

## REGULAR MEETING

SEPTEMBER 26, 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; Assistant 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, CMC/MMCA, and Chief of Police Donald Harper. Absent: Council Member Carolyn W. Frank.

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

Todd Hedinger, a resident of Harrisonburg, asked Council to consider adopting a resolution in opposition to the proposed Marshall/Newman Amendment. He said the proposed amendment states that it is for the Commonwealth and its political subdivision. The proposed Amendment directly affects the benefits available to unmarried full-time Harrisonburg City employees, government employees and state employees. It affects our ability to recruit and retain the most qualified people for jobs in our City, including teachers and police officers. For the good of our City, we all have a stake in this. The Marshall/Newman Amendment takes away rights, just as surely as actions of eminent domain take away rights. Please give this resolution time for consideration.

Violet Allain, a resident of the City said the Marshall/Newman Amendment is a mean spirited proposal and has far reaching implications beyond the well-publicized ban on gay marriage. This amendment clearly states that any form of legal status for relationships of unmarried individuals is not to be recognized by the state and its political subdivisions. This amendment effectively denies relationship rights for all unmarried couples straight or gay. There is nothing in the amendment that will disallow the restriction of benefits for all unmarried couples including Harrisonburg City employees and state employees. This amendment is detrimental to business, economic development, taxpayers, and quality of life in Harrisonburg. This amendment endangers the future of thousands of citizens of the Commonwealth of Virginia and will lead to unnecessary legal entanglements. She urged Council to take a stand on this hurtful proposed amendment and support the resolution by encouraging all fair-minded citizens of Harrisonburg to vote no on November 7, 2006.

Cynthia Gillett said her department at JMU recruits new faculty from states that do not have legislative like this and people in the past have refused to take jobs here. JMU is a major employer in the City. This proposed legislation will restrict people in their private arrangement about how they take care of their families.

Paula Cantleberry said she was speaking on behalf of her daughter, Cassandra Hanson, who is currently on active duty with the Virginia National Guard and deployed in Kosovo. "I recently received a delinquent personal property tax notice dated July 28, 2006 from the Office of the Treasurer of the City of Harrisonburg." The property on which the tax, related interest and

late fee was assessed was on an automobile housed in the City while my daughter attended James Madison University. The tax years were 2002 and 2003. During this time period and continuing to this date neither my daughter nor I received any tax assessment or delinquent notification because it was sent to an incorrect address. The automobile was registered in Virginia, but I was living in California. Having now received the proper notification from the City, I realize the tax is due and I am obligated to pay the related liability. However, I feel that is unfair to assess interest and late fees on the tax liability that I was neither aware of nor received any bill or notice. "I have paid the full amount, but I am asking for the penalties, interest and court costs be refunded."

Sam Nichols said, "It is my belief that the issue of gay and liaison rights is a human rights issue." It is one of the premier issues within the United States.

Mayor Eagle said, "I personally don't believe that the Marshall/Newman Amendment is in the area of City Council responsibility." Everyone voting on November 7<sup>th</sup> will have an opportunity to express himself or herself regarding this matter.

Council Member Chenault said, "Our role is to represent all of the citizens of the City of Harrisonburg. Harrisonburg is a diverse community. I view this as something of a political question that will be resolved at the election in November. In fairness to citizens that is where it ought to be resolved. I am not prepared to put Council in the position of making recommendations on what are termed political questions."

Council Member Byrd said, "I wouldn't support a recommendation for Council for or against the resolution." That is an individual voting decision. "I welcome everyone to use this forum to get your message out to the citizens of Harrisonburg. I am glad you came."

Vice-Mayor Pace said, "If we are going to vote on a resolution pro or con then we need to have a public hearing and an open forum for debate on both sides before anyone makes any decision on this matter."

Vice-Mayor Pace also said, "Regarding the tax issue expressed earlier tonight by Ms Canteberry, if the City made an error in terms of the incorrect address and Ms. Canteberry is willing to pay the taxes, then we need to find a way to reimburse her for monies that aren't related to taxes. It is the only fair thing to do."

City Attorney Thumma pointed out that Commissioner of the Revenue June Hosaflook has no authority to rebate any penalty or interest. The City Treasurer also has no authority. Only Council can take any action.

Following further discussion and comments, Council agreed to table the request until the next meeting allowing City Attorney Thumma and Mayor Eagle to look into this matter.

Council Member Chenault offered a motion to approve the consent agenda, including approval of the minutes and the second reading of several supplemental appropriations for the

Fire Department, Police Department and Public Works Department. The motion was seconded by Vice-Mayor Pace, and approved with a recorded roll call vote taken as follows:

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

Absent – Council Member Frank

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

### **International Walk to School Day Proclamation**

**WHEREAS, despite ongoing efforts to better protect child pedestrians, child pedestrian injury remains the second leading cause of unintentional injury-related death among children ages 5 to 14 in the U.S.; and**

**WHEREAS, each year, more than 630 children ages 14 and under die from pedestrian-related injuries and more than 39,000 children ages 14 and under are treated in hospital emergency rooms in the U.S.; and**

**WHEREAS, the total annual cost of traffic-related pedestrian injury among children ages 14 and under is \$5.2 billion in the U.S.; and**

**WHEREAS, the majority of pedestrian deaths and injuries are traffic-related in the U.S.; and**

**WHEREAS, environmental modifications, when made in conjunction with enforcement of traffic laws and increased penalties for traffic violations, are proven to reduce traffic-related pedestrian death and injury; and**

**WHEREAS, in recognition of International Walk to School Day 2006, children, parents, educators, community leaders, Safe Kids coalitions and FedEx Express employees are joining together nationwide to walk to school and evaluate pedestrian safety in their community; and**

**WHEREAS, Safe Kids Central Shenandoah Valley has planned pedestrian safety activities and school-based events for International Walk to School Day 2006 in an effort to educate children and families about the importance of pedestrian safety;**

**NOW, THEREFORE, I, Rodney Eagle, Mayor of the City of Harrisonburg do hereby proclaim October 4, 2006 as**

**INTERNATIONAL WALK TO SCHOOL DAY**

**in Harrisonburg, and call upon all the residents of this City to join with me in supporting the efforts and activities of Safe Kids Central Shenandoah Valley, Harrisonburg City Schools, and Keister Elementary School to prevent pedestrian injuries and deaths to our children.**

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**Rodney L. Eagle, Mayor**

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**Yvonne Ryan, CMC, City Clerk**

Ana Hunter-Nickels, Camille Cummings, Charles Phillips and Graham Rebhun from Keister Elementary School gave Council Members a t-shirt and an invitation to walk with some of the children to school on October 4, 2006. Council Member Byrd offered a motion to accept the proclamation as presented. The motion was seconded by Vice-Mayor Pace, and approved with a recorded roll call vote taken as follows:

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

Absent – Council Member Frank

City Manager Baker introduced a request from Americast-Valley Blox for the City to provide water and sewer service to their future-manufacturing site along Acorn Drive. The property is located both in Harrisonburg and Rockingham County. The actual structure will be built in Rockingham County. Harrisonburg will provide the services. He said that Planning Commission recommended approving the request. Vice-Mayor Pace offered a motion to approve the request as submitted. The motion was seconded by Council Member Chenault, and approved with a recorded roll call vote taken as follows:

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

Absent – Council Member Frank

The next item of business was a presentation by Harrisonburg Downtown Renaissance. Eddie Bumbaugh, Executive Director of Harrisonburg Renaissance, updated the progress and accomplishments for HDR. He mentioned that the City of Lynchburg has received one of four national awards for their downtown revitalization effort. Eddie Bumbaugh, Roger Baker, and Brian Shull will make a presentation at the Virginia Municipal League Conference on October 16<sup>th</sup> regarding Harrisonburg's downtown revitalization efforts. He reviewed pictures of the Bedford and Roanoke areas, which have permanent structures to house their farmers market. Because of the construction of the Water Street deck, which required the relocation of the Farmer's Market, the City might want to consider a permanent structure in the future. On May 11, 2006, City Council passed a resolution supporting and designating certain sections of Route

11 portion from Port Republic Road to Court Square as being part of the Virginia Byway. Virginia has a Virginia Main Street Façade Improvement Program, which lists Harrisonburg through the Harrisonburg Downtown Renaissance and Community Development Block Grant as making \$25,000 in available funds to downtown property business owners for façade and sign enhancement. He announced that between October and March the downtown area will have three new restaurants and an upscale convenience store. The City Exchange project has been an amazing success. In July, a group of leadership students attending JMU painted a mural on the concrete wall at the corner of West Bruce Street and Old South High Street to cover the graffiti. He said HDR is working with Harrisonburg Tourism to have additional walking tours of the downtown area, charging a small fee, and using the funds toward downtown beautification. It is hoped to have partial implementation of a streetscape plan by 2007. Another possible project is hanging flowers from light poles. Many successful events were held during the summer. Upcoming events include Museum & Gallery Walk on October 20<sup>th</sup>, Howl-o-Ween on the Square on October 28<sup>th</sup>, Holidays on Main Street on November 25<sup>th</sup>, and taking pictures with Santa in the Hardesty Higgins House. On December 1st, volunteers will be honored for all of their hard work.

City Manager Baker presented a request to appropriate fund to the Tourism Fund. He said that funds were received from a grant by the Virginia Foundation for the Humanities and will be used to print the African American Heritage Site Brochure. Council Member Chenault offered a motion to approve this request for a first reading, and that:

\$4,000 chge. to: 1000-32530 VA Foundation for the Humanities Grant

\$4,000 approp. to: 1000-810821-43601 Contract printing/mailing

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

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

Absent – Council Member Frank

Wanda Hamilton, the City's Supervisor of ESL Language Arts, English and Foreign Language, presented an overview of the ESL program in City schools. She said an effective ESL program must be defined, planned, and funded. Harrisonburg City Schools has seen dramatic changes in the last five to seven years. Our ESL population has increased from 18% to over 36%. At the elementary level it is over 40%. Harrisonburg is number one in Virginia in terms of the percentage of ESL students. The students in the ESL program come from 56 countries and speak 45 different languages. Harrisonburg must provide support, communication and translation of materials. In the past the majority of the ESL population has been born in Virginia. Our goals are simple, but "No Child Left Behind" gives us a challenging time line to accomplish. The challenges both instructionally and financially are great with an urgent need to

have programs in place that can grow with the population. She reviewed how the students are counted in a subgroup. There are always additional costs for special programs above and beyond the normal. All of the teachers have ESL students in their classrooms. There are increased needs for interpreters and translators. In the LEAP Program classroom teacher team with an ESL teacher and a literacy specialist to work in small groups with level 1 and 2 ESL students. An additional goal is to involve parents in the education of their children. As a result, two or three parents as educational partners programs will be offered this year. It is becoming a rare district in Virginia that doesn't enroll one or more LEP students.

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

**LOCATION AND DESIGN  
PUBLIC HEARING APPROVAL RESOLUTION**

**WHEREAS, a Location and Design Public Hearing was conducted on August 31, 2006, with representatives of the City of Harrisonburg and the Commonwealth of Virginia, Department of Transportation, after due and proper notice for the purpose of considering the proposed location and design of ERICKSON AVENUE/STONE SPRING ROAD PROJECTS U000-115-127 (UPC#64647); U000-115-128 (UPC#64648); U000-115-123 (UPC#60980), at which hearing road and bridge plan sheets, drawings and other pertinent information were made available for public inspection in accordance with state and federal guidelines; and**

**WHEREAS, all persons and parties in attendance were afforded full opportunity to participate in said public hearing; and**

**WHEREAS, the CITY OF HARRISONBURG is an active participant in the Urban Construction Initiative and representatives of the City were present and conducted said hearing; and**

**WHEREAS, the Council has previously requested the Virginia Department of Transportation to program these projects; and**

**WHEREAS, the Council considered all such matters; now**

**THEREFORE, BE IT RESOLVED that the Council of the City of Harrisonburg hereby approves the location and major design features of the proposed projects as presented in the Public Hearing; and**

**BE IT FURTHER RESOLVED that the City of Harrisonburg requests the Virginia Department of Transportation to acquire all rights of way necessary for these projects on behalf of the City and placing said right of way in name of the City of Harrisonburg; and**

**BE IT FURTHER RESOLVED that the City Manager is hereby authorized to execute, on behalf of the City of Harrisonburg, all necessary railroad and utility agreements required in conjunction with acquiring such rights of way.**

Adopted this 26<sup>th</sup> day of September, 2006 City of Harrisonburg, Virginia

ATTEST:

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

By: \_\_\_\_\_  
Rodney L. Eagle, Mayor

City Manager Baker said that this resolution confirms the public hearing process that was held on August 31, 2006 and subsequent public comment period regarding the location and design of the Stone Spring Road/Erickson Avenue project. This is a prerequisite for the Commonwealth Transportation Board to take action on the location and design of the project. Vice-Mayor Pace offered a motion to approve this design 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 Byrd  
Vice-Mayor Pace  
Council Member Chenault  
Mayor Eagle

Absent – Council Member Frank

Council Member Byrd suggested that Council proceed with appointing two members of Council to a Finance Committee. The members would establish the function and role of the committee by compiling information from other localities that have a Finance Committee.

Vice-Mayor Pace said that he endorsed the concept of the Finance Committee. This committee should review issues that arise outside the budget and establish a cap that would have a fundamental impact on the general fund and/or require debt financing.

Council Member Chenault endorsed the concept of the Finance Committee.

Mayor Eagle said he would like know how other localities handle the requests.

Council Member Byrd offered a motion to establish a two members Finance Committee made up of two City Council members. The motion was seconded by Council Member Chenault, and approved with a unanimous vote of Council Members present.

Council Member Chenault offered a motion that Vice-Mayor George Pace and Council Member Byrd be appointed to a Finance Committee. The motion was seconded by Council Member Byrd, and approved with a unanimous vote of Council Members present.

City Attorney Thumma presented for Council's consideration an ordinance enacting Section 1-1-14 and amending and re-enacting Section 17-1-3 of the Harrisonburg City Code. He said adoption of these ordinances will move the City Council and School Board elections from

May to November. He said that a public hearing will be held prior to adoption and other ordinances will need to be prepared.

Bucky Berry, a resident of Harrisonburg, said the Boys and Girls Club and Big Brothers/Big Sisters need more funding. He also complained about the emergency radio system in Charlottesville.

Council agreed to hold a retreat on October 24<sup>th</sup> starting at 11:00 a.m.

At 8:40 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 Council Member Byrd, and approved with a recorded roll call vote taken as follows:

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

Absent – Council Member Frank

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.

At 9:45 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



