

REGULAR MEETING

FEBRUARY 14, 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 Chief of Police Donald Harper.

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

Mayor Rogers read and presented the following resolution to members of the John Zigler family.

**RESOLUTION**

**WHEREAS, John Zigler has been a friend to the Harrisonburg community his entire life; serving its residents as a friend to all; and**

**WHEREAS, John Zigler served faithfully as an active member of the Harrisonburg Transportation Safety Commission, providing thoughtful insight in discussion of safety issues and making many workable recommendations leading to resolution of those issues; and**

**WHEREAS, John Zigler also served the Harrisonburg community in other capacities, as an educator, a member of other Boards and Commissions, helping resolve infrastructure problems around the city, and as a witnessing member of his church; and**

**WHEREAS, John Zigler, by giving his time and talent through all of these activities, worked to better the community he lived in and, consequently, made better lives of all around him, now therefore,**

**BE IT RESOLVED, that John Zigler is remembered and honored this day for his many contributions to our community.**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Mayor**

**Attest:**

\_\_\_\_\_  
**Clerk of City Council**

Vice-Mayor Eagle offered a motion to approve the consent agenda, including approval of the January 24 and January 31 minutes and the second reading of a supplemental appropriation for the Police Department. 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 Lantz  
Vice-Mayor Eagle  
Council Member Pace  
Mayor Rogers

Absent – None

Planning and Community Development Director Turner introduced a request from Avra Beth Kaslow-Leigh to rezone one parcel containing 7.23 acre from R-1, Single-Family Residential District to B-2C, General Business District Conditional. The property is located on the southeast corner of Neff Avenue and Port Republic Road and can be found on tax map 87-G-1. She said between the public hearing held by Planning Commission on January 11<sup>th</sup> and before it was advertised for the City Council meeting the applicant added some additional proffers. The applicant has proffered to provide a triple row of evergreen trees, allow only one entrance on/off Neff Avenue, restrict uses to business, professional, medical offices and financial institutions and public uses, limit hours of operation between 6:00 a.m. until 10:00 p.m., and sign height. The Comprehensive Plan designates this area as Low-Density Mixed Residential. She reviewed the surrounding uses in the area. Because this request was not in conformance with the Comprehensive Plan, Planning Commission at its January 11<sup>th</sup> meeting recommended denying the request by a vote of 5-0. However, the applicant attended Planning Commission's February 8<sup>th</sup> meeting with further restricted proffers and presented an update of the revised proffers that would be presented at the City Council meeting. At the meeting, Planning Commission did not take a vote, but asked that City Council send this request back to them for further consideration including holding another public hearing on the revised proffers.

The following discussion by Council Members included: Confidence and faith in Planning Commission's ability and special training to analyze rezoning requests; compulsion to honor Planning Commission's request and send it back; public hearing should be held because citizens are in attendance for it; perhaps developer should consider R-6 or R-7 zoning rather than R-1 zoning; as a matter of procedure Planning Commission should have another opportunity to give their best professional advice on any zoning situation; could be setting a precedent; however, this is not the same proposal that Planning Commission first heard.

Following further discussion and comments, Council Member Lantz offered a motion to send this request back to Planning Commission for further review. The motion was seconded by Council Member Chenault, and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Chenault  
Council Member Lantz  
Council Member Pace

Mayor Rogers

No - Vice-Mayor Eagle

Absent – None

Planning and Community Development Director Turner introduced a request from Alice Springston for a special use permit for a bed and breakfast establishment. The property is located at 979 Summit Avenue and can be found on tax map 49-B-13. Mrs. Turner said the Comprehensive Plan designates this area as Neighborhood Residential. She reviewed the surrounding uses in the area. The applicant submitted a certificate from the Virginia Department of Health granting permission to operate a tourist establishment for up to three units. However, Ms. Springston has stated she would only allow one customer or family to stay at the property at any one time. There is sufficient parking space on the property. She said that staff has recommended for approval with three conditions. The first is the applicant may only have one customer or family at one time. Secondly, boarders shall not occupy the property. Lastly, the special use would be granted only to the current owner of the property. If the applicant decides to sell the property, the special use becomes null and void and would not transfer to any future owner of the property. She said that with these conditions, Planning Commission recommended approving this special use permit.

At 8:05 p.m. Mayor Rogers 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, January 30, and Monday, February 6, 2006.

### **NOTICE OF PUBLIC HEARING**

**The Harrisonburg City Council will hold a public hearing on February 14, 2006 at 7:30 p.m., in the Municipal Building, City Council Chambers, 345 South Main Street, to consider the following:**

#### **Special Use Permit – 979 Summit Avenue**

**Public hearing to consider a request from Alice Springston for a special use permit {per Section 10-3-40(8)} to allow her home along Summit Avenue to be used as a bed and breakfast establishment. The property is located at 979 Summit Avenue and can be found on tax map 49-B-13.**

**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 request. There being no one desiring to be heard, the public hearing was declared closed at 8:06 p.m., and the regular session reconvened.

The following discussion by Council Members included: Questions as to whether anybody with a large house in the City could apply for a special use permit to operate a bed and breakfast establishment. What is the criteria for allowing this type of business in a residential neighborhood? Neighbors might feel uncomfortable about strangers living next door. What would restrictions be on length of stay.

Following further discussion and comments, Council Member Chenault offered a motion to approve the special use permit request. The motion was seconded by Council Member Pace.

The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Chenault  
Council Member Pace

No - Council Member Lantz  
Vice-Mayor Eagle  
Mayor Rogers

Absent – None

Planning and Community Development Director Turner introduced a request to preliminarily plat 36 townhouse lots on 3.02 acres located along Founders Way. The property is zoned R-3, Multiple Dwelling Residential District and can be found on tax map 31-P-1. The Comprehensive Plan designates this area as Mixed Use Development. This development would require a variance to allow these lots to not front on a public street. The developer has informed staff that he intends to make this development part of Liberty Square. Staff and Planning Commission have recommended that the occupancy be limited to unrelated individuals per dwelling unit. A special condition is noted on the face of the plat explaining that the preliminary plat approval is not suggesting further approvals of site plans. Provision of sanitary sewer to this property is not available under current conditions. Further engineering work in conjunction with the City Utilities Department would be needed to more fully evaluate future sewer service. This property and surrounding property will require installation of a public sanitary sewer pump station as well as evaluation and possible upgrading of a significant amount of downstream sewer mains. The responsibility for the design and improvements rests with the developer. The site plan and final plat will not be approved until all negative impacts have been appropriately resolved. The City Attorney has reviewed the note on the plat.

Council Member Pace recommended that the developer get into contact with a member of the Virginia Poultry Association in regard to the issue of detention ponds and migratory birds

and how that could effect the areas. Following further discussion, Council Member Lantz offered a motion to approve this request. The motion was seconded by Vice-Mayor Eagle, and approved with a unanimous vote of Council.

The next item of business was an update on the Downtown Parking Plan. Eddie Bumbaugh, Executive Director of Harrisonburg Renaissance, said the downtown merchants and property owner prefer Plan B, which includes removing the meters, consolidating some services, conducting enforcement between the hours of 7:00 a.m. until 7:00 p.m., incorporating an electronic device, coordinating software for monitoring time limits within the designated areas, hiring a new parking administrator, and locating the office in the Municipal Building. He recommended removing the parking meters by April 1, 2006. Following further discussion and comments, Vice-Mayor Eagle offered a motion to adopt Plan B. 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 Lantz  
Vice-Mayor Eagle  
Council Member Pace  
Mayor Rogers

Absent – None

Transportation Superintendent Drew Williams presented a brief report on traffic speed and volume since increased fines for speeding went into effect. He said staff conducted a speed/volume study and found that 85<sup>th</sup> percentile of the speeds on Maryland Avenue were at 38.23 mph with annual daily traffic at 2,641 vehicles per day. In February 2006, staff conducted a speed/volume study and found 85<sup>th</sup> percentile to be 36.21 mph and ADT at 1,075. Staff also reviewed traffic on South Dogwood Drive at the same time finding 85<sup>th</sup> percentile speeds at 36.28 mph. ADT was 2,738 vehicles per day. When reviewed again in January 2006, 85<sup>th</sup> percentile was 35.01 and ADT was 2,392. Council requested staff to review the section of Central Avenue between South Avenue and Maryland Avenue to see if it qualifies for “increased fines for speeding. A study conducted in January 2006 found that 85<sup>th</sup> percentile speed was 39.54 mph. ADT was 1,041 vehicles per day.

The next item of business was a request from Rockingham Rotary Club to close a portion of Washington Street for an “All American Soap Box Derby”. The club is requesting permission to close Washington Street from Route 11 to just about Northfield Court on Saturday, June 3<sup>rd</sup> from 7:00 a.m. until 2:00 p.m. An award ceremony at Ralph Sampson Park would follow the event. Council Member Lantz offered a motion to approve this request. The motion was seconded by Council Member Pace, and approved with a unanimous vote of Council.

City Manager Baker presented a request for a supplemental appropriation to increase the City’s 2005-06 budget. He said that this money would be used for a Downtown Street Scape Plan project. Council Member Chenault offered a motion to approve this request for a first reading, and that:

\$201,575 chge. to: 1000-31010 Amount from fund balance

\$201,575 approp. to: 1000-990111-49216 Transfer to General Capital Projects Fund

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 Lantz  
Vice-Mayor Eagle  
Council Member Pace  
Mayor Rogers

Absent – None

School Superintendent Ford presented a request for a supplemental appropriation for the School Board. He said that these funds represent unanticipated receipts from the Federal government and other funds that were not known during the budget process. No additional local dollars are required from City Council for the school division to receive these additional funds. Council Member Pace offered a motion to approve this request for a first reading, and that:

\$224,662.00 chge. to: 1111-33301 School Revenue-Federal

\$213,771.00 approp. to: 1111-111114-40610 Instruction  
10,891.00 approp. to: 1111-111114-40680 Technology

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 Lantz  
Vice-Mayor Eagle  
Council Member Pace  
Mayor Rogers

Absent – None

City Manager Baker presented a request for a supplemental appropriation to increase the City's 2005-06 budget. He said these funds were received in 2005 from the VML to defray part of the cost of purchasing a camera and a lap top computer. Council Member Pace offered a motion to approve this request for a first reading, and that:

\$1,000.00 chge. to: 1000-31828 VML 04-05 Safety Grant

\$ 123.00 approp. to: 1000-12211-46010  
877.00 approp. to: 1000-320232-48203 Fire programs fund

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 Lantz  
Vice-Mayor Eagle  
Council Member Pace  
Mayor Rogers

Absent – None

Council Member Lantz offered a motion that Vice-Mayor Rodney Eagle be appointed to the Central Shenandoah Planning District Commission's Executive Committee. The motion was seconded by Council Member Pace, and approved with a unanimous vote of Council.

City Council agreed to authorize Fire Chief Shifflett to purchase a used ladder fire truck once one become available and present a request to City Council for additional funds not available in their budget.

At 9:25 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, Parks and Recreation 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. 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 - Council Member Pace  
Council Member Chenault  
Council Member Lantz  
Vice-Mayor Eagle  
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 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 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