

## REGULAR MEETING

August 11, 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 Captain Dan Claytor. Absent: Police Chief Donald Harper.

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

Council Member Byrd offered a motion to approve the consent agenda, including approval of the minutes and the second reading appropriating bonds proceeds for the City of Harrisonburg and the Harrisonburg Redevelopment Housing Authority (HRHA) capital projects. The motion also included an alley closing request by Dana Joy Harshberger. 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 Byrd  
Council Member Frank  
Council Member Wiens  
Mayor Degner

Absent – None

Vice-Mayor Baugh offered a motion to enact Section 15-2-25 of the Harrisonburg City Code for a second 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

No - Council Member Byrd  
Mayor Degner

Absent – None

Planning and Community Development Director Turner presented a request from Donna R. Brock to close an undeveloped alley between Effinger Street and Kelley Street. The right-of-way is 10-feet wide by 217-feet long and is adjacent to tax parcels 33-G-1B, 2A, 3A, 4 & 5. The alley is undeveloped and visually appears to be part of the adjoining yards. There is no water, sanitary sewer, stormwater, or electric facilities located within the existing right-of-way.

The City has no plans to develop the alley and does not anticipate any negative consequences from vacating the right-of-way. Planning Commission recommended approval of the alley closing request.

At 7:06 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, August 1, 2009, and Saturday, August 8, 2009.

**NOTICE OF INTENTION TO VACATE  
A TEN FOOT (10') WIDE ALLEY LOCATED  
BETWEEN KELLEY STREET AND EFFINGER STREET  
IN THE CITY OF HARRISONBURG**

**City Council Chambers  
409 South Main Street  
Harrisonburg, VA 22801  
Tuesday, August 11, 2009  
7:00 P.M.**

**The Harrisonburg City Council will hold a public hearing on Tuesday, August 11, 2009, 7:00 P.M., at City Council Chambers, 409 South Main Street, Harrisonburg, Virginia, to consider a request by Donna R. Brock to vacate and close an alley that adjoins her property on the west and is located between Kelley Street and Effinger Street in the City of Harrisonburg, Virginia.**

**A copy of the plat showing the alley to be vacated and the recommendation of the City's Planning Commission are available in the City Community Development office, 409 South Main Street, Monday through Friday.**

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

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

Mayor Degner called on anyone desiring to speak for or against the alley closing request. There being no one desiring to be heard, the public hearing was declared closed at 7:07 p.m., and the regular session reconvened. Council Member Byrd offered a motion to approve closing an undeveloped alley between Effinger Street and Kelley Street. 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 Byrd  
Council Member Frank  
Council Member Wiens

Mayor Degner

Absent – None

A Public Hearing scheduled to consider a request from ILEX LLC to rezone two parcels and a portion of a third parcel from R-2 and B-2 to M-1C was withdrawn by the applicant.

Planning and Community Development Director Turner presented a request from Rockingham Mutual Insurance for a special use permit to allow a communications tower along an undeveloped portion of Long Avenue. The Comprehensive Plan designates this area as Mixed Use Development. Mrs. Turner reviewed the surrounding uses in the area. The property can be found on tax map parcel 28-J-12. Shenandoah Mobile Company (Shentel), the applicant's representative, desires to construct a 79-foot structure consisting of a 75-foot uni-pole/stealth tower with a four-foot lightning rod. The tower site is within the rear parking lot of the Rockingham Mutual Insurance Company office building located at 633 East Market Street and also has frontage along the undeveloped portion of Long Avenue. The applicant has stated that the objective of the tower is to improve coverage and provide additional resource capacity in the general vicinities of the James Madison University (JMU) Campus Area, JMU stadiums, and southwest downtown Harrisonburg. A new tower site would relieve call traffic on existing sites due to increases in subscribers, voice mail, text messaging, and high speed wireless users. Other tower and co-location sites have been considered by Shentel, but are too expensive or have inadequate signal coverage. This portion of East Market Street is a very visible and highly traveled corridor of the City and a 79-foot tower would have a significant visual impact. The applicant states that the tower will be surrounded by mature trees, which would lessen the visual impact. Mrs. Turner reviewed the setback requirements for the B-2 zoning classification and buildings greater than 35-feet in height abutting a residential district. There has been some confusion over the interpretation of this regulation since the Zoning Ordinance defines building and structure separately and a cell tower is obviously a structure. The following conditions have been recommended by Planning Commission: 1) The tower shall not exceed 75-feet in overall height. 2) The tower shall be painted a neutral color that shall help reduce its visibility. 3) The tower shall be designed such that if damaged, it would fall within the limits of the property upon which it is constructed. 4) Placement of advertising of any kind is prohibited on the tower. 5) The tower shall not interfere with the Harrisonburg-Rockingham Emergency Communications system operation. Planning Commission recommended approval with the five conditions by a vote of four to two.

At 7:27 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, September 27, 2009, and Monday, August 3, 2009.

### **NOTICE OF PUBLIC HEARING**

**The Harrisonburg City Council will hold several public hearings on Tuesday, August 11, 2009 at 7:00 p.m., in the City Council Chambers, 409 South Main Street to consider the following:**

*Special Use Permit – Rockingham Mutual Insurance (Shentel Communications Tower)*

**Public hearing to consider a request from Rockingham Mutual Insurance for a special use permit per Section 10-3-91 (4) of the Zoning Ordinance to allow a communications tower to be located within the B-2, General Business District. The property is located along an undeveloped portion of Long Avenue and can be found on tax map 28-J-12.**

**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.**

**Kurt D. Hodgen  
City Manager**

Mayor Degner called on anyone desiring to speak for or against this special use permit.

Glen Hodge, an attorney for the applicant, said that Shentel proposes to build a cell tower along the south side of East Market Street on Rockingham Mutual property. The transmitter will be located inside the uni-pole with the necessary radio equipment in a small structure at the base. Mr. Hodge reviewed other existing Shentel sites and how this proposed tower will relieve the burden on those towers. The proposed tower will not have an adverse impact on the aesthetics of this portion of East Market Street. The development of comprehensive coverage for wireless communication is really consistent with the City Comprehensive Plan and could benefit the citizens of Harrisonburg. Mr. Hodge urged Council to approve the special use permit request and adopt Planning Commission recommendation.

Anthony Perrault reviewed different tower structures.

Paula Figgatt, a retail asset manager with The UVA Foundation, said the process for the tower began in September of 2007. Ms. Figgatt reviewed various sites that towers are not allowed in the City. Also, submitted was a letter from Michael Woolman, JMU Director of Telecommunications, stating that JMU has no commercial cellular towers or antennae on its campus. There being no others desiring to be heard, the public hearing was declared closed at 8:24 p.m., and the regular session reconvened. Following a very lengthy discussion and comments, Council Member Wiens offered a motion to table this special use permit request. 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 Byrd  
Council Member Frank  
Council Member Wiens  
Mayor Degner

Absent – None

Council Member Frank offered a motion to table amending Sections 10-3-92 and 10-3-98 of the Zoning Ordinance. 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 Byrd  
Council Member Frank  
Council Member Wiens  
Mayor Degner

Absent – None

Planning and Community Development Director Turner presented a request from the City of Harrisonburg to preliminarily subdivide an 86 acre parcel into two lots at 1020 Greendale Road. City Manager Hodgen said the purpose of the subdivision is to separate the dwelling unit from the larger parcel so it can be sold. The 86 acre parcel is part of some land the City acquired for landfill expansion purposes. The owner of a single family dwelling on the parcel, who was given a life estate, has died. Planning Commission has recommended approving the preliminary plat to subdivide the parcel. Council Member Byrd offered a motion to preliminarily subdivide the 86 acre parcel into two lots at 1020 Greendale Road. 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 Byrd  
Council Member Frank  
Council Member Wiens  
Mayor Degner

Absent – None

The next item of business was a report by Harrisonburg Electric Commission (HEC) on a Transmission Line Construction project. Brian O'Dell, Engineering Manager of HEC, said that HEC proposes to construct a 69,000 volt transmission line from its substation located at 2230 Ramblewood Road to intersect with an existing 69,000 volt line. The purpose of this line is to allow the transmission system of HEC to operate more efficiently by lowering line losses and to increase the overall capacity of the transmission system to better serve current and future customers under all operating conditions. HEC held a public hearing on June 23, 2009. Mr. O'Dell reviewed the proposed schedule for the construction.

The next item of business was a report by the Combined Harrisonburg and Rockingham Gang Enforcement task force. Chris Rush, Harrisonburg Police Department Sergeant and Joint Gang Task Force Supervisor, said the primary objectives of the task force is to educate the community, conduct awareness, hold prevention presentations, and provide the community with the outlook of gangs in the City and County. During the past four years efforts have focused on identifying gangs and gathering intelligence information. Mr. Rush said that arrests and gang related incidents have increased each year for many years. "We are not experts in this field and

are learning every day we come to work. We are always looking for input from citizens and community cooperation and involvement.”

The next item of business was a presentation by Eddie Bumbaugh, Executive Director of Harrisonburg Downtown Renaissance (HDR), who gave an update of the progress and accomplishments of HDR. The City and HDR hosted a workshop sponsored by Virginia Main Street and Virginia Downtown Development Association on livable downtowns and downtown housing. Mr. Bumbaugh reviewed projects receiving Façade Enchantment grants, existing and new projects, new restaurants, new technology businesses, signage, and expanding businesses. There will be 278 new housing units in the downtown area after several new projects are completed.

Jessica Chase, Program Manager/Downtown Parking Services for HDR, reviewed information regarding events that occurred during the last several months and upcoming events, including a Celebration Reception on October 26<sup>th</sup> and Temptations of the Theatre on November 11<sup>th</sup>. Ms. Chase discussed parking problems and an increased usage of the parking decks.

Alexis Morehouse, Promotions Manager of HDR, reviewed slogans, a new shopping and dining guide, and downtown events.

Kris Ludwig, Special Events Manager of HDR, reviewed information regarding the Court Days Festival, Valley 4<sup>th</sup> Parade, and other upcoming events in the downtown area. Council Member Frank offered a motion to approve the welcome back students “Block Party in the Burg” event on October 2<sup>nd</sup>, from 4:00 to 8:00 p.m., and the Veterans Day Parade on Sunday, November 8<sup>th</sup> from 1:00 to 3:00 p.m. The motion was seconded by Vice-Mayor Baugh and approved with a unanimous voice vote.

The next item of business was an update on Water Capital Projects and the use of bond proceeds. Public Works Director Mike Collins presented a brief overview of the costs associated with the Shenandoah River raw water line project. The original intent was to use \$1.4 million for the water tank, but the City has subsequently received stimulus funding for that project. Mr. Collins proposed that the City utilize the bond funds for an intake pump station and a booster pump station needed for the Shenandoah River raw water line project. These two projects would otherwise be paid for through use of utility fund capital project monies. Council Member Byrd offered a motion to approve the bond funds for an intake pump station and a booster pump station needed for the Shenandoah River raw water line project. 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 Byrd  
Council Member Frank  
Council Member Wiens  
Mayor Degner

Absent – None

City Manager Hodgen presented a draft of an ordinance authorizing the billing for service and the issuance of a franchise and a resolution establishing rates for the charges. A public hearing has been scheduled for the August 25<sup>th</sup> Council meeting. Mr. Hodgen said that no one will ever be denied emergency medical services based on inability to pay. If revenues are less than anticipated adjustments will be made.

City Manager Hodgen presented a request for a supplemental appropriation for the Police Department. These funds were received from state asset seizure money and will be used to purchase new holsters for all sworn police officers. Council Member Byrd offered a motion to approve this request for a first reading and that:

\$10,631.00 chge. to: 1000-22701 State asset seizure money

\$10,631.00 approp. to: 1000-310231-46100 Police supplies

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 Byrd  
Council Member Frank  
Council Member Wiens  
Mayor Degner

Absent – None

City Manager Hodgen presented a request for a supplemental appropriation for the Police Department. These funds were received through a law enforcement block grant and will be used to purchase surveillance equipment. Council Member Byrd offered a motion to approve this request for a first reading and that:

\$13,120.00 chge. to: 1000-31010 Law enforcement block grant

\$13,120.00 approp. to: 1000-310331-48211 Machinery and equipment

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 Byrd  
Council Member Frank  
Council Member Wiens  
Mayor Degner

Absent – None

At 9:55 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