

## REGULAR MEETING

MARCH 23, 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; Council Members Carolyn W. Frank; Dorn W. Peterson; 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.

Bill Whalen, a resident of Harrisonburg, said that unless taxes and real estate were mixed correctly, it could affect the taxpayers and property owners of the City. City government and special interest groups have been working closely with each other to acquire downtown property either through acquisitions or donations. He said, "It is my opinion that everything has been set up, since the Harrisonburg Downtown Renaissance Group was established, it has been the powerhouse behind downtown revitalization. I am not against redevelopment of downtown". However, this group of people consisting of downtown property owners, government officials, City Council members, and others has used its position to convince taxpayers downtown redevelopment is important. Taxpayers should not pay for a selective group's dreams. Downtown redevelopment will only give tax breaks to the people buying the property. Taxpayers will pay the difference. Does it matter whether it is Federal taxes, state taxes or local taxes? Taxpayer's money should be spent to benefit all of the citizens, not special interest groups or their dreams. It is about real estate and anyone who owns a home knows how good real estate has been, but we are talking about business real estate and a cozy relationship between local government and special interest groups. Why should a handful of property owners in the downtown get richer at our expense? It could cause more growth in the City than the normal patterns of growth. This can mean more traffic, more tax money, and more problems. We can't stop growth, but we don't have to accelerate it either. The only people that benefit will be the downtown special interest groups getting much higher prices for their property than they would otherwise get. The people buying the property will benefit by getting excessive tax breaks. We must try to stop it.

Council Member Peterson offered a motion to approve the consent agenda, including approval of the minutes and the second reading approval of a Supplemental Appropriations for the Public Works Department and School Board. The motion also included the second reading amending Section 5-2-1, 5-2-10, 5-2-11, 5-2-12, 5-2-13, 5-2-14, 5-2-15, 5-2-2, 5-2-28, 5-2-35, 5-2-7 Fire Prevention and 5-3-2 Office of Emergency Services of the Harrisonburg City Code. The recorded roll call vote was taken as follows:

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

Council Member Frank  
Mayor Fitzgerald

Absent – None

The next item of business was an overview of a “Citizen Participation Plan” outlining how citizen and community groups will be involved in the process of determining how the annual allocation of Community Development Block Grant (CDBG) will be spent. The plan includes radio and television advertisements, dealing with language barrier, complaints, and reporting processes. Assistant City Manager Hodgen said that a public hearing is required before the plan can be adopted. The purpose of tonight’s public hearing is for the consideration of the “Citizen Participation Plan” not to determine how the funds of the block grant will be utilized.

At 7:40 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, March 1, 2004.

**CITY OF HARRISONBURG  
CITIZEN PARTICIPATION PLAN  
PUBLIC HEARING/COMMENT NOTICE  
COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM**

**The Harrisonburg City Council will hold a public hearing on Tuesday, March 23, 2004, at 7:30 p.m. in the Municipal Building, City Council Chambers, 345 South Main Street, in order to receive citizen input regarding its draft “Citizen Participation Plan”. This plan is required as part of the City’s involvement in the Federal Department of Housing & Urban Development’s (HUD) Community Development Block Grant Program (CDBG). The plan sets forth the City’s policies and procedures for citizen participation in the development of a required Consolidated Plan. The Consolidated Plan serves as the planning document for addressing overall community development and housing needs that will utilize CDBG funding available to the City to meet those needs.**

**All citizens and organizations are invited to attend the public hearing to comment orally or in writing on the citizen participation plan. The City of Harrisonburg will make reasonable accommodations and services necessary for sensory-impaired and disabled citizens at the public hearing; persons requiring such accommodations/services should contact the City at least three working days in advance of the hearing. Please contact Kurt D. Hodgen, at [kurth@ci.harrisonburg.va.us](mailto:kurth@ci.harrisonburg.va.us) or 540-432-7701 for any questions. Written comments may also be mailed to Kurt D. Hodgen, Assistant City Manager, 345 South Main Street, Harrisonburg, VA 22801.**

Mayor Fitzgerald called on anyone desiring to speak for or against the Community Development Block Grant. There being no one desiring to be heard, the public hearing was declared closed at 7:41 p.m., and the regular session reconvened. Council Member Peterson offered a motion to approve the block grant. The recorded roll call vote was taken as follows:

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

Absent – None

Dr. Donald Ford, Superintendent of Harrisonburg City Schools, presented the School Board's proposed 2004-2005 budget. The proposed school budget provides a breakdown of anticipated revenue and expenditures for the coming year. He said that expenditures have increased from \$39,101,932 to \$42,723,673 or a 9.26% increase over the current budget. Dr. Ford said projected revenues funds from the state are still uncertain because of the budget negotiations in the General Assembly. However, the School Board remains optimistic they will receive more revenue than what is projected. Federal revenues funds have decreased by \$233,401 or 5.4% primarily because of the large Federal technology grant which was received for the fiscal current year; however, there will not be an over-all decrease in Federal funds. The revenue estimates for the school division to support the expenditures are divided into state, federal, other, local, and un-appropriated funds. Dr. Ford reviewed the significant budget increases, which included instructional operation at \$2.5 million, administrative/attendance & health services \$136,000, bus transportation \$117,000, maintenance and operations, \$561,503, and food services, \$84,561. The major increases in the 2004-2005 budget include salary increases at 4% adding seven new positions, social security at \$100,000, Virginia Retirement System \$1,082,000, group life, \$270,000, health insurance, \$81,000, worker's compensation, \$11,000, utilities, \$341,000, debt service transfer \$376,000, and special education, \$161,000. The total budget increase is \$3.6 million. The City has attained full accreditation of all the schools, despite the fact that in excess of 32% of the students speak English as a second language, and special education services. He said that funding for a quality educational program is always going to be a challenge. The School Board has identified after much time and effort the financial needs in the school division to meet the academic needs of the children of the City. He requested that City Council give serious consideration to the budget requests that have been made through the School Board budget.

The following discussion by Council Members included: Questioned whether budget was based on an average daily 4,097 student enrollment? questioned decrease in Federal funding; City fiscal agent for the technology grant; questioned if every School Board employee received a projected 4% salary increase; debt service; and local funding percentage increase.

The next item of business was a presentation by Bob Forrest, President of CTA Communications. He said a summary of the 800-megahertz radio project had been presented to City Council at an earlier meeting. The summary contained a recommendation from the radio advisory board outlining the radio coverage needed to meet the service areas of Harrisonburg and Rockingham County. CTA Communications recommends that the municipalities hire Massachusetts-based M/A-COM to build the system at an initial cost \$20.8 million, which includes building or improving radio towers, setting up dispatch equipment and replacing the

radios for everyone on the system. The upfront costs also include building two new radio towers and replacing the radios and other mobile communication equipment used by the City and County.

The following discussion by Council Members relative to the proposed two-way radio system included: Questioned the cost of the base radio system and additional options; mobile data system; UHF voice system; preventive maintenance cost covers second through fifth years; price includes all non-fixed equipment; build two new towers; extend another tower; and the other seven towers are owned by City and County.

City Manager Baker requested Council's support to negotiate with the M/A COM vendor and working with Davenport to come up with a financing plan, which will be presented to Council at a future meeting.

Council Member Peterson said, "The system seems outrageously expensive for the City. I will vote no." The City would be better served by getting a higher band with data system for data in the patrol vehicles, fire trucks, and emergency vehicles because it would cut down on usage of the voice channel. He said, "City staff is only presenting one expensive option and there should have been an advocate at the meetings questioning do we really need 12 channels or are we really designing for two airplanes to crash in Bergton?" The whole system is based on if we had the best of all possible worlds. He also mentioned that Winchester has installed high-speed data link to patrol cars and found a dramatic decrease in the usage of the voice channels. There are limits to how much money the City can afford. Spending \$20 million on this system is not a good decision for a governmental agency to make.

Council Member Frank questioned whether many localities were going to the 800-megahertz system. Also, if there were other options available, why weren't they presented to City Council.

City Manager Baker commented that CTA looked at other frequencies. He also said everybody including Information Technology from the state department had looked at different frequencies and recommended that Harrisonburg go with an 800 megahertz system.

Mr. Forrest commented that when his company was retained in 1999 they investigated UHF frequency bands to allow the City and County to communicate with each other on a common system. There are only three bands and the other bands cannot compete with the 800 megahertz system.

Following further discussion and comments, Vice-Mayor Rogers offered a motion to proceed with the two requests made by the City Manager.

Council Member Lantz said that he was not prepared to vote on this issue tonight.

Council Member Peterson offered a motion to table this decision until the April 27<sup>th</sup> City Council meeting.

Vice-Mayor Rogers withdrew his motion.

Council Member Peterson asked the City Manager Baker to request that a representative from Winchester's Emergency Communication make a presentation to City Council on how their emergency system is working.

Mayor Fitzgerald recapped the issues discussed. City Manager Baker will discuss with County Administrator Paxton about the possibility of having the Board of Supervisors join us for a work session on the topic, ask our local experts to make a presentation and to also ask the City of Winchester to make a presentation.

The next item of business was an update on HEC 69 KV Transmission line project. Mike York, General Manager of Harrisonburg Electric Commission, reviewed why the project was needed. He said HEC's is proposing to construct a 60,000 volt transmission line from a substation located on East Market Street to a point along Country Club Road approximately 600' north of Linda Lane in the City. The purpose of this transmission line is to ensure that the Harrisonburg Electric Commission will be able to supply power to it's customers during all operating conditions, taking into consideration today's needs as well as the anticipated growth of electrical demands in the years to come. He reviewed the proposed route. The project has been published in the Daily News-Record and letters were sent to property owners along and adjacent to the proposed transmission line. He said that seven property owners met with HEC personnel before the public hearing, and no one opposed the project. A public hearing was held on March 2, 2004. The estimated cost of the project is \$900,000 and will take six months to complete. The project is totally funded in HEC's budget.

The next item of business was a presentation by Wanda Willis, Public Education Officer for the Fire Department. She said the new Community Emergency Response Team (CERT) training program has had eight graduates. The CERT program is designed to teach citizens how to help themselves, and their neighbors, in times of a natural or manmade disaster. CERT empowers residences in the event of natural or manmade disaster by providing basic skills in disaster preparedness. The CERT program is held once a week for seven weeks. She reviewed and summarized material covered in the classes and recognized one graduate Larry Diehl who completed the program.

City Manager Baker presented the proposed 2004-2005 budget. He said that it is suggested that the public hearing and first reading be held on April 13, 2004, but the final adoption not occur until the state budget has been adopted. One of the major jobs of the City Manager and his staff is the preparation of the annual budget. This year the job has been extremely difficult because of the budget impasse in the General Assembly, and as new information is received from the state budget process, changes will have to be made in our budget. However, as requested, we are presenting the proposed budget earlier this year. As the budget has been developed, staff has been committed to the cost efficient delivery of services, the Principles of Continuous Improvement and to goals of City Council. The proposed budget's primary goal is to provide services without reduction and that are delivered in the most cost-efficient manner to the Citizen's of Harrisonburg. The review and adoption of the budget represents one of the Council's most important activities. He reiterated that the City continues to

grow and service demands increase. The proposed budget recognizes these increases, while being sensitive to the need to hold expenditure levels to a minimum. In short, this budget is really a maintenance budget in that existing levels will remain the same. The proposed budget represents a 40.5% decrease in net expenditures from the fiscal year 2004 budget as amended (4.0% increase when compared to the original 2004 budget). The significance with this budget is not what it contains, but rather with what is missing. Most of these items that had to be cut from the budgets submitted by department heads were listed under new programs; such as, new police officers, new fire fighters, funds to assist with the Children's Museum, additional building and public works inspectors, storage building for Public Works, funds for continuing improvements to Port Republic Road, East Market Street and Country Club Road bridges, all which are needs of the departments making the request for funding.

The General Fund budget that I am presenting to you is balanced with no proposed tax increases; however, about \$2.96 million from the unappropriated fund balance is required to do this. On the expenditure side there are three items that increase the budget: \$835,000 in debt service for the schools, \$432,000 for VRS and a recommended 3% salary adjustment for employees amounting to \$427,000. Neither the debt service nor the VRS increases are items that we have any control over.

There are proposed increases in the enterprise funds of Sanitation and Water. These increases are being carried forward from prior years in order to pay for the rebuild of the steam plant and installing the raw waterline from the east. The refuse collection fee is proposed to increase \$2.00, tipping fees will increase \$3.00 and water rates are proposed to increase by 3%. These increases are necessary in order for the enterprise funds to fund committed expenses. The budget format is similar to prior years, with detailed explanations by fund and by major function areas in the General Fund. Our hope is once everyone is comfortable with this budgeting format; it will be our primary budget format.

Staff is prepared to review the budget document with Council as directed. Adequate time is available for one or more budget work sessions prior to the public hearing.

Following further discussion and comments, Council agreed to a work session on March 30th at 8:00 p.m.

Planning and Community Development Director Turner introduced a request by Ellen DeSarno for a special use permit. She briefly updated the circumstances concerning this request including that the applicant has stated meeting the required parking might be a problem. After meeting with the applicant attorney further information was received. An existing use, nonconforming with respect to parking, is allowed to continue as the same type use (i.e. one retail use can change to another retail use), without having to add parking. She said that because day care centers are placed in the retail category for parking purposes, we can consider this particular change to be changing from retail to retail and not require any additional parking spaces to be installed. The parking issue has been resolved and the day care center will be operating with the 17 existing parking spaces. Following further discussion and comments, Vice-Mayor Rogers offered a motion to approve this request. The recorded roll call vote was taken as follows:

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

Absent – None

Planning and Community Development Director Turner introduced a request by Virginia Silo, LLC to subdivide a two-acre lot into two smaller parcels with a variance to the City's Subdivision Ordinance. She said that the property is located directly behind 1720 Erickson Avenue. The property was rezoned from R-1, Single Family Residential District to B-2, General Business District by action of City Council on December 23, 2003. Currently, access to the existing lot is provided over a 55-foot right-of-way that runs from Erickson Avenue down the private access driveway serving the Wal-Mart shopping center. The applicant wants to subdivide a two-acre lot into two one-acre parcels with a variance to the requirement that all lots resulting from a subdivision front directly on a public street. They would not front on public street, but would continue to use the same access easement. She said that Planning Commission has 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 Lantz  
Vice-Mayor Rogers  
Council Member Peterson  
Council Member Frank  
Mayor Fitzgerald

Absent – None

Planning and Community Development Director Turner introduced a request by David Lee for Acorn Enterprise to have City utilities provided to a lot located along Red Oak Street in Rockingham County. She said that Public Utilities Director Collins has evaluated the request and recommended supplying water to the applicant. He has also recommended approval of the sewer service subject to the condition that the applicant make connection to the public main inside the City corporate boundaries. She said that Planning Commission has 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 Lantz  
Vice-Mayor Rogers  
Council Member Peterson  
Council Member Frank  
Mayor Fitzgerald

Absent – None

The next item of business was an overview of the Elizabeth Street Corridor. Public Works Director Baker presented that a group of representatives from Downtown Citizens, Parking Authority, Downtown Renaissance, Economic Development, Downtown Merchants, First Presbyterian Church, Clark & Bradshaw and City Staff held a meeting to discuss a proposal for modifications to Elizabeth Street while maintaining two-way access and creating additional parking. Several proposals for modifications to Elizabeth Street were proposed; however, designating Elizabeth Street as a one-way street is no longer being considered. The City wants to maintain two-way traffic throughout the corridor. The first phase improvement would begin on Elizabeth Street at the intersection of North Mason Street. It is suggested that six (6) parking spaces be created on the south side of Elizabeth Street immediately, which are adjacent to the Shenandoah National Bank. The double yellow line will have to be adjusted accordingly. Adding these six new spaces is estimated to cost \$730.00. The second phase improvement would begin when parking is removed from the north side of Elizabeth Street once redevelopment plans for 41 Elizabeth Street/90 North Main Street is underway. Redevelopment plans include the expansion of pedestrian facilities on the south side of Elizabeth Street by widening the sidewalk three additional feet. Parking will not be removed from this block of Elizabeth Street until the sidewalk facilities are under construction. The estimated cost for this phase is \$665.00. Phase three improves an existing gravel parking areas. Additional parking spaces will be created in the gravel lot between Blacks Run and the Harrison Plaza's parking facilities adjacent to Elizabeth Street. This lot would be paved to support twenty (20) metered spaces. Public parking will remain immediately behind Harrison Plaza, although it has been brought to the attention of property owners and associated groups that once Harrison Plaza opens to full capacity, the majority of public parking will become restricted to accommodate police and fire personnel parking. The creation of this City-owned parking lot would help alleviate parking pressure from the Harrison Plaza parking lot. The estimated cost for this improvement is \$4,340.00. Mr. Baker reviewed a proposed phase four plan, which could take place in the future. The total inventory of parking spaces includes creating six new parking spaces in phase one, removing eight spaces upon the development of the LENEAA project, creating 20 new parking spaces in phase three, and removing eight spaces along Elizabeth Street in the future for a net gain of ten additional parking spaces.

Ned Hillyard representing owners and management of the office building at One Court Square said they were in favor of downtown growth. He reminded everyone of the many landlords, merchants, and tenants who had remained in the downtown area when other businesses moved outside the downtown area. He said that the tenants of One Court Square depend upon the little parking lot across from One Court Square for the convenience of their clients; however, because so many spaces are leased clients do not have any parking spaces. He questioned whether new businesses were actually moving into the downtown area or relocating from another area.

Jerry Lawrence, owner of the Daily Grind, said the heart and soul of Harrisonburg is in the downtown area. Parking has been a major issue in the downtown area. He questioned whether small businesses or professional organizations were moving into the downtown area. He questioned, "Are we supporting the little merchants or we supporting the downtown area becoming a square of professional organizations?"

Nancy Garber said she could remember if a certain number of parking spaces were allotted as handicap spaces. The solution for Elizabeth Street produced ten more parking spaces. She also said that an existing problem in the downtown area has been employers and employees have taken the spaces around Court Square and East Market Street. Meters had to be installed one again to control this problem. She reminded everyone of the upcoming March 30<sup>th</sup> meeting to discuss parking problems in the downtown area.

Gary Stiteler, president of the Downtown Harrisonburg Retail Merchants Associates, said that the municipal parking lot behind Harrisonburg Plaza would soon be completely occupied by employees of the City and no metered parking spaces will exist.

Following further discussion, comments and some disagreement regarding whether sidewalk improvement were included in a motion made at the March 9<sup>th</sup> Council meeting, Mayor Fitzgerald read the motion from the minutes of the March 9<sup>th</sup> City Council meeting and pointed out that only the nine long-term lease parking spaces for the project were approved. The sidewalk decision was tabled until the March 23<sup>rd</sup> City Council meeting. Council Member Peterson offered a motion to add the six parking spaces on Elizabeth Street between Federal Street and Mason Street. The motion included that once construction of the sidewalk begins, the City will re-stripe Elizabeth Street to provide sidewalk expansion for the LENEEA project. The motion also included paving a gravel lot between Blacks Run and Harrison Plaza's parking facilities to provide an additional 20 parking spaces. The recorded roll call vote was taken as follows:

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

No - Council Member Lantz

Absent – None

The next item of business was considering authorizing City Manager Baker to enter into contract negotiations for a consultant to conduct a railroad relocation feasibility study. Public Works Director Baker reminded everyone that at the January 27<sup>th</sup> City Council meeting Council had authorized the City Manager to proceed with a preliminary engineering study of a new railroad location. Staff members from the City of Harrisonburg, Rockingham County and James Madison University worked together and released RFP's/REQ's to conduct a feasibility study to relocate a segment of the Chesapeake & Western Railway around the City. Mr. Baker said that the committee is recommending that Ralph Whitehead and Associates be selected as the consultant firm for this project. Council Member Peterson offered a motion to authorize the City Manager to begin negotiations with the recommended consultant firm. The motion was approved with a unanimous vote of Council.

The next item of business was a discussion concerning safety regulations for mopeds and motorized scooters. This item had been referred to the Harrisonburg Transportation Safety

Commission for their review and future report to City Council. City Manager Baker said that the Commission has reviewed the matter and agrees that a significant safety issue does exist in the City. However, a problem exists in that a locality cannot exact a local law that supersedes state law. Two Virginia cities, Martinsville and Roanoke have adopted ordinances regulating the use of bicycles and mopeds. Mr. Baker recommended that City Attorney Miller and City staff prepare an ordinance for Council review.

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 new PA system for the SWAT vehicle. Council Member Lantz offered a motion to approve this request for a first reading, and that:

\$3,079.00 chge. to: 1000-31010 Amount from fund balance

\$3,079.00 approp. to: 1000-310231-48211 Machinery & Equipment

The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Lantz  
Vice-Mayor Rogers  
Council Member Peterson  
Council Member Frank  
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 Federal asset seizure funds to be used for a storage building on Chicago Avenue to store large evidence and property items. Council Member Lantz offered a motion to approve this request for a first reading, and that:

\$12,000.00 chge. to: 1000-31010 Amount from fund balance

\$12,000 approp. to: 1000-310131-48181 Replacement-Building and Grounds

The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Lantz  
Vice-Mayor Rogers  
Council Member Peterson  
Council Member Frank  
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 through a court ordered restitution case to replace a Police damaged bicycle. Council Member Lantz offered a motion to approve this request for a first reading, and that:

\$846.00 chge. to: 1000-31901 Recoveries & Rebates

\$846.00 approp. to: 1000-310231-46140 Other Operating

Assistant City Manager Kurt Hodgen announced that bids were opened for the Emergency Community Center. The low bidder was Nielsen Construction Company at \$1,083,341.00 with some adjustments including removing the emergency generator and fire alarm/sprinkler system. The City should be able to save approximately \$160,000.00 by rebidding the project.

Council Member Peterson offered a motion that William L. Jones, Jr., 94 Laurel Street, be appointed to an unexpired term on the Harrisonburg Planning Commission to expire on December 31, 2004. The motion was approved with a unanimous vote of Council.

Council Member Peterson offered a motion that Stanley Gray, 924 Mockingbird Drive, be appointed to a second term on the Harrisonburg Industrial Development Authority to expire on April 24, 2008. The motion was approved with a unanimous vote of Council.

Council Member Peterson offered a motion that Carolyn Frank, 374 South Carlton Street, be appointed as Harrisonburg's nominee to stand for election to the Executive Committee of the Central Shenandoah Planning District Commission. The motion was approved with a unanimous vote of Council.

At 11:10 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

