

REGULAR MEETING

SEPTEMBER 12, 2006

At a regular meeting of Council held this evening at 7:00 p.m., there were present: Mayor Rodney Eagle; City Manager Roger Baker; City Attorney Earl Q. Thumma, Jr.; Vice-Mayor George W. Pace; Council Members Charles R. Chenault; Carolyn W. Frank, and Ted Byrd; City Clerk Yvonne “Bonnie” Ryan, CMC/MMCA, and Chief of Police Donald Harper. Absent: Assistant City Manager Kurt Hodgen.

Mayor Eagle gave the invocation and led everyone in the Pledge of Allegiance.

Mayor Eagle recognized Boy Scouts Troop 42 from the Harrisonburg Baptist Church. The scouts are working on various badges.

Council Member Frank offered a motion to approve the consent agenda, including approval of the minutes and the second reading of transferring general funds to the School Capital Projects fund. 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 Frank
Council Member Byrd
Vice-Mayor Pace
Mayor Eagle

Absent – None

Planning and Community Development Director Turner introduced a request from Russell and Debbie Armentrout to close a portion of undeveloped right-of-way between Sharon Street and Meadowbrook Street. She said that the applicants are requesting to close approximately 2,875 square feet of land, which is located next to their property and they have maintained for the past 19 years. She reviewed the surrounding uses in the area. She said that Michael Branner, the property owner and developer of the adjacent property at 104 Middlebrook Street, had intended to construct a berm on his property to divert water from the stormwater retention pond to Middlebrook Street. After construction, the City realized that the right-of-way had been encroached. Mr. Branner had presumably done that to lessen the steepness of the fill slope for maintenance purposes. The Armentrouts are aware there is a large 20-foot public drainage easement located across this undeveloped right-of-way and on a portion of their lot. However, this easement is no longer utilized because of the new drainage plan. The easement was intended to help divert stormwater overflows to Middlebrook Street through an underground pipe. Stormwater is not diverted to Middlebrook Street from Mr. Branner’s property through the new stormwater facility. There is a sanitary sewer line that flows diagonally across the northern section of the proposed street closing and on the rear of the applicant’s property. She said staff has recommended not closing the entire area. The street should only be closed from

Middlebrook Street up to 10 feet of the southern side of the sanitary sewer pipe. The Public Utilities Department recommends keeping 10 foot of right-of-way from the existing sewer pipe for the City. The City would still be able to maintain the sanitary sewer pipe from Sharon Street. There has been discussion between the City Engineer and Mr. Branner, developer of the adjacent property, that he may need to move the berm and increase the steepness on his property. However, as an adjacent property owner Mr. Branner has the option of purchasing half of the right-of-way. She said that Planning Commission recommended approving the street closure.

At 7:10 p.m., Mayor Eagle closed the regular session temporarily and called the evening public hearing to order. The following notice appeared in the Daily News-Record on Saturday, September 2, and Saturday, September 9, 2006.

**NOTICE OF INTENTION TO VACATE
A PORTION OF HEATWOLE ROAD
LOCATED OFF THE NORTHEAST SIDE OF MIDDLEBROOK STREET
IN THE CITY OF HARRISONBURG**

**City Council Chambers
345 South Main Street
Harrisonburg, VA 22801
Tuesday, September 12, 2006
7:00 P.M.**

The Harrisonburg City Council will hold a public hearing on Tuesday, September 12, 2006, 7:00 P.M., at City Council Chambers, 345 South Main Street, Harrisonburg, Virginia, to consider an application, by Russell W. and Debra H. Armentrout to vacate an undeveloped portion of Heatwole Road containing approximately 2,625 square feet and located off the northeast side of Middlebrook Street in the City of Harrisonburg, Virginia.

A copy of the recommendations of the City Planning Commission along with a copy of the plat showing the portion of Heatwole Road to be vacated are available at the Community Development Department, 409 South Main Street, Monday through Friday.

All persons interested will have an opportunity to express their views at this public hearing.

Mayor Eagle 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 7:12 p.m., and the regular session reconvened. Council Member Frank offered a motion to approve this street-closing request as presented. 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 Frank
Council Member Byrd
Vice-Mayor Pace
Mayor Eagle

Absent – None

Planning and Community Development Director Turner introduced a request from OakCrest Builders and the Home Owner's Association of Section 3, The Village at Meadow Pointe to modify the existing preliminary plat. The development is zoned R-2, Residential District and located along Hickory Grove Circle. This age restricted duplex community was developed along private streets with a network of private walking trails in lieu of sidewalks. The final plat for this section was approved in February of 2002. This section consists of 80 lots, with approximately half still owned by OakCrest Builders. OakCrest Builders does not want the typical street width, but more narrow streets than City's requirement. These streets would also be maintained by the property owners association. The applicant, OakCrest Builders and the homeowner's association have requested to modify the existing preliminary plat to remove some of the internal walking trails. Residents have expressed concern over the close proximity of the proposed trail to the rear of their residential lots. They feel that the trail's location presents safety and security risks. A petition has been signed by many of the property owners indicating their desire to have the walkways reverted to private property and taken off of the plat. Mrs. Turner reviewed the street layout, off-street walkways, off-site parking, and narrow private streets. She said that Planning Commission recommended denial of the preliminary plat modification stating there should be a better representation of private property ownership before making a decision. Vice-Mayor Pace offered a motion to deny this request as presented. 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 Frank
Council Member Byrd
Vice-Mayor Pace
Mayor Eagle

Absent – None

Ted Cole of Davenport and Company, the City's financial advisor, presented an overview of a parameter resolution to issue bonds for the City in the amount not to exceed \$50,000,000. He reviewed a timetable regarding issuing the bonds and a series of a parameters needed when these general obligation bonds are offered for bids. He said that interest rates in the market will be watched very closely. He reviewed three potential pay back scenarios including 20-year, 25 year or 30 year financing. A consensus on this issue will be needed tonight. If there is a desire to have a portion of this loan pre-payable at any time or pre-payable after a year it can be built into the bidding process. He continued to review recommendations from Davenport and Company concerning the debt service options. State statutes limit the amount of general obligation debt a governmental entity may incur to 10% of its total assessed real property valuation.

The following discussion by Council Members included: Would the interest rate be higher if the debt was split? What rate of interest can the City expect to receive on invested funds? Would the rate be 4 ½ or 5%? How long do we want to finance this bond? How much

money do we want to save over the life of the loan? Will the City have to raise taxes to meet this increase in the budget?

Following further discussion and comments, Council Member Chenault offered a motion to approve the issuance of bonds not to exceed \$50 million dollars within parameters negotiated by City Manager Baker, but with the understanding that basically they be for 25 years in one series. The motion was seconded by Vice-Mayor Pace, and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Chenault
Council Member Frank
Council Member Byrd
Vice-Mayor Pace
Mayor Eagle

Absent – None

Council Member Chenault offered a motion to renew a Certificate of Public Convenience & Necessity for Western Virginia Transportation (Yellow Cab) for a five-year period. The motion was seconded by Council Member Frank, and approved with a unanimous vote of Council.

Council Member Byrd offered a motion to renew a Certificate of Public Convenience & Necessity for College Limousine Service for a five-year period. The motion was seconded by Vice-Mayor Pace, and approved with a unanimous vote of Council.

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

PROCALAMATION

WHEREAS, since its founding in 1967 Blue Ridge Community College has responded to the education and training needs of our region, ensuring that all individuals have the life-long opportunity to develop their knowledge, skills, and values; and

WHEREAS, Blue Ridge Community College serves the needs of local businesses by training their employees, thereby helping these companies remain competitive in today's global economy; and

WHEREAS, through its Guaranteed Admission Agreements with many of the Commonwealth's finest colleges and universities, Blue Ridge Community College provides a secure pathway to students who wish to continue their education; and

WHEREAS, Blue Ridge Community College is recognized as a leader within the Virginia Community College System in several key areas, including student retention,

student transfer to four-year colleges and universities, and graduate scores on national licensing examinations; and

WHEREAS, Blue Ridge Community College has consistently ranked among the top ten nationwide among its peers in the effective use of technology to enhance classroom instruction and support student access; and

WHEREAS, Blue Ridge has made tremendous progress in securing private investment to ensure its capacity to respond to the needs of its service region; and

WHEREAS, for the second time in its 39-year history, Blue Ridge has identified needs beyond the scope of its current funding and is seeking the community's support through an Endowment Campaign; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF HARRISONBURG, VIRGINIA, that the week of September 18, 2006 be recognized as

**BLUE RIDGE COMMUNITY COLLEGE
"SECURING OUR FUTURE" WEEK**

in the City of Harrisonburg and that this be a week of celebrating the College's contributions to our community and envisioning its future as a center of lifelong learning.

Attest:

Rodney L. Eagle, Mayor

Yvonne Ryan, CMC, City Clerk

Vice-Mayor Pace offered a motion to approve this proclamation. The motion was seconded by Council Member Pace, and approved with a unanimous vote of Council.

The next item of business for Council's consideration was a presentation by Michael Wong, Executive Director, Harrisonburg Redevelopment and Housing Authority. He said that HRHA has submitted an application to HUD requesting discontinuation of 100 units of public housing in the Franklin Heights and Harrison Heights area and transfer the declaration of trust to the Harrisonburg Redevelopment and Housing Authority (HRHA). This request is to allow the authority to utilize the properties as securities to leverage additional funds to further finance the renovation of the 60 units. The authority plans to continue to operate the units as affordable rental housing, but as non-public housing. He reviewed several factors the authority used to make this decision, steps involved in approving the annual plan, and proposed schedule activities. Community input will also be received and used in the process. If the plan is approved it will not be initiated until 2008.

The next item of business was a brief update on the Rockingham Trail project. Transportation Superintendent Drew Williams said the City has received funding through the

Community Development Block Grant Program for bicycle facilities and the standing bicycle committee has recommended use of those funds on a trail facility on platted street right-of-way of Rockingham Drive. This trail would connect Chicago Avenue with North Dogwood Drive. A neighborhood meeting was held to discuss design considerations and receive comments from nearby property owners. City staff has notified the property owners adjacent to this project regarding the construction in the area.

Mayor Eagle presented the following resolution for Council's consideration of approval:

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HARRISONBURG,
VIRGINIA, SETTING THE PERCENTAGE OF PERSONAL PROPERTY
TAX RELIEF FOR THE YEAR 2006**

WHEREAS, pursuant to Article J of Title 4, Chapter 2 of the Harrisonburg City Code, the City Council shall by resolution set the percentage of personal property tax relief that is anticipated to fully exhaust the Personal Property Tax Relief Act of 1998 (PPTRA) funds provided to the city by the Commonwealth of Virginia; and

WHEREAS, the percentage of personal property tax relief for the year 2006 has been determined to be forty-two percent (42%);

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

That the City Council of the City of Harrisonburg, Virginia, sets the percentage of personal property tax relief for the tax year of 2006 to be forty-two percent (42%), which percentage is anticipated to fully exhaust the PPTRA relief funds provided to the city by the Commonwealth of Virginia.

Approved: September 12, 2006

MAYOR

ATTEST:

CLERK OF THE COUNCIL

Commissioner of the Revenue June Hosaflook said this resolution will set the percentage of tax relief commonly known as the car tax. She said in 2005, Harrisonburg adopted an ordinance setting the percentage rate that would translate on the tax bill to a dollar amount of relief for the car tax. The car tax became a fixed amount of money by the state, so the City can no longer give City taxpayers 70% of their bill. The amount now is 42% that will be relieved on the tax bill for 2006 personal property. Following further discussion and comment, Vice-Mayor Pace offered a motion to adopt resolution as presented. 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 Frank
Council Member Byrd
Vice-Mayor Pace
Mayor Eagle

Absent – None

Mayor Eagle presented the following resolution for Council’s consideration of approval:

**RESOLUTION
OF THE CITY COUNCIL OF THE
CITY OF HARRISONBURG, VIRGINIA**

WHEREAS, the Industrial Development Authority of the City of Harrisonburg, Virginia (“Authority”), has considered the application of Virginia Mennonite Retirement Community, Inc., Virginia Mennonite Home, inc., Park Village, Inc. and Virginia Mennonite Foundation, Inc. (collectively, the “Borrowers”) requesting the issuance of the Authority’s revenue bonds in an amount not to exceed \$34,000,000 (“Bond”) to assist in refunding the Industrial Development Authority of Rockingham County, Virginia’s Residential Care Facility First Mortgage Revenue Bonds (Virginia Mennonite Retirement Community), Series 1998A and Series 1998B issued to finance and refinance the construction and renovation of improvements to the Borrowers’ continuing care retirement community located at 1501 Virginia Avenue in the City of Harrisonburg, Virginia (“Project”), and has held a public hearing on August 31, 2006;

WHEREAS, Section 147(f) of the Internal Revenue Code of 1986, as amended (the “Code”), provides that the governmental unit having jurisdiction over the issuer of private activity bonds and over the area in which any facility financed with the proceeds of private activity bonds is located must approve the issuance of the bonds;

WHEREAS, the Authority issues its bonds on behalf of the City of Harrisonburg, Virginia (“City”); the Project is located in the City and the City Council of the City of Harrisonburg, Virginia (“Council”) constitutes the highest elected governmental unit of the City;

WHEREAS, the Authority has recommended that the Council approve the issuance of the Bonds; and

WHEREAS, a copy of the Authority’s resolution approving the issuance of the Bonds, subject to the terms to be agreed upon, a certificate of the public hearing and a Fiscal Impact Statement have been filed with the Council.

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

- 1. The Council approves the issuance of the Bonds by the Authority for the benefit of the Borrowers, as required by Section 147(f) of the Code and Section 15.2-4906 of the Code of Virginia of 1950, as amended (“Virginia Code”) to permit the Authority to assist in the refunding of the Project.**
- 2. The approval of the issuance of the Bonds does not constitute an endorsement to a prospective purchaser of the Bonds of the creditworthiness of the Project or the Borrowers.**
- 3. This resolution shall take effect immediately upon its adoption.**

Adopted by the City Council of the City of Harrisonburg, Virginia this 12th day of September 12, 2006.

Clerk ,City Council of the City of Harrisonburg, Virginia

City Attorney Thumma said an application by the Virginia Mennonite Retirement Community has been submitted to the Harrisonburg Industrial Development Authority. The Harrisonburg Industrial Development Authority held a public hearing August 31, 2006 and approved issuing the refunding bonds. The bonds will not be a debt or obligation of the City. Vice-Mayor Pace offered a motion to approve this resolution. The motion was seconded by Council Member Byrd, and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Chenault
Council Member Frank
Council Member Byrd
Vice-Mayor Pace
Mayor Eagle

Absent – None

Fire Chief Larry Shifflett presented a request for a supplemental appropriation for the Fire Department. He said approximately \$179,900 were unspent funds from last year’s budget received from various program grants. In addition, \$40,000 is being requested to assist with the cost of refurbishing the 1991 tower/ladder truck that was recently purchased to be used as a reserve tower/ladder truck. Following further discussion and comments, Council Member Chenault offered a motion to approve this request for a first reading, and that:

\$219,911.69 chge. to: 1000-31010 Amount from fund balance

\$154,198.86 approp. to: 1000-320232-48203 Fire programs fund
24,717.83 approp. to: 1000-350532-46160 Haz Mat funds
995.00 approp. to: 1000-350532-46155 Four for Life funds
40,000.00 approp. to: 1000-320132-48113 Equipment

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

Vote: Yes - Council Member Chenault
Council Member Frank
Council Member Byrd
Vice-Mayor Pace
Mayor Eagle

Absent – None

City Manager Baker presented a request for a supplemental appropriation for the Public Works Department. He said these funds were received from the Department of Conservation & Recreation (DCR) grant for a stream health improvement program. The funds will be used to purchase a street sweeper, salary/benefits for an additional operator, maintenance of sweeper, and new pet waste stations. No new personnel will be added to the department. Following further discussion and comments, Vice-Mayor Pace offered a motion to approve this request for a first reading, and that:

\$140,000 chge. to: 1000-32529 Stream Health/Improvement Grant
76,335 chge. to: 1000-31010 Amount from Fund Balance

\$21,606 approp. to: 1000-420241-41010 Salaries & Wages Regular
117 approp. to: 1000-420241-41015 Employer Benefit Match
470 approp. to: 1000-420241-41020 Salaries & Wages Overtime
1,698 approp. to: 1000-420241-42010 FICA
3,399 approp. to: 1000-420241-42020 Retirement-VRS
5,924 approp. to: 1000-420241-52050 Hospital Insurance
245 approp. to: 1000-420241-42060 Life Insurance-VRS
225 approp. to: 1000-420241-43710 Uniform Maintenance Contract
12,000 approp. to: 1000-420241-44302 C.S. Powered Equipment Supplies
15,000 approp. to: 1000-420241-44310 C.S. Powered Equipment Fuels
2,500 approp. to: 1000-420241-46070 Repair & Maintenance Supplies
5,500 approp. to: 1000-420241-46140 Other Operating Supplies
147,651 approp. to: 420241-48151 Motor Vehicles & Equipment

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 Frank
Council Member Byrd
Vice-Mayor Pace
Mayor Eagle

Absent – None

Police Chief Harper presented a request for a supplemental appropriation for the Police Department. He said that these funds were received from the Division of Motor Vehicles through a reimbursement grant and will be used for the Click It or Ticket program. Vice-Mayor Pace offered a motion to approve this request for a first reading, and that:

\$96.80 chge. to: 1000-33524 DMV Federal Grant

\$96.80 approp. to: 1000-310231-41020 Salaries/wages OT

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

Vote: Yes - Council Member Chenault
Council Member Frank
Council Member Byrd
Vice-Mayor Pace
Mayor Eagle

Absent – None

Police Chief Harper presented a request for a supplemental appropriation for the Police Department. He said that these funds were received from state asset seizure money and will be used to purchase two sniper rifles and new jackets for supervisors. Vice-Mayor Pace offered a motion to approve this request for a first reading, and that:

\$5,609.00 chge. to: 1000-31010 Amount from fund balance

\$1,356.80 approp. to: 1000-310231-46110 Uniforms

4,252.20 approp. to: 1000-310231-46100 Police supplies

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

Vote: Yes - Council Member Chenault
Council Member Frank
Council Member Byrd
Vice-Mayor Pace
Mayor Eagle

Absent – None

Police Chief Harper presented a request for a supplemental appropriation for the Police Department. He said plans for the facility include training for K-9, firing range, and physical agility testing. Funds for the facility will be received from drug asset seizure monies. Following further discussion and comments, Council Member Pace offered a motion to proceed with planning this facility and encouraging Rockingham County to join the City in planning the

facility. Other localities will be excluded. 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 Frank
Council Member Byrd
Vice-Mayor Pace
Mayor Eagle

Absent – None

The next item of business was selecting voting delegates for the Virginia Municipal League Conference scheduled for October 15-17, 2006. Council Member Byrd offered a motion naming Mayor Rodney Eagle as the voting delegate and Council Member Frank as the alternate voting delegate. City Manager Roger Baker was selected as a staff assistant to represent the City at the conference. The motion was seconded by Council Member Chenault and approved with a unanimous vote of Council.

Council agreed to hold a retreat in the near future, but not include a facilitator at the meeting.

At 9:06 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 and Harrisonburg Redevelopment and Housing Authority, 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 Vice-Mayor Pace, and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Chenault
Council Member Frank
Council Member Byrd
Vice-Mayor Pace
Mayor Eagle

Absent – None

At 9:35 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 Frank offered a motion that Eldon Kurtz, 555 East Wolfe Street, be appointed to a second term on the Harrisonburg Redevelopment and Housing Authority to expire on November 29, 2010. The motion was seconded by Council Member Chenault, and approved with a unanimous vote of Council.

Council Member Frank offered a motion that Council Member Ted Byrd, 238 Campbell Street, be appointed to MPO Policy Board. 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 Frank
Council Member Byrd
Vice-Mayor Pace
Mayor Eagle

Absent – None

At 10:00 p.m., there being no further business and on motion adopted the meeting was adjourned.

CITY CLERK

MAYOR