

REGULAR MEETING

AUGUST 22, 2000

At a regular meeting of Council held this evening at 7:30 p.m., there were present: Mayor Carolyn W. Frank; City Manager Steven E. Stewart; Assistant City Manager Roger Baker; City Attorney Thomas H. Miller, Jr., Vice-Mayor Dorn W. Peterson; Council Member Larry M. Rogers, Hugh J. Lantz, and Joseph Gus Fitzgerald; City Clerk Yvonne ABonnie@ Ryan, CMC/AAE, and Chief of Police Donald Harper.

Mayor Frank delivered the invocation and led everyone in the Pledge of Allegiance.

Human Resource Director Whistleman introduced nine new City employees: Brandon Biddle, Tyler Jessup, Matthew Phillips, Jared Quesenberry, Esther Warring, Kris Whitesell, Fire Department; Dale Eavers, Jarret Eppard, Public Utilities Department; and Thomas Knoll, Parks and Recreation Department.

Vice-Mayor Peterson offered a motion to approve the consent agenda, including approval of the minutes and the second reading of a supplemental appropriation for the School Board. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Fitzgerald

Vice-Mayor Peterson

Council Member Rogers

Council Member Lantz

Mayor Frank

Absent - None

Planning and Community Development Director Turner introduced a request by Heidelberg, L.L.D., for a Special Use Permit to allow four (4) unrelated persons to occupy a dwelling in the R-2 Residential District,

per Section 10-3-40(7) of the Zoning Ordinance. She explained that the property is located at 433 West Market Street and zoned R-2 Residential District. The land use guide in the Comprehensive Plan recommends this site for neighborhood residential uses. She also noted that in December 1998, the City's Zoning Ordinance was changed to require a special use permit for four (4) individuals to occupy a dwelling unit in the R-2 classification. Staff had conducted a property maintenance inspection of the house prior to the February 8, 2000 City Council public hearing and found minor problems requiring correction which since have been corrected. At that Council meeting, staff recommended approval of the request and Planning Commission also recommended approval by a vote of four to two with the following conditions: (1) Only four individuals shall reside in each of the two dwelling units. (2) Permanent off-street parking must be adequate to address the parking need of residents in the dwelling. The special use permit will require one parking space per tenant. (3) The owner or owner's representative must schedule a yearly inspection, similar to the boarding house inspections to ensure building code requirements are met and the number of people residing on the premises meet the criteria of the permit. The permit shall be revoked by the Zoning Administrator if this inspection does not take place every 12 months. (4) Staff is authorized to review complaints received on the property on an on-going basis and based on their findings, to notify the landlord that the permit is being revoked unless they wish to reapply for a special use permit, going through the required public hearings. Otherwise the permit automatically expires one year from the date of approval by City Council and is renewable administratively on an annual basis provided the use is still permitted by the Zoning Ordinance. (5) Access to the alley at the rear of the property must be closed and access from Market Street installed in accordance with City Standards. (6) A change of use permit will be required prior to occupancy to ensure that building code requirements are met and all other provisions of the special use permit have been met. Mrs. Turner repeated that Planning Commission recommended approval of the request with a vote of four to two; however, when City Council held a public hearing in February 2000, there was a motion to deny the request for a special use permit. The motion tied by a vote of two to two, therefore, no action was taken on the request. Mr. Loucks was informed that if he was still interested in having a vote taken on the request, any further action must be initiated by a Council Member which was requested by Vice-Mayor Peterson at the July 25th City Council meeting.

At 7:50 p.m., Mayor Frank 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, August 7, and Monday, August 14, 2000.

NOTICE OF PUBLIC HEARING

The Harrisonburg City Council will hold a Public Hearing on Tuesday, August 22, 2000 at 7:30 p.m. in the City Council Chambers, 345 South Main Street, to consider the following:

SPECIAL USE PERMIT

Request by Heidelberg, L.L.C. for a Special Use Permit to allow four (4) unrelated persons to occupy a dwelling in the R-2 Residential District, per Section 10-3-40(7) of the Zoning Ordinance. The site,

located at 433 West Market Street, is identified as tax map parcel 35-U-4.

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 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 Frank called on anyone desiring to speak for or against approving this special use permit.

Glenn Loucks thanked Council Members for taking their time to visit the property and discuss some issues. He also asked for support of the special use permit noting that it will be renewed on an annual basis providing tighter control over who lives on the property and how the property is maintained. He requested that City Council trust recommendations made by staff and the Planning Commission. He said that the City's Zoning Ordinance was changed because of concerns about adequate parking, safety, maintenance inspections, improvements to the property, being able to enter the property to check the number of residents living in the dwelling, and to make landlords accountable by having an annual renewal of the permit. Mr. Loucks argued that this duplex was a poster child for granting a special-use permit. The area's high traffic and high density were not conducive to single family residences and the special-use permit would allow the City a chance to monitor the building every year. Mr. Loucks also reviewed parking issues, keeping the alley open, alley being used for trash pick-up, keeping trees and protecting green space on the property.

James Butler, a resident living at 453 West Water Street, said he has been a resident of the community for 47 years and has seen the neighborhood grow. He also said that he has seen many changes in the City and suggested that the City implement planned growth. Special use permits and high density areas do not make good neighborhoods or a good community.

Sandra Pennington, a resident living at 507 West Market Street, said that ascertaining who is actually living in a piece of property will be difficult if you have eight person densities. There has been as many as 15 people living in some houses. The area has experienced many problems including noise, partying all night, sound traveling from block to block and landlords not responding to neighbors' complaints.

Dennis Coakley, said that he lives next to one of the properties Mr. Loucks owns. He described the property as resembling a jungle containing overgrown trees, fence being destroyed, poison ivy, grass, and weeds. Mr. Coakley also said that Mr. Loucks has never responded to any of his telephone calls concerning the issues.

There being no others desiring to be heard, the public hearing was declared closed at 8:15 p.m., and the regular session reconvened.

Vice-Mayor Peterson offered a motion to approve the special use permit request with two modifications to the Planning Commission's recommendation: (1) Reducing the occupancy of residents allowed from eight to seven to match the bedrooms (four bedrooms upstairs and three bedrooms downstairs) and (2) not closing off the alley behind the dwelling and preserving as much as possible of the green space. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Fitzgerald

Vice-Mayor Peterson

Council Member Lantz

No - Council Member Rogers

Mayor Frank

Absent - None

Sallie Strickler, a resident living at 1017 Smithland Road, complained about the lack of water and sewer for the Smithland Road residents. She said that in January 1983, the City of Harrisonburg entered into an agreement with Rockingham County to annex this area. She said that the neighborhood pays the same taxes as Windham Woods, Fairway Hills, and Forrest Hills except they don't have some basic needs, water and sewer. Smithland Road is the most densely populated area in the City that remains without water and sewer utilities. The residents of the area are burdened with funding their own water supplies. She reviewed the proposal of Planning Commission's recommendation to purchase a 48-acre tract of land adjacent to Hillendale Park to be used for passive use, park land expansion at Smithland Road, and the \$17 million Eastern Water Source project. She also reviewed the many problems the residents have experienced including digging new wells, replacing failed septic systems, replacing well pumps, septic fields being on neighbors' yards, and designing special septic systems to meet City Code. She presented a petition requesting water and sewer service to the area by December 2001.

Wayne Dean, a resident living at 935 Smithland Road, said that the neighborhood needed water and sewer in the area now.

City Manager Stewart clarified there are services that the City would like to be able to provide and has been looking at a way to provide these services for some time. It is important for everybody to understand that not one dime of tax money goes toward the support of the water and sewer system. The residents who receive water and sewer pay for the services. The residents who do not have the water and sewer services do not pay one penny for the services. Mr. Stewart said, AHe had instructed Director of Public Utilities Collins to take a very close look at the funding priorities and the Capital Improvement Program for the upcoming five-year period. He also noted that Smithland Road is not only area in the City where residents do not have water and sewer services. There are a number of pockets of residents who have lived and owned property in the City for longer than the 1983 annexation. Smithland Road is not unique in that situation. He also reminded residents in the Smithland Road area that their property taxes would be much higher in Rockingham County than in the City.

Director of Public Utilities Collins said that Smithland Road is the largest area that does not have water and sewer services in the City. He also reviewed other areas in the City that does not have water and sewer services. He said that his department is in the process of preparing the Capital Improvement Program and are aware of the problems concerning wells and cisterns in the Smithland Road area. However, he pointed out that there is significant infrastructures that have to be built before the Smithland Road area can be accepted into the water and sewer system. Sewer lines along Cantrell Avenue, Country Club Road, and under Route 33 will have to be upgraded before the entire development of Smithland Road can be handled. Mr. Collins also said that Blackwell Engineering is presently preparing a report similar to the report which was completed in 1994. Once this report is available, Mr. Collins said that it will be presented to City Council at a future meeting. It was noted that every year since 1994 the Smithland Road area has been discussed as part of the Capital Improvement Program; however, City Council has not made the project a top priority. Mr. Collins said, ALet me be very clear, what I can come up with and still have a balanced budget is going to come up short of the expectations I have heard tonight.@ He said that he will try to set priorities for Smithland Road within the existing rate structure; however, there will not be enough funds available to meet the requests and expectations of the residents of Smithland Road.

Economic Development Director Shall presented the following resolution for Council's consideration of approval:

RESOLUTION OF THE CITY COUNCIL

OF THE CITY OF HARRISONBURG, VIRGINIA

The Industrial Development Authority of the City of Harrisonburg, Virginia (the Authority), has considered the application of Valley Blox, Inc. (the Applicant), requesting the issuance of the Authority's industrial development revenue bonds in a principal amount not to exceed \$7,000,000 (the Bonds). The proceeds of the Bonds will be used to assist the Application in financing the acquisition of land, the construction of buildings and the purchase and installation of equipment (together, the Project). The Project will be used by the Applicant in its business of manufacturing precast concrete products. The land to be acquired contains approximately 92 acres, straddles the border between the City of Harrisonburg, Virginia (the City) and the County of Rockingham, Virginia (the County) and is bordered on the south by Acorn Drive and Mt. Clinton Pike and on the west by North Liberty Street and Kratzer Road. The buildings to be constructed will contain approximately 55,000 square feet of space.

The applicant is a Virginia corporation that has its principal place of business at 210 Stone Spring Road, Harrisonburg, Virginia 22801.

Section 147(f) of the Internal Revenue Code of 1986, as amended (the IRS Code) and Section 15.2-4906 of the Code of Virginia of 1950, as amended (the Virginia Code) provide that the highest elected governmental unit of the locality having jurisdiction over the issuer of private activity bonds and over the area in which any facility financed with the proceeds of private activity bonds is located must approve the issuance of the bonds. The Authority issues its bonds on behalf of the City and the Project will be located in both the City and the County. The City Council of the City of Harrisonburg, Virginia (the Council) constitutes the highest elected governmental unit and the governing body of the City. The Board of Supervisors of the County of Rockingham, Virginia (the Board) constitutes the highest elected governmental unit and the governing body of the County.

Following the public hearing held by the Authority on August 9, 2000, the Authority adopted a resolution (the Supplemental Resolution) in which it, among other things, (1) ratified the inducement resolution adopted by the Authority on July 13, 2000 (the Inducement Resolution) and (2) recommended and requested that the Council and the Board approve of the issuance of the Bonds by the Authority. A copy of the Supplemental Resolution and the Inducement Resolution, a reasonably detailed summary of the Authority's public hearing and the Applicant's Fiscal Impact Statement have been filed with the Council.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HARRISONBURG, VIRGINIA:

Section 1. The Council approves the issuance of the Bonds by the Authority in a principal amount not to exceed \$7,000,000 for the benefit of the Applicant, as required by Section 147(f) of the IRS Code and Section 15.2-4906 of the Virginia Code, to permit the Authority to assist in the financing of the Project.

Section 2. The approval of the issuance of the Bonds does not constitute an endorsement to a prospective purchaser of the creditworthiness of the Project or the Applicant, but, as required by Section 15.2-4909 of the Virginia Code, the Bonds shall provide that neither the City, the County nor the Authority shall be obligated to pay the Bonds or the interest thereon or other costs incident thereto except from the revenues and moneys pledged therefor and neither the faith and credit nor the taxing power of the Commonwealth of Virginia nor any political subdivision thereof, including the City, the County and the Authority, shall be pledged thereto.

Section 3. This Resolution shall take effect immediately upon its adoption.

Adopted: August 22, 2000

(Seal)

Clerk, City Council of the City of Harrisonburg,

Virginia

Economic Development Director Shull explained that this resolution will allow the Harrisonburg Industrial Development Authority to issue bonds for Valley Blox, Inc. The Industrial Development Authority unanimously approved an Industrial Resolution on July 13 and a Supplemental Resolution on August 9 to issue the \$7.0 million bonds for Valley Blox, Inc. Vice-Mayor Peterson offered a motion to approve this resolution as presented. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Fitzgerald

Vice-Mayor Peterson

Council Member Lantz

Mayor Frank

Abstained - Council Member Rogers

Absent - None

City Manager Stewart presented the following resolution for Council's consideration of approval:

RESOLUTION

OF THE CITY COUNCIL OF THE

CITY OF HARRISONBURG, VIRGINIA

WHEREAS, the Industrial Development Authority of the City of Harrisonburg, Virginia (the Authority@), has considered the plan of financing application of The Virginia Tech Foundation, Inc. (the AFoundation@) requesting the issuance of the Authority's revenue bonds, in one or more series, at one time or from time to time, in an amount not to exceed \$6,500,000 (the ABonds@), to assist in financing the acquisition, construction and equipping of an approximately 50,000 square foot bioinformatics center to be located on Pratt Drive in the Virginia Tech Corporate Research Center in Blacksburg, Virginia (the Project), all pursuant to the Foundation's plan of financing, and has held a public hearing on August 9, 2000;

WHEREAS, Section 147(f) of the Internal Revenue Code of 1986, as amended (the Code), provides that the governmental unit having jurisdiction over the issuer of private activity bonds and over the area in which any facility financed with the proceeds of private activity bonds is located must approve the issuance of the bonds;

WHEREAS, the Authority issues its bonds on behalf of the City of Harrisonburg, Virginia (the City) and the City Council of the City of Harrisonburg, Virginia (the Council) constitutes the highest elected governmental unit of the City;

WHEREAS, the Authority has recommended that the Council approve the plan of financing and the issuance of the Bonds; and

WHEREAS, a copy of the Authority s approving the issuance of the Bonds pursuant to the plan of financing, subject to the terms to be agreed upon, a certificate of the public hearing and Fiscal Impact Statement have been filed with the Council.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HARRISONBURG, VIRGINIA:

- 1. The Council approves the plan of financing and the issuance of the Bonds by the Authority for the benefit of the Foundation, as required by Section 147(f) of the Code and the Authority to assist the Foundation in its plan of financing.**

- 2. The approval of the plan of financing and the issuance of the Bonds do not constitute an endorsement to a prospective purchaser of the Bonds of the creditworthiness of the plan of financing or the Foundation.**

- 3. This resolution shall take effect immediately upon its adoption.**

Adoption by the City Council of the City of Harrisonburg, Virginia this 22nd day of August, 2000.

(Seal)

Clerk, City Council of the

City of Harrisonburg, Virginia

Earl Thumma, attorney with the law firm of Harrison, Thumma and Carr, and representing the Harrisonburg Industrial Development Authority, explained that the Virginia Tech Foundation, Inc., has requested that the Industrial Development Authority of the City of Harrisonburg approve the issuance of the bonds in an amount not to exceed \$6,500,000. The Harrisonburg Industrial Development Authority has conducted a public hearing on the proposed plan of financing the project. Approval of this resolution does not obligate the City in anyway nor does it count against the City's bond capacity. Council Member Lantz offered a motion to approve this resolution as presented. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Fitzgerald

Vice-Mayor Peterson

Council Member Rogers

Council Member Lantz

Mayor Frank

Absent - None

City Manager Stewart presented for Council's consideration a request from the United Way of Harrisonburg and Rockingham County to use the vacant lot behind the Community Development Building for the September 20 Kick Off event. He explained that the event will take place from 4:30 p.m. until 7:30 p.m. and will include food and music. He also said that the United Way has completed the appropriate application and they have met all Fire Department requirements. Council Member Rogers offered a motion to approve this request as presented. The motion was approved with a unanimous vote of Council.

Council Member Lantz offered a motion authorizing the City Manager to write a letter of support for Blue Ridge Community College. City Manager Stewart explained that BRCC has submitted this request for their continued Regional Competitiveness Program Investments from the Shenandoah Valley Partnership to support initiatives of the Plecker Workforce Center. The motion was approved with a unanimous vote of Council.

Fire Chief Shifflett presented a request for a supplemental appropriation for the Fire Department. He explained that the City has been approached by a local contractor inquiring as to what safety regulations and standards need to be met in order to construct a totally new concept for storage of natural gas. It is the contractor's intention to construct this new system at a location in the City prior to this coming heating season. After meeting with the contractor on several occasions, it is apparent that the codes and standards as they apply to this new concept are very lacking and in some cases non-existent. This funding will allow the City to engage the services of an engineering firm who specializes in this field to develop or assist in

developing, a safety standard with which to evaluate this new concept. Council Member Lantz offered a motion to approve this request for a first reading:

\$18,700 chge. to: 1000-31010 Amount from fund balance

\$18,700 approp. to: 1000-320132-43100 Professional Services

The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Fitzgerald

Vice-Mayor Peterson

Council Member Rogers

Council Member Lantz

Mayor Frank

Absent - None

Police Chief Harper presented a request for a supplemental appropriation for the Police Department. He explained that these funds were received from the drug forfeiture fund and will be used for polygraph school and EOD school, self locking holsters, face shields for riot helmets, and replacing vehicle radio mounts. Council Member Lantz offered a motion to approve this request for a first reading:

\$18,800.00 chge. to: 1000-31010 Amount from fund balance

\$ 8,600.00 approp. to: 1000-310431-45530 Training and Travel

4,200.00 approp. to: 1000-310231-46100 Police Supplies

6,000.00 approp. to: 1000-310431-48151 Motor Vehicles/Equipment

The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Fitzgerald

Vice-Mayor Peterson

Council Member Rogers

Council Member Lantz

Mayor Frank

Absent - None

Council Member Fitzgerald requested that anyone making presentations to Council refer to the full name of the project at least once rather than using initials and used the example (Capital Improvement Program as CIP).

City Manager Stewart expressed his personal thanks and appreciation for the opportunity to serve the community for nearly eight years as City Manager. He said, "It has been my pleasure, my privilege and an honor to serve the citizens of Harrisonburg. He thanked City Council, staff, and the community for the support and expressed his hopes and best wishes for the City."

Council Member Lantz said that he has had the opportunity to work with City Manager Stewart for six years and has never worked with anybody that has been more professional in their job than Steve Stewart. He also noted that Harrisonburg's loss will be Greenville's gain and said we will miss you.

Council Member Rogers said that he had been blessed to have the opportunity to work with City Manager Steve Stewart. He wished Steve and his family great success and happiness.

Council Member Fitzgerald said that he was sorry he didn't have more time to work with City Manager Stewart and wished the best for him in Greenville.

At 9:25 p.m., Council Member Fitzgerald offered a motion that Council enter a closed session for discussion and consideration of persons to be appointed to the Harrisonburg Parking Authority, Harrisonburg Planning Commission, Harrisonburg Parks and Recreation Commission, Harrisonburg Redevelopment and Housing Authority, Harrisonburg Electric Commission, and the Building Code Board of Appeals, exempt from public meeting requirements pursuant to Section 2.1-344(A)(1) of the Code of Virginia, 1950, as amended. Discussion of real property for a public purpose, exempt from public meeting requirements pursuant to Section 2.1-344(A)(3) of the Code of Virginia, 1950 as amended.

At 10:15 p.m., the closed 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 closed session by the City Council.

Council Member Fitzgerald offered a motion that David Wiens, 1520 College Avenue, be appointed to fill the unexpired term of Dr. William Robert Beasley to expire on December 31, 2000 on the Harrisonburg Planning Commission. The motion was approved with a unanimous vote of Council.

Council Member Lantz offered a motion that Joseph Gus Fitzgerald be appointed to take the place of Mayor Frank on the Harrisonburg Parks and Recreation Commission. The motion was approved with a unanimous vote of Council.

At 10:16 p.m., there being no further business and on motion adopted the meeting was adjourned.

CLERK

MAYOR