

REGULAR MEETING

OCTOBER 20, 1998

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, CMC, and Chief of Police Donald Harper.

Vice-Mayor Lantz 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 of a supplemental appropriation for the Reservoir Street project, and the second reading of an ordinance amending and re-enacting Sections 11-5-3, 11-5-6, and 11-5-7, and repealing Section 7-4-26 of the Harrisonburg City Code. The motion was seconded by Vice-Mayor Lantz, and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Byrd

Vice-Mayor Lantz

Council Member Green

Council Member Rogers

Mayor Eagle

No - None

Planning and Community Development Director Turner introduced a request to consider removing Article L. R-5 Planned Single-Family Residential District from the Zoning Ordinance. She explained that the R-5 zoning classification was inserted into the zoning ordinance in 1996 in an attempt to encourage development of affordable single family detached dwellings on lots as small as 5,000 square feet. At that time, when this classification was inserted into the zoning ordinance, the City did not have any land in this classification. In the fall of 1996, a developer made a request to rezone property from R-1 to the R-5 zoning classification. Staff recommended deferral of the request to ensure that the application met the affordability intent of the zoning classification. After considerable discussion on the issue of affordable housing, Planning Commission could not reach an agreement on whether R-5 zoning should be tied to economic factors. Differing opinions on the definition of affordability have caused Planning Commission to consider removing R-5 from the zoning ordinance. On February 12, 1997, Planning Commission held a public hearing and voted to recommend removal of the R-5 district; however, City Council later voted to retain the classification. In May 19

98, Planning Commission received a request to rezone property on Pleasant Hill Road from the existing R-1 classification to R-5 classification. The applicant proposed that all houses in his subdivision would qualify for VHDA guaranteed funding. There was considerable neighborhood concern about the type of houses being developed, the impact on the schools, and the traffic impact on Pleasant Hill Road. Planning Commission voted to recommend denial of the rezoning request and cited the concerns of traffic in addition to students entering the school system. She said that at a public hearing held in September 1998 nobody spoke in favor of removing this zoning classification and one person spoke in opposition to removing this zoning classification.

Mrs. Turner said that Tim Lacey, a developer, had submitted a letter suggesting a number of alternatives and why he opposed removing the R-5 zoning classification. Mrs. Turner reviewed some of these alternatives. She said that four Planning Commissioners voted in favor of removing the R-5 zoning classification from the zoning ordinance with one member voting in opposition to the motion.

At 7:40 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 on Monday, October 5, and Monday, October 12, 1998.

NOTICE OF PUBLIC HEARING

The Harrisonburg City Council will hold a Public Hearing on Tuesday, October 20, 1998 at 7:30 p.m., in the City Council Chambers, Municipal Building, 345 South Main Street, Harrisonburg, Virginia, to consider the following:

Ordinance Amendments:

1. Consider removing Article L. R-5 Planned Single-Family Residential District, from the Zoning Ordinance.

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 the opportunity to express their views at this public hearing.

Any persons 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 desiring to speak for or against removing the R-5 Planned Single-Family Residential District from the Zoning Ordinance. There being no one desiring to be heard, the public hearing was declared closed at 7:41 p.m., and the regular session reconvened. Discussion included encouraging affordable single-family detached dwellings, a zoning classification not being utilized, proffering a zoning classification to use single family rather than multi-family and use the advantage of smaller single-family lots. Council Member Byrd offered a motion for a first reading to approve removing the R-5 Single-Family Residential District from the Zoning Ordinance. The motion was seconded by Vice-Mayor Lantz, and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Byrd

Vice-Mayor Lantz

Council Member Green

Council Member Rogers

Mayor Eagle

No - None

Planning and Community Development Director Turner introduced a request by Timothy Lacey to rezone 1.7 acres located at 1410 West Market Street from R-1 Single-Family Residential District to R-3 Multiple Dwelling Residential District (conditional). She explained that in connection with the rezoning request, Mr. Lacey has proffered that there will be a maximum of four unit buildings and ten units per acre maximum. The purpose of this request is to add acreage to Westfield subdivision. This property is located on the north side of West Market Street and is adjacent to Mr. Lacey's existing Westfield subdivision. The Land Use Guide recommends the property for planned medium density residential use. This land-use category is intended for the planned development of multifamily uses, which would include single-family attached dwellings (townhouses and condominiums) and duplexes. The proffers that Mr. Lacey has made in connection with this request are the same proffers that apply to the adjacent 21 acres, which were rezoned from R-1 to R-3 Conditional in 1996. Records maintained by the City's Real Estate office show that homes in Westfield Subdivision have sold for \$89,500 to \$111,400, with an average sales price of \$98,850. The existing R-1 zoning would allow construction of approximately six units on the site, whereas the proposed R-3 conditional zoning would allow a maximum of 17 units. She said that Planning Commission has recommended approval of this rezoning request.

At 7:45 p.m., Mayor Eagle 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 Monday, October 5, and Monday, October 12, 1998.

NOTICE OF PUBLIC HEARING

The Harrisonburg City Council will hold a Public Hearing on Tuesday, October 20, 1998 at 7:30 p.m., in the City Council Chambers, Municipal Building, 345 South Main Street, Harrisonburg, Virginia, to consider the following:

Rezoning

Request by Timothy J. Lacey to rezone 1.7 acres located on West Market Street from R-1 Single-Family Residential District to R-3 Multiple Dwelling Residential District (conditional). The Land Use Guide recommends the property, identified as parcel 37(C)1, for medium-density residential 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 the opportunity to express their views at this public hearing.

Any persons 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 desiring to speak for or against this rezoning request. There being no one desiring to be heard, the public hearing was declared closed at 7:46 p.m., and the regular session reconvened. Council Member Rogers offered a motion to approve Planning Commission recommendation as presented.

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

Greg Pfaff, representing the Harrisonburg-Rockingham Convention and Visitors Bureau, presented a brief report on the activities of the bureau. He said that when he was elected president of the bureau, it was only a committee and was still a part of the Chamber of Commerce. At first as a committee, he said that they struggled to gain some identity, sense of place, and focus on directions. The committee has now developed into the Harrisonburg-Rockingham Convention and Visitors Bureau and is located in a separate facility from the Chamber of Commerce. They started a community awareness campaign to provide information regarding the area and to tell the world that Harrisonburg is the best place to live and work. The bureau has been growing and gaining recognition which a few years ago people thought was unobtainable.

Ruth Deskins, Harrisonburg-Rockingham Convention and Visitors Bureau Director, said that from a historical perspective, the Visitors Center has had a positive increase in number of tourists in the Visitors Center. She noted that 15,929 visitors came to the Harrisonburg-Rockingham Convention & Visitors Bureau during the last year. The bureau works to attract the motor coach tourist to the area, along with meetings and conventions, and premier sport events. In April 1997, Governor George Allen announced that the Harrisonburg-Rockingham Convention & Visitors Bureau had successfully completed the Virginia Tourism Corporation's Accreditation Program. The bureau is now a certified tourist information center. Mrs. Deskins reviewed the many events held in the area including the 1997 Grundig/UCI Downhill World Cup at Massanutten Resort, a snow tubing event, the new Court Square Theater, the Virginia Quilt Museum, Civil War interest tours, fall get away tours mentioned in the Washingtonian magazine, and the many other articles appearing in various magazines.

Mike Holmes

presented a request for an endorsement of a state song entry. Mr. Holmes said that he had noticed a story in the Daily News-Record featuring a Virginia state song contest entry by Staunton resident Bob Campbell. The story related Bob's efforts at promoting his song, and that he had secured the endorsement of the Staunton City Council. Mr. Holmes and Mr. Campbell performed in a musical group together. He said, "I think it would be great fun for Harrisonburg and Staunton to engage in a friendly rivalry over the two songs." Mr. Holmes played the song for everyone and gave special recognition to area resident Tonya Painter who sang the song. Council Member Rogers offered a motion to endorse this song. The motion was seconded by Vice-Mayor Lantz, and approved with a unanimous vote of Council.

Tony Bopp

, a resident of Sharon Street, expressed his concern regarding the extension of Sharon Street and Middlebrook Street into cul-de-sacs because of a proposed residential subdivision. He said that although City Council had reviewed and approved the preliminary plat of the Brayton Subdivision in August 1998, he questioned whether Council acted correctly when it granted the variances, which must be based on a hardship. He also questioned whether the new owners of the 14.191 parcel had purchased the land before or after March 1997. He noted that both the Planning Commission and City Council's minutes in March 1997 reflected that the issue concerning maximum length, City-wide needs, builder needs, neighborhood needs, and planning needs of cul-de-sacs were reviewed. He noted that the City's standard was amended to be 800 feet with 20 units as the maximum. He said that now they are told that the streets will be extended in a cul-de-sac that has two huge variances. It will be 1,230 feet in length containing 43 units. The only reason given in the City's standard book for allowing such a variance is that of unnecessary hardship. Mr. Bopp insisted that an unnecessary hardship was not discussed at the City Council meeting; therefore, the granting of the variance was not proper. He said, "Please tell me how a builder can buy a piece of land, expect to make a profit under the existing code, then discover that if the code is broken and more profit can be made, a hardship can be claimed?" He felt that by allowing these variances the City was rezoning the residential property without going through a rezoning

hearing. He requested that Council rescind the variance.

Sandy Bopp

said that a variance was requested in August 1998 for the development of a 1,230 foot cul-de-sac with 43 units, 69 lots in total to be developed at the end of Sharon Street and Middlebrook Street. The land owners of the adjacent property have the following concerns: utility reading cost, refuse collection cost, snow removal cost, school bus transportation cost, fire safety, vehicles usage, and pavement repairs. Safety is the most concern. The residences of Sharon Street and Middlebrook Street will encounter great hardships because of these two variances being granted.

Richard Dunn

, said that when he bought his home in 1986, he did not have any children. Now he has two children and considered living on a dead-end street to be safe. He said that he would be very concerned with safety and traffic if this development is built. There will be more vehicles on the street which does not have sidewalks where his children are riding their bicycles. He suggested that City Council reconsider their decision.

Ellen Sumner

, a resident of Sharon Street since 1974, said that she had built her home in the area because of the dead-end street. She said that she was concerned with the traffic flow from Sharon Street and Middlebrook Street. There appears to be no evidence of pre-planning in regard to the traffic pattern and flow in and out of the area. She noted that sometimes it is impossible to get onto Pleasant Hill Road from Central Avenue. Pleasant Hill Road has no curbs, gutters or sidewalks. She insisted that this development was approved by the Planning Commission and City Council without the knowledge or the input of the residents and taxpayers of the area who are adversely affected.

Elizabeth Carney

, a resident of Emery Street and Pleasant Hill Road, complained about the heavy traffic on Pleasant Hill Road.

Charles Morrison

, a resident of Middlebrook Street, explained that he built his home in 1977 and choose the area because of the dead-end street. The quality of life that they have enjoyed living in this area will change because of the increased traffic and safety will be a factor.

Mayor Eagle thanked everyone for their comments and said that he thought it was a good workable plan when they discussed it at the Planning Commission meeting. Planning and Community Development Director Turner explained that the only reason the preliminary plat came to City Council was because of the variance associated with the cul-de-sac. City Council discussed concerns regarding the topography consideration and trying to tie the street extension into High Street at the railroad crossing. She also said that this property had been zoned R-2 since it came into the City in 1962 or 1963. City Attorney Thumma agreed with Mrs. Turner's comments and said that the variances were discussed at the City Council meeting. These variances which City Council approved complied with the ordinance. Mr. Thumma noted that you have to differentiate between the subdivision ordinance and zoning ordinance and in this particular case the property was zoned R-2. He explained that if a developer submits a plan that complies with the subdivision ordinance and City Council approves the variance, then if the final plat is submitted and agrees with the preliminary plat it must be approved. Mrs. Turner noted that consideration was given at both the Planning Commission meeting and

City Council meeting regarding the hardship of the property.

City Manager Stewart presented for Council's consideration a request from Harrisonburg High School to hold a homecoming parade on November 2. He explained that Jim Baker, Director of Public Works, had suggested that the parade route be modified to use the access road along High Street as opposed to using Route 42. Council Member Green offered a motion to approve this request with the modifications suggested by Mr. Baker. The motion was seconded by Council Member Rogers, and approved with a unanimous vote of Council.

City Manager Stewart presented for Council's consideration of a first reading adopting a Harrisonburg Auxiliary Police Force ordinance. Police Chief Harper explained that the auxiliary units would support the Police Department in all facets of the organization. These auxiliary units would be available in a time of emergency to preserve peace, safety, the good order of the community and for training purposes. Each auxiliary officers will be required to perform a minimal of twenty-four hours of service each month. Auxiliary officers will be used in traffic accidents, parades, and administrative duties such as communication, records, and property. After a lengthy and considerable discussion expressing many concerns and issues including cost of liability insurance, uniforms, and equipment, Vice-Mayor Lantz offered a motion that this ordinance be tabled until more information can be provided by Police Chief Harper. The motion was seconded by Council Member Byrd, and approved with a unanimous vote of Council.

Quite T. Please

expressed his concern about crime in the City and volunteered to be a member of the Auxiliary Police Force.

City Manager Stewart presented a request authorizing the execution of documents necessary to issue Virginia Public School Authority, VPSA, refunding bonds. He explained that the Virginia Public School Authority has refunded certain of its 1987 bonds of which the City owned a portion. It was a state-wide issue and now these bonds are being refunded at a lower interest rate. Council Member Rogers offered a motion to approve this request. The motion was seconded by Council Member Green, and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Byrd

Vice-Mayor Lantz

Council Member Green

Council Member Rogers

Mayor Eagle

No - None

City Manager Stewart presented a request for a supplemental appropriation for the Police Department. He explained that these funds will reimburse the Police Department for safety software and overtime work in a Federal drug case. Council Member Green offered a motion to approve this request for a first reading, and that:

\$314.40 chge. to: 1000-1901 recoveries & rebates

342.00 chge. to: 1000-2520 DMV grant

\$314.40 approp. to: 1000-310131-41020 Salaries & Wages/OT

342.00 approp. to: 1000-310131-46140 Other operating supplies

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

Vote: Yes - Council Member Byrd

Vice-Mayor Lantz

Council Member Green

Council Member Rogers

Mayor Eagle

No - None

City Manager Stewart presented a request for a supplemental appropriation from the School Board. School representatives explained that these funds are unanticipated receipts from the Federal and State Revenues and from fund balance. These funds will be used for computer education, professional development, drug-free education, math/science curriculum writing, and construction. This appropriation requires no new local dollars. Council Member Rogers offered a motion to approve this request for a first reading, and that:

\$100,000 chge. to: 111114-31010 Amount from unapp. fund bal.

111,404 chge. to: 111114-33301 School Revenue - Federal

271,847 chge. to: 111114-32442 School Revenue - State

\$210,804 approp. to: 111114-40610 Instruction

600 approp. to: 111114-40620 Adm., Attendance & Health

271,847 approp. to: 111114-40640 Operations and Maintenance

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

Vote: Yes - Council Member Byrd

Vice-Mayor Lantz

Council Member Green

Council Member Rogers

Mayor Eagle

No - None

Taines Rontopoulos, an instructor with Central Security U.S. Training and Development, expressed his concern regarding the arrest power of the Auxiliary Police Force. He said that the City has paid police officers to protect the citizens. These individuals have gone through extensive training at the training academy. The paid police officers are paid to do a thankless dangerous job and he felt it would be dangerous to ask a volunteer to put his/her life on the line for the City. He suggested that the City needed to hire more police officers who are trained at the proper academy and wearing the City's uniform.

Council Member Rogers commented that several weeks ago he had spoken at a JMU Student Government Association. The group wanted to send a representative to the City Council meeting. Kim Washtis, a senior at James Madison University, explained that the government association was trying to establish a link between the Harrisonburg City Council and JMU Student Government Association. The association would like to keep the students more informed on what is going on in the community to hopefully have a more positive relation between the JMU student body and Harrisonburg. She said that she would be attending every meeting and presenting a report to the Student Government Association. She invited Council Members to attend their meetings.

At 9:05 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 the Social Services Advisory Board, Harrisonburg Redevelopment and Housing Authority, and Parks and Recreation Commission, 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 economic development purposes, exempt from public meeting requirements pursuant to Section 2.1-344(A)(3) of the Code of Virginia, 1950, as amended. Consultation with the City Attorney and briefings by staff members concerning probable litigation, 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, 1950, as amended. The motion was seconded by Vice-Mayor Lantz, and approved with a unanimous vote of Council.

At 10:28 p.m., the executive session was declared closed and the regular session reconvened. The following statement 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 Wilhelmina H. Johnson, 424 Myrtle Street, be appointed to a first term on the Social Services Advisory Board to expire on July 1, 2002. The motion was seconded by Vice-Mayor Lantz, and approved with a unanimous vote of Council.

Council Member Green offered a motion that Elon W. Rhodes, 366 Effinger Street, be appointed to a first term on the Harrisonburg Redevelopment and Housing Authority to expire on November 29, 2002. The motion was seconded by Vice-Mayor Lantz, and approved with a unanimous vote of Council.

At 10:30 p.m., there being no further business and on motion adopted the meeting was adjourned.

MAYOR

CLERK

cc: City Council

City Manager

Assistant City Manager

Director of Finance

Public Library

Charlene Rice