

REGULAR MEETING

July 22, 2008

At a regular meeting of Council held this evening at 7:00 p.m., there were present: Mayor Rodney Eagle; City Manager Kurt Hodgen; Assistant City Manager Evan Vass; 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 Chief of Police Donald Harper.

Mayor Rodney Eagle gave the invocation and led everyone in the Pledge of Allegiance.

Council Member Chenault offered a motion to approve the consent agenda, including approval of the minutes and the second reading of appropriations for the Police Department and rezoning requests from Randall Johnson and Cosner Development. The motion also included amending and re-enacting Sections 10-2-23, 10-3-118, 10-3-16, 4-1-75, and Article B of Title 4, Chapter 1 of the Harrisonburg City Code. 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 Byrd
Council Member Chenault
Vice-Mayor Pace
Mayor Eagle

Absent – None

City Engineer Dan Rublee presented a brief overview of proposed changes to the City Design & Construction Standards Manual. These changes are necessary for compliance with the City’s VPDES Permit for Small Municipal Separate Storm Sewer Systems (MS4), issued by the VA Department of Conservation & Recreation (DCR). DCR is requesting the City move forward with an abbreviated program, as major changes to the VA Stormwater Management Regulations are currently under development. This program involves establishing maintenance agreements with property owners for perpetual maintenance of stormwater Best Management Practices (BMPs) installed with development projects. During the plan review, plan submission stage, and permit stage the City will have plans that can be implemented correctly in the field and contain sufficient information for construction and maintenance. The City will also have a third party certification statement at the end of the construction. The revisions “soften up” the Certification statement to reduce potential liabilities. These new requirements will be incorporated into the Design and Construction Standards Manual (DCSM) and will be effective on all projects which disturb one acre or more. Implementation will begin August 1, 2008.

At 7:30 p.m., Mayor Eagle closed the regular session temporarily and called the evening’s public hearing to order. The following notice appeared in the Daily News-Record Friday, July 11, and Friday, July 18, 2008.

**NOTICE OF PUBLIC HEARING ON ENACTING
A STORMWATER PROGRAM
FOR THE CITY OF HARRISONBURG**

The Harrisonburg City Council will hold a public hearing on July 22, 2008 at 7:00 p.m. in the City Council Chambers located at 409 South Main Street, Harrisonburg, Virginia, to solicit public comments concerning the enacting of a Stormwater Program within the Design & Construction Standards Manual for the City of Harrisonburg.

Specific information on the proposed Stormwater Program is available on the City's web site under the Design & Construction Standards Manual link, and at the City's Department of Community Development, 409 South Main Street, Harrisonburg, Virginia, Monday through Friday, 8:00 a.m. – 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 making changes to the City Design & Construction Standards Manual. There being no one desiring to be heard, the public hearing was declared closed at 7:31 p.m., and the regular session reconvened. Following further discussion and comments, Vice-Mayor Pace offered a motion to approve these changes to the manual. The motion was seconded by Council Member Chenault and approved with a recorded roll call vote taken as follows:

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

Absent – None

The next item of business was a request to issue a dance hall permit for Pupuseria Restaurant. City Manager Hodgen said the Police Department has completed its review of the request. All aspects meet approval with the exception of the following: 1) Plans call for a dining occupancy of 56, but seating was only present for approximately 46 dining customers outside of the dancing area. Seating must be provided for 56. 2) The dance floor area needs to be defined about floor level (denoted by rope or some type of above floor level separation). Mr. Hodgen

said Pupuseria Restaurant meets all the requirements for issuance of the dance hall permit with the exception of the two items listed. The City's recommendation is that the dance hall permit be approved subject to the two items being satisfied. Council Member Chenault offered a motion to table this request until the two items are satisfied. The motion was seconded by Council Member Byrd and approved with a unanimous vote of Council.

The next item of business was a presentation by People Incorporated. Rob Goldsmith, President of People, Inc., provided an overview of the agency and its purposes, which are primarily to benefit low and moderate income persons. He has met with a number of public and non-profit organizations in the City. People Incorporated has expressed a desire to be designated as Harrisonburg's Community Action Program.

The following discussion by Council Members included: Are most of the Community Development Block Grants competitive based applications? Is the organization prepared to deal with the many foreign languages spoken in this area? It was also pointed out that the organization's web site reported a loss of \$227,000 in 2007 fiscal year.

The next item of business was an update on the Reservoir Street project. Public Works Superintendent Drew Williams reviewed the information presented at the June 25th Public Information Meeting held at Stone Spring Elementary School. Improvements will include widening the existing two-lane roadway to a five-lane roadway, bicycle lanes, and sidewalks. Mr. Williams reviewed the alignment of the Reservoir Street Widening project and the two-phased approach. Council Member Chenault offered a motion to approve the alignment of the project 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 Byrd
Council Member Chenault
Mayor Eagle

No - Vice-Mayor Pace

Absent – None

The next item of business was a presentation by Eddie Bumbaugh, Executive Director of Harrisonburg Downtown Renaissance (HDR), who gave an update of the progress and accomplishments of HDR. Harrisonburg Downtown Renaissance was selected by Virginia Main Street as a pilot community for their first YouTube video, featuring downtown attractions. Mr. Bumbaugh reviewed projects receiving Façade Enhancement grants, several new restaurants, signage, new technology businesses, the streetscape project, the downtown stream walk, and renovation projects in the downtown area. The City received a \$150,000 grant from "Preserve America".

Alexis Morehouse, Promotions Manager of HDR, reviewed the downtown walking tours, new promotional visitor's center rack cards, gift certificates, student art contest, downtown events, and the Discovery Magazine.

Kris Ludwig, Special Events Manager of HDR, reviewed information regarding the Valley 4th Parade, the Court Days Festival, and other events in the downtown area. She requested permission for the welcome back students "Block Party in the Burg" event on September 12th, from 4:00 to 8:00 p.m.

Council Member Chenault offered a motion to approve the closure of the Court Square streets for the September 12th "Block Party in the Burg" event. The motion was seconded by Vice-Mayor Pace and approved with a unanimous vote of Council.

Jessica Chase, Program Manager/Downtown Parking Services of HDR, reviewed information regarding new downtown parking spaces, the new office location, and organization/community events in the Downtown area. Ms. Chase discussed adding additional parking for scooters and bikes in the downtown area and not eliminating spaces for car parking.

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

RESOLUTION
Safe Routes to School Project
Keister Elementary School

WHEREAS, in accordance with the Safe Routes to School Program of the Virginia Department of Transportation allocation procedures, it is necessary that a request by City Council resolution be made in order that the Virginia Department of Transportation fund Safe Routes to School be awarded for:

- **A project grant of \$455,330 to make safety improvements around Keister Elementary School including sidewalks along South Avenue, Central Avenue and Maryland Avenue, addition of signalized pedestrian crossings, crosswalk improvements, and yield to pedestrian signage.**

NOW, THEREFORE, BE IT RESOLVED by the City Council that the City Manager is authorized, for and on behalf of the City of Harrisonburg, hereafter referred to as the PUBLIC BODY, to enter into agreement with the Department of Transportation, Commonwealth of Virginia, hereafter referred to as the DEPARTMENT, in the amount of \$455,330 to defray the costs borne by the PUBLIC BODY for this Safe Routes to School project; and to accept from the DEPARTMENT reimbursements in such amounts as expenses are submitted, and to authorize the City Manager to furnish to the DEPARTMENT such documents and other information as may be required for meeting grant requirements. The City Council certifies that the funds shall be used in accordance with the requirements of Section 58.1-638.A of the Code of Virginia.

BE IT FURTHER RESOLVED, that the **PUBLIC BODY** is not required to provide local matching funds and that the records of receipts of expenditures of funds granted the **PUBLIC BODY** may be subject to audit by the **DEPARTMENT** and by the State Auditor of Public Accounts, and that funds granted to the **PUBLIC BODY** for defraying the expenses of the **PUBLIC BODY** shall be used only for such purposes as authorized in the Code of Virginia.

ADOPTED: _____
Date

RODNEY L. EAGLE, MAYOR

ATTEST:

YVONNE RYAN, MMC, CITY CLERK

Thanh Dang, Environmental Technology Specialist, said approval of this Resolution will authorize City Manager Hodgen to enter into agreement with the Virginia Department of Transportation (VDOT) to begin the Safe Routes to School project around Keister Elementary. Ms. Dang reviewed the tentative project schedule. Council Member Byrd offered a motion to approve this 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 Frank
Council Member Byrd
Council Member Chenault
Vice-Mayor Pace
Mayor Eagle

Absent – None

City Manager Hodgen presented the following resolution for Council’s consideration of approval:

RESOLUTION
Affirmation of Authorization to Pick-up the Employee’s Contribution to
VRS for City of Harrisonburg, 55208
Under §414(h) of the Internal Revenue Code

WHEREAS, the City of Harrisonburg provides its employees with tax deferral pursuant to §414(h) of the Internal Revenue Code with respect to their member contributions to the Virginia Retirement System (referred to as VRS) by picking up member contributions to VRS; and

WHEREAS, VRS keeps track of such picked up member contributions, and treats such contributions as employee contributions for all purposes of VRS; and

WHEREAS, the Internal Revenue Service in Notice 2006-43 has provided transition relief for existing pick up arrangements provided that an authorized person takes formal action to evidence the establishment of the pick-up arrangement no later than January 1, 2009; and

WHEREAS, in order to avail itself of the protection given under Notice 2006-43, the City of Harrisonburg desires to affirm its intention to establish and maintain a pick-up arrangement through formal action by its governing body.

NOW, THEREFORE, IT IS HEREBY RESOLVED that the existing member contribution pick-up arrangement is hereby affirmed as it relates to salary reduction elections in effect prior to the date of this Resolution and it is further

RESOLVED, that effective the first pay day on or after July 22, 2008, the City of Harrisonburg shall pick up member contributions of its employees to VRS, and such contributions shall be treated as employer contributions in determining tax treatment under the Internal Revenue Code of the United States; and it is further

RESOLVED, that such contributions, although designated as member contributions, are to be made by the City of Harrisonburg in lieu of member contributions; and it is further

RESOLVED, that pick up member contributions shall be paid from the same source of funds as used in paying the wages to affected employees; and it is further

RESOLVED, that member contributions made by the City of Harrisonburg under the pick up arrangement shall be treated for all purposes other than income taxation, including but not limited to VRS benefits, in the same manner and to the same extent as member contributions made prior to the pick up arrangement; and it is further

RESOLVED, that nothing herein shall be construed so as to permit or extend an option to VRS members to receive the pick up contributions made by the City of Harrisonburg directly instead of having them paid to VRS; and it is further

RESOLVED, that notwithstanding any contractual or other provisions, the contributions of each member of VRS who is an employee of the City of Harrisonburg shall be picked up either through a reduction in the current salary of such employee or as an offset against future salary increases of such employee or as a combination of both at the option of the employer by the City of Harrisonburg on behalf of such employee pursuant to the foregoing resolutions.

ADOPTED THIS 22nd DAY OF JULY, 2008.

BY: _____

Rodney L. Eagle, Mayor

ATTEST: _____

Yvonne H. Ryan, MMC, City Clerk

City Manager Hodgen said that a recent IRS ruling requires VRS to conduct a full audit of “pick up” plan resolutions and to obtain a formal resolution from VRS employers. The City must reaffirm that its plan meets the requirements of the new ruling. Vice-Mayor Pace offered a motion to approve this resolution 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 Byrd
Council Member Chenault
Vice-Mayor Pace
Mayor Eagle

Absent – None

City Attorney Thumma presented for Council’s consideration amending and re-enacting Sections 6-1-22 and 6-1-23 of the Harrisonburg City Code. Mr. Thumma said these ordinances are being amended to reflect City Council’s desire to not charge non-profits or 501(c)(3) corporations for vacating a street or alley. Vice-Mayor Pace offered a motion to approve these ordinances 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 Frank
Council Member Byrd
Council Member Chenault
Vice-Mayor Pace
Mayor Eagle

Absent – None

Police Chief Harper presented a request for a supplemental appropriation for the Police Department. These funds were received through the Alcoa Foundation for Youth Community Safety Project. These funds will be used to purchase equipment for the police department. Council Member Byrd offered a motion to approve this request for a first reading, and that:

\$15,000.00 chge. to: 1000-31835 Alcoa Foundation Grant

\$15,000.00 approp. to: 1000-310431-48211 Machinery and Equipment

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

Vote: Yes - Council Member Frank
Council Member Byrd

Council Member Chenault
Vice-Mayor Pace
Mayor Eagle

Absent – None

City Manager Hodgen presented a request to adjust the budget as a result of reductions in State Aid to Localities. Council Member Chenault offered a motion to approve this request for a first reading, and that:

\$1,127.00 chge. to: 1000-120912-41030 Part time salaries & wages – regular
2,000.00 chge. to: 1000-120912-48272 Hardware
1,227.00 chge. to: 1000-121313-45210 Postage
1,300.00 chge. to: 1000-121313-46010 Office supplies
1,360.00 chge. to: 1000-130114-48111 Machinery and equipment
1,000.00 chge. to: 1000-130114-48121 Furniture and fixtures

\$3,127.00 approp. to: 1000-32303 State share of Comm. of Revenue
2,637.00 approp. to: 1000-32304 State share of Treasurer
2,360.00 approp. to: 1000-32306 State share – Registrar

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

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

Absent – None

Mayor Eagle welcomed Assistant City Manager Evan Vass to Harrisonburg.

City Manager Hodgen reported that the School Board has transferred funds back to the City's General Fund in the amount of \$1,600,719.00.

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

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HARRISONBURG,
VIRGINIA, ADDING A TEN DOLLAR PER MONTH
SOLID WASTE MANAGEMENT FEE TO ALL RESIDENTS
OF THE CITY OF HARRISONBURG**

WHEREAS, city residents in the past have been charged a fee of twenty dollars (\$20.00) per month for city trash and refuse collection; and

WHEREAS, on May 13, 2008, the City Council adopted the 2008-2009 City Budget and within that budget split the monthly trash and refuse collection fee with ten dollars (\$10.00) being for solid waste management and ten dollars (\$10.00) being for refuse collection; and

WHEREAS, in order to help the City recover a portion of the costs associated with its solid waste management and recycling programs, City Council determined that the ten dollar (\$10.00) per month solid waste management fee would apply to all city residences to whom the programs are available;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HARRISONBURG, VIRGINIA:

That all city residences be charged a ten dollar (\$10.00) per month solid waste management fee, beginning July 1, 2008, as previously adopted within the 2008-2009 City Budget on May 13, 2008.

Approved: July 22, 2008

MAYOR

ATTEST:

CLERK OF THE COUNCIL

Vice-Mayor Pace offered a motion to approve the resolution 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 Byrd
Council Member Chenault
Vice-Mayor Pace
Mayor Eagle

Absent – None

City Attorney Thumma presented for Council's consideration an ordinance closing a 1,512 square foot alley between East Water Street and Newman Avenue, approximately 120 feet East of South Main Street in the City of Harrisonburg. Council Member Chenault offered a motion to approve this ordinance. 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 Byrd
Council Member Chenault
Vice-Mayor Pace
Mayor Eagle

Absent – None

City Attorney Thumma presented for Council’s consideration an ordinance closing a portion of an alley containing approximately 6,839 square feet located South of East Market Street and West of Ott Street in the City of Harrisonburg. Council Member Chenault offered a motion to approve this ordinance. 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 Byrd
Council Member Chenault
Vice-Mayor Pace
Mayor Eagle

Absent – None

City Attorney Thumma presented for Council’s consideration an ordinance closing a portion of Monroe Street containing approximately 0.216 acre located in the Northern portion of the City of Harrisonburg. Council Member Chenault offered a motion to approve this ordinance. 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
Mayor Eagle

Abstained - Council Member Byrd

Absent – None

At 8:10 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 the 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 Frank
Council Member Byrd

Council Member Chenault
Vice-Mayor Pace
Mayor Eagle

Absent – None

At 9:30 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 9:31 p.m., there being no further business and on motion adopted, the meeting was adjourned.

CITY CLERK

MAYOR