

## REGULAR MEETING

April 14, 2009

At a regular meeting held this evening at 7:00 p.m., there were present: Mayor Kai Degner; City Manager Kurt Hodgen; Assistant City Manager Evan Vass; City Attorney Earl Q. Thumma, Jr.; Vice-Mayor Richard A. Baugh; Council Members David Wiens, Carolyn W. Frank, and Ted Byrd; City Clerk Yvonne "Bonnie" Ryan, MMC; and Chief of Police Donald Harper.

Vice-Mayor Baugh gave the invocation, and Mayor Degner led everyone in the Pledge of Allegiance.

Michael Wong, representing the Harrisonburg Rockingham Thermal Shelter Program (HARTS), thanked City Council for their support of the program. Mr. Wong said that the program was expanded to 19 weeks, increased the thermal hosts to 16 and provided 20 beds on a daily basis. Council is invited to an appreciation luncheon on April 22<sup>nd</sup> at the Park View Mennonite Church.

Brian Burkholder & Lonny Wenger, representing the Harrisonburg Backyard Chicken Project (HBCP), presented a brief overview of a proposal to allow keeping chickens (egg laying hens) in backyard space.

Hobey Bauhan, representing the Virginia Poultry Federation, said the poultry industry is concerned about protecting the turkey and chicken industry from avian flu and other diseases. "While we've heard, certainly, some parameters suggested, we just wonder where it would stop." Mr. Bauhan said the federation looked forward to having input in the process.

Council Member Byrd offered a motion to approve the consent agenda, including approval of the minutes and the second reading of a supplemental appropriation for the Police Department and referring an alley closing request by Dana Joy Harshberger to the Planning Commission. The motion was seconded by Council Member Frank and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Byrd  
Council Member Frank  
Vice-Mayor Baugh  
Council Member Wiens  
Mayor Degner

Absent – None

The next item of business was a request for exemption from local property taxation for several City businesses. Commissioner of the Revenue June Hosaflook presented an overview of 501 (c) organizations applying for real estate and business personal property tax exemption. A committee including the City Treasurer, the Commissioner of Revenue, and the Finance Director

examine the applications and make a recommendation to City Council. Current applications include the International Mountain Bicycling Association (I.M.B.A.) and the Shenandoah Spay and Neuter Clinic. The International Mountain Bicycling Association (I.M.B.A.) has a mission to protect, create, and enhance quality trail experience for mountain bikers worldwide. They actively promote responsible mountain biking, volunteer trail work, assist land managers with trail management issues, and seek to improve relations among trail user groups. They are applying for exemption from business personal property tax in the amount of \$170.00. The committee does not recommend exemption for I.M.B.A. The Shenandoah Valley Spay and Neuter Clinic has a mission of ending the euthanasia of healthy, behaviorally sound cats and dogs in the Shenandoah Valley area. The clinic is open to everyone regardless of income or place of residence. They are applying for exemption from real estate tax in the amount of \$1,007.13. The committee is recommending exemption for the property.

At 7:18 p.m., Mayor Degner closed the regular session temporarily and called the evening's first public hearing to order. The following notice appeared in the Daily News-Record on Monday, April 6, 2009.

**CITY OF HARRISONBURG  
NOTICE OF PUBLIC HEARING**

**Please take notice that on April 14, 2009 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 two (2) requests by non-profit corporations for exemption from local real estate and personal property taxation:**

- (1) **International Mountain Bicycling Association (I.M.B.A.), P.O. Box 7578, Boulder, CO, 80306.** The assessed value of all personal property owned by I.M.B.A. in the City of Harrisonburg for the year 2008 was \$7,400.00 and the taxes assessed by the City for the year 2008 were \$170.00; for the year 2007, \$193.00; and for the year 2006, \$188.00.
- (2) **Shenandoah Valley Spay & Neuter Clinic, 900 North Liberty Street, Harrisonburg, VA 22802.** The assessed value of the applicant property (Tax Map No. 40-B-1,2,3) for the year 2008 was \$170,700.00 and the taxes assessed by the City for the year 2008 were \$1,007.13; for the year 2007, \$1,003.59 and for the year 2006, \$641.33.

**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**

Mayor Degner called on anyone desiring to speak for or against these tax exemptions.

Cate Mansfield representing the Shenandoah Spay & Neuter Clinic said spay and neuter prevention is the most cost effective approach to over population of animals at area shelters. There being no others desiring to be heard, the public hearing was declared closed at 7:19 p.m., and the regular session reconvened. Council Member Byrd offered a motion to approve real estate tax exemption for the Shenandoah Valley Spay & Neuter Clinic. The motion was seconded by Council Member Frank and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Byrd  
Council Member Frank  
Council Member Wiens  
Mayor Degner

Abstained - Vice-Mayor Baugh

Absent – None

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

Vote: Yes - Vice-Mayor Baugh  
Council Member Wiens  
Mayor Degner

No - Council Member Byrd  
Council Member Frank

Absent – None

Planning and Community Development Director Turner presented a request from Lamplighter, LLC for a special use permit to allow a religious use within the M-1, General Industrial District. The property can be found on tax map parcel 72-A-8 located at 1680 Country Club Road. The Comprehensive Plan designates this area as General Industrial. Mrs. Turner reviewed the surrounding uses in the area. The applicant intends to renovate 11,460 sq. ft. of an existing 49,000 sq. ft. warehouse building to be used by Valley Church. Currently, the building is empty and being marketed for lease as warehouse space. Valley Church intends to offer three services at this location, one on Saturday evenings at 6:30 p.m. and two on Sunday mornings at 10:00 a.m. and 11:30 a.m. The sanctuary is the largest assembly area for Valley Church, with 643 portable chairs; therefore, total required parking is 129 spaces. The site drawing provided by applicant shows that a total of 290 parking spaces can be provided. It has been determined by the applicant's engineer that a turn lane is necessary during the church's primary service at 11:30 a.m., and the 10:00 a.m. service will soon reach or exceed the threshold. Staff is recommending that the church be required to install a left turn lane from Country Club Road into the property. Country Club Road is slated for future road widening. Staff has requested that the applicant dedicate 10 feet of right-of-way along the frontage of the site for future road improvements.

Staff has recommended approval with several conditions: 1) the special use permit is limited only to Valley Church at this location. 2) the applicant installs a left turn lane from Country Club Road into the site and that no building permits for the church would be released until plans are approved and bonded, if necessary, for the left turn lane or the left turn lane is constructed. 3) the owner dedicates 10 feet of right-of-way along Country Club Road for future road widening. Planning Commission recommended approving the special use permit request with conditions.

At 7:30 p.m., Mayor Degner closed the regular session temporarily and called the evening's second public hearing to order. The following notice appeared in the Daily News-Record on Monday, March 30, and Monday, April 6, 2009.

#### **NOTICE OF PUBLIC HEARING**

**The Harrisonburg City Council will hold several public hearings on Tuesday, April 14, 2009 at 7:00 p.m., in the City Council Chambers, 409 South Main Street to consider the following:**

***Special Use Permit – 1680 Country Club Road – Religious Use (10-3-97 (9))***

**Public hearing to consider a request from Lamplighter, LLC with representative Gary Crummett from Valley Church for a special use permit per Section 10-3-97 (9) to allow a religious use within the M-1, General Industrial District. The property is located at 1680 Country Club Road and can be found on tax map parcel 72-A-8.**

**Maps and other information are available for review in the Community Development Department, 409 South Main Street, Monday through Friday, 8:00 a.m. to 5:00 p.m.**

**All persons interested will have an opportunity to express their views at these public hearings. Any individual requiring auxiliary aids, including signers, in connection with the public hearing shall notify the City Manager at least five (5) days prior to the date of the meeting.**

**CITY OF HARRISONBURG**  
**Kurt D. Hodgen**  
**City Manager**

Mayor Degner called on anyone desiring to speak for or against the special use permit request. Gary Crummett said that Valley Church meets at the old Harrisonburg High School, which is leased from JMU on Sunday mornings. The lease will expire this fall and will not be renewed. During the last four years the church has grown from about 80 people to over 600 people. The building on Country Club Road will fit the need of the church. There being no others desiring to be heard, the public hearing was declared closed at 7:38 p.m., and the regular session reconvened. Following further discussion and comments, Council Member Wiens offered a motion to approve the special use permit request with the conditions recommended by Planning Commission. The motion also included another condition that if the seating capacity increased

beyond 700, that the request be presented to Planning Commission for further review and a new special use permit. The motion was seconded by Vice-Mayor Baugh and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Byrd  
Council Member Frank  
Vice-Mayor Baugh  
Council Member Wiens  
Mayor Degner

Absent – None

Planning and Community Development Director Turner presented a request from J & D Group, LLC for a special use permit to allow for contractor sales and storage at 1941 South High Street. The property can be found on tax map parcel 112-A-7. The Comprehensive Plan designates this area as Commercial. Mrs. Turner reviewed the surrounding uses in the area. The applicant intends to lease to Southern Refrigeration Corp. for the purpose of selling HVAC equipment and supplies. Situated on the property are three buildings. Currently on the site are 16 marked parking spaces, as well as a large graveled area, which could be used for parking and maneuvering. Southern Refrigeration Corp. intends to have six employees and a vehicle associated with their business, which means four parking spaces would be required. South High Street is a highly traveled corridor and primary gateway into the City. Staff recommended a condition to prohibit any outside storage associated with the intended use and to screen any dumpster from public view. Planning Commission recommended approving the special use permit request with the one condition cited.

At 7:46 p.m., Mayor Degner closed the regular session temporarily and called the evening's third public hearing to order. The following notice appeared in the Daily News-Record on Monday, March 30, and Monday, April 6, 2009.

#### **NOTICE OF PUBLIC HEARING**

**The Harrisonburg City Council will hold several public hearings on Tuesday, April 14, 2009 at 7:00 p.m., in the City Council Chambers, 409 South Main Street to consider the following:**

***Special Use Permit – 1941 South High Street – Contractor Sales (10-3-91 (6))***

**Public hearing to consider a request from J & D Group, LLC for a special use permit per Section 10-3-91 (6) to allow contractor sales and storage within the B-2, General Business District. The property is located at 1941 South High Street and can be found on tax map 112-A-7.**

**Maps and other information are available for review in the Community Development Department, 409 South Main Street, Monday through Friday, 8:00 a.m. to 5:00 p.m.**

**All persons interested will have an opportunity to express their views at these public hearings. Any individual requiring auxiliary aids, including signers, in connection with the public hearing shall notify the City Manager at least five (5) days prior to the date of the meeting.**

**CITY OF HARRISONBURG**  
**Kurt D. Hodgen**  
**City Manager**

Mayor Degner called on anyone desiring to speak for or against the special use permit request. Jerry Horst, owner of Southern Refrigeration, said the company has been in the City for 30 years. They intend to lease this property for the purpose of selling equipment and supplies. There being no others desiring to be heard, the public hearing was declared closed at 7:48 p.m., and the regular session reconvened. Council Member Byrd offered a motion to approve the special use permit request with the condition proposed by Planning Commission to screen any outside storage associated with the intended use of the site. The motion was seconded by Council Member Wiens and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Byrd  
Council Member Frank  
Vice-Mayor Baugh  
Council Member Wiens  
Mayor Degner

Absent – None

Planning and Community Development Director Turner presented a request to amend Section 10-3-24 of the Zoning Ordinance. This amendment would change the existing definition of “Boarding House” or “Rooming House” in the R-3 zones. The proposed changes would remove the text from one section that is no longer relevant to boarding and rooming houses. Language will be added stating that a boarding or rooming house must obtain an annual business license as required by the city code and also shall be in compliance with the Virginia Maintenance Code (VMC). The responsible party shall schedule a yearly inspection to be conducted between October 1<sup>st</sup> and October 31<sup>st</sup> to ensure compliance with the current VMC and other applicable regulations. In addition, Mrs. Turner also presented a request to amend Sections 10-3-46, 10-3-48.4, and 10-3-52 of the Zoning Ordinance. These proposed changes will add “major family day homes” as a use allowed by special use permit within the R-3 classifications or the R-4 district. Planning Commission recommended approving all of these changes.

At 7:58 p.m., Mayor Degner closed the regular session temporarily and called the evening’s third and fourth public hearing to order. The following notice appeared in the Daily News-Record on Monday, March 30, and Monday, April 6, 2009.

**NOTICE OF PUBLIC HEARING**

**The Harrisonburg City Council will hold several public hearings on Tuesday, April 14, 2009 at 7:00 p.m., in the City Council Chambers, 409 South Main Street to consider the following:**

***Ordinance Amendment – Boardinghouse or Roominghouse Definition Change***

**Public hearing to consider amending the Zoning Ordinance Section 10-3-24 Definitions to amend the existing definition of “Boardinghouse or Roominghouse in R-3 Zones.”**

***Ordinance Amendment – Major Family Day Home in R-3 & R-4***

**Public hearing to consider amending the Zoning Ordinance Sections 10-3-46, 10-3-48.4, and 10-3-52 to add Major Family Day Homes as a use permitted by special use permit within each listed section.**

**Maps and other information are available for review in the Community Development Department, 409 South Main Street, Monday through Friday, 8:00 a.m. to 5:00 p.m.**

**All persons interested will have an opportunity to express their views at these public hearings. Any individual requiring auxiliary aids, including signers, in connection with the public hearing shall notify the City Manager at least five (5) days prior to the date of the meeting.**

**CITY OF HARRISONBURG  
Kurt D. Hodgen  
City Manager**

Mayor Degner called on anyone desiring to speak for or against these ordinance amendments. There being no one desiring to be heard, the public hearing was declared closed at 7:59 p.m., and the regular session reconvened. Council Member Byrd offered a motion to adopt Section 10-3-24, 10-3-46, 10-3-48.4 and 10-3-52 of the Zoning Ordinance for a first reading. The motion was seconded by Council Member Frank and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Byrd  
Council Member Frank  
Vice-Mayor Baugh  
Council Member Wiens  
Mayor Degner

Absent – None

Planning and Community Development Director Turner presented a request to amend the Sign Ordinance. This ordinance will add in provisions for the MX-U, Mixed Use Planned Community District as a new zoning district within the Zoning Ordinance. Mrs. Turner reviewed the proposed special regulations in the MX-U Mixed Use Planned Community District.

A plan of development must be presented before Planning Commission and City Council to obtain this zoning classification. Mechanisms are needed to allow signage because it is not strictly a residential area, but a mixture of uses. Planning Commission recommended approval of this ordinance amendment. Council Member Byrd offered a motion to amend the sign ordinance by adding Section 11-7-14 as special regulations for the MX-U Mixed Use Planned Community District. The motion was seconded by Vice-Mayor Baugh and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Byrd  
Council Member Frank  
Vice-Mayor Baugh  
Council Member Wiens  
Mayor Degner

Absent – None

Planning and Community Development Director Turner presented a request to amend the Sign Ordinance to permit additional portable signage to remain in place continuously for the next year. The current sign regulation states that portable signs, on wheels, carriages or fixed supports shall be considered as freestanding signs and be included in any measurement of permitted sign area, be limited to business and industrial districts, shall require a permit, shall not exceed thirty (30) days' continuous use and shall not be placed on a public right-of-way. They recently received a citizen concern about signs in general resulting in staff contacting several businesses in violation of this and other sign ordinance provisions. One of these businesses has suggested that because of the current economic conditions, businesses are in great need of more leniencies in allowing these signs to remain in place, without having to reapply and pay a permit application fee every thirty days. As staff does not have marketing experience, they are unsure of the effectiveness of these signs and their importance during economic recessions. Staff has suggested wording to amend the ordinance to allow these signs to remain in place on a continual basis for the next year. The proposal is to permit one such sign per parcel, not to exceed forty (40) square feet in area in addition to otherwise permitted signage and maximum sign area. This sign may be left up continually during this period and shall require a permit for which no fee will be charged. Following further comments and discussion, Vice-Mayor Baugh offered a motion not to approve a request to amend the Sign Ordinance, Section 11-7-3 (15) to permit portable signage to remain in place continuously for a year. The motion was seconded by Council Member Frank and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Byrd  
Council Member Frank  
Vice-Mayor Baugh  
Council Member Wiens  
Mayor Degner

Absent – None

The next item of business was a request to consider the approval of a Shenandoah Valley Regional Airport Hangar Lease. Greg Campbell, Executive Director of the Commission, said that the Commission and a tenant have reached an agreement to develop one of the three hangar pad sites. The initial term of the agreement is for 20 years, with an option for an additional 20 years. At the end of the lease, ownership of any hangar facilities will become the property of the Airport Commission. The tenant is Shenandoah Hangar L.L.C., a subsidiary of Dynamic Aviation Inc. of Bridgewater. The Commission's charter requires approval of the member jurisdictions for any lease agreements which have a term that exceeds five years. Council Member Byrd offered a motion to approve this Shenandoah Valley Regional Airport Hangar Lease. The motion was seconded by Council Member Frank and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Byrd  
Council Member Frank  
Vice-Mayor Baugh  
Council Member Wiens  
Mayor Degner

Absent – None

The next item of business was a request to consider the approval of a 20-year power supply contract between the Harrisonburg Electric Commission and Dominion Power. Mike York, General Manager of HEC, reviewed the history of the power supply activities to replace the current agreement, which will expire December 31, 2010. When the rate goes into effect January 1, 2011, the City will have approximately a 10% rate increase. The contract will accommodate the City's future load growth and provide stability. Mr. York said that Section 8-1-11 of the City Code requires the approval of City Council for any contracts that HEC enters into which exceed ten years in length. Council Member Byrd offered a motion to approve the 20-year power supply contract between Harrisonburg Electric Commission and Dominion Power. The motion was seconded by Vice-Mayor Baugh and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Byrd  
Council Member Frank  
Vice-Mayor Baugh  
Council Member Wiens  
Mayor Degner

Absent – None

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

**A Resolution Authorizing Construction of an  
Eight Million Gallon Water Storage Tank  
at the Tower Street Reservoir Site**

**WHEREAS**, state and federal public water supply regulations have required that the Tower Street Reservoirs be replaced; and

**WHEREAS**, the final phase of the replacement requires the construction of a new 8 million gallon pre-stressed water tank within the site of the existing open reservoir at Tower Street; and

**WHEREAS**, the financial burden of this replacement will require the City to obtain general obligation bonds to finance the construction of the replacement tank, and

**WHEREAS**, the Commonwealth of Virginia administers the Water Supply Revolving Construction Fund to assist water systems with financing capital improvements thereby reducing or eliminating the need for independent financing for qualified projects;

**NOW, THEREFORE, BE IT RESOLVED THAT**, the Harrisonburg City Council, acting through its Mayor; hereby affirms and authorizes the following actions:

1. **The City of Harrisonburg Department of Public Utilities to petition the Virginia Department of Health for financial support of this project through the Virginia Water Supply Revolving Construction Fund (VWSRF).**
2. **The City of Harrisonburg Department of Public Utilities to construct a new 8 million gallon tank within the existing reservoir site at Tower Street.**

**BE IT FURTHER RESOLVED THAT**, the Mayor acting on behalf of City Council hereby authorizes the Harrisonburg City Manager and the Director of Public Utilities to complete construction of this project by January 2010 subject to receipt of funding from state officials.

**BY:** \_\_\_\_\_

**Kai Degner, Mayor**

**ATTEST:** \_\_\_\_\_

**Yvonne H. Ryan, MMC, City Clerk**

City Manager Hodgen said the resolution will support a stimulus funding project application. The resolution will be submitted to the Office of Drinking Water Programs. This tank will replace a portion of the 16 million gallons of open reservoir adjacent to the existing tank. Since 2004, the City has been phasing construction of three primary storage tanks to replace the reservoir. Two of these three tanks have been constructed. The City is seeking approximately \$2.3 million in grant funding from the Virginia Department of Health (VDOH). Council Member Byrd offered a motion to support the water tank construction project and funding application. The motion was seconded by Council Member Frank and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Byrd

Council Member Frank  
Vice-Mayor Baugh  
Council Member Wiens  
Mayor Degner

Absent – None

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

**A Resolution Authorizing Construction of  
the South Fork Raw Water Supply**

**WHEREAS, the City of Harrisonburg requires a drought resistant source of water supply to comply with state and federal public water supply regulations and the only viable source of obtaining required supply in the quantities required to sustain City needs is the South Fork of the Shenandoah River; and**

**WHEREAS, the financial burden of developing this source will require the City to issue general obligation bonds to finance the construction; and**

**WHEREAS, the Commonwealth of Virginia administers the Water Supply Revolving Construction Fund to assist water systems with financing capital improvements in an effort to reduce or eliminate independent financing requirements;**

**NOW, THEREFORE, BE IT RESOLVED THAT, the Harrisonburg City Council, acting through its Mayor; hereby affirms and authorizes the following actions:**

- 1. The City of Harrisonburg Water Department to petition the Virginia Department of Health for financial support of this project through the Virginia Water Supply Revolving Construction Fund (VWSRF).**
- 2. Subject to receipt of VWSRF funding, the City of Harrisonburg Water Department construct the South Fork Water Supply Improvements as currently designed.**

**BE IT FURTHER RESOLVED THAT, the Mayor acting on behalf of City Council hereby authorizes the Harrisonburg City Manager and the Director of Public Utilities to complete construction of this project by January 2011 subject to receipt of funding from state officials.**

**BY: \_\_\_\_\_**

**Kai Degner, Mayor**

**ATTEST: \_\_\_\_\_**

**Yvonne H. Ryan, MMC, City Clerk**

City Manager Hodgen presented a resolution to authorize the construction of the South Fork Raw Water Supply. The City has applied for stimulus funding for the South Fork Water Supply project. The resolution will be submitted to the office of drinking water programs. Council Member Byrd offered a motion to approve the South Fork Raw Water Supply project application. The motion was seconded by Vice-Mayor Baugh and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Byrd  
Council Member Frank  
Vice-Mayor Baugh  
Council Member Wiens  
Mayor Degner

Absent – None

City Manager Hodgen presented a transfer request for the Public Utilities Department. These funds will be transferred from Water Capital Projects Code into Capital Project Code. This will allow the City award a contract for an existing bid for a new water storage tank. Council Member Byrd offered a motion to approve transferring these funds, and that:

\$1,300,000.00 chge. to: 1321-910161-48654 Eastern Water Source Development

\$1,300,000.00 approp. to: 1321-910161-48657 Water Storage Tanks

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

Vote: Yes - Council Member Byrd  
Council Member Frank  
Vice-Mayor Baugh  
Council Member Wiens  
Mayor Degner

Absent – None

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

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HARRISONBURG,  
VIRGINIA, REGARDING THE REIMBUSEMENT OF EXPENSES AND COSTS  
INCURRED BY THE CITY, OUT OF THE BOND PROCEEDS TO BE USED FOR THE  
CONSTRUCTION OF THE PEACH GROVE PARK  
DREAM COME TRUE PLAYGROUND AND THE EAST WASHINGTON STREET  
WATER TANK**

**WHEREAS**, the City is in the process of constructing the Peach Grove Park Dream Come True Playground and is going to construct a new water tank off of East Washington Street in the City; and

**WHEREAS**, the construction of these two projects along with other capital improvement projects in the City will require the City to issue general obligation bonds in an amount estimated to be around Nine Million Dollars (\$9,000,000.00); and

**WHEREAS**, the City intends to reimburse itself out of the bond proceeds for all expenditures and costs associated with the design and construction of the Peach Grove Park Dream Come True Playground and the East Washington Street water tank which are properly reimbursable under all State and Federal laws, and which are incurred and paid prior to the issuance of the bonds;

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

**1.** The City of Harrisonburg will be issuing general obligation bonds that are estimated to be in the amount of Nine Million Dollars (\$9,000,000.00) to pay for the construction of the Peach Grove Park Dream Come True Playground and the East Washington Street water tank.

**2.** The City of Harrisonburg shall be reimbursed from the proceeds of the bonds and for all costs and expenditures, which are properly reimbursable under State and Federal laws, incurred for the design and construction of the Peach Grove Park Dream Come True Playground and the East Washington Street water tank. The City represents that it will pay certain expenditures out of general capital project funds for the design and construction of the Peach Grove Park Dream Come True Playground and the East Washington Street water tank prior to the issuance of the general obligation bonds. Therefore, it is hereby declared to be the intent to reimburse the City with a portion of the proceeds of the Bonds for expenditures related to the design and construction of Peach Grove Park Dream Come True Playground and the East Washington Street water tank that were paid with general capital project funds of the City and made no earlier than 60 days prior to the adoption of this resolution and on and after the date hereof.

Each of the expenditures was and shall be either (a) of a type properly chargeable to capital accounts under general federal income tax principles (determined in each case as of the date of the expenditure), (b) a cost of issuance with respect to the borrowings, or (c) a nonrecurring item that is not customarily payable from current revenues. The City shall make a reimbursement allocation, in writing, to evidence the use of the proceeds of the bonds to reimburse each of the expenditures, no later than 18 months after the later of the date of which each expenditure is paid, but in no event more than 3 years after the date on which the expenditure is paid, all in accordance with the Code and Treasury Regulations hereunder.

**3. These forgoing provisions are intended as a declaration of official intent by the City in compliance with the Treasury Regulations under the Code regarding proceeds of tax exempt bonds used for reimbursement.**

**Approved: April 14, 2009.**

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**MAYOR**

**ATTEST:**

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**CLERK OF THE COUNCIL**

City Attorney Thumma said this resolution would allow the City to reimburse the general capital projects fund for expenses paid prior to the bond issue for the Peach Grove Park Dream Come True Playground and the East Washington Street water tower. Council Member Byrd offered a motion to approve the resolution as presented. The motion was seconded by Vice-Mayor Baugh and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Byrd  
Council Member Frank  
Vice-Mayor Baugh  
Council Member Wiens  
Mayor Degner

Absent – None

City Attorney Thumma presented for Council's consideration amending and re-enacting Section 4-2-12 of the Harrisonburg City Code. The change allows the law library to use the money to maintain the library and pay for certain library expenses and allows the law library to use the fees to purchase the computer legal research services and the necessary equipment to use these services. The law library is housed within the Massanutten Regional Library in the City. Council Member Frank 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 Byrd  
Council Member Frank  
Vice-Mayor Baugh  
Council Member Wiens  
Mayor Degner

Absent – None

Fire Chief Shifflett presented a request for a supplemental appropriation for the Fire Department. The funds include a grant for Heavy Tactical Rescue Team Equipment and Hazardous Materials Equipment. The funds have been spent and the reimbursement has been received by the City. Council Member Byrd offered a motion to approve this request for a first reading and that:

\$ 43,963.20 chge. to: 1000-33534 Homeland Security Grant

15,000.00 chge. to: 1000-32534 Homeland Security Grant

104,307.00 chge. to: 1000-32510 Homeland Security Grant

\$ 15,000.00 approp. to: 1000-350532-48113 DOHS 14 Technical Rescue Grant

148,270.20 approp. to: 1000-350532-48113 DIHS 15 Haz Mat Grant

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

Vote: Yes - Council Member Byrd  
Council Member Frank  
Vice-Mayor Baugh  
Council Member Wiens  
Mayor Degner

Absent – None

The next item of business was the consideration of authorizing the City Manager to execute documents associated with Homeland Security Grants. Fire Chief Shifflett said the department has received notice of an award of a \$100,000 grant for the purchase of heavy tactical rescue equipment. This grant will be shared with Rockingham County, Augusta County, Staunton and Waynesboro as part of the Regional Tactical Rescue Team that is comprised of the five localities. The City will act as fiscal agent for the grant. Council Member Byrd offered a motion to authorize the City Manager to execute an agreement associated with the Homeland Security Grants. The motion was seconded by Vice-Mayor Baugh and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Byrd  
Council Member Frank  
Vice-Mayor Baugh  
Council Member Wiens  
Mayor Degner

Absent – None

City Attorney Thumma presented for Council's consideration enacting Section 16-8-52 of the Harrisonburg City Code. This ordinance adopts and makes the state underage drinking law a part of the city code so that the city can continue to receive the fines from all underage drinking violations charged within the City limits. Vice-Mayor Baugh 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 Byrd  
Council Member Frank  
Vice-Mayor Baugh  
Council Member Wiens  
Mayor Degner

Absent – None

Mayor Degner announced that a Sustainability Summit will be held on May 30<sup>th</sup>.

At 9:15 p.m., there being no further business and on motion adopted, the meeting was adjourned.

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CITY CLERK

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MAYOR

cc: City Council  
City Manager  
Public Library