

## REGULAR MEETING

March 9, 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.

Council Member Byrd gave the invocation, and Mayor Degner led everyone in the Pledge of Allegiance.

Josie Kinkade, Director of Cats Cradle, said that the Rockingham-Harrisonburg SPCA has the highest death rate of any contracted city or county animal pound in the state of Virginia. Blaming the public has become a convenient excuse for the shelter failure to save more animals. According to state requirement it is perfectly fine to kill every single stray cat or dog that enters the shelter. The City has more than a legal responsibility, it has a moral imperative to care for its stray animals. The citizens of Harrisonburg don’t want a shelter that just meets requirements.

Bucky Berry announced that several businesses in the City are donating money to pay for new seats and to paint letters on a newly painted 1954 Ladder Truck owned by HFD.

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 Public Works Department. 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  
Mayor Degner

Absent – None

Planning and Community Development Director Turner presented for Council’s consideration amending Section 10-3-92 and 10-3-98 of the Zoning Ordinance. The amendment will clearly specify that all structures in excess of 35 feet in height have increased rear and side yard setback regulations within the B-2, General Business District and the M-1, General Industrial District. The side and rear setbacks are ten (10) feet, except on the side of a lot abutting a residential district, then thirty (30) feet; provided that for any building greater than thirty-five (35) feet in height which abuts a residential district, then one (1) additional foot of setback is required for each foot about thirty-five (35) feet. Mrs. Turner reviewed the definition of a “building”. This amendment would replace the word “building” with “structure”. Planning Commission has recommended approval.

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 Monday, February 22, and Monday, March 1, 2010.

### **NOTICE OF PUBLIC HEARING**

**The Harrisonburg City Council will hold several public hearings on Tuesday, March 9, 2010 at 7:00 p.m., in the City Council Chambers, 409 South Main Street to consider the following:**

*Ordinance Amendment – Section 10-3-92 and 10-3-98 (Setbacks for Structures Taller than 35 feet)*

**Public hearing to consider a request to modify Sections 10-3-92 and 10-3-98 of the Zoning Ordinance. The amendment would clearly specify that all structures in excess of 35 feet have increased rear and side yard setback regulations within the B-2, General Business District and the M-1, General Industrial District.**

**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 amending the Zoning Ordinance. There being no one desiring to be heard, the public hearing was declared closed at 7:16 p.m., and the regular session reconvened. Vice-Mayor Baugh offered a motion to amend this ordinance 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

Planning and Community Development Director Turner presented a request from Karin Flagle of Blue Ridge Insurance Services, to rezone a 1.24 +/- acre parcel owned by the Commonwealth of Virginia from R-2, Residential District to R-3, Multiple Dwelling Residential District Conditional. The property is located at the intersection of Reservoir Street and Franklin Street (extended) and is improved with a single story brick building. The Comprehensive Plan designates this area as Public/Semi-Public. Mrs. Turner reviewed the surrounding uses in the area. If rezoned, the applicant plans to relocate her insurance business to the site, which would occupy slightly more than half of the facility. The remaining portion of the building would be leased to other non-residential uses permitted within the R-3 zoning district. Interior renovations are planned for the facility; however, no additions or major exterior renovations would be made. There is ample room for parking and the applicant intends to have the parking lot resurfaced and relined to provide the required number of spaces. The applicant has offered several proffers: 1) Multi-family and townhouse dwellings would not be permitted. 2) Residential units would be limited to occupancy by a family or two unrelated individuals. Planning Commission recommended approval of the rezoning request.

At 7:27 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 Monday, February 22, and Monday, March 1, 2010.

### **NOTICE OF PUBLIC HEARING**

**The Harrisonburg City Council will hold several public hearings on Tuesday, March 9, 2010 at 7:00 p.m., in the City Council Chambers, 409 South Main Street to consider the following:**

***Rezoning – 116 Reservoir Street (Blue Ridge Insurance Services)***

**Public hearing to consider a request from contract purchaser Karen Flagle of Blue Ridge Insurance Services, Inc. to rezone a 1.24 +/- acre parcel owned by the Commonwealth of Virginia from R-2, Residential District to R-3, Multiple Dwelling Residential District. The parcel is located at 116 Reservoir Street and can be found on tax map 27-G-7. The Comprehensive Plan designates this area as Public / Semi-Public. This designation includes both existing and proposed public and semi-public use. They include lands owned or leased by the Commonwealth of Virginia (except for institutions of higher learning), the federal government, the City of Harrisonburg, and other governmental organizations. Examples of uses included in this category are public schools, libraries, City Hall and City administrative and support facilities. The Zoning Ordinance states that the R-2, Residential District is intended for medium-density, single-family and two-family residential development. The residential density ranges for R-2 are single-family, 7,000 sq. ft. minimum and two-family, 5,500 sq. ft/unit. The R-3, Multiple Dwelling Residential District is intended for medium- to high-density residential development and other uses intended to respect the residential character, which are aesthetically compatible within the district by means of architectural expression, landscaping, and restrained traffic flow. The residential density ranges for R-3 are single-family, 6,000 sq. ft. minimum; two-family, 4,000 sq. ft/unit; multi-family, 3,000 sq. ft. minimum per unit; townhouses, 2,000 sq. ft. minimum per unit; and other uses, 6,000 sq. ft. minimum.**

**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 this rezoning request.

Wayne Brown said that his Mother owns a parcel on Franklin Street. There is property on the corner of Reservoir Street and Franklin Street that is currently for sale. He questioned whether if that property is sold could it be converted to apartments or townhouses.

Butch Strawderman reviewed the plans Ms. Karin Flagle has for the property. There being no others desiring to be heard, the public hearing was declared closed at 7:33 p.m., and the regular session reconvened. Vice-Mayor Baugh offered a motion to approve this rezoning request with the submitted proffers. 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

Mayor Degner announced that a staff presentation and one public hearing would be held for agenda items number eight through eleven regarding a rezoning and special use permits for property at 715 North Main Street.

Planning and Community Development Director Turner presented a request from Lewis G. Bagwell and George E. Shifflett to rezone a .318 acre parcel from R-2, Residential District to M-1C, General Industrial District Conditional. The parcel is located at 715 North Main Street and can be found on tax map 40-T-10. The Comprehensive Plan designates this area as Commercial. Mrs. Turner reviewed the surrounding uses in the area. The Harrisonburg Redevelopment and Housing (HRHA), the contract purchaser for the subject property, is requesting to rezone a parcel at 715 North Main Street from R-2, Residential District to M-1C, General Industrial District Conditional. In anticipation of the rezoning being approved, they are concurrently requesting three special use permits to allow a boarding and rooming house, a religious, educational, charitable and benevolent organization, and for approval to permit fewer than the required number of parking spaces. In April 2002, Lewis G. Bagwell, who is still the property owner, successfully rezoned the parcel, because he wanted to alleviate issues with non-

conformancy and to potentially convert the subject property's building into a duplex. Although physical renovations were carried out, the improvements were never fully completed and the unit was never officially converted to a duplex. As the contract purchaser, HRHA would own the property, but would work in cooperation with individuals from the New Community Project (NCP) and Our Community Place (OCP) to operate "a supportive housing and sustainable living project." The plan is to provide a secure housing location for people who may be struggling with homelessness, drug use, and/or instability. While providing such shelter, the plan is to focus the residents' life toward a meaningful and positive future by way of therapeutic micro-enterprise projects. Mrs. Turner reviewed the proffers submitted by the applicant. Any future uses added to the M-1 Zoning Classification would not be permitted. Also, as an additional general proffer, no buses will be parked on the property. They also proffered that they would not make use of the general industrial sign regulations which would permit a fairly large sign on the lot. Instead they will use the R-1 Single Family Neighborhood sign regulations. Mrs. Turner briefly reviewed the City ordinances regarding rooming houses and boarding houses. A portion of the backyard will be used for gardening or other activities. Staff is supporting the rezoning to M-1 with the conditions that were proffered and the special use permits applied for as well with the following conditions: 1) The board and rooming house along with the uses permitted by the proffers and the reduced parking privileges shall be applicable only for uses the same as the applicants' proposed. 2) The property shall supply no less than five parking spaces. 3) If in the opinion of Planning Commission or City Council, parking issues become a nuisance, the reduced parking special use permit could be recalled for further review, which could lead to the need for additional parking spaces, conditions, restrictions, or the revocation of the permit. Planning Commission recommended approval of the rezoning request.

At 7:49 p.m., Mayor Degner closed the regular session temporarily and called the evening's public hearing to order. The following notice appeared in the Daily News-Record Monday, February 22, and Monday, March 1, 2010.

### **NOTICE OF PUBLIC HEARING**

**The Harrisonburg City Council will hold several public hearings on Tuesday, March 9, 2010 at 7:00 p.m., in the City Council Chambers, 409 South Main Street to consider the following:**

#### ***Rezoning – 715 North Main Street***

**Public hearing to consider a request from Lewis G. Bagwell and George E. Shifflett with representative Steven T. Heitz and Harrisonburg Redevelopment and Housing Authority to rezone a .318 +/- acre parcel from R-2, Residential District to M-1C, General Industrial District Conditional. The parcel is located at 715 North Main Street and can be found on tax map 40-T-10. The Comprehensive Plan designates this area as Commercial. This designation states that these areas include uses for retail, wholesale, or service functions. These areas are found along major travel corridors and in the Central Business District of the City. The Zoning Ordinance states that the R-2, Residential District is intended for medium-density, single-family and two-family residential development. The residential density ranges for R-2 are single-family, 7,000 sq. ft. minimum and two-family, 5,500 sq. ft/unit. The M-1, General Industrial District is intended primarily for manufacturing,**

processing, storage, and distribution activities, which are not properly associated with, nor compatible with, residential and institutional development. No minimum lot size restrictions exist in the M-1, General Industrial District.

*Special Use Permit – 715 North Main Street (Reduced Parking 10-3-97 (8))*

Public hearing to consider a request from Lewis G. Bagwell and George E. Shifflett with representative Steven T. Heitz and Harrisonburg Redevelopment and Housing Authority for a special use permit per Section 10-3-97 (8) of the Zoning Ordinance to permit fewer than the required number of parking spaces for any use. The property, zoned M-1C, General Industrial District Conditional, is located at 715 North Main Street and can be found on tax map 40-T-10.

*Special Use Permit – 715 North Main Street (Charitable and Benevolent Uses 10-3-97 (9))*

Public hearing to consider a request from Lewis G. Bagwell and George E. Shifflett with representative Steven T. Heitz and Harrisonburg Redevelopment and Housing Authority for a special use permit per Section 10-3-97 (9) of the Zoning Ordinance to allow charitable and benevolent uses. The property, zoned M-1C, General Industrial District Conditional, is located at 715 North Main Street and can be found on tax map 40-T-10.

*Special Use Permit – 715 North Main Street (Boarding and Rooming house 10-3-97 (13))*

Public hearing to consider a request from Lewis G. Bagwell and George E. Shifflett with representative Steven T. Heitz and Harrisonburg Redevelopment and Housing Authority for a special use permit per Section 10-3-97 (13) of the Zoning Ordinance to allow a boarding and rooming house. The property, zoned M-1C, General Industrial District Conditional, is located at 715 North Main Street and can be found on tax map 40-T-10.

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 this rezoning request and special use permit.

Bucky Berry said there are drugs and alcohol abuse in the area. He insisted that every individual staying in the house should be tested for drugs and alcohol abuse.

Michael Wong, Executive Director of the Harrisonburg Redevelopment and Housing Authority, said he was available to answer any questions regarding the rezoning request or special use permit requests. This service will meet needs in our community.

Tom Benevento said this kind of program is an extension or reflection of many people in the City that want to care for each others, build a community, care for our planet, and create a better world. The project will provide a home for people in need and will build a model sustainability living. It is designed to have an on-site staff person who lives with the individuals in the house.

Ron Copeland said this neighborhood has many people living in homes with drug and alcohol abuse. This is an attempt to create a space for individuals with drug and alcohol abuse that will have supervision and also be geared toward recovery with meetings and work. There being no others desiring to be heard, the public hearing was declared closed at 7:58 p.m., and the regular session reconvened. Council Member Frank offered a motion to all four requests as stated. 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 of Bluestone Trail Phase 1 concept overview and schedule. Public Works Planner Thanh Dang said that the Bluestone Trail is a shared use path proposed to run parallel to I-81 mostly alongside an HEC easement extending from Port Republic Road to Stone Spring Road. Staff has developed a schedule for creating engineering design plans and taking steps necessary to make the Bluestone Trail a shovel ready project in anticipation of potential grant funds that may become available. Ms. Dang reviewed Bluestone Trail schedule timeline and noted a change which should read Stone Spring Road to Port Republic Road. The environmental reviews and permits will be done through this process too. The project will begin March 15, 2010 and it is proposed to have all of the documents and everything completed to make this project shovel ready by April 1, 2011.

City Manager Hodgen presented for Council's consideration amending Section 6-2-32(b) of the City Code. Staff is requesting amendment of this section to require removal of unacceptable cans and refuse within 24 hours as opposed to the currently stipulated three days in order to ensure City residents correct refuse concerns in a timely manner. Under the current code, any City resident is able to leave his/her refuse out on the curb for three days after being tagged without incurring penalties. By the time Public Works has the opportunity to follow up to ensure appropriate measures were taken, the respective collection date for the violator may have arrived again. Enforcement has been difficult. This should assist in bringing consistency to our program, efficiency in collection service, and improve overall curb appeal for the City. Council Member Byrd offered a motion to approve this ordinance for a first reading 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  
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 from a Division of Motor Vehicles grant. The funds will be used for officer's overtime, training and travel, radar units, in-car system and intoxicated meters. Council Member Byrd offered a motion to approve this request for a first reading, and that:

\$17,104.25 chge. to: 1000-33524 Federal DMV grant

\$ 3,378.73 approp. to: 1000-310231-41020 Salaries/wages OT  
815.52 approp. to: 1000-310631-41020 Salaries/wages OT  
382.00 approp. to: 1000-310631-45530 Training/travel  
7,138.00 approp. to: 1000-310231-46100 Police supplies  
5,390.00 approp. to: 1000-310431-48151 Motor Vehicles & Equip.

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 Byrd said that the Harrisonburg Education Foundation (HEF) has requested changing the date of the Sherry B. Anderson 5K Walk and Run Race from April 24, 2010 to May 15, 2010. A specific race route has not been established, but it is anticipated running on Garbers Church Road and utilizing areas of the high school. The start time for the race will be 9:00 a.m. This is a major fund raiser for the Harrisonburg Education Foundation. Council Member Byrd offered a motion directing staff to work with the Harrisonburg Education Foundation on changing the date and location of the Sherry B. Anderson 5K Walk and Run Walk Race. HEF first race course choice is the area of Harrisonburg High School on Garbers Church Road on May 15, 2010. The motion was seconded by Council Member Frank and approved with a unanimous voice vote.

Mayor Degner said that the Shenandoah Valley Spay/Neuter Clinic has submitted a proposal to the City to build its own animal shelter on North Liberty Street. The Society for the

Prevention of Cruelty to Animals (SPCA) is submitting its annual budget request to provide animal shelter services for Harrisonburg and Rockingham County as well. It was pointed out that the City has never communicated to the SPCA in an official or contractual way that we want to hold euthanasia rates at a certain level. The City has a significant capital investment in the SPCA building. If the City does not have an animal shelter we will be out of compliance with a whole fleet of laws many which have some fairly swift and nasty penalties. The City is currently meeting the stated minimum requirements. There are a lot of emotions and concerns regarding euthanasia for unwanted dogs and cats. However, the City should try to rectify this situation in a way that wouldn't leave the SPCA unfunded. Council would like for these two groups to meet with a third party mediator that has some training in this area to resolve this issue and come to an agreement to save animals. Mayor Degner agreed to draft a letter to both organizations asking what they would need to be able to participate in a dialog together and then based upon those responses come up with a process that is appropriate. Following further discussion and comments, Council agreed to pay a mediator to coordinate a meeting between the Shenandoah Valley Spay/Neuter Clinic and the Harrisonburg/Rockingham SPCA and hopefully have a report by the next Council meeting. It was suggested asking Rockingham County to share in the expense of the mediation.

At 8:37 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