

REGULAR MEETING

February 23, 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.

Council Member Byrd offered a motion to approve the consent agenda, including approval of the minutes of February 9 and February 17 and the second reading of a supplemental appropriation for the Police Department. The motion also included a rezoning request from South Avenue, LLC and Patrick and Virginia Logan. The motion was seconded by Council Member Frank 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

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 2011. Transportation Director Reggie 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 \$3.2 million, of which the City should receive approximately \$1,000,000 in Federal operating assistance. Some of the funds will be used to purchase three expansion transit buses, and start preliminary site work in preparation for the construction of a new Administration/Maintenance Facility.

At 7:07 p.m., Mayor Degner closed the regular session temporarily and called the evening public hearing to order. The following notice appeared in the Daily News-Record on Saturday, February 13, and Saturday, February 20, 2010.

NOTICE OF PUBLIC HEARING

The City of Harrisonburg is currently preparing the annual grant application for Operating and Capital Funds for FY11. 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 23, 2007, 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 Vickie Conley before February 19, 2010 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 7:08 p.m., and the regular session reconvened. Council Member Wiens offered a motion to approve this application as presented. The motion was seconded by Council Member Byrd 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

Dr. John Downey, President of Blue Ridge Community College, gave a brief overview of the progress Blue Ridge Community College is making in serving the needs of the City of Harrisonburg. Board member Denise Dawson was also present. He reviewed enrollment facts and new occupational technical programs that have been added. New initiatives at BRCC include opening an advanced technology center in 2011 and a recreation and fitness center in 2013. Harrisonburg High School had an increase of 14% of June graduates enrolled in the fall of 2009 and 1046 City residents enrolled in credit courses last fall.

Elly Swecker, Executive Director of Big Brothers Big Sisters, gave a brief overview on the activities and the impact made with the City's youth. Without the guidance and support of Big Brothers Big Sisters many of the children enrolled in the program are not aware of the opportunities available to them. Ms. Swecker reviewed several programs and said that their mission is to make a positive difference in a child's life by supporting them through one-on-one mentoring relationships. Big Brothers Big Sisters is very sensitive to providing high quality services to vulnerable children, which is done at less cost as a volunteer organization.

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

**THE DEVELOPMENT, RELIEF, AND EDUCATION FOR ALIEN MINORS ACT
(DREAM Act)**

Resolution of the City Council of Harrisonburg to President Obama, Senators Mark Warner and Jim Webb, and Congressman Bob Goodlatte to support the passage of and to urge other Members of the House and Senators to vote for the Development, Relief, and Education for Alien Minors Act, - the DREAM Act, which authorizes the cancellation of removal and the adjustment of status for certain immigrant youths who are college bound and are long term United States residents and permit States to determine State residency for purposes of higher education without regard to immigration status, once this legislation is introduced into the Congress.

WHEREAS, each year 65,000 undocumented students, who have lived in the United States for over five years, graduate from American high schools; and

WHEREAS, the percentage of Limited English Proficiency (LEP) students within Harrisonburg City Schools has increased each year since the 1995-96 school year; for the 2008-09 school year, Harrisonburg City Public School's student body consisted of 41% LEP students; and

WHEREAS, for the 2008-09 school year, the student body within Harrisonburg City Schools represents 42 different languages; and

WHEREAS, Undocumented students face overwhelming obstacles in accessing higher education due to their immigration status, which makes them ineligible for federal financial aid and requires them to pay out-of-state tuition for those attending state universities despite their long-term residency within our country and the payment of state taxes by their parents; and

WHEREAS, large numbers of these children live in Harrisonburg and surrounding communities and attend our public schools, many of whom drop out of high school, and are discouraged from studying because they see no value in pursuing higher education because of their immigration status; and

WHEREAS, as witnessed by the accompanying petition of support, over 500 residents of Harrisonburg who know and support these students, including many of their teachers, urge the council to support the resolution; and

WHEREAS, most of these children were brought to the United States due to their parents' actions and did not take part in any decision to circumvent the immigration laws of this country; and

WHEREAS, most of these children, having been raised and educated in the United States, view themselves as "Americans" and have the same dreams, goals and aspirations as other American children; and many have families that all reside now in the united states, having no one to return to if they were deported to the country of origin; and

WHEREAS, undocumented immigrants make vital contributions to the economic stability and cultural richness of the United States, yet remain vulnerable to exploitation,

victimization and stigmatization as long as they are denied legal immigration status and meaningful access to higher education; and

WHEREAS, the citizens of the City of Harrisonburg, this City Council, and the Harrisonburg School Board have made a tremendous contribution of public finance and public and private effort to the education of undocumented children within our community; and

WHEREAS, the United States Supreme Court has determined that every state has a constitutional obligation to provide free public primary and secondary education to all children residing within their borders regardless of their immigration status; and

WHEREAS, a high school diploma and the lack of legal immigration status condemn undocumented students to a life of underemployment, instability and unfulfilled potential; and

WHEREAS, access to higher education will allow these students to break the bonds of poverty, to raise the level of esteem in which they are held by our society and to make full contribution to our country's civic, political and economic well-being; and

WHEREAS, the Development, Relief, and Education for Alien Minor - DREAM Act would remedy this situation by allowing undocumented students who have lived in the United States for at least five years and have graduated high school or received a graduate equivalency diploma (GED) to legalize their immigration status, thereby making them eligible for Federal financial aid, and allow states to consider these students as state residents for tuition purposes at state universities.

THEREFORE BE IT RESOLVED, that the City of Harrisonburg fully supports the passage of the DREAM Act; and, be it

FURTHER RESOLVED, that the city of Harrisonburg honors the hard work of these students who have been leaders in our schools, worked as volunteers in our community, and now wish to be given the chance to contribute back fully to their local community, state and new country; and

**BE IT FURTHER RESOLVED, that the City of Harrisonburg urges the President of the United States to make passage of the DREAM Act one of his top legislative priorities; and
BE IT FURTHER RESOLVED, that the City of Harrisonburg urges Virginia's Senators, and our local member of the House of Representatives to vote for and encourage other Congresspersons and Senators to vote for the passage of the DREAM Act.**

Attest:

Mayor Kai Degner

Yvonne Ryan, MMC, City Clerk

Isabel Castillo an advocate for the DREAM Act Group said the DREAM Act is a bill that would create a pathway for undocumented youth to pursue higher education or serve in the military. She asked Council to support and pass a resolution for many youth in the community who would benefit from this bill. Higher education is the dream of many young people; however, because they do not have a social security number they are denied access to higher education. “Harrisonburg is my home and hopefully one day my dreams will become a reality when I can become a citizen.”

John Elledge said immigration is a very complex issue. A lot of young people were brought to this country and had no control over decisions made for them. They have attended school only to find out as seniors in high school that upon graduation they cannot attend a college or university because they don't have a social security number. There is also the fear of deportation. The DREAM Act would allow these young people to enrich and contribute their skills to work in the community, pay taxes, and do volunteer service. He asked Council to support the resolution.

Sandy Mercer said justice must meet compassion. Young people are losing hope. They work hard in school, master languages, adjust to a new culture, participate in sports, and volunteer to help others in the community. They begin to dream about opportunities they never thought possible and then the reality of being a student without documentation settles in. Without the passage of the DREAM Act the contributions these youth can make to our wonderful community of Harrisonburg will be lost.

Alexandra de Havilland said many undocumented youth were brought to the United States as children, raised as Americans, and because of various immigration issues are at risk of being evicted from the only place known as home. “I support the DREAM Act because it supports young educated passionate people who love the United States of America and who want nothing more than to be able to stay legally and continue to contribute to the communities they love.”

Nicole Budzius said voting to support the resolution will show young people in our community that they are supported by their community leaders. It will show them that their hard work will lead to achieving a dream and becoming successful active members in the community.

Isabel Castillo summarized that the DREAM Act is a proposed Federal legislation, which has four basic requirements for undocumented youth to be a beneficiary. Youth must have entered the United States before age 16, have good moral character with no criminal records, have a U.S. high school diploma or the equivalent of a GED, and at the time of the enactment have resided in the United States for at least five consecutive years. If all the requirements are met then beneficiaries must have six years of legal residency and attended a university or college or served in the military for two years. Once the requirements have been fulfilled a permanent residency can be applied for.

Council Member Wiens offered a motion to adopt the resolution, but remove the language “supports the passage of the Student Adjustment Act”. The motion was seconded by Council Member Frank 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

The next item of business was a request for a letter of support for Freeman Station Housing Project. Local developer Randy Cosner is requesting City Council to authorize a “Letter of Support” for his application to the Virginia Housing Development Authority for Low Income Housing Tax Credits (LIHTC). Freeman Station is an approved housing project (rezoning and preliminary subdivision plat approved in 2008). The LIHTC program emphasizes “workforce” housing development. Mr. Cosner said that as part of the program all units will have at least 75% brick exterior, seven units will be universal design to accommodate wheel chairs and all units will be Earthcraft certified. Extra amenities will include a community room, tot lot and basketball court. Also, as part of the project, a non-profit organization will have the first right of refusal to purchase the entire development for taxes and assume the mortgage. Ryan Johnson reviewed the application process. There is an equation renting process provided and controlled by VHDA. Council Member Frank offered a motion to provide a letter of support for Freeman Station Housing Project. 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

The next item of business was a presentation by Jim Baker, Public Work Director, who gave an update on snow and ice removal activities. The mission of the Public Works Department’s Snow and Ice Program is to lessen the severity and impact of the storm on the motorists and pedestrians and to assist with maintaining the travel ways in such a condition that those streets can be traveled over with extra time, caution, and patience. He reviewed information regarding the snow and ice removal program including: primary snow removal and treatment routes, snow storms (11 events to date), wind, drifting, colder temperatures, amount of salt used per lane mile, and salt delivery delays, that occurred during the recent snow storms. The City has 25 miles of primary streets, 137 miles of residential or collector streets, and a task of clearing multiple parking lots and sidewalks. The City used contract services to help clear downtown parking lots, streets, bike lanes, sidewalks, and hauled snow from the top side of the parking decks. Also, during this period of time the Public Works and Public Utilities Departments and other departments continued to work on traffic maintenance, monitored and repair street signs, collect trash, and keep up with water and sewer operations. The City has dealt with more storms, colder temperatures, and larger snows this year than we have in the past ten years.

Public Works Director Jim Baker presented a request for a supplemental appropriation for the Public Works Department. These funds were reimbursed for the rain barrel workshop. Council Member Byrd offered a motion to approve this request for a first reading, and that:

\$1,591.55 chge. to: 1310-31914 Recovered costs

\$1,591.55 approp. to: 1310-910141-48616 Citywide Drainage program

The motion was seconded by Council Member Frank 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

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

A RESOLUTION ENDORSING THE SUBMISSION OF A NON-DEFENSE APPROPRIATIONS REQUEST FOR THE ERICKSON AVE-STONE SPRING ROAD/SOUTHEAST CONNECTOR

WHEREAS, Non-Defense Appropriations Request applications made to Senator Webb and Senator Warner’s offices are to support projects that are of importance to the Commonwealth of Virginia; and

WHEREAS, the Erickson Ave-Stone Spring Road/ Southeast Connector will provide a 6-mile long multimodal east-west corridor through the City of Harrisonburg and Rockingham County, address deficient capacity and critical safety concerns; and

WHEREAS, the project is a number one priority for secondary roads for the Harrisonburg Metropolitan Area as outlined in the Constrained Long-Range Transportation Plan; and

WHEREAS, the project is included in the City of Harrisonburg’s Comprehensive Plan and Rockingham County’s Comprehensive Plan; and

WHEREAS, the project is included in the State Transportation Improvement Program (STIP) and the Six-Year Improvement Plan (SYIP) and meets all federal, state, and local requirements for construction; and

WHEREAS, the project passes through existing fully developed commercial areas and areas receiving extreme interest for future residential and commercial development; and

WHEREAS, the award of the Non-Defense Appropriations would provide funding to allow for the completion of the 6-mile long project and allow the project to proceed in partnership with the City of Harrisonburg, Rockingham County, and the Stone Spring Consortium, a private entity of property owners along the portions of the proposed alignment; and

NOW, THEREFORE BE IT RESOLVED that the *Harrisonburg City Council* hereby endorses the Non-Defense Appropriations Request application and request of \$70.1 million by the City of Harrisonburg, Rockingham County and the Stone Spring Consortium for the construction of Erickson Avenue-Stone Spring Road/Southeast Connector, extending between west city limits and Route 33.

Approved this 23rd day of February, 2010.

BY: _____

ATTEST: _____

Kai Degner, Mayor

Yvonne H. Ryan, MMC, City Clerk

City Manager Hodgen said that the Federal TIGER grant application of \$70.1 million was not funded. Through the encouragement of Senator Webb and Senator's Warner's offices the City of Harrisonburg and Rockingham County are applying for appropriation funds for the construction of the Erickson Avenue-Stone Spring Road/Southeast Connector. 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 - Council Member Wiens
Council Member Byrd
Vice-Mayor Baugh
Council Member Frank
Mayor Degner

Absent – None

At 8:58 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. Consultation with legal counsel pertaining to litigation, exempt from public meeting requirements pursuant to Section 2.2-3711(A)(7) 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 10:00 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 10:01 p.m., there being no further business and on motion adopted, the meeting was adjourned.

CITY CLERK

MAYOR

cc: City Council
City Manager
Public Library