

86TH REGULAR SESSION – APRIL 26, 2005

Mayor W. M. Breichner called this 86th Session of the Mayor and City Council to order at 7:06 p.m., Tuesday, April 26, 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 John Urner and City Clerk D. K. Spickler.

The invocation was offered by Councilmember Penny M. Nigh. The Pledge of Allegiance was then recited.

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, May 3, 2005, followed by the Budget Public Hearing at 7:00 p.m., Friday, May 6, 2005 (beginning at 2:00 p.m.), Tuesday, May 10, 2005 and the Regular Session on Tuesday, May 24, 2005 at 7:00 p.m.

Mayor Breichner read the following press release in reference to the Washington County Ice and Sports Foundation's authority over the operations of the ice rink:

Under the lease agreement with the Washington County Ice and Sports Foundation, the Foundation Board is responsible for all personnel decisions and operating policies governing the facility. The Washington County Ice and Sports Foundation is a not for profit corporation which utilizes its own board of directors and employs its own staff to operate the rink. The City's lease with the Foundation Board grants authority to the Board of the Washington County Ice and Sports Foundation to make personnel and policy making decisions.

The Mayor and City Council recently met with the Executive Board of the Washington County Ice and Sports Foundation. The City was satisfied that the Foundation Board was acting within the authority granted through the user agreement. The Mayor and City Council can not discuss publicly any personnel issues that were discussed with the Executive Board.

The Mayor and City Council would encourage the Foundation Board to reach out in an appropriate manner to the parents of figure skaters and other citizens so that they have a better understanding of the board's plans for the figure skating program.

Several people in the audience indicated they wished to speak to the Mayor and City Council about the Ice Rink. Mayor Breichner asked that the group select one or two people to speak during the Citizen Comment time.

Mayor Breichner indicated he wished to offer a suggestion in the renaming of Memorial Boulevard discussion. He recommended rededicating Memorial Boulevard to the war veterans who have lost their lives serving the country. He asked that a rededication ceremony be held and an appropriate plaque be located there. He stated he thought it would be appropriate to name the field at Municipal Stadium in honor of Willie Mays.

Councilmember Metzner stated he thinks these suggestions are appropriate. A rededication would make it clear who the road is named in memory of. He recognized that Willie Mays is a veteran and he may have been able to break Babe Ruth's record if he had not served for two years.

PROCLAMATION

Mayor Breichner read a proclamation naming April, 2005 as Municipal Government Month in Hagerstown, Maryland. Wayne Hose, AFSCME 3373, and Todd Paylor, IBEW, were present, representing the unions. Mayor Breichner thanked all City employees for doing a great job.

Mayor Breichner reviewed the citizen rules for testimony and comments.

PUBLIC HEARINGS

Haven Road Annexation

Stuart Bass, Comprehensive Planner, stated the Mayor and City Council introduced an annexation resolution for Haven Road at their February 22, 2005 meeting. The applicants have met with the neighbors, on March 18, 2005 and April 18, 2005. On March 30, 2005, the Planning Commission determined that the proposed R3 zoning was appropriate.

On April 18, 2005, the contract purchaser, Gene Lynch of Smart Growth Investments, made a presentation on his proposed development plan to the neighbors at a Northwest Neighbors meeting. Mr. Lynch proposes constructing a 450 unit development. The layout of the development would be single-family residences around the perimeter of the 52 acre parcel, townhouses (with rear loading garages) on the interior of the parcel, two-over-two townhouses in the "turkey neck" portion of the parcel, and a community center/swim club in the center of the parcel for use by the development and the surrounding community. Mr. Lynch stated that all of the units would be for sale. Access was proposed via Haven Road, Crestwood Drive (a private street owned by the Boy Scouts), and a paper street between Woodlands North and Hyde Park. Forest Conservation was proposed via street trees and minimal conservation areas along the site's stream feature.

The neighbors stated a preference for fewer units, a buffer along the boundaries with Woodlands North, forest conservation areas, and no access point between Woodlands North and Hyde Park.

Mr. Bass stated a correspondence was received from the Washington County Planning Director indicating the Board found the requested zoning to be compatible with the existing zoning. The Director did express concerns about the school capacity. Water and sewer service will be provided to the development by extension of the existing lines. Any upgrades will be at the expense of the developer.

Mr. Bass entered the following as Exhibits:

1. Outline for Extension of Services
2. Certification of Advertisement for Annexation

Councilmember Metzner stated he had questions about the timing of this hearing. At a previous meeting, it was indicated that the contract purchaser would not be able to make this project work if he was limited to constructing only 25 units per year. Councilmember Metzner stated if the property is annexed, it will be taxed, whether the development is complete or not. The City must file a Sewer Capacity Plan with the Maryland Department of the Environment by July 1, 2005 and the amount of development permitted may be changed by that plan. Excise fees will be implemented by July 1, 2005. These items may increase the cost for the development. Councilmember Metzner asked if money could be collected for road construction without implementing an Adequate Public Facilities Ordinance (APFO) for school construction. Mayor Breichner stated the City would not be able to keep any Excise Tax money for road construction without the APFO. Councilmember Metzner asked if the City can legally levy a tax for schools, since school funding is not in the City's budget. Mayor Breichner stated the Excise Tax Law states that an APFO for school construction has to be implemented in order for the City to keep 28% of the tax collected for road construction. Mayor Breichner stated there would be nothing to prevent the Mayor and City Council from asking for a portion of the excise tax even if they didn't implement an APFO.

Councilmember Metzner stated a permanent sewer allocation plan has not been enacted at this point in time. He wanted to be sure everyone in attendance understood the amount of allocation allowed could change by July 1, 2005.

Councilmember Aleshire stated the proposed development presented at a recent Neighborhoods First meeting is just a proposal. What was presented, may or may not be what actually occurs. Mr. Lynch, who presented the plan, is a proposed developer of the project. A final selection had not been made. The layout and proposal could change when it is time for a final development plan.

Councilmember Aleshire stated Exhibit A of the petition stated allocation will be given when building permits are obtained. There is no specific indication the developer will be subject to the sewer allocation policy. He asked that this statement be included in

the document. He also asked that it be mentioned that the plan presented at a public meeting is not what the final plan will be. He stated it was apparent the units, as laid out, do not fit within the lot sizes in the current zoning district. He recommended including a statement that indicates the petitioner agrees to pay the excise tax with APFO fees that are in place at the time the building permit is issued. He thinks the following items should also be included in the petition: agreement for public works services, outline of forestry requirements, requirements for recreational areas, and requirements for traffic impact studies.

Councilmember Metzner agreed, but he noted that this petition was executed in December, 2004. The Consent Order concerning the sewer allocation had not been issued at that time and the excise tax had not been implemented yet. Neither the developer nor the Mayor and City Council could have foreseen these requirements. The petition will have to be amended.

There was no representative from Washington County present.

The following testimony was presented:

Krista McGowan, Stockbridge and Miles, was present as the developer's representative. Ken Jordan, owner, was also present.

Ms. McGowan stated this has been a long process that was started well over a year ago. A discussion was held with the Mayor and City Council in November, 2004 and the petition for annexation was formally presented in December, 2004. The petition has been revised since that time to reflect changes with the sewer allocation policy. The revised petition includes a statement that this project will be subject to all laws that are in place at the time of development of the property. The owner and developer feel as though they have been responsive to the concerns expressed by the Mayor and City Council. They met with the neighbors in March and April, 2005. A potential developer provided a concept plan at the meeting held in April. That plan is not a part of this application for annexation. The plan was in response to the concerns expressed by the neighbors. This person may not be the developer. The Planning Commission unanimously approved this annexation. The owner has no issue with anything in the outline of services. He understands the Sewer Allocation Policy that is in place will dictate the rate of development.

Ms. McGowan stated they understand the elementary school is slightly overcrowded and that the Board of Education is planning to increase the size of Maugansville Elementary School in 2007. The homes in this development will not be sold before that time, which would allow the County time to work through anticipated enrollment increases. The number of units planned is substantially less than what is allowed in the R3 Zoning District. The owner has voluntarily placed a cap on the number of units that will be built. He has responded to concerns from the Mayor and City Council by voluntarily limiting the unit types. This will be a quality development. They are willing to complete a full traffic study during the plan review process. They are looking at

multiple points of access. They will continue to keep the neighborhood group informed as the plan develops.

Mr. Jordan had no comments.

Kathleen Maher, Planning Director, presented a revised petition for annexation that included the changes discussed previously.

The following testimony was presented against the annexation:

Christi Hatcher, 1544 Kensington Drive, Hagerstown, Maryland, stated the numbers used for the number of units allowed in this development under County zoning are not accurate. The people in the neighborhood were under the impression that if they didn't agree to 450 units, they would have 800 to 1000 units. This annexation would make the city line adjacent to Mack Truck. She stated we are all responsible for the stewardship of this land. The development, under the current proposal, will adversely impact the area. School enrollment will increase for schools already at capacity. The water and sewer system is already overtaxed. The road is overused and this development will add an additional 900 cars in the area. Motorists in this area have a difficult time entering Pennsylvania Avenue. She asked what consideration has been given to the neighboring developments. She stated pedestrians, including school students, will be in danger. She asked how long it will be before sidewalks are in place. She also asked how many people will have to lose land in order to put in the sidewalks. She asked if part of the land of the cemetery will be taken. She stated the cost for the townhomes is expected to be \$ 450,000 and the two over two homes will be \$ 250,000. The potential developer stated the fees would be paid and it would be up to the City to make the improvements.

She stated the land will be cleared and the animals will have to find another place to go.

She stated Mr. Jordan has indicated he wants to leave something that he and his family can be proud of. She asked if Mr. Jordan could do the right thing and construct fewer homes. She believes he could still make enough money. She stated she and her neighbors are opposed to this zoning and the proposed density of the development.

Dan Elmlinger, 1125 Fairview Road, Hagerstown, Maryland, stated he is the Chairperson of the Northwest Neighbors. The primary issues of concern of the group are the proposed density and increased traffic. He stated there are no signal lights at any of the three proposed exits, except for one. Children are walking in the roadway to access Hamilton Park and the schools because there are no sidewalks. He stated the group is also concerned about the schools. Fountaindale Elementary is at capacity and middle school students are bused to Western Heights. Pedestrian students have to cross Pennsylvania Avenue in order to go to the North Hagerstown High School. He stated the owner has indicated he would need at least 75 sewer taps per year in order for the development to be feasible. He reminded everyone that the City has an agreement with MDE that limits the number of taps permitted. He understands development can occur

on the land if it is not annexed. He thanked everyone for agreeing to discuss this proposed development.

Sharon Womack , 1328 Fairchild Avenue, Hagerstown, Maryland, stated she and her husband moved to this neighborhood in 1977, when they were looking for a healthy environment in which to raise their kids. She stated people look for a certain culture within a neighborhood. They look for small communities in which they can develop a good quality of life. There needs to be a manageable number of people in the community. She stated this development will impact grocery stores and little league games. She stated people need to look beyond a monetary figure for the real value of the property. When she moved to the neighborhood, she was aware there were environmental restrictions in place for the good of the community. She is in favor of annexation in general, but she asked the Mayor and City Council to keep in mind the people who live in the community.

Steve Costello, 1420 The Terrace, Hagerstown, Maryland, stated his father lives at Woodlands North. He stated phasing in this development will not negate the impact on the infrastructure. He pointed out that increasing capacity in an elementary school does not address the impact on middle and high schools. He stated there are not enough fire and rescue units to handle the size of the development. He pointed out that the residents have generally been opposed to the development. The access points are good but if you go to Pennsylvania Avenue at a peak time, you will wait through three or four traffic signals.

Ms. McGowan, on behalf of the applicant, stated the concept plan presented at April 18, 2005 is not necessarily what will happen and it is not the final plan. The numbers provided by the Board of Education show there is some capacity available at the middle and high school. The State Highway Administration will also require a traffic study before approving any access onto Pennsylvania Avenue. This is an urban area and the applicant believes the proposal is entirely consistent with the neighborhood because it is less dense than existing developments. Ms. McGowan has worked with Mr. Jordan on a number of projects and has found him to be concerned for the neighborhood.

Councilmember Aleshire asked for the following information:

1. Is 800 to 1000 units (allowed by County zoning) correct?
2. The density in adjacent neighborhoods
3. Level of service for intersections
4. How would allowing 25 units per year impact school capacity?
5. Confirmation about the right of way for Crestwood Drive from the Boy Scouts. He stated he understands Hagerstown Business College is interested in purchasing a portion of this land.

He stated the public needs to understand the Mayor and City Council are not being asked to approve or oppose a development plan but an annexation. He would rather annex the land and be able to regulate the use.

There being no further testimony, either in favor of or against the proposed annexation, the hearing was closed at 8:25 p.m.

MINUTES

Councilmember Metzner left the room at this time.

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 minutes for Mayor and City Council meetings held on March 1, 2005, March 15, 2005, March 22, 2005 and March 29, 2005.

CONSENT AGENDA

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 Consent Agenda as follows:

A. Public Information

1. Open Container Law Exemption for Special Events – Western Maryland Blues Fest (June 3, June 4 and June 5, 2005) and Augustoberfest Event (August 13 and August 14, 2005)
2. Application/Permit – Washington County Arts Council, Central Parking Lot – Friday, June 3, 2005 Blues Fest Event
3. Application/Permit – Conservit Inc., Friday, June 3, 2005 Blues Fest Event
4. Application/Permit – Washington County Arts Council, Saturday, June 4, 2005 Blues Fest Event
5. Application/Permit – M&T Bank, Saturday, June 4, 2005 Blues Fest Event

B. Engineering

1. Fairgrounds Park – Parking Lot Improvements, Phase II – Craig Paving (Hagerstown, MD) \$ 73,790.50
2. Reconstruction of East Memorial Boulevard – C. William Hetzer, Inc. (Hagerstown, MD) Not to Exceed \$ 295,000.00
3. 2005 Overlay Program and Kuhn Avenue Overlay – Craig Paving, Inc. (Hagerstown, MD) \$ 269,000.00
4. Installation of Pavement Markings – Alpha Space Control (Fayetteville, PA) \$ 18,000.00
5. Relocation of City Fiber Network Cable – Pennsylvania Networks, Inc. (Shade Gap, PA) \$ 17,900.00

C. Water and Sewer Department

1. Phase II project, Change Order #7 – Ulliman Schutte Construction
(Gaithersburg, MD) \$ 19,466.00
 2. Phase II project, Amendment #6 – Black & Beatch
(Gaithersburg, MD) Not to Exceed \$ 20,000.00
 3. Mowing Contract Renewal – Willow Run Farm & Landscaping
(Keedysville, MD) \$ 31,463.25
 4. Ductile Iron Pipe – Atlantic States Cast Iron Pipe Co.
(Phillipsburg, NJ) \$ 17,969.00
- D. Community Development: Rehabilitation Contract for 317 S. Mulberry Street – Dale M. Ford Construction (Boonsboro, MD) \$ 76,100.00
- E. Hagerstown Light Department: Consulting Fees – Wholesale Power Contract – R. W. Beck (Orlando, FL) Not to Exceed \$ 134,500.00
- F. Finance: Annual Audit Service – Smith Elliott Kearns & Company, LLC (Hagerstown, MD) \$ 130,150.00
- G. Information Technology: Purchasing Management and Integrated Document Imaging (PMIDI) – Full Moon Software (Philomont, VA) \$ 38,000.00

Councilmember Metzner returned at this time.

Councilmember Aleshire stated he is not opposed to approving the consent agenda but he feels it would be better for the Mayor and City Council to look at available funding to improve facilities, rather than parking lots.

UNFINISHED BUISNESS

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

Action: Councilmember L. C. Metzner made a motion to approve 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 C. N. Moller seconded the motion.

Discussion: Councilmember Metzner stated it appears from citizen comments there is a misunderstanding in that this ordinance does not address the problems. He stated this ordinance requires approval for

fireworks. There was no approval necessary prior to this. This ordinance says you can only have fireworks if there is Council approval.

Councilmember Nigh stated there were problems last year with the starting time of the fireworks. She asked if that should be addressed under this ordinance.

Councilmember Metzner stated he understands conditions could be stated through the approval process. Councilmember Nigh stated the people still feel as if their questions and concerns have not been addressed.

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

B. Approval of an Ordinance: To Amend Chapter 173-29 of the City Code, *Parks and Playgrounds*, to Prohibit Possession and Consumption of Alcoholic Beverages in Parks and Playgrounds, with Exemptions.

Action: Councilmember C. N. Moller made a motion to approve 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 P. M. Nigh seconded the motion.

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

NEW BUSINESS

A. Introduction of an Ordinance: Groh Rezoning, formerly Blue Ridge Beginnings, 1009-1011 Pennsylvania Avenue (AM-2004-06)

Action: 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 introduce an ordinance for a Zoning Reclassification and Zoning Map amendment, Case No. ZM-2004-06, to rezone .81 acres, more or less, of land located at 1009-1011 Pennsylvania Avenue from R1 (Residential) to C2 (Commercial General).

B. Introduction of an Ordinance: Groh Landmark Overlay, formerly Blue Ridge Beginnings, 1009-1011 Pennsylvania Avenue (ZM-2005-01)

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 introduce an ordinance for a

Landmark Overlay on property located at 1009-1011 Pennsylvania Avenue based on the following Findings of Fact:

That the premises involved in this review, 1009-1011 Pennsylvania Avenue, 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, that the property contains a dwelling that was constructed in 1845; and that by virtue of these Findings of Fact, this property be accorded Landmark designation.

C. Introduction of an Ordinance: Fairmont Real Estate Services, LLC (Startzman) Rezoning, property on Linwood Drive (ZM-2005-02)

Action: Councilmember L. C. Metzner made a motion to introduce an ordinance for a Zoning Reclassification and Zoning Map amendment, Case No. ZM-2005-02, to rezone 16.5 acres, more or less, of land located west of Hagerstown Business Park and north of Noland Village, from IG (Industrial General) to R2 (Residential). Councilmember C. N. Moller seconded the motion.

Discussion: Kathleen Maher, Planning Director, stated the finding of facts have been modified to reflect the reason for the rezoning request is a mistake in the original zoning, rather than a change in the neighborhood.

Councilmember Aleshire stated this is strictly an introduction of an ordinance for rezoning. He stated no one is against development in a rational manor. He stated the City has recognized there are deficiencies currently within the zoning ordinance. He agrees it is not appropriate to wait to consider rezoning this property for two years for completion of the comprehensive plan. However, he pointed out there are zoning text amendments being considered during this meeting and the changes will not take two years to complete. He urged the Mayor and City Council members to visit the site before making a final decision. He stated he thinks it would be inappropriate to rezone the property without first exploring making changes in the zoning district and text.

Councilmember Nigh stated she has received telephone calls from the residents who are concerned about traffic on Linwood Drive.

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

D. Introduction of an Ordinance: Washington County Association of Retarded Citizens, Inc. (ARC) Rezoning, 1113 Linwood Drive (ZM-2005-03)

Action: 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 introduce an ordinance for a Zoning Reclassification and Zoning Map amendment, Case No. ZM-2005-03, to rezone 4.75 acres, more or less, of land located at 1113 Linwood Road, from IG (Industrial General) to R2 (Residential).

Discussion: Councilmember Aleshire pointed out that even though the current request is being made by the ARC, this zoning classification will allow other residential uses. He stated the rezoning is not just for the stated individual use. This may not be how the property is developed.

E. Introduction of an Ordinance: Zoning Ordinance Text Amendments

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 introduce an ordinance amending Chapter 68, Zoning Ordinance, of the City Code, to clarify some sections, provide for additional uses in some districts, require off-street parking for some uses in the residential districts, and to provide additional guidance and criterion in Section 68-33, Board of Zoning Appeals.

F. Introduction of an Ordinance: Approval of a User Agreement with Washington County Seniors' Softball League for City Park

Action: On a motion duly made by Councilmember P. M. Nigh and seconded by Councilmember C. N. Moller, the Mayor and City Council unanimously agreed by voice vote to introduce an ordinance to authorize the City of Hagerstown to enter into a new User Agreement with the Washington County Seniors' Softball League for two softball fields at City Park. The period of the User Agreement shall be from January 1, 2005 to December 31, 2005.

G. Resolution: Amendment to Interim Sewer Capacity Allocation Program

Passage of this resolution has been postponed until the Special Session scheduled for May 3, 2005.

H. Approval of Summer Play Camp Operations for the 2005 Season

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 the following organizations to operate play camp programs at the locations listed for an 8 week period during the summer 2005 season: Hagerstown YMCA at Hellane Park and Pangborn Park, serving 60 children per day at each site at a cost of \$ 30,500, Memorial Recreation at Wheaton Park, serving 60 children per day at a cost of \$ 14,500, and Girs, Inc. at their location, serving an additional 30 children per day above their program level at a cost of \$ 10,000.

I. Approval of Funding for North Hagerstown High School Stadium

Action: Councilmember L. C. Metzner made a motion to approve annual funding contributions to support the construction of the new “Mike Callas” North Hagerstown High School Stadium. The Mayor and Council wish to partner with the private sector, citizens and other public sector bodies in the community in providing funding support for the stadium. The City’s funding shall be \$ 20,000.00 per year for five years in General Fund Support, for a total of \$ 100,000.00 in financial support. Councilmember C. N. Moller seconded the motion.

Discussion: Councilmember Nigh stated she understands the County will be channeling \$ 150,000 from Program Open Space Funding to the stadium. She stated she is not opposed to approving \$ 20,000.00 from the City in the next budget year but she doesn’t think it is fair for this administration to say a new administration must include funding in future years.

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

J. Approval of Agreement for Administration of Federal Lead Hazard Control Program Funds

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 approve an Agreement for Administration of Federal Lead Hazard Control program Funds between the Maryland Department of Housing and Community Development and the City of Hagerstown under which the Department of Housing and Community Development will make grants available for certain lead hazard reduction activities in residential buildings located in the City. The

City will sub-contract with the Washington County Community Action Council to perform certain administrative tasks and responsibilities on its behalf. As compensation for these services, CAC shall receive 80% of the annual administrative fees paid to the City for administering the program plus \$ 800 for each settled grant from that which allocated by the Maryland Department of Housing and Community Development for this purpose.

K. Approval of a Grant of up to \$ 21,500.00 to Memorial Recreation Center

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 granting of up to \$ 21,500 to Memorial Recreation Center to assist with roof replacement. Funding will be provided from General Fund Contingency in the FY 2004/2005 budget and whatever amount is provided will be deducted from any CDBG award made to Memorial Recreation Center in FY 2005/2006.

Discussion: Councilmember Metzner stated there is a proposed CDBG budget for Memorial Recreation Center of \$ 75,000. Memorial Recreation will not be receiving less than the \$ 75,000. The funding for the roof is similar to an advance.

K. Approval of Full Time Community Development Coordinator

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 to expand the part-time Neighborhoods Coordinator position to a full-time Community Development Coordinator position effective April 25, 2005. The expanded position will allow us to expand neighborhood based initiatives in support of the City's vision and mission statement. The funding source for this position will be Community Development Block Grant funds.

CITIZEN COMMENTS

Jim Bestpitch, AFSCME Representative, was present to discuss the issue of contract negotiations. He stated two correspondences have been sent to the City, one asking to have negotiations opened and one asking why negotiations haven't started. He asked why no meetings have been held.

Mayor Breichner indicated there has not been the opportunity to discuss the letter. A discussion could be scheduled for a work session.

Councilmember Metzner stated, since this is employee week, it would be an appropriate time to start negotiations. He stated this should not wait until the next administration takes office.

Mr. Bestpitch stated the employees feel they've been unfairly treated in receiving no opening response.

Bruce Zimmerman, City Administrator, asked if the Council wished to discuss this at a work session. Councilmember Metzner and Councilmember Aleshire indicated that is correct. Councilmember Aleshire stated everyone needs to understand there could be a completely new council to work with.

Councilmember Aleshire stated there are a number of individuals present at this meeting and he doesn't remember a time when a group was asked to choose a representative. He stated he is not opposed to hearing each and every person. This is the citizen comment time and everyone has a right to be heard.

Councilmember Metzner stated he agrees but the issue with the ice rink is not the students and parents against the Mayor and City Council. The Mayor and Council were asked to not make the information public, but that doesn't mean that the Mayor and Council believe the folks who have serious questions aren't entitled to answers to their very serious questions. The issues discussed by the Board of Directors with the Mayor and Council should be discussed with the folks who are affected. He thinks there should be frank, honest discussions and solutions. He and the Mayor agree the ice rink has remained controversial every single year the city has subsidized it. There is a commitment to keep this ice rink operating. He understands the folks in the audience have a concern to keep a coach at the rink. He stated that fight is between these folks and the executive board. He stated the group should be careful that it doesn't cause this body to do the only option they have, and not subsidize the ice rink. If that occurs, no one will be skating there. He stated this body finds the current situation untenable and we don't like it either. He is willing to listen to everybody and hopes the folks in the audience understand the Mayor and Council are not against them. He stated they promised to look into it and that was done very quickly. He stated the parents and students deserve the explanation that was given to the Mayor and Council.

Mayor Breichner stated asking the group to choose a spokesperson was not to censor debate. He stated the Mayor and City Council know the issues and know the comments will be repetitive. He stated it would be more appropriate to have a spokesperson for the group.

Councilmember Nigh stated most Hagerstown residents have felt the ice rink is a white elephant. She is a board member and wants to see it work. She stated there is a council member who would like to turn it into a soccer facility. She has received emails asking the City to take it over but that is not financially feasible for the City to do. She wants to see the facility used as an ice rink and would like to see it stay in the current location.

R. David Pembroke, 425 N. Potomac Street, Hagerstown, Maryland, stated he is representing the group of students and parents who were here 30 days ago to discuss the ice rink. In the past 30 days, with the exception of the City's press release, nothing of significance has occurred. There have been no new coaches hired. No new directions have been taken or announced as promised. There has been no explanation as to why the two coaches were let go. More importantly, no one has answered the question as to why the coaches have not been given guest instructor privileges. Guest instructor privileges are not personnel issues. They pay \$30 per day to be allowed to come in. He has not been given an explanation why his daughter is not allowed to be instructed by the coach of her choice. This is a public facility, funded by tax revenues. The coaches bring in a large amount of money. He doesn't believe the City has no authority. He believes the City has the responsibility to generally oversee the appropriate and efficient operation of the rink and step in when the decisions are adversely affecting members of the community, not just the taxpayers but the people in the community, too. The Mayor and Council need to take a more proactive role in the controversy. Their children have the right to choose their coaches. These coaches should have guest instructor privileges. The press release is appreciated, however, they asked the Mayor and Council to continue to investigate this issue. He doesn't believe the Mayor and Council can transfer all the authority to the board.

Erin Benedum, 90 Manor Drive, Apt. 104, Hagerstown, Maryland, stated it is not her goal to have the rink turned into something else. She asked that everyone look at the skaters here who have been affected by this change. Last month, she told the Mayor and Council about her qualifications and the skaters qualities. She has been told she is not welcome at the facility. She is even more confused and is still looking for answers and guidance. Neither the sports foundation nor the ice and sports complex have given answers to any of the questions. She has submitted requests, in writing, for guest instructor privileges. She has asked for a copy of her personnel file. She has not received a favorable response to either request. She has been told her dismissal is not personal, it's just that the board doesn't want her or her skaters. She was told the entire board voted but some members have said they didn't know about the changes. She asked who is really in charge. She refuses to allow herself to be bullied. The board is attempting to discredit her and undermine her reputation. The children are confused and angry and deserve answers. She stated it seems as though the customer has been forgotten in this situation. She has not forgotten her customers – her skaters. She sees coaching as a way to leave a positive mark on the lives of her students. She is showing her skaters that doing the right thing must be done. The ice and sports complex is there to serve the public and the public has the right know that is not being done. She asked the skaters to show the medals they have received. She stated they deserve to be treated fairly.

Andy Long, 6347 Knollwood Court, Frederick, Maryland, stated he spoke last month as a father. Today he is speaking as a business person. He stated they have not received answers, but apparently the Mayor and Council have been given some answers. He asked if the coaches were let go because of lack of certification, success, or revenue generation.

If money were the real issue, he can't imagine why letting coaches go would be a solution. The board has a moral and legal responsibility to inform the coaches of inadequacies. The coaches should have been given the opportunity to correct the problems.

Councilmember Metzner stated the group really needs to hear from the board. He stated the Mayor and Council have heard the answers to the questions being asked. He stated there are two totally diametric sides. The Mayor and Council are trying to get the line of communication open. He stated the Mayor and Council are being told that counseling occurred repeatedly. He stated if the City does not subsidize the ice rink, it will most likely be an indoor soccer facility.

Mr. Long stated the board won't talk to the parents. He doesn't know what recourse the group has. They have tried to get on the board's agenda board. They were scheduled for a 7:00 p.m. meeting and at the last minute, with no notification, the time was moved to 4:00 p.m. He asked the Mayor and Council if the management has provided a viable business plan that would use the rink wisely. He asked if the Mayor and Council are convinced the board is making decisions in a wise and fair manner. He stated that at the end of the day, you realize the children are the real losers.

Councilmember Aleshire asked if anyone has requested time on the agenda for this month's board meeting.

Mayor Breichner asked Ms. Benedum if the manager had shown her the personnel file. She stated he would not show it to her. Mayor Breichner stated he understood she had a meeting with the manager and was shown her file. She stated that was incorrect. She stated she talked with the board and asked to be on a board agenda and to submit here request in writing. She did that and Kristy Pottol (board member) responded to her written response and said she wouldn't be on an agenda or get answers.

Jill Sipes-Sellers, 10720 Shimpstown Road, Mercersburg, Pennsylvania, stated she has a totally different view of this situation. She has been diagnosed with terminal cancer. Ms. Benedum heard about her situation and heard that her two older daughters would like to learn to skate. Ms. Benedum has given ice time, skates, outfits and lessons to her daughters, at her own expense. She has been there for her daughters and helps them deal with their mother's health issues. They have developed a personal relationship with Erin. By taking Erin away, her girls are losing more than a skating coach. They are losing another thing in their lives that they love.

Brenda Vindivich, Light Street, Williamsport, Maryland, stated her daughter is a student of Erin Benedeum. She stated they deserve the answers to the questions they have repeatedly asked.

Delsy McCoy, 172 Founders Way, Strausburg, Virginia, stated she when she heard the decision, she called the management and asked what was going on. The manager told her "I would never say anything bad about Erin and it has nothing to do with her and her

abilities.” She asked how she could have been told that when the management is telling the Mayor and Council something totally opposite.

Virginia McGruder, 61 Belview Avenue, Hagerstown, Maryland, stated she has been a city resident for 40 years. She did not vote until this year’s primary. She is at this meeting at Councilmember Nigh’s request. She stated she is upset with Mayor Breichner and the Hagerstown Herald Mail. She stated Councilmember Hendershot asked her to research the history of Memorial Boulevard. She ignored his request because she knew he wanted to change the name. She agreed to do the research when Councilmember Nigh asked her to. She knew Councilmember Nigh and her husband were passionate to keep the name of Memorial Boulevard. She prepared copies of the report and made copies for the Mayor and Council, Administrator and City Clerk. The Baltimore Sun indicated Mayor Breichner had done research and did not find the reason for naming the road Memorial Boulevard. She asked what the Mayor did with his copy of the report she provided which stated why Willow Avenue was changed to Memorial Boulevard. She asked what the newspaper reporter did with his copy. She asked if the newspaper reports the facts. The Herald Mail reporting is giving the City a bad name. The First Lady of the State has also voiced her opinion about inaccurate newspaper reporting.

Tracy Nelson, 1906 Bella Avenue, Cumberland, Maryland, stated the people here tonight are the people who are at that rink more than any others. Most parents stay with their children while they skate. The new management has not introduced themselves to any of the parents. She suggested lining up the people who left because of Erin and the people who stay at the rink because of Erin and see which line is longer.

Debbie Smoot, 16039 Broadfording Road, Hagerstown, Maryland, stated she has personally been lied to by the manager. She was told it was the board’s decision to let the coaches go. She has talked to Jonathan Decker (board member) who told her it was the manager’s idea. She has known Erin for nine years and has not seen anything from her but quality. She stated the non-communication has got to stop. Her daughter was told she would be allowed to speak at 7:00 p.m. at the board meeting. That same evening, her daughter was skating when the meeting time was changed. Nobody called to tell her the meeting was changed and no one went out on the ice to get her. She stated the rink is now dirtier than she has ever seen it. She has video tape showing the condition of the rink.

Ashleigh Vindivich asked why the coaches are being taken away from the students.

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 adjourn the meeting at 9:49 p.m.

Respectfully submitted,

Donna K. Spickler, City Clerk

Approved: May 24, 2005_____