

REGULAR SESSION – MARCH 29, 2005

Mayor W. M. Breichner called this 84th Session of the Mayor and City Council to order at 7:04 p.m., Tuesday, March 29, 2005, in the Council Chamber at City Hall. Present with the Mayor were Councilmembers K. B. Aleshire, N. L. Hendershot, C. N. Moller, and P. M. Nigh; City Administrator Bruce J. Zimmerman, City Attorney William Nairn and City Clerk D. K. Spickler. Councilmember L. C. Metzner was not able to attend this meeting.

The invocation was offered by Councilmember Carol N. Moller. The Pledge of Allegiance was then recited.

Mayor Breichner welcomed the members of Cub Scout Troop 54 to the meeting.

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, April 5, 2005; Tuesday, April 12, 2005; Tuesday, April 19, 2005 and the Regular Session on Tuesday, April 26, 2005 at 7:00 p.m.

Mayor Breichner reviewed the citizen rules for testimony and comments.

PUBLIC HEARINGS

Startzman Rezoning – Fairmont Real Estate Services, LLC/ Washington County Association of Retarded Citizens, Inc. (ARC) Rezoning

Stuart Bass, Comprehensive Planner, stated the owners of property (the Estate of Edna Startzman) at the intersection of Linwood Road and Noland Drive have submitted a request for rezoning of the property from IG (Industrial General) to R2 (Residential) based on a change in the character of the neighborhood. The property is northeast of the intersection of Linwood Road and Noland Drive, immediately west of Hagerstown Business Park, north of Noland Village and east of Greenberry Hills. The land is vacant, undeveloped property and is approximately 16.5 acres in size. It is part of a 28.25 acre parcel.

Mr. Bass read the Staff report into the record. Staff recommends approval of the proposed rezoning to R2 (Residential). The proposed classification is appropriate because the portion of the parcel annexed into the City in 1998 is zoned R2. Property to the south and east is developed residentially. The Economic Development Director stated that a previous study by the City

showed that this lot was not suitable for industrial development. The Comprehensive Plan describes a residential area, of which this proposed development would be a part. Staff also accepts the applicant's argument regarding change, including (1) the intensification of residential uses in the area, including the build out of Noland Village, (2) the annexation in 1998 which resulted in the split zoning district, (3) and the abandonment of plans to extend the Business Park via Sweeney Drive.

The Planning Commission has recommended approval of this rezoning.

Mr. Bass then described the companion case, which is the rezoning request made by Washington County Association of Retarded Citizens, Inc. The Washington County Association of Retarded Citizens, Inc. has submitted a request for rezoning of their property at 1113 Linwood Road, based on a change in the character of the neighborhood. The existing zoning is IG (Industrial General) and the proposed zoning is R2 (Residential). The property is northeast of the intersection of Linwood Road and Noland Drive, immediately west of Hagerstown Business Park, north of Noland Village and east of Greenberry Hills. There is a single family detached house located on the property. The requested rezoning is for 4.75 acres of a 5 acre parcel.

Mr. Bass read the Staff report into the record. Staff recommends approval of the proposed rezoning to R2 (Residential). The proposed classification is appropriate because the portion of the parcel annexed into the City in 1998 is zoned R2. Property to the south and east is developed residentially. The Economic Development Director stated that a previous study by the City showed that this lot was not suitable for industrial development. The Comprehensive Plan describes a residential area, of which this proposed development would be a part.

The proposed rezoning would not result in an increase in population for this property. There is an existing residence on the property and there are no immediate plans to develop this property.

The Planning Commission has recommended approval of this rezoning.

The following were entered as exhibits in both cases:

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

Jason Divelbiss, Miller, Oliver, Baker, Moylan and Stone, was present representing the property owners. He asked that each of the applications be treated on their own merits. He indicated the argument would be the same for both.

He entered the following as exhibits:

- Exhibit 1 - Map showing both properties as one unit
- Exhibit 2 - Map showing the Corporate Boundary bisecting the properties
- Exhibit 3 - Map showing the Neighborhood
- Exhibit 4 - Description of the Changes in the Neighborhood and the basis for
mistake in original IG Zoning
- Exhibit 5 - Map showing the existing zoning districts
- Exhibit 6 - Map showing the usable area of the properties with the setback
requirements as currently zoned
- Exhibit 7 - A copy of a portion of the Zoning Ordinance for the City of
Hagerstown, March 7, 1977
- Exhibit 8 - Copy of Correspondence, dated March 13, 1998, from Deborah
Everhart, Economic Development Coordinator, indicating the estimated cost
to extend the Hagerstown Business Park is approximately \$ 600,000
- Exhibit 9 - Final Plat of Hagerstown Business Park

Mr. Divelbiss stated the properties had been bisected by the Corporate Boundary line until 1998.

Applicant Testimony:

Robert DeHaven, Executive Director of the ARC, 625 Marion Street, stated the ARC is asking for this rezoning because of the existing use of the structure on the property. There are three retarded citizens living in the residence at this time. The R2 classification is more appropriate for its current use. He stated the residence is 35 to 40 years old. ARC would like to build another home at this location, but not in the immediate future.

Councilmember Aleshire stated the R2 zoning would allow a much higher density than what has been indicated as an intended use at this hearing. He asked if the owner would be willing to accept restrictions that would limit the density of the housing to what has been testified to at this hearing. Mr. DeHaven said they would accept any restrictions necessary.

Ray Rahuba, 946 Amarimech Court, Eldersburg, Maryland, is the contract developer for these properties. He is also the developer of the Hager's Crossing development. He stated it is anticipated this development will consist of fee simple townhouses. There is a need for this type of housing, at a more affordable price. No plans are included for the parcel that is owned by the ARC. Access would be from Sweeney Drive and Linwood Road (which is a county road).

Councilmember Aleshire stated the Planning Commission indicated a traffic study would be completed to determine where the traffic would go. He wants people to understand that once rezoning occurs, a traffic study will be done. The City Engineer has pointed out this development will create a significant increase in the amount of traffic. He also stated that once

the rezoning occurs, the Mayor and City Council do not have any authority to establish conditions and that there is no guarantee the density will stay at the level testified to at this hearing. He stated it appears re-forestation would not be on site. The Mayor and City Council have no leverage through the site plan review process.

Mr. Rahuba asked that everyone look at how Hager's Crossing has been developed. The development has occurred as he stated it would at the public hearing. It is his intention to allocate as much re-forestation as possible on site.

Councilmember Aleshire stated there were five residents who spoke against the rezoning at the Planning Commission hearing. Many of them were testifying against the density level of the property. He indicated he thinks there are only one or two valid arguments for a change in the character of the neighborhood.

Mr. Divelbiss stated nothing residential can be done with the property until it is rezoned. He stated Mr. Rahuba would be held to what he testifies to here this evening. He believes the neighbors would prefer a residential use over an industrial use. However, the use of the property is not in question during a rezoning hearing.

Councilmember Aleshire stated the Mayor and City Council are under no obligation to rezone the property. He stated they should have the ability to restrict what uses are put on the property during rezoning considerations.

There was considerable discussion between Councilmember Aleshire and Mr. Divelbiss concerning the ability of the Mayor and City Council to restrict the use of the property during a rezoning consideration.

Steve Zoretich, Frederick, Seibert and Associates, 128 S. Potomac Street, Hagerstown, Maryland, defined the neighborhood. He stated the neighborhood has changed substantially since March, 1997. The following is a list of the changes:

1. Unification of properties within City limits after annexation in 1998 so that split zoning districts could be remedied.
2. Development of the Hagerstown Industrial Park in a cul-de-sac pattern development that effectively encapsulated industrial uses within this area around the centralized Sweeney Drive
3. Intensification of residential uses in the area, including the full build-out of Noland Village

Mr. Zoretich stated Linwood Road is an open section road controlled by Washington County. Roadways built within the City would be built to City standards (for closed roads) and to the standard of Linwood Road, if it was an open section road.

Mr. Divelbiss presented the following statements for a mistake in the original zoning:

1. The City Council failed to take into account the full impact of the 200' setback requirement on three sides of the properties. The effect of these setbacks is to limit the area available for IG uses to .7 +/- acres of what is now the 5.0 acre ARC property and 9.72 +/- acres of the 16.5 acre Startzman property.
2. Presence of single-family residential dwelling on property which then became a non-conforming use.
3. Subsequent to the comprehensive zoning of this property as IG it has not been significantly improved or maintained for such use. Moreover, the City of Hagerstown explored the possibility of extending the Hagerstown Industrial Park onto these properties, but determined that such a plan was not viable.

Mr. Divelbiss referred to Exhibits 6 and 7 that show the effect the 200' setback requirement has on the property. It pushes the usable IG space into the middle of the property. This made the property unusable, even in 1977.

Councilmember Aleshire asked if changing the R2 zoning to IG would solve the problem of split zoning on the property. Mr. Divelbiss stated this was addressed by the City and the determination was made that it would not provide a space feasible for addition to the industrial park.

Councilmember Nigh stated she received a telephone call from someone on Linwood Drive who was concerned about the right of way. She would like to see trees planted on the property.

Mr. Zoretich indicated most of the planting requirements could be made on-site.

Deborah Everhart, Economic Development Director, stated the City had looked at the property at the end of Sweeney Drive for expansion of the business park. The Engineering Department had mapped out lots that would meet the setback and zoning requirements and it was shown this would not be feasible.

Mr. Divelbiss indicated the applicant is concerned that the 200' setback would be pushed onto existing lots. The applicant would be willing to add deed restrictions so that residents would not object to any variances to avoid the impact of the 200' setback.

Ms. Everhart indicated that Lot 6 of the Business Park was sold based on 2.6 acres of usable land. Lot 7 is under contract by Action Products and the intended use is the expansion of their parking lot from Lot 8. They probably will not ask for a variance from the setback requirements.

Mr. Divelbiss referred to Exhibit 5, which shows the development of the industrial park in a cul-de-sac form. This layout creates the 200' setback issue.

Testimony was then presented.

There was no testimony in favor of the rezoning requests.

The following is the testimony that was presented against the rezoning requests.

Harry Barger, 11537 Englewood Road, Hagerstown, Maryland, has lived in the neighborhood since 1965. He expressed his concern about the amount of traffic that will going through the area. He is also concerned about the effect the development allowed due to rezoning will have on the water supply in the Greenberry Hills area.

Nell Stuart, 11517 Englewood Road, Hagerstown, Maryland, stated the water pressure in the area is a large problem. She stated she doesn't understand how the water system would not be affected. She stated another major concern for her is the increase in the amount of traffic.

Mr. Divelbiss stated similar concerns were presented before the Planning Commission. He stated the water pressure problem is an existing condition and the applicant would make every effort to address the problem during the subdivision process. The applicant would work to ensure there would not be a negative impact on the neighborhood. Mr. Zoretich stated the applicant would work with David Shindle, Water and Sewer Department Manager, and he would protect the city's interest and the residents' interest.

There was no further testimony.

The hearing was closed at 8:10 p.m. The record will remain open for ten days for written comments.

Zoning Ordinance Text Amendments

Kathleen Maher, Planning Director, presented a comprehensive list of proposed amendments to the Zoning Ordinance for the Mayor and City Council's review.

The Planning Commission held a public review meeting on February 23, 2005 and received no public comment. The City Attorney provided comments on the proposed revisions to the Board of Zoning Appeals section and, for the most part, these comments were incorporated. On March 9, 2005, the Planning Commission recommended to the Mayor and City Council that the amendments be adopted.

The proposed amendments include:

1. Adding expanded listings of uses for several zoning districts
2. Addressing off-street parking issues
3. Requiring that a home occupation has to be located in the applicant's residence
4. Changes to the Board of Zoning Appeals Section

As a result of the Mayor and City Council's discussion on March 22, 2005, Section 68-25 and Section 68-29 of the text have been revised to further modify the stormwater management criteria and the C4 buffer criteria.

The following items were entered as exhibits:

- | | |
|-----------|------------------------------------|
| Exhibit 1 | Certificate of advertisement |
| Exhibit 2 | Planning Commission record by file |

There was no testimony presented, either in favor of or against the zoning text amendments.

The hearing was closed at 8:15 p.m. The record will remain open for 10 days for written comments.

MINUTES

On a motion duly made by Councilmember C. N. Moller and seconded by Councilmember P. M. Nigh, the Mayor and City Council unanimously agreed by voice vote of all members present to approve the minutes for Mayor and City Council meetings held on February 1, 2005, February 8, 2005, February 15, 2005 and February 22, 2005.

CONSENT AGENDA

Councilmember Aleshire requested that the Patching Contract with Henson and Sons, Inc. be removed from the consent agenda. This will become Item B, under Unfinished Business.

On a motion duly made by Councilmember K. B. Aleshire and seconded by Councilmember C. N. Moller, the Mayor and City Council unanimously agreed by voice vote of all members present to approve the Consent Agenda as follows:

- A. Fire Department: Turnout Gear - Mason-Dixon Fire Equipment, LLC
(Williamsport, MD) \$ 118,860.00

- B. Engineering/Public Works: Change Order to Antietam Tree contract to plant trees on BOE property using DNR Grant - Antietam Tree Service, Inc. (Hagerstown, MD) \$ 43,000.00
- C. Water and Sewer Department
 - 1. Demolition of existing PSA Air Compressor - Ulliman Schutte Construction (Gaithersburg, MD) \$ 15,819.00
 - 2. Upgrade of ABB Software - ABB (Warminster, PA) \$ 35,330.00
 - 3. Flo-Dar Sensor & Logger Rental - Marsh McBirney (Baltimore, MD) \$ 32,000.00
 - 4. Replacement Pump for Flusher - Mid-Atlantic Waste Systems (Baltimore, MD) \$ 12,300.00
- D. Community Development
 - 1. Rehabilitation Contract for 817 Lanvale Street - Accent Builders (Hancock, MD) \$ 65,685.00
 - 2. Rehabilitation Contract for 645 North Mulberry Street - Accent Builders (Hancock, MD) \$ 53,900.00
- E. Police Department: Dell Opti Plex Desktop Computers (13) - DELL Computers \$ 14,391.00
- F. Parks and Recreation
 - 1. Fairway Mower for Golf Course - G. L. Cornell Co. (Gaithersburg, MD) \$ 24,500.00
 - 2. Skatepark Ramp - Half pipe - SunRamp Solutions, Inc. (Duluth, MN) \$ 19,900.00
- G. Purchasing: Elevator Maintenance Annual Contract - Landmark Elevator, Inc. (Hagerstown, MD) \$ 11,880.00

UNFINISHED BUISNESS

A. Approval of an Ordinance: Authorizing the Acquisition, Rehabilitation and Resale of a Property Known as 443 Jonathan Street

Action: On a motion duly made by Councilmember K. B. Aleshire and seconded by Councilmember C. N. Moller, the Mayor and City Council unanimously agreed by voice vote of all members present to approve an ordinance to consider the acquisition, rehabilitation and resale of the property known as 443 Jonathan Street under the City's Single Family

Home Ownership Program, with an acquisition cost of \$ 31,000 to be funded by the City's Community Development Block Grant Fund.

B. Utility Contracting

Councilmember Aleshire asked if the majority of the patching work was done in-house last year. David Shindle, Water and Sewer Department Manager, indicated none of this patching was done by City employees. The work has been contracted out for many years.

Councilmember Aleshire asked if a cost analysis had been completed recently to determine the feasibility of completing the work in-house. Mr. Shindle stated the last review showed that it would cost more to do in-house, mainly because the City is not in the paving business.

Councilmember Aleshire asked if it would take longer to complete the work if it was done in-house. Mr. Shindle stated one of the reasons it was contracted out was because complaints were received about the length of time it took for repairs to be completed.

Action: Councilmember K. B. Aleshire made a motion to approve the contract with Henson and Sons, Inc. for Utility Patching, in the amount of \$ 302,790.00. Councilmember N. L. Hendershot seconded the motion.

Motion carried, 3-1 with Councilmember P. M. Nigh voting No.

NEW BUSINESS

A. Introduction of an Ordinance: To Amend Chapter 155 of the City Code, Noise, to Specify Regulations for Fireworks Shows

Action: Councilmember K. B. Aleshire made a motion to introduce an ordinance to amend Chapter 155 of the City Code, entitled Noise, to specify that licensed fireworks shows are exempt from the Noise Ordinance under Section 155-3, if such shows are approved in advance by the Mayor and City Council. Councilmember N. L. Hendershot seconded the motion.

Discussion: Councilmember Nigh stated there are many other issues with the fireworks that have not been addressed and they need to be addressed.

Motion carried, 3-1 with Councilmember P. M. Nigh voting No.

B. Introduction of an Ordinance: Amending the Code of the City of Hagerstown to Prohibit Possession and Consumption of Alcoholic Beverages in Any Park or Playground of the City, with Certain Exemptions

Action: Councilmember C. N. Moller made a motion to introduce an ordinance amending the Code of the City of Hagerstown to prohibit possession and consumption of alcoholic beverages in any park or playground of the City exempting of Municipal Stadium, University Plaza, and Fairgrounds Park. The exemption also applies to the Mansion House and the Washington County Museum of Fine Arts located in City Park. Councilmember K. B. Aleshire seconded the motion.

Motion carried, 3-1 with Councilmember N. L. Hendershot voting No.

C. Introduction of a Resolution: Light Property Annexation, Case No. A05-02

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 of all members present to introduce an Annexation Resolution for Terri L. Light (Narron) and Stephen C. Palmer (Trustee) for property located east of Eastern Boulevard and south of Jefferson Boulevard. The property to be annexed is 29.374 acres in size and is intended to be added to and made part of the adjacent municipal lands.

D. Introduction of a Resolution: Crumrine Property Annexation, Case No. A05-03

Action: On a motion duly made by Councilmember C. N. Moller and seconded by Councilmember P. M. Nigh, the Mayor and City Council unanimously agreed by voice vote of all members present to introduce an annexation resolution for Gilbert J. and Mary Crumrine for property located east of Eastern Boulevard and south of Jefferson Boulevard and bordering Antietam Creek. The property to be annexed is 18.465 acres in size and is intended to be added to and made part of the adjacent municipal lands.

Discussion: Councilmember Aleshire reminded the Council that this is only the introduction for annexation. The Mayor and City Council's only opportunity to have negotiating power over what is developed on this property will be during the consideration process.

E. Resolution: Lease Agreement for City Park Concession Stand – Ray Montgomery

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 of all members present to approve a resolution executing a new agreement with R & J Concession to operate the Concession Stand at City Park for the period April 1, 2005 through

October 31, 2005, with a renewal clause for an additional five (5) one-year terms.

F. Resolution: Acceptance of Washington County's Multi-Hazard Mitigation Plan

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 of all members present to approve a resolution adopting the Washington County Multi-Hazard Mitigation Plan as an official plan.

G. Resolution: To Accept the Dedication of the Water Facilities Serving the Good Shepherd Ministries

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 of all members present to approve a resolution to accept the dedication of the water facilities serving the Good Shepherd Ministries, 19763 Long Meadow Road, Hagerstown, Maryland.

H. Approval of Front Footage Recoupment Agreement – The Good Shepherd Ministries

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 of all members present to approve the agreement between the City of Hagerstown and Good Shepherd Ministries. This agreement is for the City to collect front footage fees for the water main section on Long Meadow Road constructed as part of the Good Shepherd Ministries in exchange for dedication of the water main extension to the City.

I. License Agreement: Handicap Ramp for Square Cup Café

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 of all members present to approve a license agreement for Olde Towne Development LLC for 2-4 West Washington Street to construct a new access ramp and railing in front of their building.

J. License Agreement: Handicap Ramp 139 N. Mulberry Street

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 of all members present to approve of a license agreement for Phillip Ridenour for 139 North Mulberry Street to construct a new access ramp, landing and steps in front of his building.

Discussion: Councilmember Nigh asked if Phillip Ridenour is the owner of the building or the tavern located at 139 N. Mulberry Street. Rodney Tissue, City Engineer, stated Mr. Ridenour owns the building and the tavern is leased.

K. Approval of Request to Use Vacant Lot at S. Potomac Street/W. Memorial Boulevard for a Carnival

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 of all members present to approve the request from Downsville Ruritan Club and Funkstown Road and Gun Club to utilize the vacant lot at S. Potomac Street and W. Memorial Boulevard for a carnival from May 2 through May 14, 2005. Set up will begin April 30, 2005.

L. Approval of Developer's Agreement with Abbud and Mary C. Dahbura

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 of all members present to approve a development agreement with Abbud and Mary C. Dahbura for development of property off Shawley Drive that includes a contribution for upgrades to the sewer system and a requirement to upgrade the water system upon further development.

Discussion: Councilmember Aleshire asked when the payments would be made, now or when the development begins. David Shindle, Water and Sewer Department Manager, indicated the agreement stipulates that the sum is payable at the execution of the agreement. The agreement will remain in effect until the upgrade is complete.

M. Approval of University Plaza Program – Music and Storytelling Series

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 of all members present to approve of funding for a new music series and storytelling series at University Plaza. Both projects are a coordinated effort between the City of Hagerstown's Public Information Department and the Washington County Arts Council.

The funding for the events in this fiscal year (2004/2005) will be \$ 6,280.00 and \$ 4,100.00 will come from the City's Public Functions Budget and \$ 2,180.00 will come from contingency. The funding for the events which will occur in the upcoming fiscal year (2005/2006) will be put in the City Administrator's Proposed Budget.

N. Repeal of the Interim School Impact Fee Policy

Action: Councilmember K. B. Aleshire made a motion to repeal the resolution enacted on December 14, 2004 and January 25, 2005 creating the Interim School Impact Fee Policy. In taking this action, the Mayor and Council believe that it is more appropriate to raise revenue for school construction through the excise tax legislation presently under consideration of the State Delegation, County Commissioners, and County Municipal governments. I further authorize staff to return any fees previously collected. Councilmember N. L. Hendershot seconded the motion.

Discussion: Councilmember Aleshire stated that, as an elected body, the Mayor and City Council considered repealing this policy as a result of threatened legal action. The intent of the policy was to adopt an Adequate Public Facilities Ordinance (APFO), similar to Washington County's, to reduce the financial impact on the County for school construction. He feels this policy should be in place until the APFO is implemented. The 2 + 2 Committee, the Mayor, the County Commissioners and the State Delegation have met to work out the details of the proposed legislation in order to get the bill passed. There is now an amendment being considered that would exempt all the development in the pipeline. For these reasons, he cannot support the repeal of the school impact fee policy.

Motion was defeated, 4-0 with Councilmember K. B. Aleshire, Councilmember N. L. Hendershot, Councilmember C. N. Moller and Councilmember P. M. Nigh voting No.

It was the general consensus of the Mayor and City Council to schedule further discussions regarding the School Impact Fee Policy.

O. Approval of Parks Operating Policy in Reference to Alcohol In Parks

Councilmember P. M. Nigh stated she has many questions about this policy and they need to be discussed. Bruce Zimmerman, City Administrator, indicated questions had been raised about the cost of fencing, insurance coverage and time limitations since the discussion at last Tuesday's work session.

Action: Councilmember K. B. Aleshire moved to table the vote until further discussions are held. Motion carried, 4-0.

CITIZEN COMMENTS

Ron Hovis, 19806 Scott Hill Drive, Hagerstown, Maryland, stated that, as a Veteran, he was asking that Memorial Boulevard not be renamed to Willie Mays Way. He stated Memorial Boulevard was dedicated to the veterans of our many wars. He stated he thinks changing the name of Memorial Boulevard would be an insult to the veterans it honors and to the leaders and citizens of Hagerstown who named it Memorial Boulevard.

John McCune, 314 Radcliffe Avenue, Hagerstown, Maryland, stated he agrees with Mr. Hovis. Mr. McCune was also present to discuss fireworks problems at Municipal Stadium. He is speaking for more than 40 families in the area who are disappointed in the revision to the City Code pertaining to fireworks. He stated many points were not discussed, such as the starting/stopping time, the number of times held and the intensity of the displays. This issue was presented to the City and to the Hagerstown Suns management last June. He is disappointed that nothing had been done except to add a slight amendment to the noise code.

Erin Benedum, 90 Manor Drive, # 104, Hagerstown, Maryland, stated she has been a figure skating instructor at the Hagerstown Ice Rink for several years. On March 21, 2005, she was told her employment was being terminated in 30 days. The reason she was given is that the rink is moving in a different direction. She stated she has been involved in competitive skating for 17 years and teaching for 9 years. She has traveled to events to broaden her skills. She currently is coaching 29 students, who range in age from 2 years old to 20 years old. These students spend over \$ 20,000 a year in ice fees alone. Several of her students have been successful in national competitions. Many events are planned throughout the coming year. She has volunteered her time to hold camps and former Olympic skaters have been guests at the camps. She has donated her own money to ensure the planned spring event occurred. She stated she does not accept mediocre as a standard for her students or herself. She stated she has attempted to talk to the Board of Directors and she has offered to pay the guest instructor fee. She stated she is here asking for the ability to teach in Hagerstown and not have her students take their business elsewhere.

Ginger Pembroke, 425 N. Potomac St., Hagerstown, Maryland, stated the money brought in to the ice rink from the 29 students and their instructors is \$ 39,000. Guest coach fees bring in an additional \$ 10,000. She asked the Mayor and City Council to consider how much revenue is going to be lost by the rink's inability to hold a national competition in June. This event cannot be held at the Hagerstown Ice Rink if Jennifer Kaszubski is let go from the rink. This event, and others, bring in many tourism dollars. She asked if we can afford to turn the income away. Good money is being sent away from Hagerstown by letting these two coaches go. Dreams of the hardworking, young people who are students are being crushed. Ms. Pembroke suggested conducting an independent audit to determine how much revenue Erin Benedum and Jennifer Kaszubski bring in to the ice rink.

Mayor Breichner stated the City has an agreement with the Washington County Sports Foundation, Inc. for the operation of the ice rink and the board is the group that makes the decisions.

Councilmember Aleshire stated the Mayor and City Council is the body that oversees the ice rink. He stated they will be talking with the Board of Directors.

Debora Smoot, 16039 Broadfording Road, Hagerstown, Maryland, stated her daughter, Holly, has been skating for 10 years. Holly has applied to a college and they were impressed with her skill and progress. She hopes to be a figure skating coach because of her experiences with Erin Benedum. She stated Ms. Benedum is a coach who knows how to help her students attain their goals. Holly will have a paid internship with an ice rink close to the college of her choice. She is concerned that only one or two people are making the decisions without discussing anything with the full Board of Directors.

Jeanette Clark, 11419 Woodview Drive, Hagerstown, Maryland, stated the ice rink was an important part of her family's decision to move to Hagerstown. She stated Ms. Benedum is a tremendous resource to the rink by bringing people in. She stated the parents of the skaters have been told the rink is going in a different direction in order to create revenue. She stated the part that is bringing in money should not be cut off. There needs to be openness and accountability in this situation.

Maryjane Clark, 11419 Woodview Drive, Hagerstown, Maryland, stated she has been skating for four years and she really connects with her coach, Erin Benedum.

Debra Shepherd, 382 Myermaple Drive, Martinsburg, West Virginia, stated the parents and students were notified on March 21, 2005 by the management of the ice rink that Erin Benedum and Jennifer Kaszubski were being released from their employment. This decision shattered the dreams and goals of approximately 40 young skaters. These skaters have logged thousands of hours of training by students. They work on the ice between 10-15 hours each week. She stated Ms. Benedum has been giving lessons to two young children free of charge, whose parent has a terminal disease. She is also providing equipment and ice time to these children. Ms. Shepherd asked that everyone listen to the children involved in the ice skating programs.

Deanna Mayberry, 145 New Chester Road, Gettysburg, Pennsylvania, stated her family could go to ice rinks in York or Harrisburg, Pennsylvania or to Frederick, Maryland, but they choose to go to Hagerstown. This rink has been honored by Olympic medalists at workshops and this is good publicity for Hagerstown. She stated Brian Orser, Olympic Skater, asks to come to the workshops because he enjoys working with the students in Hagerstown. She stated things have changed at the rink. She asked if the decision of the board can be reversed if the whole board was not a part of the decision. She asked the Mayor and City Council to step in and have Erin Benedum, Jennifer Kaszubski and Carl Langford reinstated.

Holly Smoot, 16039 Broadfording Road, Hagerstown, Maryland, stated she is a skater and there has to be a trusting relationship with the coach. She has that trust with Ms. Benedum. She wants to be a coach.

Philip Stotlemeyer, 21251 Mt. Lena Road, Boonsboro, Maryland, stated his father was a Marine Corp. veteran. He asked that Memorial Boulevard be left as it is.

Robert Glausier, 3 Potomac Street, Boonsboro, Maryland, was present representing the Joint Veterans Council of Washington County. He stated Americans have been memorializing veterans since the Civil War. He asked the Mayor and City Council to not change the name of Memorial Boulevard. He suggested naming another place in Hagerstown in honor of Willie Mays.

Rusty Baker, 17723 Virginia Avenue, Hagerstown, Maryland, stated he is concerned about the Mayor and City Council's consideration of renaming Memorial Boulevard. He has contacted members of the AMVETS and all have expressed their opposition to renaming Memorial Boulevard.

Kenneth Conway, Morris Frock Legion – Post 42, Hagerstown, Maryland, asked the Mayor and City Council to keep Memorial Boulevard the same as it is now.

Andy Long, 6347 Knollwood Drive, Frederick, Maryland, was present speaking on behalf of Erin Benedum. He stated his daughter, Christy, has been a student of Ms. Benedum's for one year. She has been skating for many years but she has developed tremendously during the last year. The role of coaching is more than just teaching the sport. A good coach also teaches life skills, and Ms. Benedum does that. He stated the real victims in this whole situation are Christy and her fellow skaters.

Theresa Mills, 164 Cumberland Street, Clear Spring, Maryland, stated she is a proud student of Erin Benedum's. She stated she brings the best out in everybody. It would be sad if she moved away.

Larry Carte, 884 Sulphur Springs Road, Inwood, West Virginia, stated no one can understand why a different direction would be necessary at the ice rink, since this is an excellent program with excellent coaches. He stated when these things occur, it is very rarely about what is best for the kids. He asked the Mayor and City Council to examine what is the real motivation here and do their best to remedy it.

Deborah Subetto, 21 E. Sunset Avenue, Williamsport, Maryland, stated her daughter is a skater and the coaches have given her so much to look forward to and to give back. She stated one of her daughter's favorite things was to skate for Carl. She doesn't understand why a few people were allowed to make a decision that has negatively impacted so many young people.

CITY ADMINISTRATOR'S COMMENTS

Bruce Zimmerman, City Administrator, had no further comments.

MAYOR AND CITY COUNCIL COMMENTS

Councilmember K. B. Aleshire stated the Mayor and City Council have heard two large issues at this meeting: the street name change and the ice rink. He stated they should take responsibility and the opportunity to investigate what is occurring. Many of his family served in the armed services. He would be willing to explore the possibility of placing a plaque in the area, but not change the name of Memorial Boulevard.

Councilmember Aleshire stated the Consent Order (regarding the sewer system) is real and the City needs to be cautious with development. He stated the Mayor and Council can have a say in the rezoning requests and what they allow **will** have an affect on the neighborhood. He stated they have a choice to make in minimizing the density of developments so it minimizes the impact on communities.

Councilmember P. M. Nigh thanked the veterans for being at this meeting. She has tried to find out why Memorial Boulevard was named, but couldn't find it in black and white. She stated tombstones of two black veterans can be seen from Memorial Boulevard. She thinks it is an injustice for Brian Robinson to ask for the name change. She suspects that Memorial Boulevard was named in honor of veterans from two world wars. She is not in favor of changing the name.

Councilmember Nigh stated she was not able to attend the last board meeting at the ice rink. She would not be at liberty to say anything about the situation. She was not contacted. She is not sure where the City stands in being able to change things there. Alfred Martin, Finance Director, stated there is a long standing management agreement with the Washington County Sports Foundation, Inc. Mayor Breichner indicated he believed the City has the right and obligation, to ask questions.

Councilmember C. N. Moller stated she is not in favor of changing the name of Memorial Boulevard. She stated the Mayor and City Council would find out all they can about the ice rink. She stated it was exciting to hear the young skaters talk about their experiences.

Councilmember N. L. Hendershot stated it was good to hear from the skaters. It shows what the ice rink is doing for this community. He stated the City of Hagerstown is not just the county seat, but it is a regional hub for four states. People come here to skate, shop, see minor league baseball and the City needs to pay closer attention to what is happening at the ice rink. He stated it appears all Council members here wish to see the program continue.

Councilmember Hendershot stated a Habitat for Humanity house on Liberty Street will be dedicated on Saturday, April 2, 2005. MiHi is encouraging the building of universal houses. This is an accessible house, built by MiHi and the Episcopal Church. It will improve the resident's quality of life. He thanked John Barr for his community work.

Mayor W. M. Breichner stated the Arbor Day Celebration will take place on April 7, 2005 at 1:00 p.m. at the 202 Railroad Museum in City Park. Students from Wesel, Germany will be here to help plant trees. He stated the south end neighborhoods group will hold a clean up day on April 2, 2005.

There being no further business to come before the Mayor and City Council, on a motion duly made by Councilmember K. B. Aleshire and seconded by Councilmember N. L. Hendershot, the meeting was adjourned at 10:05 p.m.

Respectfully submitted,

Donna K. Spickler, City Clerk

Approved: _____