

MINUTES - REGULAR MEETING OF CITY COUNCIL - JUNE 24, 2003

REGULAR MEETING

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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; Carolyn W. Frank; Council Member Dorn W. Peterson; Council Member Hugh J. Lantz; City Clerk Yvonne Bonnie Ryan, CMC/MMCA, and 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 approval of a Supplemental Appropriation for the Golf Course Fund, Engineering Department, E-911 System, rezoning request by June Garber, and tax-exemption for Our Community Place . The motion also included amending and re-enacting Sections 7-2-4, and 13-1-65 of the Harrisonburg City Code; however Section 4-2-108 was removed from the consent agenda. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Council Member Peterson

Mayor Fitzgerald

Absent None

Commissioner of the Revenue June Hosaflook briefly reviewed a new ordinance implementing a cigarette tax, which will become effective July 15, 2003. She also reviewed the procedure for taxing cigarettes that are currently in store inventories and for wholesalers ordering stamps. The ordinance states

MINUTES - REGULAR MEETING OF CITY COUNCIL - JUNE 24, 2003

that the tax is 30 cents per pack with a one-cent per stamp discount to the wholesalers.

Planning and Community Development Turner introduced a request from Beacon Hill of Harrisonburg, LLC, to close a portion of City right-of-way along Emerson Lane. She explained that in earlier plans for Beacon Hill, the area under consideration was to be a public street; however, in the most recent set of plans approved by Planning Commission and City Council, it was determined that a private street would be used to access the town home units. Preliminary plats gave variances to not front on public streets and allowed the development of Phase 3 to progress. Since the public street concept was dropped the subbed out street right-of-way is not needed. During the building permit plan process, it was noticed that the area did not meet the 30-foot setback from a public right-of-way. There is a provision in the City Code that allows the original developers of this subdivision to request the street right-of-way be vacated without payment for the right-of-way. She also said that Virginia State Code § 15.2-2272(1) permits this request to occur without holding a public hearing because the owners have obtained a document containing all the signatures of adjacent affected property owners consenting to the vacation of the right-of-way. She said that Planning Commission recommended approval of the request. Council Member Peterson offered a motion to approve this request. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Council Member Peterson

Mayor Fitzgerald

Absent None

City Attorney Miller requested that the report on sovereign immunity be given in closed session because of the possible probable pending litigation.

The next item of business was discussion of City/County Radio System Upgrade. City Council authorized moving forward on the development of plans and specifications for the system at the May 27, 2003, Council meeting. No decision was made on a cost-sharing 50/50 arrangement for the system. The Rockingham County Board of Supervisors adopted the joint powers ordinance and authorized moving forward with the bid document at its June 11th meeting.

MINUTES - REGULAR MEETING OF CITY COUNCIL - JUNE 24, 2003

Council Member Peterson said that he had conducted a cost analysis and questioned whether the City can make a rational decision about the appropriate cost sharing. He said the cost analysis proposal, which was provided by a consultant and presented by Captain Jim Junkins, was complicated and unclear. He said, I disagree with Junkins' analysis in part because it will cost the City more in the cost-sharing 50/50 arrangement rather than the City having its own system. I strongly suspect that the City would only need two towers, maybe three, but not nine towers. A joint system should benefit both localities rather than costing one locality more for the system. If there is a problem with communications at distance locations, he suggested using landline phones. He also said that a 50/50 split for the EOC was a rational decision, but the infrastructure for the radio system is dramatically different for the City and County.

Assistant City Manager Kurt Hodgen said that the \$8 million figure didn't have the benefit of being generated by the extensive needs assessment. He also said that Dr. Peterson's analysis might be true for a system within the City limits, but there are situations involving our police and fire departments responding to assist county localities. This system will work anywhere in the City or County. He said information has not been received to speculate on the number of towers required by the City.

Council Member Peterson suggested that a clause should be included in a contract with the County providing how the split should be re-analyzed and re-visited in future years depending on population growth. City Council asked City Manager Baker to arrange for another discussion at its July 8th or July 22nd meeting. It was pointed out that if the City and County received the grants the split becomes much less relative.

The next item of business was a presentation by CHANGE concerning potential elementary school locations.

Ben Fordney, a resident of 1126 Chestnut Drive, read the following letter: The CHANGE organization appreciates this opportunity to speak on the issues facing both the School Board and City Council regarding funding and planning issues relative to the City's school system. We all owe a debt of gratitude to Dr. Ford, the school administration, our teachers, and the School Board for maintaining a first class education system in the City of Harrisonburg. We are also well aware of the fact that Harrisonburg schools rank first in the state in the percentage of students who take English as a second language, a 30 percent of our student population. This presents enormous challenges to our schools and we applaud our teachers' commitment to education these children. No child should be denied an education.

CHANGE has long been concerned with the educational issues facing our community. Our purpose tonight is to present our position on the educational requirements of the Northeast section of our City. The School Board has informed the City Council that a new elementary school at a cost of about \$15 million will eventually be required to meet an expanding student population. We urge both council and school board to consider the Northeast section of the City when the new school's location is discussed.

MINUTES - REGULAR MEETING OF CITY COUNCIL - JUNE 24, 2003

We realize that site location of a school is ultimately a school board decision, but a school is more than just a building to educate students and its location is a concern to all of us. We ask that the School Board and City Council request input from the planning commission on this issue and that the School Board schedule a public hearing where citizens can express their opinions.

A school in the Northeast section of the City would enhance a neighborhood that is expanding rapidly with a diverse population. Latinos account for 28% of the under age 18 population, African Americans account for about 12%, Caucasians constitute 52% with Asians and other accounting for the balance. There does not seem to be any logical reason to deprive this section of the City of a school to serve the needs of its student population.

Public comment on the Comprehensive Plan stressed the need for walkable neighborhoods. We hope that the School Board and City Council will resist the option of buying land on the outskirts of the City or in the county for a new school, accessible only by bus or car, contributing nothing to the quality of life and viability of an existing neighborhood.

Cost of a new school is a major concern to all of us. We urge council and the school board to pursue the least expensive option while maintaining the building requirements.

We do think that, wherever the new school is located, the School Board should examine innovative solutions to meet the ever-expanding educational requirements of our City. An elementary school in the Northeast could provide a public choice school. Dr. Scott Milliman pointed out in a forum article in 1999 that the parents of 7 million American students chose the public school their children attend. I think this empowerment of parents would be popular in our community. It could be an accelerated learning curriculum that stresses science and art. Another choice would be a Montessori school that uses guided self-paced hands on method. It could be conventional school as well. Could a new school serve as a model for bilingual Spanish/English immersion classes for elementary school children?

There has also been a social justice element in our approach to proposing a school in the Northeast section of the City. This should also be a matter of concern to the Council. It is not a section that has been endowed with many City projects. Many residents will recall the urban renewal projects of the 1950s that eliminated African American homes and businesses and severely damaged the cohesiveness of that community.

No academic program or location of a new school satisfies everyone. School issues can be contentious and emotional. We believe that our officials have not used some of the resources available to reach decisions that are not easy to make. EMU's Conflict Transformation Program, for instance, might be helpful.

MINUTES - REGULAR MEETING OF CITY COUNCIL - JUNE 24, 2003

For our part, we reserve the right to speak out on these vital educational issues. We have experienced educators in our membership. But, we will maintain a positive approach with respect to City Council, the School Board, and the school administration. It is in that spirit that we express our views tonight.

The following discussion by Council Members relative to the suggestion from the CHANGE group for the location of a new school included: Suggested placing a new elementary school in the Northeastern section of the City; acknowledged placement of new school will be School Board decision; suggested including more minority teachers and administrators in school system; and suggested placement of school in established neighborhood could encourage students to walk to the school.

The next item of business was a discussion of School Board Building Program. Mayor Fitzgerald said that it might be premature to discuss this agenda item since he and City Manager Baker had discussed holding a meeting in July to address some of Council's concerns regarding future needs of the schools.

City Manager Baker presented a request to transfer funds into capital projects for a North Main Street project. These funds will assist in completing a curb and sidewalk project and making improvements at the intersection of North Liberty Street and Washington Street. Council Member Lantz offered a motion to transfer these funds.

\$158,994.00 chge. to: 1000-410241-43374 Maint. & Repairs Allowable

158,994.00 chge. to: 1310-34210 Transfer from General Fund

\$158,994.00 approp. to: 1000-990111-49216 Transfer to Capital Projects

158,994.00 approp. to: 1310-910141-48615 North Main Street Bridge-Blacks Run

The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Council Member Peterson

MINUTES - REGULAR MEETING OF CITY COUNCIL - JUNE 24, 2003

Mayor Fitzgerald

Absent None

City Manager Baker presented a request to transfer funds into capital projects for Stone Spring Road/Erickson Avenue project. These funds will be used for the Stone Spring/Erickson Avenue project. Council Member Lantz offered a motion to transfer these funds.

\$231,068 chge. to: 1000-410241-48293 Work in Progress

231,068 chge. to: 1310-34210 Transfer from General Fund

\$231,068 approp. to: 1000-990111-49216 Transfer to Capital Projects

231,068 approp. to: 1310-910141-48636 Stone Spring Road Improvements

The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Council Member Peterson

Mayor Fitzgerald

Absent None

City Manager Baker presented a request to transfer funds into capital projects for improvements at East Market/Linda Lane/Burgess Road. These funds will be used for improvements at this intersection. Council Member Lantz offered a motion to transfer these funds.

MINUTES - REGULAR MEETING OF CITY COUNCIL - JUNE 24, 2003

\$75,000 chge. to: 1000-410241-43374 Maint. & Repairs Allowable

17,472 chge. to: 1000-410241-43375 Maint. & Repairs Non-Allowable

60,755 chge. to: 1000-410241-48106 Sidewalks

65,418 chge. to: 1000-410741-48111 Machinery & Equipment

\$218,645 approp. to: 1000-990111-49216 Transfer to Capital Projects

218,645 approp. to: 1310-91041-48620 Burgess Road Extension

The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Council Member Peterson

Mayor Fitzgerald

Absent None

Bob Steere, a resident of 1652 Central Avenue, thanked Mayor Fitzgerald for issuing a proclamation recognizing Amateur Radio Operators in the community. He invited City Council to attend the annual American Radio Relay League's Field Day on June 28th or 29th. He reviewed the many activities and classes being held during the weekend.

Ralph Geddes, a resident of 395 Franklin Street, complained about people being drunk in public in City parks.

Council Member Peterson offered a motion that Joseph M. Snell, II, J.M., 580 Alleghany Avenue, be appointed to a first term on the Harrisonburg Planning Commission to expire on December 31, 2006. The motion was approved with a unanimous vote of Council.

MINUTES - REGULAR MEETING OF CITY COUNCIL - JUNE 24, 2003

Council Member Peterson offered a motion that Council Member Carolyn Frank and Assistant City Manager Kurt Hodgen be appointed as alternates for the Metropolitan Planning Organization Board. The motion was approved with a unanimous vote of Council.

City Manager Baker presented a request to establish a separate account for the Downtown Renaissance and to transfer funds into the account. These funds will be used for operating expenses of the department. Council Member Lantz offered a motion to transfer these funds.

\$55,000.00 chge. to: 1000-910411-45888 Downtown Renaissance

\$43,076.80 approp. to: 1000-810621-41010 Salaries and wages

3,172.42 approp. to: 1000-810621-42010 FICA

3,750.48 approp. to: 1000-810621-42050 Hospital Insurance

54.00 approp. to: 1000-810621-42110 Worker s Comp

1,500.00 approp. to: 1000-810521-45230 Telecommunication

1,000.00 approp. to: 1000-810621-46010 Office Supplies

2,446.30 approp. to: 1000-810621-46140 Other Operating Supplies

The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Council Member Peterson

Mayor Fitzgerald

Absent None

MINUTES - REGULAR MEETING OF CITY COUNCIL - JUNE 24, 2003

At 8:45 p.m., Council Member Peterson offered a motion that Council enter a closed session for the purpose of consultation with legal counsel pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the City. A closed session is permissible for this purpose pursuant to Section 2.2-3711.A.7 of the Code of Virginia (1950), as amended (the code). In addition, the purpose of the closed session will be the discussion of appointment of personnel to boards and commissions. A closed session is permissible for this purpose pursuant to Section 2.2-3711.A.1 of the Code of Virginia. Further, the purpose of the closed session will be for the discussion of possible acquisition of real estate, where discussion in an open meeting would adversely affect the negotiating strategy of the City. A closed session is permissible for this purpose pursuant to Section 2.2-3711.A.5 of the Code Virginia (1950), as amended (the code.) The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Council Member Peterson

Mayor Fitzgerald

Absent None

At 9:35 p.m., the closed session ended and the regular session reconvened. City Clerk Ryan read the following statement which was agreed to with a unanimous recorded vote of Council: I certify to the best of my knowledge 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 in the closed session by the City Council.

Council Member Peterson offered a motion that Bill Blessing, Jim Baker, Dan Rublee, Drew Williams, and Vicki Conley be appointed to the MPO-Technical Advisory Committee. The motion was approved with a unanimous vote of Council.

At 9:36 p.m., there being no further business and on motion adopted the meeting was adjourned.

MINUTES - REGULAR MEETING OF CITY COUNCIL - JUNE 24, 2003

CITY CLERK

MAYOR