

REGULAR MEETING

OCTOBER 28, 1997

At a regular meeting of Council held this evening at 7:30 p.m., there were present: Mayor Rodney Eagle; City Manager Steven E. Stewart; Assistant City Manager Roger Baker; City Attorney Earl Q. Thumma, Jr.; Vice-Mayor Hugh J. Lantz; Council Members John H. Byrd, Jr., Walter F. Green, III, and Larry M. Rogers; City Clerk Yvonne Bonnie Ryan and Chief of Police Donald Harper.

Council Member Rogers delivered the invocation and Mayor Eagle led everyone in the Pledge of Allegiance.

Council Member Rogers offered a motion to approve the consent agenda, including approval of the minutes and the second reading or an ordinance amending and re-enacting Section 10-3-85, 10-3-24, 10-3-39, and 10-3-46 of the Harrisonburg City Code. The motion was seconded by Council Member Byrd, and approved with a four to one vote with Mayor Eagle voting no.

✓ Planning and Community Development Director Turner introduced a request from Stone Springs Limited Company to rezone approximately 2.497 acres from M-1 to B-2. She explained that the property located at 1890 and 1920 South Main Street is currently used as office space by Cline Energy and an asbestos removal business is located in the basement of the building. However, use of the property as office space is nonconforming under the M-1 Industrial zoning classification. She also noted that Cline Energy is interested in remodeling a portion of the property that is unoccupied for other offices or commercial uses. Cline Energy has removed heating oil storage tanks from the site and that has changed the primary use of the property from industrial to office. The Comprehensive Plan recommends the site for commercial development. Planning Commission held a public hearing and she said that no one spoke in opposition to rezoning the property to B-2. The applicant has submitted a Plan of Development indicating the intended use of the property; however, the plan is not a list of proffers, but specifies and explains the purpose of the rezoning request. The applicant intends to renovate and remodel the interior of the existing structure for commercial use. They would not alter the exterior dimensions of the structure. Any future development of the property would be consistent with B-2 zoning classification. She noted that the surrounding uses in this area of South Main Street are on the commercial side rather than on the industrial side. Planning Commission unanimously recommended approval of the rezoning request.

At 7:40 p.m., Mayor Eagle closed the regular session and temporarily and called the evening's public hearing to order. The following notice appeared in the Daily News-Record on Monday, October 13, and October, 20, 1997.

**NOTICE OF PUBLIC HEARING**

The Harrisonburg City Council will hold a public hearing on Tuesday, October 28, 1997, at 7:30 p.m., in the City Council Chambers, 345 South Main Street, to consider the following:

**REZONING**

1. Consider request by Stone Springs Limited Company to rezone approximately 2.497 acres located at 1890 and 1920 South Main Street from M-1 General Industrial District to B-2 General Business District. The property is identified as parcels 5(B)3, 3A, 4, 6, and 7 on the City of Harrisonburg's Block maps. The Comprehensive Plan recommends the site for commercial use.

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 this Public Hearing.

Any person requiring auxiliary aids, including signers, in connection with the Public Hearing shall notify the City Manager at least five (5) days prior to the time of the meeting.

**CITY OF HARRISONBURG**  
**Steven E. Stewart**  
**City Manager**

Mayor Eagle called on anyone to speak either for or against this rezoning request. James Sipe, representative for the applicant, stated that he had nothing to add as all the background information had been presented. He noted that Cline Energy had removed the heating oil storage tanks from the site. They had received letters in support of the rezoning request from Valley Blox and Rockingham Heritage Bank. There being no others desiring to be heard, the public hearing was declared closed at 7:41 p.m., and the regular session reconvened. Council Member Green offered a motion to approve this rezoning request as presented. The motion was seconded by Council Member Rogers, and approved with a unanimous recorded vote of Council.

✓ J.L. Hopkins appeared before City Council to express his concern regarding a dangerous intersection at Devon Lane and Port Republic Road and suggested that a traffic light should be installed. He explained that unless something isn't done quickly on Port Republic Road to alleviate the problem of getting on and off Port Republic Road, someone is going to get killed or injured. Making left turns onto Port Republic Road is impossible at times. He mentioned that there are probably four or five wrecks a week, some not even reported. He reviewed the traffic pattern of cars exiting I-81. The posted speed limit is 35 mph; however, he noted that most cars travel at 10 mph over the posted speed limit. The City is collecting \$665,000 in real estate taxes and he suggested that some of the money be used to install a stoplight. He noted that in recent weeks a police cruiser and many private vehicles have been damaged. Many City transit buses enter Squire Hill, Fox Hill, College Park and Ashby Crossing every day to pick up JMU students. Also, he noted that it is very dangerous for the students walking and riding bicycles on Port Republic Road and suggested that sidewalks should be installed at least on one side of the highway. In addition, he said that if the City

was willing to install sidewalks on both sides of the dangerous highway, then he would donate the land that he owns next to the road to the City. Mayor Eagle noted that traffic problems at this intersection have been discussed often. Council Member Rogers suggested that perhaps installing a light at the top of the hill might help with the problem at the bottom of the hill. City Manager Stewart noted that a Transportation Safety Commission study indicated that a signal at this intersection is not necessary now. Once the Neff Avenue Extended is completed from Reservoir Street to Port Republic Road in June of 1998, the traffic patterns along the Port Republic corridor will change. The study also noted that the impact of this new roadway should be experienced before other extensive and expensive traffic controls are installed. Council Member Rogers suggested that perhaps a public/private partnership might help speed up the matter since Mr. Hopkins was willing to donate his land. Mr. Hopkins responded that if the sidewalk was on his side of the highway and was improved to four lanes he might be willing to consider the matter. City Manager Stewart commented that VDOT had recommended that the installation of a traffic signal at Forest Hill Road and Port Republic Road be delayed until Neff Avenue Extended was completed. In addition, VDOT expressed that the proximity of the Forest Hill's intersection to the interstate made it a real problem for stacking purposes. Mr. Stewart also noted that there is a potential for sidewalks to qualify for an ISTE grant.

✓ Planning and Community Development Director Turner introduced a request by Joe Bowman Chevrolet for a special use permit. She explained that a public hearing was held on October 14 to consider the special use permit request. Joe Bowman Chevrolet would like to add additional office space for the car dealership. They would like to install a modular unit at the rear of the existing showroom which would be a minimum of 45' from Water Street. City Council approved amending ordinance 10-3-85 for a first reading at its October 14 meeting to allow automobile dealerships as a special use permit in the B-1 Central Business District zoning classification. The second reading amending the ordinance was approved on Council's consent agenda tonight. She also noted that Planning Commission had recommended approval of the special use permit. Council Member Byrd offered a motion to approve this request as presented. The motion was seconded by Vice-Mayor Lantz, and approved with a unanimous vote of Council.

✓ City Manager Stewart presented an agreement with the Virginia Department of Transportation for approval. This agreement provides for a \$1,000,000 contribution from VDOT toward the cost of the Reservoir Street bridge project. He explained because of the proposed widening of I-81, VDOT has asked the City to increase the length of the proposed bridge replacement and to provide sidewalks on both sides. VDOT will assure responsibility for maintenance of the bridge upon project completion. Vice-Mayor Lantz offered a motion to approve this agreement with VDOT as presented. The motion was seconded by Council Member Green, and approved with a unanimous vote of Council.

✓ City Manager Stewart presented for Council's consideration amending certain sections of Chapter 4 of the Harrisonburg City Code. He explained that the City Attorney had been asked to prepare an amendment to the City Code which would delete the 30% commission that is currently being paid to the Collector of Delinquent Taxes. City Attorney Thumma commented that the ordinances as they exist in the charter are legal now and have always been legal in the past. The charter which was originally enacted by the General Assembly under the Constitution of Virginia

states that the City shall appoint a Collector of Delinquent Accounts. He advised that the City's charter provision will always prevail unless there is an indication somewhere within the general law that the charter provisions are not valid. The City's charter controls what prevails in this issue. When City Council has a re-organizational meeting, it appoints the officers as set forth in the charter and one of those appointments is the Collector of Delinquent Taxes. Mr. Thumma said that the Collector of Delinquent Taxes has always been the Treasurer and the Treasurer has collected those taxes pursuant to the ordinances adopted by City Council. He advised that no illegal activity has ever occurred and the existing ordinances are perfectly legal and binding. "I think nothing has been done wrong or illegal." He said that he had prepared an ordinance that takes the existing ordinance relating to the collector of delinquent accounts and removes the 30% commission, but the charter will remain the same. He reviewed the procedure for changing the charter by the General Assembly. Council Member Rogers thanked City Attorney Thumma for his comments and stated that he needed more information to study this issue before making a decision. He suggested that information associated with the cost of hiring someone to collect the delinquent taxes and how other localities handle the collection would be helpful. Let's have a plan and take some more time to study the issue since the proposed ordinance change will not go into effect until January 1, 1998. Council Member Green commented that changes have been discussed before by City Council, but not acted upon. He said that he had discussed the procedure with some other localities and discovered that it could cost more money to hire attorneys or an outside collection agency to collect the delinquent taxes than the current commission that is being paid. "I don't think you ought to change something just for changing it. I think you can do something to really help the public." He suggested several changes in the City's method of tax billing, advertising deadlines for filing personal property tax, and reducing the cost of mailing duplication of notices. Mayor Eagle commented that they should address this issue now since the Treasurer would change January 1, 1998. He noted that in 1994, City Council had discussed this issue but tabled it. He also commented that he was not aware when he took office that the Treasurer's office collected the 30% commission that is currently being paid to the Collector of Delinquent Taxes. He said that they should eliminate the 30% commission at this time and the issue should not continue to be tabled. If the treasurer employees' salaries need to be adjusted, then they should study it. The state sets the treasurer employees' salaries. Vice-Mayor Lantz commented that changes occur in every type of business or industry. Since this ordinance has been in effect for 65 years, the reason that they put it into effect years ago may no longer apply today. "I definitely think we need to look at it and there needs to be some changes." He also noted that he had not been aware treasurers' employees were doing the work to collect delinquent taxes during business hours. He suggested delaying the change for a couple of weeks and to possibly study the way the City notifies taxpayers about billing. Nevertheless, he said changes did need to be made. Following further discussion and comments. Council Member Rogers offered a motion to appoint Council Member Green and City Manager Stewart to head a committee to study the issue and come up with a plan. The motion was seconded by Vice-Mayor Lantz, and approved with Council Member Green, Vice-Mayor Lantz, and Council Member Rogers voting to table the issue until a plan was presented, Council Member Byrd abstained and Mayor Eagle voted no.

A resident of Waynesboro commented that he was glad to see a City Council saying a prayer and pledging allegiance to the flag. He said that he hoped the citizens recognized that being City Council members takes a lot of time and effort. He made several comments regarding the upcoming elections, elected officials being honest and being aware of what is going on in the community.

Assistant City Manager Baker presented a brief report on soccer fields. He explained that the soccer fields are prepared and ready for placement of the sod. Once the pump for the well arrives they will install it for the irrigation. If electricity is not provided to the site by the time the pump is installed, a generator will be used to provide water to irrigate the sod. He also noted that the project is ahead of schedule and under budget.

At 8:38 p.m., Council Member Rogers offered a motion that Council enter an executive session for discussion and consideration of personnel and prospective candidates to be appointed to Harrisonburg Parking Authority, Parks and Recreation Commission and Harrisonburg Electric Commission and the evaluation of two City departments, exempt from the public meeting requirements pursuant to Section 2.1-344(A)(1) of the Code of Virginia. Discussion and consideration of the acquisition of real estate to be used for public purpose, namely, economic development, exempt from public meeting requirements pursuant to Section 2.1-344(A)(3) of the Code of Virginia, 1950, as amended. The motion was seconded by Council Member Byrd, and approved with a unanimous vote of Council.

At 10:00 p.m., the executive session was declared closed and the regular session reconvened. City Clerk Ryan read the following statement which was agreed to with a unanimous recorded vote of the 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 executive or closed meeting were convened were heard, discussed or considered in the executive session by the City Council.

Council Member Rogers offered a motion for the following people to be appointed to these Boards and Commissions: James C. McHone to a second term on the Harrisonburg Parking Authority to expire on November 28, 2002; Lorenzo "Sam" Knight to a second term on the Harrisonburg Parks and Recreation Commission to expire on December 31, 2001; W.R. Dick Fleming to a second term on the Harrisonburg Electric Commission to expire on December 31, 2000, and Paul S. Cline to a first term on the Harrisonburg Electric Commission to expire on December 31, 2000. The motion was seconded by Council Member Green, and approved with a unanimous vote of Council.

At 10:02 p.m., there being no further business and on motion adopted the meeting was adjourned.

  
CLERK

  
MAYOR