

MINUTES - REGULAR MEETING OF CITY COUNCIL - JULY 23, 2002

REGULAR MEETING

JULY 23, 2002

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

Council Member Frank gave the invocation and Mayor Fitzgerald led everyone in the Pledge of Allegiance.

Council Member Peterson offered a motion to approve the consent agenda, including approval of the minutes and the second reading amending and re-enacting Section 13-1-60.01 (b) and making revisions to Section 10-3-110 of the City Code. The motion also included the second reading approving zoning proffers for a tax map parcel. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Lantz

Council Member Frank

Vice-Mayor Rogers

Council Member Peterson

Mayor Fitzgerald

Absent - None

Planning and Community Development Director Turner introduced a request by the Driver Corporation to rezone 3.121 acres from M-1, General Industrial District to B-2C, General Business District (conditional). The property is located at 1594 South Main Street. She reviewed the surrounding uses in the area. The proposed use for the building is a family recreation center to feature activities such as paintball arena, miniature golf, rock climbing wall, arcade games, pizza and refreshment stands and party rooms. The outside of the facility might be utilized as a go-cart track. The Comprehensive Plan's Land Use Guide

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designates this property as commercial. This classification is intended for retail, wholesale, or service functions. Mrs. Turner said that because this property is adjacent to the City park staff had some concerns with its compatibility with the park use. The applicant has proffered that a natural state vegetative buffer will be maintained in the 30-foot setback area adjoining Purcell Park. Additional planting will be provided in the area as mutually agreed by Driver Corporation and the City's Director of Parks and Recreation. Also, another proffer is that appropriate exterior lighting will be provided in any exterior area used for recreational purposes, in accordance with City Code requirements. She said that Planning Commission recommended approval of the rezoning request.

Council Member Peterson asked Mrs. Turner to read the amended proffers again and questioned whether the mutual agreement statement added anything to the proffer. He said the rewording of the proffer was very vague.

At 7:40 p.m., Mayor Fitzgerald 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 Friday, July 12, Monday, July 15, and Thursday, July 18, 2002.

Notice Of Public Hearing

The Harrisonburg City Council will hold a public hearing on Tuesday, July 23, 2002, at 7:30 p.m. in the Municipal Building, City Council Chamber, 345 South Main Street, to consider the following.

REZONING Driver CORPORATION

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Public hearing to consider a request by the Driver Corporation to rezone tax map parcel 10-C-9 (3.121 acres) from M-1, General Industrial District to B-2, General Business District. The property is located at 1594 South Main Street.

The Comprehensive Plan designates this area as Commercial. This designation states that these areas include uses for retail, wholesale, or service functions. These areas are found along major travel corridors and in the Central Business District of the City.

The Zoning Ordinance states that the B-2, General Business District is intended to provide sufficient space in appropriate locations for a wide variety of retail shopping, commercial, automotive, miscellaneous recreational, and service activities. The M-1, General Industrial District is intended primarily for manufacturing, processing, storage, and distribution activities, which are not properly associated with, nor compatible with, residential and institutional development. No minimum lot size restrictions exist in the B-2 or M-1 Districts.

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 these public hearings. 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

Roger D. Baker

City Manager

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

Bucky Berry, a resident of 877 North Main Street, said that the proposed new facility would be an asset to the community.

David Driver, a resident of 1150 Hillcrest Drive, and owner of the property said he had amended the wording in the proffer after being questioned by the Planning Commissioners. He said they wanted to know what type of trees would be planted. Mr. Driver said that he was willing to provide a natural state vegetative buffer, but not planting expensive trees. There being no others desiring to be heard, the public hearing was declared closed at 7:41 p.m., and the regular session reconvened.

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Some discussion by Council Members relative to the request included that the amended proffer was not legally enforceable, natural state vegetative buffer was too vague, and City Council should be presented with a better worded proffer.

Council Member Lantz offered a motion to approve this rezoning request for a first reading provided that before the second reading is held August 13th, the proffer contained more defined language regarding the landscaping. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Lantz

Council Member Frank

Vice-Mayor Rogers

Council Member Peterson

Mayor Fitzgerald

Absent - None

City Manager Baker presented a request for a supplemental appropriation of funds encumbered at June 30, 2002. He explained that these funds are for purchase orders out of last year's budget for a variety of good and/or services.

At 7:46 p.m., Mayor Fitzgerald 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 Tuesday July 16, 2002.

Notice Of Public Hearing

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The Harrisonburg City Council will hold a public hearing on Tuesday, July 23, 2002, at 7:30 p.m. in the Municipal Building, City Council Chamber, 345 South Main Street. The purpose of this public hearing will be to get citizen input concerning a proposed increase in the City's 2002-2003 budget in the amount of \$1,335,880.77. This amount represents outstanding encumbrance at June 30, 2002. The budget increases will be noted below:

Revenues:

General Fund:

Amount from fund balance \$974,677.57

Water Fund:

Amount from fund balance 65,320.20

Sewer Fund:

Amount from fund balance 18,757.00

Public Transportation Fund:

Amount from fund balance 194,640.00

Sanitation Fund:

Amount from fund balance 82,486.00

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Total revenues \$1,335,880.77

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Expenditures:

General Fund \$974,677.57

Water Fund 65,320.20

Sewer Fund 18,757.00

Public Transportation Fund 194,640.00

Sanitation Fund 82,486.00

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Total expenditures **\$1,335,880.77**

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

Roger D. Baker

City Manager

Mayor Fitzgerald called on anyone desiring to speak for or against these encumbrances. There being no one desiring to be heard, the public hearing was declared closed at 7:47 p.m., and the regular session reconvened. Council Member Lantz offered a motion to approve this request for a first reading, and that:

\$974,677.57 chge. to: 1000-31010 Amount from fund balance

65,320.20 chge. to: 2011-31010 Amount from fund balance

18,757.00 chge. to: 2012-31010 Amount from fund balance

194,640.00 chge. to: 2013-31010 Amount from fund balance

82,486.00 chge. to: 2014-31010 Amount from fund balance

\$ 2,326.00 approp. to: 1000-120912-48111 Machinery and equipment

3,603.66 approp. to: 1000-120912-48121 Furniture and fixtures

3,500.00 approp. to: 1000-121012-48171 EDP equipment

5,688.00 approp. to: 1000-121313-48271 EDP equipment

7,286.33 approp. to: 1000-122011-48173 Software

1,822.50 approp. to: 1000-310431-48111 Machinery and equipment

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2,038.80 approp. to: 1000-310431-48172 Hardware

13,206.80 approp. to: 1000-310431-48173 Software

475,000.00 approp. to: 1000-310432-48272 Hardware

5,415.00 approp. to: 1000-320232-46110 Uniforms

23,394.75 approp. to: 1000-320232-48151 Motor equipment and equipment

2,400.00 approp. to: 1000-340121-45530 Training and travel

2,250.00 approp. to: 1000-340121-48271 EDP equipment

7,300.00 approp. to: 1000-340121-48273 Software

20,124.00 approp. to: 1000-410121-48291 Engineering/mapping

2,190.00 approp. to: 1000-430221-48181 Building and grounds

7,250.00 approp. to: 1000-410241-45230 Telecommunications

31,000.00 approp. to: 1000-410241-48293 Work in progress # 2

80,438.64 approp. to: 1000-410241-48294 Work in progress annexed area #1

79,133.98 approp. to: 1000-410241-48297 Work in progress West Market St.

1,010.38 approp. to: 1000-710171-46132 Ed/rec Supplies Athletics

9,000.00 approp. to: 1000-710171-48181 Building and grounds

60,730.00 approp. to: 1000-710171-48184 Improvements

59,500.00 approp. to: 1000-710171-48284 Improvements

56,000.00 approp. to: 1000-710471-48184 Improvements

1,636.00 approp. to: 1000-710871-48184 Improvements

2,125.00 approp. to: 1000-810521-43100 Professional services

3,135.00 approp. to: 1000-810521-43600 Advertisement

1,799.00 approp. to: 1000-810521-48171 EDP equipment

5,646.00 approp. to: 2011-312061-43610 Consumer confidence report

4,016.00 approp. to: 2011-322061-46180 Chemicals

24,700.00 approp. to: 2011-332061-43382 H2O loss mgt. Meter test

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7,300.00 approp. to: 2011-332061-46072 Maint. & repair supplies meter repl
16,658.20 approp. to: 2011-362061-46180 Chemicals
1,000.00 approp. to: 2011-372061-48188 Tanks and pumps
6,000.00 approp. to: 2011-372061-48216 SCADA
5,000.00 approp. to: 2012-472061-48111 Machinery and equipment
6,507.00 approp. to: 2012-472061-48116 SCADA
7,250.00 approp. to: 2012-472061-48131 Radio equipment
79,068.00 approp. to: 2013-812081-45350 Motor vehicle insurance
109,093.00 approp. to: 2013-872081-48253 Transit buses
6,479.00 approp. to: 2013-872081-48254 School buses
82,486.00 approp. to: 2014-972043-48111 Machinery and equipment

The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Lantz
Council Member Frank
Vice-Mayor Rogers
Council Member Peterson
Mayor Fitzgerald

Absent - None

Planning and Community Development Director Turner introduced a request by Bill Neff to subdivide 20.939 acres located at 3170 and 3180 South Main Street into two lots and a roadway. This request is for a variance to the Subdivision Section 10-2-41(a) requiring streets and alleys to conform to the design and standards and specifications of the Design and Construction Standards Manual, specifically the radius of street intersections. The property is currently zoned B-2. Mrs. Turner reviewed the surrounding property uses in the area. The two parcels under consideration for the preliminary platting have gone through some minor boundary changes over the past several years. Land has been added to the current Pano's Restaurant lot and

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Massanutten Bank and Trust lot along South Main Street from these lots. In addition, the boundary between the Red Carpet Inn and the larger lot has been adjusted to better accommodate the hotel. Many of these lot line changes have gone through a minor subdivision or were not required to go through the City's subdivision process because the lots were over the five-acre limit for subdivisions. The Design and Construction Standards Manual (DSCM), Section 3.3.4.1 requires that intersection curb radius shall be 25 feet minimum for local streets and 35 minimum for all other classifications. The developer is requesting a variance to reduce the 35 feet required to 30. She said that staff does not have objections to the variance requested and although several minor subdivisions created the actual property lines as they are today, these were done without the knowledge that a future road would definitely be constructed. The minor subdivisions added additional square footage to the Pano's Restaurant and bank properties. She said that staff, Director of Public Works and the City Engineer reviewed the preliminary plat and determined that it would not create a problem for the City to reduce this radius. She said that Planning Commission recommended approval of the request. Council Member Peterson offered a motion to approve this request preliminary plat as presented. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Lantz

Council Member Frank

Vice-Mayor Rogers

Council Member Peterson

Mayor Fitzgerald

Absent - None

Planning and Community Development Director Turner introduced a request by Kenneth Patterson (contract purchaser) to subdivide a preliminary plat into 12 townhouse lots zoned R-3, Multiple Dwelling Residential District with a variance to the Subdivision Ordinance that requires all lots to front on a public street. The property is located at 2419 Stonewall Drive. The Comprehensive Plan designates this area as Medium-Density Residential. This designation states that these areas are near major thoroughfares or commercial areas. She reviewed the surrounding uses in the area. The requested variance is in Section 10-2-42(d) of the Subdivision Ordinance, which states that all lots, shall front on a public street. These townhouses instead of fronting directly onto a public street would front onto to the parking lot. She said that Planning Commission recommended unanimous approval of the request. Vice-Mayor Rogers offered a motion to approve this request. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Lantz

Council Member Frank

Vice-Mayor Rogers

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Council Member Peterson

Mayor Fitzgerald

Absent - None

Christine Michaels, Chamber of Commerce executive director, introduced herself to City Council and made a few brief remarks. She said that she has been at the chamber two weeks and is excited to be in the community. She said that she looked forward to working with the City and its various departments.

Todd Hedinger, President of the Friends of the Blacks Run Greenway, presented an overview of the organization. Friends of the Blacks Run Greenway is a nonprofit group planning a series of parks, paths and other recreational amenities along the banks of Blacks Run. Mr. Hedinger said that last year the group worked toward helping the citizens in Harrisonburg shift their perception of Blacks Run. As a greenway organization our belief is that it is not an after thought, it is not a liability, nor is it an eyesore or sewer ditch. Blacks Run flows through the heart of Harrisonburg. The Greenway would be a link connecting neighborhoods in the north and south with downtown housing and businesses and City parks. The task of changing people's perceptions began years ago with citizens conducting annual clean-ups and developing different park areas. During the past year, the Friends of Black Run Greenway have held two public meetings, dozens of presentations before civic groups and in classrooms, and has had interviews on television, radios and in the newspaper. Signs of success have been through the list of supporters, working hundreds of hours and volunteer time, hundreds of surveys turned in, hundreds of dollars donated by private citizens, and donations by the City and many area companies. Directions for next year will focus on master planning and designing space. The current projects focus on relatively small areas of the City. He said, These are things that we can start and finish to show the public that this can be done.

Lucy Ivanoff, representing the law firm of Wharton, Aldhizer and Weaver, announced that philanthropist Zane Showker will donate \$1 million to clean up and maintain Blacks Run. The \$1 million will act as a kind of endowment, with the City using interest from the gift to pay salaries and other expenses related to the ongoing maintenance of the stream.

Stephanne Byrd, executive director of the Harrisonburg-Rockingham Community Foundation Board of Directors, expressed her appreciation to Mr. Showker for his establishment of a permanent endowment within the community foundation for the purpose of keeping the greenway clean. Not only is Mr. Showker's gift an outward sign of his commitment to ongoing beautification efforts of many folks here in this community, it is also an investment in the mission of the community foundation. Ms. Byrd said, Philanthropist such as Mr. Showker provide an example to each of us, demonstrating what it means to leave a legacy for future generations.

Scott Jost mentioned that the Friends of the Blacks Run Greenway have raised \$14,725. He asked City Council to endorse the Blacks Run Greenway Master Plan and send the master plan to the Planning Commission for inclusion in future comprehensive planning in Harrisonburg. He also said that the group would conduct the work of developing segments of the greenway project. He requested that the City assume

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responsibility for the easements for the greenway, assuming liability issues for patrol of the greenway, maintenance of the greenway and agree to let the Friends of Blacks Run Greenway work together with the City Attorney, Parks and Recreation, Public Works and other departments to determine the best method for this to happen. He requested that Council endorse the contribution of City resources and specifically land and staff in order to further the development of the greenway. This request includes land in Purcell Park and City owned land that would be in the downtown corridor between Gay and Elizabeth Streets. The longer-term request would include City land in general along the Greenway route subject to working out the details with responsible City agencies. City-owned land along the greenway is an ideal starting point for the project.

Some discussion by Council Members relative to the project included appreciation to Zane Showker for his contribution, Mr. Showker's continued pattern of generosity toward the community and the greenway, Council enthusiasm about the greenway project becoming an amenity for the community and including road design planning for sidewalks and bike paths on any future street widening in the City.

Council Member Lantz offered a motion to refer this Blacks Run Greenway project to the Planning Commission for its recommendation. The motion was approved with a unanimous vote of Council.

City Treasurer Neal presented a request to authorize the advertising of delinquent real estate taxes for 1999/2000 and 2000/2001. Council Member Frank offered a motion to authorize the City Treasurer to advertise the delinquent real estate taxes. The motion was approved with a unanimous vote of Council.

City Treasurer Neal presented a request to amend Section 15-2-28 of the Harrisonburg City Code. She explained that currently the City sells dog tags that are valid for one year (January/January). The reason for the desired change is a matter of convenience for the dog owner. When dogs receive their first rabies shot as a puppy, it is good for one (1) year. However, when a mature dog receives a rabies shot it is good for three (3) years. She said that dog owners get irritated when they have to produce a valid rabies certificate each of those three years to receive their one-year dog tag. By going to multi-year tags they have the option of buying a one (1) year tag (for young or elderly dogs), two (2) year tag (if vaccination runs out prior to three (3) year option), or a three (3) year tag. This is something that other localities have gone to and it appears to work very well. This change will also affect the charge for a kennel. Mrs. Neal proposed that the City change the annual license tax imposed upon the ownership of dog to one (1), two (2), or three (3) year tags. Council Member Peterson offered a motion to amend this section of the City Code for a first reading. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Lantz

Council Member Frank

Vice-Mayor Rogers

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Council Member Peterson

Mayor Fitzgerald

Absent None

Police Chief Harper presented for Council's consideration an application from Robert P. Hume of Travel Mates of Virginia for a Certificate of Public Convenience and Necessity to operate a taxicab business. He explained that the Police Department has conducted an investigation in accordance to City Code Section 14-1-1. Mr. Hume would like to provide an upscale taxi service for his company's tour participants and persons using the Greyhound bus line needing transportation to and from the terminal. Police Chief Harper recommended that the application be approved. Council Member Lantz offered a motion to approve the application and issue a Certificate of Public Convenience & Necessity for Travel Mates. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Lantz

Council Member Frank

Vice-Mayor Rogers

Council Member Peterson

Mayor Fitzgerald

Absent None

City Manager Baker introduced a request from Nautilus Fitness Center to hold a Fab Four Miler race to benefit the Harrisonburg Rescue Squad. Valerie Homes, owner of Nautilus Fitness Center, said that the center has held a different fund raising event each year to benefit local organizations in the community. She reviewed the event's route, which will cover four miles starting at Lucy Drive on Saturday, September 14th at 8:00 a.m., and return to Lucy Drive cul-de-sac. City Manager Baker reminded Ms. Homes that she needed to obtain a certificate of insurance before the race and that several staff members had expressed concern that the racers would be crossing many intersections on a Saturday morning. In addition, there will also be a James Madison University's football game on Saturday, September 14th, which will attract more traffic than usual. Council Member Peterson offered a motion to approve the race in concept and requested that City Manager Baker work with the group organizers to make minor changes to the event's route. The motion was approved with a unanimous vote of Council.

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City Council Members agreed to hold a retreat on August 3rd to review goals and issues of the City.

Vice-Mayor Rogers offered a motion to abolish the Charter Committee. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Lantz

Vice-Mayor Rogers

Council Member Peterson

Mayor Fitzgerald

No - Council Member Frank

Absent None

Bucky Berry, a resident of 877 North Main Street, complained about several streets in the City having a lot of litter.

Council Member Lantz offered a motion that Donald E. Kidd, Jr., 325 Park Avenue, should be recommended to the Circuit Court for a first term on the Board of Zoning Appeals to expire on March 20, 2007. The motion was approved with a unanimous vote of Council.

Council Member Lantz offered a motion that Nancy Garber, 1275-D Harmony Drive, be appointed to a first term on the Harrisonburg Parking Authority to expire on November 28, 2006. The motion was approved with a unanimous vote of Council.

At 9:17 p.m., there being no further business and on motion adopted the meeting was adjourned.

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CITY CLERK

MAYOR