

REGULAR MEETING

FEBRUARY 9, 1999

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., and Larry M. Rogers; City Clerk Yvonne Bonnie Ryan, CMC, and Chief of Police Donald Harper. Absent: Council Member Walter F. Green, III.

Vice-Mayor Lantz delivered the invocation and Mayor Eagle led everyone in the Pledge of Allegiance.

Human Resource Director Whistleman introduced ten new City employees: Andrew Brunk, Steffan Carter, Ben Coffman, John Hedrick, Steve Pignatello, Jason Woods, Fire Department; Dale Chestnut, Community Development Department; Georgianne Wilson, Public Utilities Department; Angela Harper, Police Department; and Brad Veach, Parks & Recreation Department.

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 Police Department and Public Works Department. The motion was seconded by Council Member Byrd, and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Rogers

Council Member Byrd

Vice-Mayor Lantz

Mayor Eagle

Absent: Council Member Green

No - None

Planning and Community Development Director Turner introduced a request by Daniel W. Brubaker to rezone property along West Mosby Road and Pear Street from R-1 Single Family Residential District to R-2 Residential District (conditional). She explained that the applicant is seeking to rezone approximately 28.7 acres of property from R-1 Single-Family Residential District to R-2 Residential District (conditional) and in addition rezone about 3.21 acres of property from R-1 Single-Family Residential District to B-2 General Business District (conditional). Mr. Brubaker proffered the following conditions in connection with his application for rezoning: #1) any dwelling permitted by right in the R-1 Single-Family Residential District; #2) single-family dwelling units with limitations are required by area and dimensional regulations set forth in R-2 regulations; and #3) accessory buildings and uses are clearly incidental to the above. She also explained that the difference between the R-1 and R-2 classification is that R-2 allows development of single-family homes on smaller lots. The R-1 classification allows only lots of 10,000 square feet or greater for single-family homes and R-2 allows lots for single-family homes of 7,000 square feet or greater. The R-2 classification also allows duplex units to be developed. Mr. Brubaker is guaranteeing and proffering that the property would not be used for duplex units but he would be taking advantage of the flexibility of the single-family home on the smaller lot. Mr. Brubaker is also requesting to rezone a 3.21 acre portion from R-1 Single-Family to B-2 Conditional Business classification. He has proffered conditions that would limit use of

the property to governmental, business, professional offices, financial institutions, accessory buildings and uses customarily incidental to the above listed uses. She reviewed a variety of zoning classifications surrounding the property including Mosby Courts Apartments and Fulks Landscaping which is adjacent; however, Fulks Landscaping is a nonconforming use in this area. The Comprehensive Plan recommends this area for low-density residential development, which is intended for single-family detached dwellings with a maximum density of 1 to 4 units per acre. Rezoning the R-1 property to R-2 would increase the maximum allowable density to approximately 6 units per acre, although steep topographic conditions could limit the actual density obtained. The three parcels located on the opposite side of Pear Street are not contiguous to any area currently zoned R-2. Staff does not consider the lots to be a cohesive area suitable for rezoning. She said that Planning Commission recommended approving the request to rezone the 24.83 acre portion from R-1 to R-2 (conditional); however, recommended denying the other portion of the request based upon staff's recommendation that the B-2 request conflicts with the Comprehensive Plan.

At 7:45 p.m., Mayor Eagle closed the regular session temporarily and called the evening's public hearing to order. The following notice appeared in the Daily News-Record on Monday, January 25, and Monday, February 1, 1999.

NOTICE OF PUBLIC HEARING

The Harrisonburg City Council will hold a public hearing on Tuesday, February 9, 1999, at 7:30 p.m. in the City Council Chambers, 345 South Main Street, to consider the following:

Rezoning

Request by Daniel W. Brubaker to rezone 28.7 acres along West Mosby Road and Pear Street from R-1 Single-Family Residential District to R-2 Residential District (conditional). The property is identified as tax map parcels 7(B)5, 8(E)3, 8(E)5, and a portion of 7(C)2. The applicant is also requesting rezoning of a 3.21 acre portion of tax map parcel 7(C)2, from R-1 Single-Family Residential District to B-2 General Business District (conditional). The Comprehensive Plan recommends the entire site for low-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 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

Steven E. Stewart

City Manager

Mayor Eagle called on anyone desiring to speak for or against this rezoning request.

Melisa Ledbetter

, a representative for Mr. Brubaker, stated that she brought an aerial photograph which shows the property in question. She pointed to the various areas under consideration for rezoning. She said that given concerns raised at Planning Commission's meeting, Mr. Brubaker would like to withdraw the two portions along Pear Street and focus on the remaining rezoning request. She said that Mr. Brubaker had requested rezoning

approximately 24.83 acre portion to provide greater flexibility given the steep topography of the land. The 3.21 acres would be restricted to government, professional and financial institutions. It will provide more flexibility than R-3 while keeping it consistent with the area. The proffers that limit the use in the B-2 (conditional) would enhance and upgrade this area while maintaining a buffer between the residential community and the character of the area.

Dan Brubaker

said that he was present to answer questions or address any concerns.

Gail Bundrick

, a resident from the Willow Hill Subdivision, said that she did not directly oppose the proposed rezoning; however, she expressed concern that is appeared Stone Spring extension road would be in close vicinity of this proposed development. She also expressed concern about water run-off from the hill during a heavy rain. There being no others desiring to be heard, the public hearing was declared closed at 7:52 p.m., and the regular session reconvened. Discussion included a good plan for the larger tract, steepness of the land, good use for single family development, Fulks Landscaping being a non-conforming use which they cannot expand, the 3.21 acres being conflicting with the recently adopted Comprehensive Plan, topography of the area, undeveloped land in the area, no other conforming businesses in area, residential area, and that this development should enhance the area. Council Member Rogers offered a motion to approve the 24.83 acre portion from R-1 Single-Family Residential District to R-2 Residential District (conditional) and the 3.21 acres from R-1 Single-Family Residential District to B-2 General Business District (conditional). The motion was seconded by Council Member Byrd, and approved with a three to one vote of Council Members present with Vice-Mayor Lantz voting no.

City Manager Stewart presented a request from the March for Jesus organization to hold a parade on May 22, 1999. He explained that the request is for an event similar to last year. The primary difference is a request to have a concert on the vacant lot behind Community Development. Staff does support approving the parade permit. Council Member Rogers offered a motion to approve this permit for the parade. The motion was seconded by Vice-Mayor Lantz, and approved with a unanimous vote of Council Members present.

City Manager Stewart presented for Council s consideration an amendment to water line easement agreement with WestRoc Associates. He explained that this amendment to a 1989 agreement reduces a commitment of water from 40,000 gallons per day to 34,000 gallons per day due to the allocation of 6,000 gallons per to the Rockingham County School Board. This amendment reflects a previous agreement to provide an allocation of 6,000 per day of water to the Rockingham County School Board for a proposed new elementary school site of 33 West. Vice-Mayor Lantz offered a motion to approve this agreement. The motion was seconded by Council Member Rogers, and approved with a unanimous vote of Council Members present.

The agenda item endorsing a working group to study the feasibility of a short-term residential shelter care facility for juveniles was deleted from the agenda and will be considered at a later meeting.

Council Member Byrd offered a motion to recommend Gary D. Buennemeyer to the Circuit Court for appointment to the Board of Equalization. The motion was seconded by Council Member Rogers, and approved with a unanimous vote of Council.

Assistant City Manager Baker presented the following resolution for Council s consideration of approval:

Governing Body Resolution

**A RESOLUTION SEEKING APPROVAL OF A PLANNING STUDY AND
REQUESTING CAPITAL FUNDING FOR THE RENOVATION AND
EXPANSION OF THE SHENANDOAH VALLEY JUVENILE DETENTION HOME.**

WHEREAS, the Shenandoah Valley Juvenile Detention Home, which serves the 16th, 25th and 26th Judicial District Court(s), is anticipated to expand from a current capacity of 32 beds to a new capacity of 50 beds; and

WHEREAS, established procedures require the adoption of a formal resolution from the governing body to indicate local interest to seek capital funding participation by the Commonwealth through the Virginia Department of Juvenile Justice.

NOW, THEREFORE, BE IT RESOLVED by the City Council of Harrisonburg, Virginia that it does hereby express its intent to proceed with expansion of the Shenandoah Valley Juvenile Detention Home, and to seek the maximum amount of capital funding reimbursement from the Virginia Department of Juvenile Justice.

Presented and adopted this the 9th day of February, 1999.

Mayor

Attest:

City Clerk

Assistant City Manager Baker explained that this resolution of intent would support building a new Central Shenandoah Juvenile Detention Home. For the last two years the Board of Directors of the Central Shenandoah Juvenile Detention Home have been discussing ways to meet the needs for juvenile detention. The existing home is outdated and overcrowded. The permitted capacity is 32 and on average is exceeded every month. It is not unusual to have 45 to 50 detainees on any given day. The home has many repair problems including water lines, sewer lines, and heating lines. Charlottesville and Albemarle County plan to withdraw from the detention home; however, it will not affect the projected future need of the home. A Needs Assessment has been completed and approved by the State Board of Juvenile Justice. The study shows that a 50 bed facility is needed for the Judicial District served by the home. Council Member Rogers offered a motion to approve this resolution. The motion was seconded by Vice-Mayor Lantz, and approved with a unanimous vote of Council Members present.

City Manager Stewart presented a request to transfer budgeted funds. He explained that these funds will be transferred to the City Attorney's budget for other legal services. City Attorney Thumma explained that the Board of Zoning Appeals has two pending appeals in the Circuit Court and does not have sufficient funding. Council Member Rogers offered a motion to approve the transfer of these funds:

\$4,000.00 chge. to: 1000-940111-49310 Reserve for contingencies

\$4,000.00 approp. to: 1000-120411-43152 Other legal services

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

Council Member Rogers introduced a new liaison member from James Madison University.

At 8:20 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 Harrisonburg Transportation Safety Commission, Industrial Development Authority, and recommendation to the Circuit Court for Board of Zoning Appeals exempt from public meeting requirements pursuant to Section 2.1-344(A)(1) of the Code of Virginia, 1950, amended. Discussion and consideration of the acquisition of real estate to be used for public 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 Council Member Byrd, and approved with a unanimous vote of Council.

At 9:55 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 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 the Industrial Development Authority: Dennis A. Larosa, 906 Circle Drive, to a first term to expire on April 24, 2003; Calvin Ferrell, 88 Maplehurst Avenue, to a second term to expire on March 14, 2003; and James Ted Byrd, 238 Campbell Street, to a first term to expire on April 24, 2003. The motion was seconded by Council Member Byrd, and approved with a unanimous vote of Council Members present.

Council Member Rogers offered a motion that John E. Zigler, 1216 Edgewood Road, be appointed to a term on the Harrisonburg Transportation Safety Commission. The motion was seconded by Council Member Byrd, and approved with a unanimous vote of Council Members present.

At 10:00 p.m., there being no further business and on motion adopted the meeting was adjourned.

CLERK

MAYOR

