

REGULAR MEETING

FEBRUARY 10, 2004

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 Police Captain Wilfong. Absent: Chief of Police Donald Harper.

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

Leonard VanWyk representing the Shenandoah Valley Bicycle Club presented a plaque to Jim Baker, Director of Public Works. He said that a building boom in the City left street planning for bicycling lanes in a dismissal state. However, approximately 10 years ago the beginnings of the Harrisonburg/Rockingham Bicycle Plan migrated into the current Harrisonburg Bicycle Plan. Several high profile projects included bicycle lanes in the plans. These things would not have happened without the support of Public Works and particularly its point man Jim Baker. Mr. VanWyk then presented a plaque from the Shenandoah Valley Bicycle Club to Mr. Jim Baker as a token of its appreciation.

Mr. Baker thanked the Shenandoah Valley Bicycle Club, City Council and citizens of Harrisonburg for all of the support.

Members from the cast of Bye Bye Birdie presented a brief performance of a musical to be held at the Harrisonburg High School Auditorium February 19-22. City Council was invited to attend the performances.

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 Title 11 (Building Code Regulations) of the Harrisonburg City Code. The recorded roll call vote was taken as follows:

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

Absent – None

Planning and Community Development Director Turner introduced a request by Ellen DeSarno represented by Attorney Steven Blatt for a special use permit. She said that Ellen DeSarno has requested a special use permit to allow her property at 1320 Port Republic Road to

be used as a child day care center under Section 10-3-34(1) of the City's Zoning Ordinance. Currently, the property is being used as a convenience store/food market, which is a non-conforming use in the R-1, Single-Family Residential District; however, since the property was annexed into the City in 1983 it was allowed to continue as a non-conforming use. She reviewed the surrounding uses in the area. The Comprehensive Plan designates this area as Low-Density Residential. She said that if the building was converted to a day care center, additional parking spaces would be needed on the site. Staff has recommended that the operation of the day care center be limited to between the hours of 6:00 a.m. and 9:00 p.m. The site will also need to meet all of the building code requirements for the City for this change of use, as well as licensing through the Virginia Department of Social Services in cooperation with the Virginia Department of Health. She said that Planning Commission has recommended approval of the request.

At 7:45 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 Monday, January 26, and Monday, February 2, 2004.

NOTICE OF PUBLIC HEARING

The Harrisonburg City Council will hold a public hearing on Tuesday, February 10, 2004, at 7:30 p.m., in the Municipal Building, City Council Chamber, 345 South Main Street, to consider the following:

SPECIAL USE PERMIT – DESARNO PROPERTY

Public hearing to consider a request by Ellen DeSarno, with representative Steven Blatt for a special use permit {per Section 10-3-34 (1) of the Zoning Ordinance} to allow the property at 1320 Port Republic Road to be used for a child care facility. The property is zoned R-1, Single-Family Residential District and can be found on tax map 88-C-6.

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 special use permit. Steven Blatt an attorney representing the applicant said that Mrs. DeSarno would like for her daughter to take over the former "University Market", which existed for many years on Port Republic Road. Her daughter wants to operate a day care center at this location. The building on the property was built in 1960 before Rockingham had any type of zoning. Since the Port Republic Road corridor has completely changed Mrs. DeSarno's business has been impacted by

the way other businesses have been allowed to go into this same corridor. She wants to retire and let her daughter operate a day care center at this location. He commended the staff for finding ways for adaptive uses for properties that undergo change so the number of vacant buildings is minimized and keeping the building on the tax roles. Mr. Blatt said that a surveyor has determined that it is not possible to put in the additional parking spaces. Currently there are 17 unmarked spaces on the site. He said they are trying to fit in a play area on the site under Department of Social Services regulations and trying to reconfigure six more parking spaces. He encouraged Council to approve the special use permit.

Bucky Berry a resident of Harrisonburg encouraged Council to approve the special use permit request.

There being no others desiring to be heard, the public hearing was declared closed at 7:58 p.m., and the regular session reconvened. Following further discussion and comments, Council Member Peterson offered a motion to table this request until a future meeting. The motion was approved with a unanimous vote of Council.

Planning and Community Development Director Turner introduced a request by Rudolph Dean to amend Section 10-3-97 of the Zoning Ordinance, to allow recreational and leisure-time activities in the M-1, General Industrial District by special use permit. The City currently allows these uses as a use permitted by right in the B-2 zoning classification. Mr. Dean wants to open a paintball facility in the M-1, General Industrial District. City staff supports this proposed ordinance amendment. As a special use, the City will be able to make sure that all recreational uses are safe and appropriate for specific industrial areas. It will also allow the City to regulate how much industrial land is used for recreational purposes. She said that Planning Commission recommended approval of the special use permit.

At 8:02 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 Monday, January 26, and Monday, February 2, 2004.

NOTICE OF PUBLIC HEARING

The Harrisonburg City Council will hold a public hearing on Tuesday, February 10, 2004, at 7:30 p.m., in the Municipal Building, City Council Chamber, 345 South Main Street, to consider the following:

ORDINANCE AMENDMENT – RECREATIONAL USES IN THE M-1 ZONING DISTRICT

Public hearing to consider a request by Rudolph Dean to amend Section 10-3-97 of the Zoning Ordinance, to allow “recreational and leisure-time activities” in the M-1, General Industrial District, by special use permit.

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.

Rudy Dean said that he was a resident of Rockingham County and operates a business within the City selling and servicing paintball equipment. Paintball is the fastest growing sport in the world and if played correctly it can be a lot of fun. Currently children have to travel out of the Harrisonburg area to play the game. A facility has been found on the north end of the City that is zoned General Industrial. The land and building border commercial property. There being no others desiring to be heard, the public hearing was declared closed at 8:09 p.m., and the regular session reconvened. Council Member Frank offered a motion to approve this request. The recorded roll call vote was taken as follows:

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

Absent – None

The next item of business was setting a public hearing date to consider a recommendation from the Harrisonburg Parking Authority. City Manager Baker said the Harrisonburg Parking Authority has recommended that City Council consider the sale of the Alfred Ney parking lot on North Main Street. Economic Development Director Brian Shull said negotiations are continuing and that many questions remain concerning this recommendation. The Parking Authority wanted to set a public hearing to give the development group an opportunity to present its whole proposal and to hear public comments.

Council Member Peterson offered a motion to set a public hearing date for February 24th.

Council Member Lantz questioned whether Council was following normal procedures regarding this recommendation. He suggested that the development group make a presentation before City Council regarding why this recommendation would be in the best interest for the City to sell the property.

Council Member Peterson withdrew his motion to schedule the public hearing date.

Council Member Lantz offered a motion to invite the development group to appear before City Council with explanations regarding why this recommendation is in the City's best interest to sell the parking lot. The motion approved with a unanimous vote of Council.

The next item of business was considering a proposed revision of a fee schedule for Westover Pool and Picnic Shelter reservations. Parks and Recreation Director Foerster said that at the January meeting the Parks and Recreation Commission approved a fee schedule for Westover Pool and revised the shelter reservations fees. The Commission felt that fees for non-City residents should be higher than fees for City residents. Following further comments and discussion, Vice-Mayor Rogers offered a motion to approve the revised fee schedule. The recorded roll call vote was taken as follows:

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

Absent – None

City Manager Baker presented for Council's consideration an amending and re-enacting Section 6-2-5 of the Harrisonburg City Code. He said that the Transportation Safety Commission has recommended that the City Code be amended to add language including construction material, debris, dumpsters, and unlicensed construction equipment. Adding this language to the code will make it clearer that obstructing public streets creates a safety hazard and will not be permitted. Council Member Lantz offered a motion to amend Section 6-2-5 of the Harrisonburg City Code. The recorded roll call vote was taken as follows:

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

Absent – None

City Manager Baker presented for Council's consideration an amending and re-enacting Section 9-1-1 of the Harrisonburg City Code. He said that the Parks and Recreation commission has recommended that the City Code be amended to allow the composition of the commission to be changed to include two (2) from the west, two (2) from the east and two (2) at large members. Council Member Lantz 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 - Vice-Mayor Rogers
Council Member Peterson
Council Member Frank

Council Member Lantz
Mayor Fitzgerald

Absent – None

Council Member Peterson offered a motion to amend and re-enact Section 2-3-23 of the Harrisonburg City Code for a second reading. The recorded roll call vote was taken as follows:

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

Absent – None

The next item of business was discussion of a School Board proposal. Mayor Fitzgerald said that the School Board has asked for a meeting of the Liaison Committee. He had two questions for Council concerning a Liaison meeting. 1) Should Council send a second person or add a second person to the committee? 2) If a Liaison Committee meeting is held, what do we tell them?

Council Member Peterson said that he thought Council had made it very clear at the last City Council/School Board joint meeting. Council needs plans presented that do not include building a new elementary school anytime soon. Previously submitted plans for renovations at the old high school would be using a significant amount of space for central offices. Will there be enough space to accommodate future growth at the school?

Council Member Lantz said he was concerned if funding approval hinged upon the school board requesting that another new elementary school be built.

Council Member Frank said that she was not in favor of appropriating any funding for renovations to the current high school.

Following further discussion and comments, Vice-Mayor Rogers offered a motion that Council not fund another new elementary school. The motion was approved with a 4-1 vote with Mayor Fitzgerald voting no.

The following discussion by Council Members included: Questioned whether renovations are needed at the old high school; a plan for how the old school building will be used; Council will not fund a new elementary school; focus being on what the City can afford to spend, not on the details of the plan for the old high school; every new tax dollar the City has received for the last ten years has gone toward the school budget; and the City at this time cannot afford a new elementary school. Council directed City Manager Baker to ask the School Board whether they still wanted to schedule a Liaison Committee meeting.

Police Captain Wilfong presented a request for a supplemental appropriation for the Police Department. He said that these funds were received through a reimbursement Division of Motor Vehicle grant for traffic enforcement overtime and an in-car video camera. Council Member Lantz offered a motion to approve this request for a first reading, and that:

\$15,096.76 chge. to: 1000-33524 DMV Federal grant

\$10,806.76 approp. to: 1000-310231-41020 Salaries/wages

4,290.00 approp. to: 1000-310231-48211 Machinery & equipment new

The recorded roll call vote was taken as follows:

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

Absent – None

Police Captain Wilfong presented a request for a supplemental appropriation for the Police Department. He said that these funds were received from asset seizure funds to purchase a steel frame storage locker for the SWAT van. Council Member Lantz offered a motion to approve this request for a first reading, and that:

\$4,190.00 chge. to: 1000-31010 Amount from fund balance

\$4,190.00 approp. to: 1000-310231-48211 Machinery and equipment new

The recorded roll call vote was taken as follows:

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

Absent – None

Police Captain Wilfong presented a request for a supplemental appropriation for the Police Department. He said that these funds were received from the Department of Criminal Justice Services to purchase body receivers, binoculars, and video camcorder. Council Member Lantz offered a motion to approve this request for a first reading, and that:

\$5,000.00 chge. to: 1000-31901 Recoveries/rebates

\$5,000.00 approp. to: 1000-310231 48211 machinery & equipment new

The recorded roll call vote was taken as follows:

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

Absent – None

Police Captain Wilfong presented a request for a supplemental appropriation for the Police Department. He said that these funds were donated by the Shenandoah Valley Kennel Club to be used for the purchase of K-9 protective vest. Council Member Lantz offered a motion to approve this request for a first reading, and that:

\$695.00 chge. to: 1000-31809 Donations

\$695.00 approp. to: 1000-310231 46100 Police supplies

The recorded roll call vote was taken as follows:

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

Absent – None

Public Works Director Baker presented a request for a supplemental appropriation for the Public Works Department. He said that these funds are partial reimbursement from Kimco Realty Corporation for participation in installation of a traffic signal at East Market Street and Evelyn Byrd Avenue. Council Member Lantz offered a motion to approve this request for a first reading, and that:

\$50,000 chge. to: 1000-31914 Recovered costs

\$50,000 approp. to: 1000-410741-48111 Machinery & Equipment

The recorded roll call vote was taken as follows:

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

Council Member Lantz
Mayor Fitzgerald

Absent – None

Bill Whalen a resident of Harrisonburg said that the downtown renovations should not include taxpayer's money. Taxpayers money is suppose to be spent for the common good, not the good of the special interest that will benefit very handsomely.

Bucky Berry, a resident of Harrisonburg said that the trailers at the schools are unsafe.

Council Member Lantz questioned why the agenda cover sheet did not include who requested the item be placed on the agenda.

At 9:00 p.m., Council Member Peterson offered a motion that Council enter a closed session for the purpose of discussion, interviews or consideration of candidates for appointment 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 (1950), as amended (the Code). The recorded roll call vote was taken as follows:

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

Absent – None

Council Member Peterson offered a motion that Steven Hottle, 267 Campbell Street, Carl Wassum, 1169 Westmoreland Drive, and Craig Miller, 2821 Osceola Springs Road, be appointed to a term on the Board of Building Code Appeals to expire on November 30, 2004; John N. Neff, 456 Myers Avenue, John C. Sease, 560 Neff Avenue, and Ray Landes, 5604 Battlefield Road, to a term on the Board of Building Code Appeals, to expire on November 30, 2005; Orden L. Harman, 650 Stone Spring Road, Leon Armentrout, 3031 South Main Street, and Henry Morris, 1926 Port Republic Road, to a term on the Board of Building Code Appeals to expire on November 30, 2006. The motion was approved with a unanimous vote of Council.

At 9:20 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 Joe Bowman, 1155 Rockingham Drive, be appointed to a sixth term on the Shenandoah Valley Airport Commission to expire on January 28, 2007. The motion was approved with a unanimous vote of Council.

Council Member Peterson offered a motion that Ben Melton, 241 Paul Street, be appointed to a fifth term on the Blue Ridge Disability Services Board to expire on February 1, 2007. The motion was approved with a unanimous vote of Council.

At 9:37 p.m., there being no further business and on motion adopted the meeting was adjourned.

CITY CLERK

MAYOR