

## REGULAR MEETING

JANUARY 10, 2006

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

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

Bucky Berry, a resident of Harrisonburg, said the City should enforce the current ordinance regarding removing ice and snow from the streets after a storm. He also complained about changing the new leaf recycling procedure.

Council Member Chenault offered a motion to approve the consent agenda, including approval of the minutes and the second reading of a supplemental appropriation for the School Board and Police Department, appropriating additional funds to the Social Services District and amending and re-enacting Section 11-1-1 of the Harrisonburg City Code. The motion also included a rezoning request along Central Avenue and making the initial debt service payment on \$7.25 million General Obligation Bonds Series 2005. The motion was seconded by Vice-Mayor Eagle, and approved with a recorded roll call vote taken as follows:

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

Absent – None

Planning and Community Development Director Turner introduced a request from Steven Hill and Leray Comer for a special use permit. She said that the applicants are requesting a special use permit to allow contractor offices and storage in the B-2, General Business District zoning classification. The property is located at 30 and 40 Baxter Drive and can be found on tax map 1-C-9A and 9B. Mrs. Turner said that the Comprehensive Plan designates this area as Commercial. She reviewed the surrounding uses in the area. The applicants intend to construct two, 60’ by 24’ shell buildings that each would be further divided into eight units for a total of 16 rental units. The building would require approximately 150 park spaces, which has been provided in the site plan. Depending on the mixture of tenants, traffic in between these two extremes is expected. She said that staff noted to the applicant that the City has no intentions of installing or allowing private funding of a traffic signal at the intersection of Baxter Drive and South Main Street. Water and sewer service is available in Baxter Drive to service any future

uses on these sites. Because there is no comprehensive storm water management plan for the properties along Baxter Drive, these lots will need to be developed in a way that contains all storm water detention on site. Staff's primary concern is maintaining an attractive appearance for this proposed facility. She said that Planning Commission recommended that no outside storage be permitted. In addition, the two islands at the entrance should be constructed to leave a 30 foot travel way and add landscaping to screen service vehicles. She said that Planning Commission recommended approving this request with these two conditions being added.

At 7:41 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 Tuesday, December 27, 2005 and Tuesday, January 3, 2006.

### **NOTICE OF PUBLIC HEARING**

**The Harrisonburg City Council will hold a public hearing on January 10, 2006 at 7:30 p.m., in the Municipal Building, City Council Chambers, 345 South Main Street, to consider the following:**

#### **Special Use Permit – 30 & 40 Baxter Drive**

**Public hearing to consider a request from Steven Hill and Leray Comer for a special use permit {per Section 10-3-91 (6) of the Zoning Ordinance} to allow contractor office and storage in the B-2, General Business District. The property is located at 30 & 40 Baxter Drive and can be found on tax map 1-C-9A & 9B.**

**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 Planner at 432-7700 at least five days prior to the date of the meeting.**

**All persons interested will have an opportunity to express their views at these public hearings. Any individuals 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 7:42 p.m., and the regular session reconvened. Council Member Chenault offered a motion to approve the special use permit with the conditions as presented. The motion was seconded by Council Member Pace, and approved with a recorded roll call vote taken as follows:

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

Absent – None

The next item of business was an ordinance awarding a wireless franchise for the City. City Attorney Thumma said the City received one response to its request for a wireless franchise. The only proposal received was from WorldAirWaves. Mr. Thumma said this ordinance would provide wireless service in the City and would be done in three phases. The first phase would cover the downtown area. The second phase will target areas in the City that do not have broadband coverage such as along Mt. Clinton Pike, Country Club Road and similar areas. The third phase will target the remaining areas of the City.

Mark Bayliss, President of WorldAirWaves of Winchester, Virginia, discussed the importance of wireless technology as an integral technology of the City of Harrisonburg. He mentioned that with recent court decisions and legislation, wireless technology is positioned better than other Internet options, especially cable. Mr. Bayliss mentioned that the standard that his company would implement in Harrisonburg would be the protocol being encouraged by the federal government, one that was faster and more secure. Mr. Bayliss asked that his company be treated like other franchises in Harrisonburg and he would provide an affordable product with excellent service. Mr. Bayliss is willing to provide periodic reviews that are the same as is required in other franchise agreements. Mr. Bayliss could not give an exact cost since the cost will depend on the “last mile” cost. The last mile is that portion of the service from the provider to the customer.

Following further discussion and comments, Council Member Lantz offered a motion to approve awarding this wireless franchise to WorldAirWaves for a first reading. The motion was seconded by Vice-Mayor Eagle, and approved with a recorded roll call vote taken as follows:

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

Absent – None

City Attorney Thumma presented for Council’s consideration amending and re-enacting Chapter 1 of Title 14 of the Harrisonburg City Code. He said the taxicab ordinance is being updated to change the City department regulating and licensing cabs and cab drivers from the Police Department to the Department of Public Transportation. Following further discussion and comments, Council Member Pace offered a motion to approve amending and re-enacting this

ordinance for a first reading. The motion was seconded by Council Member Chenault, and approved with a recorded roll call vote taken as follows:

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

Absent – None

City Attorney Thumma presented the following resolutions for Council’s consideration of approval:

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HARRISONBURG,  
VIRGINIA, DESIGNATING THE PLEASANT HILL ACRES NEIGHBORHOOD IN  
THE CITY OF HARRISONBURG FOR THE INSTALLATION OF SIGNS  
DISPLAYING THE MAXIMUM SPEED LIMIT AND PENALTY FOR VIOLATIONS  
PURSUANT TO SECTION 46.2-878.2  
OF THE CODE OF VIRGINIA**

**WHEREAS, citizens of the Pleasant Hills Acres Neighborhood requested a speed study for Central Avenue in the City of Harrisonburg; and**

**WHEREAS, said speed study was conducted and it was determined that Central Avenue, from South Avenue to Pleasant Hill Road, meets the City’s criteria for an increased penalty for speeding violations along with the entire Pleasant Hill Acres neighborhood; and**

**WHEREAS, city staff requests that not only Central Avenue, from South Avenue to Pleasant Hill Road, but the entire Pleasant Hill Acres neighborhood be designated as an area for increased penalties for speeding violations; and**

**WHEREAS, the City Council wishes to designate the entire Pleasant Hill Acres neighborhood as an area for increased penalties for speeding violations and direct the public works department to erect the appropriate signs in the Pleasant Hills Acres neighborhood, between South Avenue and Pleasant Hill Road;**

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

**That the Pleasant Hill Acres neighborhood, located between South Avenue and Pleasant Hill Road, meets the criteria as adopted by the City Council for the imposition of increased penalties for exceeding the maximum speed limits in those areas of the City displaying appropriately placed signs, and that the entire Pleasant Hill Acres neighborhood, located between South Avenue and Pleasant Hill Road, is hereby**

designated, pursuant to Section 46.2-878.2 of the Code of Virginia, 1950, as amended, for the increased penalty for speeding violations and the public works department shall erect the appropriate signs showing said designated area.

Approved: January 10, 2006

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MAYOR

ATTEST:

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CLERK OF THE COUNCIL

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HARRISONBURG,  
VIRGINIA, AMENDING THE CRITERIA FOR THE INSTALLATION  
OF SIGNS DISPLAYING THE MAXIMUM SPEED LIMIT AND PENALTY  
FOR VIOLATIONS PURSUANT TO SECTION 46.2-878.2  
OF THE CODE OF VIRGINIA**

**WHEREAS, the City of Harrisonburg, through its staff has developed criteria for the imposition of increased fines for speeding on residential streets in the city; and**

**WHEREAS, pursuant to Section 46.2-878.2 of the Code of Virginia, 1950, as amended, the City Council on June 14, 2005, adopted a resolution approving the criteria for the installation of signs, displaying the maximum speed limit and the increased penalty for violations in areas approved by the City Council; and**

**WHEREAS, upon recommendation of the city staff, the City Council wishes to amend the criteria by adding an additional requirement, to require a petition signed by seventy-five percent (75%) of the residents in the neighborhood to be designated for increased fines;**

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

**That the criteria, as amended, and as set forth in Exhibit A, which is attached hereto and made a part hereof, be approved and adopted by the City Council, for the imposition of increased penalties, for exceeding the maximum speed limits in those areas of the City displaying appropriately placed signs.**

Approved: January 10, 2006

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MAYOR

ATTEST:

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**CLERK OF THE COUNCIL**

Council Member Lantz offered a motion to approve these resolutions increasing the fine for speeding in the Pleasant Hill Acres area and installing signs displaying the maximum speed limit and penalty for violations. The motion was seconded by Council Member Pace, and approved with a recorded roll call vote taken as follows:

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

Absent – None

The next item of business was a request to issue a dance hall permit for Guzmans Restaurant. City Attorney Thumma said the Police Department has been asked to provide a report for Council’s consideration. Since the Police Department has not completed its investigation, he suggested delaying this request to issue a dance hall permit until the report is received.

City Manager Baker 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. Council Member Pace offered a motion to approve this request for a first reading, and that:

\$12,501.96 chge. to: 1000-33524 DMV Federal grant  
\$12,501.96 approp. to: 1000-310231-41020 Salaries/wages OT

The motion was seconded by Vice-Mayor Eagle, and approved with a recorded roll call vote taken as follows:

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

Absent – None

The next item of business was a presentation by Rockingham Memorial Hospital Wellness “Steppin’ Out” Program. Sandy Boone & Dianne Breeden said “Steppin’ Out” is a community walking challenge, which will be held in conjunction with the 2<sup>nd</sup> Annual Medical Fitness Week of April 24-30, 2006. The program encourages communities to get out and get active, by striving to walk a minimum of 70,000 steps in 7 days. The community that takes the

most steps will receive national recognition through the Medical Fitness Association. Another goal is to raise funds for local programs in the fight against childhood obesity.

Mayor Rogers announced that the City Council wishes to challenge the Rockingham County Board of Supervisors and the Town Councils of all of the Towns located in Rockingham County to join in the “Steppin’ Out Program” and attempt to walk more steps in 7 days than the members of the Harrisonburg City Council.

City Council directed City Attorney Thumma to prepare a resolution issuing the challenge.

Council Member Pace requested that City Attorney Thumma research the City’s current code regarding removing snow and ice especially during unusual long periods of cold weather.

Council Member Chenault requested that Council delay the marketing of property indefinitely along Central Avenue until the impact of the proposed construction of the new middle and elementary school complex is determined.

Council Member Chenault said at the last meeting a study of new zoning classifications were referred to the Planning Commission with the understanding that the zoning classifications would not change any existing R-3 uses for undeveloped land. The new proposed classifications would need a special use permit or rezoning to continue developing as allowed. “I don’t think that was the intent of Council. Should we eliminate that part of the proposal from the study of the zoning classifications? I hope Planning Commission will revisit the issue.”

Council Member Chenault said he had conducted some research regarding how Blacks Run received its name. He said when Harrisonburg was founded a man by the name of Mr. Black was an adjoining landowner of Thomas Harrison.

Vice-Mayor Eagle offered a motion to appoint Council Member Chenault to the Community Block Grant Review Committee. The motion was seconded by Council Member Pace, and approved with a unanimous vote of Council.

At 9:00 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 Harrisonburg Parking Authority, Harrisonburg Redevelopment and Housing Authority, Harrisonburg Planning Commission, Harrisonburg Transportation Safety Commission and Tree Advisory Board exempt from the public meeting requirements pursuant to Section 2.2-3711(A)(1) of the Code of Virginia. Consultation with legal counsel regarding a proposed contract and probable litigation requiring the provision of legal advice of such legal counsel, exempt from public meeting requirements pursuant to Section 2.2-3711(A)(7) 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 Lantz, and approved with a recorded roll call vote taken as follows:

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

Absent – None

At 10:20 p.m., the closed session ended and the regular session reconvened. City Clerk Ryan read the following statement which was agreed to with a unanimous recorded vote of Council: I 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.

Council Member Chenault offered a motion that Rudy Propst, 970 Turkey Run Road, be appointed to a first term on the Harrisonburg Redevelopment and Housing Authority to expire on November 29, 2009. The motion was seconded by Council Member Lantz, and approved with a unanimous vote of Council.

At 10:50 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