

REGULAR MEETING

OCTOBER 12, 1999

At a regular meeting of Council held this evening at 7:30 p.m., there were present: Mayor Rodney Eagle; City Manager Steven E. Stewart; Assistant City Manager Roger Baker; City Attorney Earl Q. Thumma, Jr., Vice-Mayor Hugh J. Lantz, Council Member John H. Byrd, Jr., Walter F. Green, III, and Larry M. Rogers; City Clerk Yvonne Bonnie Ryan, CMC, and Chief of Police Donald Harper.

Council Member Byrd delivered the invocation and Mayor Eagle led everyone in the Pledge of Allegiance.

Human Resource Director Whistleman introduced eleven new City employees: Stanley Anderson, Clarence Burkett, John Cole, Jacques French, Sergeia Jourev, Deland Morris, William Murphy, Jonathan Shank, Greg Stanley, Public Works Department; Mary Beth Zimmer, Parks and Recreation Department; and Gregory Miller, Police Department.

Council Member Rogers offered a motion to approve the consent agenda, including approval of the minutes, and the second reading amending Fiscal year 1999-2000 budget. The motion was seconded by Council Member Byrd, and approved with a recorded roll call vote taken as follows:

Vote: Yes - Vice-Mayor Lantz
Council Member Green
Council Member Rogers
Council Member Byrd
Mayor Eagle

Absent: None

Senior Planner Noel introduced a request by Charles S. Loucks for a Special Use Permit to allow four (4) unrelated persons to occupy a dwelling in R-2 Residential District, per Section 10-3-40(7) of the Zoning Ordinance. She explained that the purpose of the request is to rent a dwelling located at 147 Campbell Street to more individuals than allowed by right in the R-2 Residential District. The R-2 Residential District permits owner-occupied single-family dwellings which may include rental space for not more than two persons or non-owner occupied single-family dwellings which may include rental space for occupancy for not more than one person. The Special Use Permit would allow four (4) unrelated persons to live in the same dwelling unit, provided that one off-street parking space is provided per tenant. The dwelling at 147 Campbell Street is classified as a single-family unit and was occupied by a single-family until it was sold in June 1999. Mr. Loucks purchased the property and is renting the house to five (5) individuals, which currently is a violation of the Zoning Ordinance. She also explained that in December 1998, the Zoning Ordinance was changed requiring a Special Use Permit to rent a dwelling in the R-2 Residential District to four (4)

unrelated persons. This was done at the request of citizens in the R-2 areas, who had concerns about residential density and parking. It was felt that the Special Use Permit process would allow these requests to be reviewed on a case-by-case basis to determine the impact on surrounding properties. Ms. Noel said that staff and Planning Commission recommended the following conditions be attached to the Special Use Permit: 1) Only four (4) individuals shall reside in the dwelling. 2) Permanent off-street parking must be adequate to address the parking needs of residents in the dwelling. The Special Use Permit will require one off-street parking space per tenant. 3) The owner or owner's representative must schedule a yearly inspection, similar to the boarding house inspections, to ensure that building code requirements are met and the number of people residing on the premises fit the criteria of the permit. The permit shall be revoked by the Zoning Administrator if this inspection does not take place every 12 months. 4) This permit expires one year from the date of approval by City Council and is renewable through the Special Use Permit process on an annual basis thereafter, provided that the use is still permitted by the Zoning Ordinance. Staff is authorized to review complaints received on the property on an annual basis. Based on those findings, staff has the authority to renew the special use permit or the authority to notify the landlord that they will have to reapply for a special use permit. 5) No on-street parking permits will be issued for this property. She said that Planning Commission recommended approval of the special use permit.

At 7:41 p.m., Mayor Eagle 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, September 27, and Monday, October 4, 1999.

NOTICE OF PUBLIC HEARING

The Harrisonburg City Council will hold a Public Hearing on Tuesday, October 12, 1999, at 7:30 p.m. in the City Council Chambers, 345 South Main Street, to consider the following:

SPECIAL USE - PUBLIC HEARING

Request by Charles S. Loucks for a Special Use Permit to allow four (4) unrelated persons to occupy a dwelling in the R-2 Residential District, per Section 10-3-40(7) of the Zoning Ordinance. The site, located at 147 Campbell Street, is identified as tax map parcel 26-0-8.

Section 10-3-40(7) of the Zoning Ordinance allows the following only by special use permit: Occupancy, other than permitted by right, of not more than four (4) unrelated persons (except occupancy may be superseded by building regulations), provided one off-street parking space per tenant is provided on-site.

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 the opportunity to express their views at this public hearing. Any individuals requiring auxiliary aids, including signers, in connection with the public hearing, shall notify the City Manager at 434-6776 at least five days prior to the date of the meeting.

CITY OF HARRISONBURG
Steven E. Stewart
City Manager

Mayor Eagle called on anyone desiring to speak for or against approving this special use permit. Glenn Loucks stated that he was representing his father Charles Loucks, who owns the property. He requested that the special use permit be a permanent permit rather than going through this process every year. Mr. Loucks said they currently have five people living on the property, four unrelated persons and the twin brother of one of the tenants. He also requested that the five people be allowed to continue living on the property until the lease expires in May 2000.

Ted Byrd an adjoining property owner said that he could understand the four unrelated persons occupying a dwelling; however, he said, "I think we are begging for forgiveness instead of asking for permission. This is a rental house operating as a business." He requested that the one year renewal remain on the special use permit to protect the single family homes in the neighborhood.

Ed Morris said that he was a taxpayer in the City and that his son was one of the renters of the property. He said that the primary problem presented at the Planning Commission meeting was the parking and noted there wasn't a parking problem at the property. He also said that the house has five bedrooms and the boys keep it very clean. There being no others desiring to be heard, the public hearing was declared closed at 7:55 p.m., and the regular session reconvened.

Some discussion by Council Members included making the permit renewable through the special use permit process on an annual basis. Members also discussed not scheduling public hearings unless complaints have been received regarding the property. Also discussed was the intent of Planning Commission's recommendation regarding whether it was four people or four unrelated people when the ordinance was written. Council Member Byrd commented that apparently in order for these five people to live in this house an attic space was improved as an applicable space without a building permit and going through the proper process. He said, "Regardless of counting the number of people within a dwelling, it has always been the City's concern about high density, overloading electrical appliances, and public safety. It puts an unnecessary burden on City staff to enforce these regulations regardless of behavior complaints." He also noted that Mr. Loucks should know the City regulations since he is a businessman, and purchased this property for student housing. Council Member Byrd also reviewed the comments made by Planning and Community Development Director Turner at the Planning Commission meeting concerning the permits that were found when the house was originally constructed. Mayor Eagle questioned whether the present owner or previous owners had applied for the building permit. Glenn Loucks said that he was unable to find the original building permit; however, he did find plumbing permits issued August 2, 1996 to finish the attic. All the renovation work was done at the same time including the electrical and plumbing work. Following further discussion and comments, Council Member Rogers offered a motion to allow the five people living in the house to continue living there until the leases run out in May 2000. The motion also included that after that time, the special use permit conditions will apply, including the five conditions recommended by the Planning Commission. The motion was seconded by Vice-Mayor Lantz, and approved with a three to one recorded roll call vote taken as follows:

Vote: Yes - Council Member Green

Council Member Rogers
Mayor Eagle

No - Council Member Byrd

Abstained - Vice-Mayor Lantz

Absent: None

Mayor Eagle presented a request for a certificate of public convenience and necessity. Police Chief Harper explained that Martin Solomon would like to operate a cab service in the City. He said that the Police Department has conducted a background investigation on Mr. Solomon and noted that when the Police Department had contacted Mr. Solomon's insurance company, they were not aware of his intentions for the use of the vehicle. Travelers Insurance Company advised that according to their underwriter's policy, they would not cover Mr. Solomon for this type of activity and business. Police Chief Harper said that Mr. Solomon does not have the proper insurance coverage to operate a cab service.

Martin Solomon said that he has lived in Harrisonburg for three years. He explained that he has had a business license to operate a cab service in the City for two years and was not aware he needed to appear before City Council to obtain the license. He said that he offers a free cab service Thursday, Friday, and Saturday nights for students, but he does accept tips. Following further discussion and comments, Council Member Green offered a motion to postpone any decision until the City ordinances can be reviewed. The motion was seconded by Council Member Rogers, and approved with a recorded roll call vote taken as follows:

Vote: Yes - Vice-Mayor Lantz
Council Member Green
Council Member Rogers
Council Member Byrd
Mayor Eagle

Absent: None

A group of citizens from the Eastover Subdivision presented their concerns regarding the traffic on Eastover Drive to City Council.

Pam DuBose presented and read the following petition to City Council: "We the undersigned residents of Eastover Subdivision in the City of Harrisonburg, Virginia do hereby petition the City Council to restrict or eliminate traffic through our neighborhood, which originates from Cantrell Avenue, James Madison University's Duke Drive and Reservoir Street. A number of residents have spoken with Council Member Larry Rogers during the past several months, but to date no action has been initiated to address this request. We have lived for years with cars, buses and trucks far exceeding the posted 25-mile an hour speed limit, as they race to avoid the traffic lighted intersection at Reservoir and Cantrell Streets. Our residential neighborhood has become a thoroughfare short

cut to and from the mall. This traffic pattern poses a serious threat to our children and families as we attempt to walk, ride bikes, back out of our driveways or cross the street for mail service. As you can imagine, the traffic flow through the neighborhood significantly decreased with the closing of the Reservoir Street bridge, and we want our subdivision closed to through traffic before the bridge is reopened.”

Joe Eneedy said that his neighborhood was asking for some help with the traffic problems which have increased during the last 25 years. He said prior to 1975 the neighborhood had only one way in and one way out to Reservoir Street. Once the mall opened, the traffic significantly increased to avoid going through the downtown area to get to East Market Street. The widening of Reservoir Street will be the next impact of the neighborhood. Traffic will cut through the neighborhood to avoid the signal at Cantrell Avenue and Reservoir Street. He presented and reviewed a graph and partial data from a study he conducted in 1992. Public Works Director Baker noted that his department does not have an official procedure to conduct traffic control in neighborhoods. He said his staff is reviewing procedures from other cities regarding traffic problems. Council Member Rogers offered a motion to erect “no through traffic” signs in the neighborhood. The motion also included that once the Reservoir Street bridge reopens the Public Works Department should conduct a traffic study to determine the destination of motorists traveling through the neighborhood. The motion was seconded by Council Member Byrd, and approved with a recorded roll call vote taken as follows:

Vote: Yes - Vice-Mayor Lantz
 Council Member Green
 Council Member Rogers
 Council Member Byrd
 Mayor Eagle

Absent: None

Vice-Mayor Lantz commented that the City may be setting a precedent by erecting the signs before the problem has been studied. He also said other neighborhoods are likely to be coming to City Council for similar signs before a study or other information supports placing a sign there. Mayor Eagle commented that each request can be dealt with on a case-by-case basis and said that “If we put the signs up, we can take them down.”

Council Member Rogers offered a motion to approve a request to vacate recorded easements in connection with the re-subdivision of Lot 12, Section 5, Blue Stone Hills Subdivision. The motion was seconded by Council Member Green, and approved with a recorded roll call vote taken as follows:

Vote: Yes - Vice-Mayor Lantz
 Council Member Green
 Council Member Rogers
 Council Member Byrd
 Mayor Eagle

Absent: None

City Manager Stewart presented a request from the Retail Merchants Association. He explained that the association has requested permission to place luminarias around Court Square on November 26th as part of the tree lighting ceremony and Christmas concert. This request has been reviewed by Rockingham County. Council Member Green offered a motion to approve this request. The motion was seconded by Council Member Rogers, and approved with a unanimous vote of Council.

City Manager Stewart presented the following resolution for Council's consideration of approval:

RESOLUTION

WHEREAS, Planning Districts 6 and 7, which include the Counties of; Augusta, Bath, Clarke, Frederick, Highland, Page, Rockbridge, Rockingham, Shenandoah, and Warren and the Cities of Buena Vista, Harrisonburg, Lexington, Staunton, Waynesboro and Winchester, have been duly designated as a SERVICE DELIVERY AREA in accordance with the requirements of the JOBS TRAINING PARTNERSHIP ACT; and,

The combined population of the localities that constitute the SERVICE DELIVERY AREA is in excess of two hundred thousand; and

The SERVICE DELIVERY AREA has exceeded the Performance Requirements of the JOB TRAINING PARTNERSHIP ACT in every respect during each of the preceding two years; and

Has also maintained the fiscal integrity of the funds used to carry out job training in the area.

IT IS HEREBY RESOLVED, That the HARRISONBURG CITY COUNCIL strongly recommends the designation of the combination of local jurisdictions which together constitute the SERVICE DELIVERY AREA as the LOCAL WORKFORCE INVESTMENT AREA; and

Appointment of the SHENANDOAH VALLEY PRIVATE INDUSTRY COUNCIL as the WORKFORCE INVESTMENT BOARD for that LOCAL WORKFORCE INVESTMENT AREA.

Rodney L. Eagle, Mayor

Attest:

City Clerk

Economic Development Director Shull explained that Virginia and Federal work force development funds are distributed by service delivery areas. These funds are administrated by the Shenandoah Valley Private Industry Council. Mr. Shull recommended that Harrisonburg maintain the same service delivery area and that the Shenandoah Valley Private Industry Council be the "Local Workforce Investment Board" continuing to administer the funds. The Governor will decide which jurisdictions will be assigned to the local workforce areas. Council Member Rogers offered a motion to approve this resolution as presented. The motion was seconded by Vice-Mayor Lantz, and approved with a unanimous vote of Council.

City Manager Stewart presented for Council's consideration endorsement of a grant application for criminal history record improvement project and approval of Memorandum of Understanding between the City of Harrisonburg, Rockingham County and James Madison University. Ken McNett, Director of the Court Services Unit, explained that this grant will allow for a coordinated criminal justice record's system. The memorandum of understanding (MOU) spells out the responsibilities of each participant and allows for JMU to serve as the applicant. This allows the City and County match to be 5% instead of 25%. Council Member Green offered a motion to endorse this grant application. The motion was seconded by Council Member Rogers, and approved with a recorded roll call vote taken as follows:

Vote: Yes - Vice-Mayor Lantz
 Council Member Green
 Council Member Rogers
 Council Member Byrd
 Mayor Eagle

Absent: None

City Manager Stewart presented a request for a supplemental appropriation for the Police Department. He explained that these grant funds will be used for a second School Resource Officer. Vice-Mayor Lantz offered a motion to approve this request for a first reading, and that:

\$5,731.20 chge. to: 1000-33505 School Resource Officer

\$5,731.20 approp. to: 1000-310131-41010 Salaries/Wages-Reg.

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

Vote: Yes - Vice-Mayor Lantz
 Council Member Green
 Council Member Rogers
 Council Member Byrd
 Mayor Eagle

Absent: None

City Manager Stewart presented a request for a supplemental appropriation for the Police Department. He explained that these funds are from the Department of Motor Vehicles for citations given for overweight motor carriers by HPD officers. Vice-Mayor Lantz offered a motion to approve this request for a first reading, and that:

\$159.00 chge. to: 1000-31901 Recoveries & Rebates

\$159.00 approp. to: 1000-310131-46140 Other operating supplies

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

Vote: Yes - Vice-Mayor Lantz
 Council Member Green
 Council Member Rogers
 Council Member Byrd
 Mayor Eagle

Absent: None

City Manager Stewart presented a request for a supplemental appropriation for street construction of Park Road project from Eastern Mennonite University. He explained that these funds will adjust the budget to reflect reimbursement from EMU for their total contribution to the Park Road project. Vice-Mayor Lantz offered a motion to approve this request for a first reading, and that:

\$121,460.00 chge. to: 1310-31906 Reimbursement for street construction

\$121,460.00 approp. to: 910141-48609 Park Road project

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

Vote: Yes - Vice-Mayor Lantz
 Council Member Green
 Council Member Rogers
 Council Member Byrd
 Mayor Eagle

Absent: None

City Manager Stewart presented for Council's consideration of approval the following resolution:

RESOLUTION

BE IT RESOLVED, that curfew is hereby declared to be effective and enforced at and after the hour of 10:00 p.m. on the night of Saturday, October 30, 1999, after which curfew hour it shall be unlawful for any person to be on the streets or public places of the City of Harrisonburg for the purpose of celebrating Halloween. It shall be unlawful for any person to be on the streets or public places of the City of Harrisonburg for the purpose of celebrating Halloween on Sunday, October 31, 1999.

The provisions of this resolution are designed to curb and limit the celebration of Halloween to appropriate hours and shall not extend or apply to the use of the City streets or other public places for any other proper purpose.

Date

Rodney L. Eagle, Mayor

Attest:

Yvonne Ryan, CMC, City Clerk

✓ Council Member Rogers offered a motion to adopt the resolution observing Halloween Saturday, October 30, 1999 and establishing a 10:00 p.m. curfew for all trick-or-treaters. The motion was seconded by Vice-Mayor Lantz, and approved with a recorded roll call vote taken as follows:

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

No - Council Member Green
 Council Member Byrd

Absent: None

At 9:05 p.m., Vice-Mayor Lantz offered a motion that Council enter a closed session for discussion and consideration of personnel and prospective candidates to be appointed to the Community Services (Chapter 10) Board, Social Services Advisory Board, Upper Valley Regional Park Authority, and Commission on Children and Youth exempt from public meeting requirements pursuant to Section 2.1-344(A)(1) of the Code of Virginia, 1950, as amended. Consultation with the City Attorney and briefings by staff members pertaining to probable litigation and two pending contracts, exempt from public meeting requirements, pursuant to Section 2.1-344(A)(3) of the Code of Virginia, as amended. The motion was seconded by Council Member Rogers, and approved with a unanimous vote of Council.

At 12:30 a.m., the closed session was declared closed and the regular session reconvened. The following statement was agreed to with a unanimous recorded vote of the 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 matters as were identified in the motion by which the executive or closed meeting were convened, were heard, discussed or considered in the closed session by the City Council.

At 12:31 a.m., there being no further business and on motion adopted the meeting was adjourned.

Yvonne Ryan, CMC Richard J. Eagle
CLERK MAYOR