

REGULAR MEETING

MARCH 8, 2005

At a regular meeting of Council held this evening at 7:30 p.m., there were present: Mayor Larry 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; Hugh J. Lantz and George W. Pace; City Clerk Yvonne "Bonnie" Ryan, CMC/MMCA, and Chief of Police Donald Harper.

Cub Scout Pack #40 from the Asbury United Methodist Church including Shane Doyle, Kristian Schaeffer, Tyler Horne, Tanner Arbogast, Michael Ecvstein, Andrew Turner, Alan Smith, Orien Churney, Ryan Hurst, Garrett Thompson, Antione Timbers, Nathan Wood, Spencer Showalter, Jacob Bishop, Billy Smith, Quinten Gray, and Payton Hedrick led everyone in the Pledge of Allegiance. Garrett Thompson sang the National Anthem. The group also included pack leaders, Terry Smith, Karl Schaeffer, Sonia Arbogast, Harry Hurst, and Jo Fulk.

Mayor Rogers gave the invocation.

Beth Chenault, President of the Pilot Club of Harrisonburg, said that the Pilot Club of Harrisonburg is participating in this year's Brain Awareness Week by offering safety tips to children visiting the Children's Museum through Pilot International's signature project BrainMinder™ Buddies. In addition, the group is making the community aware of brain safety tips and brain injury and disorders through local radio public service announcements and through materials offered at the public library.

Mayor Rogers read the following proclamation.

**PROCLAMATION  
BRAIN AWARENESS WEEK  
MARCH 14-20, 2005**

**WHEREAS, Each year thousands of Virginians are diagnosed with devastating disorders of the brain, including Alzheimer's disease, schizophrenia, autism and communications disorders, all of which cause considerable pain and suffering; and**

**WHEREAS, we are reaching a new era of discovery based on the rapid progress that is being made in the study of the brain and the powerful new tools that have become available to neuroscientists; and**

**WHEREAS, these technical advances have already greatly benefited people who are incapacitated by spinal cord injuries, depressive disorder, epileptic seizures, Parkinson's disease, Huntington's disease, muscular dystrophy, cystic fibroses and other life threatening disorders; and**

**WHEREAS, new insights from neuroscience research will give us a more concise understanding of how people become addicted to drugs and thereby provide more effective treatments for individuals with chemicals dependencies, thus, impacting significantly on crime as well as the cost of treating those with chemical additions; and**

**WHEREAS, hundreds of scientists at Virginia's premiere universities, private colleges and research institutes are at the forefront of many of the most promising efforts to understand the complexities of the brain, to alleviate the pain and suffering associated with brain disorders and reduce the cost of treating neurological diseases.**

**THEREFORE, In special recognition of the importance of researching the brain and neurological disorders, I do hereby proclaim March 14-20, 2005, as *BRAIN AWARENESS WEEK* in Harrisonburg and encourage all citizens to recognize the dedicated efforts of all our neuroscientists.**

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**Larry M. Rogers, Mayor**

**Attest:**

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**Yvonne Ryan, CMC/MMCA, City Clerk**

City Manager Baker requested tabling Item #5c from the Consent Agenda until a future City Council meeting. He said that further discussion is needed before the City can participate in the State Urban Archery Season.

Council Member Pace offered a motion to approve the consent agenda, including approval of the minutes and second reading of a Supplemental Appropriation for the Hardesty-Higgins House and rezoning a 15-acre parcel. The motion was seconded by Vice-Mayor Eagle, and approved with a recorded roll call vote taken as follows:

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

Absent – None

Mayor Rogers announced that a request by Alan E. Strawderman & Be Tran will be considered by City Council at a future meeting.

Planning and Community Development Director Turner introduced a request from NAPA Auto Parts who owns the property for the benefit of Cargill Turkey Products LLC for a special use permit. It involves a 5,915 square foot parcel of land located at North Main Street and Kratzer Avenue. She said that NAPA and Cargill are preparing a land swap that would give the NAPA building additional land needed to bring their buildings closer to conforming to City regulations.

In January, City Council amended the B-2 and M-1 zoning classifications to allow by special use permit structures taller than 75 feet in height to be constructed. She reviewed the surrounding uses in the area. Cargill wants to construct a 123-foot tall storage tower near their existing mill. A twenty-five foot tall elevator leg, which is the device that carries the corn to the top of the feed mill, will be placed on the top of the storage tower making the total height of the new tower 143 feet. The four storage towers that are currently on the site can store enough material to operate the mill for three days. The addition of this proposed storage tower would allow the facility to operate for up to a week without rail delivery. She said that Planning Commission has recommended approval of the request.

At 7:59 p.m., Mayor Rogers closed the regular session temporarily and called the evening's first public hearing to order. The following notice appeared in the Daily News-Record on Monday, February 21, and February 28, 2005.

### **NOTICE OF PUBLIC HEARING**

**The Harrisonburg City Council will hold public hearings on Tuesday, March 8, 2005 at 7:30 p.m., in the Municipal Building, City Council Chamber, 345 South Main Street, to consider the following:**

#### **Special Use Permit – 1 Kratzer Avenue, Storage Tower**

**Public hearing to consider a request from Cargill Turkey Products, LLC for a special use permit {per Section 10-3-97 (11)} to allow a 114 foot tall storage tower to be constructed at their feed mill located at 1 Kratzer Avenue and found on tax map 34-B-7-B.**

**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.

Patrick Evick manager of Cargill said they have enough corn storage for their feed mill to last only three days and the railroad is very inconsistent in bringing their product. Therefore, the proposed tower would allow them to have storage at the facility to last over a week. This will also help to empty rail cars in a timely manner. There being no others desiring to be heard, the public hearing was declared closed at 8:00 p.m., and the regular session reconvened. Council Member Pace offered a motion to approve this request. The motion was seconded by Vice-Mayor Eagle, and approved with a recorded roll call vote taken as follows:

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

Abstained - Mayor Rogers

Absent – None

Planning and Community Development Director Turner introduced a request for a special use permit {per Section 10-3-97(3)} to allow business and professional offices on a parcel zoned M-1, General Industrial District. She said that the property is located at 1070 Virginia Avenue the former site of Shenandoah Manufacturing Company. The entire property would be leased by James Madison University for professional offices and warehousing. The majority of the building's space (90,200 square feet) would be used for warehouse and storage. The office sections of the building would occupy approximately 12,750 square feet. She reviewed the surrounding uses in the area. The property exceeds the parking requirements for the separate uses of the building. Fifty parking spaces are available; however, JMU only needs 46 parking spaces. She said that Planning Commission has recommended approval of the request.

At 8:02 p.m., Mayor Rogers 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, February 21, and February 28, 2005.

#### **NOTICE OF PUBLIC HEARING**

**The Harrisonburg City Council will hold public hearings on Tuesday, March 8, 2005 at 7:30 p.m., in the Municipal Building, City Council Chamber, 345 South Main Street, to consider the following:**

##### **Special Use Permit – 1070 Virginia Avenue**

**Public hearing to consider a request for a special use permit {per Section 10-3-97(3)} to allow business and professional offices on a parcel zoned M-1, General Industrial District. The property is located at 1070 Virginia Avenue and can be found on tax map 40-Y-9.**

**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 special use permit.

Gerald Strite said that he was the owner of the property. JMU is leasing the property. He repeated the proposed request and the planned use for the building. He added that this is the highest and best use for this property and keeps it on the tax rolls. There being no others desiring to be heard, the public hearing was declared closed at 8:03 p.m., and the regular session reconvened. Council Member Chenault offered a motion to approve this special use permit request. The motion was seconded by Council Member Pace, and approved with a recorded roll call vote taken as follows:

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

Absent – None

Planning and Community Development Director Turner introduced a request from the Harrisonburg Rescue Squad, Inc. to amend Section 10-3-91 of the Zoning Ordinance. She said that the Harrisonburg Rescue Squad is requesting the following ordinance amendment to allow volunteer emergency service personnel to reside at the facility for up to 24 months. This ordinance amendment is the first step in the Rescue Squad being able to provide housing for up to four members. Currently, the B-2, General Business District does not allow non-transient residential uses. This change to the Zoning Ordinance would permit four active members of the organization to live on premises for no more than 24 cumulative months with the granting of a special use permit. She said Planning Commission has recommended amending the ordinance.

At 8:02 p.m., Mayor Rogers closed the regular session temporarily and called the evening's third public hearing to order. The following notice appeared in the Daily News-Record on Monday, February 21, and February 28, 2005.

### NOTICE OF PUBLIC HEARING

**The Harrisonburg City Council will hold public hearings on Tuesday, March 8, 2005 at 7:30 p.m., in the Municipal Building, City Council Chamber, 345 South Main Street, to consider the following:**

#### **Ordinance Amendment – Rescue Squad Housing in B-2**

**Public hearing to consider a request from Harrisonburg Rescue Squad, Inc. to amend Section 10-3-91 of the Zoning Ordinance. The amendment would allow long term housing for up to four active members of the volunteer rescue squad in the B-2, General Business District.**

**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 amending this ordinance.

Steven Higgins, president of the Harrisonburg Rescue Squad, reviewed why they applied for the ordinance amendment. He said the station currently has volunteer staff at the station 24 hours a day. Sometimes several calls are received, all at one time, making it difficult to get all of the calls answered. There are several individuals who are capable of answering these calls and staffing an ambulance on their own actually residing at the station. The building has four dorm-style rooms with a connecting bathroom, which could be used for this purpose. Council Member Chenault offered a motion to amend Section 10-3-91 of the Zoning Ordinance for a first reading. There being no others desiring to be heard, the public hearing was declared closed at 8:03 p.m., and the regular session reconvened. Council Member Chenault offered a motion to approve amending Section 10-3-91 of the Zoning Ordinance. The motion was seconded by Council Member Lantz, and approved with a recorded roll call vote taken as follows:

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

Absent – None

The next item of business was granting tentative approval of the recommendations for the 2005-2006 CDBG funding cycle. Assistant City Manager Hodgen said official approval cannot occur until after the second public meeting. These are the same recommendations presented at the February 22<sup>nd</sup> Council meeting with the exception of removing \$90,000, which was listed in the economic development category. \$60,000 is being transferred to the “Dream Come True Playground” project and \$30,000 to the Liberty Park project. Council Member Chenault offered a motion to approve the tentative recommendation for the CDBG Funding Cycle. The motion was seconded by Council Member Pace, and approved with a unanimous vote of Council.

The next item of business was a discussion regarding moving May elections to November. Council Member Pace said that he has received telephone calls from several citizens requesting that Council consider this change. He said, “I am for the change. It will reduce operating costs. It will strengthen fiscal responsibility for the elected officers. It could increase

participation, which strengthens the concept of representative government. It would reduce operating costs between \$4,000 and \$5,000 per year. Under the current system, Council Members take office inheriting a budget approved by our predecessors. “For potentially two out of the four years we are either denied input into the existing budget, or we have no responsibility for the budget we approve.” Also, moving the elections to November could increase the level of voter participation.

Council Member Chenault said that the proposal has some merit, but would like to have some time to investigate some of the implications from other jurisdictions compatible with Harrisonburg. Council Member Chenault offered a motion to table consideration of this proposal until a future meeting. The motion was seconded by Council Member Lantz, and approved with a recorded roll call vote taken as follows:

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

No - Council Member Pace

Absent – None

School Superintendent Ford presented a request for a supplemental appropriation for the School Board. He explained that this funding represents additional Federal food subsidy funds and meal receipts. No additional City dollars are required from City Council for the school division to receive these additional funds. Council Member Chenault offered a motion to approve this request for a first reading, and that:

\$183,184.00 chge. to: 1111-33301 School Revenue-Federal  
153,580.00 chge. to: 1111-31691 School Revenue-Other

\$336,764.00 approp. to: 1111-111114-40650 Food Service

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

Vote: Yes - Council Member Chenault  
Vice-Mayor Eagle  
Council Member Pace  
Council Member Lantz  
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 Federal Special Awards Grant to

purchase night vision equipment. Council Member Lantz offered a motion to approve this request for a first reading, and that:

\$9,212 chge. to: 1000-33541 Special Awards Grant

\$9,212 approp. to: 1000-310231-46100 Police supplies

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

Vote: Yes - Council Member Chenault  
Vice-Mayor Eagle  
Council Member Pace  
Council Member Lantz  
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 Federal DMV grant to pay for overtime for checkpoints. Council Member Lantz offered a motion to approve this request for a first reading, and that:

\$2,397.03 chge. to: 1000-33524 DMV Federal grant

\$2,397.03 approp. to: 1000-310231-41020 Salaries/wages overtime

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

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

Absent – None

City Manager Baker presented the following resolution for Council’s consideration.

**RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF HARRISONBURG, VIRGINIA  
DECLARING ITS INTENTION TO REIMBURSE**

**The City of Harrisonburg, Virginia (the “City”) has made or will make expenditures (the “Expenditures”) in connection with (a) the construction and development**

of certain transportation improvements, including a road, side walks and bike lanes of approximately 3 miles in length on the southern side of the City known as Stone Spring / Erickson Avenue Extension (the "Project").

The City may determine that the funds advanced and to be advanced to pay the Expenditures will be reimbursed to the City from the proceeds of one or more obligations to be issued by or on behalf of the City (the "Indebtedness").

As of the date hereof, there are no funds of the City that are, or are reasonably expected to be, allocated on a long-term basis or reserved to finance that portion of the Project that is to be financed with the Indebtedness.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HARRISONBURG, VIRGINIA (THE "COUNCIL"):**

1. The Council hereby adopts this declaration of official intent under Treasury Regulations Section 1.150-2 and declares that the City intends to reimburse itself with the proceeds of Indebtedness for Expenditures made on, after or within sixty (60) days prior to the date hereof with respect to the Project. Further, Expenditures made more than sixty (60) days prior to the date hereof may be reimbursed to certain *de minimis* or preliminary expenditures described in Treasury Regulations Section 1.150-2(f) and as to other expenditures permitted under applicable Treasury Regulations.
2. The maximum principal amount of Indebtedness expected to be issued for the Project is \$35,000,000.
3. This resolution shall take effect immediately upon its adoption.

Adopted March 8, 2005.

A Copy Teste:

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

(SEAL)

**CERTIFICATION**

The undersigned City Clerk of the City of Harrisonburg, Virginia hereby certifies (1) that the foregoing constitutes a true, correct and complete copy of a Resolution adopted by the City Council of the City of Harrisonburg, Virginia at a regular meeting duly called and held on March 8, 2005, with the City Council members present and absent and voting on the Resolution as set forth below; (2) that such meeting was duly convened and held in all respects in accordance with law; and (3) that the foregoing Resolution has not been repealed, revoked, rescinded or amended.

<u>NAME</u>	<u>ATTENDANCE</u>		<u>VOTE</u>	
	<u>PRESENT</u>	<u>ABSENT</u>	<u>AYE</u>	<u>NAY</u>
Larry Rogers, Mayor	X		X	
Rodney L. Eagle, Vice Mayor	X		X	
Charles Chenault	X		X	
Hugh J. Lantz	X		X	
George W. Pace	X		X	

WITNESS, my hand and the seal of the City of Harrisonburg, Virginia this 8<sup>th</sup> day of March, 2005.

**CITY OF HARRISONBURG, VIRGINIA**

By \_\_\_\_\_  
**Name: Yvonne Bonnie Ryan**  
**Title: City Clerk**

(SEAL)

City Manager explained that adoption of this resolution will allow the City to reimburse itself for the Stone Spring/Erickson Avenue project expenses incurred prior to the anticipated project bond issue with proceeds from the bonds. Council Member Lantz offered a motion to approve this resolution. The motion was seconded by Council Member Pace, and approved with a recorded roll call vote taken as follows:

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

Absent – None

City Council agreed to meet with the School Board on March 23<sup>rd</sup> in a work session to review the budget.

At 8:40 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 Industrial Development Authority, 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. The motion was seconded by Council Member Pace, and approved with a recorded roll call vote taken as follows:

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

Absent – None

At 10:00 p.m., the closed session ended and the regular session reconvened. City Clerk Ryan read the following statement 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 10:05 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

cc: City Council  
City Manager  
Assistant City Manager  
Public Library