

## REGULAR MEETING

May 22, 2007

At a regular meeting of Council held this evening at 7:00 p.m., there were present: Mayor Rodney Eagle; City Manager Roger Baker; Assistant City Manager Kurt Hodgen; 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, MMC, and Chief of Police Donald Harper.

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

John Keith owner of Yellow Cab said there are two taxi companies Yellow Cab and ABC Taxi operating 24 hours a day seven days a week in the City. Since it is very difficult to make a profit in the taxi business, he requested that Council consider whether the City needed another taxi service.

Council Member Byrd requested that, Item #5c on the consent agenda, be removed and considered as a separate item.

Council Member Byrd offered a motion to approve the consent agenda, including approval of the minutes, and the second reading of a supplemental appropriation for the Police Department and rezoning requests by Mountain View Apartments and Iglesia Nueva Vida Pentecostes. The motion also included an ordinance enacting Section 4-1-39 of the Harrisonburg City Code. The motion was seconded by Council Member Frank, and approved with a recorded roll call vote taken as follows:

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

Absent - None

Planning and Community Development Director Turner presented an amended proffer rezoning request from Mercedes Rodriguez. Since the first reading of this rezoning request, staff reviewed the proffer statement and realized that the proffer to use the accessory building as a professional office would change its status from a residential accessory structure to a principal building on the property. This would require a 25' setback from the rear property line as opposed to the 5' required at the time of construction as a residential accessory structure. Also, due to communication problems, Ms. Rodriguez had already started making improvements to the building and the lot for the professional use prior to City Council's first reading. Ms. Rodriguez has amended her proffer letter and the new proffer reflects that the accessory structure will be used for home occupation purposes, which is a less intense business than a full fledged

professional office. It also allows the option to use the first floor of the home as a professional office in the future or to relocate the accessory structure on the lot to meet regulations and operate as a stand alone professional office instead of a home occupation. She said that staff and the City Attorney have reviewed the amended proffer and recommends approval for a second reading.

Council Member Byrd offered a motion to approve a request from Mercedes Rodriguez for a second reading with the new proffers. The motion was seconded by Council Member Frank, and approved with a recorded roll call vote taken as follows:

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

Absent - None

Kim Alexander, Director of Special Projects and Grants Management, presented an overview of the 2006 Consolidated Annual Performance & Evaluation Report (CAPER). She reviewed a summary status of each of the projects. Since the Harrisonburg Redevelopment Housing Authority projects have been delayed for a year, the remaining funds will be applied toward another project either Liberty Park or A Dream Come True project. Funds for the Simms/Washington Sidewalk project, which came in under-budget, have already been re-allocated in the 2006 amendment. She reviewed projects extended until December 31, 2007 because of re-bidding, change in leadership, and a project in the planning and environmental stage. She said after holding this public hearing there will be a 15 day public comment period on the report. The report will be submitted to HUD and then back to Council for final approval.

At 7:20 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 Thursday, May 17, 2007.

**Notice of Public Hearing & Comment Period  
Community Development Block Grant Program (CDBG)  
Consolidated Annual Performance Evaluation Report (CAPER)**

**The City of Harrisonburg is seeking public comments for the required CAPER- a document required by the U.S. Department of Housing & Urban Development (HUD) for the evaluation and review of CDBG programs in fiscal year 2006.**

**All comments must be received by no later than June 7, 2007, at 9:00 A.M. Comments may be submitted to Kimberly Alexander, CDBG Director of Special Projects and Grants Management, at 345 South Main Street, Harrisonburg, Virginia 22801, [kima@ci.harrisonburg.va.us](mailto:kima@ci.harrisonburg.va.us), or (540) 432-8923.**

Comments may also be submitted during the CDBG/CAPER Public Hearing portion of the regular City Council meeting on May 22, 2007, at 7:00 P.M. in the new City Council Chambers, at 409 South Main Street, Harrisonburg, Virginia 22801, next door to the Harrisonburg Municipal Building.

Copies of the draft CAPER are available for review in the City Manager’s Office, 345 South Main Street, Harrisonburg, Virginia 22801 and at [www.ci.harrisonburg.va.us](http://www.ci.harrisonburg.va.us) on the CDBG homepage, beginning on Tuesday, May 22, 2007.

A summary of the CAPER is as follows:

In FY 2006, the City was awarded \$613,398 in CDBG entitlement funds.

To date, the following is a summary report of Obligated, Expended, and Remaining Funds:

	<u>Obligated</u>	<u>Expended</u>	<u>Remaining</u>
Housing & Property Improvements	\$155,000	\$15,344.40	\$139,655.60
Community & Public Facilities	\$259,040	\$72,555.79	\$186,484.21
Administration	\$122,679	\$122,679	\$0
Public Services	\$76,679	\$72,880.55	\$3,798.45
Economic Development	\$0	\$0	\$0
<b>TOTAL</b>	<b>\$613,398</b>	<b>\$283,459.74</b>	<b>\$329,938.26</b>

Mayor Eagle called on any desiring to speak for or against the CAPER. There being no one desiring to be heard, the public hearing was declared closed at 7:21 p.m., and the regular session reconvened.

The next item of business was a request to issue a Certificate of Public Convenience & Necessity for Royal Taxi. Public Transportation Director Reggie Smith said there are some zoning issues regarding the location of this business on South High Street, which was discovered during the review process. The applicant may have to apply for a special use permit. He said that the committee recommends a certificate be issued to Royal Taxi. Following further discussion and comments, Vice-Mayor Pace offered a motion to issue a Certificate of Public Convenience & Necessity for Royal Taxi for a five-year period, which is conditioned upon the applicant having a proper business location. The motion was seconded by Council Member Frank, and approved with a recorded roll call vote taken as follows:

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

Absent - None

City Manager Baker presented a request for a supplemental appropriation for the Fire Department. He said that these funds were received from donations, recovered costs, and unappropriated funds from the Virginia Fire Programs Fund. Vice-Mayor Pace offered a motion to approve this request for a first reading, and that:

\$ 25.00 chge. to: 1000-31812 Donations Fire Safety Building  
17,614.99 chge. to: 1000-31914 Recovered Costs  
4,910.90 chge. to: 1000-31809 Donations  
8,772.50 chge. to: 1000-32512 Fire Programs Fund

\$ 8,772.50 approp. to: 1000-320232-48203 Fire Programs fund  
22,550.89 approp. to: 1000-320232-41020 Overtime

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

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

Absent - None

City Manager Baker presented a request for a supplemental appropriation to adjust the General and Emergency Communication Fund budgets. He said that these funds will be transferred to the Emergency Communications Center Fund. This action is necessary because of changes made by the General Assembly effective January 1, 2007. Vice-Mayor Pace offered a motion to approve this request for a first reading, and that:

\$150,000.00 chge. to: 1000-31224 Communication Sales and Use Tax  
150,000.00 chge. to: 1000-34210 Transfer from General Fund

\$150,000.00 approp. to: 1000-990111-49218 Transfer to ECC Fund  
150,000.00 approp. to: 1116-31207 E-911 Tax

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

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

Absent - None

Public Utilities Director Mike Collins presented a request to charge off delinquent utility bills incurred through December 2005. He said these accounts are currently with the collection agency, which will still be pursued. Vice-Mayor Pace offered a motion to write off the list of delinquent accounts. The motion was seconded by Council Member Chenault, and approved with a recorded roll call vote taken as follows:

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

Absent - None

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

#### **AMENDMENT TO HARRISONBURG WATER AGREEMENT**

**THIS AGREEMENT AMENDMENT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2007 between the City of Harrisonburg, a municipal corporation of the Commonwealth of Virginia (the "City") and the County of Rockingham, a political subdivision of the Commonwealth of Virginia (the "County").**

**WHEREAS, the City and the County previously entered into an contract dated September 14, 1995, to provide for the furnishing of water between the City and the County and for sewer services by the City to the County; and**

**WHEREAS, said prior contract has been previously amended in 2006 and now the City and the County wish to further amend said agreement and it related to providing sewer services between the City and the County;**

**NOW, THEREFORE, it is agreed as follows:**

**1. Section 2.1 Sewer To Be Provided by the City / Sewer To Be Provided by the County. Exclusive of the provisions of Section 2, in the event that a County customer provided water pursuant to this Agreement also requests sewer service, and such service cannot be readily provided by a reasonably accessible sewer facility of Rockingham County or the Harrisonburg-Rockingham Regional Sewer Authority (HRSSA), Rockingham County may apply to the City of Harrisonburg for such sewer service. Rockingham County shall make application and submit appropriate engineering data to the City of Harrisonburg Director of Public Utilities. The City of Harrisonburg Director of Public Utilities shall consider whether the City's infrastructure can accommodate the request. Such provision of sewer service to County customers shall initially not exceed 500,000 gallons per day in any area of the County to which the City is able to provide sewer service. At such time as the amount**

of sewage accepted by the City exceeds an average of 70% of the 500,000 gallons per day average during any three consecutive month period, the County may request that such allocation be increased by 100,000 per day. The City will not unreasonably deny such request.

The rate to be paid by the County to the City for said sewer service will be the usual City rates as approved by the City Council and charged to City customers less the HRRSA portion of the total city sewer rate. All usage by the County for said sewer service shall be charged to the County's allocation at the HRRSA. The City's connection / availability fees as approved by the City Council and charged to City customers will be charged to the County for each customer provided service under the terms of this amendment to help the County recover any capital costs associated with the provision of service.

At the City's request, the County shall provide from the County's sewer system capacity up to an amount equal to the average amount per day purchased by the County. The County Director of Public Works shall consider whether the County's infrastructure can accommodate the request and the County will not unreasonably deny such request. The rate to be charged by the City to the County for said sewer service will be the usual County rate as approved by the Board of Supervisors and charged to County customers less the HRRSA portion of the total County sewer rate. All usage for said sewer service shall be charged to the City's allocation at HRRSA. The County's connection / availability fees as approved by the Board of Supervisors and charged to County customers will be charged to the City for each customer provided service under the terms of this amendment to help the County recover any capital costs associated with the provision of service.

ALL provisions of the previous contract and any amendments not changed or amended by this amendment shall remain in full force and effect.

**CITY OF HARRISONBURG**

By: \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Clerk of Council

**COUNTY OF ROCKINGHAM**

By: \_\_\_\_\_  
Chairman

ATTEST:

\_\_\_\_\_  
County Administrator

City Manager Baker said that the City/County Liaison Committee has met and approved the proposed amendment to the Harrisonburg Water Agreement. Council Member Byrd noted that County residents will pay the same rate as City residents for the service including the connection fee. Council Member Chenault offered a motion to approve the amendment to the Harrisonburg Water Agreement. The motion was seconded by Council Member Frank, and approved with a recorded roll call vote taken as follows:

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

Absent - None

City Attorney Thumma presented for Council's consideration amending and re-enacting Section 13-1-3 of the Harrisonburg City Code, which becomes effective July 1, 2007. He explained that each year Council is asked to amend this ordinance to adopt the state motor vehicle laws. Council Member Byrd offered a motion to approve this ordinance for a first reading. The motion was seconded by Council Member Chenault, and approved with a recorded roll call vote taken as follows:

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

Absent - None

City Attorney Thumma presented for Council's consideration amending and re-enacting Section 4-2-16 of the Harrisonburg City Code. He said because of a change in state law effective July 1, 2007, the Court's have asked Harrisonburg to amend its ordinance to increase the courthouse security fee from \$5.00 to \$10.00. These funds will be used to provide security personnel for the Courthouse. Council Member Chenault offered a motion to approve this ordinance for a first reading. The motion was seconded by Council Member Byrd, and approved with a recorded roll call vote taken as follows:

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

Absent - None

City Attorney Thumma requested that Council convey 5,914 square feet of land adjoining the golf course to a minor subdivision because the adjoining property owner would like to have the property. Mr. Thumma said the land can't be sold, nothing can be built on it, nor can setbacks be met. Conveying this land will allow it to be placed back on the tax roll. Council Member Byrd offered a motion to approve this request as presented. The motion was seconded by Council Member Frank, and approved with a recorded roll call vote taken as follows:

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

Absent - None

At 8:00 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