

REGULAR MEETING

September 9, 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; and Chief of Police Harper. Absent: City Clerk Yvonne “Bonnie” Ryan, MMC.

Vice-Mayor Pace gave the invocation, and Mayor Eagle led everyone in the Pledge of Allegiance.

Martin Solomon complained about Police officers stopping him because he operates a free ride service for students.

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 Police Department. The motion also included a request to close an alley between East Market Street and E. Water Street. The motion was seconded by Council Member Chenault and approved with a recorded roll call vote taken as follows:

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

Absent – None

Planning and Community Development Director Turner introduced a request to amend Article B. Plats Generally, Sections 10-2-23 and 10-2-25 of the Subdivision Ordinance. The City’s Small Municipal Separate Storm Sewer Systems (MS4) Permit requires the enforcement of six stormwater management control measures; one of which is post-construction stormwater management. To enforce this control measure, the City is requiring property owners to demonstrate where their BMP areas will be located and to submit a stormwater management/BMP facilities maintenance agreement to be accepted by the City and then recorded along with or in advance of the plat. Both amendments are part of the City’s method to bring awareness and accountability to the MS4 Permit, which ultimately leads to compliance with the Virginia Pollutant Discharge Elimination System (VPDES) Program. Planning Commission recommended amending these ordinances.

At 7:08 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 Monday, August 25, and Tuesday, September 2, 2008.

NOTICE OF PUBLIC HEARING

The Harrisonburg City Council will hold several public hearings on Tuesday, September 9, 2008 at 7:00 p.m., in the City Council Chambers, 409 South Main Street to consider the following:

Ordinance Amendment – Subdivision Ordinance Section 10-2-23 Stormwater BMP Areas

Public hearing to consider amending Article B. Plats Generally, Section 10-2-23 of the Subdivision Ordinance to include language to require showing the location of stormwater Best Management Practice (BMP) Areas on preliminary subdivision plats.

Ordinance Amendment – Subdivision Ordinance Section 10-2-25 Stormwater BMP Areas

Public hearing to consider amending Article B. Plats Generally, Section 10-2-25 of the Subdivision Ordinance to include language to require showing the location of stormwater Best Management Practice (BMP) Areas on final subdivision plats.

CITY OF HARRISONBURG
Kurt D. Hodgen
City Manager

Mayor Eagle called on anyone desiring to speak for or against amending these ordinances. There being no one desiring to be heard, the public hearing was declared closed at 7:09 p.m., and the regular session reconvened. Council Member Frank offered a motion to amend these ordinances 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 Byrd
Council Member Chenault
Council Member Frank
Vice-Mayor Pace
Mayor Eagle

Absent – None

Planning and Community Development Director Turner introduced a request to amend Chapter 14 of the Comprehensive Plan-Revitalization. Mrs. Turner said City Staff composed the language as an amendment to the Comprehensive Plan under Goal 13 to enhance and revitalize existing residential and commercial areas. The objective is to make downtown revitalization a major, high priority public/private initiative, the cornerstone of the City's economic development, tourism, historic preservation, and civic pride enhancement efforts. Mrs. Turner said they had been approached by Harrisonburg Downtown Renaissance and other businesses requesting whether outdoor dining facilities were permitted. No special permission is required, but a business would have to appear before City Council and ask for a permit to use the public right-of-way. Since some businesses would like to have public endorsement, Staff added a statement: *Encouraging flexibility and creativity in the use of public property and resources in*

the downtown (i.e. restaurant/café use of public sidewalk, consideration of development proposals for public properties, etc.). Planning Commission recommended inserting the proposed language into Chapter 14 of the City's Comprehensive Plan-Revitalization.

At 7:13 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, August 25, and Tuesday, September 2, 2008.

NOTICE OF PUBLIC HEARING

The Harrisonburg City Council will hold several public hearings on Tuesday, September 9, 2008 at 7:00 p.m., in the City Council Chambers, 409 South Main Street to consider the following:

Comprehensive Plan Amendment– Chapter 14 Revitalization

Public hearing to consider a request to amend the Comprehensive Plan Chapter 14 Revitalization by adding language to encourage flexibility and creativity in the use of public property and resources in the downtown.

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 (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 the proposed language.

Eddie Bumbaugh, Executive Director of Harrisonburg Downtown Renaissance (HDR), spoke in support of the amendment to the Comprehensive Plan as proposed by the Planning Commission. This proposed amendment falls under the section of the Harrisonburg Downtown Renaissance initiatives within the Comprehensive Plan. This is not a totally new concept; it has been discussed numerous times on the committee level, and the organization would like to encourage it. The HDR staff recently attended a Virginia Main Street Workshop on downtown restaurants and outdoor dining. The presenter made very strong recommendations that as part of a revitalization effort, downtowns need to permit and encourage sidewalk cafes.

Howard Simmons, owner of Old Dominion Coffee Company, said he has several tables on the sidewalk and asked Council to support outside dining.

Howard Weiner, owner of a new restaurant and sidewalk café opening up on the corner of East Market and South Mason Streets, said he is taking a proactive approach with the outdoor seating as far as safety is concerned. All of the tables and chairs will be on a private sidewalk but, since it is a very busy intersection, concrete columns will be used around the seating to prevent a vehicle from hitting pedestrians. There being no others desiring to be heard, the public hearing

was declared closed at 7:22 p.m., and the regular session reconvened. Following further discussion and comments, Council Member Chenault offered a motion to amend Chapter 14 of the Comprehensive Plan-Revitalization. The motion was seconded by Council Member Frank and approved with a recorded roll call vote taken as follows:

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

Absent – None

Planning and Community Development Director Turner introduced a request from Orden and Reba Harman to preliminarily subdivide one, 33.69 +/- acre lot into 2 lots with a variance. The Comprehensive Plan designates this area as Medium-Density Mixed Residential. Mrs. Turner reviewed the surrounding uses in the area. The applicant is requesting to subdivide a 33.69 acre parcel into a 13.97 acre lot and a 19.72 acre lot. The property will be partially divided by the dedication of a public street. The property is located along Stone Spring Road and adjacent to Interstate 81. In February of this year, City Council approved the rezoning of this property from R-3, Multiple Dwelling Residential District to R-5C, High Density Residential District Conditional. The proffers specified that a dedicated public street would line up with the realigned Ramblewood Road and that the street would loop through the property and be completed when 60% of the development occurred on site. Other proffers included green space, a bike/multi-use path, a total of 1,054 residential units, and that they would dedicate the necessary right-of-way and easements for the Erickson Avenue/Stone Spring Road improvement project. Ultimately, the units that are constructed on the overall project site will be served by one public street. The applicant has accommodated all the requirements that were part of the rezoning proffers in February. The City has a standard variance requirement that a cul-de-sac serving a residential development shall be designed to a length that will carry a maximum of 250 vehicles per day, not to exceed 800 feet in length. The comprehensive site plan, which is already in review, further reveals that 182 units will be developed in the first phase, generating approximately 1,200 vehicles per day. Planning Commission recommended approving a variance to the cul-de-sac length. Following further discussion and comments, Vice-Mayor Pace 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 Byrd
Council Member Chenault
Council Member Frank
Vice-Mayor Pace
Mayor Eagle

Absent – None

The next item of business was recognizing Harrisonburg's Master Deputy Commissioner of the Revenue Jeffery Lewis Shafer. Commissioner of the Revenue June W. Hosaflook said it was a pleasure to recognize an employee for a professional achievement. The Commissioners of the Revenue Association of Virginia have announced that Jeffery Lewis Shafer, while employed as Harrisonburg's Chief Deputy Commissioner of the Revenue, has been awarded the title of Master Deputy Commissioner of the Revenue under the Master Designation Program administered by the University of Virginia's Weldon Cooper Center for Public Service. The Master Program was developed to enhance the professionalism of local government officials and their staffs. Mr. Shafer thanked the City Council for their continued support.

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

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HARRISONBURG,
VIRGINIA, SETTING THE PERCENTAGE OF PERSONAL PROPERTY
TAX RELIEF FOR THE YEAR 2008**

WHEREAS, pursuant to Article J of Title 4, Chapter 2 of the Harrisonburg City Code, the City Council shall by resolution set the percentage of personal property tax relief that is anticipated to fully exhaust the Personal Property Tax Relief Act of 1998 (PPTRA) funds provided to the city by the Commonwealth of Virginia; and

WHEREAS, the percentage of personal property tax relief for the year 2008 has been determined to be forty percent (40.0%);

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, sets the percentage of personal property tax relief for the tax year of 2008 to be forty percent (40.0%), which percentage is anticipated to fully exhaust the PPTRA relief funds provided to the city by the Commonwealth of Virginia.

Approved: September 9, 2008

MAYOR

ATTEST:

CLERK OF THE COUNCIL

Commissioner of the Revenue June Hosaflook said this resolution will set the percentage of tax relief commonly known as the car tax for 2008. The car tax is a fixed amount of money set by the state. The amount will be forty percent (40.0%). Following further discussion and comments, Vice-Mayor Pace offered a motion to adopt the resolution setting the percentage of personal property tax relief for the year 2008 at 40.0%. The motion was seconded by Council Member Frank and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Byrd
Council Member Chenault
Council Member Frank
Vice-Mayor Pace
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 REGARDING THE CITY’S SUPPORT FOR RENOVATION OF PUBLIC
HOUSING UNITS BY THE HARRISONBURG REDEVELOPMENT AND HOUSING
AUTHORITY**

WHEREAS, the Harrisonburg Redevelopment and Housing Authority (the “Authority”), in order to promote low income public housing in the City of Harrisonburg, Virginia (the “City”), has decided to rehabilitate and improve some of its public housing units known as Franklin Heights and Scattered Sites located in the City (the “Project”);

WHEREAS, it is anticipated that the Authority will borrow up to \$2,000,000 for a term of no more than 1 year at an interest rate not to exceed 3.50 percent per year (the “Loan”) from one or more banks (together, the “Lender”) 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, to encourage the rehabilitation and improvement of the public housing units the City will enter into an agreement with the Authority (the “Support Agreement”) in which the City will agree that if funds of the Authority (“Authority Funds”) are not sufficient to pay the costs of renovating, insuring and maintaining the Project and paying the debt service and other costs due under the Loan Documents, the City has a moral, but non-binding, obligation to pay moneys to the Authority in such amounts and at such times as will allow the Authority to pay such costs and debt service in a timely manner;

WHEREAS, all payments due from the City under the Support Agreement will be subject to and conditioned upon the City Council making annual appropriations to make such payments and if such appropriations are not made, such payments will not be made, and

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

1. The City 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 make payments under the Support Agreement in amounts sufficient to allow the Authority to make up shortfalls from Authority Funds to pay the costs of renovating, operating, insuring and maintaining the Project and paying the debt service and other costs due under the Loan Documents. The Support Agreement will provide that the City Manager or other officer charged with the responsibility for preparing the City's annual budget shall include in the budget for each fiscal year as a single appropriation an amount sufficient to cover such shortfall. Throughout the term of Support Agreement, the City Manager or other officer charged with the responsibility for preparing the City's annual budget will be required to deliver to the Authority within 10 days after the adoption of the annual budget for each fiscal year, but no later than 10 days after the beginning of each fiscal year, a certificate stating whether such amount has been appropriated by the City Council in such budget.

3. The Support Agreement will set forth the City's responsibilities for renovating, operating, insuring and maintaining the Project, all subject to annual appropriation by the City Council. The City will work with the Authority and the Lender to devise a plan for such renovations, operations, insurance and maintenance reasonably acceptable to all parties.

4. The City Council approves the signing of the Support Agreement, and authorizes and directs the City Manager, the Mayor or the Vice-Mayor, any one of whom may act, to execute and deliver the Support Agreement in such form as they shall approve as shall be necessary to accomplish the intended purposes of the Support Agreement. The execution of the Support Agreement shall be deemed to evidence such approval.

5. The City Manager, Mayor and Vice-Mayor are also authorized to take such other actions and to execute such other documents as are necessary to achieve the purposes set forth in this Resolution.

6. The Resolutions shall take effect immediately upon its adoption.

READ AND ADOPTED: September 9, 2008

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 OF HARRISONBURG, VIRGINIA REGARDING THE RENOVATION OF PUBLIC HOUSING UNITS BY THE HARRISONBURG REDEVELOPMENT AND HOUSING AUTHORITY," taken at a regular meeting of the City Council held on ____ day of September, 2008.

	AYE	NAY	ABSTAIN	ABSENT
Rodney E. Eagle, Mayor				
George W. Pace, Vice Mayor				
Charles R. Chenault				
Ted Byrd				
Carolyn Frank				

By: _____

Mayor or Vice Mayor,
City of Harrisonburg, Virginia

(SEAL)

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 the ____ day of September, 2008, 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 September, 2008.

Clerk, City Council of the
City of Harrisonburg, Virginia

Harrisonburg Redevelopment and Housing Authority Director Michael Wong requested a resolution for support of a renovation project in the amount of \$2,000,000 for the Franklin Heights development and scattered sites. Mr. Wong reviewed the renovation project, eligibility and exempt status, and project Section 8 housing. Following further discussion and comments, Vice-Mayor Pace offered a motion to approve this resolution 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 Byrd
Council Member Frank
Vice-Mayor Pace
Mayor Eagle

Abstained - Council Member Chenault

Absent – None

The next item of business was a concurring Resolution for Bonds issued by the Town of Broadway Industrial Development Authority on behalf of Eastern Mennonite University. City Attorney Thumma said that the Industrial Development Authority for the Town of Broadway, Virginia is issuing bonds in an amount not to exceed 10 million dollars on behalf of Eastern Mennonite University to finance a dorm and to refund a prior issue. Since EMU is located within the City limits, the Broadway IDA needs a concurring resolution approving the issuance of the bonds by the City Council. The City has no obligation to repay the bonds, nor do they apply against the City's debt limit or bank qualified bonds for the year 2008. 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 Byrd
Council Member Chenault
Council Member Frank
Vice-Mayor Pace
Mayor Eagle

Absent – None

Police Chief Harper presented a request for a supplemental appropriation for the Police Department. These funds were reimbursed by a Division of Motor Vehicles Grant (Click It or Ticket) and will be used for overtime, travel and training. Vice-Mayor Pace offered a motion to approve this request for a first reading, and that:

\$12,203.47 chge. to: 1000-33524 Federal DMV Grant

\$ 3,079.62 approp. to: 1000-310231-41020 Salaries/wages OT

8,640.19 approp. to: 1000-310631-41020 Salaries/wages OT

483.66 approp. to: 1000-310631-45530 Training/travel

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

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

Absent – None

The next item of business was a report on possible re-routing of downtown truck traffic. Public Works Superintendent Drew Williams said the Code of Virginia does make specific provisions to restrict truck traffic if the local elected body chooses to do so. VDOT's policy states that a reasonable alternate route must be able to accommodate the same amount of truck

traffic. Mr. Williams reviewed some potential issues and suggested presenting a report to Council in late October or early November.

At 8:48 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 Vice-Mayor Pace and approved with a recorded roll call vote taken as follows:

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