

REGULAR MEETING

JANUARY 9, 2001

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

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

Vice-Mayor Peterson offered a motion to approve the consent agenda, including approval of the minutes and referring an alley closing request to the Planning Commission. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Rogers

Council Member Lantz

Council Member Fitzgerald

Vice-Mayor Peterson

Mayor Frank

Absent - None

Planning and Community Development Director Turner introduced a request by Bill V. Neff for a variance to the requirement for sidewalks in the Blacks Run Industrial Park. She explained that Blacks Run Industrial Park is an industrial subdivision which a cul-de-sac LeRay Circle serves off Early Road. Because this area has no residential area, no commercial area or pedestrian traffic, it does not require sidewalks. She said that staff and Planning Commission recommended approving this request. Council Member Fitzgerald offered a motion to approve this request. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Rogers

Council Member Lantz

Council Member Fitzgerald

Vice-Mayor Peterson

Mayor Frank

Absent - None

City Attorney Miller reported on the legal interpretation of the bond documents. He explained that according to the legal advice from Douglas Lamb, attorney for the bond counsel, the City can create an advisory independent commission that would not place the City in the position of violating any covenants of the bond documents. However, the authority to make decisions including hiring and firing personnel must remain under the City government. He said that many objectives some Council Members wanted to meet can be met within the boundaries of the bond documents except it will be in a different form. He also said, Control of the golf course including management, operation, and maintenance cannot be turned over to the advisory commission without going to the investors of the bonds and asking for their consent, which amounts to an amendment and will probably incur some expense.

Vice-Mayor Peterson said that, He was appalled by the bond counsel=s interpretation saying they shouldn t have the authority to restrain the City from making administrative decisions.

Council Member Lantz commented that he and Vice-Mayor Peterson had worked out a compromise which may have been agreeable to the other Council Members before we heard the bond counsel s report stating that they cannot create an independent decision making body. Mr. Lantz said, According to what I read in the bond counsel s report, this Golf Course Advisory committee will operate similarly to the Parks and Recreation Commission. The Golf Course Advisory committee cannot hire individuals to work on the golf course, cannot establish a rate structure, cannot hire or fire the superintendent, so who will this group advise? I hope it is not City Council or the City Manager because we don t have the time and neither does the City Manager. He also said that because this group can only act as an advisory commission rather than a group having total authority, we may not attract the same quality people that we first thought might serve on this commission. Nevertheless, this group should work very closely with someone on a day to day basis and that person should be the Parks and Recreation Director Paula Gucker. If there are problems that Mrs. Gucker cannot resolve then she can present the problems to the City Manager.

Following further comments and discussion, Council Member Rogers offered a motion that an Golf Course Advisory Committee of three members be appointed by City Council and two members are appointed from the Parks and Recreation Commission. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Rogers

Council Member Lantz

No - Council Member Fitzgerald

Vice-Mayor Peterson

Mayor Frank

Absent - None

Vice-Mayor Peterson offered a motion that an Golf Course Advisory Committee of four members be appointed by City Council and one member appointed from the Parks and Recreation Commission. The motion also included that the Golf Course Advisory Committee should report to the Parks and Recreation Director. He also suggested that the deadline for receiving applications should be January 31, 2001. The recorded roll call vote was taken as follows:

Vote: No - Council Member Rogers

Yes - Council Member Lantz

Council Member Fitzgerald

Vice-Mayor Peterson

Mayor Frank

Absent - None

Council Member Lantz offered a motion that four out of the five City Council Members must agree on the four commissioners appointed to the Advisory Committee. The motion was approved with a unanimous vote of Council.

Council Member Lantz said that once this advisory group is formed, he would prefer that City Council not be involved with the group. He also said that members of the advisory group with the Parks and Recreation Director should decide on the details of how the committee should operate. However, Vice-Mayor Peterson suggested that two City Council Members should be involved with the five member Golf Course Advisory Committee. Again, Council Member Lantz suggested that seven members probably would be too many on the Golf Course Advisory Committee. He said that once the Golf Course Advisory Committee is formed that they should select two members to represent their group, then City Council should select two members and along with the Parks and Recreation Director, form a group to work with the City Attorney and the City Manager to work out the details regarding how the Advisory Committee will operate.

School Superintendent Ford presented a request for a supplemental appropriation for the School Board. He explained that these funds are unanticipated receipts from Federal and local funds that were not known during the budget process. It will not cost the City any additional local dollars. He also noted that Rocco, WLR,

Tyson, and Perdue have provided a grant to fund an evening program for parents and students for immigrants. Council Member Fitzgerald offered a motion to approve this request for a first reading:

\$88,515.00 chge. to: 1111-33301 School Revenue - Federal

15,500.00 chge. to: 1111-31691 School Revenue - Other

\$104,015.00 approp. to: 1111-11114-40610 Instruction

The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Rogers

Council Member Lantz

Council Member Fitzgerald

Vice-Mayor Peterson

Mayor Frank

Absent - None

Council Members Rogers and Lantz reported that they had attended a recent City/County Liaison meeting at which they discussed a basic plan for building a joint public safety building. The proposed building would allow the sheriff's office to be relocated in the same building as the police department, while opening more room for additional jail space in the current county facility, and a combined emergency operation center. The proposed project might remove a portion of Water Street to give the City a larger lot for the facility. The existing police station would be rebuilt. Council Member Lantz said that making more jail space would alleviate a serious concern with overcrowding and possibly avoid leasing space from Augusta County's new facility. Vice-Mayor Peterson suggested designing the building larger than what they will need to allow for some growing room. Council Member Rogers offered a motion directing City Manager Baker to work with Rockingham County Administrator Bill OBrien in preparing a detailed study of the project. The motion was approved with a unanimous vote of Council.

City Attorney Miller reported that at the December Council meeting a major rezoning was discussed concerning Old Town and whether having a moratorium on conversions would be legal or will it take either a change in the ordinance or a change in zoning to stop conversions. Mr. Miller said the answer is no. The Supreme Court of Virginia has made it clear that passing moratoriums to not permit an activity that is otherwise legal under the zoning ordinance is outside the delegated authority to local governments. He also said that the Old Town area cannot be rezoned too less than R-2, which it is now, but more than R-1 which is how it was advertised. One legal problem the City would have is that when you advertise to rezone a piece of property you don't have to actually predict what the final outcome will be in the public notice, but you cannot rezone it to a use that is more intensive than what was advertised. He said that the area needs to either be rezoned to R-1 or decide what to do with the area, but no moratoriums.

Vice-Mayor Peterson commented that he supported the single family nature of the Old Town area; however, he didn't think there would be any massive conversions of the area until the Planning Commission could appoint an Old Town Citizens Commission to work on alternate zoning classifications.

City Manager Baker announced that he had received a letter from Mrs. Ellen Walker, representing Harrisonburg's Northeast neighborhood, suggesting that a plaque honoring Lucy F. Simms be placed on the property at the Simms school building. Mr. Baker said that he would forward the letter to the School Board for their approval since it is school property.

At 8:35 p.m., Vice-Mayor Peterson offered a motion that Council enter a closed session for the purpose of discussing and considering prospective candidates for appointment to the following boards and commissions: Harrisonburg Electric Commission, Harrisonburg Building Code Board of Appeals, and the Social Services Advisory Board. A closed session is permissible for this purpose pursuant to Section 2.1-344-A.1 of the Code of Virginia (1950), as amended (the Code). IN ADDITION, the purpose of the closed session is for the discussion of matters related to parcels of real property. A closed session is permissible for this purpose pursuant to Section 2.1-344.A.3 of the Code. IN ADDITION, the purpose of the closed session is for the discussion of matters related to a prospective business or industry or the expansion of one. A closed session is permissible for this purpose pursuant to Section 2.1-344.A.5 of the Code.

At 9:50 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 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 John C. Sease, 560 Neff Avenue, Suite 100, be appointed to a first term on the Harrisonburg Building Code Board of Appeals to expire on November 30, 2005. The motion was approved with a unanimous vote of Council.

At 9:51 p.m., there being no further business and on motion adopted the meeting was adjourned.

CLERK

MAYOR

