

## REGULAR MEETING

MAY 11, 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; City Clerk Yvonne "Bonnie" Ryan, CMC/MMCA, and Police Captain Claytor. Absent: Council Member Hugh J. Lantz and Chief of Police Donald Harper.

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

Bucky Berry a resident of Harrisonburg expressed his thanks to Council Members Frank and Peterson, and Mayor Fitzgerald for their service to the City during the last four years.

Council Member Peterson offered a motion to approve the consent agenda, including approval of the minutes and the second reading of a Supplemental Appropriation for the Parks and Recreation Department and Public Works Department. The recorded roll call vote was taken as follows:

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

Absent – Council Member Lantz

Senior Planner Markel introduced a request by Gary Green to rezone 4.28 acres of land from R-2, Residential District to R-3, Multiple Dwelling Residential District. He said the property is located at 1052-1080 Old Furnace Road. The applicant has requested that his property, Eastbrook Manor Apartments, be rezoned from the current R-2 to R-3 to bring the property into conformance. He reviewed the surrounding uses in the area. The Comprehensive Plan designates this area as High-Density Residential, a designation that is most closely affiliated with the R-3 zoning district. The R-3 zoning allows additional uses for the property including professional offices as a by-right use. A few issues looked at by staff was additional traffic in the area, but it was determined that the increased traffic generated from any use of this property would not be significant enough to warrant any special measures be taken beyond what is in place. One interest highlighted by staff included making sure a future connection to East Washington Street could be maintained should the City ever develop East Washington Street past Vine Street. He said that Planning Commission has recommended approval of the rezoning request.

At 7:36 p.m., Mayor Fitzgerald closed the regular session temporarily and called the evening first public hearing to order. The following notice appeared in the Daily News-Record Monday, April 26, and Monday, May 3, 2004.

### **NOTICE OF PUBLIC HEARING**

**The Harrisonburg City Council will hold public hearings on Tuesday, May 11, 2004, at 7:30 p.m. in the Municipal Building, City Council Chamber, 345 South Main Street, to consider the following:**

#### **REZONING – EASTBROOK MANOR APPARTMENTS**

**Public hearing to consider a request by Gary Green to rezone 4.28 acres of land from R-2, Residential District to R-3, Multiple Dwelling Residential District. The property is located at 1052-1080 Old Furnace Road and can be found on tax map 32-E-6.**

**The Comprehensive Plan designates this area as High-Density Residential. This designation states that these areas are intended for high-density development, mostly apartment buildings with densities ranging from 12 to 15 dwelling units per acre.**

**The Zoning Ordinance states that the R-2, Residential District is intended for medium-density, single-family and two-family residential development. The residential density ranges for R-2 are single-family, 7,000 sq. ft. minimum and two-family, 5,500 sq. ft/unit. The R-3, Multiple Dwelling Residential District is intended for medium- to high-density residential development and other uses intended to respect the residential character, which are aesthetically compatible within the district by means of architectural expression, landscaping, and restrained traffic flow. The residential density ranges for R-3 are single-family, 6,000 sq. ft. minimum; two-family, 4,000 sq. ft/unit; multi-family, 3,000 sq. ft. minimum per unit; townhouses, 2,000 sq. ft. minimum per unit; and other uses, 6,000 sq. ft. minimum.**

**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. There being no one desiring to be heard, the public hearing was declared closed at 7:37 p.m., and the regular session reconvened. Vice-Mayor Rogers offered a motion to approve this rezoning request. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Peterson  
Council Member Frank

Vice-Mayor Rogers  
Mayor Fitzgerald

Absent – Council Member Lantz

Senior Planner Markel introduced a request by Dan Newberry and Graddison, LLC to close 10,206 square feet of right-of-way at the end of Betts Court. He said Betts Court is located between Evelyn Byrd Avenue & Chestnut Ridge Drive off of East Market Street. He reviewed the surrounding uses in the area. The applicant has requested to close 10,206 square feet of Betts Court to allow for reconfiguration of his lot. These lots are also impacted by steeply sloping topography on the western property boundary. The shortening of Betts Court would allow more of the level areas of the property to be used for development. The applicant owns the property on both sides of the portion of Betts Court and would have sole right to purchase the land from the City. The applicant wants to construct a new permanent cul-de-sac partially on his property, closer to East Market Street and then dedicate it to the City. The plan for the relocated cul-de-sac creates a small, unusable triangle shaped area within the City right-of-way, which the applicant has agreed to maintain. He said that Planning Commission has recommended approval of closing this right-of-way.

At 7:41 p.m., Mayor Fitzgerald closed the regular session temporarily and called the evening first public hearing to order. The following notice appeared in the Daily News-Record Monday, April 26, and Monday, May 3, 2004.

**NOTICE OF INTENTION TO CLOSE  
10,206 SQUARE FEET OF THE  
EXISTING RIGHT-OF-WAY OF BETTS COURT  
IN THE CITY OF HARRISONBURG  
City Council Chambers  
Tuesday, May 11, 2004  
7:30 p.m.**

**The Harrisonburg City Council will hold a public hearing on Tuesday, May 11, 2004, 7:30 p.m. at City Council Chambers, Municipal Building, 345 South Main Street, Harrisonburg, Virginia, to consider a request to vacate 10,206 square feet of the existing right-of-way of Betts Court, South of East Market Street between Evelyn Byrd Avenue and Chestnut Ridge Drive.**

**A copy of the recommendation of the City Planning Commission along with a copy of the plat showing the portion to be closed is available at 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 the opportunity to express their views at the 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 closing this right-of-way. Ray Nicely, Director of Planning with Valley Engineering, said that the applicant plans to construct office buildings on both lots to achieve a more usable area because of the unique topography. By moving the cul-de-sac, these lots will become more productive and useful. There being no others desiring to be heard, the public hearing was declared closed at 7:45 p.m., and the regular session reconvened. Council Member Peterson said that a letter was received from the owners of Harrisonburg Nissan indicating they didn't have an opportunity to attend the meeting and requested that a decision regarding this request be postponed. Council Member Peterson offered a motion to table this request until the May 25<sup>th</sup> Council meeting. The motion was approved with a unanimous vote of Council Members present.

Senior Planner Markel introduced a request by Rodney and Sadie Miller to subdivide a 1.4 acre parcel into two lots. He said that the applicants are requesting that the lot located at 774 Foley Road be subdivided to allow for a separate buildable lot to front on Foley Road. This request requires a variance to Section 10-2-42(d) of the Subdivision Ordinance that requires all lots to front on a public street. The creation of this second lot would remove the street frontage from the existing house located at the rear of this property. He reviewed the surrounding uses in the area. The existing house is located up the hill from Folly Road, with a large undeveloped front yard. The unique topography of the area and land locked nature of this property would prevent any future public streets from providing access to the existing house. The existing property is zoned R-3, which would allow the applicant to construct additional dwellings on the property, but individual sales would not be possible because the multiple dwellings would all share the same parcel of ground. A few issues regarding water and sewer and Harrisonburg Electric Commission bringing power to the lot will have to be worked out once the request gets to a developmental stage of the property. As with any request for a lot to not front on a public street, staff withholds approval of a final plat until an access and maintenance agreement is provided showing how ingress and egress would be provided for the real lot. He 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 Peterson  
Council Member Frank  
Vice-Mayor Rogers  
Mayor Fitzgerald

Absent – Council Member Lantz

The next item of discussion was a request by the Harrisonburg Redevelopment and Housing Authority. Michael Wong, Director of HRHA, presented a resolution from the HRHA to purchase property located at 620 Broad Street. He said purchasing this property is part of a master plan initiated in the summer of 2003. Mr. Wong reviewed significant issues for public housing identified by the Board of Commissioners. He said that the HRHA hopes to renovate

all 100 of its housing units. The goal is to move public housing residents into temporary houses purchased by the authority. HRHA has decided to purchase the property located at 620 Broad Street and intends to modify the property from a single-family home into a multiple family residence.

Harrisonburg Redevelopment & Housing Authority Director Michael Wong presented the following resolution for Council's consideration of approval:

**RESOLUTION AUTHORIZING THE PURCHASE OF CERTAIN REAL PROPERTY  
BY THE HARRISONBURG REDEVELOPMENT AND HOUSING AUTHORITY**

**WHEREAS, the Harrisonburg Redevelopment and Housing Authority (the "Authority") has decided to purchase certain real property improved by a single family dwelling from Kenneth M. and Lois A. Handrich, husband and wife, which property is located at 620 Broad Street in the City of Harrisonburg, and which property is more particularly described in the attached City of Harrisonburg Property Record Card (hereinafter "the Property"); and,**

**WHEREAS, the Authority intends to modify the Property from a single family home into a multiple family residence, and to rent the Property pursuant to its mission of providing safe and sanitary dwellings to persons of low income, as set forth in the Housing Authorities Law, Chapter 1, Title 36 of the Virginia Code; and,**

**WHEREAS, Code of Virginia Section 36-19.2 requires that the Authority obtain the approval of the City of Harrisonburg (the "City") prior to purchasing the Property as it is the current intention of the Authority to use such Property for housing purposes; and,**

**WHEREAS, Kenneth M. Handrich, a Commissioner of the Authority, abstained from voting or participating in any way in his capacity as Commissioner with respect to the Authority's decision to purchase the Property, as required by Code of Virginia Section 2.2-3110, and will disclose such ownership of the Property and its sale to the Authority as required by Code of Virginia Section 2.2-3115;**

**NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Harrisonburg, Virginia, that:**

- 1. The City approves the foregoing recitals, which are incorporated in, and deemed a part of, this Resolution as if fully set forth herein.**
- 2. The City authorizes and approves the purchase of the Property by the Authority and the Authority's utilization of such Property as a housing project or for such other uses as the Authority shall deem appropriate and which is permitted by law.**
- 3. This authorization and approval applies only to the Authority's obligation to obtain City approval pursuant to Code of Virginia Section 36-19.2 and does not constitute a**

waiver of any City ordinance with respect to the Property, including but not limited to compliance with City zoning and building codes.

This resolution shall take effect immediately upon its adoption.

READ AND ADOPTED: May 11, 2004

CERTIFICATE

Record of the roll-call vote by the City Council of the City of Harrisonburg, Virginia, upon reading on a resolution titled "RESOLUTION AUTHORIZING THE PURCHASE OF CERTAIN REAL PROPERTY BY THE HARRISONBURG REDEVELOPMENT AND HOUSING AUTHORITY" taken at a regular meeting of the City Council held on May 11, 2004:

	AYE	NAY	ABSTAIN	ABSENT
Joseph G. Fitzgerald, Mayor	X			
Larry M. Rogers, Vice-Mayor	X			
Carolyn W. Frank	X			
Hugh J. Lantz				X
Dorn W. Peterson	X			

Dated: May 11, 2004

(SEAL)

\_\_\_\_\_  
Mayor, City of Harrisonburg, Virginia

ATTEST:

\_\_\_\_\_  
Clerk, City Council of the City of  
Harrisonburg, Virginia

Following further discussion and comments, Vice-Mayor Rogers offered a motion to approve this resolution. The recorded roll call vote was taken as follows:

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

Absent – Council Member Lantz

Council Member Peterson offered a motion that Council appoint Mike Collins, to the Environmental Quality Committee, Lester Seal, to the Finance Committee, Roger Baker and Tom Miller, to the General Laws Committee, Kurt Hodgen, to the Human Development & Education Committee, and Reggie Smith, to the Transportation Committee on the Virginia Municipal League policy committees. The motion was approved with a unanimous vote of Council Members present.

City Manager Baker presented a certified receipt of 2004 government election results provided by the Electoral Board.

Member City Council

Charles R. Chenault	1,903
George W. Pace	1,636
Dorn W. Peterson	1,312
Alan P. Finks	932
Joseph Gus Fitzgerald	1,152
Rodney L. Eagle	1,467
Carolyn W. Frank	1,371
Marty M. Solomon	164
W.P. "Bill" Whalen, Jr.	233

Member School Board

Steve D. Ray	1,158
Michael D. Walsh	2,161
Kerri M. Wilson	1,957

Council accepted the election results and asked the City Clerk to enter the names into the official minutes.

City Manager Baker presented a request to transfer funds for the Parks and Recreation Department. He said that funds were budgeted in the General Fund for lights for the basketball court at Ralph Sampson Park. However, since the renovation of the Simms Building the basketball court was moved to another location. These funds will be used to install lights at the new outside basketball court. Council Member Peterson offered a motion to approve this request, and that:

\$40,000.00 chge. to: 1310-34210 Transfer from General Fund

\$40,000.00 approp. to: 1310-910141-48691 Simms Building Renovation Project

\$40,000.00 chge. to: 1000-710271-48181 Building and grounds

\$40,000.00 approp. to: 1000-990111-49216 Transfer to capital projects

The recorded roll call vote was taken as follows:

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

Absent – Council Member Lantz

City Manager Baker presented a request for a supplemental appropriation for the Parks and Recreation Department. He said these funds were a reimbursement from the Virginia Department of Military Affairs for costs associated with the heating system at the National Guard Armory. Council Member Peterson offered a motion to approve this request for a first reading, and that:

\$10,572.28 chge. to: 1000-32539 VA Military Affairs

\$10,572.20 approp. to: 1000-710571-43330 National Guard Armory Maint. & Repair

The recorded roll call vote was taken as follows:

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

Absent – Council Member Lantz

City Manager Baker presented a request for a supplemental appropriation for the Fire Department. He said that these funds were received from a homeland security grant to be used for the Fire Department. Council Member Peterson offered a motion to approve this request for a first reading, and that:

\$ 12,544 chge. to: 1000-31010 Amount from fund balance

133,627 chge. to: 1000-33534 Home Land Security funds

45,514 chge. to: 1000-33534 Home Land Security funds

\$191,685 approp. to: 1000-340532-48213 Equipment

The recorded roll call vote was taken as follows:

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

Absent – Council Member Lantz

Council Member Frank offered a motion to appoint Dr. Thomas R. Syre and Dr. Laura H. Zarrugh to a second term on the Community Services (Chapter 10) Board to expire on July 1, 2007. The motion was approved with a unanimous vote of Council Members present.

At 8:15 p.m., Council Member Peterson offered a motion that Council enter a closed session for the purpose of discussion of a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business or industry's interest in locating or expanding its facilities in the City. A closed session is permissible for this purpose pursuant to Section 2.2-3711.A.5 of the Code of Virginia (1950), as amended (the Code). The recorded roll call vote was taken as follows:

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

Absent – Council Member Lantz

At 8:45 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 Members present: I hereby certify to the best of my knowledge and 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 public business matters as were identified in the motion by which the closed session was convened, were heard, discussed or considered in the closed session by the City Council.

At 8:46 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

