

REGULAR MEETING

AUGUST 10, 2004

At a regular meeting of Council held this evening at 7:30 p.m., there were present: Mayor Larry M. Rogers; City Manager Roger Baker; Assistant City Manager Kurt Hodgen; City Attorney Earl Q. Thumma, Jr.; Vice-Mayor Rodney L. Eagle; Council Members Charles R. Chenault; Hugh J. Lantz; George W. Pace; City Clerk Yvonne "Bonnie" Ryan, CMC/MMCA, and Police Captain Wilfong. Absent: Chief of Police Donald Harper.

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

Bucky Berry a resident of Harrisonburg complained about yard sales in the City and noted that some localities are limiting the number of yard sales a residents can have per year.

Council Member Chenault offered a motion to approve the consent agenda, the minutes and the second reading of several outstanding encumbrances at June 30, 2004. The motion was seconded by Council Member Pace, and approved with a recorded roll. The vote taken as follows:

Vote: Yes - Council Member Lantz
Vice-Mayor Eagle
Council Member Chenault
Council Member Pace
Mayor Rogers

Absent – None

Allison Graham, First Tee Coordinator, presented a brief overview of the First Tee Program. She said that First Tee hopes to impact the lives of youth in our community and to use golf as a means to help develop the character and leadership skills of our youth. The future vision includes participation growth, partnership growth, volunteer growth and facility growth. The target program has grown from 150 participants in 2002 to approximately 800 participants in 2004. First Tee hopes to combine its resources with other community activities.

Ceej Garison an 11-year-old rising 6th grader at Peter Muhlenberg Middle School said that he has ADHD and used to get into trouble all the time before he found out about The First Tee Program. He participated in the 2003 summer program and improved his score to a 99 on the front 9 at Heritage Oaks. The First Tee Program has helped Ceej to have more confidence especially in playing other sports. He said that he has always been a good student, but using the tips learned at the First Tee Program has helped him to: 1) Be Patient, 2) Be positive, and 3) Ask for help. Ceej said, "First Tee is a wonderful and I am excited to be a part of it for a second year. I also look forward to many more years of being taught golfing and life skills by Coach Allison and Mrs. Johns.

Matt Kardos a 15-year-old freshman at Eastern Mennonite School said that he likes the instructions given by Allison Graham and Mr. and Mrs. Johns because they have taught him the proper techniques of golf and all the rules. He said that golf teaches you to look things over from every angle rather than making a decision that you might regret. Honesty is stressed as one of the core values of The First Tee Program and it helped him at school and at home.

Sally Kardos a 12-year-old 7th grade student said all of the instructors are very bright and encouraging. They always cheer her up when she is having a bad day and if she takes a bad swing they will tell her how to fix it in a way that doesn't put her down. Golf has taught her to be positive and enjoy what she is doing no matter what happens. The life skills she has learned through First Tee Program has helped her in school to not get frustrated if she makes a mistake. She has also learned to take a calm approach with a big task that has been put in front of her. She is very happy to be part of The First Tee Program.

Seth Kardos a 10-year old entering the 4th grade student at Kaiser Elementary School said, "One thing that I like about the First Tee Program is that they have taught me many rules about golf that I didn't know before. I like being able to play golf with my brother." Golf helps me to patience on the course, at home, and at school. "I really enjoy being in the First Tee Program."

Anthony Delawder a 14-year old said that he joined the First Tee Program three years ago to learn about golf. First Tee has shown him the basics of golf like chipping, putting, and how to strike the ball. He also learned the rules of golf and what you should do in a tough situation. It showed him how to respect others and to play with good sportsmanship. First Tee has taught him how to be honest, patient, positive, and respectful. First Tee also gave him the opportunity to use the driving range and golf course for free. He also gets "birdie bucks" for being a good sportsman, which can be used to buy drinks, candy bars, and other fun stuff. He looks forward to another fun year with The First Tee Program.

Council Member Chenault commented that there are a lot of success stories in Harrisonburg and First Tee is one of them. He said Allison Graham deserves the credit for it and many people have commented to him on what a great program First Tee is.

Mayor Rogers commented on the great First Tee program and many people deserve the credit for having a vision to implement this program.

Planning and Community Development Director Turner introduced a request by Cargill Turkey Products, LLC with representation from Nextel Partners, Inc. Nextel Partners has requested a special use permit to locate communication equipment to be located on top of the feed tower at 30 Kratzer Road. The area is zoned M-1 General Industrial. The Comprehensive Plan designates this area as General Industrial. In 1999 City Council granted approval for a similar request from Triton PCS to locate six antennas on the roof of this structure. This special use permit would allow Nextel Partners to construct up to 12 panels on the top of the feed tower. The radio transmission equipment necessary for the operation of these panels would be housed in an outbuilding adjacent to this tower. Cables connecting these panels to the transmission equipment would run down the side of the tower and across an overhead connection. Mrs. Turner said that staff supports a favorable recommendation of the request with the following

conditions: 1) If the telecommunications equipment ceases to be used for more than 12 months, all equipment permitted under this special use will be removed from the building. 2) Only the equipment as shown on the submitted drawings would be approved under the issuance of this special use permit. Any equipment not shown on this drawing would be a violation making the permit null and void, causing all equipment of the company to be removed. 3) Placement of advertising of any kind is prohibited on the antennas and equipment. 4) City staff shall review the special use permit annually for compliance to the above conditions. Mrs. Turner said that Planning Commission has recommended approval of the request with these four conditions.

At 7:54 p.m., Mayor Rogers closed the regular session temporarily and called the evening public hearing to order. The following notice appeared in the Daily News-Record Monday, July 26, and Monday, August 2, 2004.

NOTICE OF PUBLIC HEARING

The Harrisonburg City Council will hold public hearings on Tuesday, August 10, 2004, at 7:30 p.m., in the Municipal Building, City Council Chamber, 345 South Main Street, to consider the following:

SPECIAL USE PERMIT – CARGILL / NEXTEL

Public Hearing to consider a request by Cargill Turkey Products, LLC. with representative William Daley of Nextel Partners, Inc. for a special use permit {per Section 10-3-97 (6) of the Zoning Ordinance} to allow for communication equipment taller than 125 feet in height. The parcel is located at 30 Kratzer Road and can be found on tax map 34-B-3 and 7B.

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 Rogers called on anyone desiring to speak for or against this request.

Todd Hersh, a resident of the City, questioned how high the three antennas would be placed on the towers. There being no others desiring to be heard, the public hearing was declared closed at 7:59 p.m., and the regular session reconvened. Vice-Mayor Eagle offered a motion to approve the request including the four conditions as presented. The motion was seconded by Council Member Pace, and approved with a unanimous vote of Council.

Planning and Community Development Director Turner introduced a request to amend the City's Building Code regulation relating to signage within the residential zoning districts of the City. She said that currently if schools, colleges, universities and hospitals are located in a

residential district they can't have a sign that is larger than 24 square feet for each main building or use. In addition, they also can only have one free standing sign for each main building or use. Because the new high school will have a lot of frontage on the property a sign 24 square feet and 6 feet in height would be rather small compared to the new facility. Mrs. Turner said that after lengthy discussion new language is being proposed to amend the ordinance. The proposed text for the sign shall be limited to a total sign area of not more than 0.5 square feet for every lineal foot of site frontage parallel to the principal street, provided no single freestanding sign exceeds an area of 200 square feet, or a maximum height of 8 feet above grade. If more than one sign of each sign type is requested, it may be permitted through presentation of a comprehensive sign package presented to and approved by City Council. Including public recreational facilities in the sign ordinance changes was discussed at a recent city staff meeting. Mrs. Turner said that she has discussed the language with the City Attorney and he will amend the language in the ordinance to include recreational facilities before the second reading.

The following discussion by Council Members included: Language in the first paragraph of the proposed additional text needed better wording, but the context was fine; whether the parameter were inclusive of the encasement around the sign or just the sign itself; or does there need to be any language in the regulation referring to the lighting; and certainly the City did not want to create an outdoor billboard at night in a residential area.

Council Member Chenault offered a motion to amend Section 11-7-4 of the City Code as proposed including City recreational facilities as another covered entity under the ordinance for a first reading. The motion was seconded by Vice-Mayor Eagle, and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Lantz
 Vice-Mayor Eagle
 Council Member Chenault
 Council Member Pace
 Mayor Rogers

Absent – None

The next item of discussion was a request by Marty Solomon to amend the City taxi code. Mr. Solomon said that he has been providing a public service in the community since 1998. The law passed last year by City Council requiring local taxi companies to operate at least 120 hours per week will make it impossible for small cab companies to compete with larger taxi services. He said, "It's unfair and it's illegal. It is not City Council function to get involved in private enterprise protecting one business over another business. The law should be corrected eliminating operating 120 hours per week." He also insisted that since state law doesn't say anything about seatbelt usage in a taxi the City should not be allowed to pass laws stricter than state standards. He pointed out that City's buses are operating without seatbelts.

City Manager Baker said state law allows Cities, Towns, and Counties to impose and pass rules and regulations prudent to protect the health and safety of its citizens. The City Code states there must be a seatbelt provided for each passenger, it does not state that anyone has to

wear the seatbelt. It is a matter of choice for an individual. Council amended the ordinance because it is called a Certificate of Public Convenience and Necessity to insure that individuals operating taxi service in the City operate on a full time basis. Mr. Solomon is not required to work 120 hours per week because he received his certificate in 2001 before the ordinance went into effect. He is therefore exempt from the regulation until his current certificate expires in 2006.

Vice-Mayor Eagle commented several people have expressed to him that the City has a lack of cab service especially during peak operating hours. He suggested the issue should be reviewed.

Council Member Lantz commented that the intent and purpose of amending the ordinance was to provide taxi service for citizens 24 hours per day, seven days a week. The concern was that the City would have a lot of cabbies operating only a few days a week.

Council Member Chenault commented that operating 120 hours per week is a stiff requirement.

Jon Keith owner of Yellow Taxi Company said the ordinance is reasonable because it is a Certificate of Public Convenience and Necessity. He said, "What if we all decided to take the day off? What would happen then? Cities that have deregulated the cab business have gone back to regulating it because it was complete chaos." Sometimes we can't pick up the phone fast enough on weekend evenings after the bars close or during universities peak activities.

Council Member Pace commented that there are two separate issues. One is a seatbelt requirement, but the driver should not be required to mandate whether or not a passenger chooses to wear the seatbelt. Mr. Solomon is a single proprietor and this particular ordinance regulation requiring a driver to operate 120 hours a week becomes a public safety problem. Truck drivers are only allowed to drive 10 hours per day. This ordinance should be modified to include a statement referring to cab companies that have a single proprietor because of the fatigue factor.

David Briggman a resident of Rockingham County said that he has worked for cab companies and sometimes he did not get enough business during a particular day requiring him to pay the owner of the business more money than he actually made.

Council Member Chenault commented that the issue needed further study including receiving comments from the Police Chief and other localities having the same situation.

Council Member Lantz offered a motion to table this issue until the City Manager and his staff could research this matter and make a report at a future Council meeting. The motion was seconded by Vice-Mayor Eagle, and approved with a unanimous vote of Council.

Council Member Pace offered a motion to increase the City's Financial Management Policy Manual threshold for Capital Improvement items to \$30,000. The motion was seconded by Council Member Chenault, and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Lantz
 Vice-Mayor Eagle
 Council Member Chenault
 Council Member Pace
 Mayor Rogers

Absent – None

Council Member Pace offered a motion to eliminate \$15,730.86 from a “Reserve for Municipal Building and Land Fund” and return it to the General Fund’s unappropriated fund balance. The motion was seconded by Vice-Mayor Eagle, and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Lantz
 Vice-Mayor Eagle
 Council Member Chenault
 Council Member Pace
 Mayor Rogers

Absent – None

The item of business was selecting voting delegates for the Virginia Municipal League Conference scheduled for October 4-6, 2004. Vice-Mayor Eagle offered a motion naming Mayor Larry Rogers as the voting delegate and City Manager Baker as the alternate voting delegate. Assistant City Manager Kurt Hodgen was selected as a staff assistant to represent the City at the conference. The motion was seconded by Council Member Chenault, and approved with a unanimous vote of Council.

Council Member Chenault offered a motion to approve amending and re-enacting Section 2-3-1 of the Harrisonburg City Code regarding the use of Robert’s Rules of Order. The motion was seconded by Vice-Mayor Eagle, and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Lantz
 Vice-Mayor Eagle
 Council Member Chenault
 Council Member Pace
 Mayor Rogers

Absent – None

School Superintendent Ford presented a request for a supplemental appropriation for the School Board. He said that this request from the City’s General Fund in the amount of \$259,533.00 would allow the School Board to employ a half-time technology specialist, a half-time testing coordinator, and an ESL literacy specialist for the high school, an ESL teacher for Stone Spring Elementary, an ESL teacher for Spotswood Elementary, a secondary ESL service

provider, and an ESL elementary specialist. The source of funding for the request would be from the unexpected state revenue for schools. The City share of the School Board budget was decreased by \$974,252.00 when those additional funds came, and the schools are requesting that \$259,533.00 be restored to enable the school board to hire these teachers.

Council Member Pace questioned whether money could be found within the existing budget before allocating any more funds to the schools for the requested six new teacher positions. He reviewed several line items in the budget and called attention to a few specific line items, which could pay for the new positions. The positions are necessary or they would not have been brought to Council attention; however, there is another source of funding other than the General Fund. He encouraged Superintendent Ford and the School Board to review the budget for the requested funding associated with this change that was anticipated, but postponed.

Following further discussion and comments, Council agreed that the School Board should proceed with the funding to employ the requested new teacher positions. If however, the funding cannot be found within the school budget then City Council would approve additional funds from either of two sources, City unappropriated funds or School Board unappropriated funds.

City Manager Baker presented a request for a supplemental appropriation for the Fire Department. He said that these funds were received from a FEMA grant for the purchase of a pick-up truck. Council Member Chenault offered a motion to approve this request for a first reading, and that:

\$15,000 chge. to: 100031914 Recovered Costs

\$15,000 approp. to: 1000-320232-48151 Motor Vehicles & Equipment

The motion was seconded by Council Member Pace, and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Lantz
 Vice-Mayor Eagle
 Council Member Chenault
 Council Member Pace
 Mayor Rogers

Absent - None

City Manager Baker presented a request to transfer funds between capital projects. He said that these funds are available, but not needed at this time for landfill closure and monitoring. Funds are needed to rebuild the recycling center. Council Member Lantz offered a motion to approve this request for a first reading, and that:

\$178,463.00 chge. to: 1310-910142-48681 City landfill monitoring

178,464.00 chge. to: 1310-910142-48684 Co landfill development & closure

\$356,927.00 approp. to: 1310-91014348685 Recycling development

The motion was seconded by Council Member Pace, and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Lantz
 Vice-Mayor Eagle
 Council Member Chenault
 Council Member Pace
 Mayor Rogers

Absent – None

Police Captain Wilfong presented a request for a supplemental appropriation for the Police Department. He said these funds were received from a Federal Block Grant to purchase new equipment for the department. Council Member Chenault offered a motion to approve this request for a first reading, and that:

\$23,647.00 chge. to: 1000-31010 Amount from fund balance

\$23,647.00 approp. to: 1000-310231-48211 Machinery and equipment

The motion was seconded by Vice-Mayor Eagle, and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Lantz
 Vice-Mayor Eagle
 Council Member Chenault
 Council Member Pace
 Mayor Rogers

Absent – None

Police Captain Wilfong presented a request for a supplemental appropriation for the Police Department. He said that these funds were received from state seized asset money to be used to purchase a fourth K-9 dog and training plus training for the existing K-9 team from a company of professional canine services. Council Member Chenault offered a motion to approve this request for a first reading, and that:

\$10,000 chge. to: 1000-31010 Amount from state asset seizure

\$4,000.00 approp. to: 1000-310231-46140 Other operating

6,000.00 approp. to: 1000-310231-45530 Training

The motion was seconded by Vice-Mayor Eagle, and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Lantz
 Vice-Mayor Eagle
 Council Member Chenault
 Council Member Pace
 Mayor Rogers

Absent – None

Police Captain Wilfong presented a request for a supplemental appropriation for the Police Department. He said that these funds were received from state seized asset money to be used to assist in construction of a playground at Kelly and Broad Streets. Council Member Chenault offered a motion to approve this request for a first reading, and that:

\$1,000.00 chge. to: 1000-31010 Amount from state asset seizure

\$1,000.00 approp. to: 1000-310131-48181 Building and grounds

The motion was seconded by Vice-Mayor Eagle, and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Lantz
 Vice-Mayor Eagle
 Council Member Chenault
 Council Member Pace

Abstained - Mayor Rogers

Absent – None

Police Captain Wilfong presented a request for a supplemental appropriation for the Police Department. He said that these funds were received from a Bureau of Justice grant and will be used to replace money spent on bulletproof vests. Council Member Chenault offered a motion to approve this request for a first reading, and that:

\$5,621.50 chge. to: 1000-31010 Amount from fund balance

\$5,621.40 approp. to: 1000-310231-48140 Bulletproof vests

The motion was seconded by Vice-Mayor Eagle, and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Lantz
 Vice-Mayor Eagle
 Council Member Chenault
 Council Member Pace

Mayor Rogers

Absent – None

Police Captain Wilfong presented a request for a supplemental appropriation for the Police Department. He said these funds were reimbursed by the Weed and Seed office to purchase bike uniforms. Council Member Chenault offered a motion to approve this request for a first reading, and that:

\$1,752.86 chge. to: 1000-31901 Recoveries/rebates

\$1,752.86 approp. to: 1000-310231-46110 uniforms

The motion was seconded by Vice-Mayor Eagle, and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Lantz
 Vice-Mayor Eagle
 Council Member Chenault
 Council Member Pace
 Mayor Rogers

Absent – None

City Council agreed to appear in the Rockingham County Fair on Tuesday night August 17th.

Council Member Chenault commended the Harrisonburg Police Department on the “National Night Out” event and congratulated the neighborhoods that participated in the event. He also announced that the Police Department received first place in the annual law enforcement challenge, which targeted traffic enforcement.

City Manager Baker congratulated transit driver Jeremy Martin for taking first place in the 40-foot bus state competition.

Council Member Pace congratulated Fire Chief Shifflett for celebrating 35 years with the City.

At 9:21 p.m., Council Member Chenault offered a motion that Council enter a closed session for discussion and consideration of personnel and prospective candidates to be appointed to the Blue Ridge Disability Services Board, Social Services Advisory Board, and Harrisonburg Electric Commission, exempt from public meeting requirements pursuant to Section 2.2-3711(A)(1) of the Code of Virginia. The motion also included discussion and consideration of the acquisition of real estate to be used for public purposes, exempt from public meeting requirements pursuant to Section 2.2-3711(A)(3) of the Code of Virginia, 1950, as amended.

The motion was seconded by Council Member Pace, and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Lantz
Vice-Mayor Eagle
Council Member Chenault
Council Member Pace
Mayor Rogers

Absent – None

At 10:22 p.m., the closed session ended and the regular session reconvened. City Clerk Ryan read the following statement was agreed to with a unanimous recorded vote of Council: I hereby certify to the best of my knowledge and belief that (1) only public matters lawfully exempt from open meeting requirements pursuant to Chapter 21 of Title 2.1 of the Code of Virginia, 1950, as amended, and (2) only such public business matters as were identified in the motion by which the closed session was convened, were heard, discussed or considered in the closed session by the City Council.

At 10:39 p.m., there being no further business and on motion adopted the meeting was adjourned.


CITY CLERK


MAYOR