TO: Mayor and City Council

FROM: Mark W. Herder, Chief of Police

SUBJECT: ORDINANCE AMENDING STOCKTON MUNICIPAL CODE (SMC) CHAPTER 10 / FUNERAL ESCORT PROPOSAL

RECOMMENDATION

It is recommended Council adopt proposed additions to Stockton Municipal Code Chapter 10, to permit non-City employees to control traffic during funeral escort processions. Such authorization would also permit phased withdrawal of escort services currently provided by only City employees.

DISCUSSION

Background

For more than 30 years, the Stockton Police Department’s Traffic Section has provided funeral escort services seven days a week. Currently, Parking Violations Deputies (PVDs) provide funeral escort services with occasional assistance from Motorcycle Officers when demand exceeds PVD staffing. There are currently six PVD positions in the Traffic Section.

Although there are no prohibitions preventing private enterprise from providing funeral escorts, such enterprise has been strongly dissuaded within the city of Stockton. Currently, neither the California Vehicle Code (CVC) nor the Stockton Municipal Code (SMC) contain language that would permit non-City staff to conduct traffic control at stop lights and stop signs, thereby allowing a continuous and unabated funeral procession.

City staff has been unable to locate any other city governmental agency within the state of California that provides funeral escorts similar to the City of Stockton. Private funeral escort businesses have recently approached the City of Stockton and requested permission to provide escort services for local mortuaries.

Present Situation

The principal duty of a PVD is to enforce parking violations within the city of Stockton. A secondary duty is to provide funeral escorts. In Calendar Years 2001 and 2002, Police Department personnel conducted approximately 660 funeral escorts per year. In 2002, 2,497 total PVD staff hours were expended for funeral escorts, compared to 2,277 in 2001; approximately 21 percent in 2002, and 19 percent in 2001 of each PVD’s staff time was spent providing funeral escorts.

AGENDA ITEM 6.07
California Vehicle Code Section 2817 relates to funeral processions, making it an infraction to disobey signals or directions of a uniformed Police Officer conducting a funeral escort. It is legal to form and lead a funeral procession if all motorists obey the rules of the road.

Although there are no rules or regulations in the CVC or SMC prohibiting a private company from providing funeral escorts, such activity has been discouraged, effectively making the City of Stockton the sole provider of funeral escorts. Few, if any, California cities currently use City personnel to routinely conduct funeral escorts for local mortuaries.

Over the past several months, two private companies, Metro Traffic Escort Company (M-TEC) of Lodi, and Independent Motor Escort of Sacramento, approached the City of Stockton to request permission to conduct funeral escorts within City jurisdiction. Both companies currently provide regional funeral escort services within the Central Valley and Bay Area and have been advised that there is nothing prohibiting them from providing funeral escorts within City of Stockton jurisdiction. They were also advised they must follow the rules of the road and obtain a City of Stockton Business License. Both companies have since applied for a City Business License.

On August 26, 2003, City staff met with representatives of most local mortuaries that utilize City-staffed funeral escorts, including Chapel of the Palms, Wallace-Martin, J.C. Cooley, Lodi Funeral Home, and Frisbie-Warren & Carroll. None of the representatives voiced any objections to funeral escorts being provided by private enterprise, nor were the representatives concerned about any cost differential between City funeral escort fees and those proposed by private escort companies. They expressed concern, however, that local families requesting a funeral escort for departed loved ones should not be adversely impacted by the City’s desire to cease providing funeral escort services.

Since the City of Stockton has historically discouraged private funeral escort enterprises, there currently are no local providers. During the transition to private escort providers, the City’s goal is to ensure local mortuaries have the same level of service currently provided by the Stockton Police Department. This cannot currently be accomplished by M-TEC or Independent Motor Escort.

To facilitate the proposed transition, private providers and local mortuaries must be advised that the City of Stockton will no longer be providing funeral escorts, at a date to be determined, to allow independent companies like M-TEC and Independent Motor Escort to modify their staffing and equipment needs to address approximately 700 annual funeral escorts in Stockton. In addition, the local mortuaries need to contract with private escort providers to ensure
adequate coverage for their processions. Both M-TEC and Independent Motor Escort have expressed willingness to provide this level of service, and with adequate notice will obtain equipment and staff to ensure a smooth transition from the City to private escort.

To facilitate discontinuation of City-staffed funeral escorts and continue to provide the current level of service, the SMC must be amended. The CVC grants only uniformed Police Officers the authority to provide traffic control; however, it permits local municipalities to grant traffic control authority to others through a local ordinance.

Section 10-003.2 of the SMC currently grants this authority to PVDs, Community Service Officers, and Vehicle Abatement Specialists. The SMC would need to be amended, thereby granting authority for traffic control to designated private funeral escort providers.

In addition to granting traffic control authority to private escort providers, the SMC could ensure oversight of the private providers by the Chief of Police. Such oversight would allow the Chief of Police to regulate, at a minimum, training, uniforms, and equipment of private providers.

FINANCIAL SUMMARY

Local mortuaries are currently billed a flat-rate fee of $35.00, for a funeral escort permit, and $63.00 per PVD, per hour. After the first hour, funeral homes are charged an additional $15.75 for each 15-minute increment, per PVD. In 2001, Police Department personnel conducted 660 funeral escorts, for which the City billed local mortuaries $119,670. In 2002, Police Department personnel conducted 666 funeral escorts and mortuaries were billed $124,329.

Using 2001 data, each PVD issued an average of 3.42 parking citations per available hour. Using that average, it is estimated an additional 7,781 parking citations could have been issued if the PVDs had not been providing funeral escorts. The average parking citation fine is $23. Multiplying the estimated 7,781 parking citations by $23, the City could have realized $178,963 in potential revenue. Since Stockton has an 86 percent collection rate on issued parking citations, the City could have realized an additional $153,908 in parking violations revenue in 2001.

Although in 2001, local mortuaries paid the City $119,670 for escort services, the City could have realized an additional $34,238 in revenue if the PVDs had been conducting parking enforcement rather than providing funeral escorts.
SUMMARY

Following are highlights of the above:

- City of Stockton employees currently provide general funeral escorts.
- No other California city utilizes City employees for general funeral escorts.
- Up to 21% of a PVD's duty hours are expended for general funeral escorts.
- General funeral escorts are conducted in other California cities by private escort providers.
- Stockton has actively discouraged such providers in its jurisdiction in the past.
- Even with funeral escort fees, the City of Stockton loses in excess of $30,000 a year by providing general funeral escorts.
- Private funeral escort providers have petitioned the Stockton Police Department to provide general funeral escorts.
- There is nothing in California law or the SMC that would prevent such private funeral escort services, as long as the rules of the road are observed.
- To allow private escorts to proceed unabated and control/direct traffic, the SMC must be amended.
- Since no private escort company in Stockton can accommodate approximately 700 funeral escorts a year, phased implementation will be necessary
  - The City of Stockton should give adequate advanced notice of intent to implement a phased withdrawal from general funeral escorts. At a date to be determined within the next six months, the City would no longer provide weekend escorts; three months after that date, the City also would no longer provide Tuesday or
Thursday escorts; and three months later, the City would no longer provide funeral escorts.

- This 12-month phased plan will allow local mortuaries to contract with private escort providers, and private escort providers to obtain resources necessary to assume escort services in the city of Stockton.
  - The Stockton Police Department may be required to perform limited escort duties during the transition period to ensure adequate service is provided throughout implementation.

- If desired in the future, the City could re-assume funeral escort services, with no adverse effects.

Respectfully submitted,

MARK W. HERDER
CHIEF OF POLICE

MWH/des

Approved by City Manager:

MARK LEWIS, CITY MANAGER
ATTACHMENT A

PROPOSED ORDINANCES RELATED TO PRIVATE FUNERAL ESCORTS

Chapter 10
TRAFFIC AND VEHICLE CODE

Part XIV
PRIVATE FUNERAL ESCORTS

SEC. 10-360. PERMIT REQUIRED FOR PRIVATE FUNERAL ESCORTS:
Motor vehicle funeral processions may be led or escorted by private escorts within the city of Stockton in accordance with the requirements of this chapter. No person shall stop, obstruct or otherwise direct traffic in intersections while leading or escorting a motor vehicle funeral procession without first obtaining a valid funeral escort permit pursuant to this chapter.

SEC. 10-361. AUTHORIZED TRAFFIC DIRECTION:
1. Any person holding a valid funeral escort permit pursuant to this chapter and leading or otherwise escorting a motor vehicle funeral procession shall obey all traffic laws, including all speed laws, except that such person is authorized to stop cross traffic, to enable all vehicles in the funeral procession to proceed together as an unbroken chain, at intersections controlled by:
   a. Stop signs or yield signs, providing that the permittee remains in the intersection until all funeral procession vehicles have cleared the intersection; and
   b. Signal lights, providing that the lead vehicle in the procession enters the intersection with a green light and the permittee remains in the intersections at all times when the light is not green until all funeral procession vehicles have cleared the intersection.
2. A permittee is authorized to direct traffic in the manner specified in this section only while wearing the uniform and using the equipment authorized by the Chief of Police for this purpose, and while carrying on the permittee's person a valid funeral escort permit.
3. The Chief of Police may order the immediate suspension or revocation of a funeral escort permit if the permittee has not directed traffic in the manner specified in this section.

SEC. 10-362. APPLICATION FEE:
Before the Chief of Police shall accept and process an application for a Private Funeral Escort Permit, the applicant shall pay an application fee to the Director of Finance of the City of Stockton in an amount as may be fixed or established from time to time by resolution of the City Council.

SEC. 10-363. PERMIT APPLICATION PROCEDURES:
1. Applications for a funeral escort permit shall be filed with the Chief of Police on forms provided by the chief of police, and shall contain or be accompanied by the following:
   a. Name and address of applicant, and the applicant's funeral escort service employer if the applicant is employed by such a service;
   b. Proof of liability insurance in compliance with this chapter;
   c. Proof of satisfactory completion of a traffic safety program of instruction, as described in Section 10-370;
   d. Proof that the applicant holds a valid California driver's license, properly endorsed for the type of vehicle the applicant intends to use while directing vehicular funeral processions;
   e. Payment of permit, insignia and inspection fees, as established by the schedule of fees resolution of the city council;
f. Proof that the vehicle to be used in the course of conducting escorts has been inspected by the Chief of Police to ensure that it meets the equipment and safety requirements set forth by the chief of police;

g. An indemnification and hold harmless agreement as set forth in Section 10-368 of this chapter signed by the applicant and the applicant's funeral escort service employer; and

h. Such other information as may be required by the chief of police.

2. If all the requirements for approval of a funeral escort permit are met, then the Chief of Police shall issue a permit within fourteen days of submission of the completed application.

3. The funeral escort permit shall be valid for a period of two years from the date of issuance.

SEC. 10-364. DENIAL, SUSPENSION, OR REVOCATION OF PERMIT:

Funeral escort permits issued pursuant to this chapter may be denied, suspended or revoked by the Chief of Police upon any of the following grounds:

1. The application is incomplete or illegible;

2. The applicant has knowingly made false statements on the application;

3. The applicant has been convicted of a crime, and the time for appeal has elapsed, provided, however, that the permit may be denied upon this ground only if the crime is substantially related to the qualifications, functions or duties associated with operating motor vehicles or with leading or otherwise escorting a motor vehicle funeral procession;

4. Failure to meet any of the requirements of this chapter;

5. The applicant's unlawful or negligent operation of a motor vehicle during the three years prior to the date of application;

6. The applicant's unlawful or negligent direction of traffic while escorting a vehicular funeral procession or other motor vehicle procession.

SEC. 10-365. NOTICE OF DECISION TO DENY, SUSPEND OR REVOKE PERMIT:

1. Upon determining the existence of any of the grounds for denial, suspension or revocation in accordance with Section 10-363, the Chief of Police shall issue a notice of decision to deny, suspend or revoke the permit.

2. The notice of decision shall state all the grounds and reasons upon which the denial, suspension or revocation is based.

3. The notice of decision shall be mailed to the applicant or permittee at the address stated on the application or permit. Alternatively, the notice of decision may be delivered to the applicant or permittee or to the address given in the application or permit.

4. The notice of decision shall advise that the denial, suspension or revocation shall become final unless the applicant or permittee files a written request for hearing before the Chief of Police within the time period specified in Section 10-365 of this chapter.

SEC. 10-366. PROCEDURE FOR HEARING BEFORE THE CHIEF OF POLICE:

1. The written request for a hearing before the Chief of Police must be received by the Chief of Police within ten days of the date of mailing the decision to deny, suspend or revoke the permit.

2. The Chief of Police shall schedule a hearing which shall be held no later than thirty days after receipt of a timely request for hearing.

3. The notice of hearing shall be mailed to the applicant or permittee not later than ten days prior to the scheduled date of the hearing.

4. At the hearing before the chief of police, the applicant or permittee shall be given the opportunity to present witnesses and documentary evidence and to cross-examine witnesses.

5. The hearing will be conducted informally and the technical rules of evidence shall not apply. Any and all other evidence which the Chief of Police deems reliable, relevant, and not unduly repetitious may be considered.

6. The applicant or permittee may be represented by another person.

7. Issuance of a written notice of cancellation by an insurance company shall be conclusive proof at the hearing of the effective cancellation of an insurance policy.
SEC. 10-367. DECISION OF THE CHIEF OF POLICE AFTER HEARING:
   Within twenty days after the hearing, the Chief of Police shall mail a written decision
   sustaining, reversing or modifying his or her initial decision to the applicant or permittee at
   the address stated in the application or permit. The decision of the Chief of Police after hearing
   will be final.

SEC. 10-368. NONTRANSFERABILITY OF PERMITS:
   Funeral escort permits shall be issued by the Chief of Police in the names of individual
   persons actually conducting such escorts and shall expire two years from the date of issuance.
   Permits shall not be transferable or assignable.

SEC. 10-369. INDEMNITY AND HOLD HARMLESS:
   1. As a term and condition of the funeral escort permit, the funeral escort permittee and
      his or her funeral escort service employer shall assume all responsibility for his or her activity and
      operation, shall bear all losses and damages directly or indirectly resulting to him or her, any
      subcontractor, the city or its officers, agents and employees, that are the result of the
      performance or character of the operation, unforeseen difficulties, accidents, occurrences or other
      causes, regardless of the active or passive negligence of the city, its officers, agents or
      employees.
   2. As a term and condition of the permit, the permittee and his or her funeral escort
      service employer shall assume the defense of and indemnify and hold harmless the city and its
      officers, agents and employees from all claims, loss, damage, injury and liability of every kind,
      nature and description, including punitive damages, directly or indirectly arising from the escorting
      of a motor vehicle funeral procession.

SEC. 10-370. LIABILITY INSURANCE:
   1. During the term of a funeral escort permit issued pursuant to this chapter, the
      permittee or his or her funeral escort service employer shall maintain in full force and effect, at the
      permittee's or his or her employer's own cost, a motor vehicle liability insurance policy and a
      comprehensive general liability insurance policy:
      a. In an amount not less than one million dollars single limit per occurrence; and
      b. Issued by an admitted insurer or insurers as defined by the California
         Insurance Code; and
      c. Providing that the city of Stockton, its officers, employees and agents are to be
         named as additional insureds under the policies; and
      d. Covering all losses and damages as specified in this chapter; and
      e. Stipulating that the policies will operate as primary insurance and that no other
         insurance effected by the city or other named insured will be called on to contribute to a loss
         covered thereunder; and
      f. Providing that no cancellation, change in coverage, or expiration by the
         insurance company or the insured shall occur during the term of the funeral escort service permit,
         without thirty days written notice to the city prior to the effective date of such cancellation or
         reduction in coverage.
   2. Proof of insurance shall be provided as required by Risk Management.
   3. In the event of failure of any permittee or his or her funeral escort employer to maintain
      in effect the required insurance policies, the funeral escort permit shall be considered to be
      suspended as a matter of law from the date of cancellation or a lapse of the required insurance.
      a. The Chief of Police may reinstate the permit when the suspended permittee
         provides the City with proof of insurance as required by this section.

SEC. 10-371. TRAFFIC SAFETY INSTRUCTION PROGRAM:
   1. Each applicant for a funeral escort permit shall submit to the Chief of Police evidence
      of satisfactory completion of an instructional program of traffic safety.
2. Evidence of successful completion of an instructional program of traffic safety shall include, but not be limited to, instructional materials received by the applicant from the program, test scores, and grades received by the applicant.
3. The Chief of Police shall review and approve each submitted instructional program if the chief reasonably believes that the program provides the applicant sufficient training to safely direct traffic.

SEC. 10-372. PERMIT RENEWAL PROCEDURES:
1. A permittee seeking renewal of his or her funeral escort permit shall meet all the requirements for a permit renewal that applicants are required to meet in order to first obtain a funeral escort permit.
2. All provisions of this chapter applicable to first-time applicants shall apply to a permittee applying for renewal of a funeral escort permit.

SEC. 10-373. OFFICIAL INSIGNIA:
The Chief of Police shall approve an official insignia, uniform and any equipment which shall be worn by all permittees while directing traffic in the manner specified in Section 10-361. The Chief of Police shall also approve vehicular equipment regulations including a color and/or insignia scheme. The uniform color shall be dissimilar to those worn by sworn Stockton police officers.

SEC. 10-374. REGULATIONS:
1. The Chief of Police may prepare and issue written regulations for distribution to applicants and permittees regarding the implementation of the provisions of this Chapter, including but not limited to, the safe and lawful conduct of funeral escort services, and the maintenance of insignia, uniforms, motor vehicles and equipment used in escorting funeral processions.
2. Such regulations shall be binding upon applicants and permittees. Permittees shall comply with these written regulations as a term and condition of the permit.

SEC. 10-375. PRIVATE PROCESSIONS MUST OBEY TRAFFIC LAWS:
Persons participating in private funeral processions or other processions within the city without police escort must obey all state and city traffic laws, except as specifically authorized by this chapter.