

REGULAR MEETING

OCTOBER 25, 2005

At a regular meeting of Council held this evening at 7:30 p.m., there were present: Mayor Larry Rogers; City Manager Roger Baker; Assistant City Manager Kurt Hodgen; City Attorney Earl Q. Thumma, Jr.; Vice-Mayor Rodney L. Eagle; Council Members Charles R. Chenault; and Hugh J. Lantz; City Clerk Yvonne "Bonnie" Ryan, CMC/MMCA, and Chief of Police Donald Harper. Absent: Council Member George W. Pace.

Council Member Chenault gave the invocation and Mayor Rogers led everyone in the Pledge of Allegiance.

Mayor Rogers read and presented the following resolution to Mrs. Jackie Thomas Suggs.

A RESOLUTION HONORING THE LATE DAN SUGGS, JR

WHEREAS, Dan Suggs, Jr. served with distinction, dedication and devotion as Executive Director of the ARC of Harrisonburg and Rockingham; and

WHEREAS, Dan Suggs, Jr. was a tireless advocate for the clients of the ARC and the Harrisonburg and Rockingham County communities; and

WHEREAS, Dan Suggs, Jr. played a leadership role in the rehabilitation and renovation of the Lucy Simms Center for Continuing Education; and

WHEREAS, on Wednesday, August 3, 2005, Dan Suggs, Jr. passed away;

NOW, THEREFORE BE IT RESOLVED that the City Council of Harrisonburg, Virginia hereby expresses its most sincere condolences to the family of Dan Suggs, Jr. and celebrates and honors his life, accomplishments and service to his community; and

BE IT FURTHER RESOLVED that a copy of this Resolution be presented to the family of Dan Suggs, Jr., and recorded in the minutes of the Harrisonburg City Council.

Adopted this 25th day of October, 2005

BY: _____

Larry M. Rogers, Mayor

ATTEST:

Yvonne Ryan, CMC, City Clerk

Bucky Berry, a resident of Harrisonburg, said the City should exempt organizations and groups from paying a fee to use the Simms Building.

Council Member Chenault offered a motion to approve the consent agenda, including approval of the minutes and the second reading of supplemental appropriations for the Public Works and Fire Department and amending and re-enacting Section 3-4-1 and changes to Chapter 2 Solid Waste Collection and Disposal of the Harrisonburg City Code. The motion also included creating two new residential zoning districts and a rezoning request from Keith May and Eric Adamson. The motion was seconded by Vice-Mayor Eagle, and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Lantz
Council Member Chenault
Vice-Mayor Eagle
Mayor Rogers

Absent – Council Member Pace

Kim Alexander, Community Development Block Grant Coordinator, presented an overview on the progress of last year's Community Development Block Grant Program. She reviewed a summary status of each of the projects. She said that funding was originally granted to the Community Association for Rural Transportation (CART); however, this subrecipient dissolved before the end of the program year. Approximately \$9,000 will be re-appropriated to another project. The Harrisonburg Children's Museum has requested that its project be terminated and applied toward an Economic Development project to install an elevator at the new Harrisonburg Children's Museum location. Since the Gay/Mason Street lights and Harrison Street sidewalks projects came in under budget, the remaining funds will be set aside and used for another project. She reviewed a list of projects that are underway for various reasons. These projects have had extension of their contracts until December 31, 2005. There is approximately \$4,000 left in the City Administration funds, but it has been spent. The Boys and Girls Club has not spent any of their money and have until December 31, 2005 to spend the funds. A delay was caused because of a change in the leadership of the organization. The Housing Authority in conjunction with the Community Resource Center through James Madison University has a \$6,000 grant. This project is on hold because they are waiting for a grant award of a larger amount. Approximately \$40,000 has been received from HUD and they have until December 31, 2005 to use the \$6,000. She said approximately \$116,000 is remaining in the fund and until December 31, 2005 it won't be known whether the money will be spent. The Consolidated Plan and Action Plan amendment will have to be completed after December 31, 2005.

At 7:46 p.m., Mayor Rogers closed the regular session temporarily and called the evening's first public hearing to order. The following notice appeared in the Daily News-Record Saturday, October 15, 2005.

**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 04-05.

All comments must be received no later than October 31, 2005, at 9:00 A.M. Comments may be submitted to Kimberly Alexander, CDBG Coordinator, at 345 South Main Street, Harrisonburg, Virginia 22801, CDBG@ci.harrisonburg.va.us, or (540) 432-8923.

Comments may also be submitted during the CDBG / CAPER Public Hearing portion of the regular City Council meeting on October 25, 2005, at 7:30 P.M. in the City Council Chambers, Harrisonburg Municipal Building.

Copies of the draft CAPER are available for review in the City Manager's Office, 345 South Main Street, Harrisonburg, Virginia 22801 and at www.ci.harrisonburg.va.us on the CDBG homepage.

A summary of the CAPER is as follows:

In 2004, the City was awarded \$648,000 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	\$185,000.00	\$172,223.13	\$12,776.87
Community & Public Facilities	\$176,950.00	\$175,141.15	\$1,808.85
Administration	\$129,600.00	\$125,811.26	\$3,788.74
Public Services	\$ 91,200.00	\$ 58,669.11	\$32,530.89
Economic Development	<u>\$ 65,250.00</u>	<u>\$ 0.00</u>	<u>\$65,250.00</u>
Total	\$648,000.00	\$531,844.65	\$116,155.35

Mayor Rogers called on anyone desiring to speak for or against the CAPER.

Bucky Berry, a resident of Harrisonburg, thanked Kim Alexander for the sidewalk on East Washington Street.

Michael Wong, Executive Director of the Harrisonburg Redevelopment and Housing Authority, said we were successful through the Harrisonburg Continuing Care Housing Alliance in receiving a \$42,000 grant from HUD. There being no others desiring to be heard, the public hearing was declared closed at 7:48 p.m., and the regular session reconvened.

A scheduled public hearing rezoning request by Martin Eby has been withdrawn.

The next item of business was a report on Blacks Run. Dia Russell, Healthy Stream Coordinator, said Blacks Run assets include a historical foundation, source of recreation, tourism draw to enhance economic development, and a focal point for a sense of community pride. She said concerns include the Gay Street culvert, water quality, and stream bank erosion/loss of land, flooding, and drainage. It is a grave concern if Blacks Run does not function the way it is intended too. Blacks Run starts about several hundred feet North of the

City limits and extends two miles South of the City limits. The Gay Street storm culvert is a source of the pollution in stream, but it has not been determined what that source of pollution is. She said that this large box culvert extends to Route 42 and was designed to carry only storm water. However, since it is an old line many structures have been built on top of it. Some of the pipes pass through this storm tunnel. It has been very difficult to determine what pipes are running through that line and more challenging to figure out if any of them are a suspect for the point of contamination. She said that on September 13th a City employee noticed that the stream water had turned black below this culvert. On the evening of September 14th, approximately 50,000 gallons of water were pumped out of the stream because an unhealthy growth of algae had been noticed in the stream. She said that as algae goes through its life cycle it dies and then turns green and then black. The algae life cycle robs all of the oxygen from the stream leaving a stream environment that does not support life and has a foul odor. Once again, on September 29th the stream turned black and was pumped. Massive investigations have been done including visual, above ground walking, looking, inspecting, popping manholes, dye testing storm and sewer lines, sending TV camera into storm and sewer lines, and conducting water tests. Several things have been found, but are minor contributors. The major cause has not been found. Through all of these water tests we are getting a base line for what we want the stream to be and what it is. It will give us an opportunity to gauge our progress as well as continuing to do visual investigation.

She said there has to be a standard of water quality for a stream. The standards have been set by EPA and DEQ and the standards Blacks Run must meet are for human recreation and aquatic life species. In 1998, a series of tests indicated that Blacks Run did not meet the standards, which placed it on the list of impaired waters for Virginia. There has been substantial chemical and biological testing, which has led to areas that need focusing on as far as impairments. The first is fecal coliform or ecoli contamination. There is also too much sediment in the water. An estimated 50% of sediment comes from the stream bank erosion, which means loss of land. Change in bank structure and stream profile decreases ability to accommodate high water events. Having a floodplain that the stream can access as it rises and having vegetation to secure that floodplain in the stream bank is critical. She reviewed programs that are being put into place to focus on Blacks Run. The City has formed an informal water quality committee that has representatives from four departments. Some problems have been found and fixed. There are five rain gardens within the City and attention has been focus on education and outreach. Direction for the future includes watershed management planning, integrate otherwise interdependent issues and programs, assess watershed, current programs and initiatives, identify critical concerns and set priorities. Planning will lead to better coordination and efficiency of limited resources, provide guidance and framework, and apply for and receive funds.

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

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HARRISONBURG,
VIRGINIA
REGARDING THE CITY'S SUPPORT FOR THE HARRISONBURG
REDEVELOPMENT AND HOUSING AUTHORITY'S RENOVATION OF FORTY
PUBLIC HOUSING UNITS LOCATED IN NINETEEN BUILDINGS ON KELLEY AND**

HILL STREETS, HARRISONBURG, VIRGINIA

WHEREAS, the Harrisonburg Redevelopment and Housing Authority (the "Authority"), in order to promote the commerce, safety, health, welfare, convenience or prosperity of the Commonwealth of Virginia, and the City of Harrisonburg (the "City"), and to enhance the welfare of the citizens of the City, has decided to rehabilitate and improve forty public housing units located in nineteen buildings located on Kelley and Hill Streets, Harrisonburg, Virginia. (the "Project");

WHEREAS, the Project will enhance the health, safety, and welfare of the citizens of the City;

WHEREAS, the Authority intends to borrow up to \$1,000,000 for a term of one year at an interest rate not to exceed five percent (5%) per year (the "Loan") from one or more banks to provide financing for the Project and that such loan will be documented by a loan or financing agreement, note, or other similar documents (together, the "Loan Documents");

WHEREAS, the Authority intends to apply for funding from the U.S. Department of Housing and Urban Development to fund all or a portion of the Project (the "Grant");

WHEREAS, the Authority intends to repay the Loan with a portion of the Grant.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Harrisonburg, Virginia that:

- 1. The City Council approves the foregoing recitals, which are incorporated in, and deemed a part of, this Resolution as if fully set forth herein.**
- 2. The City will have a moral, but non-binding obligation to repay the Loan should the Authority not receive adequate funds under the Grant**
- 3. Each of the City Manager, the Mayor and the Vice-Mayor is authorized to take such actions and to execute such documents as are necessary to achieve the purposes set forth in this Resolution.**
- 4. This Resolution shall take effect immediately upon its adoption.**

READ AND ADOPTED: October 25, 2005

CERTIFICATE

Record of the roll-call vote by the City Council of the City of Harrisonburg, Virginia, upon reading of a resolution titled "RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HARRISONBURG, VIRGINIA REGARDING THE CITY'S SUPPORT FOR THE HARRISONBURG REDEVELOPMENT AND HOUSING AUTHORITY'S RENOVATION OF FORTY PUBLIC HOUSING UNITS LOCATED IN NINETEEN BUILDINGS ON KELLEY AND HILL STREETS, HARRISONBURG, VIRGINIA, taken at a regular meeting of the City Council held on October 25, 2005:

	AYE	NAY	ABSTAIN	ABSENT
Larry M. Rogers, Mayor	X			
Rodney Eagle, Vice-Mayor	X			
George W. Pace				X
Hugh J. Lantz	X			
Charles R. Chenault	X			

Dated: October 25, 2005

(SEAL)

Mayor, City of Harrisonburg, Virginia

ATTEST:

Clerk, City Council of the City of
Harrisonburg, Virginia

The undersigned Clerk of the City Council of the City of Harrisonburg, Virginia (the "City Council") hereby certifies that the foregoing is a true, correct and complete copy of a Resolution adopted by the City Council at its meeting duly called and held on October 25, 2005, in accordance with law, and that such Resolution has not been repealed, revoked, rescinded or amended, but is in full force and effect as of the date hereof.

WITNESS my hand and the seal of the City of Harrisonburg, Virginia this ____ day of October, 2005.

Clerk, City Council of the
City of Harrisonburg, Virginia

Michael Wong, Executive Director of Harrisonburg Redevelopment and Housing Authority, said the authority intends to borrow \$1 million to assist in the renovation of 40 public housing units on Kelley and Hill Streets. The use of the City's moral obligation will assist HRHA to receive a lower rate. Vice-Mayor Eagle offered a motion to approve the resolution. The motion was seconded by Council Member Lantz, and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Lantz
Council Member Chenault
Vice-Mayor Eagle
Mayor Rogers

Absent – Council Member Pace

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

**RESOLUTION APPROVING THE ISSUANCE BY THE HARRISONBURG
REDEVELOPMENT AND HOUSING AUTHORITY OF ITS MULTIFAMILY
HOUSING REVENUE BONDS FOR THE ACQUISITION AND
REHABILITATION OF THE APPROXIMATELY 292 UNIT
BROOKE RIDGE APARTMENTS MULTI-FAMILY HOUSING FACILITY
LOCATED IN HENRICO COUNTY, VIRGINIA**

WHEREAS, the Harrisonburg Redevelopment and Housing Authority (the "Authority") is authorized to advertise and hold public hearings relative to the issuance of private activity bonds; and,

WHEREAS, the Authority considered the request of TMG Brooke Ridge, LP, a Virginia limited partnership, whose address is 141-07 20th Avenue, Suite 507, Whitestone, New York 11357, (the "Purchaser") for the issuance by the Authority of up to \$13,500,000 of its Tax-Exempt Multifamily Housing Revenue Bonds (Brooke Ridge Apartments Project) (the "Bonds"), to finance a portion of the cost of acquiring and rehabilitating an approximately 292 unit multifamily residential rental housing project known as Brooke Ridge Apartments (the "Project"), located at 5613 Crenshaw Road in Henrico County, Virginia (the "County"); and,

WHEREAS, pursuant to Section 36-23 of the Code of Virginia of 1950, as amended (the "Virginia Code"), the Authority may exercise its powers in the territorial boundaries of the County by issuing the Bonds for the Project provided the governing body of the County adopts a resolution (the "Section 36-23 Resolution") declaring there is a need for the Authority to exercise its powers within the County; and,

WHEREAS, on October 25, 2005, the Authority conducted a public hearing preceded by public notice on the issuance of Bonds and, by adoption of a resolution (the "Official Intent Resolution"), declared its official intent to issue the Bonds to finance the Project, subject to the Board of Supervisors of the County adopting the Section 36-23 Resolution, and recommended that the City Council of the City of Harrisonburg (the "City Council") approve the issuance of the Bonds; and,

WHEREAS, prior to the issuance of the Bonds, the Board of Supervisors of the County will also conduct a public hearing and will adopt the Section 36-23 Resolution; and,

WHEREAS, Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Internal Revenue Code"), provides that the applicable elected representatives of the governmental unit issuing private activity bonds and the applicable representatives of the governmental unit having jurisdiction over the area in which any facility financed with the proceeds of private activity bonds is located, shall approve the issuance of such bonds; and,

WHEREAS, the Authority, as the issuing governmental unit, has no applicable elected representative and the City is the next highest governmental unit with such a representative; and,

WHEREAS, the members of the City Council constitute the applicable elected representatives of the City of Harrisonburg; and,

WHEREAS, Chapter 514 of the 1983 Acts of the General Assembly of Virginia requires that any government entity established by or pursuant to an Act of the General Assembly that proposes to issue bonds that are industrial development bonds within the meaning of Section 103(b) of the Internal Revenue Code of 1954, as amended, shall, with respect to such bonds, comply with the procedures set forth in Virginia Code Sections 15.2-4906 and 15.2-4907; and,

WHEREAS, Virginia Code Section 15.2-4906 requires that, within sixty (60) calendar days after the public hearing, the City Council approve or disapprove the financing of any facility recommended by the Authority; and,

WHEREAS, the Authority has adopted the Official Intent Resolution recommending that the City Council approve the issuance of the Bonds and a copy of the Official Intent Resolution, a reasonably detailed summary of the comments, if any, expressed at the public hearing of the Authority and the Fiscal Impact Statement required by Virginia Code Section 15.2-4907, have been filed with the City Council.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Harrisonburg, Virginia, that:

1. The City Council approves the foregoing recitals, which are incorporated in, and deemed a part of, this Resolution as if fully set forth herein.

2. The City Council approves the issuance of the Bonds and the Authority's taking all actions necessary in the discretion of the Authority to assist in the financing of the Project to the extent of and as required by Section 147(f) of the Internal Revenue Code, Chapter 514 of the 1983 Acts of the Virginia General Assembly, and Virginia Code Sections 15.2-4906, 15.2-4907 and 36-19.2.

3. The approval of the issuance of the Bonds as required by Section 147(f) of the Internal Revenue Code, Chapter 514 of the 1983 Acts of the Virginia General Assembly, and Virginia Code Sections 15.2-4906, 15.2-4907 and 36-19.2 does not constitute an endorsement to the prospective owners of the Bonds of the creditworthiness of the Project or the Purchaser and the Bonds shall provide that neither the City of Harrisonburg nor the Authority shall be obligated to pay the Bonds or the interest thereon or other costs incident thereto except from the revenues and monies pledged thereto, and that neither the faith and credit nor the taxing power of the City of Harrisonburg or the Authority is pledged to the payment of the principal of the Bonds or the interest thereon or other costs incident thereto.

4. In approving this resolution, the City of Harrisonburg, including its elected representatives, officers, employees and agents, shall not be liable, and hereby disclaim all

liability for any damages to any person, direct or consequential, resulting from the Authority's failure to issue the Bonds for any reason.

This resolution shall take effect immediately upon its adoption.

READ AND ADOPTED: October 25, 2005

CERTIFICATE

Record of the roll-call vote by the City Council of the City of Harrisonburg, Virginia, upon reading of a resolution titled "RESOLUTION APPROVING THE ISSUANCE BY THE HARRISONBURG REDEVELOPMENT AND HOUSING AUTHORITY OF ITS MULTIFAMILY HOUSING REVENUE BONDS FOR THE ACQUISITION AND REHABILITATION OF THE APPROXIMATELY 292 UNIT BROOKE RIDGE APARTMENTS MULTI-FAMILY HOUSING FACILITY LOCATED IN HENRICO COUNTY, VIRGINIA," taken at a regular meeting of the City Council held on October 25, 2005:

	AYE	NAY	ABSTAIN	ABSENT
Larry M. Rogers, Mayor	X			
Rodney Eagle, Vice-Mayor	X			
George W. Pace				X
Hugh J. Lantz	X			
Charles R. Chenault	X			

Dated: October 25, 2005

(SEAL)

Mayor, City of Harrisonburg, Virginia

ATTEST:

Clerk, City Council of the City of
Harrisonburg, Virginia

The undersigned Clerk of the City Council of the City of Harrisonburg, Virginia (the "City Council") hereby certifies that the foregoing is a true, correct and complete copy of a Resolution adopted by the City Council at its meeting duly called and held on October 25, 2005, in accordance with law, and that such Resolution has not been repealed, revoked, rescinded or amended, but is in full force and effect as of the date hereof.

WITNESS my hand and the seal of the City of Harrisonburg, Virginia this ____ day of October, 2005.

Clerk, City Council of the

City of Harrisonburg, Virginia

Michael Wong, Executive Director of Harrisonburg Redevelopment and Housing Authority, said approval of this resolution does not in any way obligate the City and is done as a service by the authority for other localities. Council Member Lantz offered a motion to approve the resolution. The motion was seconded by Vice-Mayor Eagle, and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Lantz
Council Member Chenault
Vice-Mayor Eagle
Mayor Rogers

Absent – Council Member Pace

City Manager Baker said the City currently offers its employees a Flexible Benefits Cafeteria Plan. Federal regulations have changed and will allow employees to have 2.5 months after the end of the plan year to submit a reimbursement request. Council Member Lantz offered a motion to approve this resolution as presented. The motion was seconded by Council Member Chenault, and approved with a unanimous vote of Council Members present.

The next item of business was a request to close City streets for Generations Crossing 5K Run/Walk. City Manager Baker said that Generations Crossing has partnered with First Night to sponsor a fund raising run/walk on New Years Eve. He reviewed the route. Vice-Mayor Eagle offered a motion to approve this request. The motion was seconded by Council Member Chenault, and approved with a unanimous vote of Council Members present.

Police Chief Harper presented a request for a supplemental appropriation for the Police Department. He said these funds will replace monies spent on overtime for Weed and Seed grant. Council Member Chenault offered a motion to approve this request for a first reading, and that:

\$6,013.26 chge. to: 1000-32211 Weed and Seed state

\$6,013.26 approp. to: 1000-310231-41020 Salaries/wages overtime

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

Vote: Yes - Council Member Lantz
Council Member Chenault
Vice-Mayor Eagle
Mayor Rogers

Absent – Council Member Pace

Police Chief Harper presented a request for a supplemental appropriation for the Police Department. He said that these funds were donated from James McHone Antique Jewelry to purchase equipment for the new bomb K-9 dog. Council Member Chenault offered a motion to approve this request for a first reading, and that:

\$500.00 chge. to: 1000-31809 Donations

\$500.00 approp. to: 1000-310231-46140 Other Operating Expenses

The motion was seconded by Vice-Mayor Eagle, and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Lantz
Council Member Chenault
Vice-Mayor Eagle
Mayor Rogers

Absent – Council Member Pace

Michael Wong, Executive Director of Harrisonburg Redevelopment and Housing Authority, said he supported the Blacks Run and Liberty Park projects.

Council Member Chenault congratulated Harrisonburg Electric Commission for doing a great job in serving the residents of the City. He also said the Harrisonburg Fire Museum is now open and congratulated Fire Chief Shifflett for doing a wonderful job of putting the history of Harrisonburg's fire service on display. The museum is located in the Public Safety Building. Council received a letter from Superintendent Donald Ford of the City Schools informing everyone of the significant increase in VRS contributions. He asked City Manager Baker to communicate with our state representatives on how difficult this increase would be for Harrisonburg.

At 9:30 p.m., Council Member Lantz offered a motion that Council enter a closed session for discussion and consideration of personnel and prospective candidates to be appointed to the Harrisonburg Parking Authority and Tree Advisory Board, exempt from the public meeting requirements pursuant to Section 2.2-3711(A)(1) of the Code of Virginia. Discussion concerning a prospective business where no previous announcement has been made of the business' interest in locating within the City, exempt from public meeting requirements pursuant to Section 2.2-3711(A)(5) of the Code of Virginia. Discussion and consideration of the acquisition of real estate to be used for public purposes, exempt from public meeting requirement pursuant to Section 2.2-3711(A)(3) of the Code of Virginia, 1950, as amended. The motion was seconded by Vice-Mayor Eagle, and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Chenault
Council Member Lantz
Vice-Mayor Eagle
Mayor Rogers

Absent – Council Member Pace

At 10:45 p.m., the closed session ended and the regular session reconvened. City Clerk Ryan 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 requirements 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 10:46 p.m., there being no further business and on motion adopted the meeting was adjourned.

CITY CLERK

MAYOR

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