tents would be in front of one of their windows but would not block the entrance. The owners of Bikles are supportive of the tents.

Councilmember Aleshire is not opposed to granting the license agreement, unless the neighboring store feels they would be negatively impacted.

Councilmember Metzner stated City staff should contact the party rental store owners and let them know an answer is needed from them. Councilmember Metzner stated he would view silence as approval.

Mr. Priola indicated he had made unsuccessful attempts to rent additional space for increased dining space.

Councilmember Brubaker wants to encourage a business owner who wants to expand their business and he is willing to support the license agreement expansion.

Councilmember Munson stated he supports the request.

It was the general consensus to include approval of the café license agreement expansion on the November 26, 2013 agenda.

#### Parks Rental Agreement

Rodney Tissue, City Engineer, and Junior Mason, Parks Superintendent, discussed the use of City parks. The Parks Division is receiving more and more requests for renting park pavilions, fields, and special events are growing significantly. Unfortunately, the Parks rental facilities are generating less revenue each year. This is due to facility use being “given away” at no charge to various fundraising groups and minimal fees when charged. While this has been an effective tactic in generating and increasing interest in using the parks, it is not an effective model for sustainability and growth of the Parks & Recreation program.

Annual facility rental fees for 2013 were \$ 4,595 for special events and \$ 18,095 in facility rentals. Prior to the FY 15 budget preparations, staff is recommending a review of the rental amounts and possible revisions.

Staff is proposing increases in various rental rates and developing new rates. The specific rates are included with the weekly meeting packet information. Staff proposes the rates will apply to all events, except City-run events. Staff propose to charge all fundraising events and City supported events (such as privately run festivals and fund raisers) the applicable fees.

Another significant change proposed is to charge for all Parks staff time during non-standard business hours for all events except for City events. Staff additionally proposes that for all non-City events, that the Parks Division no longer supply tents, stages, chairs, etc. Private rental companies are widely available to supply these to the non-City event coordinators. This reduces overtime costs to the Parks Division.

Councilmember Aleshire asked how someone could rent the whole City Park facility. Fairgrounds Park should be the park noted for complete rental.

Land Transfer/Business Expansion, 1481 Salem Avenue

Rodney Tissue, City Engineer, stated a request was made by Frederick Siebert and Associates on behalf of Arnold Eby, the owner of the strip plaza at 1481 Salem Avenue that is currently the home of Café Del Sol. Café Del Sol would like to expand their business but the property lacks the on-site parking to meet the parking requirements of the Zoning Ordinance. To remedy this, the City is being asked to request a land transfer from the State Highway Administration (SHA) to the City and then the City would transfer portions to the property owner to expand their parking and allow the Café to expand.

Mr. Tissue stated staff is only asking if the Council endorses the concept of the land transfer and if it is acceptable to start the process. If so, formal action will be needed when the State completes the transfer documents. Various other documents will need to be approved by the Mayor and Council to transfer land and obligations to Mr. Eby.

Councilmember Brubaker pointed out a waiver for the parking spaces may be required from the City's Planning Commission.

It was the general consensus to endorse the concept.

City Attorney Mark Boyer arrived at the meeting.

2005 APFO/Excise Tax Agreement and New APFO Amendments

John Lestitian, Director of Department of Community and Economic Development, and Kathleen Maher, Planning Director, were present to discuss the 2005 APFO/Excise Tax Agreement and new APFO amendments.

Since the County Commissioners amended the Adequate Public Facilities Ordinance (APFO) for schools in October, 2013, the City must follow suit if they desire to continue the 2005 APFO/Excise Tax Agreement with the County.

The County Commissioners received State enabling authority in 2005 to adopt new rates in their Excise Tax Ordinance for all new development in the county; and to allow the municipalities in the county to retain 28% of the tax collected for their own infrastructure upgrades, if the municipalities adopted an APFO for schools substantially similar to the County's.

As a result of this excise tax sharing proposal and the significant revenue to be gained under the 2005 rates, the City adopted an APFO for schools in 2006 which allowed the City to retain 28% of the County Excise tax for City Capital Improvements for roads and parks improvement projects. In the first three years under the 2005 rates, the City

retained \$ 1.98 million in excise tax revenue for the CIP. Since adoption of an APFO in 2006, ten City projects have been affected by the APFO. Five projects were reviewed and approved (four via mitigation approvals) and four projects stalled at the hurdle. The New Haven annexation, which was approved just prior to the City's adoption of an APFO, was adopted with phasing constraints in anticipation of the APFO. Of the five approved projects, two have been abandoned, one has had tax sale issues, and one has been stalled for several years. The New Haven project has not been able to attract a developer and the owner attributes this to the phasing constraints in the annexation agreement.

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

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

1. The revenue to be gained from the excise tax is vastly reduced from what was available in 2005.
2. Any new proposed developments in the City are held up by the APFO for schools even though the vast majority of new home construction in the county is occurring outside the City of Hagerstown and most of the schools serve areas well beyond the corporate boundaries.
3. Residential development is not rebounding within the City of Hagerstown.
4. The City has not annexed a large tract of land for new development since 2008; and only two tracts have annexed in the past two years.
5. The City is not experiencing growth in the property tax base, as in 2005; in fact the base has declined in recent years.

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

Last month, the County Commissioners amended their APFO to impose a fee in this ordinance that would apply to new residential development wishing to move forward even though inadequate schools exist or will exist to serve it. In order to continue retaining 28% of the Excise Tax collected in the City jurisdiction, the City will need to amend the APFO for schools to reflect the new County amendments. While these amendments create a mechanism to allow new residential development to move forward within the City, the City will not be sharing in the APFO fee revenue. The APFO fee

revenue will be paid directly to the County for their CIP for schools. The City would still retain \$0.28/square foot on new residential units and most non-residential development through the Excuse Tax Ordinance.

If the Mayor and Council decides to continue with the 2005 Agreement, amendments will have to be made to the City APFO for Schools ordinance to make it substantially similar to the recently amended County APFO. If the Mayor and Council decide to discontinue the 2005 Agreement, the City's APFO for schools will have to be repealed. If the agreement is discontinued, the City will continue to collect the County excise tax on all new development in the City, but not retain 28% of the revenue for the CIP.

Councilmember Brubaker asked if municipalities can implement their own APFO for services. Ms. Maher stated they could. He wondered if the City should renegotiate with the County.

Councilmember Aleshire does not see a logical reason for any municipality to keep the APFO for schools. He does not think there is value in participating in this program that causes harm to municipalities and limits growth potential.

Councilmember Brubaker is concerned about losing the 28% of the excise tax if the APFO for schools is repealed.

Councilmember Aleshire supports a flat, \$ 1,000 fee. He stated keeping the APFO and letting the County take the excise tax would be more palatable and beneficial to this body.

Councilmember Metzner stated both options appear to be detrimental. He would prefer to discuss other options with the County Commissioners. He does understand the validity of staff's recommendation.

Mayor Gysberts stated he will work with staff and follow up with the County. The APFO will be discussed at a future work session.

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

Chief Mark Holtzman, John Lestitian, Director of Community and Economic Development, City Attorney Mark Boyer and Officer Gerard Kendle, were present to continue the discussion for crime free housing in Hagerstown.

Based on the initial discussion with the Mayor and City Council, revisions were made to the proposed Crime Free Housing ordinance and Excessive Use of Police Services ordinance. Additionally, a new definition for an Apartment Complex was added to differentiate high-rise apartment buildings and apartment complexes from a more traditional multi-unit structure.

Other revisions included the following:

1. Added the definition of rooming house
2. Clarifying an exemption for non-profit, temporary shelters (these establishments are subject to the excessive calls for service ordinance)
3. Exemption of owner plus one rental units
4. Clarify definition of multi-housing facilities as those having three or more units.
5. Amend the number of calls for police to qualify under the excessive calls ordinance
6. Requirement for annual publication of excessive calls list

Councilmember Aleshire pointed out residency at a treatment facility could be on a long term basis and should not be exempted. He agreed that temporary shelters should be exempt from the lease requirements.

Chief Holtzman indicated they would be exempt from the crime free housing lease requirement; however, they would not be exempt from the excessive calls ordinance.

Councilmember Munson stated property owners have contacted him saying they don't understand why they have to be the police when the City has a budget for police services.

Councilmember Metzner stated they are not being asked to be the police. The program is designed to assist landlords through education, licensing and lease agreement assistance and a one-time, relatively short, educational session. They are not required to do anything if they don't want to. If there are continual excessive calls, the property owners will be involved. The City is asking them to be informed about what is happening at their rental properties. There is no expense for this initiative.

Mr. Boyer pointed out there is no fine issued if the landlord wishes to rent their property without a crime free provision in the lease or without an operator's license.

Councilmember Metzner suggested contacting the landlords involved with the Village of Mount Prospect project in Chicago, Illinois to see how the program is helping the community.

Chief Holtzman stated this initiative is asking landlords to manage their property. If no reasonable steps are taken to correct issues, it stresses the neighbors and the neighborhoods.

Mayor Gysberts stated even when landlords have problem tenants, they feel they can't evict them within a reasonable time. Chief Holtzman stated the crime free housing may help with this situation.

Officer Kendle stated there are several apartment complexes participating in the Crime Free Housing initiative, including the Bradford, Cortland Manor, and Edgewood Hills. Others are interested in participating. This is a voluntary program.

Councilmember Munson asked if screening of tenants is included in the ordinance. The ordinance does not require screening; however, education will be provided to landlords on how to screen tenants.

Councilmember Nigh stated the landlords need to be aware of their tenants' history. She recommended that property owners, as well as property management agents, be required to attend the training.

Officer Kendle pointed out the first line of defense for landlords is the lease application. The police department provides general knowledge of what a landlord can and can't do. Tenant screening services are available for very little cost. Landlords can set certain rules for their properties. Fire safety requirements and crime prevention tactics are reviewed with the landlords. Other topics include a review of City ordinances, what illegal activity looks like and general gang information. The information is provided so landlords can make sound decisions about their property.

Mr. Lestitian stated this initiative will provide a better quality of life in the community.

Councilmember Brubaker asked if this program can be streamlined with the rental licensing information. Both programs provide a lot of information. Mr. Lestitian indicated staff has been working to streamline the entire process.

Councilmember Munson asked if a crime free lease was in place and the tenant was arrested for selling drugs, could the landlord evict that person immediately. Mr. Boyer indicated the landlord would first have to follow the fairly stringent requirements of the State for evictions.

Mr. Zimmerman stated Crime Free Housing will be discussed again in December.

#### **CITY ADMINISTRATOR'S COMMENTS**

*Bruce Zimmerman, City Administrator, had no additional comments.*

#### **MAYOR AND COUNCIL COMMENTS**

*Councilmember M. E. Brubaker encouraged people to use the new Mills Park Trail. He noted that water and wastewater rates in Hagerstown are substantially lower than other regional jurisdictions. He stated 6 of the 11 items on the agenda show staff's efforts to think outside the box. There are many examples of working with citizen groups.*

*Councilmember L. C. Metzner had no additional comments.*

*Councilmember P. M. Nigh had no additional comments.*

*Councilmember D. F. Munson* thanked the Hagerstown Light Department for restoring electrical services promptly during a recent thunderstorm. He thanked Chief Holtzman and the police department for initiating crime free housing in the east end.

*Councilmember K. B. Aleshire* would find it helpful if a funding source is identified for items presented to the Mayor and Council for consideration. He and Councilmember Munson attended the EDC meeting last week. The Mayor and Council have received communications in reference to the crime free housing discussion. He has responded to the communications and encouraged others with questions to contact him.

*Mayor D. S. Gysberts* also thanked staff for their hard work. He also thanked the people who volunteer as members of the City's Boards and Commissions.

EXECUTIVE SESSION – November 19, 2013

Councilmember D. F. Munson made a motion to meet in closed session to consult with counsel to obtain legal advice, #7 (Section 10-508(a)) and to conduct collective bargaining negotiations or consider matters that relate to the negotiations, #9 (Section 10-508(a)), at 7:41 p.m. in the Council Chamber, 2<sup>nd</sup> Floor, City Hall, Hagerstown, Maryland. Councilmember P. M. Nigh seconded the motion.

Motion carried, 4-1 with Councilmember K. B. Aleshire voting No.

The following people were in attendance: Mayor D. S. Gysberts, Councilmember K. B. Aleshire, Councilmember M. E. Brubaker, Councilmember L. C. Metzner, Councilmember D. F. Munson, Councilmember P. M. Nigh, City Administrator Bruce Zimmerman, City Attorney Mark Boyer, John Lestitian, Director of Community and Economic Development, Karen Paulson, Director of Human Resources, Scott Nicewarner, Director of Technology and Support Services, Acting Finance Director, Chief Mark Holtzman, and Donna K. Spickler, City Clerk. The meeting was held to discuss a contract with legal counsel and contract negotiations. No formal action was taken at the meeting. On a motion duly made, seconded and passed, the meeting was adjourned at 8:44 p.m.

Respectfully submitted,

*Original signed by D. K. Spickler*

Donna K. Spickler  
City Clerk

Approved: December 17, 2013