

REGULAR MEETING

October 28, 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.

Council Member Frank gave the invocation, and Mayor Eagle 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 a supplemental appropriation for the Parks and Recreation Department. The motion also included amending and re-enacting Section 12-3-40 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 - Vice-Mayor Pace
Council Member Frank
Council Member Chenault
Council Member Byrd
Mayor Eagle

Absent – None

Karen Wigginton, United Way President, presented an overview of the United Way’s overall goals. Mrs. Wigginton thanked City Council for past support.

The next item of business was a request for waiver to the Design and Construction Standards Manual. City Manager Hodgen said that Copper Beech is requesting a waiver of standards of applicable sections of the Design and Construction Standards Manual (DCSM), which deal with building permit prerequisites and pump station approval.

Ed Blackwell representing Copper Beech said that this project has two phases. The first phase can be served by the existing water pressure system, which is under construction. The second phase will need a new water pump station to achieve the fire protection requirements. The second phase has been approved by City staff for water and sewer infrastructure, parking lot, and the storm system. However, plans for the pump station serving this second phase will need to be approved. Mr. Blackwell presented an overview of the construction Copper Beech would like to proceed with, pending approval of the pump station, which will address the concerns of City staff. Also, since the company has posted a bond on both the water and sewer infrastructure, they will post a bond on the pump station as well.

Following further discussion and comments, Council Member Chenault offered a motion to allow Copper Beech to proceed with the infrastructure improvements and foundation of this project. The motion was seconded by Vice-Mayor Pace and approved with a recorded roll call vote taken as follows:

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

Absent – None

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

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HARRISONBURG,
VIRGINIA, ADOPTING AND APPROVING THE PROCEDURES FOR
OBTAINING AN OUTDOOR DINING FACILITY LICENSE
IN THE B-1 BUSINESS DISTRICT**

WHEREAS, on September 9, 2008, the City Council amended the City’s comprehensive plan to encourage outdoor dining facilities in the B-1 business district; and

WHEREAS, city staff has been working on a licensing procedure that would allow the use of city owned property for an outdoor dining facility in the B-1 business district; and

WHEREAS, city staff has prepared an application, regulations and requirements relating to outdoor dining facility licenses and a form outdoor dining facility license and recommend their adoption by the City Council;

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

That the Outdoor Dining Facility License Application, the Regulations and Requirements Relating to Outdoor Dining Facility Licenses Issued for City Right of Way in the B-1 Business District in the City of Harrisonburg, VA and the form Outdoor Dining Facility License, prepared by city staff be approved and adopted for use in applying and in issuing outdoor dining facility licenses for the City of Harrisonburg.

Approved: October 28, 2008.

MAYOR

ATTEST:

CLERK OF THE COUNCIL

City Attorney Thumma said this resolution approves and adopts the license application, regulations, and requirements for obtaining a license to have an outdoor dining facility in the City right-of-way in the B-1 business district, as well as the Outdoor Dining Facility License form that will be used in the future when the City has application requests. A business must have sufficient sidewalk space available for outdoor dining to obtain a license. It is a revocable license. Vice-Mayor Pace offered a motion to approve this resolution adopting and approving the procedures for obtaining an Outdoor Dining Facility License. The motion also included changing the agreement language, “unless approved by City Council” as it relates to prohibited music. The motion was seconded by Council Member Chenault and approved with a recorded roll call vote taken as follows:

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

Absent – None

City Attorney Thumma presented for Council’s consideration amending and re-enacting Chapter 1 of Title 14 of the Harrisonburg City Code. This taxicab ordinance is being updated and amended to reflect changes requested by public transit regulating taxicabs. Mr. Thumma reviewed the ordinances especially the use of the term “taxi”. Council Member Frank offered a motion to approve these ordinances 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 - Vice-Mayor Pace
Council Member Frank
Council Member Chenault
Council Member Byrd
Mayor Eagle

Absent – None

Police Chief Harper presented a request for a supplemental appropriation for the Police Department. These funds were reimbursed by a U.S. Department of Justice Assistance Grant and will be used to purchase computers. Vice-Mayor Pace offered a motion to approve this request for a first reading, and that:

\$3,519.07 chge. to: 1000-33546 Justice Assistance Grant

\$3,519.07 approp. to: 1000-310431-48171 EDP Equipment

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

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

Absent – None

The next item of business was a request to hold the Veterans Day Parade on Sunday, November 9, 2008, at 2:00 p.m. City Manager Hodgen reviewed the route. Council Member Chenault offered a motion to approve the request. The motion was seconded by Council Member Byrd and approved with a recorded roll call vote taken as follows:

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

Absent – None

The next item of business was a request to close City streets for Generations Crossing 5K Run/Walk. City Manager Hodgen said that Generations Crossing has partnered with First Night to sponsor a fund raising run/walk on New Years Eve. Council Member Chenault offered a motion to approve the request. The motion was seconded by Council Member Byrd and approved with a recorded roll call vote taken as follows:

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

Absent – None

City Attorney Thumma presented the following resolution for Council's consideration of approval:

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HARRISONBURG,
VIRGINIA, REMOVING THE
CITY'S ONE PERCENT (1%) SALES TAX ON HEATING FUEL**

WHEREAS, on September 25, 2001 at its regular meeting, a previous City Council by motion and a unanimous vote approved the repeal of the one percent (1%) sales tax on heating fuel, effective October 1, 2001; and

WHEREAS, the pursuant to Section 56 of the City Charter, the City Council shall only act by ordinance or resolution, except in dealing with parliamentary procedure; and

WHEREAS, the City Council wishes to correct the previous action by adopting this resolution to repeal the one percent (1%) sales tax on heating fuel, effective October 1, 2001;

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 repeals the one percent (1%) sales tax on heating fuel, effective October 1, 2001.

Approved: October 28, 2008

MAYOR

ATTEST:

CLERK OF THE COUNCIL

City Attorney Thumma said that on September 25, 2001, at its regular meeting, a previous City Council by motion and a unanimous vote approved the removal of one percent (1%) sales tax on heating fuel, effective October 1, 2001. The City has not been charging the one percent (1%) sales tax on heating fuel. The Commissioner of Revenue has received a request from the state for a copy of the City's ordinance or adopted resolution. Therefore, it is necessary to correct the previous action by adopting the resolution to repeal the one percent (1%) sales tax on heating fuel. Council Member Chenault 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 - Vice-Mayor Pace
Council Member Frank
Council Member Chenault
Council Member Byrd
Mayor Eagle

Absent – None

City Attorney Thumma presented the following resolution for Council's consideration of approval:

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HARRISONBURG,
VIRGINIA, AUTHORIZING THE
CITY MANAGER TO EXECUTE A DEED OF RELEASE FOR AN EASEMENT**

WHEREAS, on October 23, 2007 the City Council by ordinance vacated a 9,777 square foot variable width alley located on the south side of East Market Street to Hi-Sky Enterprises, LLC, a Virginia limited liability company; and

WHEREAS, within that ordinance the City Council reserved an electric utility easement for overhead power lines and poles; and

WHEREAS, the vacated alley is now owed by C City, LLC, a Virginia limited liability company, and they have given Harrisonburg Electric Commission another electric utility easement to replace the easement that was reserved in the ordinance and the power lines and poles have been moved; and

WHEREAS, C City, LLC, is requesting that the original electric utility easement be abandoned and vacated so they can construct a building over the vacated alley;

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 abandons and vacates the electric utility easement reserved in the ordinance, dated October 23, 2007 and recorded in the Clerk's Office of the Circuit Court of Rockingham County, Virginia, in Deed Book 3207, Page 40 and further directs the City Manager to execute a deed vacating and abandoning the easement to C City, LLC, a Virginia limited liability company.

Approved: October 28, 2008

MAYOR

ATTEST:

CLERK OF THE COUNCIL

City Attorney Thumma said by ordinance on October 23, 2007, the City vacated a 9,777 square foot variable width alley on East Market Street, which was owned by Hi-Sky Enterprises. The vacated alley is now owned by City Exchange, and they have given Harrisonburg Electric Commission another electric utility easement to replace the easement that was reserved in the ordinance. Council Member Chenault offered a motion authorizing the City Manager to execute a deed of release for an easement. The motion was seconded by Council Member Frank and approved with a recorded roll call vote taken as follows:

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

Absent – None

Council Member Byrd offered a motion to recommend Donna Stone (for a three-year term) to the Circuit Court for appointment to the Board of Equalization. The motion was seconded by Council Member Frank and approved with a recorded roll call vote taken as follows:

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

Absent – None

Council Member Chenault offered a motion that Michael L. Ellis, 84 Middlebrook Street, be re-appointed to a second term on the Harrisonburg Parks and Recreation Commission to expire on December 31, 2012. The motion was seconded by Council Member Byrd and approved with a recorded roll call vote taken as follows:

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

Absent – None

Council Member Chenault offered a motion that John Marr, 251 Maryland Avenue, be appointed to fill the unexpired term of Alex Banks to expire on December 31, 2009. The motion was seconded by Council Member Byrd and approved with a recorded roll call vote taken as follows:

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

Absent – None

Vice-Mayor Pace offered a motion that Doug Light, 610 Ott Street, be appointed to a first term on the Harrisonburg Electric Commission to expire on December 31, 2011. The motion was seconded by Council Member Byrd and approved with a recorded roll call vote taken as follows:

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

Abstained - Council Member Chenault

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 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 Frank and approved with a recorded roll call vote taken as follows:

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

Absent – None

At 9:00 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 9:01 p.m., there being no further business and on motion adopted, the meeting was adjourned.

CITY CLERK

MAYOR

JOINT CITY COUNCIL/COUNTY BOARD OF SUPERVISORS
MEETING

October 28, 2008

At a joint City Council/Board of Supervisors held this evening at 6:00 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; and City Clerk Yvonne "Bonnie" Ryan, MMC. Absent: Vice-Mayor George W. Pace. Rockingham County Board of Supervisors Members Pablo Cuevas; Dee Floyd; Frederick Eberly; County Administrator Joseph Paxton; and Assistant County Administrator Stephen King. Also, present were representatives from Anderson and Associates, Wiley & Wilson, Public Utilities Directors Mike Collins and Warren Heidt

Mayor Eagle called the meeting to order.

The purpose of the meeting was for both City Council and the Board of Supervisors to share information on future water supply. Public Utilities Director Mike Collins and Warren Heidt gave a brief overview of the City and County's water supply needs. Representatives from the engineering firms of Wiley & Wilson and Anderson and Associates then presented an overview of joint City-County water project that could address the near-term needs of both localities. Following further discussion and comments, Council agreed to move forward with an additional study to implement a plan and provide a cost estimate regarding a water supply partnership.

At 6:52 p.m., there being no further business and on motion adopted, the meeting was adjourned.

CITY CLERK

MAYOR