

REGULAR SESSION – FEBRUARY 22, 2005

Mayor W. M. Breichner called this 82nd Session of the Mayor and City Council to order at 7:01 p.m., Tuesday, February 22, 2005, in the Council Chamber at City Hall. Present with the Mayor were Councilmembers K. B. Aleshire, N. L. Hendershot, L. C. Metzner, C. N. Moller, and P. M. Nigh; City Administrator Bruce J. Zimmerman, City Attorney William Nairn and City Clerk D. K. Spickler.

The invocation was offered by Councilmember Lewis C. Metzner. The Pledge of Allegiance was then recited.

Mayor Breichner asked that a Moment of Silence be observed in memory of former Councilmember William King, Sr; and former employees William Shrader and William Wellman.

Mayor Breichner announced that Broadband technology is not on this evening's agenda. Broadband is on the agenda for the March 1, 2005 Work Session and a Public Hearing will be held on March 15, 2005.

Mayor Breichner announced the Rules of Procedure for this meeting will be followed as adopted May 28, 2001. It was announced that the use of cell phones and electronic devices during meetings is restricted and that all correspondence for distribution to elected officials should be provided to the City Clerk and should include a copy for the City Clerk for inclusion in the official record.

The next scheduled meetings are: Work Sessions beginning at 4:00 p.m. on Tuesday, March 1, 2005; Tuesday, March 15, 2005; Tuesday, March 22, 2005 and the Regular Session on Tuesday, March 29, 2005 at 7:00 p.m.

Mayor Breichner reviewed the citizen rules for testimony and comments.

On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember N. L. Hendershot, the Mayor and City Council unanimously agreed by voice vote to amend the agenda to include New Business, Item L. Approval of an Emergency Funding Support for Holly Place.

Mayor Breichner welcomed the members of Boy Scout Troop # 4 who were in attendance.

PROCLAMATION

Mayor Breichner read a proclamation recognizing February, 2005 as African American History Month. Black History Month is a time for all Americans to remember the stories and teachings of those who helped build our nation, took a stance against prejudice to build lives of dignity and opportunity, advanced the cause of civil rights, and strengthened families and communities. Andy Smith, Brothers United Who Dare to

Care, made a video presentation in recognition of Black History Month. He thanked the City for their support and for allowing them to share words of inspiration. He read a poem he wrote titled "Change is Going to Come."

PUBLIC HEARINGS

1009-1011 Pennsylvania Avenue – Landmark Overlay; Blue Ridge Beginnings, Inc.

A Public Hearing was held to consider a Landmark Overlay designation for 1009-1011 Pennsylvania Avenue, Hagerstown, Maryland.

Stuart Bass, Comprehensive Planner, stated two hearings are being held for the same property at 1009-1011 Pennsylvania Avenue. Per the applicant, the request for the Landmark Overlay is dependent on receiving the C2 Zoning.

The Preservation Design District Commission (PDDC) submitted the following findings to the Planning Commission:

"That the premises involved in this review, 1009-1011 Pennsylvania Avenue, as a matter of fact, be found that the dwelling was constructed in 1845; is an example of a two story, symmetrical stone building, designed in a vernacular manner with Colonial Revival detailing, retaining its original massing and form; survives as the only extant example of a vernacular farmhouse within the city limits of Hagerstown; and that we also find as a matter of fact that the property conforms with Criterion C of the National Register criteria for evaluations of property and also with Criterion 1a and 3a of Section 68-56, B, of the Hagerstown Zoning Ordinance; that we find that the property has sufficient or significant character, interest, and value as part of the development heritage and cultural characteristics of the City of Hagerstown and Washington County, Maryland."

The Planning Commission has recommended that a Landmark Overlay be approved for this property. Under the Zoning Ordinance, a landmark designation is an overlay zone for an individual property that is of exceptional architectural or historical significance. An overlay district designation as a historic landmark does not have to have a finding of "change or mistake."

The following items were entered as Exhibits:

1. Certificate of advertisement
2. List of property owners
3. Planning Commission file by reference

Jason Divelbiss, Miller, Oliver, Baker, Moylan & Stone, was present representing Alice Bachman, who is the potential purchaser.

Mr. Divelbiss stated if the C2 zoning request is not approved by the Mayor and City Council, there will be no need for the Landmark Overlay designation.

Ms. Bachman, Blue Ridge Beginnings, Inc., 1010 McCauley Court, Hagerstown, Maryland, stated they discussed their intentions for the property with the PDDC. The PDDC did not express to them, any concerns with how Blue Ridge Beginnings wished to proceed with renovations to the existing house. The size of the structure is approximately 3100 sq. ft.

There was no testimony presented, either in favor of or against the Landmark Overlay designation.

The hearing was closed at 7:22 p.m. The record will remain open for ten days for written comments.

1009-1011 Pennsylvania Avenue – Rezoning, R1 to C2; Blue Ridge Beginnings, Inc.

Stuart Bass, Comprehensive Planner, stated the owner of the property at 1009-1011 Pennsylvania Avenue has submitted a request for rezoning of the property from R1 to C2, based on a change in the character of the neighborhood. Mr. Bass read the Staff report into the record. The house on the property is known as the Middlekauff House. It is currently vacant. The property is located in the Carroll Heights Neighborhood. There is commercial development and single family residential development along Pennsylvania Avenue and also a large institutional campus containing the North Hagerstown High School, Northern Middle School, Fountaindale Elementary School, the Western Maryland State Hospital, and the Coffman Health Center. Public services are available to the site.

Staff recommends approving the rezoning. The land immediately adjacent to this property is zoned C2 and this could be an appropriate small employment center. Staff also has serious concerns about the fate of the landmark house and strongly encourages the Landmark Overlay designation.

The Planning Commission has recommended approval of this rezoning, with the understanding that a Landmark Overlay must be approved prior to approval.

The following were entered as exhibits:

1. Certificate of advertisement
2. List of adjacent property owners
3. Planning Commission by file

Jason Divelbiss, Miller, Oliver, Baker, Moylan & Stone, was present representing Alice Bachman, who is the potential purchaser.

Mr. Divelbiss stated if the C2 zoning request is not approved by the Mayor and City Council, there will be no need for the Landmark Overlay designation.

Mr. Divelbiss entered the following as Exhibits:

1. Exhibit A – map showing the property location
2. Exhibit B – map showing the surrounding area
3. Exhibit C – List of the changes that have occurred in the neighborhood

Mr. Divelbiss stated the right-of-way for Hillcrest Avenue is to be abandoned. It was never accepted by the City. Access to the property will be through an abandoned access to the Giant Eagle store on Pennsylvania Avenue. Access would not be from Pennsylvania Avenue or Burhans Boulevard.

Alice Bachman, Blue Ridge Beginnings, Inc., 1010 McCauley Court, Hagerstown, Maryland, stated she would like to turn the existing stone house into a café and accessory food store and kitchen gadget store. She has talked with several of the neighboring property owners and has received positive feedback. This would be a very low key type of business with daytime hours. Mr. Divelbiss indicated there is a copy of the letter sent to the neighbors in the Staff report. Eight people have indicated they have no objections to the proposed use.

Gerald Cump, Gerald A. Cump, Funkstown, Maryland, discussed the adjacent zoning to this property. Changes have occurred in the neighborhood. Some of the changes are higher density housing, such as the St. Clair Terrace Apartments, Fairchild Heights Townhomes and Northgate Apartments. Mr. Cump indicated these changes have had the effect of substantially changing the neighborhood.

Councilmember Alehsire asked if the applicant intended to argue both a change in the neighborhood and a mistake in the original zoning. Mr. Divelbiss indicated that is the intent. Mr. Divelbiss stated, in relation to the other lots around a property of this size, the R1 low-density pattern doesn't fit in with what is now happening in the area.

Mr. Cump indicated the stormwater management pond for development in the area has created a natural buffer.

Councilmember Hendershot stated there are no sidewalks at this property and it is difficult for pedestrians to cross the new entrance to Giant Eagle. He urged the applicant to meet with Rodney Tissue, City Engineer, to discuss the sidewalk issue. Connectivity in this area is necessary and this property is a key part of that.

Mr. Divelbiss stated it appears there was a mistake made in the original zoning of this property. The impact of a neighboring shopping center has been greater than what was anticipated. The impact of traffic patterns also appears to have been underestimated.

Councilmember Aleshire stated he felt the zoning may not have been a mistake. It may have been a mistake on the owner's part to use the property as a rental property until 2003. Mr. Divelbiss stated it would require a substantial amount of money to restore the house in order to be used as a single family residence.

Mr. Urner asked if there was an alternative plan if the applicant is not able to obtain the entrance easement from Giant Eagle. Mr. Divelbiss indicated the alternative would be to attempt to use Hillcrest Road. He stated he understands the City required Giant Eagle to allow an easement to this property when the new entrance was completed in 1990.

There was no testimony presented, either in favor of or against the rezoning request.

Mayor Breichner stated the Planning Commission has recommended approving the request, based on a change in the neighborhood. Councilmember Aleshire stated he would agree there is a valid argument for change in the neighborhood. He asked the Council to consider requiring sidewalks to be included and requiring access through an easement agreement with Giant Eagle.

The hearing was closed at 7:58 p.m. The record will remain open for ten days for written comments.

Zoning Map Amendment, Case No. ZM-2004-7 (Harrison Rezoning on Howell Road) Strategic Resources, LLC

Stuart Bass, Comprehensive Planner, stated the owner of the property at Howell Road has submitted a request for rezoning of the property west of Dual Highway, south of Antietam Creek, and adjacent to the northern half of Howell Road. The owner is requesting that approximately 15 acres be zoned R2 and approximately 13 acres be zoned R2. due to a mistake in the original zoning classification. Mr. Bass read the Staff report into the record. The property is currently vacant. Public services are available to the site.

Staff recommends approving the rezoning. The larger tract, of which this subject piece was a part, was zoned IR (Industrial Restricted) in March of 1977 with the Comprehensive Rezoning. Nearly thirty years after zoning the property IR, it has not been significantly improved or developed.

The Planning Commission has recommended approval of the rezoning, due to a mistake in the original zoning classification. The Planning Commission also noted that the City Council in 1978 and 1983 rezoned the property based on a mistake in assigning the IR zoning classification to the property.

The following were entered as exhibits:

1. Certificate of advertisement
2. List of adjacent property owners

3. Planning Commission by file

Jason Divelbiss, Miller, Oliver, Baker, Moylan & Stone, was present representing the owner. The following were entered as Applicant's Exhibits:

1. Map showing the possible location of the Funkstown Bypass
2. Page 36 of the City's Comprehensive Plan
3. Page 66 and 67 of the City's Comprehensive Plan
4. List of Changes in the Neighborhood Since March, 1977
5. Proposed Zoning Map – Harrison Property

Mr. Divelbiss stated the Zoning District boundary will be defined by the Paul Smith Boulevard Road and the Funkstown Bypass. The property has retained the IR classification through two rezoning requests. The Comprehensive Plan notes the Harrison Farm Tract (the entire 180 acres) could be an attractive residential neighborhood.

Robert Quatman, 407 Chapel Wood Drive, Hanover, Pa, was present on behalf of the applicant. He stated the intended use would be R2 zoning, which allows townhouses.

Steve Zoretich, Frederick, Seibert and Associates, stated he has worked with Dr. Harrison for a number of years and in the development of Hagerstown Heart. During the development process for Hagerstown Heart, there was a condition placed on the property that no further development could occur until Regional Transportation Planning had taken place. He stated this request is part of that process with the construction of Paul Smith Boulevard. Mr. Zoretich stated the maps presented to the Planning Commission for review included an additional connecting road to Howell Road. That connection is no longer being considered and there is no intent to provide a connecting road.

Councilmember Aleshire expressed concern that there would be no other access to Howell Road. Mr. Divelbiss stated the road has been removed in response to concerns expressed by the neighbors. He stated if a second road is required, it will be placed where engineers determined was the safest and most appropriate location. The Washington County Engineering Department would be consulted, since Howell Road is a county road.

Councilmember Aleshire asked if the applicant was indicating 243 homes would not increase the traffic load on Howell Road. Mr. Zoretich stated that is not correct. The connecting road he was referring to is an additional connection to Howell Road. There is a connection, but not in that location.

Mr. Zoretich stated changes have occurred in the neighborhood, as outlined in Applicant's Exhibit # 4. Those changes include:

1. General change in the real estate development market in this area for land with IR zoning.

2. Planned road improvements to the intersection of US 40 and Edgewood Drive that are presently being designed.
3. Planned road improvements through the Harrison Farm Property, i.e. Paul Smith Boulevard and Funkstown Bypass and to the intersection of Mt. Aetna Road and US 40.
4. Addition in 2002 of the Hagerstown Heart Group facility along Howell Road.
5. Addition in 1992 of the Hagerstown Commons shopping center with grocery store, pharmacy, etc.
6. Addition in 1989 of Dr. Harrison's dental office at 1799 Howell Road.

Mr. Zoretich stated the property is more suitable to a residential use since other uses are service type businesses. Mr. Divelbiss stated the property has not been significantly improved or developed, showing IR was not the most appropriate zoning.

Councilmember Aleshire stated he would not consider this rezoning request for 28 acres of a larger parcel as meeting part of the conditions for a regional master plan as indicated in the discussion. He stated the school analysis shows the schools are over capacity now. He agreed the neighborhood has changed a great deal, but it has changed toward commercial development, not for residential. He stated the businesses located in the area are much larger than "service" businesses. The City is in the process of reviewing the Comprehensive Plan and he stated he would not agree to rezoning this property until it was reviewed under the Comprehensive Plan update.

Mr. Divelbiss indicated the property owners have attempted to gain comprehensive zoning for this property. The City has indicated this would not occur. He stated it would be unfair to instruct this applicant he cannot request a rezoning that is supported by the existing comprehensive plan simply because there is a comprehensive plan on the way. He stated he doubts any development would be exempt from paying for any of the cost for improving the Edgewood Drive/US 40 area.

Councilmember Metzner stated he didn't think a developer would be asked to pay for improvements to an intersection that was failing before any development occurred.

Mr. Zoretich indicated the Master Plan process took two years to complete. He stated after the process, they were told the City would not permit a comprehensive rezoning and it would have to be done in pieces. This is the reason rezoning for these two parcels is being requested. He stated traffic studies show that, generally, there is less traffic for residential uses than for commercial uses.

Mr. Divelbiss stated under the Interim Sewer Allocation policy, this project is not permitted to develop at a greater pace than 25 units per year. If the rezoning and development occurs in phases, development can proceed. He stated facilities issues should be addressed under during the site plan review process.

Councilmember Aleshire stated rezoning is not a simple process. He has pointed out on numerous occasions that waiting until the site plan and subdivision review process to discuss facilities issues takes the decision out of the Mayor and Council's hands and does not allow them the opportunity to place conditions on the rezoning.

Councilmember Moller stated she understood this development was to be single family homes. She asked if those plans had changed.

Mr. Quatman stated in purchasing this property, he never considered single family homes. The cost of putting the road in was prohibitive to single family development. This would not have been the highest and best use of the property. Mr. Quatman stated the highest and best use for this property is residential (denser than single family). The location of the sewer plant has to be taken into consideration and a buffer has to be created. He stated his purchase contract calls for the installation of Paul Smith Boulevard, along with the purchase of the property. He cannot purchase the property without connecting the road. He anticipates there would be 8 townhouses per acre.

The following testimony was presented:

There was no testimony in favor of the rezoning.

The following testimony was presented against the rezoning:

1. David A. Leather, 2213 Beverly Drive, was also speaking for Shelby Hughes who was ill and unable to attend this meeting. He stated there are three properties that are going to be affected by Paul Smith Boulevard; his, Ms. Hughes' rental property and one other one. He stated it is difficult to plan for the future when you don't know when and if this is going to happen. He asked the Mayor and City Council to help ensure they are compensated fairly for their property. He stated if a left turn is restricted from Howell Road to Edgewood Drive, it would cause more traffic on Beverly Drive and would create a hardship.
2. Kathy Carbaugh, 1616 Howell Road, Hagerstown, Maryland, stated she owns two properties on Howell Road. Her driveway is impossible to get out of now. She is not sure where the bypass is going to be but she is surrounded by failing roads. She asked that it be required that the bypass be built prior to allowing further residential development in the area. She challenged everyone to try to exit Howell Road now, before additional development occurs. She stated part of the road is in the City and part is in the County and any improvements would have to be a joint venture.
3. Roger Quinn, 1710 Howell Road, Hagerstown, Maryland, agreed with Ms. Carbaugh about traffic overflow. He stated he is

concerned about the safety of children and the people in the neighborhood. He asked that any development be made to provide improvements to the road.

Mr. Divelbiss responded to the concerns expressed by those that testified. He indicated the concerns were expressed by these citizens at the Planning Commission hearing. Their comments precipitated the change in removing the additional connecting road that was on the plans before the Planning Commission. Mr. Divelbiss pointed out that the applicant, Mr. Quatman, through his testimony indicated he fully intends to construct the road.

Mr. Zoretich stated everyone agrees, there is a traffic problem and there will be a regional solution with input from different jurisdictions. He stated this development is a piece of the solution.

There being no further testimony, either in favor of or against the rezoning request, the hearing was closed at 9:09 p.m. The record will remain open for 10 days for written comments.

APPOINTMENT

Mayor Breichner announced his intention to appoint Ms. Denise Smith as the Resident Commissioner to the Hagerstown Housing Authority Board. Ms. Smith is assuming the unexpired term of Ms. Monique Evans and her term will expire August 30, 2006.

MINUTES

On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember C. N. Moller, the Mayor and City Council unanimously agreed by voice vote to approve the minutes for Mayor and City Council meetings held on January 11, 2005, January 12, 2005, January 18, 2005 and January 25, 2005.

CONSENT AGENDA

Councilmember L. C. Metzner made a motion to approve the Consent Agenda. Councilmember C. N. Moller seconded the motion. The Consent Agenda is as follows:

- A. Engineering:
 - 1. Reconstruction of Alley 1-136, Rear of Post Office – Building Systems, Inc. (Hagerstown, MD) \$ 34,700.00
 - 2. Design of Renovations to the Third Floor at City Hall – Harne Bowen Architects & Planners, LLC (Myersville, MD) \$ 17,250.00
- B. Water and Sewer Department
 - 1. Engineering Services for Infiltration/Inflow Analysis – Black & Veatch (Gaithersburg, MD) \$ 66,425.00

2. 17,500 GVW Diesel Service Truck – Keystone Ford (Greencastle, PA)
\$ 52,380.00
 3. 16,000 GVW Diesel Service Truck – Keystone Ford (Greencastle, PA)
\$ 34,650.00
 4. Diesel Loader/Backhoe – Standard Equipment (Frederick, MD)
\$ 70,990.00
 5. ¾ Ton Pickup Truck – Criswell Chevrolet, Inc. (Gaithersburg, MD)
\$ 20,070.00
- C. Planning Department: Comprehensive Plan Update – Environmental Resources Management (Annapolis, MD) \$ 94,850.00
- D. Fire Department: Hurst Jaws of Life Systems – Specialty Rescue System (Manchester, MD) \$ 38,971.00
- E. Police Department:
1. Ford Expedition – K-9 Vehicle – Norris Ford (Ellicott City, MD)
\$ 23,954.00
 2. Five (5) Ford Crown Victoria Patrol Vehicles – Miller Brothers Ford (Baltimore, MD) \$ 104,885.00 (\$ 20,977.00 each)
 3. Chevrolet Cobalt – Criswell Chevrolet, Inc. (Gaithersburg, MD)
\$ 10,728.00

Councilmember Aleshire asked for an explanation why engineering services are necessary for the Inflow/Infiltration (I/I) Study if three people were hired in the department.

Councilmember Nigh stated she is concerned about this also. She doesn't understand why this is necessary if there is a highly qualified person on staff.

David Shindle, Water and Sewer Department Manager, stated this is a major project and the employee will be have a major role in coordinating the efforts of the contractor.

Councilmember Nigh stated there is a good person on staff and she doesn't want to undermine his abilities. Mr. Shindle indicated this is not a project that one person can complete. He stated this is the data collection for the rainfall flow monitoring globally throughout the system. After this is complete, surveys will be conducted in specific areas.

Motion carried, 4-1 with Councilmember Nigh voting No, due to the engineering contract for the Water and Sewer Department.

UNFINISHED BUISNESS

There was no unfinished business.

NEW BUSINESS

A. Introduction of a Resolution: Haven Road Annexation

Action: Councilmember L. C. Metzner made a motion to introduce an Annexation Resolution for Dewey Jordan, Inc./Rogers Farm, LLC property located along the northwest boundary of the City. The property to be annexed is 51.96 acres in size and is intended to be added to and made part of the adjacent municipal lands. Councilmember N. L. Hendershot seconded the motion.

Discussion: Councilmember Nigh asked if the home owners in this neighborhood have been contacted to discuss this project. It was stated this has not occurred.

Councilmember Aleshire stated the resolution/agreement still includes allowing 450 units on the property. He stated it also includes the current Adequate Public Facilities Ordinance (APFO), which may change.

Councilmember Metzner stated it needs to be made clear that the amendments discussed must be made before the process can go any further.

Motion carried, 4-1 with Councilmember Nigh voting No. She stated the applicant was supposed to talk to the home owners and they have not done that.

B. Introduction of an Ordinance: Quit Claim of Four Properties in the West End (Gateway Crossing)

Action: Councilmember K. B. Aleshire made a motion to introduce an Ordinance authorizing the transfer of four parcels of land in the West End of Hagerstown that are no longer needed for public purposes to the adjoining land owners. The motion was seconded by Councilmember L. C. Metzner.

Discussion: Councilmember Nigh asked who will be the owners of this land. James Bender, Assistant City Engineer, stated one area will be owned by the Hagerstown Housing Authority. On the one side of the cul-de-sac, the owners are accepting the transfer.

Councilmember Nigh asked what the Housing Authority intends to do with the property. Mr. Bender indicated they were planning to use it for additional landscaping. She suggested having a signed document stating this. Mr. Bender stated the plans are not finalized at this point.

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

C. Resolution: Approval of Lease Renewal – 7/11 South Potomac Street, Has Been Boxing

Action: On a motion duly made by Councilmember C. N. Moller and seconded by Councilmember N. L. Hendershot, the Mayor and City Council unanimously agreed by voice vote to approve a resolution extending for one year, the lease for Has Been Boxing of Hagerstown, Inc. located at 7-11 South Potomac Street. Landlord and Tenant shall have the right to terminate the lease agreement for any reason, upon ninety (90) days written notice.

D. Resolution: Approval of Lease Renewal – The Rhubarb House, 12 Public Square

Action: On a motion duly made by Councilmember C. N. Moller and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to approve a resolution approving a one year extension of the exiting lease for John D. Ralston and Shellie C. Ralston (The Rhubarb House) located at No. 12 Public Square. Lessee has the option to extend the term of this agreement for three additional terms of one year each.

E. Resolution: Hagerstown Softball League Lease Extension at Fairgrounds Park

Action: Councilmember L. C. Metzner made a motion to approve a resolution to renew the Lease Agreement with Hagerstown Fairgrounds Softball Association for use of the softball fields located at Fairgrounds Park for the period of January 1, 2006 through December 31, 2006. Councilmember N. L. Hendershot seconded the motion.

Discussion: Councilmember Nigh stated she doesn't feel this agreement was handled fairly by Staff and she is not in favor of the extension.

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

F. Approval of Parks and Recreation Proposed Rate Changes

Action: On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember N. L. Hendershot, the Mayor and City Council unanimously agreed by voice vote to approve the following rate increases and changes at the Department of Parks & Recreation facilities effective January 1, 2005:

1. Offer a new youth rate at Hagerstown Greens at Hamilton Run Golf Course

2. Decrease tour and admission rates at the Jonathan Hager House & Museum
3. Increase the season pass rates at Claude M. Potterfield Pool

I also hereby move to approve rate increases for the park pavilions and the bandshell effective January 1, 2006.

G. Approval of General User Policy for City Parks

Action: Councilmember L. C. Metzner made a motion to give the Department of Parks & Recreation the authority to devise a general department operating policy that would permit Users of City owned facilities the “First Right to Renew” providing they have met all past lease and financial obligations. The leases will remain as they currently are with term limits, to be reviewed annually and approved by the Mayor and City Council. Councilmember N. L. Hendershot seconded the motion.

Discussion: Councilmember Nigh stated she is not happy with how quickly this was handled.

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

H. Approval of Reprogramming of CDBG Funds

Action: On a motion duly made by Councilmember C. N. Moller and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to move that \$ 175,000 in Community Development Block Grant funds be reprogrammed from City Park Restrooms to Single Family Homeownership with the understanding that funding for the City Park Restrooms will be fully restored in the FY 2005/06 Community Development budget.

I. Approval of State Highway Administration Route 77 Easements

Action: On a motion duly made by Councilmember K. B. Aleshire and seconded by Councilmember N. L. Hendershot, the Mayor and City Council unanimously agreed by voice vote to grant easements along the south side of Maryland Route 77 to the Maryland State Highway Administration for the purpose of storm drainage improvements.

J. Approval of Elmwood Farm Water Main Easement

Action: On a motion duly made by Councilmember K. B. Aleshire and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to accept a water main easement offered by Hagerstown-Washington County Industrial Foundation for a

proposed 16" water main which will be part of the overall City Water Master Plan.

K. Approval of Mayor and City Council Position in Reference to House Bill 212– Charitable Gaming

Action: On a motion duly made by Councilmember C. N. Moller and seconded by Councilmember L. C. Metzner, the Mayor and City Council unanimously agreed by voice vote to approve of the Mayor and City Council taking a position in opposition to House Bill 212 and the bill's proposed requirements on charitable and nonprofit gaming in Washington County. This legislation, as proposed, raises the possibility of the State either limiting or removing our county gaming commission's authority and also impacting the revenues local non-profit organizations and the Volunteer Fire and Rescue Association companies receive from gaming proceeds. In approving this motion, the Mayor and City Council are requesting that the Washington County Delegation oppose adoption of House Bill 212.

L. Approval of Emergency Funding Support for Holly Place

Action: On a motion duly made by Councilmember N. L. Hendershot and seconded by Councilmember C. N. Moller, the Mayor and City Council unanimously agreed by voice vote to approve of \$ 40,000 in emergency funding to support the operations of Holly Place. These funds will be used by Holly Place to remain open and operating until a more permanent funding and operating plan can be established with the State of Maryland. The sources of the City's funding shall be \$ 15,000 from additional Community Development Block Grant Funds, \$ 10,000 from the General Fund Unspecified Agency Contributions Account and \$ 15,000 from the General Fund Contingency.

Discussion: Mayor Breichner stated Doug Wright, Director, appreciates this support. The funding approved by the State is slow in arriving and this helps.

Councilmember Nigh asked if the funding from the State is contingent on a plan being developed for the operation. Mayor Breichner indicated they are working on a new operational plan.

CITIZEN COMMENTS

Eric Campbell, owner/manager of a business at 331 N. Jonathan Street, Hagerstown, Maryland, came before the Mayor and City Council to discuss the ongoing issue of bird feces in his community. He stated his business and his community are suffering because of the large number of crows that are roosting in the area. He asked that the City help them get rid of the problem. Mayor Breichner indicated the Engineering Department is

working on the problem, along with the Department of Public Works. Mr. Campbell stated they are forced to run from their cars to their homes in order to avoid the bird droppings.

Jean Carroll, 321 Henry Avenue, Hagerstown, Maryland, expressed her concern about the birds. She stated her daughter cannot play outside because the bird droppings are so bad. She stated the smell is in her house and she is taking her daughter to a pediatrician on Friday because she has headaches all the time.

Councilmember Hendershot stated he has seen people with rare diseases that have been caused by bird droppings.

Councilmember Metzner stated everyone on the Council wants to correct this problem. He stated money is no object to get this resolved.

Councilmember Nigh stated this needs to be taken care of and she is also concerned about this at Fairgrounds Park.

Bruce Zimmerman, City Administrator, stated Staff has been working to resolve the problem.

Sheila King, 320 Henry Avenue, Hagerstown, Maryland, stated her main concern is when the birds come to roost around 6:00 p.m. She stated the City has indicated they were doing what they could in the right of way, but they could not do much on private property. She appreciates any help the City may be able to provide.

Lynn Mosby, 62 Bethel Street, Hagerstown, Maryland, expressed his concern about the amount of droppings from the birds. He stated the problem is worse now than it has ever been.

Councilmember Metzner stated crows are protected birds and there are laws against killing them.

After considerable discussion, the Mayor and City Council agreed that this problem needs to be treated aggressively.

Virginia Bentz, 1511 Kensington Drive, Hagerstown, Maryland, stated she has been a property owner in Hagerstown for 34 years. She stated Haven Road will not support additional traffic safely, due to the narrowness of the road. Walking on Haven Road is not safe now. She is concerned that someone is going to be hurt because of the narrowness. She stated she is speaking for the senior citizens of the City of Hagerstown.

James Devine, P. O. Box 2217, Hagerstown, Maryland, asked where the candidates for office have been for the last four years if the issues discussed at meetings are so important to them. He stated he thinks the Mayor and Council have done a pretty decent job and he thinks Mail Call (in the Herald Mail) is being used to abuse the Mayor and

Council. He thinks one of the best things this administration has done is the rental licensing program. The Mayor and Council need to provide for the safety of the tenant and this program protects lower and middle income people. He stated he thought the abandoned paper plant would be a good place for a new stadium. If the hospital moves, he doesn't think the old facility should be torn down. It could be used as housing for elderly and low income residents. He would like to have time for citizen comments more than 12 times per year. He asked that the police enforce the no parking/fire zones in front of stores. He is concerned for the safety of everyone. He suggested using a boomerang to get rid of the crows.

Stuart Bass, Comprehensive Planner, stated Staff is working with the applicant for the Haven Road Annexation in order to hold a meeting with the community. He stated this meeting will occur prior to the public hearing.

CITY ADMINISTRATOR'S COMMENTS

Bruce Zimmerman, City Administrator, stated the Mayor and City Council would have the opportunity to make changes to the annexation resolution for the Haven Road Annexation, if they choose to.

MAYOR AND CITY COUNCIL COMMENTS

Councilmember K. B. Aleshire suggested discussing the bird issue with the Maryland Department of the Environment. He stated this is a public safety matter now. He stated the Startzman rezoning request is not for the expansion of Noland Village, but it is a request for high density housing. He asked for an updated report of the lease agreement with the Hagerstown Baseball Academy. He stated that Mr. Devine's comments were intelligent and much appreciated.

Councilmember N. L. Hendershot thanked Mr. Devine also for his comments. He stated the State of Maryland is working to determine how to continue Holly Place. There is support from the County delegation, as well as other legislators. He thanked his fellow Councilmembers for their support.

Councilmember L. C. Metzner also thanked Mr. Devine. He stated it appears the hospital is waiting to see how the election in May turns out. He believes developers are doing the same thing. He does not want Hagerstown to become the "Townhouse Capital" of the world. He stated the Mayor and City Council need to be proactive and contact MDE to discuss the water/sewer allocation for the hospital. He understands a reporter called MDE and asked if the allocation would be granted and were told there would be no problem.

Councilmember C. N. Moller had no additional comments.

Councilmember P. M. Nigh asked that the issue of no alcohol in the parks be reconsidered. The Free Clinic wants to hold a Chili Cook Off at Fairgrounds Park. This event was held with the Hagerstown Suns last year and she believes the Clinic is looking for a place where they would be able to gain all the profits. She thinks the Mayor and Council moved too quickly in setting the no alcohol policy. She does not have a problem with alcohol at Fairgrounds Park, if the event is handled properly. Councilmember Metzner stated there are others who would like to discuss this again also. Councilmember Aleshire stated he would like to see an itemized list of the \$ 12,000 that was considered profit at last year's Chili Cook Off.

There being no further business to come before the Mayor and City Council, on a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember K. B. Aleshire, the meeting was adjourned at 10:16 p.m.

Respectfully submitted,

Donna K. Spickler, City Clerk

Approved:_____