

REGULAR MEETING

NOVEMBER 9, 2004

At a regular meeting of Council held this evening at 7:30 p.m., there were present: Mayor Larry M. Rogers; City Manager Roger Baker; Assistant City Manager Kurt Hodgen; City Attorney Earl Q. Thumma, Jr., Vice-Mayor Rodney L. Eagle; Council Members Charles R. Chenault; Council Member Hugh J. Lantz; George W. Pace; City Clerk Yvonne "Bonnie" Ryan, CMC/MMCA, and Chief of Police Donald Harper.

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

Council Member Chenault requested that Item #5b be removed from the consent agenda.

Council Member Pace 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 the School Board. The motion was seconded by Council Member Lantz, and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Chenault
Council Member Pace
Council Member Lantz
Vice-Mayor Eagle
Mayor Rogers

Absent – None

Council Member Chenault said the reason he had requested removing Item #5b, which pertains to the sounding of locomotive horns or whistles and ringing locomotive bells was because the Federal Government has issued an interim rule through the Federal Railroad Administration regarding train whistles and railroad crossings. This rule becomes final December 31, 2004 and will take precedent over all state and local regulations. The ruling allows localities the authority to establish "quiet zones" in areas with consecutive signaled gated crossings. He said that the City should qualify for several "quiet zones"; however, the General Assembly will need to establish enabling legislation before the City can establish these "quiet zones" under the new rule.

Planning and Community Development Director Turner introduced a request by Dr. Gregory S. Johnson to rezone .135 acres. She explained that the applicant has requested to rezone a vacated section of undeveloped Elizabeth Street right-of-way behind 660 East Market Street along with an adjacent small triangular shaped parcel of land. The applicant recently purchased the undeveloped right-of-way from the City. She reviewed the surrounding uses in the area. The purpose of the request is to permit Dr. Johnson to expand the current parking lot for his dental practice in the rear of the lot. The applicant has committed the following proffers:

1) Any use permitted by right in R-1 and R-2 residential districts for medical and professional offices. 2) Accessory buildings and uses clearly incidental to the above, which would include the parking lot use. 3) Expand the existing stormwater detention pond to hold additional runoff created by the new parking lot, with the approval of the City Engineer, which is already being reviewed. She said that Planning Commission has recommended approval of the request.

At 7:45 p.m., Mayor Rogers closed the regular session temporarily and called the evening public hearing to order. The following notice appeared in the Daily News-Record on Monday, October 25, and Monday, November 1, 2004.

NOTICE OF PUBLIC HEARING

The Harrisonburg City Council will hold a public hearing on Tuesday, November 9, 2004, at 7:30 p.m., in the Municipal Building, City Council Chamber, 345 South Main Street, to consider the following:

REZONING – JOHNSON PROPERTY

Public hearing to consider a request by Gregory Johnson, DDS to rezone .135 acres from a closed portion of East Elizabeth Street and a small undeveloped lot of R-2, Residential District to R-3C, Multiple Dwelling Residential District Conditional. These lots would then be combined with the adjacent parcel that fronts East Market Street that contains the medical office.

The Comprehensive Plan designates this area as Neighborhood Residential. This designation states that this type of land use highlights those neighborhoods in which existing conditions dictate the need for careful consideration of the types and densities of future residential development. These are older neighborhoods, which can be characterized by large housing units on small lots.

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 Rogers called on anyone desiring to speak for or against this request. There being no one desiring to be heard, the public hearing was declared closed at 7:46 p.m., and the regular session reconvened. Council Member Chenault offered a motion to approve this request. The motion was seconded by Council Member Lantz, and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Chenault
Council Member Pace
Council Member Lantz
Vice-Mayor Eagle
Mayor Rogers

Absent – None

The next item of business was a presentation by Mike Collins, Director of Public Utilities, on Capital Outlay Projects. Mr. Collins introduced Mr. Tom Fitzgerald, project engineer from Wiley & Wilson. Mr. Fitzgerald reviewed the City's water system's history and pointed out that approximately 225 years ago leaders of the City realized the importance of having a reliable water source for future growth. The town council voted to approve the town's water source by utilizing water sources from the mountains west of the town after Thomas Harrison deeded Big Spring to the town in the late 1700's. That decision was followed by exploring a water source from a mountain reservoir at Rawley Springs and constructing reservoirs at Towers Street in the early 1900's. Mr. Fitzgerald reviewed modern improvements made to the City's water supply.

Public Utilities Director Collins said in 2002 the City allocated \$3 million from a revenue bond for the purpose of covering a 16 million gallon open concrete reservoir located in the City and implementing a commitment to water quality, security and reduction in the vulnerability of the water system. Mr. Collins reviewed a "Proactive 2004 Infrastructure Strategy" that incorporates all the goals originally established in the 2002 bonds. He requested reallocating funds to begin implementing an interim stage of construction strategy. In 1970 the City built a water treatment plant on Grandview Drive and connected it to the Tower Street Reservoirs, which operated 24 hours per day transferring water across the town to feed the majority of the system. After several projects in 1988, the system changed and water moved from the treatment plant to the water zones without going through the reservoirs on Tower Street. Mr. Collins reviewed construction problems with the original intent to place a cover over the existing 16 million gallon reservoir at Tower Street. Based on conditions that have changed since the bonds were issued, Mr. Collins requested Council's support of a new revised strategy that will not only meet the goals of the original project, but will be proactive in addressing the changed conditions. He asked to reappropriate \$2,711,673 in funds, plus \$2 million from fund balances to a new capital project fund that will address the new strategy. These funds, along with \$750,000 to be programmed into the next budget, will allow the interim phase of the project to begin immediately with the project being completed in the fall of 2005.

Mayor Rogers questioned how does Harrisonburg water system compare to other localities? Why is an outside organization trying to take advantage of the City's water supply?

A representative from Wiley & Wilson said the Harrisonburg's assets are tremendous and water resources are one of the primary benefits provided to the citizens of the City. A lot of money has been invested on the City water source making it very valuable. People in the private sector are interested in these resources; however, most local governments want control over its own water supply.

Tom Fitzgerald said Harrisonburg is an attractive target for outside organizations because the cost to treat water in the City is very low. The City has a high quality water source coming from the mountains into the system by gravity with very little pumping involved to get water to the majority of the consumers. The infrastructure maintenance cost and cost of delivery of water to the consumers is very low.

Council Member Pace asked what was being done to maintain security at the three different locations?

Mr. Fitzgerald replied that the tanks being designed are made of pre-stressed concrete with 12-inch walls at the base and 6 inches at the top. Fences will be installed around the tanks and the areas will be well lit. Security levels will be put in place to enhance the existing security system.

Council Member Pace asked if the ongoing maintenance expense was a issue?

Mr. Fitzgerald said concrete tanks provide lower maintenance because there is no interior painting.

Council Member Pace questioned whether three water tanks would be enough or should a fourth tank be considered.

Mr. Collins said the City has adequate water storage.

Council Member Lantz questioned the impact of the proposed funding on the future of the raw water line and it's financing? Will a rate increase be necessary?

Mr. Collins said the City has \$3.1 million of uncommitted money toward the raw water line.

Vice-Mayor Eagle questioned when would the City be able to bring water from the Shenandoah River?

Mr. Collins said the City should have a final design in the spring of 2005. He reviewed recommendations that will be submitted to the City's financial planners.

Council Member Pace asked whether any operational cost savings would be better utilized with this project.

Mr. Collins reviewed the City's water transferred from the treatment plant to the reservoirs.

Curtis Poe, Executive Director of Harrisonburg Rockingham Regional Sewer Authority (HRRSA), presented an overview on the potential impact of the proposed Chesapeake Bay clean up regulations by the State of Virginia. He said the proposed regulation affects HRRSA and will have an impact on the City's Water Quality Management Planning Regulation. This regulation was presented at the Augusta 2004 State Water Control Board meeting and establishes a load allocation for nutrients throughout the Chesapeake Bay watershed. It sets a specific poundage annual load limit for nitrogen and phosphorus for the North River Wastewater Treatment Plant. In 1999 HRRSA installed a \$5.2 million biological nutrient removal process at the North River Wastewater Treatment Plant. The goal was to reduce nitrogen concentrations from approximately 25 mg/L to 8 mg/L and phosphorus concentrations from approximately 5 mg/l to 1.5 mg/L and the project was successful in achieving that goal. However, based on more recent Chesapeake Bay Model projections, the state has indicated that much greater nutrient reductions will be required to achieve water quality standards in the Bay. The state wants HRRSA to lower nitrogen concentrations from 8 mg/L to 3.9mg/L and phosphorus concentrations from 1.5 mg/L to 0.3 mg/L. It will cost the North River Wastewater Treatment Plant \$32 million to install technology to lower the levels at the facility. He said that HRRSA has applied for a technical assistance grant from DEQ to obtain funds to conduct a preliminary engineering report. The City's share of the \$32 million will be \$21.3 million. Mr. Poe said that the proposed regulation is to lower the existing nutrients in the discharge. It will not increase the volume or the amount of the nutrients. Three effects of the proposed regulation include cost, cap on growth, and the scheduling necessary to have the facility constructed by April 2010. Many localities throughout the bay watershed will be trying to obtain engineering and construction at the same time, which could have a significant impact on cost. Mr. Poe recommended that City Council discuss this proposal with legislators regarding funding and scheduling issue. He also said that HRRSA would be looking at a long-range plan in its preliminary engineering study.

The following discussion by Council Members included: Proposed mandated regulation implements a larger capital expenditure without increasing capacity; could create a potential cap to growth in the area; correlation between plant capacity and treated water; questioned if City has plant with treatment capacity of 15 million gallons per day; whether 10.5 million gallon treatment capacity at the sewer treatment plant will effect the City's ability to basically produce enough water; whether other states had to address this concern; regulation could implement higher costs to consumers and industrial facilities, sewer treatment plant is a point source discharge, and under the percentage figures the City is only addressing 20% of the nitrogen and phosphorus problem leaving 80% from runoff and agricultural uses, which cannot be controlled by the City.

Kim Alexander, Block Grant Coordinator, presented an overview on the current year's program and the upcoming fiscal year's program schedule and process. She said two projects have been completed in the CDBG program, four projects are well underway and the remaining

projects have begun and will be applying for reimbursement. The first quarterly reports are due from all of the City Subrecipients in January 2005. Environmental reviews have been completed for each project funded and at this time, no Environmental Assessments are required. HUD regulations require that the City complete an Analysis to Impediments to Fair Housing. Ms. Alexander will be developing an RFP for this project. Approximately \$75,000 in grant funds has already been reimbursed to the City through this system and approximately \$572,00 in CDBG funds remain. CDBG information is available on the City website. She pointed out several key dates on the tentative schedule for 2005-2006 including the first public meeting in November 29, 2004, grant applications will be due January 25, 2005, and February through March projects will be presented to City Council. The annual action plan is due to HUD in May 2005. The Consolidated Plan was developed with a lot of citizen participation and consultation with various agencies and organizations throughout the City. There are significant housing related needs and non-housing community development related needs. The Consolidated Plan consists of a three year Strategic Plan and an Annual Action Plan. The Annual Action Plan determines how CDBG funding will be spent each year and how much funding each project will receive. The Strategic Plan analyzes City demographics and considers the community's goals, needs, existing services, and gaps in services.

Council Member Chenault commented that the Free Clinic hopes to build an addition to its facility during the next year and he encouraged City support for the project through the Community Development Block Grant.

City Manager Baker presented an overview on the updated taxi ordinance research. He said that 24 localities regulations were reviewed. Several localities require 24 hours 7 days per week and have a maximum number of hours an individual can drive during a 24-hour period. Most localities do not allow a driver to exceed 13 hours in a 24-hour period, require a minimum number of cabs a company can have, some require each vehicle to have a certificate, some limit the number of certificates issued according to the population of the locality. Most of the localities do not require seat belts for all customers in the cabs.

The following discussion by Council Members included: Current ordinance requires a taxicab company to operate 120 minimum hours per week; the language in current ordinance is not clear concerning operation hours; City doesn't have enough cab service operating on Thursday, Friday and Saturday nights; what is intent of current ordinance; and does the City want drivers operating more than 13 hours per day.

Following further discussion and comments, Council Member Chenault offered a motion to remove the maximum hours per week requirement, require holder of taxi certificate to operate a minimum of thirty (30) hours per week per taxicab, and add to the ordinance that no driver of a taxicab can work more than thirteen (13) hours in any twenty-four (24) hour period. The motion also included that the City Manager implement changing appropriate enforcement procedures or administrative procedures in the taxi ordinance to a Department where it would be more appropriate. The motion was seconded by Vice-Mayor Eagle, and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Chenault

Council Member Pace
Council Member Lantz
Vice-Mayor Eagle
Mayor Rogers

Absent – None

Police Chief Harper presented a request for a supplemental appropriation for the Police Department. He said that these funds were received from a DMV reimbursement grant for overtime and training. Council Member Lantz offered a motion to approve this request for a first reading, and that:

\$16,968.58 chge. to: 1000-3524 Federal DMV grant

\$16,968.58 approp. to: 1000-310231-41020 Salaries/Wages OT

The motion was seconded by Council Member Pace, and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Chenault
Council Member Pace
Council Member Lantz
Vice-Mayor Eagle
Mayor Rogers

Absent – None

Bucky Berry, a resident of Harrisonburg, requested better control of City vehicles being used for personal use. He also requested that the snow removal ordinance be omitted from the City Code.

Vice-Mayor Eagle introduced a request by the VFW, American Legion and the POW MIA Chapter to hold a Veteran's Day parade on Sunday, November 14th at 2:00 p.m. He said the proper application forms have been submitted, but because of a miscommunication between the three groups the request wasn't presented to City Council. Following further discussion and comments, Vice-Mayor Eagle offered a motion to approve this request. The motion was seconded by Council Member Chenault, and approved with a unanimous vote of Council.

Council Member Pace said that Lt. Jill Howard, Lt. Jeff Morris, FF Steve Morris, and FF Lori Dearing should be commended and recognized for their actions on September 19, 2004, when they performed life saving CPR on a patient.

Council Member Lantz announced that the Deer Population Task Force will be meeting on Monday, November 22nd at 7:00 p.m. in the Council Chambers in the Municipal Building.

Mayor Rogers announced that a “Biodiesel Conference” will be held on November 16, 2005 at 8:00 a.m. at James Madison University.

City Manager Baker announced that M/A-Com will be providing a demonstration on a possible City-County radio system on Wednesday, November 17, 2004 at 1:00 p.m. at the Rockingham County Administration office.

Assistant City Manager Hodgen said that in 2001, the City purchased land from Bridgewater College. This land was added to the City’s parkland. Appropriating funds to this year’s budget will allow the City to pay off this note early and save approximately \$20,000 over the next 18 months. City Council suggested that the note be paid off.

At 10:00 p.m., Council Member Chenault offered a motion that Council enter a closed session for discussion and consideration of personnel and prospective candidates to be appointed to the Blue Ridge Disability Services Board, Social Services Advisory Board, Harrisonburg Board of Zoning Appeals, Harrisonburg Electric Commission, Harrisonburg Redevelopment and Housing Authority, Harrisonburg Parking Authority, Building Code Board of Appeals, Parks and Recreation Commission, and Harrisonburg Planning Commission exempt from public meeting requirements pursuant to Section 2.2-3711(A)(1) of the Code of Virginia. Discussion and consideration of the acquisition of real estate to be used for public purposes, exempt from public meeting requirements pursuant to Section 2.2-3711(A)(3) of the Code of Virginia, 1950, as amended.

At 11:10 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 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 11:11 p.m., there being no further business and on motion adopted the meeting was adjourned.

CITY CLERK

MAYOR

