

REGULAR MEETING

February 10, 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 Police Major Malcolm Wilfong. Absent: Police Chief Donald Harper.

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

Bucky Berry said the City should sell the golf course and eliminate the City decals.

Henry Ayer from the Hampton Roads area said his son who is attending college in Harrisonburg was severely beaten and left unconscious on February 1st. "What is the City going to do about the violence and gangs problems? Why did the City spend \$62,000 on sidewalks and cut the Gang Task Force from five officers to three?"

Karen Thomas, representing the Northeast Neighborhood Association, said the residents established the association because of their concern about crime, safety, and neighborhood beautification. They plan to make a difference in the lives of the people living in the community by holding workshops and seminars to educate the residents.

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

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

Absent - None

The next item of business was holding a public hearing to consider an annual grant application for the Public Transportation Operating & Capital Funds for FY 2010. Transportation Director Smith explained that this is an annual application for operating funds through state formula assistance and capital assistance funds. Mr. Smith said that the proposed budget is approximately \$3.3 million, of which the City should receive approximately \$835,000 in Federal operating assistance. Some of the funds will be used to purchase bike racks, replacement buses, bus shelters, and to retrofit existing fleet with an annunciation system.

At 7:15 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 Saturday, January 31, and Saturday, February 7, 2009.

**NOTICE OF
PUBLIC HEARING**

The City of Harrisonburg is currently preparing the annual grant application for Operating and Capital Funds for FY10. This application is for Federal and State funds under the Federal Transit Administration 49USC Section 5307.

A public hearing for this application will be held on Tuesday, February 10, 2009, 7:00 p.m., at City Council Chambers, 409 South Main Street, Harrisonburg, Virginia. All interested citizens are encouraged to attend.

Comments and suggestions for the Transit System are encouraged and welcomed. Please contact Reggie Smith or Aaron Smith-Walter before February 6, 2009 at 540-432-0492: or mail comments to Harrisonburg Public Transit, 475 East Washington Street, Harrisonburg, Va 22802.

Mayor Degner called on anyone desiring to speak for or against this grant application. There being no one desiring to be heard, the public hearing was declared closed at 7:16 p.m., and the regular session reconvened. Council Member Byrd offered a motion to approve the application as presented. The motion was seconded by Council Member Wiens and approved with a recorded roll call vote taken as follows:

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

Absent - None

The next item of business was a request to consider renewal of a Certificate of Public Convenience and Necessity for Valley Cab LLC dba ABC Cab. Assistant City Manager Vass said this request was presented to City Council on December 9, 2008, which opted to proceed with a public hearing and also to receive input from the Taxi Task Force committee. The committee met on February 2, 2009. Mr. Vass presented an overview of the committee's report. It was pointed out that the Certificate of Public Convenience and Necessity can be revoked or suspended at any time by City Council once a public hearing has been held. The Taxi Task Force committee recommended approval.

At 7:18 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 Friday, January 30, 2009.

**NOTICE OF PUBLIC HEARING TO CONSIDER
THE RENEWAL OF A
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY
TO VALLEY CAB, LLC, d/b/a ABC CAB
BY THE CITY OF HARRISONBURG**

The Harrisonburg City Council will hold a public hearing on February 10, 2009 at 7:00 P.M. in the City Council Chambers located at 409 South Main Street, Harrisonburg, Virginia, concerning the renewal of a certificate of public convenience and necessity to Valley Cab, LLC, d/b/a ABC Cab to operate a taxicab company in the City of Harrisonburg.

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

Any person requiring auxiliary aids, including signers, in connection with this public hearing shall notify the City Manager at least five (5) days prior to the time of the hearing.

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

Mayor Degner called on anyone desiring to speak for or against the Certificate of Public Convenience and Necessity renewal.

Dr. Khron supported the certificate renewal because many drivers and families received financial support.

Bucky Berry did not support the certificate renewal.

Don Showalter did not support the certificate renewal.

Colton Wilson did not support the certificate renewal.

Cates Monte supported the certificate renewal.

Dorsey Collett did not support the certificate renewal.

Carla Pleasants did not support the certificate renewal.

Thomas Cramer supported the certificate renewal.

Shell Thornton supported the certificate renewal.

Jonathan Craig supported the certificate renewal.

Kristin Keinz supported the certificate renewal.

Reese McDaniel did not support the certificate renewal.

Saran Lopes supported the certificate renewal.

Natalie Good supported the certificate renewal.

Chad Geasing supported the certificate renewal.

Hamid Muniz supported the certificate renewal.

Ryan Slepeoly supported the certificate renewal.

Matt Prevette supported the certificate renewal.

Russell Presnell supported the certificate renewal.

David Koffer did not support the certificate renewal.

Wayne Lockon supported the certificate renewal.
Maggie Guy supported the certificate renewal.
Marty Solomon did not support the certificate renewal.
Frances Burns supported the certificate renewal.
Hemal Mankad supported the certificate renewal.
David Chiang supported the certificate renewal.
Aka Blakwalt supported the certificate renewal.
Gordon Cash supported the certificate renewal.
David Warren supported the certificate renewal.
Muawia Da'Mes said that the cabs should be operated in a safe manner.
Musa Syed supported the certificate renewal.

There being no others desiring to be heard, the public hearing was declared closed at 8:03 p.m., and the regular session reconvened.

The following discussion by Council Members included: Why was ABC Cab late paying personal property taxes? Council Members expressed concern that ABC Cab had illegally purchased state inspection stickers. Why haven't City officials received complaints? It was suggested that because of lower gasoline prices, a taxi rate increase approved July 1, 2007 should be reviewed and restructured. ABC Cab Company should also not take the safety concerns lightly. Following further discussion and comments, Council Member Frank offered a motion to approve the Certificate of Public Convenience and Necessity for Valley Cab LLC dba ABC Cab as presented. The motion was seconded by Council Member Wiens and approved with a recorded roll call vote taken as follows:

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

Absent – None

Planning and Community Development Director Turner introduced a request to consider adopting the MX-U, Mixed Use Planned Community District as a new zoning district within the Zoning Ordinance. As defined in sections of the zoning text, this district is intended to provide opportunities for the development of mixed communities that offer an integrated and compatible mix of residential, commercial, and office uses, together with open space, recreational, governmental, educational, religious, and other support uses. The mixed use zoning district has been a topic of discussion since the last Comprehensive Plan update in February of 2004. The MX-U zoning district could have a mixed-housing and mixed-use urban development. Also included is a 15% minimum requirement for a park or common open space. Language in the ordinance amendments include modification of the definition of "Dwelling" and addition of the definition of Net Development Area; replacement of the language "Dwelling, Two Family" with "Dwelling, Duplex"; Modification of the R-6 and R-7 Occupancy language; and addition of the

provisions of Article T within the R-6 and R-7 zoning districts. Planning Commission recommended approval of these ordinance amendments.

At 8:29 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, January 26, and Monday, February 2, 2009.

NOTICE OF PUBLIC HEARING

The Harrisonburg City Council will hold several public hearings on Tuesday, February 10, 2009 at 7:00 p.m., in the City Council Chambers, 409 South Main Street to consider the following:

Ordinance Amendment – MX-U, Mixed Use Planned Community District

Public hearing to consider adopting the MX-U, Mixed Use Planned Community District as a new zoning district within the Zoning Ordinance. This district is intended to provide opportunities for the development of planned mixed use communities offering an integrated and compatible mix of residential, commercial and employment uses and open spaces, together with certain governmental, educational, religious, recreational and support uses. Innovative building types and creative subdivision design solutions are encouraged to promote neighborhood cohesiveness, walkability, connected transportation systems, community green spaces and protection of environmental resources. Communities shall be developed and redeveloped in accordance with a master development plan adopted at the time of rezoning or a subsequent approved amendment thereof.

Ordinance Amendment – Dwelling Definitions & Net Development Area

Public hearing to consider amending Article F. Section 10-3-24 of the Zoning Ordinance to modify definitions for specific dwelling types and to add a definition for Net Development Area.

Ordinance Amendment – Two Family Dwelling Replaced by Duplex

Public hearing to consider amending the Zoning Ordinance Sections 10-3-39 (2), 10-3-41, 10-3-47, 10-3-48.3 (2), 10-3-48.5, 10-3-53, 10-3-179 (2), and 10-3-181. These amendments would replace the term “two-family dwellings” with the term “duplex” in the above listed sections.

Ordinance Amendment – R-6 and R-7 Occupancy

Public hearing to consider amending Article L. Section 10-3-56.3 and Article L.2 Section 10-3-57.3 of the Zoning Ordinance to add language that more clearly specifies the occupancy regulations within the R-6 and R-7 zoning districts.

Ordinance Amendment – R-6 and R-7 Article T Provisions

Public hearing to consider amending Article L. Section 10-3-56.5 and Article L.2 Section 10-3-57.5 of the Zoning Ordinance to add language that more clearly specifies how uses that are regularly restricted within Article T will be handled within the R-6 and R-7 zoning districts.

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 Mixed Use Planned Community District Ordinance amendments.

Bucky Berry complained about too many people occupying a dwelling. There being no others desiring to be heard, the public hearing was declared closed at 8:30 p.m., and the regular session reconvened. Council Member Byrd offered a motion to approve these ordinance amendments as presented. 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 Frank
Council Member Wiens
Council Member Byrd
Mayor Degner

Absent - None

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

RESOLUTION

WHERE AS, that due to construction, reconstruction, or elimination of certain streets within the City limits of Harrisonburg, there are deletions and additions of street mileage, which are eligible for maintenance payments.

- 1. Collector/local streets to be deleted, totaling 0.36 centerline miles (0.72 lane miles).**
- 2. Collector/local streets to be added, which meet the requirements of Section 33.1-41.1 of the Code of Virginia as of February 22, 1985, there are eligible for**

maintenance payments totaling 1.83 centerline miles (2.50 lane miles). Said street being listed on accompanying U-1 (7-1-85), Virginia Department of Transportation form and shown in red on City map.

- 3. Principal/Minor Arterial streets to be deleted, totaling 0.33 centerline miles (0.66 lane miles).
- 4. Principal/Minor Arterial streets to be added, which meet the requirements of Section 33.1- 41.1 of the Code of Virginia as of February 22, 1985, that are eligible for maintenance payments totaling 1.44 centerline miles (4.04 lane miles). Said streets being listed on accompanying U-1 (7-1-85), Virginia Department of Transportation form and shown in red on City map.

NOW, THEREFORE, BE IT RESOLVED THAT, The City of Harrisonburg respectfully requests the Virginia Department of Transportation to make maintenance payments effective July 1, 2009.

Adopted by the Harrisonburg City Council the 10th day of February, 2009.

Mayor

Attest:

Clerk of City Council

Public Works Superintendent Williams presented a request that Council submit additional lane mileage to the urban street system for which maintenance payments are received from VDOT. These are streets that have been constructed primarily as a result of residential development. Also, included in this year's request is the addition of the Linda Lane Extension project. Council Member Byrd offered a motion to approve this resolution as presented. The motion was seconded by Council Member Frank and approved with a recorded roll call vote taken as follows:

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

Absent – None

The next item of business was a brief update on Erickson Avenue-Stone Spring Road, Phase I construction. Public Works Superintendent Drew Williams said the initial conceptual planning for this project began in the late 1980's. The Erickson Avenue/Stone Spring Road Connection spans 3.1-miles stretching from the West City limits to the East City limits, providing the only continuous transportation link other than Route 33. The project will provide widening of the Erickson Avenue-Route 42 intersection, relocation of the railroad, removal of

the existing railroad trestle, and relocation of Pear Street. Mr. Williams reviewed the construction estimates. Public Works Director Jim Baker thanked Council and the citizens of Harrisonburg for the support given to this highway construction. Local funds in this project are significant. Phase I construction has been awarded to Perry Engineering Construction and is expected to be completed by November 2010.

The next item of business was Council's approval to participate in a RFP for an Emergency Medical Services "fee for service" system study. City Manager Hodgen said that Harrisonburg has been invited along with Augusta County to participate in the issuance of a request for proposals with Rockingham County that will assist the localities in implementing a "fee for service" program for emergency medical services. The RFP will provide the localities with information from potential vendors on how such a program can be structured. Following further discussion and comments, Council Member Byrd offered a motion to participate in the RFP for Emergency Medical Services "fee for service" study with Augusta County and Rockingham County. The motion was seconded by Council Member Frank and approved with a recorded roll call vote taken as follows:

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

Absent – None

City Attorney Thumma presented for Council's consideration amending and re-enacting Section 14-1-65 of the Harrisonburg City Code. This ordinance is being amended to make the placement of a City-issued taxicab drivers license the same for all taxicabs operating in the City. The previous ordinance only stated that the license needed to be placed in a "conspicuous place", which was not specific enough. Council Member Byrd offered a motion to approve this ordinance for a first reading. The motion was seconded by Council Member Wiens and approved with a recorded roll call vote taken as follows:

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

Absent – None

Police Major Wilfong presented a request for a supplemental appropriation for the Police Department. These funds were reimbursed by the Collins Center for two officers who attended a Child Abuse Conference in October 2008. Council Member Frank offered a motion to approve this request for a first reading, and that:

\$619.89 chge. to: 1000-31901 Recoveries/Rebates

\$619.89 approp. to: 1000-310331-45530 Training/Travel

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

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

Absent – None

Vice-Mayor Baugh offered a motion that Muawia Da'Mes, 1526 Hillside Avenue, be recommended to the Circuit Court to fill the unexpired term of David Wiens on the Board of Zoning Appeals to expire on March 20, 2012. The motion was seconded by Council Member Byrd and approved with a recorded roll call vote taken as follows:

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

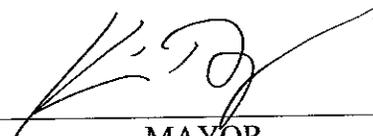
Absent – None

Council Member Byrd offered a motion that Dr. Elizabeth Swallow, 45 E. Fairview Avenue, be recommended to the Circuit Court to fill the unexpired term of Kai Degner on the Board of Zoning Appeals to expire on March 20, 2010. The motion was seconded by Council Member Frank and approved with a unanimous voice vote.

Council Member Frank offered a motion that Scott E. Baxter, 628 Wyndham Woods Circle, be recommended to the Circuit Court for a first term on the Board of Zoning Appeals to expire on March 20, 2014. The motion was seconded by Council Member Byrd and approved with a unanimous voice vote.

At 9:22 p.m., there being no further business and on motion adopted, the meeting was adjourned.


 CITY CLERK


 MAYOR