

## REGULAR MEETING

DECEMBER 16, 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 Member 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 Green delivered the invocation and Mayor Eagle led everyone in the Pledge of Allegiance.

Vice-Mayor Lantz requested that Item #4e be removed from the consent agenda and considered separately.

Council Member Rogers offered a motion to approve the consent agenda, including approval of the minutes and the second reading of an ordinance amending and re-enacting Sections 4-1-19, 4-1-27(c), 4-1-2, 13-1-15 and to repeal Article C, Chapter 1, Title 4 (Sections 4-1-41 through 4-1-45) and to enact Section 4-1-38 of the Harrisonburg City Code. The motion also included the second reading for a supplemental appropriation for the Police Department and appropriating funds to replace the fixtures and bulbs on both City parking decks. The motion was seconded by Vice-Mayor Lantz, and approved with a unanimous recorded vote of Council.

Vice-Mayor Lantz explained that he had requested Item #4e be removed from the consent agenda after Council had received additional information concerning various options regarding the refinancing of the Virginia Retirement System for 1991 Early Retirement Incentive Program for the Harrisonburg City Schools. He said that paying off this debt now could eventually save the City more money than refinancing the loan at a locked-in interest rate. Because interest rates have dropped, it could save the City \$500,000. He noted that "obviously nobody knows for sure what the savings will be, but many top analysts project that interest rates will continue to fall." He suggested using the money out of the City's undesignated fund balance to pay off this loan. He also noted that he had no objection to refinancing this loan at a higher rate; however, he preferred paying off the debt now. Carolyn Perry, attorney with the law firm of Wharton, Aldhizer and Weaver, reviewed the procedures for bond replacement. She advised Council that the City must act by January 30, 1998, if it wants to be able to pay off the VRS debt. She said that VRS uses January 30 as the deadline for purposes of calculating interest. City Manager Stewart noted that Council could use funds to pay off the debt out of the undesignated fund balance or a designated project for which funds have already been set aside. However, he noted that unless the money was borrowed later, funding some capital projects over the next year would be very difficult. Following further discussion and comments, Vice-Mayor Lantz offered a motion that Council consider option #3 to pay off the debt today and worry about what would have to be financed when the time comes. The

motion was seconded by Council Member Rogers, and approved with a unanimous recorded vote of Council. A public hearing will be scheduled on January 13, 1998.

✓ Planning and Community Development Director Turner introduced a request from J. Kenneth Kline (property owner), agent for Marion Newkirk, for a special use permit to have a processing and assembly operation in the B-2 General Business District. She explained that the site is approximately 1.3 acres and is owned by J. Kenneth Kline. Mr. Marion Newkirk wishes to operate a book binding, book repairing, and stamping business on the lower level of the Flower's Bakery Retail Store which is zoned B-2. To the north is Rockingham-New Holland Farm Equipment Company, which is zoned B-2. To the south is West Side Auto and Hillandale Park. To the east is Seventh Day Adventist Church and to the west is a paint and wall covering company. The B-2 zoning classification allows by special use permit the processing and assembly operations when not employing more than ten persons on the premises in a single working shift. She noted that Flower's Bakery has indicated to Mr. Kline that this business would not be a conflict with its business. It is expected to generate a small, minimal amount of noise, dust, or odors. The amount of available parking appears adequate to serve the entire building; however, staff advised the applicant to delineate parking spaces to provide for safe and orderly traffic flow. Planning Commission unanimously recommended approval of the rezoning request.

At 8:07 p.m., Mayor Eagle closed the regular session temporarily and called the evening's first public hearing to order. The following notice appeared in the Daily News-Record Monday, December 1, and December 8, 1997.

#### NOTICE OF PUBLIC HEARING

**The Harrisonburg City Council will hold a public hearing Tuesday, December 16, 1997, at 7:30 p.m., in the City Council Chambers, 345 South Main Street, to consider the following:**

##### **SPECIAL USE:**

1. **Request by J. Kenneth Kline, agent for Marion Newkirk, for a special use permit to have a processing and assembly operation in the B-2 General Business District. The site, located at 611 West Market Street, is identified as parcel 36-P-5 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 request. There being no one desiring to be heard, the public hearing was declared closed at 8:08 p.m., and the regular session reconvened. Council Member Green offered a motion to approve this special use permit. The motion was seconded by Vice-Mayor Lantz, and approved with a unanimous vote of Council.

Mayor Eagle relinquished the chair to Vice-Mayor Lantz at 8:10 p.m., and excused himself from the public hearing and exited the Council Chambers due to a personal interest in the matter under consideration. Planning and Community Development Director Turner introduced a request from Willow Development, Inc. to rezone 18.057 acres located at the end of Rocco Avenue from M-1 General Industrial District to R-3 Multiple Dwelling Residential District. She explained that the request is being made to rezone this property to permit future multi-family development of the area. It is located at the end of the existing Rocco Avenue and is adjacent to the existing Park Apartments. She also reviewed the surrounding zoning areas. The applicant has indicated that if the rezoning is approved, they will convey a small strip of land, adjacent to the apartment building site, to help bring them into conformance. The applicant has submitted several proffers including a maximum density of eight (8) units per acre with a landscaped buffer strip built along the western and southern property lines, excluding the FEMA flood plain district. This landscaped area would be next to Harman Enterprises on the west side and screen the proposed R-3 district from adjacent M-1 land. In addition, they also proffered that maintenance of the trees would be the responsibility of the land owner on which the trees set and that the developer for one year would guarantee them. They further specified that the width of the buffer strip will be 20 feet wide and that they would be planted with Leyland Cyprus 30" to 36" tall. Planning Commission unanimously recommended approval of the rezoning request.

At 8:15 p.m., Vice-Mayor Lantz closed the regular session temporarily and called the evening's second public hearing to order. The following notice appeared in the Daily News-Record Monday, December 1, and December 8, 1997.

**NOTICE OF PUBLIC HEARING**

**The Harrisonburg City Council will hold a public hearing on Tuesday, December 16, 1997, at 7:30 p.m., in the City Council Chambers, 345 South Main Street, to consider the following:**

**REZONING**

- 1. Consider request by Willow Development, Inc. to rezone 18.057 acres located at the end of Rocco Avenue from M-1 General Industrial District to R-3 Multiple Dwelling Residential District. The property is identified as parcel 5(D)5 on the City of Harrisonburg's Block Maps. The Comprehensive Plan recommends the site for light industrial 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**

Vice-Mayor Lantz called on anyone to speak either for or against this rezoning request. Dick Blackwell, representing the potential owners, stated that he felt the concerns of staff, Planning Commission and the surrounding property owners had been addressed. They will provide buffers, reduce the density, address the floodplain issue, and provide some help with the parking at the Park Apartments. There being no others desiring to be heard, the public hearing was declared closed at 8:16 p.m., and the regular session reconvened. Council Member Rogers offered a motion to approve this rezoning request as presented. The motion was seconded by Council Member Byrd, and approved with a unanimous vote of Council Members present. Mayor Eagle returned to Council Chambers and resumed chairing the meeting.

City Manager Stewart noted that City Clerk Bonnie Ryan has been designated as the City's first Certified Municipal Clerk by the International Institute of Municipal Clerks. Debbie Sutton, President of the Virginia Municipal Clerks Association, commented that it was an honor to recognize City Clerk Bonnie Ryan on her accomplishment in being awarded the designation of Certified Municipal Clerk. She explained that Bonnie joins a group of just over 50 certified municipal clerks in the Commonwealth of Virginia. She commended the City Council on its commitment to providing Bonnie the opportunity to attend professional training and academic development classes through Old Dominion's College of Arts and Letters. The focus of the program is to prepare its membership to meet the challenge of the diverse role of the municipal clerk by improving job performance and recognizing the professionalism of the municipal clerk's office. Mrs. Sutton said, "Bonnie is an outstanding professional and role model for new clerks in our association. I am confident that the members of Council, Harrisonburg citizens, her family, friends and colleagues share in the deep sense of pride that we feel for this outstanding achievement." She further encouraged Bonnie to continue her educational endeavors by participating in the Academy of Advanced Education which is also sponsored by the International Institute of Municipal Clerks through Old Dominion University. Mrs. Debbie Sutton presented a Certified Municipal Clerk's plaque to Yvonne "Bonnie" Ryan, CMC, who has completed the requirement prescribed by the International Institute of Municipal Clerks for certification.

Ken Huffman, a representative from Phibbs, Burkholder, Geisert & Huffman, presented the 1996-97 Comprehensive Annual Financial Report. He said that the office of Auditor of Public Accounts in Richmond had received the Comprehensive Annual Financial Report. Again this year for the third or fourth year the City received an unqualified opinion.

✓ Mayor Eagle relinquished the chair to Vice-Mayor Lantz and excused himself from the room due to personal interest. Planning and Community Development Director Turner introduced a request by Ed Blackwell, agent for G. R. Gordon construction, Inc., for approval of a preliminary plat of Shadow Oaks Subdivision. She explained that the request is to subdivide property located on Reservoir Street consisting of about 1.89 acres into 16 lots, 15 of which would be for townhouses. The property is zoned R-3, Multiple Dwelling Residential District. A frame house and mobile home are currently on the site. To the north of the property is a single family home and to the south a single family home and a small apartment complex. Single family homes are to the east and vacant land sets to the west. Most of the site is covered in grass and there are some large oak trees on the property. She explained that staff supports the layout of the property, but the plan is brought before Council because there is a variance involved in this request. The townhouse lots would not front on a public street, but instead would front on some common areas used as parking. There would be access easements across the common areas and parking areas to the private road which would connect this development to Reservoir Street. It will be maintained by a property owner's association. Snow removal, trash removal, and the school bus concerns have been addressed with the homeowner's agreement. Planning Commission recommended approval. Council Member Rogers offered a motion to approve this request. The motion was seconded by Council Member Green, and approved with a unanimous vote of Council Members present. Mayor Eagle returned to Council Chambers and resumed chairing the meeting.

✓ Planning and Community Development Director Turner introduced a request from Hidden Creek Development to vacate the plat of Hidden Creek, Section 3. She explained that the plat of Hidden Creek, Section 3, was originally recorded on August 3, 1987. It was originally planned for South Dogwood Drive to continue as a through street to Erickson Avenue. Residents of the neighborhood have indicated their desire not to have South Dogwood Drive extend to Erickson Avenue. South Dogwood Drive will be a permanent cul-de-sac. Planning Commission recommended approval of this request. Council Member Rogers 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 a request for a supplemental appropriation for the Sewer Capital Projects Fund. He explained that these funds include modification of our agreement with VDOT for utility inspections on the West Market Street project. Vice-Mayor Lantz offered a motion to approve this request for a first reading, and that:

\$80,000 chge. to: 2011-31010 Amount from fund balance

\$80,000 approp. to: 2011-492061-49216 Transfer to capital projects

\$80,000 chge. to: 1322-34230 Transfer from Sewer Fund

\$80,000 approp. to: 1322-911161-48646 VDOT West Market Street construction

The motion was seconded by Council Member Rogers, and approved with a unanimous recorded vote of Council.

City Manager Stewart presented a request for a supplemental appropriation for the Police Department. He explained that these funds will be used to cover cost for replacement of a raised floor in communications. Council Member Green offered a motion to approve this request for a first reading, and that:

\$3,200.00 chge. to: 1000-31010 Amount from fund balance

\$3,200.00 approp. to: 1000-310131-48111 Machinery and Equipment

The motion was seconded by Council Member Byrd, and approved with a unanimous recorded vote of Council.

City Manager Stewart presented a request for a supplemental appropriation for the Police Department. He explained that these funds were spent on overtime for a DMV grant. Vice-Mayor Lantz offered a motion to approve this request for a first reading, and that:

\$9,134.79 chge. to: 1000-32520 DMV Grant

\$9,134.79 approp. to: 1000-310131-41020 Salary/Wages Overtime

The motion was seconded by Council Member Green, and approved with a unanimous recorded vote of Council.

Vice-Mayor Lantz said that he had received a telephone call suggesting that the lane on University Boulevard and 33 East should be made a right turn lane only. It would help alleviate the congestion at this intersection and perhaps the situation should be considered in the future.

City Manager Stewart reminded those Council Members attending the VML Regional Legislative reception/dinner of the December 17 meeting at the Sheraton Hotel in Harrisonburg.

Public Utilities Director Collins announced that 13 bids were received for the North Industrial Sewer project. The contract will be awarded very soon.

At 8:47 p.m., Vice-Mayor Lantz offered a motion that Council enter an executive session for discussion and consideration of personnel and prospective candidates to be appointed to the Central Shenandoah Planning District Commission, Community Criminal Justice Board, and Alcohol Safety Action Program and evaluation of two City departments, exempt from the public meeting requirements pursuant to Section 2.1-344(A)(1) of the Code of Virginia. Consultation with the City Attorney pertaining to an existing and proposed agreement, requiring the provision of legal advice by the City Attorney, exempt from public meeting requirements pursuant to Section 2.1-344(A)(7) of the Code of Virginia. Discussion and consideration of the acquisition of real estate to be used for public purposes, namely, economic development and public works, 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 Rogers, and approved with a unanimous vote of Council.

At 11:23 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 Green offered a motion that Stacy Turner, Director of Planning and Community Development, or her designee be appointed to fill the unexpired term of Rajat Sarkar on the Central Shenandoah Planning District Commission to expire on June 30, 1998. The motion was seconded by Vice-Mayor Lantz, and approved with a unanimous vote of Council.

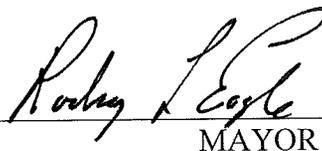
At 11:25 p.m., Council recessed the meeting to be reconvened on Tuesday, January 6, 1998 at Mayor Rodney Eagle's house.

✓ At the reconvened meeting of Council held on January 6, 1998 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. Discussion included budget issues, end of fiscal year revenue projections, possible General Assembly personal property tax elimination, school funding, downtown lighting, a cleaner City, additional Police Officers and a possible pilot take home cruiser program. They also discussed many Port Republic Road traffic and safety problems including that perhaps installing a traffic light at the top of the hill might help with the problem at the bottom of the hill, applying for an ISTE A grant, perhaps a public/private partnership with J.L. Hopkins, and the need for sidewalks, bike paths and pedestrian walk paths on Port Republic Road.

At 10:30 p.m., Council Member Byrd offered a motion that Council enter an executive session for discussion and evaluation of two City departments, exempt from 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 purposes, 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 Rogers, and approved with a unanimous vote of Council.

At 12:20 a.m., there being no further business and on motion adopted the meeting was adjourned.

  
CLERK

  
MAYOR