

REGULAR MEETING

AUGUST 9, 2005

At a regular meeting of Council held this evening at 7:30 p.m., there were present: Mayor Larry 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 and George W. Pace; City Clerk Yvonne "Bonnie" Ryan, CMC/MMCA, and Police Major Malcolm Wilfong. Absent: Chief of Police Donald Harper.

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

Council Member Chenault offered a motion to approve the consent agenda, including approval of the minutes and the second reading of re-appropriation of several encumbrances that were outstanding at June 30, 2005. The motion also included amending and re-enacting Section 16-6-41 and enacting Article E, Chapter 4 of Title 16 of the Harrisonburg City Code. The motion was seconded by Vice-Mayor Eagle, and approved with a recorded roll call vote taken as follows:

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

Absent – None

Planning and Community Development Director Turner presented a request for a special use permit to allow unenclosed communication equipment. The equipment would be located on the roof of the Harrisonburg Public Safety Building and mounted to the existing tower structure. The City of Harrisonburg with representative VA Cellular LLC is requesting two special use permits to allow unenclosed telecommunications equipment to be located at a height above 75 feet on the roof of the Harrison Plaza building. The Comprehensive Plan designates this area as Public/Semi-Public. She reviewed the surrounding uses in the area. In order to construct enclosed telecommunications equipment a special use permit is required in the B-1 district because this building is 66 feet tall. VA Cellular is a private company, which provides service to Cellular One customers and is in no way associated with the Emergency Communication Center (ECC). This request would add an additional four antennas mounted to the existing structure. Each of these antennas would increase coverage and improve in-building service downtown. The fourth antenna would be a 2-foot dish and would communicate the individual cellular calls to the landline network. The request also includes an outdoor equipment cabinet to support the facilities. She said that staff recommended approval providing conditions were met. In general staff was supportive of using existing buildings instead of trying to find stand-alone sites and also using the structure the City already has on the roof. Staff recommended approval provided that if the telecommunications equipment ceases to be used for more than 12 months, all the

equipment permitted under the use permit will be removed. Only the equipment as shown on the submitted drawings shall be approved under the issuance of this special use permit. Placement of advertising of any kind is prohibited on the antennas and equipment. The antennas are to be a neutral color that blends in with their surroundings. City staff will review the special use permit annually for compliance to the above conditions. If any of the above conditions are found to be in neglect, a certified letter will be sent to the property owner, at which time the provider will need to bring the equipment into compliance. If the equipment is not brought into compliance within 10 days, the special use permit will be held null and void and all equipment approved under issuance of this permit shall be removed from the rooftop. She said that Planning Commission recommended approval of the request as a special use permit by a vote of three to two.

At 7:45 p.m., Mayor Rogers closed the regular session temporarily and called the evening's first public hearing to order. The following notice appeared in the Daily News-Record on Tuesday, July 26, and Tuesday, August 2, 2005.

NOTICE OF PUBLIC HEARING

The Harrisonburg City Council will hold public hearings on Tuesday, August 9, 2005, at 7:30 p.m., in the Municipal Building, City Council Chamber, 345 South Main Street, to consider the following:

Special Use Permit – 101 North Main Street

Public hearing to consider a request from the City of Harrisonburg, with representative VA Cellular, LLC, for a special use permit {per Section 10-3-85 (2), (5)} to allow unenclosed communications equipment in excess of 75 feet in height from ground elevation. The equipment would be located on the roof of the Harrisonburg Public Safety Building and mounted to the existing tower structure. The property is located at 101 North Main Street and can be found on tax map 34-P-1.

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.

Jim Hogle, Director of Network Operations for Cellular One, said installing the equipment on top of the building would enhance the in-building coverage in the downtown area. There being

no others desiring to be heard, the public hearing was declared closed at 7:47 p.m., and the regular session reconvened.

Council Member Pace asked what form of compensation will the City receive for this equipment?

City Manager Baker said that Cellular One has tentatively agreed to pay the City \$1,000 per month for placing the antennas on the tower.

Council Member Chenault asked if the ECC was satisfied with the technical aspects of this request?

ECC Captain Jim Junkins reassured City Council that the consultants who designed the entire public safety radio system, analyzed the proposal by VA Cellular and reported no potential interference. Weight loads and security have also been considered.

Council Member Lantz questioned the procedure to allow another competitor of Cellular One to install communication equipment.

ECC Captain Jim Junkins said the siting of another system would be considered on a case-by-case basis.

Following further discussion and comments, Vice-Mayor Eagle offered a motion to approve this request as presented. The motion was seconded by Council Member Lantz, and approved with a recorded roll call vote taken as follows:

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

Absent – None

Planning and Community Development Director Turner introduced a request by Judy Crawford to amend Section 10-3-46 of the Zoning Ordinance. She said this request will amend the R-3, Multiple Dwelling Residential District text. Currently our zoning text does not allow personal service establishments in the R-3 zone. It does allow by right items such as business and professional offices. Ms. Crawford owns property at 380 East Market Street and has recently acquired the property at 374 East Market Street. Staff agrees with the applicant that there are select locations zoned R-3 throughout the City, especially where properties front along major thoroughfares, that would benefit from this provision. The special use permit option would allow the City to impose conditions on the specific operation of each facility without having to rezone the property to B-1 or B-2. Staff also feels that the operation of a personal service establishment operates more similar to a professional, medical or dental office than a

retail or commercial use. She said that Planning Commission recommended approval of the request.

At 7:55 p.m., Mayor Rogers closed the regular session temporarily and called the evening's second public hearing to order. The following notice appeared in the Daily News-Record on Tuesday, July 26, and Tuesday, August 2, 2005.

NOTICE OF PUBLIC HEARING

The Harrisonburg City Council will hold public hearings on Tuesday, August 9, 2005, at 7:30 p.m., in the Municipal Building, City Council Chamber, 345 South Main Street, to consider the following:

Ordinance Amendment – Personal Service Establishments in the R-3

Public hearing to consider the following change to allow personal service establishments to operate as a special use in the R-3, Multiple Dwelling Residential District:

Subsection (4) be added as follows:

(4) Personal service establishments, including, but not limited to barber shops, day spas, beauty parlors, and tanning salons. Parking requirements based on retail use designation.

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. There being no one desiring to be heard, the public hearing was declared closed at 7:56 p.m., and the regular session reconvened. Council Member Chenault offered a motion to approve the request. The motion was seconded by Council Member Pace, and approved with a recorded roll call vote taken as follows:

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

Absent – None

Planning and Community Development Director Turner introduced a request from Dennis Belcher and Joseph Good to rezone 1.518 acres located at the corner of Suter and Jefferson Streets from M-1, General Industrial District to R-2C, Residential District Conditional. She said that the Comprehensive Plan designates this area as Mixed Use Development. This designation combines residential and non-residential uses in planned neighborhoods where the different uses are finely mixed instead of separated. She then reviewed the surrounding uses in the area. The current residential lot configuration was in place before the City annexed this land in 1964. Since annexation, this property has been zoned for industrial uses. The applicants own the majority of this block, which is bounded by North Liberty Street, Charles Street, Jefferson Street and the undeveloped Suter Street. They want to sell the lots to a developer who would like to build single-family homes in this area. The R-2 District has a minimum square footage requirement of 7,000 square feet. Development of these lots would require the construction of Suter Street to City standards, with a temporary cul-de-sac at the terminus of the developed lots, as well as improvements to Jefferson Street. Both streets would require curb, gutter, a two-foot grass utility strip and five-foot sidewalks. The conflicting zoning that exists in this neighborhood makes this rezoning request complicated. The Comprehensive Plan suggests that this area would be best utilized as a development with a mixture of uses. Planning Commission believes there is an opportunity in this area for the continuation of affordable single-family homes. Planning Commission also reviewed whether the undeveloped Suter Street was the very best buffer or the only one to promote between the industrial and residential uses in this area because the rear yards of this block could also serve as a buffer. The applicant has offered to leave one lot in its natural vegetative state until such time further development might take place in the area. The lot would also have a deed restriction and the applicant will deliver a deed to the City Attorney concerning this matter. She said that Planning Commission recommended approval of the request to rezone this property to R-2 Conditional.

At 8:08 p.m., Mayor Rogers closed the regular session temporarily and called the evening's third public hearing to order. The following notice appeared in the Daily News-Record on Tuesday, July 26, and Tuesday, August 2, 2005.

NOTICE OF PUBLIC HEARING

The Harrisonburg City Council will hold public hearings on Tuesday, August 9, 2005, at 7:30 p.m., in the Municipal Building, City Council Chamber, 345 South Main Street, to consider the following:

Rezoning – Suter / Jefferson Street

Public hearing to consider a request from Dennis Belcher and Joseph Good to rezone 1.518 acres from M-1 General Industrial District to R-2C, Residential District Conditional. The properties are located at the corner of Suter Street and Jefferson Street and can be found on tax maps 40-A-22-29.

The Comprehensive Plan designates this area as Mixed Use Development. This designation includes both existing 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 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 Rogers called on anyone desiring to speak for or against this request.

Dennis Belcher said he and his stepbrother Joseph Good owned the property. He said a deed of restriction and an escrow letter had been delivered to City Attorney Thumma. There being no others desiring to be heard, the public hearing was declared closed at 8:10 p.m., and the regular session reconvened. Council Member Chenault offered a motion to approve the rezoning request as presented. The motion was seconded Vice-Mayor Eagle, and approved with a recorded roll call vote taken as follows:

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

Absent – None

Planning and Community Development Director Turner introduced a request to amend Section 10-3-25(19) and (28) of the Zoning Ordinance to provide parking requirements for veterinarians and animal kennel/groomers. She said that these changes would provide clarification for uses pertaining to veterinarian and animal services. It would require veterinarian offices to have one space for each employee and every vehicle operated by the business. The proposed amendment will also classify veterinarian offices with business or professional offices for required parking calculations. She said that Planning Commission recommended approval of the request.

At 8:12 p.m., Mayor Rogers closed the regular session temporarily and called the evening's fourth public hearing to order. The following notice appeared in the Daily News-Record on Tuesday, July 26, and Tuesday, August 2, 2005.

NOTICE OF PUBLIC HEARING

The Harrisonburg City Council will hold public hearings on Tuesday, August 9, 2005, at 7:30 p.m., in the Municipal Building, City Council Chamber, 345 South Main Street, to consider the following:

Ordinance Amendment - Off-street parking regulations, Sec. 10-3-25.

Public hearing to consider the following changes to the off-street parking regulations:

Amend subsection:

(19) Business or professional offices, veterinarian, medical, or dental clinics, banks and similar establishments: A minimum of three (3) spaces or one space for each three hundred (300) square feet of gross floor area or fraction thereof, whichever is greater. Refer to subsection (3) above.

Add subsection:

(28) Animal kennel / groomer: one space for every employee on the maximum shift, plus one space for each vehicle operated by the business, plus one space for every 500 square feet of internal gross floor area.

The remainder of Section 10-3-25 is reaffirmed and reenacted in its entirety, except as hereby modified.

CITY OF HARRISONBURG
Roger D. Baker
City Manager

Mayor Rogers called on anyone desiring to speak for or against this request. There being no one desiring to be heard, the public hearing was declared closed at 8:13 p.m., and the regular session reconvened. Council Member Chenault offered a motion to approve the request. The motion was seconded by Council Member Pace, and approved with a recorded roll call vote taken as follows:

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

Absent – None

City Manager Baker presented for Council's consideration an amendment to the Fiscal Year 2005-2006 budget. He said that these supplemental appropriations include the School Board, Police Department, radio system, Port Republic Road improvements, Public Safety Building, Simms Building renovation and repairs, Eastern Water source development and water storage tanks.

At 8:14 p.m., Mayor Rogers closed the regular session temporarily and called the evening's fifth public hearing to order. The following notice appeared in the Daily News-Record on Monday, August 1, 2005.

NOTICE OF PUBLIC HEARING
City Council Chambers
Tuesday, August 9, 2005
7:30 p.m.

A Public Hearing will be held by the Harrisonburg City Council on Tuesday, August 9, 2005 at 7:30 p.m., in the Harrisonburg Municipal Building, 345 South Main Street, Harrisonburg, Virginia. The purpose of this public hearing will be to get citizen input concerning a proposed increase in the City's 2005-2006 budget in the amount of \$2,425,014.28. This amount represents funds on hand in some of the Capital Projects Funds at the end of the fiscal year and some Police Department funds.

The budget increases will be as noted below:

Revenue:

General Fund:

Amount from fund balance	66,305.38
Recoveries and rebates	<u>947.39</u>
Total General Fund	<u>67,252.77</u>

School Fund:

Amount from fund balance	<u>96,000.00</u>
--------------------------	------------------

General Capital Projects Fund:

Amount from fund balance	2,114,356.37
Transferred from General Fund	52,922.48
Total General Cap Project Fund	<u>2,167,278.85</u>

Water Capital Projects Fund:

Amount from fund balance	<u>94,482.66</u>
--------------------------	------------------

Total revenues	<u><u>2,425,014.28</u></u>
----------------	----------------------------

Expenditures:

General Fund:

Police-Operations Division	6,641.18
Police-Support Services	6,741.72
Police-Criminal Investigation Div.	947.39

Transfer to General Capital Projects Fund	<u>52,922.48</u>
Total General Fund	<u>67,252.77</u>
School Fund:	
Operation and maintenance	<u>96,000.00</u>
General Capital Projects Fund:	
Two Way Radio System	1,927,356.72
Port Republic Road Improvements	52,922.48
Public Safety Building	182,631.89
Simms Building Renovation and Repairs	4,367.76
Total General Cap Project Fund	<u>2,167,278.85</u>
Water Capital Projects Fund:	
Eastern Water Source Development	74,000.00
Water Storage Tanks	<u>20,482.66</u>
Total Water Capital Project Fund	<u>94,482.66</u>
Total expenditures	<u><u>2,425,014.28</u></u>

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 these supplemental appropriations. There being no one desiring to be heard, the public hearing was declared closed at 8:15 p.m., and the regular session reconvened. Council Member Pace offered a motion to approve these appropriations for a first reading, and that:

96,000.00 chge. to: 1111-31010 Schools' Unappr. Fund Balance
96,000.00 approp. to: 1111-11111-40640 Operation and Maintenance

6,641.18 chge. to: 1000-3100 Amount from fund balance
6,641.18 approp. to: 1000-310231-48211 Machinery & equipment (new)

947.39 chge. to: 1000-31901 Recoveries/rebates
947.39 approp. to: 1000-310331-46140 Other operating supplies

52,922.48 chge. to: 1000-31010 Amount from Fund Balance
52,922.48 chge. to: 1310-34210 Transfer from General Fund

52,922.48 approp. to: 1000-990111-49216 Transfer to General Capital Projects
52,922.48 approp. to: 1310-910141-48617 Port Republic Road Street Improvements

2,114,356.37 chge. to: 1310-31010 Amount from fund balance
94,482.66 chge. to: 1321-31010 Amount from fund balance

1,927,356.72 approp. to: 1310-910141-4810 Two Way Radio System
182,631.89 approp. to: 1310-910141-48606 Public Safety Building
4,367.76 approp. to: 1310-910141-48691 Simms Building renovation
74,000.00 approp. to: 1321-910161-48654 Eastern Water Source Development
20,482.66 approp. to: 1321-910161-48657 Water Storage Tank

1,200.00 chge. to: 1000-31010 Amount from Fund Balance
1,200.00 approp. to: 1000-3140431-42120 Clothing allowance

5,541.72 chge. to: 1000-31010 Amount from fund balance
5,541.72 approp. to: 1000-3104731-48111 Machinery & equipment (replace)

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

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

Absent – None

The next item of business was a request from the Retail Merchants Association. Hunter Woodard, President of the Retail Merchants Association, requested closing South Main Street from Bruce Street to Elizabeth Street and East and West Market Street from Franklin to North Liberty on August 27, 2005 for the annual Antique Car Cruise-In from 7:00 a.m. to 3:00 p.m. The Retail Merchants Association are also requesting that the West and South sides of Court Square be closed on September 24, 2005 from 2:00 p.m. to 8:00 p.m. for an event to welcome back students from the local colleges and universities. Council Member Pace offered a motion to approve this request. The motion was seconded by Vice-Mayor Eagle and approved with a unanimous vote of Council.

The next item of business was a request to authorize the Harrisonburg-Rockingham Community Services Board to receive funding from the Department of Mental Health, Mental Retardation and Substance Abuse Services. The City of Harrisonburg has served as fiscal agent for CSB since 1976. The Code of Virginia now permits CSB to act as its own fiscal agent. Council Member Pace offered a motion to approve this request as presented. The motion was seconded by Vice-Mayor Eagle and approved with a unanimous vote of Council.

The next item of business was a request to increase tipping fees by \$3.00. City Manager Baker said that Rockingham County is raising its tipping fees effective September 1, 2005. The City will need to adjust its fees as well. Council Member Pace offered a motion to approve increasing the tipping fees by \$3.00 effective September 1, 2005. The motion was seconded by Vice-Mayor Eagle, and approved with a recorded roll call vote taken as follows:

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

Absent – None

The next item of business was a request to reduce the City's 2005-2006 budget. City Manager Baker said that on May 10, 2005 and May 24, 2005, Council authorized the transfer of \$1,000,000 from the General Fund to the General Capital Projects Fund. Subsequently, the City closed on a bond issue that included funds for which the intended use was to reimburse the General Fund for the \$1,000,000. Council Member Lantz offered a motion to approve this request to reduce the City's budget. The motion was seconded by Council Member Chenault, and approved with a recorded roll call vote taken as follows:

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

Absent – None

The next item of business was a request by the Fraternal Order of Police in Augusta County for a police helicopter. Ed Bright, President of the local Fraternal Order of Police, said the association has taken the task of identifying topics that would enhance the law enforcement community and make the community a better place to live. Even though major crime has decreased slightly in the past years, gang violence and drug trafficking has increased. Robinson Helicopter Company has developed a very fast, lightweight agile, economical, and affordable helicopter for police use. Mr. Bright invited Council Members to attend an annual picnic on September 16, 2005 to see the Robinson R44 Raven police helicopter, which will be on display. He said handouts on the breakdown of cost will be available for review. He also said that a helicopter could benefit the law enforcement community and enhance the patrol force.

Tanis Rontopoulos, a resident of the City, briefly reviewed a report by Marsha Garst who recently testified before the House of Representatives Judiciary Committee regarding gangs, guns, vandalism, illegal aliens, firearm violations, assaults and other crimes.

At 8:47 p.m., Council Member Lantz offered a motion that Council enter a closed session for discussion and consideration of personnel and prospective candidates to be appointed to the Upper Valley Regional Park Authority Board of Directors, Harrisonburg Parking Authority and a City department, exempt from the public meeting requirements pursuant to Section 2.2-3711(A)(1) of the Code of Virginia. Discussion concerning a prospective business where no previous announcement has been made of the business' interest in locating within the City, exempt from public meeting requirement pursuant to Section 2.2-3711(A)(5) of the Code of

Virginia. Consultation with the City Attorney regarding specific legal matters requiring the provision of legal advice by the City Attorney, exempt from public meeting requirements pursuant to Section 2.2-3711(A)(7) of the Code of Virginia, and 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
Council Member Pace
Council Member Chenault
Vice-Mayor Eagle
Mayor Rogers

Absent – None

At 11:35 p.m., the closed session ended and the regular session reconvened. City Clerk Ryan read the following statement which 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.

Council Member Chenault offered a motion that City Manager Roger Baker be appointed to another term on the Upper Valley Regional Park Authority Board of Directors to expire on September 30, 2009. The motion was seconded by Vice-Mayor Eagle and approved with a unanimous vote of Council.

At 11:40 p.m., there being no further business and on motion adopted the meeting was adjourned.

CITY CLERK

MAYOR

cc: City Council
City Manager
Assistant City Manager
Public Library