

## REGULAR MEETING

January 12, 2010

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.

Bucky Berry thanked everyone for the support for the Salvation Army’s holiday food drive. He also said that more consideration should have been given before enacting fees for emergency medical service vehicle charges.

Hal Dubois announced that Fine Earth Landscaping of Harrisonburg and the Shenandoah Valley Building Association have selected “*A Dream Come True*” playground for their annual Arbor Day Gift. In preparation for the Arbor Day Ribbon Cutting event on April 30, Fine Earth is planting carefully selected trees and perennials that conform to the playground’s unique requirements. Mr. Dubois introduced Barbara Harkins and Anita Burner who first conceived the idea of the playground. He also expressed his appreciation for the tremendous help of Parks and Recreation Director Lee Forester and Assistant Parks and Recreation Director David Wigginton.

John Sites of Earth Tones said that Earth Tones and Fine Earth Landscaping are seeking a suitable site for a privately funded landmark to be called “*The Welcome Home Garden*”. This new landmark will extend the community’s open arms to all returning veterans.

Council Member Frank offered a motion to approve the consent agenda, including approval of the minutes as amended and the second reading of a supplemental appropriation for the Police Department. The motion was seconded by Council Member Byrd and approved with a recorded roll call vote taken as follows:

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

Absent – None

Assistant City Manager Vass presented for Council’s consideration enacting an ordinance establishing a deer hunting season (archery) within the City limits. Mr. Vass presented an overview of the proposed ordinance, which would permit and regulate archery hunting season on private property within the City limits.

At 7:22 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 2, and Saturday, January 9, 2010.

**NOTICE OF PUBLIC HEARING ON ENACTING  
AN ARCHERY DEER HUNTING  
ORDINANCE FOR THE CITY OF HARRISONBURG**

**The Harrisonburg City Council will hold a public hearing on January 12, 2010 at 7:00 P.M. in the City Council Chambers located at 409 South Main Street, Harrisonburg, Virginia, to solicit public comments concerning enacting an ordinance for a deer hunting archery season for the City of Harrisonburg.**

**Copies of the proposed ordinance enacting a deer hunting archery season are available in the City Manager's Office, 345 South Main Street, Harrisonburg, Virginia, Monday through Friday, 8:00 A.M. to 5:00 P. M.**

**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 this proposed ordinance. Danny Flemming proposed that Council enact a 100-yard safety zone around buildings in neighborhood to protect children and animals. David Proctor, President of Bowhunters of Rockingham County, said the group supports establishing a deer hunting season with archery equipment in the City limits. Hunting with archery equipment is an effective means of controlling deer population. David Kocka, District Biologist for the Virginia Department of Game and Inland Fisheries, said there has only been one fatality associated with archery hunting in Virginia since the season's establishment in the early 1960's. Richard Tysinger, a member of the Deer Task Force, said many discussions have been held on whether to establish archery hunting in the City; however, he prefers letting the City's Swat Team sharp shooters remove deer from City land. There being no others desiring to be heard, the public hearing was declared closed at 7:35 p.m., and the regular session reconvened. Following further discussion and comments, Council Member Frank offered a motion to approve and establish an ordinance to allow and regulate deer hunting season (archery) on private property within the City limits. The motion was seconded by Vice-Mayor Baugh and approved with a recorded roll call vote taken as follows:

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

No - Mayor Degner

Absent – None

City Manager Hodgen presented the 2010-2011 through 2014-2015. Mr. Hodgen said that the Capital Improvement Program allows the City to plan for capital expenditures for a five-year period. He also said that emphasis is always on the first year of the CIP, which affects the upcoming budget. The projects that are listed are ranked from among dozens of projects that are submitted for consideration. It will be difficult for the City to fund projects ranked one and two with the current economic environment. Funding comes through existing budgeted funds, capital accumulated funds for the project, and through grants, loans, and bonds. Mr. Hodgen recommended that the plan be approved as presented.

At 7:51 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 Saturday, January 2, and Saturday, January 9, 2010.

#### NOTICE OF PUBLIC HEARING

**The Harrisonburg City Council will hold a Public Hearing on Tuesday, January 12, 2010, at 7:00 p.m. in the City Council Chamber located at 409 South Main Street, to consider the following:**

**The proposed Capital Improvement Program, for fiscal years 2010-2011 through 2014-2015. The Capital Improvement Program is a multi-year projection and scheduling of capital projects of \$30,000 or greater. This plan is prepared annually in an effort to facilitate planning and setting priorities among capital improvement needs over a subsequent five-year period. Copies of the Capital Improvement Program are available for review in the Department of Planning and Community Development, the City Manager's office and the Rockingham Public Library.**

**For any additional information, contact the City Manager's office, 345 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 this public hearing.**

**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 adopting the Capital Improvement Program. There being no one desiring to be heard, the public hearing was declared closed at 7:52 p.m., and the regular session reconvened. Council Member Byrd offered a motion to adopt the Capital Improvement Program. The motion was seconded by Council Member Frank and approved with a recorded roll call vote taken as follows:

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

Absent – None

The next item of business was a presentation on naming Pear Street remnant. City Manager Hodgen said that as part of the current phase of the Stone Spring Road/Erickson Avenue Connector Project, Pear Street is being realigned at its intersection with Erickson Avenue. In doing so, a remnant of the existing Pear Street would remain and would have residential lots fronting along it. When the road project is complete this remnant would no longer be considered a portion of Pear Street; therefore, a new street name is necessary. Planning Commission has suggested four names Constellation Court, Bartlett Court, Kiwi Court, or Comet Court. Council Member Frank offered a motion to name the street Bartlett Court. The motion was seconded by Council Member Wiens and approved with a recorded roll call vote taken as follows:

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

Absent – None

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. He reviewed two state-wide awards received by Urban Exchange and Taste of Downtown, nine Design Excellence winners, walking tours highlights, and a \$5,000 grant received from the Virginia Tourism Corporation, which will be used to place three Civil War trail markers at Woodbrine Cemetery, Massanutten Regional Library and the Harrisonburg Municipal Building. Mr. Bumbaugh also reviewed projects receiving Façade Enchantment grants, existing and new projects, signage, new restaurants, and expanding businesses.

Nancy Garber, owner of David B. Garber Jewelers, who has retired was recognized for being in business over 50 years in the downtown area.

Jessica Chase, Manager/Downtown Parking Services for HDR, reviewed information regarding events that occurred during the last several months and upcoming events, including a celebration and reception, and Temptations at the Theater. The department has created new hang tags in-house to save some City money. The Parking Study will be presented to City Council on January 26<sup>th</sup>.

The next item of business was approval of a Cafeteria Plan resolution. City Manager Hodgen said that the City currently allows employees to participate in a “cafeteria plan” as part of its overall benefits program. For a number of years the plan has specified an open enrollment period of 60 days; however, a resolution was never adopted by Council endorsing the change. Council Member Byrd offered a motion to adopt the Cafeteria Plan Resolution as presented. The motion was seconded by Council Member Wiens and approved with a recorded roll call vote taken as follows:

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

Absent – None

**RESOLUTION OF THE CITY COUNCIL  
FOR THE AMENDMENT OF  
CITY OF HARRISONBURG  
CAFETERIA PLAN**

**On this date, the City Council of the CITY OF HARRISONBURG did meet to discuss the Amendment of the CITY OF HARRISONBURG CAFETERIA PLAN to be effective with the open enrollment period for the plan year beginning July 1st, 2009. Let it be known that the following resolutions were duly adopted by the City Council of the CITY OF HARRISONBURG and that such resolutions have not been modified or rescinded as of the date hereof;**

**RESOLVED, that there will be an open enrollment period of 60 days prior to the beginning of each plan year for Health and Dental Insurance. This 60 day period for open enrollment is established by the City. Open enrollment for the Flexible Spending Accounts will begin on the date established by the City for Health and Dental Insurance and will end on the date established by the City but in no case less than the 60 day period.**

**RESOLVED, that the Employer shall contribute to the Plan amounts sufficient to meet its obligation under the Cafeteria Plan, in accordance with the terms of the Plan Document and shall notify the Plan Administrator to which periods said contributions shall be**

applied.

**RESOLVED**, that the proper officers of the Employer shall act as soon as possible to notify employees of the amendment of the Cafeteria Plan by delivering to each Employee a copy of the Summary Plan Description presented to this meeting, which form is hereby approved.

The undersigned certifies that attached hereto as Exhibits A and B respectively are true copies of the Plan Document, and Summary Plan Description for CITY OF HARRISONBURG CAFETERIA PLAN approved and adopted in the foregoing resolutions.

The undersigned further certifies and attests that the above resolutions were made with the consent of the full City Council of the City of Harrisonburg, each of whom were in attendance on this date:

\_\_\_\_\_

**Date**

\_\_\_\_\_

**Mayor**

**Attest:**

\_\_\_\_\_

**Clerk of Council**

City Manager Hodgen said the CDBG Review Committee has met and recommended that the City continue to receive and consider applications from public service agencies for block grant funding. The City is restricted to 15% of the total allocation. It was noted that City Council will make the final decision on how block grant funds are spent, within certain parameters and specific categories that are established by the Federal Department of Housing and Urban Development.

City Attorney Thumma said the City has advertised and received bids for the construction of Stone Spring Road/Erickson Avenue, Phase II. There were seven bids received ranging from \$21,238,035.35 to \$24,119,201.55. However, the Department of Public Works after reviewing the apparent low bid, determined there were unbalanced unit prices, which led to an irregular bid because of other discrepancies within the plan and contract documents. The Virginia Department of Transportation (VDOT) has advised the City to reject all bids received, review and revise the contract documents and plans, re-submit to VDOT for review and approval again, and re-advertise the contract for bid. It is anticipated that the process will take between four and six months. Vice-Mayor Baugh offered a motion to approve the resolution as presented. The motion was seconded by Council Member Frank and approved with a recorded roll call vote taken as follows:

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

Council Member Wiens  
Mayor Degner

Absent – None

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HARRISONBURG,  
VIRGINIA REJECTING ALL BIDS RECEIVED FOR THE CONSTRUCTION OF  
STONE SPRING ROAD/ERICKSON AVENUE, PHASE II, IN THE CITY OF  
HARRISONBURG**

**WHEREAS, the Department of Public Works for the City of Harrisonburg advertised and received bids for the construction of Stone Spring Road/Erickson Avenue, Phase II, which bids were opened on December 17, 2009 at 2:00 PM; and**

**WHEREAS, there were seven (7) bids received ranging from \$21,238,035.35 to \$24,119,201.55; and**

**WHEREAS, the Department of Public Works for the City of Harrisonburg after reviewing the apparent low bid, determined that there were unbalanced unit prices, which led to an irregular bid, and further that there are other discrepancies with the plans and the contract documents; and**

**WHEREAS, the Department of Public Works recommends that all bids be rejected and upon correcting the discrepancies in the plans and the contract documents, that the plans be resubmitted to the Virginia Department of Transportation (VDOT) and to the Federal Highway Administration FHWA for review and approval after which the City will re-advertise the contract for bid;**

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

**Based on the review of the bids received for the Stone Spring Road/Erickson Avenue, Phase II, by the City of Harrisonburg Department of Public Works and based on the Department's recommendation, all bids received on December 17, 2009 are hereby rejected, due to unbalanced unit prices which led to an irregular bid, along with other discrepancies with the plans and contract documents. The City Council deems it is in the best interests of the City and its citizens to correct the discrepancies in the plans and contract documents resubmit the plans to VDOT and FHWA for review and approval and re-advertise the contract for bid.**

**Approved: January 12, 2010.**

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**MAYOR**

**ATTEST:**

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## CITY CLERK

City Manager Hodgen said that Harrisonburg is now a member of the Virginia First Cities organization. The organization is a coalition of cities that promotes legislative policies for the benefit of its members. As a member of Virginia First Cities, Harrisonburg is allowed two members on the Board of Directors. One Director must be the City Manager, the other a member of City Council. Council Member Wiens offered a motion to appoint Council Member Ted Byrd as City Council representative to Virginia First Cities Board of Directors joining City Manager Hodgen. The motion was seconded by Vice-Mayor Baugh and approved with a unanimous voice vote.

The next item of business was approval of “Memorandum of Understanding for Technical Energy & Water Savings Audit”. Public Works Department Planner Thanh Dang said that the City will receive \$206,200 in grant funding for energy efficiency improvements and is working with Linc Services, LLC. Linc proposes to conduct a Technical Energy & Water Savings Audit of four (4) city buildings. The work is associated with the City’s receipt of an Energy Efficiency and Conservation Block Grant through the ARRA. Staff has selected four facilities for improvements: Municipal Building, Public Works, Public Safety, and Community Activities Center. The City has no payment obligations at the time of execution of the MOU, but in the event that Linc Services presents an Audit report that meets the City’s terms and the City decides not to proceed with the implementation phase (entering into an Energy Performance Contract) then the City will pay Linc Services, LLC \$12,000 for the audit. An overview of the proposal was presented. Following further discussion and comments, Council Member Byrd offered a motion to authorize the City Manager to sign a “Memorandum of Understanding for Technical Energy & Water Savings Audit” with Linc Services. The motion was seconded by Council Member Wiens and approved with a recorded roll call vote taken as follows:

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

Absent – None

Parks and Recreation Director Lee Foerster presented a request for a supplemental appropriation for the Parks and Recreation Department. These funds will be used for First TEE projects. Council Member Byrd offered a motion to approve this request for a first reading, and that:

\$2,101.79 chge. to: 1000-31010 Amount from fund balance  
2,101.79 chge. to: 1310-34210 Transfer from General Fund

\$2,101.79 approp. to: 1000-990111-49216 Transfer to capital projects  
2,101.79 approp. to: 1310-910141-48720 First TEE Building

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

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

Absent – None

Parks and Recreation Director Lee Foerster presented a request for a supplemental appropriation for the Parks and Recreation Department. These donated funds were received by Chipotle's Mexican Grill and will be used to purchase a flat screen message board for the activity center. Council Member Byrd offered a motion to approve this request for a first reading, and that:

\$1,725.00 chge. to: 1000-31809 Donations

\$1,725.00 approp. to: 1000-710471-46130 Recreational Supplies

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

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

Absent – None

Deputy Fire Chief Ian Bennett presented a request for a supplemental appropriation for the Fire Department. These funds were received from donations and grants and will be used for programs within the department. Council Member Byrd offered a motion to approve this request for a first reading, and that:

\$1,000.00 chge. to: 1000-32545 VFIRS Grant  
5,000.00 chge. to: 1000-31010 Amount from fund balance  
7,024.00 chge. to: 1000-32512 Fire Programs Fund  
17,446.54 chge. to: 1000-31809 Donation

\$1,000.00 approp. to: 1000-320232-48272 Hardware  
5,000.00 approp. to: 1000-350532-46155 Four for Life  
7,024.00 approp. to: 1000-320232-48113 Fire Programs Fund  
17,446.54 approp. to: 1000-320232-43350 Repair & Maint. Auto Equip.

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

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

Absent – None

Police Chief Harper presented a request for a supplemental appropriation for the Police Department. These funds were reimbursed by the Cops Meth program for overtime. Council Member Byrd offered a motion to approve this request for a first reading, and that:

\$6,088.90 chge. to: 1000-33555 Cops. Meth. Grant

\$6,088.90 approp. to: 1000-310531-41020 Salaries/wages OT

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

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

Absent – None

Police Chief Harper presented a request for a supplemental appropriation for the Police Department. These funds were reimbursed through a DMV grant for overtime and travel. Council Member Byrd offered a motion to approve this request for a first reading, and that:

\$5,653.25 chge. to: 1000-33524 Federal DMV grant

\$ 297.20 approp. to: 1000-310631-45530 Training and travel

532.46 approp. to: 1000-310631-41020 Salaries/wages OT

4,823.59 approp. to: 1000-310231-41020 Salaries/wages OT

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

Vote: Yes - Council Member Byrd  
Vice-Mayor Baugh

Council Member Frank  
Council Member Wiens  
Mayor Degner

Absent – None

Council Member Frank offered a motion to recommend Robert L. Hansbrough (for a three-year term) to the Circuit Court for appointment to the Board of Equalization. The motion was seconded by Council Member Byrd and approved with a unanimous voice vote.

At 9:50 p.m., Council Member Byrd offered a motion that Council enter into a closed session for discussion concerning a prospective business where no previous announcement has been made of the business' interest in expanding its facilities within the City, exempt from public meeting requirements pursuant to Section 2.2-3711(A)(5) of the Code of Virginia. The motion was seconded by Vice-Mayor Baugh and approved with a recorded roll call vote taken as follows:

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

Absent – None

At 10:27 p.m., the closed session ended and the regular session reconvened. City Attorney Thumma read the following statement, which was agreed to with a unanimous recorded vote of Council: I hereby certify to the best of my knowledge and belief that (1) only public matters lawfully exempt from open meeting requirement pursuant to Chapter 21 of Title 2.1 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 session was convened, were heard, discussed, or considered in the closed session by the City Council.

At 10:28 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