

REGULAR MEETING

February 12, 2008

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

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

Mayor Eagle read a resolution honoring Eastern Mennonite University on the 90th anniversary of its founding.

Council Member Byrd offered a motion to approve the consent agenda, including approval of the minutes and the second reading of appropriations for the Police Department and Farmers Market pavilion. The motion was seconded by Vice-Mayor Pace and approved with a recorded roll call vote taken as follows:

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

Absent – Council Member Frank

The next item of business was holding a public hearing to consider a supplemental appropriation to the school operating budget. School Board Finance and Technology Director Dee Dee Dawson said these funds represent unanticipated receipts from state and federal sources as well as meal receipts. No additional City dollars are required for the school division to receive these funds.

At 7:10 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, February 4, 2008.

NOTICE OF PUBLIC HEARING

A public hearing will be held by the Harrisonburg City Council on Tuesday, February 12, 2008 at 7:00 p.m., or as soon as the agenda permits, in the Harrisonburg City Council Chambers located at 409 South Main Street, Harrisonburg, Virginia. The purpose of this public hearing will be to get citizen input concerning a proposed increase in the City’s 2007-2008 budget in the net amount of \$726,991. The funds will be used to pay school instructional and food service expenditures. These expenditures will be funded by receipts

from state and federal sources and meal receipts all which were not known during the regular budget process.

The budget increases will be as noted below:

School Fund:	
School revenue - Other	583,000
School revenue - State	62,457
School revenue - Federal	<u>81,534</u>
Total Revenues	<u>726,991</u>
Expenditures:	
Instruction	121,991
School Food Service	<u>605,000</u>
Total Expenditures	<u>726,991</u>

Any individual requiring auxiliary aids, including signers, in connection with the public hearing shall notify the City Manager at least five (5) days prior to the date of the meeting.

CITY OF HARRISONBURG
Kurt D. Hodgen
City Manager

Mayor Eagle called on anyone desiring to speak for or against this supplemental appropriation. There being no one desiring to be heard, the public hearing was declared closed at 7:11 p.m., and the regular session reconvened. Vice-Mayor Pace offered a motion to approve this request for a first reading, and that:

\$81,534.00 chge. to: 1111-33301 School Revenue – Federal
62,457.00 chge. to: 1111-32442 School Revenue – State
583,000.00 chge. to: 1111-31691 School Revenue – Other

\$121,991.00 approp. to: 1111-111114-40610 Instruction
605,000.00 approp. to: 1111-111114-40650 School Food Service

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 Byrd
Council Member Chenault
Mayor Eagle

Absent – Council Member Frank

Planning and Community Development Director Turner introduced a request from Falling Creek, LLC to close a 13,600 sq. ft. +/- portion of undeveloped right-of-way between tax map parcels 13-B-1 and 13-B-2. The right-of-way was originally Hillside Avenue (now called Clay Street) and part of Spotswood Acres Subdivision. Interstate 81 was constructed prior to this portion of Hillside Avenue being completed, cutting the right-of-way in two and separating the remaining undeveloped portion from the existing street. During a boundary survey and title search, it was discovered the previously dedicated right-of-way had never been vacated. The applicant owns all of the surrounding properties and desires to purchase this unused right-of-way in order to add it to their property for the planned commercial development portion of the The Quarry. Mrs. Turner said that Planning Commission has recommended approving this request.

At 7:14 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 Friday, February 1, and Friday, February 8, 2008.

**NOTICE OF INTENTION TO VACATE
AN UNDEVELOPED PORTION OF HILLSIDE AVENUE
LOCATED IN THE NORTHEAST PORTION OF THE CITY OF HARRISONBURG**

**City Council Chambers
409 South Main Street
Harrisonburg, VA 22801
Tuesday, February 12, 2008
7:00 P.M.**

The Harrisonburg City Council will hold a public hearing on Tuesday, February 12, 2008, 7:00 P.M., at City Council Chambers, 409 South Main Street, Harrisonburg, Virginia, to consider an application, by Falling Creek, LLC to vacate an undeveloped portion of Hillside Avenue (now Clay Street), containing approximately 13,600 square feet, more or less, and located on the east side of Interstate 81 in the northeast portion of 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 Hillside Avenue (now Clay Street) 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.

**CITY OF HARRISONBURG
Kurt D. Hodgen,
City Manager**

Mayor Eagle called on anyone desiring to speak for or against this request.

Dick Blackwell said Mrs. Turner did a great job on the presentation and he was available to answer any questions. There being no others desiring to be heard, the public hearing was declared closed at 7:15 p.m., and the regular session reconvened. Council Member Chenault offered a motion to approve this request as presented.

The motion was seconded by Vice-Mayor Pace and approved with a recorded roll call vote taken as follows:

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

Absent – Council Member Frank

Planning and Community Development Director Turner introduced a request from Harman Realty, Inc., to rezone three parcels totaling approximately 72 acres from R-3, Multiple Dwelling Residential District to R-5C, High Density Residential District Conditional. The property is located along Stone Spring Road (adjacent to Interstate 81) and can be found on tax maps 93-A-1, 1A, & 2. Mrs. Turner reviewed the surrounding uses in the area. The properties are accessible from Stone Spring Road and located directly adjacent to Interstate 81. Since the property is currently zoned R-3, multiple dwelling units are permitted by right until August 2010. Therefore, rezoning the property would allow the owner to continue to develop multiple dwelling units and increase the density for the parcel by right. Improvements would not begin at this location until late 2009. The Comprehensive Plan Land Use guide designates this parcel as Medium Density Mixed Residential, which specifically states these areas are intended for small-lot single family detached and single family attached neighborhoods where green spaces are integral design features, and then further that apartments could be permitted under special circumstances. This property is allowed to have 1,054 units of multi-family dwellings by right under the current R-3 zoning and would be allowed to continue to plan until August 2010. The applicant has submitted the following proffers: 1) An entrance will be aligned with the proposed new Ramblewood Road intersection. 2) A street will loop through the property being built as phases are developed, but it will be completed with the phase that completes 60% of the land build-out. 3) An existing drainage swale on the property will be designed as a park area with no less than three acres. 4) A paved bike/multi-use path will also be constructed which will “loop” through the property and connect to the City’s eventual bike path. The construction will coincide with the phased construction of the project and will be in addition to the sidewalks. 5) The required right-of-way and slope easements necessary for the proposed widening of Stone Spring Road will be granted to the City according to drawings provided as of November 2007. 6) The total parcel density will not exceed 1,054 total units. Mrs. Turner said that there is some area at the front where the developer has stated that they would like to do commercial development in the future. In the R-5 zoning classification, commercial development is permitted as a special use permit item. Mrs. Turner reviewed various projects currently under construction or in different development stages. Staff feels that the City could be overstrained with multi-family units by developing the multi-family units at a faster pace than is actually needed. Staff

recommended denying this rezoning; however, Planning Commission recommended that this rezoning request be approved by a vote of four to two.

At 7:34 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, January 28, and Monday, February 4, 2008.

NOTICE OF PUBLIC HEARING

The Harrisonburg City Council will hold a public hearing on Tuesday, February 12, 2008 at 7:00 p.m., in the City Council Chambers, 409 South Main Street to consider the following:

Rezoning – Harman Property R-5C (Stone Spring Road)

Public hearing to consider a request from Harman Realty, Inc., with representative Blackwell Engineering to rezone three lots totaling 72.6 +/- acres from R-3, Multiple Dwelling Residential District to R-5C, High Density Residential District Conditional. The properties are located along and near Stone Spring Road and can be found on tax map parcels 93-A-1, 1A, & 2.

The Comprehensive Plan designates this area as Medium-Density Mixed Residential. This designation is intended for small-lot single family detached and single family attached neighborhoods where green spaces are integral design features. Apartments could also be permitted under special circumstances. The gross density of development in these areas should be in the range of 4-12 dwelling units per acre.

The Zoning Ordinance states that the R-3, Multiple Dwelling Residential District is intended for medium- to high-density residential development and other uses intended to respect the residential character, which are aesthetically compatible within the district by means of architectural expression, landscaping, and restrained traffic flow. The residential density ranges for R-3 are single-family, 6,000 sq. ft. minimum; two-family, 4,000 sq. ft./unit; multi-family, 3,000 sq. ft. minimum per unit; townhouses, 2,000 sq. ft. minimum per unit; and other uses, 6,000 sq. ft. minimum. The R-5, High Density Residential District is intended for medium to high density residential development, including townhouses and multiple family dwelling units, together with certain governmental, educational, religious, recreational and utility uses.

Maps and other information are available for review in the Community Development Department, 409 South Main Street, Monday through Friday, 8:00 a.m. to 5:00 p.m.

All persons interested will have an opportunity to express their views at these public hearings. Any individual requiring auxiliary aids, including signers, in connection with the public hearing shall notify the City Manager at least five (5) days prior to the date of the meeting.

**CITY OF HARRISONBURG
Kurt D. Hodgen
City Manager**

Mayor Eagle called on anyone desiring to speak for or against this rezoning.

Steve Weaver an attorney representing the applicant said the development will be limited to 1,054 units. The new design for Stone Spring Road was designed to take into consideration this parcel as a maximum density of 1,054 units. This request is good for the City in many ways because it includes R-5 flexibility, time for the City to build Stone Spring Road, and time to allow the development over a long period of time.

Ray Atkinson asked Council to deny this rezoning request because an elementary school directly adjoins this property, and new single family homes are being developed on Manor Drive. The new R-3 zoning was changed to prevent sprawl. The Comprehensive Plan does not call for high density in this area. Will this development best fit the City?

Tara Sieber said that she was against this rezoning request. The request is not in compliance with the Comprehensive Plan and does back up to an elementary school. Residents of the Stone Spring Village believe the R-3 designation fits in better with the surrounding area. There being no others desiring to be heard, the public hearing was declared closed at 7:52 p.m., and the regular reconvened.

Vice-Mayor George Pace said, “Essentially the owner of the property by right can develop this property as R-3, submit a site plan within the next two years, and develop the property in five years. The other option allows the owner to build the same number of multi-family units in the R-5 zoning and include a proposed commercial area. The R-3 zoning district does not allow commercial. The longer it takes to develop this property, the better it is for the City and traffic on Stone Spring Road.”

Council Member Ted Byrd said, “There can be 1,054 multi-family units or 1,581 townhomes in the R-3 zoning district. The R-5 designation by right without proffers can have 1,756 apartments units or 1,581 townhomes. Having 1,054 multi-family units will have the least density. The timing of this development could match the timing of the City’s road improvement.”

Council Member Charles Chenault said, “I am opposed to this rezoning request. I don’t think there is any reason been demonstrated under the City’s ordinance for this rezoning except possibly developer convenience. As Mrs. Turner has stated, a site plan filed by August 2010, once approved, has a five year construction window. If R-5 is appropriate and R-3 is not, there is still time to come back and petition for an R-5 rezoning when it appears that it does become more appropriate. Sizable rezonings require more complete plans of development than this one does. There is essentially no plan of development at all for this rezoning. Stone Spring Road is designed to be a limited access highway which is quite different from most of the other roads in the City. Very soon the City will be in a student housing glut and [he asked] developers to use caution.”

Mayor Rodney Eagle said, “The last glut of student housing was in 1991. It was over built. More housing in general is needed in the area. All developers look at market conditions and what is needed. I like the flexibility of this project. This City will continue to grow because we have what people want jobs and opportunities.”

Vice-Mayor Pace offered a motion to approve this rezoning request as presented. 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 Byrd
Mayor Eagle

No - Council Member Chenault

Absent – Council Member Frank

Planning and Community Development Director Turner introduced a request from Purple and Gold, LLC to preliminarily subdivide two parcels, totaling 14.14 acres, located at 2151 Reservoir Street. The property, zoned R-3, Multiple Dwelling Residential District, is found on tax maps 80-A-4 & 5. City Council approved the preliminary plat and the variance request in October 2006. The applicant did not file a final plat within twelve months after approval of the preliminary plat, therefore it has expired. She reviewed the surrounding uses in the area. Site work is already underway as the developer previously received approval for both the erosion and sediment control plan and the comprehensive site plan in August 2007. The development would utilize private, internal streets and parking areas, therefore a variance to the subdivision ordinance is needed to allow many of the lots to not front on a public street. The development is intended to be attractive to the City's student population by offering four bedroom units with amenities that include a clubhouse, swimming pool, open recreational areas, internal sidewalks, and paths for on-site pedestrian movement. All of the townhouse units would be on individual parcels to allow for independent ownership. Dumpsters located throughout the development would provide trash collection. The development would be constructed at the corner of Reservoir Street and Lucy Drive (currently undeveloped) with the primary entrance located off of Lucy Drive. A second right-in/right-out access point would be provided along Reservoir Street. The developer intends for Lucy Drive to line up with Woodland Drive. The applicant and the City have discussed arrangements to exchange land to assist in the townhouse development and City road improvements in this area in order to eliminate a preliminary problem with lot #1 which encroaches on the existing City right-of-way. Planning Commission has recommended approving the preliminary plat. Vice-Mayor Pace offered a motion to approve this request as presented. The motion was seconded by Council Member Pace and approved with a recorded roll call vote taken as follows:

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

Absent – Council Member Frank

Mayor Eagle announced that a presentation by Blue Ridge Community College has been postponed.

The next item of business was an update from the Boys and Girls Club on their fundraising efforts. Derrick Whetzel, Vice-President of the Executive Board of Directors, reviewed the club's effort to raise its share of the money for improvements to the Lucy F. Simms Continuing Education Center. The Boys and Girls Club serves a large number of under privileged children and provides many opportunities for the youth programs. He said the club made mistakes in a capital campaign fundraising effort and level of advice received from a professional consultant. Also, communications needed to improve with City Council.

Walter Curt expressed and reviewed many concerns regarding a fundraising campaign project for the Boys and Girls Club although his family has been involved in the campaign project. He also noted that The Boys and Girls Club is an excellent alternative for many children.

Public Works Director Jim Baker and Public Works Superintendent Drew Williams gave a brief update on the Reservoir Street Project. Mr. Williams reviewed the status on the process of a planning document for the future of Reservoir Street. The Reservoir Street study included a public information meeting, survey, traffic analysis, evaluated alignment/widening options, and community involvement. He also reviewed the widening alternatives for Reservoir Street from University Blvd. to Neff Avenue, and the design features being considered for this corridor. Common concerns include a need for bike lanes and/or sidewalks, number of lanes, increased traffic and travel speeds, and property/business impacts. He also discussed the different options regarding advantages and disadvantages of widening University Blvd. to Neff Avenue and the estimated cost.

The next item of business was a request to advertise an alley closing. City Manager Hodgen said the City has been asked to close a downtown alley to vehicular traffic, but leave it open as a pedestrian walkway. The alley in question runs from Main Street to Mason Street and is located to the south of Jess' Quick Lunch parking lot. Closure of the alley to vehicular traffic will also help facilitate the development of a new downtown business. The City does not utilize the alley for garbage pickup or any other services and has determined that it is unnecessary to keep it open to vehicles. As a pedestrian walkway, it will be incorporated into the downtown Streetscape program. Vice-Mayor Pace offered a motion to authorize advertising the public hearing for February 26, 2008. 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 Byrd
Council Member Chenault
Mayor Eagle

Absent – Council Member Frank

The next item of business was a request to advertise sale of land near Keister Elementary School. City Manager Hodgen said the property consists of approximately 7.79 acres, zoned R-2, and currently is assessed at approximately \$623,000. Vice-Mayor Pace offered a motion to approve this request as presented subject to the survey being completed to the satisfaction of the

City Attorney. 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 Byrd
Council Member Chenault
Mayor Eagle

Absent – Council Member Frank

City Manager Hodgen presented a request to consider amendments to the Central Shenandoah Planning District Commission Charter. The Commission Board has voted to approve certain amendments to its charter that will provide more flexibility to localities in appointing representatives to the Board. Council Member Chenault offered a motion to approve these amendments. The motion was seconded by Vice-Mayor Pace and approved with a recorded roll call vote taken as follows:

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

Absent – Council Member Frank

Council Member Byrd offered a motion asking the City Attorney to draft a proposed amendment to the tree ordinance to allow a final appeal process to the City elected body. The motion was seconded by Vice-Mayor Pace and approved with a recorded roll call vote taken as follows:

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

Absent – Council Member Frank

Dick Blackwell suggested that the City needed a landscape ordinance. He also suggested that the City's preliminary plat ordinance needed an adjustment.

Council Member Chenault offered a motion that Kent Darrah, 682 Wyndham Woods Drive, be recommended to the Circuit Court for a second term on the Board of Zoning Appeals to expire on March 20, 2013. The motion was seconded by Vice-Mayor Pace and approved with a recorded roll call vote taken as follows:

Vote: Yes - Vice-Mayor Pace
Council Member Byrd

Council Member Chenault
Mayor Eagle

Absent – Council Member Frank

Council Member Chenault offered a motion that Jimmy E. Garber, 406 West Avenue, be appointed to a second term on the Industrial Development Authority to expire on April 24, 2012. 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 Byrd
Council Member Chenault
Mayor Eagle

Absent – Council Member Frank

At 9:40 p.m., there being no further business and on motion adopted, the meeting was adjourned.

CITY CLERK

MAYOR