

REGULAR MEETING

MARCH 22, 2005

At a regular meeting of Council held this evening at 7:30 p.m., there were present: Mayor Larry Rogers; City Manager Roger Baker; Assistant City Manager Kurt Hodgen; City Attorney Earl Q. Thumma, Jr.; Vice-Mayor Rodney L. Eagle; Council Members Charles R. Chenault; Hugh J. Lantz and George W. Pace; Acting City Clerk Jenny Brockwell, and Chief of Police Donald Harper. Absent: City Clerk Yvonne "Bonnie" Ryan, CMC/MMCA

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

Mayor Rogers recognized by proclamation "Day of Prayer" in Harrisonburg on April 7, 2005.

Vicky Swartz, a resident of Harrisonburg, said that the old high school building was valuable property with a good location in the City. She expressed concern about increased traffic if the property is leased to James Madison University.

Ralph Geddes, a resident of Harrisonburg, questioned has anyone asked the National Guard Armory what they think about leasing the high school to JMU?

Laura Stempel, a resident of Harrisonburg, said that Council owed the public an explanation on how this deal is being handled. She complained about not being placed on the regular agenda. She said over crowding still exists in the schools and more trailers are needed for classrooms; however, it appears you have a done deal without any regard to the citizens.

Dana Crittenden, a resident of Harrisonburg, said that it appears plans were made by City Council in a clandestine manner. She said more information has been published in the Daily News-Record regarding this issue than has been provided by the City.

Bucky Berry, a resident of Harrisonburg, said the City needed to get its priorities in order.

T.J. Wilson, a resident of Harrisonburg, urged Council not to grant any sort of option to JMU or any other entity to purchase this property. He said the City cannot move or go anywhere else like other businesses and may have a need for the property in the future.

Barry Haff, a resident of Harrisonburg, said that City officials have not allowed enough public input into lease negotiations. There is a solution, but it will take more effort from everyone to find it. People from all parties should be involved in this matter.

Dee Huffman, a resident of Harrisonburg, said there is a lot of community opposition to the scrapping of the Comprehensive Plan. "How can we allow our teachers and students to be

crammed into trailers when there is more than enough room right under noses. A vote to declare Harrisonburg High School as surplus property is taking away our best solution.”

Steve Ray, a resident of the Harrisonburg, said the City will be hosting three major events this summer, The Tour of Shenandoah, The Great American Race, and Model T Ford Tour.

Council Member Chenault offered a motion to approve the consent agenda, including approval of the minutes and second reading of Supplemental Appropriations for the Police Department and School Board. The motion also included amending and re-enacting Section 10-3-91 of the Harrisonburg City Code. The motion was seconded by Vice-Mayor Eagle, and approved with a recorded roll call vote taken as follows:

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

Absent – None

City Manager Baker presented a request for a supplemental appropriation for the Sanitation Fund. He said that these funds are necessary to adjust budgets to reflect additional funds received from County tipping fees and to reimburse County share of landfill fees.

At 8:15 p.m., Mayor Rogers 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, March 14, 2005.

**NOTICE OF PUBLIC HEARING**  
**City Council Chambers**  
**Tuesday, March 22, 2005**  
**7:30 p.m.**

**A Public Hearing will be held by the Harrisonburg City Council on Tuesday, March 22, 2005 at 7:30 p.m., in the Harrisonburg Municipal Building, 345 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 2004-2005 budget in the net amount of \$1,113,403.**

**The budget increases will be as noted below:**

<b>Sanitation Revenues</b>	
<b>Amount from Fund Balance</b>	<b>\$656,736</b>
<b>Landfill Fees</b>	<b>456,667</b>

<b>Total revenues</b>	<b><u>\$1,113,403</u></b>
<b>Expenditures:</b>	
CISAT	\$ 590,040
Refuse Collection	6,113
Miscellaneous Operating Expenses	3,170
Recycling	3,380
Landfill	<b>510,700</b>
<b>Total expenditures</b>	<b><u>\$1,113,403</u></b>

**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**  
**Roger D. Baker**  
**City Manager**

Mayor Rogers called on anyone desiring to speak for or against increasing the appropriation to the Sanitation Fund. There being no one desiring to be heard, the public hearing was declared closed at 8:16 p.m., and the regular session reconvened. Council Member Lantz offered a motion to approve this appropriation this request for a first reading, and that:

\$656,736.00 chge. to: 2014-31632 Landfill Fees  
 456,667.00 chge. to: 2014-31010 Amount from Fund Balance

\$15,000.00 approp. to: 2014-912242-44310 C.S. Powered Equipment Fuels  
 50,000.00 approp. to: 2014-912242-43310 Repairs & Maintenance  
 350,000.00 approp. to: 2014-912242-45110 Electricity  
 50,000.00 approp. to: 2014-912242-45130 Water & Sewer  
 16,000.00 approp. to: 2014-912242-46140 Other Operating Supplies  
 100,000.00 approp. to: 2014-912242-465180 Chemicals  
 4,950.00 approp. to: 2014-912242-42110 Worker's Compensation  
 1,245.00 approp. to: 2014-912242-45340 Property Insurance  
 1,556.00 approp. to: 2014-912242-45370 Pub. Official Liability Insurance  
 1,289.00 approp. to: 2014-912242-45380 General Liability Insurance  
 5,031.00 approp. to: 2014-922041-42110 Workers' Compensation  
 497.00 approp. to: 2014-922041-45350 Vehicle & Equipment Insurance  
 449.00 approp. to: 2014-922041-45370 Public Official Liability Insurance  
 136.00 approp. to: 2014-922041-45380 General Liability Insurance  
 3,170.00 approp. to: 2014-942042-45380 General Liability Insurance  
 2,559.00 approp. to: 2014-952042-42110 Worker's Compensation  
 97.00 approp. to: 2014-952042-45340 Property Insurance  
 410.00 approp. to: 2014-952042-45370 Pub. Official Liability Insurance  
 314.00 approp. to: 2014-952042-45380 General Liability Insurance  
 510,700.00 approp. to: 2014-932042-43325 Tipping Fee-County Landfill

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

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

Absent – None

The next item of business was a public hearing to consider adopting the City's Design and Construction Standards Manual. City Engineer Rublee said three work sessions have been held regarding this manual. At the last work session there were three outstanding issues that needed further revisions. He said these changes have been made and were included in the draft manual.

At 8:20 p.m., Mayor Rogers 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, March 14, 2005.

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

**The Harrisonburg City Council will hold a public hearing on Tuesday, March 22, 2005 in the Municipal Building City Council Chamber, 345 South Main Street, to consider updates to the City's Design and Construction Standards Manual.**

This manual sets policies and standards for installation of public City facilities such as streets, sidewalks, water, sewer, storm sewer, traffic signals, and other traffic controls, etc. as well as development requirements for private facilities such as erosion and sediment control and stormwater management. Both the currently adopted manual and draft document are available on the City website at [www.ci.harrisonburg.va.us](http://www.ci.harrisonburg.va.us), or at the Department of Planning and Community Development, 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 hearing. Individuals requiring auxiliary aids, including signers, in connection with the public hearing shall notify the City Council Clerk at 432-7701 at least five days prior to the date of the meeting.

Mayor Rogers called on anyone desiring to speak for or against adopting the City's Design and Construction Standards Manual.

Gayl Brunk, Outreach Director for Valley Associates for Independent Living, said that VAIL's mission is to promote self-direction among people with disabilities and remove barriers to independence in the communities. VAIL provides an array of services to individuals with disabilities and to the community in regards to accessibility concerns. She thanked City Council and staff for supporting wider sidewalks, maintenance of sidewalks, and

the vital role that pedestrian travel plays in community life. She requested that the Design and Construction Standards Manual be adopted with a requirement of 5-foot sidewalks in it.

J.M. Snell, Vice-President of the Builders Association, commended staff for their efforts in reaching a workable compromise on this document. He applauded everyone for insisting on reaching an agreement. There being no others desiring to be heard, the public hearing was declared closed at 8:25 p.m., and the regular session reconvened. Council Member Chenault offered a motion to approve the Design and Construction Standards Manual subject to any additional exhibits or amendments being approved by staff. The motion was seconded by Vice-Mayor Eagle, and approved with a recorded roll call vote taken as follows:

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

Absent – None

Planning and Community Development Director Turner introduced a request from Krieder Machine Shop with representative Jim Weaver for the City to provide water and sewer service. The property is located along Route 42 north of the City limits. She said that the applicant would be responsible for any public utilities extension in Rockingham County. She said that the Department of Public Utilities and Planning Commission have recommended approval of the request. Vice-Mayor Eagle offered a motion to approve this request. The motion was seconded by Council Member Pace, and approved with a unanimous vote of Council.

Planning and Community Development Director Turner introduced a request from Heritage Estates, LLC with representative Harrisonburg Administrative Services, Inc. She said the property is located at 650 Garbers Church Road. The applicant wants to subdivide one, .51 acre parcel into two lots with a variance to the subdivision ordinance for the rear lot to not front on a public street. She reviewed the surrounding uses in the area. In February of 2004, Planning Commission recommended approval of the Heritage Estates Subdivision, a neighborhood of R-1 single-family home lots on private streets on nearly ten acres of land adjacent to Garbers Church Road and the City owned golf course, Heritage Oaks. City Council approved the preliminary plat with variance for the homes to not front on a public street. This preliminary plat would add one additional building lot to the Heritage Estates development. The applicant has requested to subdivide a 22,202 square foot lot into two parcels. Lot A has a single-family home located on the lot that fronts Garbers Church Road. Lot B would require a variance of the City Code requiring that all lots front on a public street. The new lot's driveway would access a private street within the proposed Heritage Estates subdivision. She said that Planning Commission has recommended approval of the request. Council Member Chenault offered a motion to approve the subdivision with a variance into two lots. The motion was seconded by Council Member Pace, and approved with a unanimous vote of Council.

The next item of business was a report on the Neff Avenue proposal. Economic Development Director Shull said staff has completed its review of an unsolicited proposal for a multi-use development project along Neff Avenue. The proposal involved four major components: a baseball stadium, a civic arena, and a retail center. The magnitude of such a project did require extensive study and consideration. Economic analysis, traffic concerns and neighborhood impact all had to be considered.

The proposal did raise interesting ideas and highlight the value of the Harrisonburg region as a robust and attractive marketplace. In addition, the proposal highlighted the unique opportunity Harrisonburg has to partner with James Madison University on projects that would benefit both the school and the City. While parts of the proposal had definite appeal, staff analysis showed that the project as a whole did not work in the best interest of the City of Harrisonburg.

Staff was tasked with analyzing the level of public involvement and investment requested in the proposal and also weighing the level of risk to be assumed by the City. Davenport & Company, Harrisonburg's financial advisors, participated in the review process. In staff's opinion, the public sector was expected to shoulder too much of the financial risk within the proposed partnership.

Staff also was concerned that the proposal from Harrisonburg-Downtown Visions, LLC did not address all of the Public-Private Educational Act (PPEA) requirements under which it was submitted. The law firm of McGuire Woods participated in the legal review of the proposal.

After careful review, City staff is recommending that Council not accept the proposal from Harrisonburg Downtown Visions, LLC.

It is important to note that PPEA confidentiality requirements still hold in regard to the submitted proposal regardless of the next step in the process. If Council wishes to proceed with the project, the proposal will remain protected until a comprehensive agreement is negotiated. If Council decides not to proceed, the document will remain confidential indefinitely.

Council Member Lantz asked, "If this recommendation is accepted by Council would it preclude anyone else from coming back and making a different proposal? I can see the convention-civic center being appealing and utilized by JMU and I think they could be a big player in the cost of the facility. We need to keep an open mind."

Mr. Shull commented, "We are a retail center for the area, and we will continue to see this type of interest from other developers."

Vice-Mayor Eagle commented that he would like to see civic center re-visited at some time in the future.

Council Member Pace offered a motion to approve staff's recommendation to reject this proposal. The motion was seconded by Council Member Chenault, and approved with a unanimous vote of Council.

Dr. Donald Ford, Superintendent of Harrisonburg City Schools, presented the School Board's proposed 2005-2006 budget. He said challenges facing our school division remain significant. "I take pride, though, in the quality of our staff and the commitment they demonstrate to educating all of our children. But, I believe strongly the "No Child Left Behind" and SOL requirements can be met only by investing time and resources into remedial programs and small classes." We have excellent schools and our board's goal is to continue this tradition of excellence. The budget is based on a projected average daily membership of 4,200 students in 2005-2006. Currently there are 4,125 students. State revenues are based on figures provided by the Virginia Department of Education. Federal revenues are estimates based on current funding and projects provided by the state. Increases in local funding are needed to fund projects, programs, and personnel needs. Expenditures may never exceed revenues. The number of new positions included in the budget is determined by the board based on administrative recommendations and public input. Additional staffing is needed due to increased enrollment and program requirements, including the need to maintain appropriate sized classes to maximize learning opportunities. The budget includes a projected average 6% increase for teachers and other personnel. During budget development the school board reiterated its commitment to keeping teacher salaries in the top 25% in the state. The maintenance and operations fund includes projected expenditures for next year's projects identified in our five-year maintenance/special projects schedule, as well as ongoing routine maintenance costs. Dr. Ford reviewed the significant budget increases, which included instructional operation at \$34,135,612, administrative/attendance & health services \$2,131,426, bus transportation, \$1,392,939, maintenance and operations, \$3,863,960, food services, \$2,469,622, facilities, \$2,000, debt service transfer, \$382,832, and technology, \$2,410,007. The revenue estimates for the school division to support the expenditures are divided into state, federal, other, local, and un-appropriated. The total budget increase is \$3.8 million. The City has attained full accreditation of all the schools.

Council Member Lantz said that approximately 72% of the total budget is going into instruction, which indicates the importance the City places on children. However, the overall budget at 9.05% is alarming, but the City's increase at 10.25% is really extremely alarming. "I don't know how we can continue to give 10% every year. Is there anything in the instructional budget that is unusual this year?"

Dr. Ford said there has been a significant increase in remediation services for children and salaries increases. Hopefully in the future we can have a conservation about not just what is needed, but what is affordable. Our school division has been well financed by City Council.

Council Member Lantz requested receiving information regarding whether during the last 10 years the City's portion has increased over the state portion. If the City is picking up a bigger percentage of the cost of the school system, then the state legislators need to be aware they are making certain mandates, but the City is funding these mandates at a higher level.

Dr. Ford said that the funding formula for Massanutton Technical Center has increased by \$500,000. This increase is due to a formula change that was intended to ensure that each school division pay its fair share of the operating cost of MTC. However, the formula needs to be revisited. It is placing an unfair burden on the City because it has a large adult educational population.

Council Member Pace said that budget excludes the debt service for the new high school. “How much it is and should it be in this budget?”

Dr. Ford said he did not have an exact dollar figure. An accounting procedure passed at the state and federal levels a few years ago required that all debt service be taken out of the school budget and placed in the City’s budget.

Council Member Pace said, “By my calculations it approaches about \$5 million a year in principal and interest. Assuming the student population is at 4,200, Council is looking at a budget that exceeds \$11,000 a year per student in spending. That ranks Harrisonburg in the top 5% of all school districts in Virginia. It is a big number in comparison to other school systems because our school system has more than 50% of its students in programs for specials education or English as a second language. Why didn’t fuel and utilities make the list of significant increases?”

Dr. Ford reviewed information used to project fuel and utility costs.

Council Member Pace expressed concern with the 6% increase for teachers and other personnel. “How many of the total number of employees in the school system are classified as non-teachers? I have a real concern with the 25% benchmark used to set teacher salaries.” That benchmark includes schools in northern Virginia, which has salaries in the mid \$50’s and low \$60’s and the benchmark does not include any consideration for the cost of living. Given the tax base of the City, we cannot keep pushing toward this benchmark. “I encourage the board to consider the option of looking at where we rank in teacher salaries regionally or school districts within a 100-mile radius of Harrisonburg. Using that criterion, Harrisonburg ranks third out of the eight school districts closest to the City, behind Winchester and Charlottesville. We need to take into consideration our location, low tax base, low property taxes, low utilities, and low fuel costs. We have a good competitive package and we can’t keep chasing northern Virginia to try and get the 25% percentile. It is a goal we can’t achieve. A regional approach would be better and I ask the school board to consider that.”

Council Member Lantz also questioned whether non-instructional staff like cafeteria and custodial employees should receive the average of 6% raise called for in the budget. “I don’t think we can afford to keep paying non-instructional employees 6%.”

Dr. Ford said many of the non-instructional employees are paid at or below the industry average for the area and deserve regular cost-of-living increases.

The next item of business was a request from Allison Dugan, Executive Director of Harrisonburg-Rockingham Convention & Visitors Bureau. She gave everyone a copy of "Rockingham Discovery Magazine", which is a collaboration of local businesses to provide a promotional magazine for the area. She said that CVB will be hosting three events the Tour of Shenandoah, The Great American Car Race and the 2005 National Model T Ford Tour and needs additional funding to cover increased operational expenses because these events were not planned when the budget was developed. Following further discussion and comments, Vice Mayor Eagle offered a motion to approve this request for \$20,000. The motion was seconded by Council Member Chenault, and approved with a recorded roll call vote taken as follows:

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

Absent – None

The next item of business was a request to use City property for the Fundfest Concert Series. The request also included using the parking lot behind Sherwin Williams and closing Warren Street. The concert series will be held on alternating Wednesday evenings beginning May 11th and ending August 17th. Council Member Pace offered a motion to approve the request as presented. The motion was seconded by Council Member Chenault, and approved with a unanimous vote of Council.

Council Member Pace announced that Planning Commission held a special meeting March 16<sup>th</sup> to discuss the adult business ordinance. Some revisions to the language were referred to the City Attorney and should be presented to City Council at the second meeting in April. Mr. Pace also requested placing whether the City should continue with on street parking meters on a future agenda for Council's consideration.

Council Member Chenault requested placing a tagging ordinance on a future agenda for Council's consideration.

Council Member Lantz expressed his concern with the City's traffic lights, traffic problems and general traffic flow. He requested a discussion concerning this matter on a future agenda.

City Manager Baker presented the following resolution for Council's consideration.

### **Resolution Designating April as Clean-up/Fix-up Month**

**WHEREAS, the mission statement of the City of Harrisonburg expresses the intent to preserve and enhance the quality of life that is unique to the community; through promoting a partnership among citizens, elected officials and City employees; and**

**WHEREAS, it is also the City's desire to project an image of community pride, friendliness and livability; and**

**WHEREAS, the City Council seeks to encourage all citizens, businesses, schools, universities, civic groups, City employees and others to participate in a mutual effort to further enhance and beautify the City through fixing up and cleaning up public and private properties; and**

**WHEREAS, April 9, 2005, will be the annual Blacks Run Clean-up Day in Harrisonburg; and**

**NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Harrisonburg, Virginia does hereby designate the month of April as "Clean-up/Fix-up Month" in the City of Harrisonburg.**

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Date

Larry M. Rogers, Mayor

Attest:

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Yvonne Ryan, CMC, City Clerk

Vice-Mayor Eagle offered a motion to adopt the resolution. The motion was seconded by Council Member Pace, and approved with a unanimous vote of Council.

At 9:55 p.m., Vice-Mayor Eagle offered a motion that Council enter a closed session for discussion and consideration of personnel and prospective candidates to be appointed to the Industrial Development Authority, exempt from public meeting requirements pursuant to Section 2.2-3711(A)(1) of the Code of Virginia. Discussion concerning a prospective business where no previous announcement has been made of the business' interest in locating within the City, exempt from public meeting requirements pursuant to Section 2.2-3711(A)(5) 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 Council Member Pace, and approved with a recorded roll call vote taken as follows:

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

Absent – None

At 10:50 p.m., the closed session ended and the regular session reconvened. The following statement 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 Chenault offered motion to allow the Smith house to be moved to the lot between the School Board Administration Offices and the Quilt Museum. The motion was seconded by Council Member Pace, and approved with a unanimous vote of Council.

Council also agreed to allow removal of the Barn from the old Ken Bahn property by the Valley Brethren-Mennonite Heritage Center that is developing the site next to the new high school. The barn is being donated to the group, they are responsible for removing it.

At 10:55 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