

REGULAR MEETING

September 25, 2007

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, Carolyn W. Frank, and Ted Byrd; City Clerk Yvonne "Bonnie" Ryan, MMC; and Police Major Wilfong. Absent: Police Chief Harper.

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

Vice-Mayor Pace offered a motion to approve the consent agenda, including approval of the minutes and the second reading of several supplemental appropriations for the Police and Fire Departments, Community Policy and Management Team and an ordinance amending and re-enacting Section 16-8-51 of the Harrisonburg City Code. The motion also included a rezoning request from Falling Creek and Heritage Estates. The motion was seconded by Council Member Frank and approved with a recorded roll call vote taken as follows:

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

Absent - None

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

**A RESOLUTION DECLARING OCTOBER 3, 2007 AS  
"WALK TO SCHOOL DAY"**

**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 2007, children, parents, educators, community leaders, Safe Kids coalitions 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 2007 in an effort to educate children and families about the importance of pedestrian safety;**

**NOW, THEREFORE, BE IT RESOLVED that the Mayor and City Council of Harrisonburg, Virginia, does hereby declare October 3, 2007 as “Walk to School Day” in the City of Harrisonburg.**

**ADOPTED THIS 25<sup>TH</sup> DAY OF SEPTEMBER, 2007**

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**Rodney L. Eagle, Mayor**

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**Yvonne H. Ryan, MMC, City Clerk**

Andrew and Cedric Ansah from Waterman Elementary School invited Council Members to walk with the students on October 3, 2007. Andrew and Cedric said they walk to and from school every day and enjoy getting the exercise. Council Member Byrd offered a motion to adopt this resolution declaring October 3, 2007 as “Walk to School Day”. The motion was seconded by Council Member Frank and approved with a unanimous vote of Council.

Wanda Willis, Fire Prevention Education Specialist, announced that after Harrisonburg adopted a bike helmet ordinance, the Virginia Department of Health has awarded the City a grant of approximately \$22,500 to purchase 4,500 bike helmets for children. She said that hopefully every child in Harrisonburg will receive a free bike helmet.

Planning and Community Development Director Turner introduced a request from Diversified Development Solution, LLC and Ferguson Investments, LLC to amend an approved plan of development for Brookside Park and R-7 Medium Density Mixed Residential Planned Community. In June 2006 this property was rezoned from R-2, Residential District and R-2C, Residential District Conditional to R-7, Medium Density Mixed Residential Planned Community. This request is a slight modification to a previous approved plan of development. The property is located between the undeveloped right-of-way section of Suter Street and Monroe Streets and contains approximately 7.11-acres of land. She reviewed the surrounding uses in the area. The approved development consists of courtyard homes, single family detached homes and duplexes. The applicant is requesting to revise the approved plan of development. The revisions will not affect the intent of the project nor change the design of the project but will allow more flexibility with the listed home styles, exchanging a duplex lot for two single family dwelling lots, and adjusting rear setbacks for two lots abutting the common open space. She said that Planning Commission has recommended approving the request.

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 on Monday, September 10, and Monday, September 17, 2007.

## NOTICE OF PUBLIC HEARING

**The Harrisonburg City Council will hold a public hearing on Tuesday, September 25, 2007 at 7:00 p.m., in the City Council chambers, 409 South Main Street to consider the following:**

### *Rezoning – Brookside Park R-7 Plan Amendment*

**Public hearing to consider a request from Diversified Development Solutions, LLC and Ferguson Investments, LLC to revise 36 lots totaling 7.11-acres of R-7, Medium Density Mixed Residential Planned Community zoned parcels. The properties are located among Suter Street, Drake Lane, and Roberts Court and can be found on tax map parcels 40-A-24A, 25-29 & 40-B-37, 40-68.**

**The Comprehensive Plan designates this area as Mixed Use Development and Neighborhood Residential. The Mixed Use Development designation includes both existing and proposed new mixed-use areas. These areas are intended to combine residential and non-residential uses in planned neighborhoods where the different uses are finely mixed instead of separated. These areas are prime candidates for “live-work” and traditional neighborhood developments. Live-work developments combine residential and office / service uses allowing people to both live and work in the same area. The Neighborhood Residential designation states that this type of land use highlights those neighborhoods in which existing conditions dictate the need for careful consideration of the types and densities of future residential development. These are older neighborhoods, which can be characterized by large housing units on small lots.**

**The Zoning Ordinance states that the R-7, Medium Density Mixed Residential Planned Community is intended to permit the development of planned residential communities offering a mix of single family detached and attached dwellings and open spaces. Innovative residential building types and creative subdivision design solutions are encouraged to promote neighborhood cohesiveness, walkability, connected transportation systems, community green spaces and protection of environmental resources. Communities shall be developed, redeveloped, and amended in accordance with a master development plan.**

**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 amending the plan of development.

Scott Sellers said that this plan stays with the concept of the R-7 zoning with a few minor changes. There being no others desiring to be heard, the public hearing was declared closed at 7:21 p.m., and the regular session reconvened. Vice-Mayor Pace 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 – Council Member Frank  
Council Member Chenault  
Vice-Mayor Pace  
Council Member Byrd  
Mayor Eagle

Absent - None

Planning and Community Development Director Turner introduced a request from the City of Harrisonburg to close approximately 13,315 square foot portion of two intersecting alleys within a block bordered by Sterling, Kelley, and Hill Streets. The right-of-way is reflected as two alleys on the City of Harrisonburg's tax maps and is used as entrances and travel-ways for the cemetery. There are no utilities found within the area. The purpose of the request is to allow for the right-of-ways areas to be conveyed to the adjacent cemetery property. She said that Planning Commission recommended approving this request.

At 7:24 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 Saturday, September 15, and Saturday, September 22, 2007.

**NOTICE OF INTENTION TO VACATE  
UNDEVELOPED RIGHTS OF WAY  
LOCATED WITHIN THE NEWTOWN CEMETERY  
IN THE CITY OF HARRISONBURG**

**City Council Chambers  
409 South Main Street  
Harrisonburg, VA 22801  
Tuesday, September 25, 2007  
7:00 P.M.**

**The Harrisonburg City Council will hold a public hearing on Tuesday, September 25, 2007, 7:00 P.M., at City Council Chambers, 409 South Main Street, Harrisonburg, Virginia, to consider a proposed motion by the City Council to vacate two (2) undeveloped**

rights of way, containing approximately 14,315 square feet, more or less, located within the Newtown Cemetery in the City of Harrisonburg, Virginia, the first right of way is approximately 24 feet wide and heads in a southerly direction perpendicular from Kelley Street for 200 feet until it intersects with the second right of way and the second right of way is of variable width and runs between Sterling Street and Hill Street for approximately 495 feet.

A copy of the plat showing the rights of way to be vacated are available in the City Manager's office, 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 alley closing request. There being no one desiring to be heard, this public hearing was declared closed at 7:25 p.m., and the regular session reconvened. Council Member Chenault offered a motion to approve this alley closing as presented. The motion was seconded by Council Member Byrd and approved with a recorded roll call vote taken as follows:

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

Absent - None

The next item of business was a request from "In His Image Disability Services" for a run/walk event on Saturday, October 20, 2007. Cathy Harold said this is a non-profit organization serving children with disabilities and their families. This event will begin at the City's Municipal Parking lot and only use the inside lane of Liberty and Main Street from 8:00 a.m. until 11:00 a.m. Vice-Mayor Pace offered a motion to approve this request as presented. The motion was seconded by Council Member Chenault and approved with a unanimous vote of Council.

Police Major Wilfong presented a request for a supplemental appropriation for the Police Department. He said these funds will be used to cover additional work at the department's new range and a shortage in a grant administration budget. Council Member Byrd offered a motion to approve this request for a first reading, and that:

\$27,000.00 chge. to: 1000-31010 Federal Asset Seizure

\$22,000.00 approp. to: 1000-310231-48234 Police Training Facility

5,000.00 approp. to: 1000-310131-48211 Machinery and equipment

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

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

Absent - None

Vice-Mayor Pace announced that Rockingham Memorial Hospital will donate \$315,000 toward a Federal Community Health Center which will open January 1, 2008 in Harrisonburg.

City Manager Hodgen said that a tree expert has expressed concern about removing trees from Cally's Court Square Theater because they cannot be responsibly thinned enough to see signs from a distance and they will not grow high enough to clear the signs. The tree expert also recommends removing the trees rather than pruning the trees. Also, there is concern that by removing these trees the City may get more requests to take down trees in other parts of the downtown area. Vice-Mayor Pace offered a motion that the trees be removed and relocated from Cally's Court Square Theater to Liberty Park at City expense. The motion also included that the trees be replaced with bushes or planters at City expense. The motion was seconded by Council Member Byrd and approved with a unanimous vote of Council.

City Manager Hodgen presented the following resolution for Council's consideration of approval.

**A Resolution Approving a Revised Memorandum of Understanding  
With The Commonwealth of Virginia Regarding The  
Harrisonburg/Rockingham Metropolitan Planning Organization**

**WHEREAS, the City of Harrisonburg, County of Rockingham and the towns of Bridgewater, Dayton and Mt. Crawford entered into a Memorandum of Understanding (MOU) with the Commonwealth of Virginia forming the Harrisonburg/Rockingham Metropolitan Planning Organization (HRMPO) on 21 May 2003; and**

**WHEREAS, the United States Government and the Commonwealth of Virginia have requested each Metropolitan Planning Organization (MPO) approve an updated and revised MOU; and**

**WHEREAS, the HRMPO Policy Board has reviewed and unanimously approved the revised MOU at its regular meeting held on 20 September 2007; and**

**WHEREAS, the HRMPO Policy Board recommends the revised MOU be considered and approved by the Harrisonburg City Council, Rockingham County Board of**

Supervisors, Bridgewater Town Council, Dayton Town Council and Mt. Crawford Town Council.

**NOW THEREFORE BE IT RESOLVED THAT THE** (name of governing body) does hereby approve the revised MOU as recommended by the HRMPO Policy Board; and

**BE IT FURTHER RESOLVED THAT** Rodney L. Eagle, Mayor of the City of Harrisonburg is authorized to execute the revised MOU on behalf of the City.

Approved on this the \_\_\_\_ day of \_\_\_\_\_, 2007.

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

ATTEST: \_\_\_\_\_  
Yvonne H. Ryan, MMC, City Clerk

Council Member Byrd offered a motion to approve this resolution. The motion was seconded by Council Member Byrd and approved with a unanimous vote of Council.

City Manager Hodgen presented the following resolution for Council's consideration of approval.

**A RESOLUTION REQUESTING THAT THE GENERAL ASSEMBLY AND GOVERNOR OF THE COMMONWEALTH OF VIRGINIA TAKE ACTION TO PREVENT EXPLOITATIVE PAYDAY LENDING PRACTICES IN VIRGINIA**

**WHEREAS**, the City Council of Harrisonburg, Virginia, represents the citizens of Harrisonburg and senses from those citizens significant concern over what are perceived to be some exploitative payday lending practices in the City and elsewhere in the Commonwealth, including practices which may exploit dedicated, brave women and men who are called for deployment as part of the armed forces of our Nation both in the United States and various parts of the world in the cause of freedom and security of our Nation; and

**WHEREAS**, the City Council, shares these same significant concerns and wishes to express the collective sentiments of the People of the City of Harrisonburg, Virginia, that the General Assembly and Governor of Virginia, ought to take action to prevent further exploitative payday lending practices; and

**WHEREAS**, it is vital that the General Assembly and the Governor of Virginia give their earnest attention to these matters at the next regular session of the General Assembly and enact laws that will prevent further exploitative payday lending practices.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of Harrisonburg, Virginia, that the General Assembly and the Governor of the Commonwealth of Virginia are requested to take action in connection with the next regular session of the General Assembly of Virginia to enact laws that will prevent further exploitative payday lending practices, including but not limited to:

1. **Enactment of an annual interest rate cap of 36% for any consumer loans made in the Commonwealth of Virginia;**
2. **Prohibition of the use of a personal check or other method by a creditor to gain access to a consumer's bank account or method to gain title to a consumer's motor vehicle as collateral for a payday loan;**
3. **Enactment of supplementary and complementary provisions which mirror the provisions of what is commonly referred to as the Talent-Nelson Amendment (Senate Amendment 4331), entitled "Terms Of Consumer Credit Extended To Servicemember Or Servicemember's Dependent" and referenced on page S6352 of the June 22, 2006 Congressional Record• Senate, a copy of which is annexed to and incorporated by reference in this Resolution.**

Adopted this 25<sup>th</sup> day of September 2007.

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**Rodney L. Eagle, Mayor**

Attest: \_\_\_\_\_  
**Yvonne H. Ryan, MMC, City Clerk**

Council Member Frank offered a motion to support the request to consider this resolution. The motion was seconded by Vice-Mayor Pace and approved with a unanimous vote of Council.

Council agreed to appoint Brenda Black, Tourism Manager, Brian Shull, Director of Economic Development and Kim Alexander, Director of Special Projects and Grants Management, to work with other local area organizations in forming a local sesquicentennial committee to begin planning for the four-year statewide commemoration period of the Virginia Sesquicentennial of the American Civil War Commission.

Council agreed to have a meeting with the School Board on October 30<sup>th</sup> at 6:30 p.m.

At 8:00 p.m., Council Member Chenault offered a motion that Council enter into a closed session for 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 Frank  
Council Member Chenault  
Vice-Mayor Pace  
Council Member Byrd  
Mayor Eagle

Absent - None

City Manager Hodgen reported that a low bid in the amount of \$683,000 was received for the “Dream Come True” Playground project which is less than original estimate bid of \$850,000.

At 8:40 p.m., the closed session ended and the regular session reconvened. City Attorney Thumma 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 requirement 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 8:41 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