

REGULAR MEETING

OCTOBER 14, 1997

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 Members John H. Byrd, Jr., Walter F. Green, III, and Larry M. Rogers; City Clerk Yvonne Bonnie Ryan 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 McBride introduced eight new City employees: Wayne Smith, Dinah Chandler, Fire Department; Richard Evick, Parry Lohr, Transportation Department; Rebecca Teter, Police Department; Amanda Bennington, Dennis McGuffin, Public Utilities Department; and Erica Secrist, Parks and Recreation Department.

Council Member Rogers offered a motion to approve the consent agenda, including approval of the minutes and the second reading of an ordinance amending and re-enacting Section 7-1-16, and 7-4-3 of the Harrisonburg City Code. The motion also included the second reading for supplemental appropriations for the Police Department, and the Water Enterprise fund to Capital Outlay for 1997-98. The motion was seconded by Council Member Byrd, and approved with a unanimous recorded vote of Council.

Planning and Community Development Director Turner introduced a recommendation from the Planning Commission to amend Sections 10-3-24, 10-3-39, and 10-3-46 of the City Zoning Ordinances pertaining to boarding and rooming houses. She explained that these proposed changes would remove rooming and boarding houses from the R-2 zoning classification and allow them only by a special use permit within the R-3 zoning classification. She also explained that Planning Commission had indicated a concern with rooming and boarding houses in the City and expressed the possibility of removing them from the zoning ordinance. A report prepared by Staff indicated that rooming and boarding houses did contribute to some concerns within the community, dealing with property maintenance issues, density in the neighborhoods, on-street parking problems, and late night parties. Staff suggested that Planning Commission might want to consider removing rooming and boarding houses from the R-2 zoning classification and allowing them only by special use permit in R-3 districts. Mrs. Turner noted that Planning Commission held a public hearing on September 10, 1997 and many people spoke in support of the amendment and a few spoke in opposition. Currently the R-2 zoning classification allows boarding or rooming houses for six or fewer people as a "use permitted by right" but requires that the property owner must reside in the rooming house. All of the rooming and boarding houses that existed in R-2 were allowed to continue when the amendment was added in 1989. The R-3 classification allows a maximum number of ten boarders without the owners residing in the house. She noted that an applicant has to annually apply for a business license to operate a rooming or boarding house facility after the Zoning and Building

Inspection Divisions complete an inspection of the premises to determine whether the facility meets the required minimum City code standards. Mrs. Turner noted that in the past the department had not received many complaints. She reviewed the current list of rooming and boarding houses operating in the City and reminded Council that any amendment to the ordinance would require two readings before it is adopted.

At 7:44 p.m., Mayor Eagle 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, September 29, and October 6, 1997.

### **NOTICE OF PUBLIC HEARING**

The Harrisonburg City Council will hold a public hearing on Tuesday, October 14, 1997, at 7:30 p.m., in the City Council Chambers, 345 South Main Street, to consider the following:

#### **ORDINANCE AMENDMENT**

2. Consider removing the following items from the Harrisonburg Zoning Ordinance:
  - Section 10-3-39. Uses permitted by right.  
(4) Boarding and rooming houses, complying with conditions as defined under Article F, and limited in occupancy by one (1) person per designated bedroom.
  - Article F. Section 10-3-24. Definitions.  
*Boarding or rooming house in R-2 zones:*
3. Consider amending Section 10-3-46 of the Harrisonburg Zoning Ordinance to include "Boarding and rooming houses, complying with conditions as defined under Article F, and limited in occupancy by one (1) person per designated bedroom" as a use permitted only by special use permit in the R-3 Multiple Dwelling Residential 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 this Public Hearing.

Any person requiring auxiliary aids, including signers, in connection with the Public Hearing shall notify the City Manager at least five (5) days prior to the time of the meeting.

**CITY OF HARRISONBURG**  
Steven E. Stewart  
City Manager

Mayor Eagle called on anyone to speak either for or against amending these zoning ordinances.

Patrick Sweet, a resident living at 488 South Mason Street, stated that he has seen the negative effects of rooming houses increase over the last 20 years. There is a general deterioration of single family homes when converted to rooming houses and a loss of neighborhood feeling. He noted that realtors will not take prospective home purchasers to Mason Street because of the deterioration of some houses. South Mason Street is part of Old Town which is zoned R-2. The neighborhood is more than 90% single family homes. Our medium density single family, sometime two families dwelling, R-2 district is no longer a medium density because of a zoning loop hole which has a negative impact on our neighborhood. The code talks about owner occupancy, but no home owner wants to live with six other renters in a single family house. The lack of private home ownership generates noise, trash, parking and general home deterioration. He asked Council to vote to approve the Community Development decision to eliminate rooming houses from R-2.

Dan Clements, a resident living at 520 South Mason Street, noted that C.E. Mason in 1916 built his house. Mr. Mason greatly contributed to the development of downtown Harrisonburg and was the first president of Rockingham National Bank. With great respect for the effort of Mr. Mason and his family and for this City, we have gladly welcomed the opportunity to invest most of our time, monies, and talents in restoring and maintaining this beautiful old home. However, we do expect respect from the City enforcing regulations on apartment type buildings in our midst and maintaining a respectable family oriented neighborhood. He said that families living in Old Town have pride in their individual homes and the neighborhood. Students or absentee landlords may not share these virtues. It is time to protect our history and our homes and keep families in Old Town. We are not anti students nor anti apartments, but we are pro heritage, pro neighborhood, pro family, pro supportive of existing rules and regulations and pro abolishment of boarding houses.

Kelly Sweet said that boarding and rooming houses have been part of Old Town for quite awhile. Perhaps some members of Council remember one such house run by Jack Marsh's mother on Franklin Street in 50's and 60's. These houses were well groomed and maintained residents, where the owner widow served hot meals and locked the door in the evenings. At that time home owners owned one car, not several and usually the boarders, students, or undergraduates did not own any cars. That was the original boarding house and the use for which it was intended. Once James Madison University grew, there was a need for off-campus housing. Old Town became a growing area for students' apartments. Old Town has shifted back to a family neighborhood. The majority of student housings have gone out to Port Republic Road and to pockets on South Main Street and South Avenue. Let's end the abuse of the boarding house designation and let students have the quality housing that they do deserve in another section of the City.

Jerry Coulter, a resident living at 492 South Mason Street, stated that his house was built in 1903 and that he has lived there for 27 years. The neighborhood is deteriorating because of rooming houses. It is not an anti student proposal, but part of the problem is lack of enforcement by City officials. He mentioned that an apartment house located at 493 South Mason Street has always been an apartment house, but it is in a sorry state of repair. They hold parties three times a week at this house and there is not adequate off street parking. It becomes apparent to us in Old Town that rooming and boarding houses are very incompatible with a residential neighborhood. He encouraged vigorous enforcement of the regulations that already exist in the City.

A JMU student stating that he was an owner of a boarding house on Mason Street commented that the amendment was against students despite residents' claims to the contrary. "I hear a lot of things about density. I hear a lot of things about this and that, but do you know what it comes down to?"

It's the City against the students. It's just not fair that we shouldn't have the right to exist where we want to. We're American citizens." There being no others desiring to be heard, the public hearing was declared closed at 8:01 p.m., and the regular session reconvened. Discussion included the many properties that are zoned R-2 in the City, duplexes housing eight residents without an owner living in the house, lack of enforcement, talking to your neighbor about the problem, parking and whether Planning Commission had ever considered allowing boarding houses by a special use permit within the R-2 zoning classification. Planning Commission Chairman Whitten acknowledged that Planning Commission had discussed that particular option. Planning Commission had discussed that with regards to density and property of zoning and planning, that as a zoning and planning issue, density was the main concern. She also noted that while it is true that in a duplex use you may have eight residents, it also true that you must have a much larger lot and dwelling. There are also some parking requirements with a duplex; however, there are no parking requirements applied to boarding houses. Planning Commission decided that it is very inappropriate for R-2 zoning. Following further discussion and comments, Council Member Rogers offered a motion to support Planning Commission's recommendation for a first reading. The motion was seconded by Council Member Green, and approved with a recorded three to two vote with Mayor Eagle and Vice-Mayor Lantz voting no.

Planning and Community Development Director Turner introduced a request by Brentwood Investment Company (Hampton Inn) for a special use permit. She explained that this request for a special use permit would allow Hampton Inn to attach six PCS antennae on the roof. CFW Wireless will operate the communication equipment. This property is zoned B-2 General Business District and uses of this type are permitted within the B-2 district. The land use guide recommends the site for commercial use. The applicant has indicated that the antennae will extend 12' above the finished roof elevation. However, the Hampton Inn has a decorative metal parapet that extends about 9'4" above the finished roof, which means that only about 2'8" of the antennae would be visible. CFW has asked that the antennae be allowed to extend the maximum of 6' above the top of the parapet wall to receive a clear strong signal as needed. Staff does anticipate that more of these types of requests and uses will be requested in the future. It is a much better alternative to accommodate these requests on existing buildings instead of building new structures to support them. She said that Planning Commission unanimously recommended approval of this request and did not set any specific conditions with the special use permit.

At 8:12 p.m., Mayor Eagle 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, September 29, and Monday, October 6, 1997.

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

**The Harrisonburg City Council will hold a public hearing on Tuesday, October 14, 1997, at 7:30 p.m., in the City Council Chambers, 345 South Main Street, to consider the following:**

**SPECIAL USE PERMIT**

2. **Consider request by Brentwood Investment Company (Hampton Inn) for a Special Use Permit to locate 6 PCS antennae operated by CFW Wireless on the roof of an existing building located at 85 University Boulevard.**

**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 this Public Hearing.**

**Any person requiring auxiliary aids, including signers, in connection with the Public Hearing shall notify the City Manager at least five (5) days prior to the time of the meeting.**

**CITY OF HARRISONBURG  
Steven E. Stewart  
City Manager**

Mayor Eagle called on anyone to speak either for or against this special use permit.

Larry Ryan with CFW wireless stated he is available for any questions the Council might have regarding the request. There being no others desiring to be heard, the public hearing was declared closed at 8:14 p.m., and the regular session reconvened. Following further discussion and comments, Vice-Mayor Lantz offered a motion to approve locating a maximum of six (6) PCS antennae at a height not to exceed seven feet above the parapet wall. The motion was seconded by Council Member Green, and approved with a unanimous recorded vote of Council.

Planning and Community Development Director Turner introduced a request to amend Section 10-3-85 of the Harrisonburg Zoning ordinance. She explained that the current zoning ordinance does not permit automobile dealerships or auto repair establishments in the B-1 Central Business District. This proposal would amend a section of the zoning ordinance B-1 Central Business District classification to allow as a special use permit automobile or truck sales, service and repair, but not auto salvage or sale of junk. In addition, such lots must be served by a permanent building facility unless clearly incidental to an existing building. She explained that a member of City Council had questioned whether they permitted car dealerships in the downtown zoning classifications. They explained that they did not permit an automobile dealership use in the B-1 Central Business District. It was decided to suggest adding it in as a special use permit item because some existing businesses might want to remodel, make additions or renovations. A special use permit option would provide all existing car dealerships and auto shops with the opportunity to expand their businesses and would provide greater flexibility to new businesses seeking to locate in the downtown area. She said that Planning Commission unanimously recommended amending Section 10-3-85 as a special use item of the zoning ordinance.

At 8:23 p.m., Mayor Eagle 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, September 29, and Monday, October 6, 1997.

## NOTICE OF PUBLIC HEARING

The Harrisonburg City Council will hold a public hearing on Tuesday, October 14, 1997, at 7:30 p.m., in the City Council Chambers, 345 South Main Street, to consider the following:

### ORDINANCE AMENDMENT

1. Consider amending Section 10-3-85 of the Harrisonburg Zoning Ordinance to include the following as a use permitted only by special use permit in the B-1 Central Business District:  
*“Automobile or truck sales, service and repair but not auto salvage, storage, or sale of junk. In addition, such lots must be served by a permanent building facility unless clearly incidental to an existing building.”*

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 this Public Hearing.

Any person requiring auxiliary aids, including signers, in connection with the Public Hearing shall notify the City Manager at least five (5) days prior to the time of the meeting.

**CITY OF HARRISONBURG**  
**Steven E. Stewart**  
**City Manager**

Mayor Eagle called on anyone to speak either for or against amending this zoning ordinance. There being no one desiring to be heard, the public hearing was declared closed at 8:24 p.m., and the regular session reconvened. Council Member Rogers offered a motion to approve for a first reading amending ordinance 10-3-85 of the Harrisonburg City Code. The motion was seconded by Council Member Byrd, and approved with a unanimous recorded vote of Council.

✓ Planning and Community Development Director Turner introduced a request by Joe Bowman Chevrolet for a special use permit. She explained that this is the first special use permit request for the proposed amending zoning ordinance 10-3-85 to allow automobile dealerships in the downtown zoning classification. Joe Bowman Chevrolet would like to add additional office space for the car dealership. They would like to install a modular unit at the rear of the existing showroom which would be a minimum of 45' from Water Street. It is zoned B-1 Central Business District zoning classification. There is a mixture of B-1 Central Business District and B-2 General Business District surrounding this site. All commercial uses surround it and the Comprehensive Plan does recommend the site for commercial use. Joe Bowman Chevrolet has been in operation on the site for a number of years and is a growing business. Planning Commission recommended approval of the special use permit.

At 8:26 p.m., Mayor Eagle closed the regular session temporarily and called the evening's fourth public hearing to order. The following notice appeared in the Daily News-Record on Monday, September 29, and Monday, October 6, 1997.

### NOTICE OF PUBLIC HEARING

The Harrisonburg City Council will hold a public hearing on Tuesday, October 14, 1997, at 7:30 p.m., in the City Council Chambers, 345 South Main Street, to consider the following:

#### SPECIAL USE PERMIT

1. Consider request by Joe Bowman Chevrolet for a Special Use Permit to locate an additional structure at the rear of property located at 237 East Market Street. The structure will serve the existing automobile dealership. The property is zoned B-1 Central Business District and is identified as parcel 26-A-7 on the City of Harrisonburg Block maps. Consideration of this request is contingent upon approval of the amendment of Section 10-3-85 of the zoning ordinance, which is also scheduled for Public Hearing on October 14.

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 this Public Hearing.

Any person requiring auxiliary aids, including signers, in connection with the Public Hearing shall notify the City Manager at least five (5) days prior to the time of the meeting.

**CITY OF HARRISONBURG**  
Steven E. Stewart  
City Manager

Mayor Eagle called on anyone to speak either for or against this special use permit.

Hank Dunton, Parts and Service Director for Joe Bowman Chevrolet, stated that he was present to answer any questions that Council might have. There being no others desiring to be heard, the public hearing was declared closed at 8:27 p.m., and the regular session reconvened. Mayor Eagle noted that no action would be taken until Section 10-3-85 of the zoning ordinance has been amended.

Planning and Community Development Director Turner noted that at the last Council meeting a request had been presented for Willow Hills Subdivision, Unit 4A at the end of the existing Willow Hills Drive. The developer had requested a variance to waive the requirement for sidewalks that is part of the City's Design and Construction Standards Manual. It had been requested by Council for Planning Commission to review the need for sidewalks. At that Council meeting, they had also discussed required street widths to continue receiving VDOT maintenance funding and indicated that perhaps the issue of street width and sidewalk went hand in hand. Mrs. Turner noted that they had reviewed the issue and they discovered in October 1995 that street width

and sidewalks had been discussed. In 1995, it was decided to take a certain subclass of local streets, subclass A which are cul-de-sacs and streets of fixed generation traffic and allow those to be narrowed to 30 feet if the developer was willing to restrict parking to one side. They recommended at the time due to public safety concerns and the desire to allow parking on both sides of all streets to recommend staying with the 34 feet (face of curb to face of curb) requirement for other streets. Some other communities were also surveyed and she reviewed the results of the survey. She said that Planning Commission recommended reducing street width to 30 feet (face of curb to face of curb) for local subclass A and B streets and not restricting parking to one side of the street. It is also recommended that sidewalks continue to be required for these streets. Local subclass C and D street widths recommended remaining 34 feet of pavement (face of curb to face of curb) with sidewalks continuing to be required. She also noted that the developer for Willow Hills, Kirk Hardy, withdrew his request to receive a variance for sidewalks. After he withdrew that variance request, Planning Commission approved his subdivision and because it does not involve any variances it does not need to come back to City Council. Council Member Rogers offered a motion to approve Planning Commission's recommendation as presented. The motion was seconded by Vice-Mayor Lantz, and approved with a unanimous vote of Council.

James Sipe, Attorney for the Harrisonburg Redevelopment and Housing Authority, explained that HRHA wants to issue refunding bonds to refinance \$8.5 million for the Mallside Forest Apartments project in Albemarle County. The bonds will not be an obligation of the City nor impact the City's debt limit. Vice-Mayor Lantz offered a motion to approve this resolution as presented. The motion was seconded by Council Member Rogers, and approved with a unanimous vote of Council.

City Manager Stewart presented a request to approve matching funds for the Edward Byrne Memorial Fund. He explained that this is a joint request from the City of Harrisonburg and Rockingham County. This grant will provide for coordinating resources, gathering data and providing staff for making grant applications for criminal justice activities. Initially, the grant would be used to contract for preparation of a regional biennial plan for the regional jail, community corrections and juvenile justice. The grant would then fund a criminal justice planner position. The City and County are required to provide a 25% match. The City's share is \$4,262. Council Member Rogers offered a motion to approve this request as presented. The motion was seconded by Council Member Byrd, and approved with a unanimous vote of Council.

Police Chief Harper presented a brief report on the current and future staffing needs of the Harrisonburg Police Department. He noted that the report focused on Police Department Staffing, staffing compared to other departments, the cost of new Police Officer positions, the cost of a take home cruiser program, feasibility of a Police Substation at the Valley Mall, and technology. He suggested starting the take home cruiser program perhaps as a pilot program. If a substation was established at the Valley Mall, he suggested starting with limited coverage; however, he noted that Valley Mall security does not have any arrest powers. He mentioned that one important thing happening in law enforcement now is technology. Communication is also really important in the law enforcement community. Council Member Rogers thanked Colonel Harper for his report and asked several questions regarding the numbers of patrol officers assigned to particular cases, patrol officer's on-duty hours, and man hours involved in major unsolved cases.



City Manager Stewart presented a resolution regarding the approval of transfer of the cable television franchise from Warner Cable Communications to Adelphia Communications Corporation. He explained that Warner Cable and Adelphia have filed the appropriate documents with the Federal Communication Commission concerning the transfer of ownership. The City Attorney has revised a draft resolution to approve the transfer of the franchise agreement. Adelphia has agreed to accept all the terms and considerations of the franchise agreement that currently exists between the City and Warner Cable. The term of the franchise agreement will expire 2002. Vice-Mayor Lantz offered a motion to approve this resolution as presented. The motion was seconded by Council Member Rogers and approved with a unanimous vote of Council.

Council Member Rogers offered a motion to approve the request from Downtown Harrisonburg Retail Merchants Associates to hold the Christmas parade on Friday, December 5, 1997 at 7:00 p.m. The motion was seconded by Council Member Byrd, and approved with a unanimous vote of Council.

City Manager Stewart presented a resolution regarding Health Insurance Fund. He explained that this resolution authorizes the placement of funds from Trigon as a result of its demutualization into the City's Health Insurance Fund to offset current and future premium expenses. Council Member Rogers offered a motion to approve this resolution as presented. The motion was seconded by Council Member Green, and approved with a unanimous vote of Council.

Council Member Byrd offered a motion to approve the cancellation of the December 23 Council meeting and to move the December 9 meeting to December 16. In addition, the motion included holding a Council meeting on November 11 which is on Veteran's Day. The motion was seconded by Council Member Rogers, and approved with a unanimous vote of Council.

City Manager Stewart presented a request to transfer funds to pay the Treasurer's turn over audit. The City's current Treasurer, Beverly Miller, will be retiring as of December 31, 1997 and the state law requires that a turn over audit be conducted. The current 1997-98 budget goes not contain funding for the Treasurer's turn over audit. This transfer will not increase the total amount of the 1997-98 budget. Council Member Green offered a motion to approve the transfer of these funds.

\$850.00 chge. to: 1000-940111-49310 Reserve for contingencies

\$850.00 approp. to: 1000-120811-43120 Accounting and Auditing

The motion was seconded by Council Member Rogers, and approved with a unanimous vote of Council.

City Manger Stewart presented a request to authorize the firm of Phibbs, Burkholder, Geisert and Huffman, LLP to perform the Treasurer's turn over audit at December 31, 1997. The purpose of this audit is to determine the accountability of the treasurer at December 31, 1997. Vice-Mayor Lantz offered a motion to approve this request as presented. The motion was seconded by Council Member Rogers, and approved with a unanimous vote of Council.

City Manager Stewart announced that a new police substation on Hawkins Street would open on October 15, 1997.

Assistant City Manager Baker presented an updated report on construction of the two soccer fields. He said that grading and spreading top soil on both fields had been completed. Some final grading will begin on the top soil preparing it for sod. Bids have been received for the sod and irrigation system. Harrisonburg Electric Commission is in the process of providing power to the well site. It is hoped to have grass taking root before Winter.



Council Member Rogers requested some clarification on the report received from the Chief of Police. Council Member Green suggested that perhaps Council needed some time to review the report.

Diane Hand expressed some concerns that the City needed more trained Police Officers.

At 9:22 p.m., Council Member Rogers offered a motion that Council enter an executive session for discussion and evaluation of two City departments, exempt from the public meeting requirements pursuant to Section 2.1-344(A)(1) of the Code of Virginia. Discussion and consideration of the acquisition of real estate to be used for public purpose, namely, economic development, exempt from public meeting requirements pursuant to Section 2.1-344(A)(3) of the Code of Virginia, 1950, as amended. The motion was seconded by Vice-Mayor Lantz, and approved with a unanimous vote of Council.

At 10:27 p.m., the executive session was declared closed and the regular session reconvened. City Clerk Ryan read the following statement which 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 business matters as were identified in the motion by which the executive or closed meeting were convened were heard, discussed or considered in the executive session by the City Council.

At 10:28 p.m., there being no further business and on motion adopted the meeting was adjourned.

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