

REGULAR MEETING

June 12, 2007

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

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

Rose Garrison introduced Rich Sider the new Executive Director of the Harrisonburg Rockingham Free Clinic.

Rich Sider said he was significantly impressed by the giving nature of the community and their support for the Free Clinic.

Bob Steere, representing the American Legion Post #27, announced that a rededication ceremony will be held on July 4, 2007 at 1:00 p.m. at the World War I Memorial Monument on South Main Street. He reviewed the planned scheduled activities for the day and noted that descendants of the war will be honored.

Anthony Bopp, a resident of the City, said that according to the Virginia code it is unlawful for any railroad company, or any receiver or trustee operating a railroad, to obstruct for a longer period than five minutes the free passage on any street or road by standing cars or trains across the same except for a passenger train. He questioned why the railroad is not being fined because most of the time the train stops last 10 minutes or longer?

Vice-Mayor Pace offered a motion to approve the consent agenda, including approval of the minutes, and the second reading of a supplemental appropriation for the Fire Department and adjusting the General Fund and Emergency Communication fund budgets. The motion also included an ordinance amending and re-enacting Section 13-1-3 and 4-2-12 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
Vice-Mayor Pace
Mayor Eagle

Absent - None

City Attorney Thumma said that the Police Department cannot issue a ticket or summons for a misdemeanor unless it is committed within his/her presence. It is up to a citizen to swear out an affidavit, get a warrant, and charge the railroad company.

Council Member Chenault asked City Attorney Thumma to research whether the Attorney General had an opinion on the state status.

The next item of business was a report on establishing a Railroad Quiet Zone in Harrisonburg. Donovan Branche said a Federal rule requires the sounding of train horns at all public railroad grade crossings. In this rule, the FRA set out the regulatory procedures and requirements necessary for the implementation of a quiet zone, in which a train horn noise may be reduced. Generally, a quiet zone must be at least one-half mile in length and all the crossings within that zone must have a minimum of flashing lights, gates, and also advance warning signs for motorists and pedestrians noting that the horn will not sound at the crossing. Once these minimum requirements have been satisfied, the City will then be prepared to run the quiet zone Calculator. This calculator will show if any of the crossings within the proposed quiet zone still have a safety risk that is higher than the National Significant Risk Threshold. If the risk is higher, additional safety measures must be installed. She reviewed the supplementary and alternative categories. The preferred method for establishing a quiet zone is a public authority designation, which uses the supplementary safety measures. She said that the City has 34 railroad crossings operated by the Chesapeake Western Railway. The cost of providing these gates is between \$150,000 and \$300,000 per crossing for flashing lights. In order for a locality to begin considering a quiet zone, each crossing must be equipped with flashing lights and gates. In addition, each crossing must have Constant Warning Time Circuitry and Power Out Indicators, which could be an additional expense of approximately \$100,000 per system. Also, Northern Southern imposes a quiet zone Administrative Handling Fee of \$2,800. The total of crossings in the proposed quiet zone is 27, and the City has nine crossings that do not meet the minimum requirement. Establishing a quiet zone in Harrisonburg would cost a minimum of \$1,350,000 to add gates, but costs could escalate to almost \$2.7M depending on other requirements determined by FRA. Cities may be subject to litigation for railroad crossing incidents in quiet zones. Currently, the responsibility for railroad crossing safety is with the operating railroad company. If a City takes action to establish quiet zones and eliminate horn blasts, the City's process for establishing the quiet zone will likely come under legal scrutiny. Donovan said the Public Works' staff recommends that a quiet zone not be established in the City due to the lack of funding for the implementation costs and "untested" legal environment. The Public Works' staff also recommends referring this matter to the Master Transportation Planning process as well as allowing the City time to learn from railroad quiet zone experiences in other communities. Following further discussion and comments, Council agreed and asked the Public Works Department to provide more information before making a decision regarding establishing a quiet zone in the City.

School Board Finance and Technology Director, Dee Dee Dawson, presented a request for the School Board. She said the requested funds will be used for technology functions to upgrade the division finance software and to purchase media center cataloging and circulation software. No additional City dollars are required for the school division to receive this transfer. Council Member Frank offered a motion to approve transferring these funds, and that:

\$150,000 chge. to: 1111-111114-40610 Instruction

\$150,000 approp. to 1111-11111-40680 Technology

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
Vice-Mayor Pace
Mayor Eagle

Absent - None

The item of business was a request by Vertical Connection Ministries/Bethel AME Church to hold a Worship Fest 2007/Kelley Street Block Party on July 28, 2007. Melissa Adams said that the event on July 28th is to help promote community unity and encourage more helpful activities in the evenings and weekends for the residents of Kelley Street. The event will be held from 12:00 to 10:00 p.m on Myrtle Street to 184 Kelley Street. Vice-Mayor Pace offered a motion to approve this event. The motion was seconded by Council Member Chenault and approved with a unanimous vote of Council.

Planning and Community Development Director Turner presented a request from Keith May and Eric Adamson to rezone three parcels totaling 16.30 acres from R-2C to R-2C. This rezoning request would amend existing proffers on the R-2C, Residential District Conditional lots. The properties can be found on tax maps 07-A-9 and 97-B-5 & 6. This property was rezoned from R-1 Single Family Residential to R-2C Conditional in October 2005 by City Council. This 16.3-acre rezoning request, located at the intersection of Greensdale Road and Ramblewood Road, traverses both sides of each road and is currently being graded for development under the approved site plan for the 2005 rezoning. All proffers from the earlier rezoning remain, except the applicants are now requesting that there be no more than 52 buildings lots within the City limits, as opposed to the previous 48 lots. The Comprehensive Plan designates this area as Low-Density Mixed Residential. She reviewed the surrounding uses in the area. Improvements to Greendale Road will include street widening, curb, gutter, sidewalk, and provide a left turn land onto Ramblewood Road. The overall design shows approximately 39 additional homes to be located in Rockingham County for a total of 91 single-family homes. Land in the county would also need to be rezoned to allow for the proposed development to take place. Also, 16 of the proposed 52 City lots would be inaccessible until the County property is rezoned and development occurs. She reviewed the City/County line area and noted the lots that will not be developed until County development occurs. She said that Planning Commission recommended the request to change the proffer condition be approved.

At 7:50 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 Tuesday, May 29, and Monday, June 4, 2007.

NOTICE OF PUBLIC HEARING

The Harrisonburg City Council will hold public hearings on Tuesday, June 12, 2007 at 7:00 p.m., in the City Council Chambers, 409 South Main Street to consider the following:

Rezoning – The Crossings (Greendale Road)

Public hearing to consider a request from Keith May and Eric Adamson, with representative Blackwell Engineering, to rezone three parcels totaling 16.30 acres from R-2C to R-2C. The rezoning would amend existing proffers on the R-2C, Residential District Conditional lots. The properties are located at the intersection of Greendale Road and Ramblewood Road and can be found on tax maps 97-A-9 and 97-B-5 & 6.

The Comprehensive Plan designates this area as Low-Density Mixed Residential. These large undeveloped areas located at the edge of the city are planned for residential development containing a mix of large and small-lot single-family detached dwellings and attractive green spaces.

The Zoning Ordinance states that the R-2, Residential District is intended for medium-density, single-family and two-family residential development. The residential density ranges for R-2 are single-family, 7,000 sq. ft. minimum and two-family, 5,500 sq. ft/unit.

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
Roger D. Baker
City Manager

Mayor Eagle called on anyone desiring to speak for or against this request.

Dick Blackwell said he was available to answer any questions. There being no others desiring to be heard, the public hearing was declared closed at 7:52 p.m., and the regular session reconvened. Vice-Mayor Pace offered a motion to approve this request 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 Chenault
Council Member Byrd
Vice-Mayor Pace
Mayor Eagle

Absent - None

Vice-Mayor Pace said, "During the last Harrisonburg/Rockingham County Liaison Committee meeting, which was attended by Council Member Byrd and myself, it was mentioned that there are five projects having lines crossing over City/County lines. In the future, children in same neighborhoods and living on the same street could possibly be attending separate schools." He also said that County Administrator, Joe Paxton, will be discussing this situation with the Rockingham County Planning Commission hoping to prevent this situation from happening and to prevent these children from attending separate school districts.

Planning and Community Development Director Turner presented a request from the Salvation Army to close a .216-acre portion of Monroe Street between Madison Street and Jefferson Street. The subject area is adjacent to tax map parcels 40-E-8, 9, & 10 and 41-J-7, 8 & 9. She reviewed the surrounding uses in the area. The applicant plans to close this section of Monroe Street to make way for an addition to the Salvation Army and a potential park space. If approved, the Salvation Army would utilize the newly acquired property as the setback for its addition. Currently, a sanitary sewer main is located within this section of Monroe Street as well as an overhead power line, both running parallel within the existing right-of-way. When the Salvation Army submits its survey, easements would need to be provided for the sanitary sewer main and overhead power lines, at the satisfaction of both the Public Utilities Department and Harrisonburg Electric Commission. The planned expansion of the Salvation Army cannot be built within these easements. Once the addition is complete, the remaining undeveloped sections of the Salvation Army property, along with nearby property owned by the City, could be developed into a community park. At this point, the park is still conceptual and in the preliminary stages of planning. She said that Planning Commission has recommended that the request be approved.

At 7:59 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 Friday, June 1, and Friday, June 8, 2007.

**NOTICE OF INTENTION TO VACATE
A 0.216 ACRE PORTION OF MONROE STREET
LOCATED IN THE NORTHWEST PORTION OF THE CITY OF HARRISONBURG**

**City Council Chambers
409 South Main Street
Harrisonburg, VA 22801
Tuesday, June 12, 2007
7:00 P.M.**

The Harrisonburg City Council will hold a public hearing on Tuesday, June 12, 2007, 7:00 P.M., at City Council Chambers, 409 South Main Street, Harrisonburg, Virginia, to consider an application, by The Salvation Army to vacate an undeveloped portion of Monroe Street, containing approximately 0.216 acre and located in the northwest portion of the City of Harrisonburg, Virginia.

A copy of the recommendations of the City Planning Commission along with a copy of the plat showing the portion of Monroe Street to be vacated are available at the Community Development Department, 409 South Main Street, Monday through Friday.

All persons interested will have an opportunity to express their views at this public hearing.

**CITY OF HARRISONBURG
Roger D. Baker,
City Manager**

Mayor Eagle called on anyone desiring to speak for or against this request.

Captain Gregory Shannon Corps Officer of the Salvation Army said the Salvation Army's mission is always to serve its community and people in ways that are found and work with jurisdictions' in the area. There being no others desiring to be heard, the public hearing was declared closed at 8:00 p.m., and the regular session reconvened. 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
Vice-Mayor Pace
Mayor Eagle

Abstained - Council Member Byrd

Absent - None

City Attorney Thumma presented for Council's consideration amending and re-enacting Section 7-4-1 of the Harrisonburg City Code. He said this ordinance is being amended to include the new water rates as set by the adopted budget and also the county rates based on the new City/County agreement. Council Member Chenault offered a motion to approve this ordinance 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 - Council Member Frank
Council Member Chenault
Council Member Byrd
Vice-Mayor Pace
Mayor Eagle

Absent - None

City Attorney Thumma presented for Council's consideration amending and re-enacting Section 7-3-81 of the Harrisonburg City Code. He said this section makes it unlawful for anyone to discharge or cause to be discharged any stormwater, surface water, ground-water, roof runoff, subsurface drainage, uncontaminated cooling water into the sanitary sewer. The Director of

Public Utilities will be authorized to grant exceptions for surface or runoff water containing different types of contaminant. This water could be put into the sanitary sewer, metered and the customer would be billed. Council Member Chenault offered a motion to approve this ordinance 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 - Council Member Frank
Council Member Chenault
Council Member Byrd
Vice-Mayor Pace
Mayor Eagle

Absent - None

Economic Development Director Brian Shull presented a request for a supplemental appropriation for the tourism budget. He said that additional grant funds have been received for the tourism budget. This money has been used to print the African American Heritage Site Brochure. Council Member Byrd offered a motion to approve this request for a first reading, and that:

\$4,000 chge. to: 1000-32530 Virginia Foundation for the Humanities Grant

\$4,000 approp. to: 1000-810821-43601 Contract printing/mailing

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

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

Absent - None

The next item of business was a proposed taxi rate increase requested by ABC Cab Company and Yellow Cab Company. Natalie Good said it has been eight to ten years since there has been a taxi rate increase. Because of higher gasoline prices, insurance premiums, and vehicle maintenance, it is proposed that the load fee be increased from \$2.25 to \$2.75, charge per mile (In Town) from \$1.50 to \$1.80 and charge per mile (Out of Town) from \$1.80 to \$2.00. The increased rate will become effective July 1, 2007. Following further discussion and comments, Council Member Chenault offered a motion to approve this request for a first reading. The motion was seconded by Vice-Mayor Pace, and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Frank

Council Member Chenault
Council Member Byrd
Vice-Mayor Pace
Mayor Eagle

Absent - None

City Manager Baker presented a request for the Central Garage Fund. He said these funds are end of the year budget adjustments and will be used for salaries and wages and service contacts. Vice-Mayor Pace offered a motion to approve this request for a first reading, and that:

\$41,000 chge. to: 2111-31695 Sale of services to departments

\$33,000 approp. to: 2111-612141-41010 Salaries and wages regular
8,000 approp. to: 2111-612141-43320 Service contacts

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
Vice-Mayor Pace
Mayor Eagle

Absent - None

Public Works Director Jim Baker presented a request for the Public Works Department. He said these funds will cover insurance and fuel costs in the Sanitation Department. Council Member Frank offered a motion to approve this request for a first reading, and that:

\$50,031 chge. to: 2014-31010 Amount from fund balance

\$ 5,305 approp. to: 2014-912242-45310 Boiler & Machinery Insurance
6,866 approp. to: 2014-912242-45340 Property Insurance
502 approp. to: 2014-912242-45350 Vehicle & Equipment Insurance
1,040 approp. to: 2014-912242-45370 Pub. Official Liability Insurance
5,487 approp. to: 2014-912242-45385 Excess Liability Insurance
9,825 approp. to: 2014-922041-43310 C.G. Powered Equip. Fuels
1,951 approp. to: 2014-922041-45350 Vehicles & Equipment Insurance
366 approp. to: 2014-922041-45370 Pub. Official Liability Insurance
4,579 approp. to: 2014-922041-45385 Excess Liability Insurance
1,688 approp. to: 2014-932042-45385 Excess Liability Insurance
2,074 approp. to: 2014-942042-45380 General Liability Insurance
7,217 approp. to: 2014-952042-44310 C.G. Powered Equipment Fuels
489 approp. to: 2014-952042-45350 Vehicles & Equipment Insurance

337 approp. to: 2014-952042-45370 Pub. Official Liability Insurance
2,305 approp. to: 2014-952042-45385 Excess Liability Insurance

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
Vice-Mayor Pace
Mayor Eagle

Absent - None

Fire Chief Larry Shifflett presented a request for the Fire Department. He said these funds were received from FEMA to replace thermal imaging cameras. Council Member Frank offered a motion to approve this request for a first reading, and that:

\$45,999 chge. to: 1000-33536 FEMA Assist. To Firefighters

\$45,999 approp. to: 1000-320232-48203 Fire Programs Fund

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
Vice-Mayor Pace
Mayor Eagle

Absent - None

Police Major Wilfong presented a request for the Police Department. He said these funds were received from state asset seizure money and will be used to repair a seized vehicle. Council Member Frank offered a motion to approve this request for a first reading, and that:

\$1,681.33 chge. to: 1000-31010 Amount from Fund Balance

\$1,681.33 approp. to: 1000-43350 Maint. and repairs to motor vehicles

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

Vote: Yes - Council Member Frank
Council Member Chenault

Council Member Byrd
Vice-Mayor Pace
Mayor Eagle

Absent - None

Police Major Wilfong presented a request for the Police Department. He said these funds were reimbursed from the Bureau of Justice and will be used for bullet proof vests. Council Member Chenault offered a motion to approve this request for a first reading, and that:

\$3,992.00 chge. to: 1000-33504 Bullet proof vest grant

\$3,992.00 approp. to: 1000-310231-48140 Bullet Proof vests

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
Vice-Mayor Pace
Mayor Eagle

Absent - None

Martin Solomon complained about Police officers continuously stopping him illegally because he drives a motorcycle with 8 inch wheels. He said, I have been told that I must wear a helmet while operating a moped; however, I am riding a motorcycle and not a moped.”

Ralph Geddis said trains deliver a lot of materials into the City. The City doesn’t need to establish a quiet zone.

Council requested receiving a follow up report from the City’s financial advisor regarding the City’s outstanding bonds.

Vice-Mayor Pace offered a motion that Brian Shull be appointed to another term on the Shenandoah Valley Partnership–Board of Directors to expire on June 30, 2009. 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
Vice-Mayor Pace
Mayor Eagle

Absent - None

At 8:50 p.m., Vice-Mayor Pace offered a motion that Council enter a closed session for discussion and consideration of personnel and prospective candidates to be appointed to boards and commissions, 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 within the City, exempt from public meeting requirements pursuant to Section 2.2-3711(A)(5) of the Code of Virginia. Consultation with legal counsel regarding an existing contract requiring the provision of legal advice of such legal counsel, exempt from public meeting requirements pursuant to Section 2.2-3711(A)(7) of the Code of Virginia, 1950, as amended. 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
Vice-Mayor Pace
Mayor Eagle

Absent - None

At 11:00 p.m., the following statement 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 (20) 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 11:02 p.m., there being no further business and on motion adopted the meeting was adjourned.

CITY CLERK

MAYOR