

REGULAR MEETING

December 11, 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 Chenault gave the invocation, and Mayor Eagle led everyone in the Pledge of Allegiance.

Ramona Sanders said the Wilderness Society is asking for co-sponsors for the "Virginia's Mountain Treasures" to gain greater protection for these areas in the nation forest, which supply clean water, opportunities for back country recreation, and a habitat for birds. She said there is no cost for sponsorship.

Jim DeStefani expressed concern about the additional traffic on the I-81 Port Republic Road traffic corridor.

Bucky Berry expressed discontent that the new communication system is not operating.

Council Member Chenault offered a motion to approve the consent agenda, including approval of the minutes, and the second reading of appropriations for the Parks and Recreation Department, Harrisonburg Rockingham Thermal Shelter (HARTS), and disposing of real estate along Port Republic Road and Neff Avenue. The motion also included a request by Funkhouser and Associates Properties to vacate a 2,178 square foot portion of Hunters Road. The motion was seconded by Vice-Mayor Pace and approved with a recorded roll call vote taken as follows:

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

Absent – None

The next item of business was holding a public hearing to consider enacting Section 4-2-30 of the Harrisonburg City Code. Economic Development Director Brian Shull reviewed the background information on establishing an economic revitalization zone downtown. The ordinance includes a three tier real estate assessment/tax incentive based on the amount of investment from five to ten years.

At 7:13 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 23, and Friday, November 30, 2007.

**NOTICE OF PUBLIC HEARING ON ENACTING
AN ECONOMIC REVITALIZATION ZONE
ORDINANCE FOR THE CITY OF HARRISONBURG**

The Harrisonburg City Council will hold a public hearing on December 11, 2007 at 7:00 p.m., in the City Council Chambers located at 409 South Main Street, Harrisonburg, Virginia, to solicit public comments concerning enacting an Economic Revitalization Zone Ordinance (Section 4-2-30 of the Harrisonburg City Code) for the City of Harrisonburg.

Copies of the proposed ordinance enacting an Economic Revitalization Zone are available in the City Manager'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 enacting Section 4-2-30 of the Harrisonburg City Code.

Eddie Bumbaugh, Executive Director of Harrisonburg Downtown Renaissance said local investors are interested in the downtown area because of economic incentives and historical structure revitalization.

David Miller supported enacting the ordinance.

Andrew Forward supported enacting the ordinance. There being no others desiring to be heard, the public hearing was declared closed at 7:17 p.m., and the regular session reconvened. Council Member Chenault offered a motion to enact Section 4-2-30 of the Harrisonburg City Code. The motion was seconded by Vice-Mayor Pace and approved with a recorded roll call vote taken as follows:

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

Absent – None

City Manager Kurt Hodgen presented the 2007-2008 through 2011-2012 Capital Improvement Program. Mr. Hodgen said the City has approximately \$25M requested in the General Fund and expects to have \$15M in available funding. Requests include road construction projects, equipment replacements, bridge replacements, mobile command post, an addition to Fire Station 4, and Parks and Recreation projects.

At 7:21 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 Monday, December 3, and Saturday, December 8, 2007.

NOTICE OF PUBLIC HEARING

The Harrisonburg City Council will hold a Public Hearing on Tuesday, December 11, 2007, at 7:00 p.m. in the City Council Chamber located at 409 South Main Street, to consider the following:

The proposed Capital Improvement Program, for fiscal years 2008-2009 through 2012-2013. The Capital Improvement is a multi-year projection and scheduling of capital projects of \$30,000 or greater. This plan is prepared annually in an effort to facilitate planning and setting priorities among capital improvement needs over a subsequent five-year period. Copies of the Capital Improvement Program are available for review in the Department of Planning and Community Development, the City Manager's office and the Rockingham Public Library.

For any additional information, contact the City Manager's office, 345 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 public hearing.

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 adopting the Capital Improvement Program. There being no one desiring to be heard, the public hearing was declared closed at 7:22 p.m., and regular session reconvened. Council Member Chenault offered a motion to adopt the Capital Improvement Program. The motion was seconded by Council Member Byrd and approved with a recorded roll call vote taken as follows:

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

Mayor Eagle

Absent – None

The next item of business was holding a public hearing to consider a request from the City of Harrisonburg to amend Article Y Floodplain Zoning District of the Zoning Ordinance. Planning and Community Development Director Turner said Article Y, Floodplain Zoning District classification is an overlay zone that allows the City to be a part of the Federal Emergency Management Agency (FEMA) Flood Insurance Program and for the City's citizens to purchase flood insurance. The Flood Insurance Rate Map (FIRM) has been revised and will become effective on February 6, 2008. City staff has prepared language to reflect this new date and has also taken this opportunity to update the entire Article. She said that staff and Planning Commission is recommending approval of the model ordinance.

At 7:27 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, November 26, and Monday, December 3, 2007.

NOTICE OF PUBLIC HEARING

The Harrisonburg City Council will hold Public Hearings on Tuesday, December 11, 2007 at 7:00 p.m., in the City Council Chambers, 409 South Main Street, to consider the following:

Ordinance Amendment – Article Y Floodplain Zoning District

Public Hearing to consider a request from the City of Harrisonburg to amend Article Y Floodplain Zoning District of the Zoning Ordinance to update and include the new effective date of the Flood Insurance Rate Map.

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 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 Article Y Floodplain Zoning District of the Zoning Ordinance.

John Serrell said:

“Good evening Mr. Mayor, City Council. My name's John Serrell, and I come before you reluctantly this evening to bring you some updates. I'm in a precarious position because when the floodplain changes in February, it affects me to an extent that I should

not be affected. To start with, I filed the Freedom of Information Act with the City Development...they gave me a pile a stuff. One of the things it shows is that according to engineering plans by Blackwell, my property is not in the floodplain at this time. I'm going on that assumption. It was certified that way when I bought the property. In addition to that, I have a draft FIRM that the City sent to FEMA, and my engineering according to the draft FIRM that was sent in conjunction with the City and FEMA would still keep my building out of the floodplain. In the mean time, the City has allowed development across from me. As you know, in different correspondence that I have sent, I have complained several times about this fill. I was told by Dan Rublee that the guy could put all the dirt he wanted to in there - if I got flooded to sue somebody. I've checked with my counsel - I have no standing in a case if the City approves it. Second thing is that the City informed me that no FEMA analysis was required by the City, and I have a letter to that effect from Dan Rublee to Blackwell Engineering that they didn't require it and it wasn't done. That violates section 60.3 of the FEMA code. I wrote the City Attorney about that, and asked him to rule on it legally and he refused to do so. Dan Rublee also informed me that the reason that this was allowed to be filled because on a 1996 site plan, now think about this, on a '96 site plan...there was a building to be torn down. I have an aerial photograph that proves that building did not exist at that time. So in other words, we have a situation here where you're allowed to fill a property in a floodplain. It violates FEMA, and the City has allowed this to happen. And in correspondence that I've sent to you folks, you're aware of some of this information. Now, in addition to this, I've given you a handout there. If you see the top page, it shows that the base flood elevation has been raised one...over one foot. That violates FEMA codes. There was no analysis required and by law it's required. Also, there was filling placed in the floodway. And if that raises the floodplain at all, it violates federal codes. And I did write the City. I wrote the City Attorney and never got any information back. The second page if you see...look at that one the elevation certificate. That shows that my 20,000 square foot concrete tilt up building, the floor elevation is certified to be out of the current floodplain. The problem that I have now is, here's where the floodplain is...here's where my floor is...and when the new flood maps go into effect, it goes above the floor of my building throwing me into the floodplain. Now as you well know, that restricts my development, my use. It increases my insurance and drastically reduces the value of my property. The problem I've had is that the City, through the engineer, has allowed this building to be built across from me, the land filled on what I feel are untruths. I've been told to prove the City wrong. This documentation will show it to you. If you look at the last page, this was taken from an aerial photograph...uh...aerial topography in 1996. And if you look at the elevations on there and review them at your convenience, you'll see that the FEMA maps that you guys are currently using with FEMA, in conjunction with them, show that this ground was improperly filled. And, if you go back through your records, and I got this from the Freedom of Information Act, there are records that show in 2003 I made the City Engineer aware of this. And I have written extensively and contacted everybody and everybody says there's no problem, it's not our fault, and I feel the law wasn't followed whatsoever. Now these maps that you're requesting to become effective in February...in my opinion, was improperly done, and I've gone through it. Now, the FIRM that I show here, the draft FIRM, that I relied upon from the City, is not the FIRM that's being approved by FEMA. They're grossly

different. According to the draft FIRM, I would have been fine. In reviewing all of this, what I would like to ask the City to consider, at your convenience and let me know, is postponing the adoption of this. I've proved by my certified engineer with an independent review, that it was improperly done. What I'm asking the City to consider would be to call in FEMA to review all data and to get another independent engineer to review the data and see if the City is correct or if I am correct. That's all I have. If you have any questions, I'll entertain them and I'd be glad to give any documentation to you that you'd like to have. Thank you for your time."

In response to a question from Mayor Eagle about timing, Mr. Serrell responded:

"At your convenience, I would appreciate an answer. I know you have to think about this, but I was told to prove the City wrong. Here's a certified copy from the engineer. And I feel that from 2003 to now, if you review all the documentation that's gone through City Development, through City Council and the City Attorney...I can't get it done overnight either. And, in addition to that with all the other construction and everything else going on, I think it's gonna augment the problem and...if there's a way to correct this in the future, we find if we're wrong that's fine, I'm more than happy to work with you on all of this. But in this particular case, I just feel that things haven't been done properly and I wanted to bring it to your attention and ask for your consideration." (Mayor Eagle thanked Mr. Serrell) Mr. Serrell: "Thank you."

City Engineer Dan Rublee gave a brief overview of the process the City used to create new maps for FEMA. The City received a letter of final determination in August 2007, stating the maps have been completed and are ready for adoption on February 6, 2008. The purpose of tonight's ordinance is to bring the ordinance into conformance with the new mapping. There being no others desiring to be heard, the public hearing was declared closed at 7:48 p.m., and regular session reconvened. Following further discussion and comments, Council Member Byrd offered a motion to approve amending Article Y Floodplain Zoning District of the Zoning Ordinance effective February 2008 as presented for a first reading. The motion was seconded by Council Member Chenault and approved with a recorded roll call vote taken as follows:

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

Absent – None

Planning and Community Development Director Turner introduced a request from Janis Brown Enterprises to rezone three lots from B-2C to R-5C, including a special use permit to allow multiple-family dwellings to have more than twelve (12) units per building and multiple-family dwellings to be greater than four (4) stories and/or fifty-two (52) feet in height within the R-5 High Density Residential District. The request also included a special use permit to allow

retail stores, convenience shops, personal service, establishments, restaurants (excluding those with drive through facilities) within the R-5, High Density Residential District.

Mayor Eagle announced that agenda items nine through twelve would be reviewed as one item and then acted upon separately.

Planning and Community Development Director Turner said the 5.28 acre site is located at the intersection of Devon Lane and Port Republic Road. She reviewed the surrounding uses in the area. In 2002, this property which was zoned R-3, was successfully rezoned to B-2C for a project known as The Republic Center. Mrs. Turner reviewed the submitted proffers approved by the City in 2002. However, that project did not move forward. The new property owner would like to do a mixed use project on the site combining commercial and residential multi-family units. The applicant has proposed to rezone to R-5 conditional and proffered the following: 1) The density and layout of the development will be in substantial conformity with the plan of development including landscaping and recreational amenities. 2) Ten parking spaces will be reserved for the exclusive use of the Devonshire Townhomes. 3) The structure would not exceed 90 feet in width, 310 feet in length, and 91 feet in height. The structure will contain no more than 100 individual apartment units with a maximum of 290 bedrooms, and a maximum of 16,000 gross square feet of commercial/retail space on the first floor of the structure. The project will have on-site laundry, exercise, and game room facilities. 4) The exterior finish will consist of a mixture of brick, drivit, and other non-combustible materials. 5) Refuse collection will be inside the building. 6) All commercial spaces will have delivery service via a consolidated loading dock area with internal access to the rear of individual commercial units. 7) Site lighting for parking will be installed with downward lighting to minimize light pollution. 8) The applicant would retain control of and responsibility for governing and approving any architectural, signage, regulatory, and other management functions of the project. The applicant will maintain control and regulation of on site parking. 9) All commercial signage will be restricted to either a pylon sign along Port Republic Road and/or along the first floor sign marquee area above individual commercial units. 10) The structure will contain an interior secure bike rack area for residents. 11) The structure will contain security features to control access to the residential areas of the building. 12) The applicant proffers the construction of a turn lane on Devon Lane. The entrance from Port Republic Road will be designed as a "right-in right-out" entrance to help facilitate traffic movement in the area. The applicant also proffers that a weekday private van or bus shuttle will be provided by the applicant during peak hour traffic periods.

Mrs. Turner reviewed the layout of the building including commercial space, residential units, topography, rear elevation, and basement portion. The submitted building design will require 333 parking spaces, 63 for commercial and 270 for the residential units. During the site plan review more technical presentation of information may be needed. Because this project could generate more traffic, it may be necessary for the applicant to conduct a more thorough traffic study. Mrs. Turner said that Planning Commission has recommended approving this request.

At 8:06 p.m., Mayor Eagle closed the regular session temporarily and called the evening's public hearings to order. The following notice appeared in the Daily News-Record on Monday, November 26, and Monday, December 3, 2007.

NOTICE OF PUBLIC HEARING

The Harrisonburg City Council will hold Public Hearings on Tuesday, December 11, 2007 at 7:00 p.m., in the City Council Chambers, 409 South Main Street, to consider the following:

Rezoning – The Residences at 865 East (Port Republic Road)

Public Hearing to consider a request from Janis Brown Enterprises, with representative Blackwell Engineering to rezone three lots totaling 5.28 +/- acres from B-2C, General Business District Conditional to R-5, High Density Residential District. The properties are located at the corner of Port Republic Road and Devon Lane and can be found on tax map parcels 92-F-1, 2, & 3.

The Comprehensive Plan designates this area as High-Density Residential. This designation states that these areas are intended for high-density development, mostly apartment buildings with densities ranging from 12 to 15 dwelling units per acre.

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-5, High Density Residential District is intended for medium to high density residential development, including townhouses and multiple family dwelling units, together with certain governmental, educational, religious, recreational and utility uses.

Special Use Permit – 865 East 10-3-55.4 (1) (More Than 12 Units)

Public hearing to consider a request from Janis Brown Enterprises, with representative Blackwell Engineering for a special use permit per Section 10-3-55.4 (1) of the Zoning Ordinance to allow multiple-family dwellings to have more than twelve (12) units per building within the R-5, High Density Residential District. The properties are located at the corner of Port Republic Road and Devon Lane and can be found on tax map parcels 92-F-1, 2, & 3.

Special Use Permit – 865 East 10-3-55.4 (2) (More Than 4 Stories)

Public hearing to consider a request from Janis Brown Enterprises, with representative Blackwell Engineering for a special use permit per Section 10-3-55.4 (2) of the Zoning Ordinance to allow multiple-family dwellings to be greater than four (4) stories and/or fifty-two (52) feet in height within the R-5, High Density Residential District. The properties are located at the corner of Port Republic Road and Devon Lane and can be found on tax map parcels 92-F-1, 2, & 3.

Special Use Permit – 865 East 10-3-55.4 (4) (Non-residential Uses)

Consider a request from Janis Brown Enterprises, with representative Blackwell Engineering for a special use permit per Section 10-3-55.4 (4) of the Zoning Ordinance to allow retail stores, convenience shops, personal service establishments, restaurants (excluding those with drive through facilities) within the R-5, High Density Residential District. The properties are located at the corner of Port Republic Road and Devon Lane and can be found on tax map parcels 92-F-1, 2, & 3.

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 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 these requests.

Sandy Bopp expressed concerns about the traffic before the hospital is completed, and more students are attending classes at James Madison University.

Jim DeStefani said the traffic is unbearable in the morning and evening during rush hour.

Kurt Harding, a resident of Rockingham County, said this project was a good way to utilize the property.

Dain Hammond, representing the current owner Janis Brown Enterprises and a partner in the proposed development, said in 2005 this property was acquired as an investment. The property was rezoned in 2002 from residential to B-2 Conditional. Mr. Hammond reviewed the plan for this property to accommodate the growth for off-campus JMU students. He said that 865 East is a six story building with the top floors serving as student housing and with retail space on the ground floor. It will be equipped with a secure common entrance and private reserved parking. He said that the applicant would like to remove the proffer to provide private shuttle bus service.

Ken Patterson reviewed the project design and building layout. He asked Council to approve the project.

Ray Atkinson expressed concern about peak traffic times, safety, and crime if the property is rezoned.

Bucky Berry expressed concern about traffic. There being no others desiring to be heard, the public hearing was declared closed at 8:44 p.m., and the regular session reconvened.

Vice-Mayor Pace offered a motion to approve a request from Janis Brown Enterprises to rezone three lots from B-2C, General Business District Conditional to R-5C, High Density Residential District Conditional, including removing the proffer to provide private shuttle bus service 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 Chenault
Council Member Frank
Vice-Mayor Pace
Mayor Eagle

No - Council Member Byrd

Absent - None

Council Member Chenault offered a motion to approve a request from Janis Brown Enterprises for a special use permit to allow multiple-family dwellings to have more than twelve (12) units per building within the R-5, High Density Residential District. The motion was seconded by Council Member Frank and approved with a recorded roll call vote taken as follows:

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

No - Council Member Byrd

Absent - None

Council Member Chenault offered a motion to approve a request from Janis Brown Enterprises for a special use permit to allow multiple-family dwellings to be greater than four (4) stories and/or fifty-two (52) feet in height within the R-5, High Density Residential District. The motion was seconded by Vice-Mayor Pace and approved with a recorded roll call vote taken as follows:

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

No - Council Member Byrd

Absent - None

Council Member Chenault offered a motion to approve a request from Janis Brown Enterprises for a special use permit to allow retail stores, convenience shops, personal service establishments, restaurants (excluding drive through facilities) within the R-5, High Density Residential District. The motion was seconded by Vice-Mayor Pace and approved with a recorded roll call vote taken as follows:

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

No - Council Member Byrd

Absent - None

A scheduled public hearing rezoning request from Harman Realty, Inc. has been withdrawn.

Planning and Community Development Director Turner introduced a request from Christophel Properties to rezone 2.92 acres of property from R-3C, Multiple Dwelling Residential District Conditional to R-3C, Multiple Dwelling Residential District Conditional, and to close a portion of Ohio Avenue and New York Avenue. The Comprehensive Plan designates this area as Neighborhood Residential. Mrs. Turner reviewed the surrounding uses in the area. Closing and vacating these street rights-of-way will give the applicant enough square footage to add the additional dwelling units for the rezoning. In April of 2007, the applicant rezoned these parcels from R-2, Residential District R-3C, Multiple Dwelling Residential District Conditional. That request brought the non-conforming apartment use into conformance and allowed the applicant to construct more apartment units on the site. As part of the request, the applicants provided a site drawing, which showed two new multiple family buildings planned for construction. The applicants proffered that the new buildings would not be more than eight dwelling units per building; all new units would only be occupied by a family or not more than two unrelated persons; and the total number of bedrooms for all the rezoned parcels would be 74 (62 existing and 12 proposed). Staff recommended against the April 2007 rezoning request, stating concerns that allowing a higher density could present problems in the future for the existing, predominantly single-family neighborhood. Planning Commission recommended against the rezoning request; however, City Council approved the rezoning. The applicant is requesting to revise the proffers from the approved March 2007 rezoning. The revisions would allow the applicant to construct two new buildings with a total of 16 dwelling units as opposed to the 12 units proffered in the earlier rezoning. The two proposed new buildings are planned for the same location as the previous rezoning, and each building will contain eight, one bedroom dwelling units. Mrs. Turner said that with a 2-3 vote, Planning Commission failed to adopt a motion to recommend approval of the rezoning request, or to close a portion of Ohio Avenue and New York Avenue.

At 9:08 p.m., Mayor Eagle closed the regular session temporarily and called the evening's public hearings to order. The following notice appeared in the Daily News-Record on Saturday, December 1, and Saturday, December 8, 2007.

**NOTICE OF INTENTION TO VACATE
A SMALL PORTION OF NEW YORK AVENUE AND
A SMALL PORTION OF OHIO AVENUE
IN THE CITY OF HARRISONBURG**

**City Council Chambers
409 South Main Street
Harrisonburg, VA 22801
Tuesday, December 11, 2007
7:00 P.M.**

The Harrisonburg City Council will hold a public hearing on Tuesday, December 11, 2007, 7:00 P.M., at City Council Chambers, 409 South Main Street, Harrisonburg, Virginia, to consider a request by Christophel Properties, LLC to vacate and close (a) a small portion of Ohio Avenue, containing 8,573 square feet, located south of Roosevelt Street, and (b) a small portion of New York Avenue, containing 4,617 square feet, located south of Roosevelt Street, in the City of Harrisonburg, Virginia.

A copy of the plats showing the portions of the streets to be vacated and the recommendation of the City's Planning Commission are available in the City Community Development office, 409 South Main Street, Monday through Friday.

All persons interested will have an opportunity to express their views at this public hearing.

The Harrisonburg City Council will hold Public Hearings on Tuesday, December 11, 2007 at 7:00 p.m., in the City Council Chambers, 409 South Main Street, to consider the following:

Rezoning – 115 Ohio Avenue Proffer Revision

Public hearing to consider a request from Christophel Properties, LLC with representative Blackwell Engineering to rezone 2.92 acres of property zoned R-3C, Multiple Dwelling Residential District Conditional to R-3C, Multiple Dwelling Residential District Conditional. This rezoning would revise the existing proffers. The properties are located along Ohio Avenue, New York Avenue, and Roosevelt Street and can be found on tax maps 18-C-7, 8, 9, & 11 and 24-R-1 through 6.

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 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.

A copy of the plats showing the portions of the streets to be vacated and the recommendation of the City's Planning Commission are available in the City Community Development office, 409 South Main Street, Monday through Friday.

All persons interested will have an opportunity to express their views at these public hearings.

CITY OF HARRISONBURG
Kurt D. Hodgen,
City Manager

Mayor Eagle called on anyone desiring to speak for or against these requests.

Paul Christophel said 21% of the neighborhood is owner occupied. Christophel Properties is a family owned company.

Carole Ricker expressed concern about the encroachment. There being no others desiring to be heard, the public hearing was declared closed at 9:13 p.m., and the regular session reconvened.

Following further discussion and comments, Council Member Frank offered a motion to deny a request from Christophel Properties to rezone 2.92 acres of property zoned R-3C, Multiple Dwelling Residential District Conditional to R-3C, Multiple Dwelling Residential District Conditional. The motion was seconded by Council Member Chenault and approved with a recorded roll call vote taken as follows:

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

No - Vice-Mayor Pace

Absent – None

Council Member Byrd offered a motion to deny a request from Christophel Properties to close a portion of Ohio Avenue. The motion was seconded by Council Member Frank and approved with a recorded roll call vote taken as follows:

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

No - Vice-Mayor Pace

Absent – None

Council Member Byrd offered a motion to deny a request from Christophel Properties to close a portion of New York Avenue. The motion was seconded by Council Member Frank and approved with a recorded roll call vote taken as follows:

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

No - Vice-Mayor Pace

Absent – None

The next item of business was an update from The Arc/Op Shop on the Simms Renovation Project Loan. Mary Ellen Chewning, Executive Director of The Arc of Harrisonburg and Rockingham, reported on The Arc's progress toward payment of the \$500,000 loan for renovations to the Lucy F. Simms Center. They currently have \$257,667 designated for the building fund. The Arc has been paying the \$1,040 interest on the loan each month.

However, they do not believe they will be in a position to pay off the loan by January. They have had many and varied fundraisers, and they have been transparent in tracking the money and reporting their progress in their newsletter and on their website. The Arc of Harrisonburg and Rockingham has been improving services for persons with intellectual and development disabilities and their families since 1962. They deliver key services and address social problems that complement essential governmental investment in the community. The Arc administrative office and Op Shop have been good occupants of the Simms Center, and they think they have been of benefit to the City by being in the building. Their reputation is very important to them and they do not want to be known as an agency that does not honor its commitments. The Arc will abide by whatever the Council decides.

Matthew Sunderlin, President of The Arc, thanked Council for its support. The Arc and The Op Shop has been a voice for those who can't speak for themselves for 45 years.

Vice-Mayor Pace offered a motion to approve a request from First Night Harrisonburg for street closure and fire works on December 31, 2007. The motion was seconded by Council Member Frank and approved with a unanimous vote of Council.

Vice-Mayor Pace offered a motion to enact Section 1-1-15 and amend and re-enact Section 3-2-1 of the Harrisonburg City Code 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 Chenault
Council Member Byrd
Council Member Frank
Vice-Mayor Pace
Mayor Eagle

Absent – None

Council Member Chenault offered a motion that Phillip G. Ryman, 859 Park Circle, be appointed to a first term on the Harrisonburg Parks and Recreation Commission to expire on December 31, 2011. The motion was seconded by Vice-Mayor Pace and approved with a recorded roll call vote taken as follows:

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

Absent – None

Council Member Chenault offered a motion that Nancy Clark Faulkner, 2190 Lake Terrace Drive, be re-appointed to a second term on the Harrisonburg Parks and Recreation

Commission to expire on December 31, 2011. The motion was seconded by Vice-Mayor Pace and approved with a recorded roll call vote taken as follows:

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

Absent – None

Council Member Chenault offered a motion that Cheryl Risley, 1703 Central Avenue, be re-appointed to a second term on the Harrisonburg Redevelopment and Housing Authority to expire on December 31, 2011. The motion was seconded by Vice-Mayor Pace and approved with a recorded roll call vote taken as follows:

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

Absent – None

Council Member Chenault offered a motion that David F. Denman, 225 Betts Road, be re-appointed to a second term on the Harrisonburg Redevelopment and Housing Authority to expire on December 31, 2011. The motion was seconded by Vice-Mayor Pace and approved with a recorded roll call vote taken as follows:

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

Absent – None

Council Member Chenault offered a motion that Richard A. Baugh, 79 Hope Street, be re-appointed to a second term on the Harrisonburg Planning Commission to expire on December 31, 2011. The motion was seconded by Vice-Mayor Pace and approved with a recorded roll call vote taken as follows:

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

Mayor Eagle

Absent – None

Council Member Chenault offered a motion that Steven Hottle, 267 Campbell Street; Carl Wassum, 1169 Westmoreland Drive; and Craig Miller, 2821 Osceola Springs Road; be re-appointed to third terms on the Building Code Board of Appeals to expire on November 30, 2011. The motion was seconded by Vice-Mayor Pace and approved with a recorded roll call vote taken as follows:

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

Absent – None

Council Member Chenault offered a motion that Price Lineweaver, 23 Tamela Court, be re-appointed to a second term on the Harrisonburg Electric Commission to expire on December 31, 2010. The motion was seconded by Vice-Mayor Pace and approved with a recorded roll call vote taken as follows:

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

Absent – None

At 9:43 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 consultation 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 Chenault
Council Member Byrd
Council Member Frank
Vice-Mayor Pace
Mayor Eagle

Absent – None

At 10:29 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 10:30 p.m., there being no further business and on motion adopted, the meeting was adjourned.

CITY CLERK

MAYOR