

MINUTES - REGULAR MEETING OF CITY COUNCIL - AUGUST 27, 2002

REGULAR MEETING

AUGUST 27, 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 Police Captain Malcolm Wilfong. Absent: Chief of Police Donald Harper.

Vice-Mayor Rogers 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 of Supplemental Appropriations for the Police Department and amending Section 11-1-12, 11-2-35, and 11-3-46 of the Harrisonburg City Code. The motion also included referring closing a portion of Beech Street and closing a portion of an alley behind Kyger & Trobaugh Funeral Home to the Planning Commission. The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers

Council Member Peterson

Council Member Lantz

Council Member Frank

Mayor Fitzgerald

Absent None

Parks and Recreation Director Foerster presented a request for transferring property and creating a trail connecting Westover Park and Hillandale Park. Mr. Foerster explained that in 1999 the department applied for and received a grant from the TEA 21 (Transportation Enhancement Act for the 21 Century). This grant's purpose, and one of the requirements was to connect neighborhoods with schools and parks. The original plan

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called for the trail to run out of Hillandale Park along the power lines adjacent to the Lineweaver property, behind Wyndam Woods, past the middle school and then out to US 33 and down the sidewalk to Westover Park. With the construction of the golf course that route is no longer feasible. Since January, the Park and Recreation Department has worked to find an alternative to the original plan. He said that on August 14<sup>th</sup> the proposed trail was presented to Planning Commission as two issues. The first item presented for approval to the Planning Commission was the portion to be routed on City streets coming out of the Bridgewater College property on Oak Lane to Circle Drive to Turkey Run and back to Circle Drive to Neyland Avenue. Planning Commission voted six to zero against this proposal. The second item presented was the concept of swapping approximately 2 ½ acres of Westover Park for a similar-sized tract on the Annie B. Good property allowing a trail to be connected from Westover Park with Thomas Harrison Middle School and Thomas Harrison Middle School with paper street Neyland Drive. Planning Commission approved this concept by a vote of seven to zero. It is this concept (the land swap) that City Council is being asked to approve. He then showed a power point slide show highlighting the major points of the project. After the slide show, Mr. Foerster pointed out different features of the project on a large map. He said that since Planning Commission turned down the portion of the trail along a street route, the Parks and Recreation Department is no longer interested in pursuing that portion of the trail.

Mayor Fitzgerald questioned whether paperwork would still be required under the Conservation Act for the land swap facilitating the development of a walking trail from Westover Park to Thomas Harrison Middle School. Mr. Foerster said that in 1972, the Parks and Recreation Department received a grant of approximately \$60,000 to develop portions of Westover Park. If the land swap is approved the conditions placed on the grant would require the City to conduct a six month conversion study before development can begin. The conversion process would require an appraisal of the property being traded and the appraisal would have to equal the traded property in monetary value and in recreational value.

At 7:48 p.m., Mayor Fitzgerald 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 12, and Monday, August 19, 2002.

## **Notice Of Public Hearing**

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**The Harrisonburg City Council will hold a public hearing on Tuesday, August 27, 2002, at 7:30 p.m. in the Municipal Building, City Council Chamber, 345 South Main Street, to consider the following:**

**Public hearing to consider the transfer of property identified as tax map parcel 37-A-10 and 11 and 36-P-1 (2.17 acres approximately) by the City of Harrisonburg, Virginia and contract purchasers William and Susan Cale. The transfer will facilitate the location and construction of a recreation trail linking Hillandale Park and Westover Park. The property is located west of Westover Park and connects to Neyland Drive. If this request is granted this property will be subdivided and transferred between the property owners.**

**Maps and other information are available for review in the Department of Parks and Recreation, 305 South Dogwood Drive, 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**

**Roger D. Baker**

**City Manager**

Mayor Fitzgerald called on anyone desiring to speak for or against a proposed land swap creating a trail from Westover Park to Thomas Harrison Middle School. Mr. Fitzgerald clarified that the Parks and Recreation Department has withdrawn the trail along City streets connecting Westover Park and Hillandale Park.

Deb Mitchell, a resident of Wyndham Woods Circle, said that she supported the idea of a walking trail. She said that her family has lived in communities having walking trails and found them to be wonderful. They promote a sense of community that is too often missing. People can walk, jog, spend time with their children, ride bikes because there aren't a lot of safe places for that to occur in our City. Criminal activities are less likely to happen and easier to control on a walking trail. Also, a walking trail could enhance property values.

Todd Hedinger, a resident of 32 Emory Street, said the land swap shouldn't be a conversational issue. Parks have been in the City for many years. The trail should provide a safe means of transportation.

Suzanne Obershain, a resident of 1062 Wyndham Drive, presented a petition containing signatures of 35 residents and property owners from the Wyndham Drive neighborhood. She said that the residents opposed a plan to develop a walking trail behind their homes. The proposed trail could decrease property values, cause an invasion of privacy, increase traffic within the neighborhood and will directly disturb the natural surroundings within the backyards.

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There being no others desiring to be heard, the public hearing was declared closed at 7:58 pm., and the regular session reconvened.

The following discussion by Council Members relative to the proposed land swap included whether the land swap would facilitate development of a walking trail, lots of obstacles, certain level of uncertainty whether the City will be able to spend the grant money on this project, whether the Conversation Act paper work can be completed on time, and confusion because three different trails have been discussed. Council Member Lantz offered a motion requesting that City Manager Roger Baker and Director of Parks and Recreation Lee Foerster look into purchasing the property that would have been involved in the land swap originally. The motion also included presenting a report to City Council at a later meeting. The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers

Council Member Peterson

Council Member Lantz

Council Member Frank

Mayor Fitzgerald

Absent None

Nathan Miller, representing Virginia Technology Incubator, said that Virginia Technology Incubator purchased the land from the City with an agreement that the City would subordinate its loan for financing of the purchase to the construction price. The construction price was estimated at \$1 million. The building is completed and occupied. But, the construction cost has exceeded the original estimate. Following further discussion and comments, Council Member Lantz offered a motion to approve the subordination agreement. The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers

Council Member Peterson

Council Member Lantz

Council Member Frank

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Mayor Fitzgerald

Absent None

Planning and Community Development Director Turner presented an overview of the Blacks Run Greenway Master Plan. She said that Planning Commission has unanimously recommended to endorse five concepts of Blacks Run Greenway Master Plan to City Council. The concepts include 1) endorsement of the Greenway Master Plan. 2) send to Planning Commission for inclusion in the Comprehensive Plan, 3) City participation in the capacity of holding easements, assuming liability, providing security, and maintenance, 4) contributions of City resources to include land and staff support, 5) support City related agencies to cooperate with the efforts of the Friends of Blacks Run Greenway such as the Harrisonburg Redevelopment and Housing Authority, Harrisonburg Electric Commission, and the school system. Council Member Peterson offered a motion to endorse the Blacks Run Greenway Master Plan. The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers

Council Member Peterson

Council Member Lantz

Council Member Frank

Mayor Fitzgerald

Absent None

School Superintendent Ford announced that Nielsen Construction was the lowest bidder for constructing a new Harrisonburg High School. He said that last year City Council approved the issuance of bonds through VPSA in the amount of \$41.5 million to build a new high school. The School Board is ready to begin construction so that the project can be finished by the fall of 2004. He requested a commitment from City Council to allow the School Board to use the necessary amount from the school's unappropriated fund balance that may be needed to complete the project. The fund, with a current balance of \$1.2 million, includes revenue from the state lottery, past budget surpluses and other savings. No additional funds are being requested from City Council. But, Dr. Ford mentioned that the board may come back to Council at some point during construction to request up to \$500,000 from the school system's unappropriated fund. Council Member Lantz suggested board members look to cut corners somewhere before they come back to the Council with any funding request. Following further discussion and comments, Council Member Lantz offered a motion to approve a resolution allowing the School Board to return, if needed, to request additional funding for construction of the new high school. The recorded roll call vote was taken as follows:

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Vote: Yes - Vice-Mayor Rogers

Council Member Peterson

Council Member Lantz

Council Member Frank

Mayor Fitzgerald

Absent None

Council Member Peterson offered a motion to schedule a public hearing on September 24, 2002 amending Section 6 How Vacancies are Filled of the Harrisonburg City Charter. The recorded vote was taken as follows:

Vote: Yes - Council Member Peterson

Council Member Frank

Mayor Fitzgerald

Abstained - Council Member Lantz

Vice-Mayor Rogers

Absent None

City Manager Baker presented a request from Rockingham County Public Schools. He explained that the schools have requested permission to hold a special event Celebrating Character Counts on Court Square on Thursday, September 12<sup>th</sup> from 5:30 p.m. until 8:00 p.m. Council Member Peterson offered a motion to approve this request. The motion was approved with a unanimous vote of Council.

Mayor Fitzgerald presented the following resolution for Council's consideration.

**2002 General Obligation Bond Referenda**

*Endorsement Resolution*

**WHEREAS, on November 5, 2002, Virginia voters will have an opportunity to approve two important general obligation bond referenda: a \$900 million bond for Higher Education and Museums and a \$119 million bond for State Parks and Natural Areas; and**

**WHEREAS, the future of Virginia rests in the quality of our schools, and this \$900 million bond will pay for needed upgrades, renovations, modernizations and new construction at all public community colleges, senior colleges and universities in the state; and**

**WHEREAS, the state-owned museums are stewards of Virginia's artistic, historical and scientific heritage. They are not only interested in the past; they serve as catalysts for future scholarship, innovation and creativity; and**

**WHEREAS, the Parks and Natural Areas Bond referendum will enhance Virginia's tourist potential, increase the flow of out-of-state revenue to Virginia; help stimulate our sluggish economy particularly in rural areas, and improve recreational offerings throughout Virginia for the enjoyment of our citizens and families; and**

**WHEREAS, Virginians can provide further for future generations by supporting the \$900 million Education Bond referendum that would finance capital improvement for universities, colleges, and museums; and**

**WHEREAS, voter support of these referendums would result in significant improvements to the state's educational facilities, outdoor lands and museums, without a tax increase, as well as create jobs throughout the Commonwealth; and**

WHEREAS, there would be direct benefit to the Harrisonburg area since the Higher Education Bond Issue includes significant projects for James Madison University and Blue Ridge Community College and support for area parks is included in the Parks and Natural Areas referendum:

**THEREFORE, BE IT RESOLVED that the City Council of Harrisonburg endorses the passage of the Higher Education Bond referendum and the Virginia State Parks and Natural Areas Bond referendum**

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**and further encourages other citizens of the Commonwealth to support these referenda on the November 5, 2002, ballot.**

**So Resolved this 27<sup>th</sup> day of August 2002.**

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**MAYOR**

**ATTESTE:**

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**CLERK OF THE COUNCIL**

Fred Hilton, Director of University Communications, at James Madison University, said the Shenandoah Valley Partnership is planning to take a position on the State Bond Referendums, which will be on the November 5, 2002 ballot. These bonds will pay for needed upgrades, renovations, modernizations and new construction at all public community colleges, colleges and universities in the state. In addition, the bonds will provide needed funding for the state to take over the Upper Valley Regional Park Authority. Council Member Peterson offered a motion to approve supporting the bond referendums. The motion was approved with a unanimous vote of Council.

City Manager Baker presented a request for support from the Shenandoah Resource Conservation and Development (SRCD). He explained that the Shenandoah Valley Soil and Water Conservation district is in the process of establishing a new organization that will give the SVSWCD access to Federal Funds that are not available under the current charter. The SVSWCD would like for the City of Harrisonburg to become one of 15 Associate Sponsors of the new organization. Mr. Baker said that he supported the request and noted that no additional funding is being sought from the City. Council Member Frank offered a motion to approve this request. The motion was approved with a unanimous vote of Council.

City Manager Baker presented a request for a supplemental appropriation for the Public Utilities Department. He explained that these funds from the past fiscal year unappropriated Water Fund balance will be used to extend the waterline in the Smithland Road area. Council Member Lantz offered a motion to approve this request for a first reading, and that:

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\$300,000 chge. to: 2011-31010 Amount from fund balance

300,000 chge. to: 1321-34220 Transfer from Water Fund

\$300,000 approp. to: 2011-392061-49216 Transfer to Capital Projects

300,000 approp. to: 1321-910161-48633 Smithland Road

The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers

Council Member Peterson

Council Member Lantz

Council Member Frank

Mayor Fitzgerald

Absent None

City Manager Baker presented a request for a supplemental appropriation for the Fire Department. He explained that these funds were received by the Fire Department from state grants and will be used for fire programs and hazmat supplies. Council Member Lantz offered a motion to approve this request for a first reading, and that:

\$30,877.15 chge. to: 1000-31010 Amount from fund balance

\$14,921.66 approp. to: 1000-320232-48203 Fire programs fund

15,955.49 approp. to: 1000-350532-46160 Hazmat supplies

The recorded roll call vote was taken as follows:

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Vote: Yes - Vice-Mayor Rogers

Council Member Peterson

Council Member Lantz

Council Member Frank

Mayor Fitzgerald

Absent None

Police Captain Wilfong presented a request for a supplemental appropriation for the Police Department. He explained that these funds will be used to purchase digital cameras and equipment. Council Member Lantz offered a motion to approve this request for a first reading, and that:

\$1,998.00 chge. to: 1000-31901 Recoveries and Rebates

\$1,998.00 approp. to: 1000-310231-48111 Machinery & equipment

The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers

Council Member Peterson

Council Member Lantz

Council Member Frank

Mayor Fitzgerald

Absent None

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Police Captain Wilfong presented a request for a supplemental appropriation for the Police Department. He explained that these funds will be used to purchase additional surveillance equipment. Council Member Lantz offered a motion to approve this request for a first reading, and that:

\$4,478.15 chge. to: 1000-31010 Amount from fund balance

\$4,478.15 approp. to: 1000-310231-48211 Machinery and equipment

The recorded roll call vote was taken as follows:

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

Absent None

Police Captain Wilfong presented a request for a supplemental appropriation for the Police Department. He explained that these funds will be used to purchase additional surveillance equipment from a 2000 block grant. Council Member Lantz offered a motion to approve this request for a first reading, and that:

\$2,090.78 chge. to: 1000-31010 Amount from fund balance

\$2,090.78 approp. to: 1000-310331-48211 Machinery and equipment

The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers

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Council Member Peterson

Council Member Lantz

Council Member Frank

Mayor Fitzgerald

Absent None

Police Captain Wilfong presented a request for a supplemental appropriation for the Police Department. He explained that these funds will be used to have a new DARE vehicle painted and equipped. Council Member Lantz offered a motion to approve this request for a first reading, and that:

\$4,772.60 chge. to: 1000-31010 Amount from fund balance

\$4,772.60 approp. to: 1000-310431-48151 Motor vehicles and equipment

The recorded roll call vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers

Council Member Peterson

Council Member Lantz

Council Member Frank

Mayor Fitzgerald

Absent None

Lynn Rexrode, a resident of 583 Hawkins Street, complained about new sidewalks being installed on Hawkins Street and the City not cleaning up the area. Mr. Rexrode's complaint was referred to City Manager Baker. He also complained about apartment complexes not taking care of trash dumpsters.

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Bucky Berry, a resident of 877 North Main Street, complained about people parking on the sidewalks and the lack of available police officers to respond to calls.

Vice-Mayor Rogers offered a motion to ask Planning Commission for a recommendation report on whether to amend a City Code ordinance to allow the increased occupancy to five persons. The recorded vote was taken as follows:

Vote: Yes - Vice-Mayor Rogers

Council Member Peterson

Council Member Lantz

Mayor Fitzgerald

No - Council Member Frank

Absent None

City Manager Baker announced that Harrisonburg and Rockingham County will have a memorial service on September 11, 2002 at 8:15 a.m. on the Court House lawn. The service will feature remarks from leaders and songs from area high school choruses.

Council Member Lantz announced that the Deer Task Force Committee will be meeting to discuss deer problems in the City.

At 9:27 p.m., Council Member Peterson offered a motion that Council enter a closed session for the purpose of a specific public officer or appointee of the Council. A closed session is permissible for this purpose to Section 2.2-3711.A.1 of the Code of Virginia (1950), as amended (the Code). The motion was approved with a unanimous vote of Council.

At 9:50 p.m., the closed session ended and the regular session reconvened. The following statement which was agreed to with a unanimous recorded vote of Council: I certify to the best of my knowledge and

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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 matters as were identified in the motion by which the closed session were convened were heard, discussed or considered in the closed session by the City Council.

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

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CITY CLERK

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MAYOR