

REGULAR MEETING

November 13, 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 Chief Harper.

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

Bucky Berry, a resident of Harrisonburg, expressed discontent with the new Comcast cable line-up and increased fees.

John Heubach suggested offering citizens the opportunity to renew their city sticker on a two-year basis as well as one year.

Debra Warne expressed concerns regarding predatory towing practices in the City. She said that people are being exploited by these predatory towers to the tune of \$125 each, the maximum charge allowed by state law, which they charge for every tow. She requested that Council establish a local towing advisory board to review these practices.

Council Member Chenault offered a motion to approve the consent agenda, including approval of the minutes, and the second reading of appropriations to the General Capital Projects Fund. The motion also included enacting Section 4-2-18 and amending and re-enacting Section 13-1-60.01 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 - Council Member Frank  
Vice-Mayor Pace  
Council Member Chenault  
Council Member Byrd  
Mayor Eagle

Absent – None

City Attorney Thumma presented for Council’s consideration selling an unimproved lot on Washington Street. The lot was advertised for sale and Bell Investment, LLC bid \$103,050.00 for the 13,922 square foot lot.

At 7:15 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 Friday, November 2, and Friday, November 9, 2007.

**NOTICE OF PUBLIC HEARING ON THE**

**DISPOSITION OF REAL ESTATE  
OWNED BY THE CITY OF HARRISONBURG  
ALONG EAST WASHINGTON STREET IN THE CITY OF HARRISONBURG**

The Harrisonburg City Council will hold a public hearing on November 13, 2007 at 7:00 P.M. in the City Council Chambers located at 409 South Main Street, Harrisonburg, Virginia, concerning the disposition of real estate, namely, a 13,922 square foot, more or less, parcel, located on the north side of East Washington Street, in the City, which parcel was previously advertised for sealed bids and Bell Investments, LLC, a Virginia limited liability company, was the high bidder and the city proposes to transfer said property to the high bidder.

Copies of the sales document and bid are available in the City Attorney's Office, 345 South Main Street, Harrisonburg, Virginia, 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 public hearing.

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

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

Mayor Eagle called on anyone desiring to speak for or against selling the lot on East Washington Street. There being no one desiring to be heard, the public hearing was declared closed at 7:16 p.m., and the regular session reconvened. Council Member Chenault offered a motion to approve the ordinance authorizing the sale of the parcel as presented for a first reading. The motion was seconded by Vice-Mayor Pace and approved with a recorded roll call vote taken as follows:

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

Absent – None

Kim Alexander, Director of Special Projects and Grants Management, presented an overview of the CDBG 2007 Consolidated Annual Performance Evaluation Report (CAPER). She reviewed the funding for the CDBG programs. This report requires a 15-day public comment period.

At 7:25 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, November 2, 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 06-07.

Comments may be submitted during the CDBG / CAPER Public Hearing portion of the regular City Council meeting on November 13, 2007, at 7:30 P.M. in the City Council Chambers, Harrisonburg Municipal Building.

All comments must be received no later than November 29, 2007, at 9:00 A.M. Comments may be submitted to Kristin McCombe, CDBG Compliance Officer, at 345 South Main Street, Harrisonburg, Virginia 22801, CDBG@ci.harrisonburg.va.us, or (540) 432-8926.

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.

A summary of the CAPER is as follows:

In 2006, the City was awarded \$550,442 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 and Property Improvements	\$140,000.00	\$114,597.39	\$25,402.61
Community & Public Facilities	\$211,481.99	\$171,769.7	\$39,712.29
Administration	\$110,088.00	\$85,500.06	\$24,587.94
Public Services	\$68,000.00	\$57,607.83	\$10,392.17
Economic Development	<u>\$20,872.01</u>	<u>\$0.00</u>	<u>\$20,872.01</u>
<b>Total</b>	<b>\$550,442.00</b>	<b>\$429,474.98</b>	<b>\$120,967.02</b>

Mayor Eagle called on anyone desiring to speak for or against the CAPER. There being no one desiring to be heard, the public hearing was declared closed at 7:25 p.m., and the regular session reconvened.

Planning and Community Development Director Turner introduced a request from Gary Turner to rezone a parcel totaling 1.4 +/- acres from B-2 to R-3C. The property is located along Shenandoah Street and can be found on tax map 248-E-9. The undeveloped property is located among several non-conforming uses within a block that is predominately zoned B-2 and has uses ranging from industrial to single family residences. Mrs. Turner reviewed the surrounding uses in the area. The applicant is requesting to rezone the parcel for multifamily units. The applicant has proffered the following: 1) All building foundations shall be brick veneer. 2) There shall be no exposed corrugated steel or exposed block masonry on the buildings. 3) Lighting shall be

installed in parking lots and intended to reduce glare and light pollution appropriate for a residential community. 4) Parking areas and travel lanes shall be paved with asphalt. 5) All areas not paved or built upon shall be seeded, sodded and/or landscaped to provide an attractive appearance. Buffering would include a mix of existing vegetation, new evergreen trees, and/or privacy fencing to establish an effective visual barrier. New evergreen trees shall be three feet (3') in height at time of planting. 6) A five-foot (5') right-of-way shall be dedicated to the Public Works Department along the frontage on Shenandoah Street. 7) Residential occupancy shall be limited to families of no more than two (2) unrelated residents per dwelling unit. 8) No more than fifteen (15) dwelling units shall be constructed. The applicant will dedicate to the City five feet of right-of-way along Shenandoah Street and construct curb and gutter. This dedication will require the relocation of an HEC utility pole currently located at the property corner. The relocations and establishment of new easements for the utility poles and the final determination of stormwater control would be dealt with during the comprehensive site plan review. The Comprehensive Plan's Land Use designation for this property and many properties within this block is Neighborhood Residential. Mrs. Turner said that Planning Commission has recommended approving the request by a 4-3 vote.

At 7:32 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, October 29, and Monday, November 5, 2007.

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

**The Harrisonburg City Council will hold a public hearing on Tuesday, November 13, 2007 at 7:00 p.m., in the City Council Chambers, 409 south Main Street to consider the following:**

***Rezoning – Shenandoah Street (Turner Property 48-E-9)***

**Public hearing to consider a request from Gary Turner, with representative Valley Engineering-Surveying-Planning to rezone a 1.4 +/- acre parcel from B-2, General Business District to R-3, Multiple Dwelling Residential District. The property is located along Shenandoah Street and can be found on tax map parcel 48-E-9.**

**The Comprehensive Plan designates this area as Neighborhood Residential. This 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 B-2, General Business District is intended to provide sufficient space in appropriate locations for a wide variety of retail shopping, commercial, automotive, miscellaneous recreational, and service activities. No minimum lot size restrictions exist in the B-2, General Business District. 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.**

**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 request.

Meredith Ward, Director of Planning with Valley Engineering-Surveying Planning, said the applicant Mr. Turner is a very reputable developer within the City and resides in the Park View area of the City. One basis for staff's recommendation is that it is not in compliance with the Comprehensive Plan; however, the Comprehensive Plan designates this area as neighborhood residential. This use is defined very vaguely and states that existing conditions dictate the need for this area. The land use guide shows a mix of uses for this general vicinity. She reviewed different land uses in the area. The applicant faces several challenges including multiple sewer line easements bisecting the lot, well-known storm water management site expense, and magnificent drainage area to the site. The nature of this area is currently townhouse, apartment, and single-family rentals. This development, as proposed, is what is most marketable in this area while enhancing the community.

Terry Cunningham who owns the property on Chicago Avenue said the proposed development would be an asset to the area. There being no others desiring to be heard, the public hearing was declared closed at 7:40 p.m., and the regular session reconvened. Council Member Frank offered a motion to approve this request 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 Frank  
Vice-Mayor Pace  
Council Member Chenault  
Council Member Byrd  
Mayor Eagle

Absent – None

Planning and Community Development Director Turner introduced a request from Zu Yan Zhang to subdivide one parcel totaling 1.986 acres located at 540 Garbers Church Road. The property zoned R-1, Single Family Residential District, is found on tax map 123-H-5. The Comprehensive Plan designates this area as Low-Density Mixed Residential. She reviewed the

surrounding uses in the area. The Heritage Estates Subdivision started to be subdivided in February of 2004 with a neighborhood of 32 single-family homes. Additional units have been added during the last several years. The applicant is requesting to preliminarily plat five single-family lots with a variance to allow three of the lots to not front on public streets. A single-family house currently exists on the site and would not be part of the age-restricted community. The rest of Heritage Estates is age restricted to 55+. Issues such as access entrance width, erosion sediment control and storm water management would be looked at during the site plan phase of this project. Mrs. Turner said that Planning Commission has recommended approving the request. Following further discussion and comments, Council Member Frank 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 - Council Member Frank  
Vice-Mayor Pace  
Council Member Chenault  
Council Member Byrd  
Mayor Eagle

Absent – None

Betsy Hay and Neal Menefee of the United Way made a presentation on the United Way. They thanked City Council for past support.

A scheduled presentation on an Emergency Homeless Shelter Initiative was removed from the agenda.

School Board Finance and Technology Director Dee Dee Dawson presented a request for a supplemental appropriation for the School Board. She said these funds represent unanticipated receipts from the federal government and other funds that were not known during the regular budget process. No additional City dollars are required for the school division to receive these funds. Council Member Byrd offered a motion to approve this request for a first reading, and that:

\$ 489.00 chge. to: 1111-33301 School Revenue-Federal  
33,880.00 chge. to: 1111-32442 School Revenue-State  
2,153.00 chge. to: 1111-31691 School Revenue-Other

\$36,522 approp. to: 1111-111114-40610 Instruction

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

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

Mayor Eagle

Absent – None

Tourism Services Manager Brenda Black presented a request for a supplemental appropriation for Tourism and Visitor Services. She said that these funds would be used to purchase merchandise for the Rocktown Gift Shoppe. Council Member Frank offered a motion to approve this request for a first reading, and that:

\$8,000.00 chge. to: 1000-31010 Amount from Fund Balance

\$8,000.00 approp. to: 1000-810821-46151 Resale Merchandise

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

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

Absent – None

Transportation Planner Donovan Branche presented a request for a supplemental appropriation for the Public Works Department. She said that per Council request, Public Works has researched the possibility of connecting the traffic light at Maryland Avenue and South High Street to the rail crossing located on Maryland Avenue. The purpose of this connection is to keep vehicles from turning onto Maryland Avenue when a train is on the tracks, thereby eliminating queue lengths caused by trapped cars. Public Works staff has reviewed this agreement and found that the work can be performed internally using cameras and a radio signal. Council Member Chenault offered a motion to approve this request for a first reading, and that:

\$24,000 chge. to: 1000-31010 Amount from Fund Balance

\$24,000 approp. to: 1000-410741-48111 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  
Vice-Mayor Pace  
Council Member Chenault  
Council Member Byrd  
Mayor Eagle

Absent – None

Police Chief Harper presented a request for a supplemental appropriation for the Police Department. He said these funds will be used to purchase mobile data terminals for police vehicles. Vice-Mayor Pace offered a motion to approve this request for a first reading, and that:

\$150,000.00 chge. to: 1000-33550 Criminal Justice Records System

50,000.00 chge. to: 1000-31010 Amount from fund balance

\$200,000.00 approp. to: 1000-310431-48211 Machinery and equipment

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

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

Absent – None

The next item of business was an update on City Water Resources. Public Utilities Director Mike Collins asked Council to enact Section 7-2-19 of the Harrisonburg City Code to implement voluntary water conservation. Enacting this ordinance will allow the City to provide educational efforts regarding various practices that can be used during water conservation. He also said Governor Timothy Kaine has issued a voluntary water conservation plan to be implemented across the state and urged localities to enact measures to update drought contingency planning. He reviewed the City's "Action Plan 101", including triggers for implementing conservation measures and planning efforts with Rockingham County and the Central Shenandoah Planning District Commission. Council Member Chenault offered a motion to adopt the ordinance amendment to coincide with Governor Kaine's proclamation. The motion was seconded by Council Member Byrd and approved with a recorded roll call vote taken as follows:

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

Absent – None

The next item of business was a request to authorize the Mayor to sign a "Notice of Transfer of Allocation of Sewer Treatment Capacity". In conjunction with the Harrisonburg Rockingham Regional Sewer Authority expansion project, the City has determined that it is able

to transfer 1 million gallons of unneeded treatment capacity at the plant to Rockingham County. This action will reduce the City's share of project costs from \$52.6 million to \$43.4 million and reduce but not eliminate anticipated rate increases. It should also be noted that the City will receive \$15.5 million in grant funding toward its share of costs. Following further discussion and comments, Council Member Chenault offered a motion to authorize the Mayor to sign a "Notice of Transfer of Allocation of Sewer Treatment Capacity". The motion was seconded by Vice-Mayor Pace and approved with a recorded roll call vote taken as follows:

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

Absent – None

The next item of business was a request to consider amending and enacting Sections 7-4-22 and 7-4-23 of the Harrisonburg City Code. Public Utilities Director Mike Collins reviewed the changes in this ordinance, which will raise water and sewer connection fees and bring them in line with the County's water and sewer connection fees. City Attorney Thumma suggested preparing an ordinance based on Council's direction and advertising and holding a public hearing before the first reading. Council Member Chenault requested receiving a written report on the entailed credits and estimated financial impact.

City Attorney Thumma presented for Council's consideration amending and re-enacting Section 8-1-5 of the Harrisonburg City Code. He said this ordinance sets the compensation for the commissioners of the Harrisonburg Electric Commission. The commissioners have not had a raise in pay in over fifty years, and it is recommended that the attached ordinance be adopted increasing the per meeting compensation for the commissioners. Vice-Mayor Pace offered a motion to approve this ordinance as presented 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 - Council Member Frank  
Vice-Mayor Pace  
Council Member Byrd  
Mayor Eagle

Abstained - Council Member Chenault

Absent – None

The next item of business was considering an ordinance establishing an Economic Revitalization Zone for downtown Harrisonburg. Economic Development Director Brian Shull reported that background information on economic revitalization zone legislation was presented at the October 23 Council meeting. Also, proposed incentive opportunities were presented. He reviewed the proposed ordinance for Council consideration. Following further discussion and

comments, Vice-Mayor Pace offered a motion to amend the proposed ordinance by suggesting changing the tiers for the partial exemption from taxation of real estate. The revised tiers shall offer a partial exemption for five (5) years for investments ranging from \$1,000,000 to \$9,999,999; eight (8) years for investments of \$10,000,000 to \$19,999,999; and ten (10) years for investments of \$20,000,000 and above. The motion for approval of a first reading by Vice-Mayor Pace was seconded by Council Member Chenault and approved with a recorded roll call vote taken as follows:

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

Absent – None

A public hearing will be held December 11, 2007 prior to a second reading.

The next item of business was a request for Council's endorsement of the Registration Statement to extend the City's current 5-year cycle for the VSMP General Permit for Stormwater Discharges from Small Municipal Storm Sewer Systems (MS4s). Thanh Dang, Environmental Specialist, requested Council's endorsement of the registration statement because the state is behind on their new revisions and amendments of the current regulations. The new regulations that include the General Permit are expected to become effective in late Spring 2008. DCR has asked Harrisonburg to submit this plan. Included with this registration statement is the City's MS4 Program Plan, which describes the best management practices regarding construction site stormwater, runoff control, and post-construction stormwater management control. Staff members have been working on documentation for stormwater maintenance agreements, a new ordinance, and updates to the Design and Construction Standards Manual to meet the state minimum requirements for both this MS4s program and the state stormwater management regulations. The new State Stormwater Management Regulations are not expected to be finalized until about 2009/2010. Council Member Byrd offered a motion to endorse the VSMP General Permit Registration Statement for Stormwater Discharge from MS4. The motion was seconded by Council Member Frank and approved with a unanimous vote of Council.

Council Member Chenault offered a motion to cancel the December 25<sup>th</sup> Council meeting. The motion was seconded by Council Member Frank and approved with a unanimous vote of Council.

Vice-Mayor Pace asked City Manager Hodgen and City Attorney Thumma to review regulations regarding towing, improving towing signage, and establishing a practice for towing companies to take credit cards.

Council Member Byrd offered a motion to recommend Earl A. Budd to the Circuit Court for appointment to the Board of Equalization to expire on December 31, 2010. The motion was

seconded by Council Member Chenault and approved with a recorded roll call vote taken as follows:

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

Absent – None

At 9:35 p.m., Council Member Chenault offered a motion that Council enter into a closed session for discussion and consideration of personnel and prospective candidates to be appointed to boards and commissions, exempt from the public meeting requirements pursuant to Section 2.2-3711(A)(1) of the Code of Virginia and discussion and consideration of the acquisition and disposition 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  
Vice-Mayor Pace  
Council Member Chenault  
Council Member Byrd  
Mayor Eagle

Absent – None

At 11:30 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 11:32 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

cc: City Council  
City Manager  
Assistant City Manager  
Public Library

