

REGULAR MEETING

October 14, 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.; Council Members Charles R. Chenault, Carolyn W. Frank, and Ted Byrd; City Clerk Yvonne “Bonnie” Ryan, MMC; and Chief of Police Harper. Absent: Vice-Mayor George W. Pace.

Mayor Eagle gave the invocation.

Eric Beighe, Zac Brown, and Darrin Humphrey, from Boy Scout Troop #72 sponsored by Grace Covenant Church, led everyone in the Pledge of Allegiance.

Council Member Byrd offered a motion to approve the consent agenda, including approval of the minutes and the second reading of supplemental appropriations for the Public Works Department, and water and sewer projects. The motion also included amending and re-enacting Section 11-7-6 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
Council Member Chenault
Council Member Byrd
Mayor Eagle

Absent – Vice-Mayor Pace

Kristen McCombe, Grants Compliance Officer, presented an overview of the CDBG 2007-2008 Consolidated Annual Performance & Evaluation Report (CAPER). Mrs. McCombe reviewed the remaining funding for the CDBG programs. This report requires a 15-day public comment period, which will end at 9:00 a.m. on October 30, 2008.

At 7:08 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 on Tuesday, September 30, 2008.

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 07-08.

Comments may be submitted during the CDBG / CAPER Public Hearing portion of the regular City Council meeting on October 14, 2008, at 7:30 P.M. in the City Council Chambers, Harrisonburg Community Development Building, located at 409 S. Main St., Harrisonburg, VA.

All comments must be received no later than October 30, 2008, 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 will be available for review in the City Manager's Office, 345 South Main Street, Harrisonburg, Virginia 22801 and at www.ci.harrisonburg.va.us on the CDBG homepage.

A summary of the CAPER is as follows:

In 2007, the City was awarded \$546,881 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	\$162,000.00	\$139,852.80	\$22,147.20
Community & Public Facilities	\$249,223.00	\$193,716.77	\$55,506.23
Administration	\$104,658.00	\$58,414.15	\$46,243.85
Public Services	<u>\$31,000</u>	<u>\$30,975.72</u>	<u>\$24.28</u>
Total	\$546,881.00	\$422,959.44	\$123,921.56

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 7:09 p.m., and the regular session reconvened.

Planning and Community Development Director Turner introduced a request from Cosner Development LC to preliminarily subdivide 4.5 +/- acres at 1720 Pear Street. These variances are being requested from the Design and Construction Standards Manual Sections 3.1.10.2, 3.6.2.1, and 3.6.3. Mrs. Turner reviewed the surrounding uses in the area. The applicant is requesting to preliminarily subdivide three R-3C, Multiple Dwelling Residential District Conditional parcels into 15 lots, and to dedicate right-of-way for a public street. The layout of the preliminary plat is consistent with the plan of development that was proffered and approved by City Council in July 2008. There will be two, 12-unit apartment buildings, an additional three unit apartment building, and seven duplex structures (14 units). The existing single family home would either remain or it could be removed to allow an additional duplex building to be built. The proffers for the rezoning include a 6-foot high privacy fence, a single row of evergreen trees adjacent to the railroad tracks, three small recreational areas, and a double staggered row of evergreen trees to separate homes from the adjoining neighborhood. The street would be built within a 50-foot right-of-way with curb, gutter, and a five-foot sidewalk and two-foot grass strip down one side of the street. The applicant would also dedicate additional right-of-way near the intersection with Pear Street to allow for future road realignment. First, the

applicant is requesting a variance from Section 3.1.10.2 because the development could generate approximately 20 more than the required 250 vehicles per day on a public residential cul-de-sac. The second variance is from Section 3.6.2.1, which requires at least a 100-foot tangent between horizontal curves. The design of this street provides no tangent. The last variance is to deviate from Section 3.6.3, which enforces a minimum centerline radius on cul-de-sacs to 180 feet. The design of this cul-de-sac would provide radii of 110 and 150 feet. The applicant will post an “S” curve sign recommending speed of 20 mph to alert drivers to slow down. Planning Commission recommended approving this request. Following further discussion and comments, Council Member Frank offered a motion to approve this request 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
Council Member Byrd
Mayor Eagle

Absent – Vice-Mayor Pace

Assistant Parks and Recreation Director David Wigginton presented a transfer request for the Parks and Recreation Department. This request is to transfer funds for improvements to Ralph Sampson Park from the Parks & Recreation Capital Outlay budget to a Capital Projects Fund. Improvement to the Park will be accomplished in four phases through different fiscal years. Council Member Frank offered a motion to approve transferring these funds, and that:

\$225,000.00 chge. to: 1000-710171-48184 Improvements
225,000.00 chge. to: 1310-34210 Transfer from General Fund

\$225,000.00 approp. to: 1000-990111-49216 Transfer to General Capital Projects
225,000.00 approp. to: 1310-910141-48719 Ralph Sampson Park Improvement

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 Chenault
Council Member Byrd
Mayor Eagle

Absent – Vice-Mayor Pace

Assistant Parks and Recreation Director David Wigginton presented a request for a supplemental appropriation for the Parks and Recreation Department. This request is to transfer funds received from a VA Department of Forestry grant into the Blacks Run Greenway project at Purcell Park. Council Member Byrd offered a motion to approve this request for a first reading, and that:

\$13,120.00 chge. to: 1000-31020 Amount from fund balance

\$13,120.00 approp. to: 1000-710971-46140 Other Operating Supplies

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 Chenault
Council Member Byrd
Mayor Eagle

Absent – Vice-Mayor Pace

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

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HARRISONBURG,
VIRGINIA, REGARDING THE REIMBURSEMENT OF EXPENSES AND COSTS
INCURRED BY THE CITY, OUT OF A LEASE PURCHASE AGREEMENT TO BE
USED FOR THE PURCHASE OF A FIRE TRUCK**

WHEREAS, the City is in the process of purchasing a new fire truck for the City’s Fire Department; and

WHEREAS, the acquisition of the fire truck will require the City to enter into a three (3) year lease purchase agreement in an amount estimated to be around Three Hundred Sixty Thousand Dollars (\$360,000.00); and

WHEREAS, the City intends to reimburse itself out of the proceeds of the three (3) year lease purchase agreement for all expenditures and costs associated with the acquisition of fire truck, which are properly reimbursable under all State and Federal laws, and which are incurred and paid prior to the city entering into and executing the lease purchase agreement;

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

1. The City of Harrisonburg will be entering into a three (3) year lease purchase agreement that is estimated to be in the approximate amount of Three Hundred Sixty Thousand Dollars (\$360,000.00) to pay for the acquisition of a new fire truck.

2. The City of Harrisonburg shall be reimbursed from the proceeds of the three (3) year lease purchase agreement and for all costs and expenditures, which are properly reimbursable under State and Federal laws, incurred for the acquisition of the new fire truck. The City represents that it will pay certain expenditures out of general funds for the acquisition of the new fire truck prior to the issuance of the three (3) year

lease purchase agreement. Therefore, it is hereby declared to be the intent to reimburse the City with a portion of the proceeds of the three (3) year lease purchase agreement for expenditures related to the acquisition of the new fire truck that were paid with general funds of the City and made no earlier than 60 days prior to the adoption of this resolution and on and after the date hereof.

Each of the expenditures was and shall be either (a) of a type properly chargeable to capital accounts under general federal income tax principles (determined in each case as of the date of the expenditure), (b) a cost of issuance with respect to the borrowings, or (c) a nonrecurring item that is not customarily payable from current revenues. The City shall make a reimbursement allocation, in writing, to evidence the use of the proceeds of the lease purchase agreement to reimburse each of the expenditures, no later than 18 months after the later of the date of which each expenditure is paid or the fire truck is acquired, but in no event more than 3 years after the date on which the expenditure is paid, all in accordance with the Code and Treasury Regulations hereunder.

3. These forgoing provisions are intended as a declaration of official intent by the City in compliance with the Treasury Regulations under the Code regarding proceeds of tax exempt lease purchase agreement used for reimbursement.

Approved: October 14, 2008.

MAYOR

ATTEST:

CLERK OF THE COUNCIL

City Manager Hodgen said that a new fire truck will be delivered in the next several weeks. The fire truck will be paid for by securing funds through a three-year lease purchase. Council Member Byrd 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
Council Member Chenault
Council Member Byrd
Mayor Eagle

Absent – Vice-Mayor Pace

City Attorney Thumma presented for Council's consideration amending and re-enacting Section 12-3-40 of the Harrisonburg City Code. Mr. Thumma said the Commissioner of the Revenue has requested this ordinance be amended to allow the department to collect the adult business application fee at the same time as the business license fee for that business. 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
Council Member Chenault
Council Member Byrd
Mayor Eagle

Absent – Vice-Mayor Pace

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

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HARRISONBURG,
VIRGINIA, ADOPTING THE REVISED PROCEDURES REGARDING REQUESTS
MADE PURSUANT TO THE PUBLIC-PRIVATE EDUCATION FACILITIES AND
INFRASTRUCTURE ACT OF 2002**

WHEREAS, on October 26, 2004, the City Council adopted the City of Harrisonburg, Virginia Procedures Regarding Requests made Pursuant to the Public-Private Education Facilities and Infrastructure Act of 2002; and

WHEREAS, since the original adoption of that document by the City the Virginia General Assembly has made a number of changes and amendments to the state statute; and

WHEREAS, City staff has prepared a revised document to reflect these changes and amendments which will bring the City’s procedures in compliance with the state statute;

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

That the City Council of the City of Harrisonburg, Virginia, hereby adopts and approves the City of Harrisonburg, Virginia Procedures Regarding Requests Made Pursuant to the Public-Private Education Facilities and Infrastructure Act of 2002 which were revised in September, 2008, a copy of which are attached hereto and made a part hereof.

Adopted: October 14, 2008

MAYOR

ATTEST:

CLERK OF THE COUNCIL

City Attorney said since the City Council adopted the Procedures Regarding Requests Made Pursuant to the Public-Private Education Facilities and Infrastructure Act of 2002 on

October 26, 2004, the General Assembly has made a number of changes and amendments to the original statute. This revised resolution incorporates those changes and amendments into our original document and brings it into compliance with the state. Council Member Chenault offered a motion to adopt this revised resolution. 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
Council Member Byrd
Mayor Eagle

Absent – Vice-Mayor Pace

The next item of business was a report on removing a traffic signal at the intersection of Bruce Street and Mason Street. Public Works Superintendent Drew Williams said that a new program in the Public Works Department is reviewing the City's transportation system and conducting a study to determine whether the traffic flow and signals are meeting the public needs. This particular traffic signal was identified in a preliminary study as a potential candidate for removal. Mr. Williams reviewed various information used to conduct the study.

The following discussion by Council Members included: Had other traffic signals been studied? Expressed concern for pedestrians crossing and slowing down traffic at this intersection. It was pointed out that there is no sidewalk on the West side of Bruce Street to Campbell Street. Speed could be higher on Mason Street without a traffic signal.

Council Member Chenault requested an update regarding the design and cost of replacing or building new bicycle crossings on South Main Street and Country Club Road. Mr. Chenault said that according to the October minutes of the Transportation Safety Commission the improvements would cost approximately \$70,000 and a verbal approval had been received from the railroad regarding this project. Following further discussion and comments, Council Member Chenault offered a motion to authorize the City Manager to move forward with the project. 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
Council Member Byrd
Mayor Eagle

Absent – Vice-Mayor Pace

City Manager Hodgen reported that the City did not receive a grant from the state for the Emergency Notification System. Council Member Byrd offered a motion to appropriate funds not to exceed \$8,000 for an Emergency Notification System study. 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 Chenault
Council Member Byrd
Mayor Eagle

Absent – Vice-Mayor Pace

Council Member Chenault offered a motion to appoint Judge James Lane to the Community Criminal Justice Administrative Advisory Board. 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
Council Member Byrd
Mayor Eagle

Absent – Vice-Mayor Pace

Council agreed to hold the first meeting in November on November 11th at 7:00 p.m., and not reschedule to another day because of the Veteran's Day holiday.

Council agreed to have a meeting with Rockingham County on October 28th at 6:00 p.m.

City Manager Hodgen reminded everyone of a meeting with state officials from Social Services and the Health Department on October 30th from 10:30 a.m. until 1:30 p.m., at the Rockingham County Administrative Complex.

City Manager Hodgen reminded everyone of a meeting with Delegate Lohr and Delegate Landes to discuss mandates and other information before the next General Assembly session in Staunton on October 29th from 7:00 p.m. until 9:00 p.m.

Council Member Byrd offered a motion that John N. Neff, 456 Myers Avenue; and John C. Sease, 560 Neff Avenue; be re-appointed to third terms on the Building Code Board of Appeals. The motion also included that Bob Landes, 11176 Morning Star Circle, be appointed to a first term on the Building Code Board of Appeals. 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 Chenault
Council Member Byrd
Mayor Eagle

Absent – Vice-Mayor Pace

At 7:25 p.m., Council Member Chenault offered a motion that Council enter into a closed session for discussion and consideration of the acquisition and disposition 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 Chenault
Council Member Byrd
Mayor Eagle

Absent – Vice-Mayor Pace

At 8:20 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 Members present: 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 8:21 p.m., there being no further business and on motion adopted, the meeting was adjourned.

CITY CLERK

MAYOR