

REGULAR MEETING

April 22, 2014

At a regular meeting held this evening at 7:00 p.m., there were present: Mayor Ted Byrd; Vice-Mayor Charles Chenault; Council Members Richard A. Baugh, Kai Degner and Abe Shearer. Also present: Assistant City Manager Anne C. Lewis; City Attorney G. Chris Brown; City Clerk Erica S. Kann; Chief of Police Stephen Monticelli. Absent: City Manager Kurt Hodgen.

Council Member Baugh gave the invocation and Mayor Byrd led everyone in the Pledge of Allegiance.

Mayor Byrd declared the following with proclamations: the month of May as Bike Month and the Week of May 11, 2014 through May 17, 2014 as National Police Week.

Boyd Reese, 1651 South Burkwood Court, brought attention to the per capita for public funding received from both the Commonwealth and local governments for both Massanutten Regional Library (MRL) as well as other jurisdictions throughout the Commonwealth. Mr. Reese reviewed several factors to why he shows concern towards this issue. Mr. Reese stated the funding for MRL is pathetic and would like a reasonable goal over the next five years to be set to bring per capita funding for MRL up to at least the Commonwealth median, with annual increases starting in the FY 2015 budget.

Karen Thomas, 158 East Johnson Street, stated she had come to the April 8, 2014 Council Meeting and requested Council to reconsider the decision made by the CDBG Selection Committee for the CDBG Program funding of the Northeast Neighborhood Association (NENA) and the enclosure surrounding the Newtown Cemetery. Ms. Thomas noted an e-mail that Mr. Ande Banks sent stating that Council hadn't indicated to him or other committee members that they would like to reconsider and haven't typically overruled the committee's recommendations. Ms. Thomas stated she was frustrated and wondered why there was a public comment period if no action was going to be taken and she felt they had a strong application. Ms. Thomas noted that in the report given it was stated that there were \$80,000 in funds leftover from last year that could be used by an agency and doesn't understand why anything would be leftover and just sitting in the City's account. Ms. Thomas also noted that it was not the Newtown Trustees that applied for the grant and again asked Council to reconsider funding the protective enclosure around Newtown Cemetery.

Robin Lyttle, Shenandoah County, also asked that funding for the protective enclosure be reconsidered. Ms. Lyttle noted several individuals who were buried at the cemetery and stated that the fence is a onetime cost that would last for generations.

David Ehrenpreis, 282 Franklin Street, commented on just a few items that have happened over the past year that involved democracy participation: Martin Luther King Jr. Way, bike and pedestrian infrastructure investment, and City Hall. Mr. Ehrenpreis

stated several conversations have come up over the past of how to honor the past and shape the future. Mr. Ehrenpreis stated conversations have happened about how to revitalize the Northeast Neighborhood and noted a group would be in contact about a comprehensive plan to help do that. Mr. Ehrenpreis also stated he felt that the Northeast Neighborhood has been treated differently and doing the fence would be the beginning of transforming the area. Mr. Ehrenpreis also suggested looking at other funding options.

Michael Snellfeikema, 1174 Westmoreland Drive, stated the renaming of Cantrell to Martin Luther King, Jr. Way was a very powerful moment and would like to see the momentum continue and was in support of the enclosure for Newtown Cemetery.

Katrina Gerald, 915 Broadview Drive, stated she knew that Council voted on a portion of a sidewalk/bike path from the trailer park on Country Club Road to Linda Lane. Mrs. Gerald stated she would like to see the same type of path on Country Club Road that is on Linda Lane because it would be cheaper and the grass surrounding the path it would positively affect the stormwater runoff. Mrs. Gerald also asked about the new construction adjacent to Route 33 and the end of Country Club Road and why it wasn't required for them to insert sidewalks.

Stan Maclin, Harriet Tubman Cultural Center Representative, stated in 1867 a first request was made for an enclosure for the cemetery that didn't take place. Mr. Maclin stated NENA felt that CDBG funds would be a way to be able to get an enclosure around the cemetery. Mr. Maclin stated he felt that the City needs to go beyond the scoring committee because money is given for general purposes and the government is given a lot of flexibility of how the money is used. Mr. Maclin read part of the CDBG application and stressed the part referencing the citizens' participation. Mr. Maclin stated with the constant rejection and the lack of scoring, it seems as though the Council have taken over the process. He would like to see a community where diversity is reflected, and he would like to see the request reconsidered.

Podi Giannakouros, 98 Emory Drive, stated he has worked with the Northeast Neighborhood on a number of occasions and stated he would like to address some concerns that were noted in the Daily News-Record (DNR) about the recent denial of their application regarding the enclosure. Mr. Giannakouros noted that he had sat in on meetings with Mr. Banks about other projects. Mr. Giannakouros stated one concern that was noted in the DNR was that NENA didn't have the capacity to administer the funds, but he stated the funds would be administered through the participating entity of the Community Foundation. Mr. Giannakouros stated when he had asked about the Community Foundation he was under the impression that they would qualify, but the only question was if they would be willing to act as a fiscal agent for the Northeast Neighborhood Association. Mr. Giannakouros stated he couldn't speak for others but he was assured the Community Foundation would do that. Mr. Giannakouros stated the concerns that went along with managing and complexity of the project he found hard to object to, as it was a fence that needed to be installed. Mr. Giannakouros stated in reference to the impact of the project, he has data that reflect the good will of the Northeast Neighborhood. Mr. Giannakouros stated proactive zoning enforcement was

recently credited due to increasing code compliance in the City. However, he felt those numbers and the report showed it differently, showing an exception in the Northeast Neighborhood. Similar, he noted the tall grass and weeds ordinance. Mr. Giannakouros stated both he and the Northeast Neighborhood feel that the neighborhood is still recovering from the devastation of both being zoned R-4 and R-16 and he feels that it is important for the City to recognize the value of the infrastructure in that community and find ways to support it.

Council Member Degner offered a motion to approve the following on the consent agenda:

- a. Approval of minutes of the previous meeting, and dispensing with reading of minutes
- b. Consider a request to enact Section 16-6-60 of the Harrisonburg City Code to add restrictions on solicitations, begging, etc
- c. Consider a supplemental appropriation for VML Safety Grants
- d. Consider a supplemental appropriation in the amount of \$270,000 for the Public Works Department
- e. Consider a supplemental appropriation in the amount of \$1,000,686.58 for the Public Works Department in order to construct the Bluestone Trail
- f. Consider an ordinance closing and vacating a 3,647 square foot, twenty foot wide alley located perpendicular to Maplehurst Avenue.
- g. Consider an ordinance closing and vacating a 1,434 square foot portion of street right-of-way at the intersection of West Bruce Street and Old South High Street.

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

Yes – Council Member Baugh, Mayor Byrd, Council Member Degner, Vice-Mayor Chenault and Council Member Shearer

No – None

Karen Rose, Commissioner of the Revenue, presented a request from Cat's Cradle of the Shenandoah Valley for exemption from local personal property taxation for the non-profit organization. Mrs. Rose reviewed the process for a non-profit when they file an application and City Council's authority to exempt the non-profit organization. Mrs. Rose stated that they are located at 124 S. Main Street, founded in 1998, serve both the City of Harrisonburg and the surrounding areas, and reviewed what services they provide. The organization's personal property consists of typical office equipment, furnishings, and computer equipment as well as pet traps, cages, and exam tables. The property also includes two Ford vehicles and the total assessed value for 2014 is \$30,475 with the total taxes for 2014 being \$821.00. Mrs. Rose stated the committee recommends taxes for Cat's Cradle of the Shenandoah Valley to be exempt.

Mayor Byrd closed the regular meeting and called the evening's first public hearing to order at 7:44 p.m. The following notice appeared in the Daily News-Record on Wednesday, April 16, 2014:

**CITY OF HARRISONBURG
NOTICE OF PUBLIC HEARING**

Please take notice that on April 22, 2014 at 7:00 P.M. in the City Council Chamber, 409 South Main Street, Harrisonburg, Virginia, the Harrisonburg City Council will conduct a public hearing, pursuant to Section 4-2-17 of the Harrisonburg City Code, as amended, concerning the following request by a non-profit corporation for exemption from local taxation:

Cat's Cradle of the Shenandoah Valley, 124 South Main Street, Harrisonburg, VA 22801. The assessed value of the applicant personal property for the year 2014 is \$30,475. The taxes assessed by the City for the year 2013 were \$120.00; for the year 2012, \$102.00; and for the year 2011, \$42.00.

Public comments on the proposed exemptions are invited, and all citizens shall have an opportunity to be heard. Further information is available from the Commissioner of the Revenue Office at 345 South Main Street, Harrisonburg, Virginia between the hours of 8:00 A.M. to 5:00 P.M., Monday through Friday.

**Kurt D. Hodgen,
City Manager**

Suzanne Auckerman, Executive Director of Cat's Cradle, thanked Council for their consideration of this request and made herself available for questions.

At 7:45 p.m., Mayor Byrd declared the public hearing closed and the regular meeting reconvened.

Council Member Baugh offered a motion to approve the request for personal property tax exemption as presented. The motion was seconded by Vice-Mayor Chenault and approved with a recorded roll call vote taken as follows:

Yes – Council Member Baugh, Mayor Byrd, Council Member Degner, Vice-Mayor Chenault and Council Member Shearer

No – None

Dan Rublee, City Engineer, presented the request to enact City Code Section Title 10, Section 7 "Stormwater Management" and related fees and standards. Mr. Rublee reviewed that this ordinance and associated permit program regulates land development and redevelopment projects that disturb certain acreages of land. Mr. Rublee reviewed the State administered Virginia Stormwater Management Program (VSMP) that was going to be delegated to the City beginning July 1, 2014 which he presented during the January 14, 2014 Council meeting. He reviewed the City program elements by ordinance which included the following: based on Virginia Department of Conservation and

Recreation (DCR)/Virginia Department of Environmental Quality (DEQ) model; include schedule of civil penalties, progressive by severity and repeat violations; recent modifications per DEQ and legislative action (Single Family Home (SFH), grandfathering)). He also reviewed the City program elements through the fee schedule which included the following: using fees recommended by state as adequate for program funding; fees included for plan review, permitting, annual permit renewal and permit transfer, 28% of plan review/permit fees reimbursed to DEQ after permitting; reduced fees for SFH disturbing <5 acres; City analysis shows fees do not cover all costs; and also includes for Council approval reduced fees for site and erosion control plan resubmission fees. Mr. Rublee presented on the policies and procedures documents which included revisions to the Design & Construction Standards Manual (DCSM). Mr. Rublee handed out an update to the Best Management Practice (BMP) Table that was going to be submitted to DEQ. Mr. Rublee stated he was at tonight's meeting for approval of the ordinance, fee schedule, revisions to the existing fee schedule, and revisions to the DCSM for the final submission of the City program that is due to DEQ by June 15, 2014. The following discussion took place: penalty structures are related to the construction period; once construction is completed the permit is terminated and it moves to a maintenance agreement; BMP does provide the authority to bill the customer if the work is completed by us; this is about land development and permitting and does carry the long term maintenance requirement; whoever is listed on the BMP agreement is the one that is responsible for staying compliant; agreements are written to go along with the same process of land owners and is recorded with the Court House, developers will have to include all the necessary elements in the common plan development to comply for the ultimate subdivision development; and applications and fines are more relevant for the larger land development.

Mayor Byrd closed the regular meeting and called the evening's second public hearing to order at 8:00 p.m. The following notice appeared in the Daily News-Record on April 12, 2014 and April 19, 2014:

NOTICE OF PUBUC HEARING

On Tuesday, April 22, 2014, at 7:00 p.m., or as soon thereafter as the matter may be heard, the Harrisonburg City Council will conduct a public hearing in the Council Chambers, 409 Main Street, Harrisonburg, Virginia, to receive comments on and consider a proposed ordinance entitled:

AN ORDINANCE ENACTING SECTION 10, CHAPTER 7 "STORMWATER MANAGEMENT" OF THE CODE OF ORDINANCES, CITY OF HARRISONBURG, VIRGINIA

The ordinance seeks to ensure compliance with the Virginia Stormwater Management Act and the Virginia Stormwater Management Program mandated by the Commonwealth of Virginia in Va. Code Section 62.1-44.15:27 et seq. and adopted by the Virginia State Water Control Board, and regulations promulgated

by the Virginia Department of Environmental Quality (DEQ). The Commonwealth of Virginia and DEQ have determined that adoption of this Ordinance will protect the quality of state waters.

The Ordinance names the City Engineer as the Administrator of the stormwater management program; and provides that no qualifying land-disturbing activity shall take place without a Virginia Stormwater Management Program (VSMP) permit authorized by the Administrator and issued by DEQ.

The Ordinance provides general permit requirements for land-disturbing activities; establishes the requirements for VSMP permits, including those for erosion control plans, stormwater management plans, and stormwater pollution prevention plans; provides for exceptions for certain agricultural activities, and for single family residences and/or land disturbing activities that disturb less than one acre of land area not part of a larger common plan of development; adopts state regulatory technical criteria for land-disturbing activities; provides procedures for requests for exemptions; provides procedures for monitoring, inspections and enforcement; provides for appeals to the Harrisonburg City Council and then to circuit court; and establishes fees for permits, modifications and maintenance, and site plan and erosion control plan review; authorizes the Administrator to require a surety for performance and compliance with permit conditions; requires associated changes to the City's Design & Construction Standards Manual, and in other respects bring the City's stormwater management program into compliance with state regulations. Per state law, (Va. Code Section 62.1-44.15:48) each day of violation of this ordinance may result in a civil fine of up to \$10,000 per day and is punishable by up to 12 months imprisonment and a fine of not less than \$2,500.00 and not more than \$32,500.00. Penalties may be much higher for violations involving false statements, falsification of records, or the endangerment of persons.

A copy of the above proposed ordinance is on file and may be viewed in the City Manager's Office 345 South Main Street, Room 201, Harrisonburg, Virginia. Any person wishing to be heard concerning this matter should appear at the above-stated time and place. For audio or video assistance during the hearing, contact the City Manager's Office at (540) 432-7701.

Kurt D. Hodgen
City Manager

At 8:01 p.m., Mayor Byrd declared the public hearing closed and the regular meeting reconvened.

Mr. Rublee presented the following ordinance for Council's consideration:

**ORDINANCE ENACTING SECTION
TITLE 10, CHAPTER 7 “STORMWATER MANAGEMENT”
OF THE
CODE OF ORDINANCES
CITY OF HARRISONBURG, VIRGINIA**

Be it ordained by the Council of the City of Harrisonburg, Virginia:

That Title 10, Chapter 7 “Stormwater Management” be added as follows:

Sec. 10-7-1. PURPOSE AND AUTHORITY. (Section 9VAC25-870-20, 9VAC25-870-40)

- (a) The purpose of this Ordinance is to ensure the general health, safety, and welfare of the citizens of the City of Harrisonburg, Virginia and protect the quality and quantity of state waters from the potential harm of unmanaged stormwater, including protection from a land disturbing activity causing unreasonable degradation of properties, water quality, stream channels, and other natural resources, and to establish procedures whereby stormwater requirements related to water quality and quantity shall be administered and enforced.**

- (b) This ordinance is adopted pursuant to Article 2.3 (§ 62.1-44.15:27 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia.**

Sec. 10-7-2. DEFINITIONS. (9VAC25-870-10)

In addition to the definitions set forth in 9VAC25-870-10 of the Virginia Stormwater Management Regulations, as amended, which are expressly adopted and incorporated herein by reference, the following words and terms used in this Ordinance have the following meanings unless otherwise specified herein. Where definitions differ, those incorporated herein shall have precedence.

***"Administrator"* means the City Engineer or their designee.**

***"Agreement in lieu of a stormwater management plan"* means a contract between the city and the owner or permittee that specifies methods that shall be implemented to comply with the requirements of this Ordinance for the construction of a single-family residence; such contract may be executed by the city in lieu of a stormwater management plan.**

***"Applicant"* means any person submitting an application for a permit or requesting issuance of a permit under this Ordinance.**

***"Best management practice"* or "BMP" means schedules of activities, prohibitions of practices, including both structural and nonstructural practices,**

maintenance procedures, and other management practices to prevent or reduce the pollution of surface waters and groundwater systems from the impacts of land-disturbing activities.

***“Common plan of development or sale”* means a contiguous area where separate and distinct construction activities may be taking place at different times on different schedules.**

***“Control measure”* means any best management practice or stormwater facility, or other method used to minimize the discharge of pollutants to state waters.**

***“Clean Water Act” or “CWA”* means the federal Clean Water Act (33 U.S.C §1251 et seq.), formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972, Public Law 92-500, as amended by Public Law 95-217, Public Law 95-576, Public Law 96-483, and Public Law 97-117, or any subsequent revisions thereto.**

***“Department”* means the Department of Environmental Quality.**

***“Development”* means land disturbance and the resulting landform associated with the construction of residential, commercial, industrial, institutional, recreation, transportation or utility facilities or structures or the clearing of land for non-agricultural or non-silvicultural purposes.**

***“General permit”* means the state permit titled GENERAL PERMIT FOR DISCHARGES OF STORMWATER FROM CONSTRUCTION ACTIVITIES found in Part XIV (9VAC25-880-1 et seq.) of the Regulations authorizing a category of discharges under the CWA and the Act within a geographical area of the Commonwealth of Virginia.**

***“Land disturbance” or “land-disturbing activity”* means a man-made change to the land surface that potentially changes its runoff characteristics including clearing, grading, or excavation except that the term shall not include those exemptions specified in Section 1-3 (c) of this Ordinance.**

***“Layout”* means a conceptual drawing sufficient to provide for the specified stormwater management facilities required at the time of approval.**

***“Minor modification”* means an amendment to an existing general permit before its expiration not requiring extensive review and evaluation including, but not limited to, changes in EPA promulgated test protocols, increasing monitoring frequency requirements, changes in sampling locations, and changes to compliance dates within the overall compliance schedules. A minor general permit modification or amendment does not substantially alter general permit conditions, substantially increase or decrease the amount of surface water impacts, increase the size of the**

operation, or reduce the capacity of the facility to protect human health or the environment.

"Operator" means the owner or operator of any facility or activity subject to regulation under this Ordinance.

"Permit" or "VSMP Authority Permit" means an approval to conduct a land-disturbing activity issued by the Administrator for the initiation of a land-disturbing activity, in accordance with this Ordinance, and which may only be issued after evidence of general permit coverage has been provided by the Department.

"Permittee" means the person to whom the VSMP Authority Permit is issued.

"Person" means any individual, corporation, partnership, association, state, municipality, commission, or political subdivision of a state, governmental body, including federal, state, or local entity as applicable, any interstate body or any other legal entity.

"Regulations" means the Virginia Stormwater Management Program (VSMP) Permit Regulations, 9VAC25-870, as amended.

"Site" means the land or water area where any facility or land-disturbing activity is physically located or conducted, including adjacent land used or preserved in connection with the facility or land-disturbing activity.

"State" means the Commonwealth of Virginia.

"State Board" means the Virginia State Water Control Board.

"State permit" means an approval to conduct a land-disturbing activity issued by the State Board in the form of a state stormwater individual permit or coverage issued under a state general permit or an approval issued by the State Board for stormwater discharges from an MS4. Under these state permits, the Commonwealth imposes and enforces requirements pursuant to the federal Clean Water Act and regulations, the Virginia Stormwater Management Act and the Regulations.

"State Water Control Law" means Chapter 3.1 (§62.1-44.2 et seq.) of Title 62.1 of the Code of Virginia.

"State waters" means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands.

"Stormwater" means precipitation that is discharged across the land surface or through conveyances to one or more waterways and that may include stormwater runoff, snow melt runoff, and surface runoff and drainage.

"Stormwater management plan" means a document(s) containing material describing methods for complying with the requirements of Section 1-6 of this Ordinance.

"Stormwater Pollution Prevention Plan" or "SWPPP" means a document that is prepared in accordance with good engineering practices and that identifies potential sources of pollutants that may reasonably be expected to affect the quality of stormwater discharges from the construction site, and otherwise meets the requirements of this Ordinance. In addition the document shall identify and require the implementation of control measures, and shall include, but not be limited to the inclusion of, or the incorporation by reference of, an approved erosion and sediment control plan, an approved stormwater management plan, and a pollution prevention plan.

"Subdivision" means the same as defined in Section 10-1-1 of the city Subdivision Ordinance.

"Total maximum daily load" or "TMDL" means the sum of the individual wasteload allocations for point sources, load allocations for nonpoint sources, natural background loading and a margin of safety. TMDLs can be expressed in terms of either mass per time, toxicity, or other appropriate measure. The TMDL process provides for point versus nonpoint source trade-offs.

"Virginia Stormwater Management Act" or "Act" means Article 2.3 (§62.1-44.15:24 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia.

"Virginia Stormwater BMP Clearinghouse website" means the website that contains detailed design standards and specifications for control measures that may be used in Virginia to comply with the requirements of the Virginia Stormwater Management Act and associated regulations.

"Virginia Stormwater Management Program" or "VSMP" means a program approved by the State Board after September 13, 2011, that has been established by a locality to manage the quality and quantity of runoff resulting from land-disturbing activities and shall include such items as local ordinances, rules, permit requirements, annual standards and specifications, policies and guidelines, technical materials, and requirements for plan review, inspection, enforcement, where authorized in this article, and evaluation consistent with the requirements of this article and associated regulations.

"Virginia Stormwater Management Program authority" or "VSMP authority" means an authority approved by the State Board after September 13, 2011, to operate a Virginia Stormwater Management Program.

Sec. 10-7-3. STORMWATER PERMIT REQUIREMENT; EXEMPTIONS.

- (a) Except as provided herein, no person may engage in any land-disturbing activity until a VSMP authority permit has been issued by the Administrator in accordance with the provisions of this Ordinance.**
- (b) Notwithstanding any other provisions of this Ordinance, the following activities are exempt, unless otherwise required by federal law:**
 - (1) Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted under the provisions of Title 45.1 of the Code of Virginia;**
 - (2) Clearing of lands specifically for agricultural purposes and the management, tilling, planting, or harvesting of agricultural, horticultural, or forest crops, livestock feedlot operations, or as additionally set forth by the State Board in regulations, including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 (§ 10.1-1100 et seq.) of Title 10.1 of the Code of Virginia or is converted to bona fide agricultural or improved pasture use as described in Subsection B of § 10.1-1163 of Article 9 of Chapter 11 of Title 10.1 of the Code of Virginia;**
 - (3) Single-family residences separately built and disturbing less than one acre and not part of a larger common plan of development or sale, including additions or modifications to existing single-family detached residential structures;**
 - (4) Land disturbing activities that disturb less than one acre of land area that are not part of a larger common plan of development or sale that is one acre or greater of disturbance;**
 - (5) Discharges to a sanitary sewer or a combined sewer system;**
 - (6) Activities under a State or federal reclamation program to return an abandoned property to an agricultural or open land use;**

- (7) Routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original construction of the project. The paving of an existing road with a compacted or impervious surface and reestablishment of existing associated ditches and shoulders shall be deemed routine maintenance if performed in accordance with this Subsection; and**
- (8) Conducting land-disturbing activities in response to a public emergency where the related work requires immediate authorization to avoid imminent endangerment to human health or the environment. In such situations, the Administrator shall be advised of the disturbance within seven days of commencing the land-disturbing activity and compliance with the administrative requirements of Subsection (a) is required within 30 days of commencing the land-disturbing activity.**

Sec. 10-7-4. STORMWATER MANAGEMENT PROGRAM ESTABLISHED; SUBMISSION AND APPROVAL OF PLANS; PROHIBITIONS.

- (a) Pursuant to § 62.1-44.15:27 of the Code of Virginia, the city hereby establishes a Virginia stormwater management program for land-disturbing activities and adopts the applicable Regulations that specify standards and specifications for VSMPs promulgated by the State Board for the purposes set out in Section 1-1 of this Ordinance. The city hereby designates the City Engineer as the Administrator of the Virginia stormwater management program.**
- (b) No VSMP authority permit shall be issued by the Administrator, until the following items have been submitted to and approved by the Administrator or his/her authorized agent as prescribed herein:**
 - (1) A permit application that includes a general permit registration statement;**
 - (2) An erosion and sediment control plan approved in accordance with the city Erosion and Sediment Control Ordinance; and**
 - (3) A Stormwater Management Plan that meets the requirements of Section 1-6 of this Ordinance.**
 - (4) A Pollution Prevention Plan that meets the requirements of Section 1-6 of this Ordinance.**
- (c) No VSMP authority permit shall be issued until evidence of general permit coverage is obtained.**

- (d) No VSMP authority permit shall be issued until the fees required to be paid pursuant to Section 1-15, are received, all other city permitting prerequisites are met and a reasonable performance bond required pursuant to Section 1-16 of this Ordinance has been submitted.**
- (e) No VSMP authority permit shall be issued unless and until the permit application and attendant materials and supporting documentation demonstrate that all land clearing, construction, disturbance, land development and drainage will be done according to the approved permit.**
- (f) No grading, building or other local permit shall be issued for a property unless a VSMP authority permit has been issued by the Administrator.**
- (g) In general, the requirements of (a) through (f) above shall be waived for individual lot single family home construction, within or outside of a common plan of development, disturbing less than five acres of land. Applicants for such projects shall execute with the city an “Agreement in Lieu of a Stormwater Management Plan”, and shall pay the applicable fees prior to receiving a building permit. Applications for a building permit on such projects on lots that contain an established stormwater best management practice shall include a detailed grading plan sufficient to show continued function of such practice(s) per its (their) original design.**

Sec. 10-7-5. STORMWATER POLLUTION PREVENTION PLAN; CONTENTS OF PLANS.

- (a) The Stormwater Pollution Prevention Plan (SWPPP) shall include the content specified by Section 9VAC25-870-54 and must also comply with the requirements and general information set forth in Section 9VAC25-870-70, Section II [stormwater pollution prevention plan] of the general permit.**
- (b) The SWPPP shall be amended by the operator whenever there is a change in design, construction, operation, or maintenance that has a significant effect on the discharge of pollutants to state waters which is not addressed by the existing SWPPP.**
- (c) The SWPPP must be maintained by the operator at a central location onsite. If an onsite location is unavailable, notice of the SWPPP's location must be posted near the main entrance at the construction site. Operators shall make the SWPPP available for public review in accordance with Section II of the general permit, either electronically or in hard copy.**

Sec. 10-7-6. STORMWATER MANAGEMENT PLAN; CONTENTS OF PLAN.

- (a) The Stormwater Management Plan, required in Section 1-4 of this Ordinance, must apply the stormwater management technical criteria set**

forth in Section 1-9 of this Ordinance to the entire land-disturbing activity, consider all sources of surface runoff and all sources of subsurface and groundwater flows converted to subsurface runoff. (Individual lots in new residential, commercial or industrial subdivisions shall be not considered separate land disturbing activities.) The Stormwater Management Plan shall include the following information:

- (1) Information on the type and location of stormwater discharges; information on the features to which stormwater is being discharged including surface waters or karst features, if present, and the predevelopment and postdevelopment drainage areas;**
- (2) Contact information including the name, address, and telephone number of the owner and the tax reference number and parcel number of the property or properties affected;**
- (3) A narrative that includes a description of current site conditions and final site conditions;**
- (4) A general description of the proposed stormwater management facilities and the mechanism through which the facilities will be operated and maintained after construction is complete;**
- (5) Information on the proposed stormwater management facilities, including:
 - (i) The type of facilities;**
 - (ii) Location, including geographic coordinates;**
 - (iii) Acres treated; and**
 - (iv) The surface waters or karst features, if present, into which the facility will discharge.****
- (6) Hydrologic and hydraulic computations, including runoff characteristics;**
- (7) Documentation and calculations verifying compliance with the water quality and quantity requirements of Section 1-9 of this Ordinance and the City Design & Construction Standards Manual;**
- (8) A map or maps of the site that depicts the topography of the site and includes:
 - (i) All contributing drainage areas;**
 - (ii) Existing streams, ponds, culverts, ditches, wetlands, other water bodies, and floodplains;**
 - (iii) Soil types, geologic formations if karst features are present in the area, forest cover, and other vegetative areas;****

- (iv) Current land use including existing structures, roads, and locations of known utilities and easements;
 - (v) Sufficient information on adjoining parcels to assess the impacts of stormwater from the site on these parcels;
 - (vi) The limits of clearing and grading, and the proposed drainage patterns on the site;
 - (vii) Proposed buildings, roads, parking areas, utilities, and stormwater management facilities; and
 - (viii) Proposed land use with tabulation of the percentage of surface area to be adapted to various uses, including but not limited to planned locations of utilities, roads, and easements.
- (b) If an operator intends to meet the water quality and/or quantity requirements set forth in Section 1-9 of this Ordinance through the use of off-site compliance options, where applicable, then a letter of availability from the off-site provider must be included. Approved off-site options must achieve the necessary nutrient reductions prior to the commencement of the applicant's land-disturbing activity except as otherwise allowed by § 62.1-44.15:35 of the Code of Virginia.
- (c) Elements of the stormwater management plans that include activities regulated under Chapter 4 (§54.1-400 et seq.) of Title 54.1 of the Code of Virginia shall be appropriately sealed and signed by a professional registered in the Commonwealth of Virginia pursuant to Article 1 (§ 54.1-400 et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia.
- (d) A construction record drawing for permanent stormwater management facilities shall be submitted to the Administrator. The construction record drawing shall be appropriately sealed and signed by a professional registered in the Commonwealth of Virginia, certifying that the stormwater management facilities have been constructed in accordance with the approved plan.

Sec. 10-7-7. POLLUTION PREVENTION PLAN; CONTENTS OF PLANS.

- (a) Pollution Prevention Plan, required by 9VAC25-870-56, shall be submitted for review and approval as part of the Stormwater Management Plan. The Pollution Prevention Plan shall be developed, implemented, and updated as necessary and must detail the design, installation, implementation, and maintenance of effective pollution prevention measures to minimize the discharge of pollutants. At a minimum, such measures must be designed, installed, implemented, and maintained to:
- (1) Minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash waters. Wash waters must

be treated in a sediment basin or alternative control that provides equivalent or better treatment prior to discharge;

- (2) Minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste, and other materials present on the site to precipitation and to stormwater; and
 - (3) Minimize the discharge of pollutants from spills and leaks and implement chemical spill and leak prevention and response procedures.
- (b) The pollution prevention plan shall include effective best management practices to prohibit the following discharges:
- (1) Wastewater from washout of concrete, unless managed by an appropriate control;
 - (2) Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds, and other construction materials;
 - (3) Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance; and
 - (4) Soaps or solvents used in vehicle and equipment washing.
- (c) Discharges from dewatering activities, including discharges from dewatering of trenches and excavations, are prohibited unless managed by appropriate controls.

Sec. 10-7-8. REVIEW OF STORMWATER MANAGEMENT PLAN.

- (a) The Administrator or any duly authorized agent of the Administrator shall review Stormwater Management Plans and accompanying Pollution Prevention Plans and shall approve or disapprove such plans according to the following:
- (1) The Administrator shall determine the completeness of a plan in accordance with Section 1-6 of this Ordinance, and shall notify the applicant, in writing, of such determination, within 15 calendar days of receipt. If the plan is deemed to be incomplete, the above written notification shall contain the reasons the plan is deemed incomplete.
 - (2) The Administrator shall have an additional 60 calendar days from the date of the communication of completeness to review the plan, except that if a determination of completeness is not made within the time prescribed in subdivision (1), then plan shall be deemed complete and the

Administrator shall have 60 calendar days from the date of submission to review the plan.

- (3) The Administrator shall review any plan that has been previously disapproved, within 45 calendar days of the date of resubmission.
- (4) During the review period, the plan shall be approved or disapproved and the decision communicated in writing to the person responsible for the land-disturbing activity or his designated agent. If the plan is not approved, the reasons for not approving the plan shall be provided in writing. Approval or denial shall be based on the plan's compliance with the requirements of this Ordinance.
- (5) If a plan meeting all requirements of this Ordinance is submitted and no action is taken within the time provided above in subdivision (2) for review, the plan shall be deemed approved.

(b) Approved stormwater plans may be modified as follows:

- (1) Modifications to an approved stormwater management plan shall be allowed only after review and written approval by the Administrator. The Administrator shall have 60 calendar days to respond in writing either approving or disapproving such request.
- (2) The Administrator may require that an approved stormwater management plan be amended, within a time prescribed by the Administrator, to address any deficiencies noted during inspection.

(c) The Administrator shall require the submission of a construction record drawing for permanent stormwater management facilities. The Administrator may elect not to require construction record drawings for stormwater management facilities for which recorded maintenance agreements are not required pursuant to Section 1-10 (b).

Sec. 10-7-9. TECHNICAL CRITERIA FOR REGULATED LAND DISTURBING ACTIVITIES.

- (a) To protect the quality and quantity of state water from the potential harm of unmanaged stormwater runoff resulting from land-disturbing activities, the city hereby adopts the technical criteria for regulated land-disturbing activities set forth in Part II B of the Regulations, as amended, expressly to include 9VAC25-870-63 [water quality design criteria requirements]; 9VAC25-870-65 [water quality compliance]; 9VAC25-870-66 [water quantity]; 9VAC25-870-69 [offsite compliance options]; 9VAC25-870-72 [design storms and hydrologic methods]; 9VAC25-870-74 [stormwater harvesting]; 9VAC25-870-76 [linear development project]; and, 9VAC25-

870-85 [stormwater management impoundment structures or facilities], which shall apply to all land-disturbing activities regulated pursuant to this Ordinance, except as expressly set forth in Subsection (b) of this Section.

- (b) Until June 30, 2019, any land-disturbing activity for which a currently valid proffered or conditional zoning plan, preliminary or final subdivision plat, preliminary or final site plan or zoning with a plan of development, or any document determined by the locality as being equivalent thereto, was approved by the city prior to July 1, 2012, and for which no coverage under the general permit has been issued nor land disturbance begun prior to July 1, 2014, shall be considered grandfathered by the Administrator and shall not be subject to the technical criteria of Part II B of the Regulations, but shall be subject to the technical criteria of Part II C of the Regulations [9VAC25-870-93 through 9VAC25-870-99] for those areas that were included in the approval, provided that the Administrator finds that such proffered or conditional zoning plan, preliminary or final subdivision plat, preliminary or final site plan or zoning with a plan of development, or any document determined by the locality as being equivalent thereto (i) provides for a layout and (ii) the resulting land-disturbing activity will be compliant with the requirements of Part II C. Verification of such compliance must have occurred at the time of City approval of such plat or plan, and have been based upon a plat or plan that (i) identified specific stormwater practices needed to ensure compliance and (ii) included calculations confirming such practices will provide adequate pollutant removal to ensure compliance. In the event that the city-approved document is subsequently modified or amended in a manner such that there is no increase over the previously approved plat or plan in the amount of phosphorus leaving each point of discharge of the land-disturbing activity through stormwater runoff, and such that there is no increase over the previously approved plat or plan in the volume or rate of runoff, the grandfathering shall continue as before.**
- (1) Until June 30, 2019, for local, state, and federal projects for which there has been an obligation of local, state, or federal funding, in whole or in part, prior to July 1, 2012, or for which the Administrator has approved a stormwater management plan prior to July 1, 2012, such projects shall be considered grandfathered by the city and shall not be subject to the technical requirements of Part II B of the Regulations, but shall be subject to the technical requirements of Part II C of the Regulations for those areas that were included in the approval.**
- (2) For land-disturbing activities grandfathered under this Subsection, construction must be completed by June 30, 2019, or portions of the project not under construction shall become subject to the technical requirements of Subsection (a) above.**

- (c) In cases where governmental bonding or public debt financing has been issued for a project prior to July 1, 2012, such project shall be subject to the technical requirements Part IIC of the Regulations, as adopted by the city in Subsection (b) of this Section.
- (d) The Administrator may grant exceptions to the technical requirements of Part II B or Part II C of the Regulations, provided that (i) the exception is the minimum necessary to afford relief, (ii) reasonable and appropriate conditions are imposed so that the intent of the Act, the Regulations, and this Ordinance are preserved, (iii) granting the exception will not confer any special privileges that are denied in other similar circumstances, and (iv) exception requests are not based upon conditions or circumstances that are self-imposed or self-created. Economic hardship alone is not sufficient reason to grant an exception from the requirements of this Ordinance.

 - (1) Exceptions to the requirement that the land-disturbing activity obtain required VSMP authority permit shall not be given by the Administrator, nor shall the Administrator approve the use of a BMP not found on the Virginia Stormwater BMP Clearinghouse Website, or any other control measure duly approved by the Director.
 - (2) Exceptions to requirements for phosphorus reductions shall not be allowed unless offsite options otherwise permitted pursuant to 9VAC25-870-69 have been considered and found not available.
- (e) Nothing in this Section shall preclude an operator from constructing to a more stringent standard at their discretion.

**Sec. 10-7-10. LONG-TERM MAINTENANCE OF PERMANENT
STORMWATER FACILITIES – BMP MAINTENANCE AGREEMENT**

- (a) The Administrator shall require the provision of long-term responsibility for and maintenance of stormwater management facilities and other techniques specified to manage the quality and quantity of runoff. Such requirements shall be set forth in a BMP Maintenance Agreement recorded in the local land records prior to general permit termination or earlier as required by the Administrator and shall at a minimum:

 - (1) Be submitted to the Administrator for review and approval prior to the approval of the stormwater management plan;
 - (2) Be stated to run with the land;
 - (3) Provide for all necessary access to the property for purposes of maintenance and regulatory inspections;

(4) Provide for inspections and maintenance and the submission of inspection and maintenance reports to the Administrator; and

(5) Be enforceable by all appropriate governmental parties.

Sec. 10-7-11. MONITORING AND INSPECTIONS.

(a) The Administrator or any duly authorized agent of the Administrator shall inspect the land-disturbing activity during construction for:

(1) Compliance with the approved erosion and sediment control plan;

(2) Compliance with the approved stormwater management plan;

(3) Development, updating, and implementation of a pollution prevention plan; and

(4) Development and implementation of any additional control measures necessary to address a TMDL.

(b) The Administrator or any duly authorized agent of the Administrator may, at reasonable times and under reasonable circumstances, enter any establishment or upon any property, public or private, for the purpose of obtaining information or conducting surveys or investigations necessary in the enforcement of the provisions of this Ordinance.

(c) In accordance with a performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement or instrument, the Administrator may also enter any establishment or upon any property, public or private, for the purpose of initiating or maintaining appropriate actions which are required by the permit conditions associated with a land-disturbing activity when a permittee, after proper notice, has failed to take acceptable action within the time specified.

(d) Pursuant to § 62.1-44.15:40 of the Code of Virginia, the Administrator may require every VSMP authority permit applicant or permittee, or any such person subject to VSMP authority permit requirements under this Ordinance, to furnish when requested such application materials, plans, specifications, and other pertinent information as may be necessary to determine the effect of his discharge on the quality of state waters, or such other information as may be necessary to accomplish the purposes of this Ordinance.

(e) Post-construction inspections of stormwater management facilities required by the provisions of this Ordinance shall be conducted by the Administrator or any duly authorized agent of the Administrator pursuant to the Locality's

adopted and State Board approved inspection program, and shall occur, at minimum, at least once every five (5) years except as may otherwise be provided for in Section 1-10. Additional owner-performed inspections may be required in accordance with the BMP Maintenance Agreement.

Sec. 10-7-12. HEARINGS

- (a) The hearing before the city council provided for in section 10-7-13 shall be held at a regular or special meeting of the city council, subject to the following:**
 - (1) A verbatim record of the hearing shall be taken and filed with the State Water Control Board.**
 - (2) Depositions may be taken and read as in actions at law.**
 - (3) The city council has the power to issue subpoenas and subpoenas duces tecum, and at the request of any party shall issue subpoenas. The failure of a witness without legal excuse to appear or to testify or to produce documents shall be acted upon by the city council in the manner prescribed in Virginia Code Section 2.2-4022. Witnesses who are subpoenaed shall receive the same fees and mileage as in civil actions.**

Sec. 10-7-13. APPEALS.

- (a) Any applicant under the provision of this ordinance who is aggrieved by any action of the city or its agent in disapproving plans submitted pursuant to this chapter shall have the right to apply for and receive a review of such action by the city council provided an appeal is filed within thirty (30) days from the date of the action. Any applicant who seeks an appeal hearing before the city council shall be heard at the next regularly scheduled city council public hearing provided that the city council and other involved parties have at least thirty (30) days prior notice. In reviewing the agent's actions, the city council shall consider evidence and opinions presented by the aggrieved applicant and agent. After considering the evidence and opinions, the city council may affirm, reverse or modify the action. The city council shall make a final decision within forty five (45) days after the hearing is concluded. The city council's decision shall be in writing and state the date of the decision and the reasons for the decision. Notice of the city council's decision shall be provided to the owner and to any downstream owner who is aggrieved. The city council's decision shall be final, subject only to review by the Circuit Court of Rockingham County, Virginia.**
- (b) Final decisions by the city under this chapter shall be subject to review by the Circuit Court of Rockingham County, Virginia, provided an appeal is filed within thirty (30) days from the date of any written decision adversely**

affecting the rights, duties or privileges of the person engaging in or proposing to engage in land-disturbing activities.

Sec. 10-7-14. ENFORCEMENT

(a) If the Administrator determines that there is a failure to comply with the VSMP authority permit conditions or determines there is an unauthorized discharge, notice shall be served upon the permittee or person responsible for carrying out the permit conditions by any of the following: verbal warnings and inspection reports, notices of corrective action, consent special orders, and notices to comply. Written notices shall be served by registered or certified mail to the address specified in the permit application or by delivery at the site of the development activities to the agent or employee supervising such activities.

(1) The notice shall specify the measures needed to comply with the permit conditions and shall specify the time within which such measures shall be completed. Upon failure to comply within the time specified, a stop work order may be issued in accordance with Subsection (b) or the permit may be revoked by the Administrator.

(2) If a permittee fails to comply with a notice issued in accordance with this Section within the time specified, the Administrator may issue an order requiring the owner, permittee, person responsible for carrying out an approved plan, or the person conducting the land-disturbing activities without an approved plan or required permit to cease all land-disturbing activities until the violation of the permit has ceased, or an approved plan and required permits are obtained, and specified corrective measures have been completed.

Such orders shall be issued in accordance with City procedures. Such orders shall become effective upon service on the person by certified mail, return receipt requested, sent to his address specified in the land records of the locality, or by personal delivery by an agent of the Administrator. However, if the Administrator finds that any such violation is grossly affecting or presents an imminent and substantial danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the Commonwealth or otherwise substantially impacting water quality, it may issue, without advance notice or hearing, an emergency order directing such person to cease immediately all land-disturbing activities on the site and shall provide an opportunity for a hearing, after reasonable notice as to the time and place thereof, to such person, to affirm, modify, amend, or cancel such emergency order. If a person who has been issued an order is not complying with the terms thereof, the Administrator may institute a proceeding for an injunction,

mandamus, or other appropriate remedy in accordance with this ordinance.

(b) In addition to any other remedy provided by this Ordinance, if the Administrator or his designee determines that there is a failure to comply with the provisions of this Ordinance, they may initiate such informal and/or formal administrative enforcement procedures in a manner that is consistent with city policies.

(c) Any person violating or failing, neglecting, or refusing to obey any rule, regulation, ordinance, order, approved standard or specification, or any permit condition issued by the Administrator may be compelled in a proceeding instituted in the Circuit Court of Rockingham County, Virginia by the Locality to obey same and to comply therewith by injunction, mandamus or other appropriate remedy.

(d) Any person who violates any provision of this Ordinance or who fails, neglects, or refuses to comply with any order of the Administrator, shall be subject to a civil penalty in accordance with the schedule below, for each violation, within the discretion of the court. Each day of violation of each requirement shall constitute a separate offense.

(1) Violations for which a penalty may be imposed under this Subsection shall include but not be limited to the following:

- (i) No state permit registration;
- (ii) No SWPPP;
- (iii) Incomplete SWPPP;
- (iv) SWPPP not available for review;
- (v) No approved erosion and sediment control plan;
- (vi) Failure to install stormwater BMPs or erosion and sediment controls;
- (vii) Stormwater BMPs or erosion and sediment controls improperly installed or maintained;
- (viii) Operational deficiencies;
- (ix) Failure to conduct required inspections;
- (x) Incomplete, improper, or missed inspections; and
- (xi) Discharges not in compliance with the requirements of Section 9VAC 25-880-70 of the general permit.

(2) Civil penalties shall be as set forth in the schedule below:

	Land-Disturbance >1ac. Without a Permit	Standard Violations
1st Inspection	Warning issued	Warning issued
2nd Inspection	\$1,000/day	\$100/day/violation
3rd Inspection	\$3,000/day	\$300/day/violation

4th Inspection	\$5,000/day	\$1,000/day/violation
5th Inspection	\$10,000/day	Revoke Permit/Referral for bond collection

- (3) The Administrator may issue a summons for collection of the civil penalty and the action may be prosecuted in the appropriate court.
 - (4) In imposing a civil penalty pursuant to this Subsection, the court may consider the degree of harm caused by the violation and also the economic benefit to the violator from noncompliance.
 - (5) Any civil penalties assessed by a court as a result of a summons issued by the Locality shall be paid into the treasury of the city to be used for the purpose of minimizing, preventing, managing, or mitigating pollution of the waters of the locality and abating environmental pollution therein in such manner as the court may, by order, direct.
- (e) Notwithstanding any other civil or equitable remedy provided by this Section or by law, any person who willfully or negligently violates any provision of this Ordinance, any order of the Administrator, any condition of a permit, or any order of a court shall, be guilty of a misdemeanor punishable by confinement in jail for not more than 12 months or a fine of not less than \$2,500 nor more than \$32,500, or both.

Sec. 10-7-15. FEES

Fees to cover costs associated with implementation of a VSMP related to land disturbing activities and issuance of general permit coverage and VSMP authority permits shall be imposed in accordance with the city's separate fee schedule, entitled "Stormwater Management Plan and Permit Fees".

Sec. 10-7-16. PERFORMANCE BOND (9VAC25-870-104 and Code § 62.1-44.15:34)

Prior to issuance of any permit, the Applicant shall be required to submit a reasonable performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement acceptable to the [local government attorney], to ensure that measures could be taken by the city at the Applicant's expense should he fail, after proper notice, within the time specified to initiate or maintain appropriate actions which may be required of him by the permit conditions as a result of his land disturbing activity. If the city takes such action upon such failure by the Applicant, the city may collect from the Applicant for the difference should the amount of the reasonable cost of such action exceed the

amount of the security held, if any. Within 60 days of the completion of the requirements of the permit conditions, such bond, cash escrow, letter of credit or other legal arrangement, or the unexpended or unobligated portion thereof, shall be refunded to the Applicant or terminated.

**This ordinance shall be effective from the _____ day of _____, 2014.
Adopted and approved this _____ day of _____, 2014.**

MAYOR

ATTESTE:

CLERK OF THE COUNCIL

Council Member Shearer offered a motion to enact City Code Section Title 10, Section 7 “Stormwater Management” and related fees and standards into the Harrisonburg City Code. The motion was seconded by Vice-Mayor Chenault and approved with a recorded roll call vote taken as follows:

Yes – Council Member Baugh, Mayor Byrd, Council Member Degner, Vice-Mayor Chenault and Council Member Shearer

No – None

Michael Wong, Executive Director of Harrisonburg Redevelopment Authority (HRHA), along with Dr. Suraj Jacob (JMU) and Rachel Gamble (student) presented an update on the status of homelessness and data analysis of the most recent point-in-time counts completed in January 2014. Mr. Wong stated in the three years the Ten Year Plan to End Homelessness has been implemented, small steps of success have happened and hopes the upcoming year continues with the success. Mr. Wong stated he can't say the Plan has gotten us resources, but it has acted as a framework to help access additional funds. The City of Harrisonburg was one of six localities that received funding for Rapid Rehousing Pilot in the community. The HRHA was also successful in a grant application through the Virginia Housing Development Authority for lowering housing tax credits for the permissible housing project. Also, HRHA received a grant award for the Virginia Housing Trust fund which allows for a \$3.4M project to be fully funded. The organization is also actively involved in continuing to seek federal and state grant funds. Mr. Wong reported in the last year, HRHA was successful in \$6K of federal funds and about to apply for another grant to address prevention, rapid rehousing, and shelter operations. Mr. Wong stated the HRHA has been gathering point and time counts for around ten years and in the last four years these counts have been gathered with the partnership of JMU. The group shared the following information: 98 homeless adults and 26 children are in shelters; five unsheltered adults; out of 85 interviewed 1/3 have been homeless at least for one year; 10% of those 85 interviewed have had four or more episodes of being homeless in the last three years; 41% have been homeless for one year

or have had four plus (4+) episodes, which is much larger compared to both the US and Virginia population of 18%; 46% have been previously housed in Harrisonburg; biggest reason for homelessness is unemployment followed by change in family situation; 60% of male population is homeless, which is similar to US population; women are homeless for a shorter duration than men; 13% of adult homelessness are under the age of 25 years old; ages 45 to 55+ years are more likely to have chronic homelessness; 21% of the homeless population is employed; 20% have had previous incarceration; difficult time getting health support; and 42% have had substance abuse. The five top health problems are as follows: asthma, heart, head trauma, heart stroke, and diabetes. The group provided the following information about Veteran homelessness: 9% of the 85 individuals interviewed are homeless; homeless longer; difficult to get health support; and only ¼ getting healthcare from the VA. The group shared a chart of services that are being offered and those being utilized by the homeless. Mr. Wong stated there is a job fair scheduled this Thursday, April 24, 2014, from 12:00 p.m. to 5:00 p.m. at the Church of Nazarene along with many other activities to help address the issue.

Brian Shull, Director Economic Developer, stated the Shenandoah Valley Innovation Coalition (SVIC) is a public-private initiative that is actively working to build a culture of innovations throughout the Central Shenandoah Valley. Mr. Shull stated the City of Harrisonburg has served as a founding partner in this coalition. Mr. Shull provided a brief history of how discussions began when the City and County met with SRI in 2006.

Carol Hamilton, SVIC member, reviewed more of the history of how a group of 14 came together in 2012 and wanted to create a culture of innovation. Mrs. Hamilton shared the mission, vision and values of the group.

Dennis Brunette, Director of Shenandoah Valley Partnership, stated the group wanted to have accountability and reviewed the goals of the strategic plan.

Keith May, Broker at Cottonwood Commercial and owner of Kline/May Realty, stated the group wanted to create a balance that included individuals that represent education, private enterprise, and government agencies. Mr. May explained the Start-Up Weekend the group hosts and the outcome has been very positive. Mr. May thanked Council for their continued support.

Council Member Degner noted that a lot of the non-profit groups represented are those whom the City supports.

At 8:31 p.m., Mayor Byrd called a brief recess. At 8:36 p.m., Mayor Byrd called the regular session back in session.

Trisha Blosser, Harrisonburg Downtown Renaissance Director of Resources, reported that the Taste of Downtown event has again increased in participation; a rebranding with the HDR logo along with a new website would be up and running soon; and the organization is up for the 2014 Great American Main Street award. Mrs. Blosser

reported that the organization received the Virginia Main Street Milestone Achievement Award for 85,000 volunteer hours and \$55M investment. On February 25, 2014, the Celebration and Reception was held and Renaissance Night would be held on May 17, 2014.

Katie Yount, Harrisonburg Downtown Renaissances Director of Events reported the Rocktown Beer and Music Festival would be held on Saturday, April 26, 2014. Mrs. Blosser reported the upcoming events were as follows: Valley Fourth, Block Party in the 'Burn, Rocktown Fall Festival; Halloween on the Square; Veterans Day; and First Night. Mrs. Blosser also reminded citizens of street closures for the following events: Rocktown; Soapbox Derby; Valley Fourth; and Three Brother 3 Miler.

Ms. Yount presented a request for Rockingham Harrisonburg SPCA event FundFest. Ms. Yount requested reservation of the Turner Pavilion and the adjacent parking lot to the first median with consideration to the construction for the new City Hall on May 14, May 28, June 11, June 25, July 9, July 23, August 6, and August 20 from 4:30 p.m. until 8:30 p.m. Council Member Baugh offered a motion to approve the request as presented. The motion was seconded by Vice-Mayor Chenault and approved with a unanimous voice vote. It was noted the band stage would be set up at the first median.

Assistant City Manager Lewis explained as Council is aware the City and County have been working with the Middle River Jail Authority on a possible "buy in" to the Middle River facility given that our jail has reached capacity. The City/County has been sending 60 to 100 prisoners to the facility with the cost approximately at \$35.00 per night. An agreement has not been able to be reached on a "buy in" amount and as such for the near term, we will continue to rent space at that facility as needed while seeking other opportunities. Assistant City Manager Lewis stated tonight the City is looking for approval from Council to move forward to have the County issue a RFP for a Community Based Corrections Plan (CBCP), which would then follow with a planning study and site assessment. Normally, these plans are either done at the same time or close to each other and in most cases the plan will go before the Board of Corrections one month and the planning study a month or two later with the deadline of December 31, 2014 to submit both documents to the Virginia Department of Corrections to be considered two years later. If we submit both by December 31, 2014 it would be reviewed and approved in 2015 by the Board of Corrections planning and budget, then into the Governor's budget and considered into the General Assembly's budget in 2016 and approved around April 2016. Assistant City Manager Lewis stated the site is anticipated to be 30 to 40 acres. After the plan is complete, we could also receive unsolicited PPEA proposals for the project. Assistant City Manager Lewis noted that this RFP is for the CBCP and Facilities Planning Study which is required by the Virginia Department of Corrections to submit to build. Council Member Degner stated he would like to continue to look at alternative sentencing and require other partnerships to implement, but could be a lot more cost effective. Council Member Degner stated he would like to see a study completed to see what could be done or options to avoid a new jail facility or alternative. It was noted that the study would consider building solutions as well as discussion of options to reduce

incarceration (research to see what success other localities have had with alternatives, estimate number of potential program participants, what resources are needed, what type of physical plant or equipment is needed and input from judges as to whether or not they would use alternative programs). It was also noted with alternatives to incarceration is going to be addressed very little at the local level. County will be discussing this request tomorrow night at their meeting. Vice-Mayor Chenault offered a motion to adopt the recommendation and move forward with the studies. The motion was seconded by Council Member Shearer. Discussion took place on the following: it is a mandate; County will be handling the studies; Council needs to be kept up to date, because the public will be asking question; understand general scope, but would like to know more details about the process. The motion and second were approved with a recorded roll call vote taken as follows:

Yes – Council Member Baugh, Mayor Byrd, Council Member Degner, Vice-Mayor Chenault and Council Member Shearer

No – None

Assistant City Manager Lewis presented the draft 2014-2015 budget for review and stated the formal presentation and public hearing would be on May 13, 2014 with final adoption on May 27, 2014. Assistant City Manager Lewis noted the following: \$0.06 real estate tax increase; \$0.50 personal property tax increase; \$0.12 machinery and tools tax increase; \$10.00 motor vehicle fee increase; doesn't propose the use of any amounts from the general fund balance; \$1.6M to make up due to the use of fund balance to balance current budget; up to \$700K increase in "shared services" with the County (primarily due to increased jail costs); \$300K increase in health insurance costs; \$212K combined increase in Community Services Board, Social Services, and Juvenile Detention Center costs; includes option 2 of the compensation study (movement to minimum amount of pay grades or 2% pay increase); and planned increases in water and sewer enterprise funds. Assistant City Manager Lewis thanked staff for helping with the preparation of the challenging budget and it would be posted tomorrow on the City's website and at the library. Vice-Mayor Chenault stated he would like option 3d from the compensation study to be factored in as an alternative and look for ways to reduce other items in the budget. Vice-Mayor Chenault stated he would like to see what it takes in tax rates to fund that option and items to cut to get there. It was decided a budget work session would be held to discuss budget matters.

Assistant City Manager Lewis presented a supplemental appropriation for the police department in the amount of \$10,229.88. These funds were used for overtime worked by the CHARGE Task Force for assisting the US Marshal's Service. Funds in the amount of \$2,229.88 were reimbursed from FY12-13 and \$8,000.00 was awarded for FY13-14. Vice-Mayor Chenault offered a motion to approve, and that:

\$2,229.88 chge. to: 1000-33554 US Marshals JLEO Overtime FY2012-13
8,000.00 chge. to: 1000-33554 US Marshals JLEO Overtime FY2013-14

\$10,229.88 approp. to: 1000-310331-41020 Police Criminal Investigations

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

Yes – Council Member Baugh, Mayor Byrd, Council Member Degner, Vice-Mayor Chenault and Council Member Shearer

No – None

Council Member Baugh stated he had received an e-mail about signage concerns from a small business. Council Member Baugh stated there has been a history about reviewing these specific items on occasion. Mayor Byrd stated he was the one that had originally been contacted and had suggested the individual contact the rest of the group knowing the history of the sign ordinance originated through the Comprehensive Plan. The question from Council was if they felt this needed to be reviewed by staff and/or Planning Commission because this issue on the flags has come up before. It was stated that an ordinance always existed, but the City received a complaint and then started to enforce the ordinance. Vice-Mayor Chenault stated he would like to know what Planning Commissions' thoughts were and if they suggest it needs to be reviewed. Council Member Baugh stated that he and Assistant Manager Lewis would inform Community Development of the issue.

Vice-Mayor Chenault addressed the issues that were raised tonight about the CDBG funding. Vice-Mayor Chenault stated not only does he serve as a member of the Northeast Neighborhood Association, but he was also a long time participant, supporter, and assisted in the development with the Newtown Cemetery and the Trustees from an organization, tax-exempt, by-laws standpoint; and serves as a member of the CDBG Selection Committee. Vice-Mayor Chenault stated he speaks for himself not other members, but when considering both the private type of charity grant and infrastructure grants, he reviews them with certain issues and their status in our community, such as poverty, homelessness, hunger, and education. Vice-Mayor Chenault stated if you look at the groups who were funded, the theme is those just stated. Vice-Mayor Chenault stated the Suitcase Clinic was mentioned tonight to help alleviate hospital visits for a number of homeless in the City. Vice-Mayor Chenault stated from the Northeast Neighborhood stand point, it has been the bulk recipient of the majority of CDBG funds when looked at on an area wide distribution in the community. This year over \$250,000 of CDBG money was allocated to Northeast Neighborhood purposes with no funds being given to Purcell Park or Kiwanis Park area that also had applications for infrastructure improvements. Vice-Mayor Chenault stated it is looked at from a stand point of diversity and the past righting of wrongs in our community from a discrimination stand point. He stated he fully understands and he hopes those are issues that have been addressed and will continue to be addressed and perhaps they would be best addressed informs for infrastructure improvements other than this particular grant situation this year. Vice-Mayor Chenault continued saying as a City we know that Salvation Army has lost over \$100,000 in homeless funding and we have tried to assist to help them make it up. He

also said when push comes to shove we have an obligation to our fellow human beings who have no place to live, no food to eat, and live in abject poverty. Although, those items we can put our hands on are sometimes just as deserving but they don't affect the human condition for living purposes. Additionally, one of the focuses for him was education and some of the grant recipients are headquartered in Lucy Simms Center and the projects are geared toward education. Vice-Mayor Chenault stated that \$150,000 was appropriated to the traffic light preemption system because it is a public safety necessity. Vice-Mayor Chenault stated there were charities that weren't funded and deserved, but there weren't enough funds. He went on by saying awarding \$41,000 to \$43,000 to the Cemetery would have possibly wiped out some of the charitable funding that the City was able to do. Vice-Mayor Chenault stated he was sorry for those who didn't stay, but he wanted to take this time as an opportunity to educate citizens and he was happy to answer to any questions after the meeting. Council Member Degner stated he had nothing new on the points made and there are lots of ways to \$40,000 and a fence outside of this process and with the goals that were outlined, he showed support of the Committee's recommendations. It was noted that there were \$1.5M in qualifying projects. Also, the City is constrained by HUD guidelines that only 15% of CDBG funds can be directed toward charitable projects. There is great guidance by staff to those groups who are seeking funds through CDBG. Assistant City Manager Lewis stated due to funding time frames and time lines, the projects sometimes create left over funds for the year. However, those left over funds are allocated already or will be accumulated and reprogrammed. Vice-Mayor Chenault stated the City doesn't have the authority mid-year to reallocate those funds, and they have to wait until the fiscal year process.

Council Member Baugh stated the variances on Chicago Avenue and the new City Hall were reviewed during the last Planning Commission meeting and were both approved.

Assistant City Manager Lewis informed Council that the Virginia Municipal League (VML) has sent out an invitation for localities to participate in the legislative and policy committee process. It was noted in the past years, all of Council has participated in some form and she would be sending an e-mail out to get nominations which are due May 2, 2014.

At 9:17 p.m., Vice-Mayor Chenault offered a motion to enter into closed session into a closed meeting as authorized by the Virginia Freedom of Information Act, Virginia Code Section 2.2-3711(A), under: subsection 7 for consultation with legal counsel regarding specific legal matters requiring the provision of legal advice by such counsel. The motion was seconded by Council Member Baugh and approved with a recorded roll call vote taken as follows:

Yes – Council Member Baugh, Mayor Byrd, Council Member Degner, Vice-Mayor Chenault and Council Member Shearer

No – None

At 9:49 p.m., the closed session ended and the regular session reconvened. City Attorney Brown read the following statement, which was agreed to with a unanimous recorded vote of Council: I hereby certify that to the best of my knowledge (1) only public business matters lawfully exempted from open meeting requirements under Chapter 37 of Title 2.2 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 meeting was convened were heard, discussed or considered in the closed meeting by the City Council.

At 9:50 p.m., there being no further business and on motion adopted, the meeting was adjourned.

CITY CLERK

MAYOR