

REGULAR MEETING

JUNE 8, 2004

At a regular meeting of Council held this evening at 7:30 p.m., there were present: Mayor Joseph Gus Fitzgerald; City Manager Roger Baker; Assistant City Manager Kurt Hodgen; City Attorney Thomas H. Miller, Jr., Vice-Mayor Larry M. Rogers; Council Members Carolyn W. Frank; Dorn W. Peterson; Hugh J. Lantz; City Clerk Yvonne “Bonnie” Ryan, CMC/MMCA, and Chief of Police Donald Harper.

Vice-Mayor Rogers gave the invocation and Mayor Fitzgerald led everyone in the Pledge of Allegiance.

Mayor Fitzgerald requested the unanimous consent of Council to remove Item #5 from the consent agenda to allow City Attorney Miller to provide more information concerning several of the ordinances.

Council Member Peterson offered a motion to approve the consent agenda, including approval of the minutes and the second reading of a Supplemental Appropriation for the School Board and Fire Department. The motion also included the second reading distributing funds from the Dog and Cat Sterilization Fund and amending and re-enacting Section 13-1-7. The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers
Council Member Peterson
Council Member Frank
Council Member Lantz
Mayor Fitzgerald

Absent – None

City Attorney Miller said that language in 13-1-53 added pedestrian crossing rather than street crossing and added sub-paragraph b. A minor change in Section 13-1-72 includes “inspection sticker” added to “failing to display current city decal” of the Harrisonburg City Code. The remaining Sections remained unchanged and include 13-1-51c, 13-1-52, 13-1-55, 13-1-67, 13-1-73 and 13-1-74 of the Harrisonburg City Code. Council Member Peterson offered a motion to approve these ordinances with the proposed amendments to 13-1-53 and 13-1-72 of the Harrisonburg City Code. The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers
Council Member Peterson
Council Member Frank
Council Member Lantz
Mayor Fitzgerald

Absent – None

Senior Planner Markel introduced a request by Raymond Knicely to rezone a 9,267 square foot parcel from M-1, General Industrial District to R-3, Multiple Dwelling Residential District. He said the property is located at 139 West Water Street. The Comprehensive Plan designates this area as Mixed Use Development. This designation includes both existing and proposed new mixed-use areas. Mr. Markel reviewed the surrounding uses in the area. The applicant has requested the rezoning to allow for his professional office to be located in the existing structure. This property is one of several properties located along Water Street that are zoned industrial, but have always been residential in use. This rezoning would bring this property into conformance with the City's Comprehensive Plan, which calls for this area to be used as a mixed use development. To reduce any potentially unwanted uses associated with a straight R-3 zoning designation, the applicant has proffered that the property will only be used for the following: 1) All uses permitted in the R-1, Single Family Residential District. 2) Professional and medical offices as allowed under Section 10-3-45(5) of the Zoning Ordinance. These proffers substantially limit the potential uses of this property and remove any concern for uses of the site as a rental property for four unrelated individuals. This property is accessed from a small entrance off of Water Street and across the lot to the rear of the subject property. This site will require five to six off street parking spaces. There is ample room for these vehicles in the rear of this property. He said that Planning Commission has recommended approval of the rezoning request.

At 7:39 p.m., Mayor Fitzgerald closed the regular session temporarily and called the evening first public hearing to order. The following notice appeared in the Daily News-Record Monday, May 24, and Tuesday, June 1, 2004.

NOTICE OF PUBLIC HEARING

The Harrisonburg City Council will hold public hearings on Tuesday, June 8, 2004, at 7:30 p.m. in the Municipal Building, City Council Chamber, 345 South Main Street, to consider the following:

Rezoning – 139 West Water Street

Public hearing to consider a request by Raymond Knicely with representative Stephan Hess to rezone the 9,267 sq. ft. parcel located at 139 West Water Street from M-1, General Industrial District to R-3, Multiple Dwelling Residential District. The property can be found on tax map 25-C-8.

The Comprehensive Plan designates this area as Mixed Use Development. This designation includes both exiting and proposed new mixed use areas. These areas are intended to combine residential and non-residential uses in planned neighborhoods where the different uses are finely mixed instead of separated. These areas are prime candidates for “live-work” and traditional neighborhood developments. Live-work developments combine residential and office / service uses allowing people to both live and work in the same area.

The Zoning Ordinance states that the M-1, General Industrial District is intended primarily for manufacturing, processing, storage, and distribution activities, which are not

properly associated with, nor compatible with, residential and institutional development. No minimum lot size restrictions exist in the M-1, General Industrial District. The Zoning Ordinance states that the R-3, Multiple Dwelling Residential District is intended for medium- to high-density residential development and other uses intended to respect the residential character, which are aesthetically compatible within the district by means of architectural expression, landscaping, and restrained traffic flow. The residential density ranges for R-3 are single-family, 6,000 sq. ft. minimum; two-family, 4,000 sq. ft./unit; multi-family, 3,000 sq. ft. minimum per unit; townhouses, 2,000 sq. ft. minimum per unit; and other uses, 6,000 sq. ft. minimum.

Maps and other information are available for review in the Community Development Department, 409 South Main Street, Monday through Friday, 8:00 a.m. to 5:00 p.m. All persons interested will have an opportunity to express their views at these public hearings.

Any individual requiring auxiliary aids, including signers, in connection with the public hearing shall notify the City Manager at least five (5) days prior to the date of the meeting.

CITY OF HARRISONBURG
Roger D. Baker
City Manager

Mayor Fitzgerald called on anyone desiring to speak for or against this rezoning request. Stephan Hess said that he was the contract purchaser and was in favor of the request. There being no others desiring to be heard, the public hearing was declared closed at 7:40 p.m., and the regular session reconvened. Vice-Mayor Rogers offered a motion to approve this request. The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers
Council Member Peterson
Council Member Frank
Council Member Lantz
Mayor Fitzgerald

Absent – None

Senior Planner Markel introduced a request to expand the Virginia Mennonite Retirement Center's institutional overlay district onto adjoining properties. He said that VMRC first submitted a master plan as part of consideration for an institutional overlay in January of 1997. The plan includes adding 1.22 acres into the master plan development. The property includes two existing duplexes and one single family home. VMRC would like to build an additional third duplex on the corner of Park Road and Shank Drive. He reviewed the surrounding uses in the area. Park Village, Inc. a subsidiary of VMRC would like to modify their previously approved master plan to include four lots across Park Road from the main campus into their institutional overlay. These lots currently border the institutional overlay district, but are zoned as straight R-2 property. Inclusion into the overlay would allow a yet to be built duplex at the corner of Shank Drive and Park Road to encroach 15 feet into the rear yard setback. The structure will still sit 30 feet back from both property lines fronting Park Road and Shank Drive. It will also meet the side yard setback of 10 feet. Mr. Markel said that one of the good things

about this reduced setback is that it affects only property owned by VMRC. He said that Planning Commission has recommended approval of the rezoning request.

At 7:43 p.m., Mayor Fitzgerald closed the regular session temporarily and called the evening second public hearing to order. The following notice appeared in the Daily News-Record Monday, May 24, and Tuesday, June 1, 2004.

NOTICE OF PUBLIC HEARING

The Harrisonburg City Council will hold public hearings on Tuesday, June 8, 2004, at 7:30 p.m. in the Municipal Building, City Council Chamber, 345 South Main Street, to consider the following:

Rezoning/Master Plan Change – Park Village, Inc.

Public hearing to consider a request to expand the Virginia Mennonite Retirement Center's I-1, Institutional overlay district onto adjoining properties located at 1551-1581 Park Road zoned R-2, Residential District and accept a modified Master Plan to include the addition of one, two-unit duplex to be located at the corner of Park Road and Shank Drive. These properties can be found on tax map 52-G-6-9.

The Comprehensive Plan designates this area as Neighborhood Residential. This designation states that this type of land use highlights those neighborhoods in which existing conditions dictate the need for careful consideration of the types and densities of future residential development. These are older neighborhoods, which can be characterized by large housing units on small lots.

The Zoning Ordinance states that the R-2, Residential District is intended for medium-density, single-family and two-family residential development. The residential density ranges for R-2 are single-family, 7,000 sq. ft. minimum and two-family, 5,500 sq. ft/unit.

Maps and other information are available for review in the Community Development Department, 409 South Main Street, Monday through Friday, 8:00 a.m. to 5:00 p.m. All persons interested will have an opportunity to express their views at these public hearings.

Any individual requiring auxiliary aids, including signers, in connection with the public hearing shall notify the City Manager at least five (5) days prior to the date of the meeting.

**CITY OF HARRISONBURG
Roger D. Baker
City Manager**

Mayor Fitzgerald called on anyone desiring to speak for or against this rezoning request.

Marin Nisly said that two couples have made a sizeable deposit for this duplex with the hope that it will be built. There being no others desiring to be heard, the public hearing was declared closed at 7:44 p.m., and the regular session reconvened. Council Member Lantz offered a motion to approve this request. The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers
Council Member Peterson

Council Member Frank
Council Member Lantz
Mayor Fitzgerald

Absent – None

The next item of discussion was a request by the Harrisonburg Redevelopment and Housing Authority. Michael Wong, Director of HRHA, presented a resolution from the HRHA to purchase property on Commerce Drive. The Boys & Girls Club, Op Shop and Ken Kline Foundation currently own the property. He said that the HRHA hopes to develop the property for public housing needs. Purchase of this property is contingent upon zoning approval and going through the normal Planning Commission process. He also said that the authority needed a decision from City Council to avoid starting the process for the development and paying the \$325.00 rezoning application fee before receiving Council's approval to proceed.

The following discussion by Council Members included: The Harrisonburg Redevelopment & Housing Authority needs final approval from City Council to purchase this property; why was HRHA seeking approval at this time? Concern that precedential advice was being given for future Council Members; referring the request to Planning Commission for a recommendation; providing a more detailed plan; and how existing properties would be impacted.

Harrisonburg Redevelopment & Housing Authority for Council's consideration of approval:

**RESOLUTION AUTHORIZING THE PURCHASE OF
THREE PARCELS OF REAL PROPERTY BY THE HARRISONBURG
REDEVELOPMENT AND HOUSING AUTHORITY**

WHEREAS, the Harrisonburg Redevelopment and Housing Authority (the "Authority") has decided to purchase three parcels of real property from the Boys & Girls Club of Harrisonburg and Rockingham County, the Association For Retarded Citizens-Harrisonburg/Rockingham, Inc. and J. Kenneth Kline, Trustee for the Kline Virginia Land Trust, which properties are located on Commerce Drive in the City of Harrisonburg, Virginia, and which properties are more particularly described in the attached deeds to the current owners of such properties (hereinafter the "Properties"); and,

WHEREAS, the Authority intends to utilize the Properties for housing purposes pursuant to its mission of providing safe and sanitary dwellings to persons of low income, as set forth in the Housing Authorities Law, Chapter 1, Title 36 of the Virginia Code; and,

WHEREAS, Code of Virginia Section 36-19.2 requires that the Authority obtain the approval of the City of Harrisonburg (the "City") prior to purchasing the Properties as it is the current intention of the Authority to use such Properties for housing purposes; and,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Harrisonburg, Virginia, that:

- 1. The City approves the foregoing recitals, which are incorporated in, and deemed a part of, this Resolution as if fully set forth herein.**
- 2. The City authorizes and approves the purchase of the Properties by the Authority and the Authority's utilization of such Properties for housing projects or for such other uses as the Authority shall deem appropriate and which are permitted by law.**
- 3. This authorization and approval applies only to the Authority's obligation to obtain City approval pursuant to Code of Virginia Section 36-19.2 and does not constitute a waiver of any City ordinance with respect to the Properties, including but not limited to compliance with City zoning and building codes.**

This resolution shall take effect immediately upon its adoption.

READ AND ADOPTED: June 8, 2004

CERTIFICATE

The following is a record of the roll-call vote by the City Council of the City of Harrisonburg, Virginia, upon a reading of a resolution titled "RESOLUTION AUTHORIZING THE PURCHASE OF THREE PARCELS OF REAL PROPERTY BY THE HARRISONBURG REDEVELOPMENT AND HOUSING AUTHORITY" taken at a regular meeting of the City Council held on June 8, 2004:

	AYE	NAY	ABSTAIN	ABSENT
Joseph G. Fitzgerald, Mayor	X			
Larry M. Rogers, Vice-Mayor			X	
Carolyn W. Frank			X	
Hugh J. Lantz	X			
Dorn W. Peterson	X			

Dated: June 8, 2004

(SEAL)

Mayor, City of Harrisonburg, Virginia

ATTEST:

**Clerk, City Council of the City of
Harrisonburg, Virginia**

City Attorney Miller questioned whether the authority was anticipating closing on the purchase or looking for authorization to sign a purchase agreement that had a contingency in it. Mr. Wong answered, "To sign a purchase agreement containing a contingency in it upon a zoning approval". City Attorney Miller advised that Council could agree upon the purchase agreement allowing it to proceed through the rezoning process. Mr. Miller also said that the resolution does say that the City authorizes and approves the purchase of the properties by the Authority. Mr. Miller said that the statement in paragraph two "should be clarified to say authorizes the City to enter into a purchase agreement with the contingency" previously discussed. Council Member Peterson offered a motion to adopt this resolution with the amendment to paragraph two reading, "The City authorizes and approves the Authority to enter into a purchase agreement for these properties. Such purchase agreement is contingent upon an appropriate change in zoning and upon final approval by the City Council." The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Peterson
Council Member Lantz
Mayor Fitzgerald

Abstained - Vice-Mayor Rogers
Council Member Frank

Absent – None

Council agreed to schedule a public hearing on June 22, 2004 for the Solid Waste Management Plan.

The next item of business was a presentation of a draft Community Development Block Grant Consolidated Plan. Assistant City Manager Hodgen said that staff has completed a draft Consolidated Plan and Executive Summary of the plan. The plan consists of a lot of statistical information gathered from census sources, interviews with organizations and agencies, and other plans and studies available. The Executive Summary highlights City staff's recommendations of the program priorities for this year. In addition, the summary contains the recommended funding for applications submitted to the City for funding this year. Two required public hearings have been held and during the next 30 days the City could possibly receive letters, e-mails, faxes or other communication relative to the plan. At the end of the 30-day period the plan will be presented to City Council for final approval and then submission to HUD. Council Members questioned the administration costs in the plan. Mr. Hodgen reviewed expenses used to establish a CDBG office.

The next item of discussion was adjusting City employee's salaries. City Manager Baker said adjusting City employee salaries an additional one percent (1%) could increase the FY 2004-05 total budget by \$224,774. Council Member Peterson offered a motion to increase City employee's salary by 4% to be distributed as a 3% salary increase across the board and an additional 1% as a performance/merit increase effective July 1, 2004. The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers
Council Member Peterson
Council Member Frank
Council Member Lantz
Mayor Fitzgerald

Absent – None

City Attorney Miller presented for Council's consideration an ordinance enacting Section 11-7-11 of the Harrisonburg City Code. Eddie Bumbaugh, Executive Director of Harrisonburg Downtown Renaissance, said that the goal of this ordinance would be to provide a process and criteria for the display of banners primarily from light poles. In many communities banners on display provide a sense of identify, information and provides a more attractive streetscape. Mr. Bumbaugh reviewed three different type of banners that could be used in the downtown area. He reviewed several minor changes to the proposed ordinance and recommended these changes be made before final adoption at the June 22, 2004 meeting. City Attorney Miller said that the Director of Community Development should retain a tremendous amount of control over these banners because of problems the City has experienced in the past. Following further discussion and comments, Council Member Peterson offered a motion to approve enacting Section 11-7-11 with the proposed changes for a first reading. The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers

Council Member Peterson
Council Member Frank
Council Member Lantz
Mayor Fitzgerald

Absent – None

City Attorney Miller presented for Council’s consideration an ordinance amending and re-enacting Section 13-1-3 of the Harrisonburg City Code. He explained that each year Council is asked to amend this ordinance to adopt the state motor vehicle laws. Council Member Peterson offered a motion to approve this ordinance for a first reading. The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers
Council Member Peterson
Council Member Frank
Council Member Lantz
Mayor Fitzgerald

Absent – None

Fire Chief Shifflett presented for Council’s consideration an ordinance amending and re-enacting Section 5-2-35 of the Harrisonburg City Code. He said that there is a request for a wording change in this ordinance. He said while he was reviewing the State Code he noticed two sections in the code, which caused some concern in the wording in relation to the authorities granted to local fire marshals. There is a question concerning the authority to issue summons, serve warrants and make arrests. Following further discussion and comments, Council Member Peterson offered a motion to approve this ordinance for a first reading. The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers
Council Member Peterson
Council Member Frank
Council Member Lantz
Mayor Fitzgerald

Absent – None

Public Utilities Director Collins presented for Council’s consideration an ordinance amending and re-enacting Section 7-1-15 of the Harrisonburg City Code. He said this change allows better customer service regarding water deposits. Council Member Peterson offered a motion to approve this ordinance for a first reading. The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers
Council Member Peterson

Council Member Frank
Council Member Lantz
Mayor Fitzgerald

Absent – None

Public Utilities Director Collins presented for Council’s consideration an ordinance enacting Section 7-1-21 of the Harrisonburg City Code. He said this change is an administrative practice that has been used for a period of time, but doesn’t have a supporting ordinance. This change will allow credits and debits to be transferred from multi-accounts. Council Member Peterson offered a motion to approve this ordinance for a first reading. The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers
Council Member Peterson
Council Member Frank
Council Member Lantz
Mayor Fitzgerald

Absent – None

Public Utilities Director Collins presented for Council’s consideration an ordinance amending and re-enacting Section 7-4-22 of the Harrisonburg City Code. He said proposed wording is being recommended to make the language clearer in this ordinance. Council Member Peterson offered a motion to approve this ordinance for a first reading. The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers
Council Member Peterson
Council Member Frank
Council Member Lantz
Mayor Fitzgerald

Absent – None

Public Utilities Director Collins presented for Council’s consideration an ordinance amending and re-enacting Section 7-4-1 of the Harrisonburg City Code. He said changes to this section includes general changes and water rate schedule changes. Council Member Peterson offered a motion to approve this ordinance for a first reading. The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers
Council Member Peterson
Council Member Frank
Council Member Lantz
Mayor Fitzgerald

Absent – None

City Attorney Miller presented for Council's consideration an ordinance amending and re-enacting Section 13-1-25 of the Harrisonburg City Code. He said this change deletes a phrase referring to a conviction of any one (1) of such offenses within such five (5) year period and replacing it with convicted of any one (1) of such offenses within such ten (10) year period. Council Member Peterson offered a motion to approve this ordinance for a first reading. The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers
Council Member Peterson
Council Member Frank
Council Member Lantz
Mayor Fitzgerald

Absent – None

Parks and Recreation Director Foerster presented a request for a supplemental appropriation for the City's Golf Course Fund. He that the golf course is currently operating at a deficit for the year and approval of these funds will balance the budget. Council Member Lantz offered a motion to approve this request for a first reading, and that:

\$290,000.00 chge. to: 2016-31711 18 Hold Weekday Rounds
80,000.00 chge. to: 2016-31716 Twilight Rounds
100,000.00 chge. to: 2016-31723 18 Hole Cart Fee

\$470,000.00 approp. to: 2016-34210 Transfer from General Fund

The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers

Council Member Frank
Council Member Lantz
Mayor Fitzgerald

Abstained - Council Member Peterson

Absent – None

Fire Chief Shifflett presented a request for a supplemental appropriation for the Fire Department. He said that these funds were received from a FEMA grant to pay for fire equipment items purchased by the department. Council Member Lantz offered a motion to approve this request for a first reading, and that:

\$25,927.00 chge. to: 1000-22536 FEMA Assistance to Firefighters Grant
294.90 chge. to: 1000-31914 Recovered Cost

\$25,927.00 approp. to: 1000-320232-48113 Equipment
294.90 approp. to: 1000-320232-41010 Salaries

The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers
Council Member Peterson
Council Member Frank
Council Member Lantz
Mayor Fitzgerald

Absent – None

Fire Chief Shifflett thanked Council for increasing the salary adjustments for City employees from 3% to 4%. He said that the additional money will be appreciated by all employees, but most importantly what Council has done is send a message to the rank and file City employee that a City employee has equal value regardless of whether you work for City Council or whether you work for the School Board. It is very important in the minds of our employees.

City Manager Baker said the President of the United States has declared Friday, June 11th as a “National Day of Mourning” for former President Ronald Regan. The Governor of Virginia has declared the day as a “Day for Remembrance”. There has been some confusion regarding whether the Governor has declared Friday, June 11th as a state holiday and if all state offices will close. City Manager Baker recommended that if the Governor declared the day as a state holiday that Harrisonburg also close all City offices. The consensus of Council was to follow the Governor’s lead.

At 9:00 p.m., there being no further business and on motion adopted the meeting was adjourned.

CITY CLERK

MAYOR

